

Qualification, Selection, and Retirement Characteristics of Women, Minority, and Minority Women State Supreme Court Judges

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Introduction

The judiciary – and in particular supreme courts tasked with interpreting law – shapes public policy and stands as a symbol of the state’s power. Understanding diversity in the judiciary is therefore important for understanding the diversification of state power. Researchers have long addressed the relationships between descriptive, substantive, and symbolic representation of women and minority elected officials (Pitkin 1967).¹ Increasingly, researchers are also studying the representation of and by women of color under the expectation that gender and race may intersect (e.g. Brown 2014; Bejarano 2013). But while there is an emerging literature on women of color in the legislative context, little is known about women of color in the judiciary.

Until very recently, any assessment of minority women on the bench was constrained by the marked absence of female judges of color.² At the state supreme court level, the first minority woman justice was a Latina judge named Dorothy Comstock Riley selected to the

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¹See, for example, Schwindt-Bayer and Mishler (2005); Reingold (2008); Preuhs (2006)

²I identify the minority judges who describe themselves as members of minority racial/ethnic groups or judges who have been identified as members of minority groups by other scholars or news media. When I refer to the ‘first’ members of a racial/ethnic group on the bench, I mean the first member of that racial or ethnic group that I was able to identify.

Michigan supreme court in 1982.³ Juanita Kidd Stout was selected to the Pennsylvania supreme court in 1988, becoming the first black female state supreme court justice.⁴ A year later Joyce Luther Kennard became the first Asian American/Pacific Islander state supreme court judge when she was selected to the California supreme court.

Since the early 1980s, 36 women of color have been selected to state supreme court benches. The inclusion of women of color on the highest state courts coincided with increases in the presence of white women and men of color as well. Figure 1 shows the proportion of state supreme court judges who are white men, white women, minority men, and minority women over time.⁵

Given the newness and relative rarity of minority women to state supreme court benches, little is known about the characteristics of minority women judges and the circumstances under which they are selected to states' highest courts. It may be that minority women judicial candidates or nominees are held to a particularly high standard and have to overcome additional hurdles.⁶ For example, Goldman et al. (2000) find that among President Clinton's district court judicial appointments, the time between nomination and a Judiciary Committee hearing for women and minority judicial nominees took, on average, 43 days longer than the time for white male judges (120 days versus 77, respectively). Insights from the intersectionality paradigm (Crenshaw 1989; Hancock 2007; Hawkesworth 2003) suggest that minority women may have experiences that are distinct from both white women and minority men. If minority women judges face hurdles related to both gender and race, they may be held to a particularly high standard for selection.

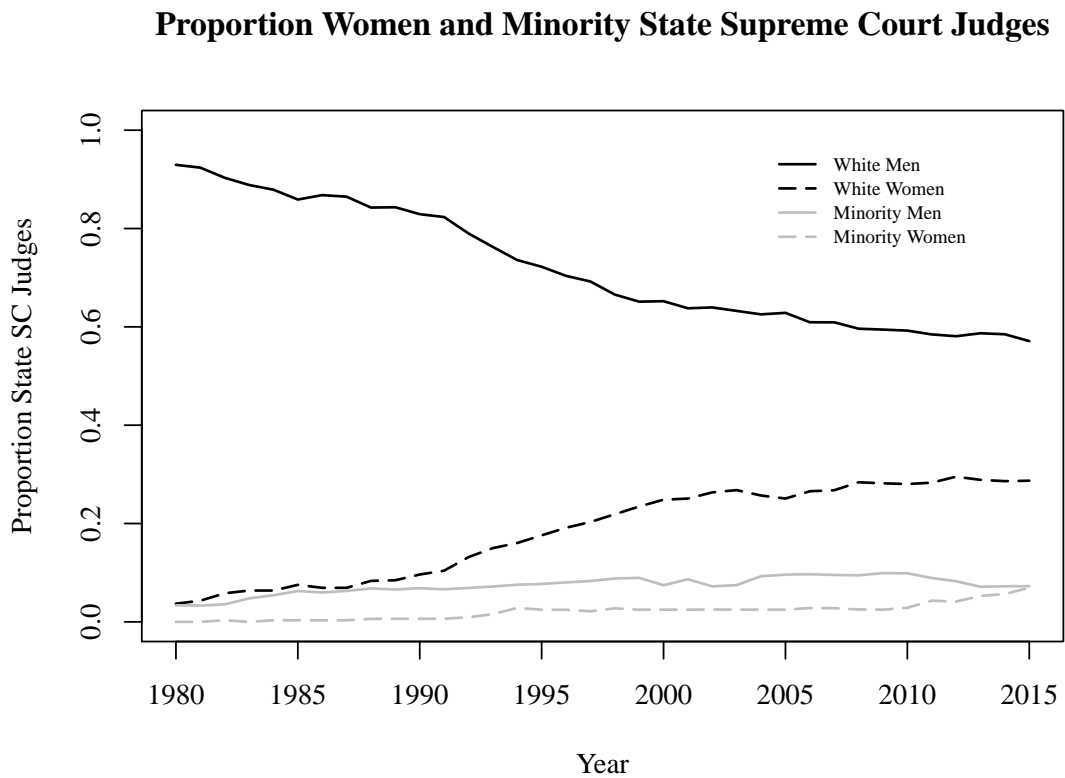
³The Michigan Supreme Court Historical Society identifies Judge Riley as Hispanic, although Martin and Pyle (1999) describe her as "a white Republican" (pg 1207).

