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Problems with Pronouns Part III: Gender-Linked Pronouns

Tenielle Fordyce-Ruff

As a law professor, I love this time of year. I'm busy grading my students' appellate briefs, and they have stopped making silly pronoun errors. They no longer refer to a court as *they* and no longer use reflexive pronouns for emphasis in their writing.

Of course, they still have questions. Recently, a student stopped me in the hall to ask about what to do because English doesn't have a gender-neutral singular pronoun to refer to people. That reminded me that I hadn't yet covered all of the pesky pronoun problems in this column.¹

So this month we will continue to discuss problems with pronouns, looking at gender-linked pronouns.

Pronoun Refresher

Pronouns replace nouns, and the nouns they replace are called antecedents. Pronouns must agree with the antecedents they replace in gender, person, and number. First person pronouns refer to the speaker or writer (I, me, we, us, my, mine, our, ours, myself, ourselves). Second person pronouns refer to the person being spoken or written to (you, your, yours, yourself, yourselves). Third person pronouns refer to someone or something else (he, him, she, her, it, they, them, his, hers, its, their, theirs, himself, herself, itself, themselves).



Writers run into gender-linked pronoun problems when using third person pronouns to refer to a category or profession rather than a specific person. For instance, always referring to an attorney using a masculine pronoun is objectionable because it suggests that only men are attorneys.

An attorney must follow the rules of professional conduct, including competently representing his clients.



Of course, using *he*, *him*, or *his* when referring to man is perfectly appropriate and grammatically correct. But, using *he*, *him*, or *his* in other situations should be avoided.²

What Not to Do: The Singular *They*

We all, even the noodgiest of grammar noodges like me — use *they* as a singular pronoun in speech. How many times have you asked your assistant to call the clerk and see if *they* can . . . ? Or, if you were explaining the rules of professional conduct to someone, you might say: An attorney must follow the rules of professional conduct, including competently representing *their* clients.

While this is perfectly acceptable in casual speech, it is not yet acceptable in formal writing. I suspect this is changing,³ but for now, do not use *they* as a singular pronoun in your writing.

What Not to Do: His or Her

Avoid the desire to institute a quick fix. Some writers simply use awkward phrases to avoid the problem of gender-linked personal pronouns.

If a man or woman dies without a will, his or her property will be disposed of under the intestacy laws.

Using *he/she* or *s/he* is another quick fix that just makes the appearance of a document worse.

This sentence is unnecessarily wordy and sounds stilted. While it might be fine if it is the only instance in a document, the repeated use of *he or she*, *him or her*, and *his or hers* can become clumsy or obnoxious.

Using *he/she* or *s/he* is another quick fix that just makes the appearance of a document worse. So, rather than creating grammatically incorrect or awkward sentences, use a few simple techniques to avoid the problems created by gender-linked pronouns.

Change Singular Nouns to Plural Nouns

We can't fix this problem in English by using a gender-neutral singular pronoun.

A judge must give its instructions to the jury.

We all know that judges must be a person, so this sentence is grammatically incorrect.

But, while singular pronouns can have a gender, plural nouns are gender neutral. Thus, while we can't use an *it* to refer to a judge, we can craftily rewrite the sentence.

Judges must give their instructions to the jury.

Replacing the singular *judge* with the plural *judges* allows us to avoid assuming all judges are men and to write a grammatically correct sentence.

Rewrite to Avoid Personal Pronouns

Another option is to rework the sentence to avoid the need for a personal pronoun altogether. Spend a few moments thinking about the meaning of the sentence to see if you can convey the same meaning without a personal pronoun.

A judge must give its instructions to the jury can become

A judge must give instructions to the jury.

Likewise, an awkward sentence like:

If a man or woman dies without a will, his or her property will be disposed of under the intestacy laws.

Can be rewritten as

If a person dies without a will, the decedent's property will be disposed of under the intestacy laws.

Use an Article Instead of a Pronoun

Sometimes, we don't need to have a third-person pronoun in the sentence at all. An article will work just as well and the replacement won't change the meaning.

The accused must waive his right to speak to his lawyer.

The accused must waive the right to speak to a lawyer.

Spend a few moments thinking about the meaning of the sentence to see if you can convey the same meaning without a personal pronoun.

Use an Indefinite Pronoun Instead of a Personal Pronoun

Of course, sometimes we can't replace the third-person pronoun with an article.

An indigent defendant without an attorney can ask the court to appoint one for her.

An indigent defendant without an attorney can ask the court to appoint one for the.

The *the* in the last sentence doesn't make any sense. But, rewriting the sentence to include an indefinite pronoun instead of a personal pronoun can create a gender-neutral sentence.

An indigent defendant who needs an attorney can ask the court to appoint one.

Alternate Gendered Pronouns

If none of these tips work, and you simply must use a gendered pronoun, consider alternating the pronouns. So, the attorney could be a man in the first sentence and a woman in the second.

An attorney cannot represent a client if the representation would be adverse to his other client. An attorney also cannot represent a client if the representation would be materially limited by her representation of another client.

Conclusion

Now that you know a few tricks to help you avoid the inappropriate use of gender-linked pronouns, I'm off to write a final exam for my students. Don't worry, correct grammar and usage counts!

Sources

- Deborah E. Bouchoux, *Aspen Handbook for Legal Writers: A Practical Reference*, 22-23 (2005).
- Bryan A. Garner, *The Redbook: A Manual on Legal Style*, 151, 315-16 (2d ed. 2006).
- The New Oxford American Dictionary (2001).

Endnotes

1 I covered problems with multiple antecedents, implied antecedents, collective nouns, and indefinite pronouns in the March/April 2012 edition of *The Advocate*. I then covered personal, reflexive, and possessive pronouns in the June/July edition.

2 A caveat to this: Using the masculine singular pronoun in transactional documents and including a statement that the use of masculine gender is deemed to include the feminine is acceptable practice. Such use should be avoided in other types of legal writing, however.

3 The New Oxford American Dictionary notes that using *they* as a singular pronoun is becoming more acceptable and even prefers *they* to *he* in some instances.

About the Author

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