⁴Julia Cooper Mack, a black woman judge, was appointed to the D.C. Court of Appeals – the DC equivalent of a state supreme court – by President Ford in 1975 (Blackburne-Rigsby 2009).

⁵Data on the gender of judges and whether judges are black/African American from 1960 to 2010 are from the State High Court and Justice Database (Bratton 2017). Data on the gender of judges selected since 2010 were collected by the author from Ballotopedia and internet searches. Indicator variables for Latinx and Asian American/Pacific Islander judges were generated through searches of NALEO directories and the Asian American and Pacific Islander Almanacs. In addition, keyword searches of Asian American, Pacific Islander, and Latino/a judges were used to augment missing directory and almanac years. Finally, when photographs of judges suggested a racial or ethnic identification, electronic newspaper searches or biographies were used to confirm race or ethnicity.

⁶In the legislative context, see Lawless and Fox (2005); Milyo and Schosberg (2000); Anzia and Berry (2011).

Figure 1: *The proportion of judges selected to state supreme courts over time who are minority women, minority men, white women, and white men. Most judges are white men, and much of the diversity on the bench gained in recent decades is due to the increased presence of white women.*



This chapter uses a new data set on the racial/ethnic identification of state supreme court judges to describe ways in which characteristics of minority-women state supreme justices are similar to or different from characteristics of women justices and minority men justices. There are myriad ways in which minority women may have different experiences in the accumulation of qualifications, in selection, and in retirement compared to white women or minority men. The characteristics addressed here are by no means exhaustive. This analysis provides a preliminary look at the ways in which minority women are similar to and distinct from their white and male counterparts on state supreme court benches.

The next sections outline arguments for why the inclusion of women, minority, and minority women judges is important, then compare several characteristics of state supreme court judges across race and gender. These characteristics are organized into sections on qualifications, selection, and retirement. Because multiple comparisons with one limited sample increases the probability of finding a relationship where one does not exist (type I errors), findings should be considered preliminary. That said, I find that for the characteristics assessed here, minority women state supreme court justices are more similar to minority men than to white women. Across all comparisons, minority women judges are more similar to their white and male counterparts than they are distinct.

The Importance of Diversity on the Bench

Although political representation is often addressed in the legislative context, the implications of descriptive, symbolic, and substantive representation are particularly important in the context of courts because “judges have a more direct and irrevocable impact in the lives of many Americans than local or even national legislators.” (Ifill 2000, pg 407-8). Indeed, existing research suggests that a diverse judiciary can have important consequences on judicial behavior and outcomes, judicial legitimacy, and judicial discourse.

Latina Justice Sonia Sotomayor, prior to her appointment to the US Supreme Court, said, “Whether born from experience of inherent physiological or cultural differences... our gender and national origins may and will make a difference in our judging” (Sotomayor 2002, pg 92). Similarly, Judge Anna Blackburne-Rigsby, a black woman currently serving as the Chief Judge of the District of Columbia Court of Appeals, wrote, “I have seen that being both

black and female brings an important additional voice to the deliberative process, but that voice is varied because there is no singular ‘black woman’ perspective” (Blackburne-Rigsby 2009, pg 689).

Although empirical evidence of race and gender differences in judging is mixed, there is some evidence that race and gender identity and experiences may affect judging. For example, Welch, Combs and Gruhl (1988) find racial differences in decisions to incarcerate and in sentencing decisions at the trial court level. Collins, Manning and Carp (2010) find that at the district court level, women judges make different decisions than their male counterparts on civil rights and liberties cases and criminal justice cases. Similarly, they find that minority judges decide more liberally than white judges across all issue areas except labor and economics. Gruhl, Spohn and Welch (1981) find that women judges are more likely to sentence women defendants to prison than male judges, although on other measures men and women judges convict and sentence similarly. Allen and Wall (1993) find that women justices on state supreme courts are more likely to decide pro-woman on women’s issues; Songer and Crews-Meyer (2000) find that women state supreme court judges voted more liberally than male judges in death penalty and obscenity cases, and McCall and McCall (2007) find that women state supreme court justices decided more liberally than male judges on search and seizure cases after 1991. Others, however, find no race or gender differences in judging or find that differences have been overstated (Westergren 2003; Dixon 2009; Kenney 2008; Walker and Barrow 1985; Segal 2000).

Evidence suggests that diversity on the bench can affect the behavior of male judges as well. For example, the presence of women judges on a three judge U.S. appellate panel affects the behavior of male judges: Farhang and Wawro (2004) They find that male judges voted more liberally in anti-discrimination cases when there was a woman serving on the panel. Similarly, Boyd, Epstein and Martin (2010) find that male appellate judges are more likely to decide in favor of plaintiffs in sex discrimination cases when a woman is serving on a panel alongside them.

Finally, diversity in the life experiences of those on the bench can alter the judicial discourse and the deliberative process (Ifill 2000) and lead to “structural impartiality” (Ifill

1998, p. 99). Ifill (2000, pg 455) writes, “we should value racial diversity if it brings alternative perspectives and analysis to the process and enriches the legal decision-making.”

Regardless of the extent to which women or minority judges make different decisions than their white male counterparts, add new perspectives to the deliberative process, or alter the trajectory of judicial decision-making, the presence of diverse judges has important symbolic consequences (Scherer and Curry 2010) and signals that powerful state institutions are open to women, minority, and minority-women individuals. Even in the *absence* of racial or gender differences in behavior, Kenney (2013) argues that the presence of women on judicial benches is important because the presence of women in the judiciary “normalizes women’s authority and power” (pg 175). Understanding characteristics of minority women judges and the conditions under which they are selected to state supreme courts is an important next step in understanding the role of diversity in the judiciary, but the study of minority-women judges has been minimal.

Characteristics of Minority, Women, and Minority Women Judges

Using new data on the race and gender of state supreme court judges, I identified 98 minority men and 36 minority women state supreme court justices selected between 1970 and 2016. Table 1 lists the number of men and women who are black/African American, Asian American or Pacific Islander, Latinx, Native American, or white.⁷ Of black judges, 25% are female. Of Asian judges, 37.5% are female. The only Native American judge is female, and 18.4% of white judges are female. Of all male judges, just over 9% are men of color. Among women judges, almost 15% are women of color. Table 2 lists the 36 identified minority women state supreme court justices.

In the following sections, I compare characteristics of minority women, minority men, white women, and white men justices of state supreme courts. Reported p-values should be interpreted with caution: because several comparisons are made from one sample, the probability of committing a type I error – inferring a pattern where none exists – increases. The comparisons are of characteristics associated with qualification, selection, and retirement.

⁷The “white” category includes all judges not identified as either black/African American, Latino, Asian American/Pacific Islander, or Native American. Judges described as Irish-American

Table 1: Judges Selected 1970-2016

	Male	Female	(%Female)
Black/African American	63	21	(25.0%)
Asian Am./Pacific Is.	10	6	(37.5%)
Latinx	20	9	(31.0%)
Native American		1	(100%)
White/Not Identified	935	211	(18.4%)
(% Minority)	(9.1%)	(14.9%)	

Gender and racial/ethnic summary of judges selected between 1970 and 2016, with the exception of Lorna Lockwood, a white, female Justice of the Arizona Supreme Court selected in 1961 and the first woman selected to a state supreme court. She is included here for an exhaustive count of women judges selected through 2016.

or Greek-American, for example, were classified as 'white.'

Table 2

Name	State	Year Joined	Race/ Ethnicity
Riley, Dorothy Comstock	MI	1982	Latina
Stout, Juanita Kidd	PA	1988	Black/African Am.
Kennard, Joyce Luther	CA	1989	Asian Am/Pcf. Is.
Sears, Leah Ward	GA	1992	Black/African Am.
Ciparick, Carmen Beauchamp	NY	1993	Latina
Nakayama, Paula Aikko	HI	1993	Asian Am/Pcf. Is.
Johnson, Bernette Joshua	LA	1994	Black/African Am.
Roaf, Andree Layton	AR	1994	Black/African Am.
Selby, Myra Consetta	IN	1994	Black/African Am.
Toney-Williams, Felicia	LA	1994	Black/African Am.
Brown, Janice Rogers	CA	1996	Black/African Am.
Maes, Petra Jimenez	NM	1998	Latina
Quince, Peggy A.	FL	1998	Black/African Am.
Baldwin, Cynthia Ackron	PA	2005	Black/African Am.
Timmons-Goodson, Patricia	NC	2006	Black/African Am.
Guzman, Eva	TX	2009	Latina
Marquez, Monica M.	CO	2010	Latina
Brown, Yvette McGee	OH	2011	Black/African Am.
Cantil-Sakauye, Tani Gorre	CA	2011	Asian Am/Pcf. Is.
Duffly, Fernande R.V.	MA	2011	Asian Am/Pcf. Is.
McKenna, Sabrina S.	HI	2011	Asian Am/Pcf. Is.
Powell, Cleo E.	VA	2011	Black/African Am.
Beasley, Cheri	NC	2012	Black/African Am.
Wright, Wilhelmina	MN	2012	Black/African Am.
Abdus-Salaam, Sheila	NY	2013	Black/African Am.
Espinosa, Carmen	CT	2013	Latina
Rivera, Jenny	NY	2013	Latina
Watts, Shirley Marie	MD	2013	Black/African Am.
Hines, Geraldine	MA	2014	Black/African Am.
Yu, Mary	WA	2014	Latina & Asian Am.
Hotten, Michele	MD	2015	Black/African Am.
Hudson, Natalie	MN	2015	Black/African Am.
Kruger, Leondra	CA	2015	Black/African Am.
Budd, Kimberly	MA	2016	Black/African Am.
Makamoto, Lynn	OR	2016	Asian Am/Pcf. Is.
McKeig, Anne	MN	2016	Native Am.

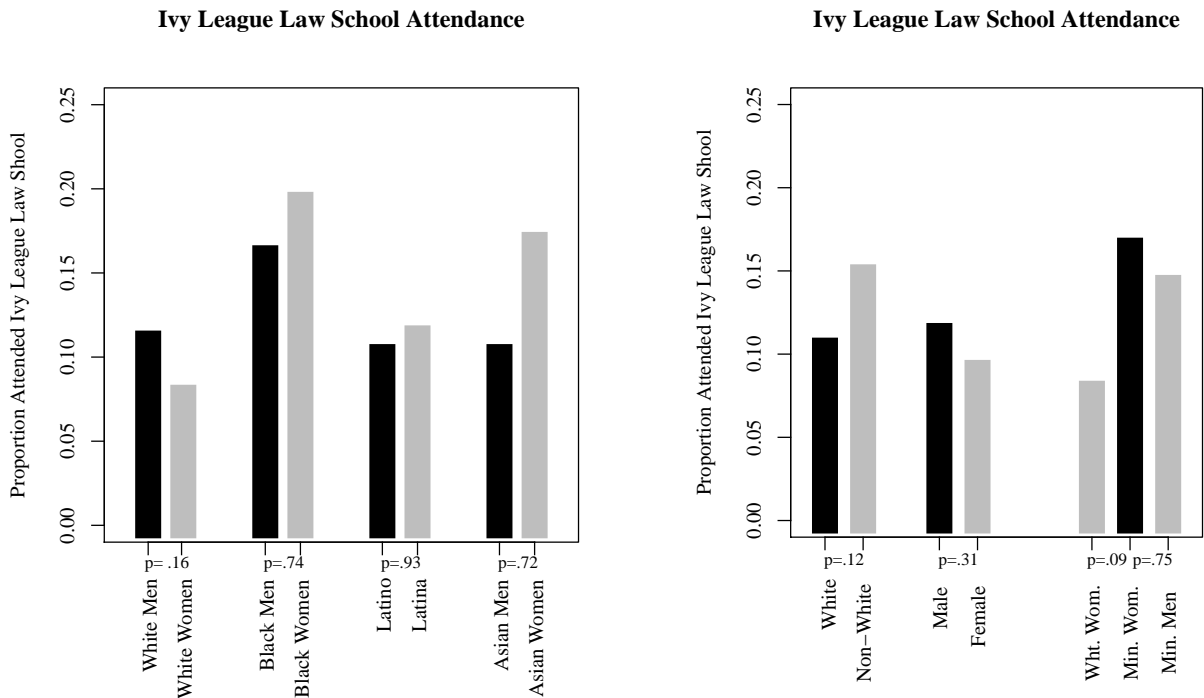
Table 3: *Minority-Women state supreme court judges that have been identified as female and minority.*

Qualification Characteristics

If women, minority, or minority women are held to a higher standard for qualification, then we may see discrepancies in qualification characteristics across race and gender. To test whether minority women are held to a higher standard of qualification, I compare the rates of ivy league law school attendance, prior judicial experience, and age at selection. If white women, minority men, or minority women are held to a higher standard of qualification, more women and minority judges may have attended ivy league law schools; more women and minority judges may have had prior judicial experience, and minority and women judges may have been older at the time of selection to allow for the accumulation of qualifications.

Ivy League Law School Attendance Figure 2 shows that there are no significant gender differences in ivy league law school attendance among co-ethnics, although greater proportion of minority women attended ivy league law schools than white women ($p=.09$). There are no clear differences across race and gender for ivy league law school attendance. When we measure elite education as ivy league law school attendance, minority women are not held to a higher standard of education.

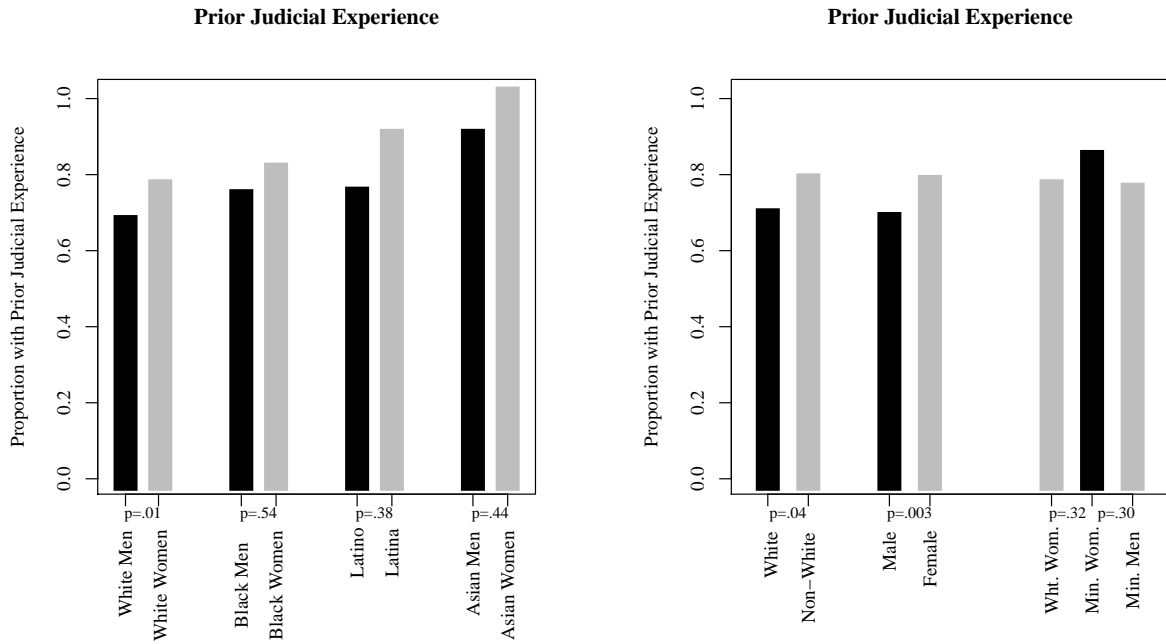
Figure 2: *Proportion of judges who attended Ivy League law schools by identity groups. Small numbers of Latino, black, and Asian/Pacific Islander judges limits statistical significance.*



Prior Judicial Experience Epstein, Knight and Martin (2003) argue that the norm of prior judicial experience for US Supreme Court justices may serve to restrict professional, gender, and racial diversity on the Supreme Court. They argue that the disparity of women and minority judges on federal benches restricts prospects for diversity on the Supreme Court. Martin (1987) acknowledges that in the selection of federal judges, both Reagan and Carter may “have applied a double standard in demanding more judicial experience from women” (pg 141). If women, minority, and minority women are held to a higher standard for qualification, we may observe a greater proportion of non-white and non-male judges with prior judicial experience.

Figure 3 shows that across all race/ethnic groups, a greater proportion of women had prior judicial experience than men, however the gender difference among co-ethnics is only statistically significant among white judges (p=.01). Aggregating to compare white and minority judges, a greater proportion of minority judges had prior judicial experience than white judges (p=.04) and a greater proportion of women than men had prior judicial experi-

Figure 3: *Proportion of judges with prior judicial experience. The only within ethnicity gender difference is among white judges ($p=.01$). Aggregating to all white versus all non-white judges, the p -value for the difference in proportions is $p=.04$, and the p -value for the difference in proportion between all men and all women is $p=.003$. These comparisons indicate that a greater proportion of women state supreme court judges have prior judicial experience relative to men.*



ence ($p=.003$). However, there are no differences between minority women and white women or minority men.

Age at Selection In the legislative context, female candidates (Burrell 1992) and representatives tend to be older than their male counterparts (Dubeck 1976; Carroll 1983; Moncrief and Thompson 1992). Traditional explanations for this discrepancy suggested that women delayed running for office until after their children were born or were older. Carroll (1983) found, however, that among state legislators, patterns of delaying office due to the number and age of children were consistent between men and women, suggesting that childbirth and rearing was not the explanation for the age difference between men and women legislators. An alternative explanation focuses on gender differences in political ambition among younger potential candidates; in surveys of potential legislative candidates, there was a substantial gender gap among men and women under 40 in responses to questions about whether they had considered running for office, had seriously thought about a political career, or who had discussed the prospect of running for office with party leaders (Lawless and Fox 2005). Delaying candidacy also allows for more time to accumulate qualifications.

In the context of the judiciary, the appointment of (some) judges rather than election may diminish the effect of disparate political ambition among men and women because appointed judges do not need to organize and undertake a campaign.⁸ In addition, differences in the pool of judicial candidates versus legislative candidates may also affect gender differences in aging across context: most states have a formal or informal requirement that judges hold a law degree or are members of the bar. Since graduation rates of women from law schools have increased substantially in the last several years, the candidate pool for female state supreme court judges may be younger than the candidate pool for male supreme court justices, which could serve to cancel out differences in political ambition or time to accumulate qualifications between male, female, white, and minority judicial candidates. Indeed Yoon (2003) finds that women and minority judges on the federal bench between 1945 and 2000 began their judgeships at a younger age than their white male peers. Black judges were, on average, 49.2 years old when they joined the bench. Women were 47.2 years old while white and male judges averaged 51.3 years.

Figure 4 shows the average age of judges at the time of selection. White men are, on average, the oldest at selection (54.1) and white women are the youngest (50.6). On average,

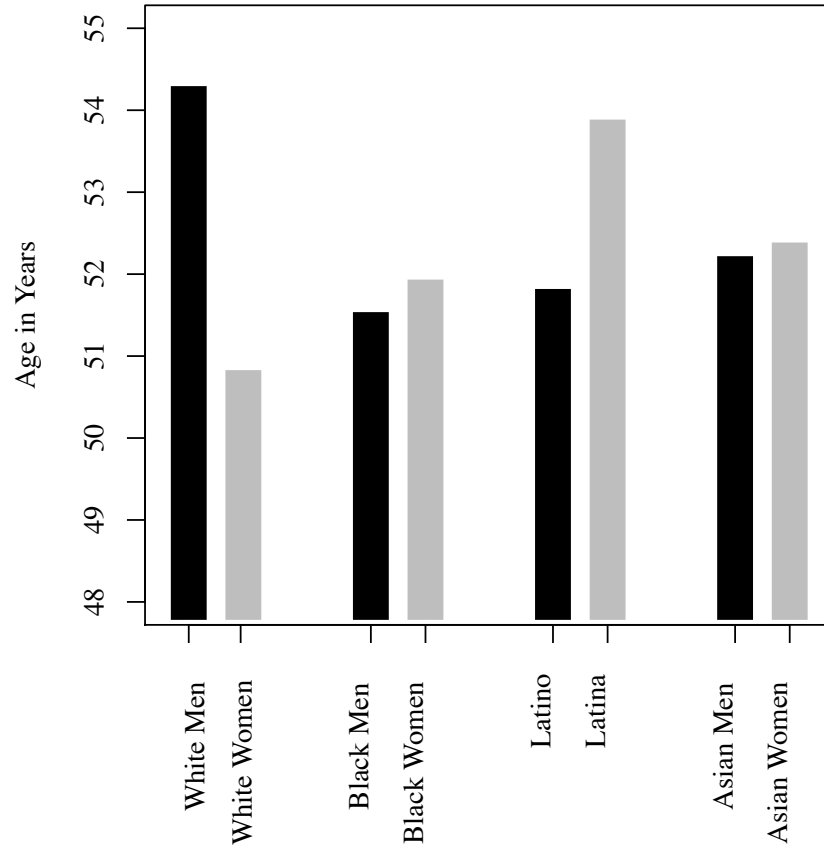
⁸This is not to say that appointed judges are not or have not been involved in politics

white judges are older at selection than non-white judges ($p=.01$) and men are older than women ($p<.001$). The gender difference among all judges is due to the gender difference between white men and white women ($p<.001$), as there are no gender differences in age at selection among minority women and men.

If the age difference between men and women stems from an age difference in the candidate pool because women have only relatively recently been graduating from law school at rates commensurate with men, then the age difference ought to decrease over time as the candidate pool of women lawyers for judgeships has gotten larger and has been able to age. Figure ?? shows a scatter plot of the ages of women judges selected over time. The black line is the regression of age by year. The grey shaded region is the 95% confidence interval. Women have been getting older at selection over time, but the change is slight, suggesting that it may not just be differences in the maturity of the candidate pool that accounts for the age difference between men and women judges.

Figure 4

Average Age at Selection



Average Age at Selection

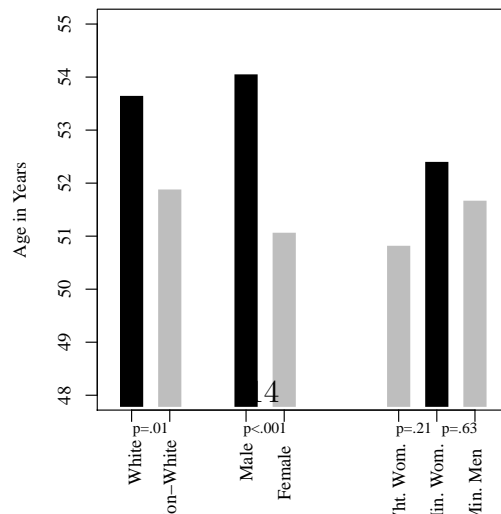


Figure 5: *The average age at selection for women over time. The average age has increased slightly over time. A one year increase in the appointment year is associated with a .15 increase in average age at selection ($p < .00$)*



Summary: Similarities and Differences in Qualifications

The qualification characteristics of white men, white women, minority men, and minority women are similar in some ways and distinct in others. There are no differences across gender or race/ethnicity in Ivy League law school attendance. When it comes to prior judicial experience, across all ethnic categories, a greater proportion of women had prior judicial experience, but the only gender difference among co-ethnics is among white judges. For age at time of selection, white judges and male judges are older – on average – than women and minority judges. The gender discrepancy in age at selection between men and women judges is driven by the age difference among white men and women judges ($p < .00$). Among racial minority judges, there are no statistically significant differences in age.

Selection Characteristics

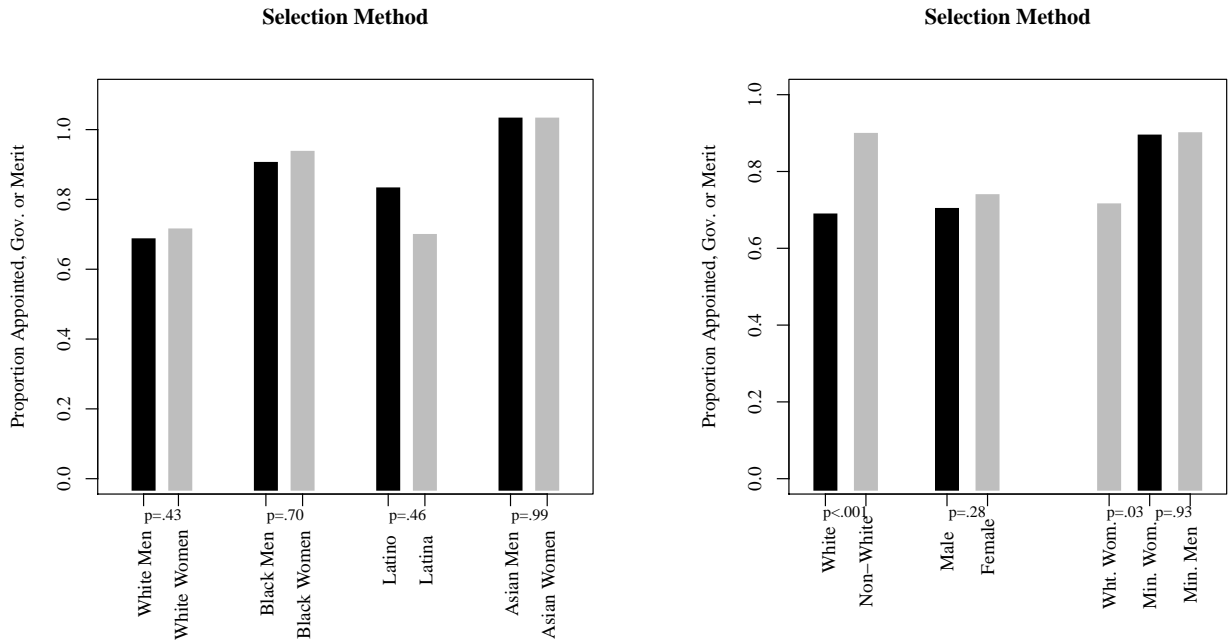
Moving from qualification characteristics to characteristics of judicial selection, in this section I compare party identification and the method of selection across race and gender.

Appointment versus Election Given the importance of minority and women judges on the bench, scholars have studied the conditions under which minority and women judges are selected to courts. Many explanations focus on differences in selection institutions. Findings on the effect of different selection methods – executive appointment, elections, or merit selection – on the appointment of women and minority judges are mixed. Some find that the concentration of accountability on elite selectors such as a governor (Bratton and Spill 2002; Carbon, Houlden and Berkson 1982) or merit commission (Goelzhauser 2011; Esterling and Andersen 1999) leads to greater diversification.⁹ However, many scholars find no relationship between selection method and diversity on the bench (Hurwitz and Lanier 2003; Alozie 1988; 1990; 1996; Hurwitz and Lanier 2001).

Figure 6 shows the proportion of judges appointed by elites, either through gubernatorial selection or merit selection. There are no gender differences among co-ethnics or in the aggregate, but there does appear to be a difference between white judges and minority judges;

⁹Likewise, Hall (2001) find some – albeit weak ($p = .06$) – evidence that minority judges fare worse in non partisan elections than their peers. Goelzhauser (2011) finds that when citizen liberalism

Figure 6: *Proportion of judges selected through Gubernatorial selection or Merit Selection. Includes judges selected by the Governor to fill a vacancy in between elections.*



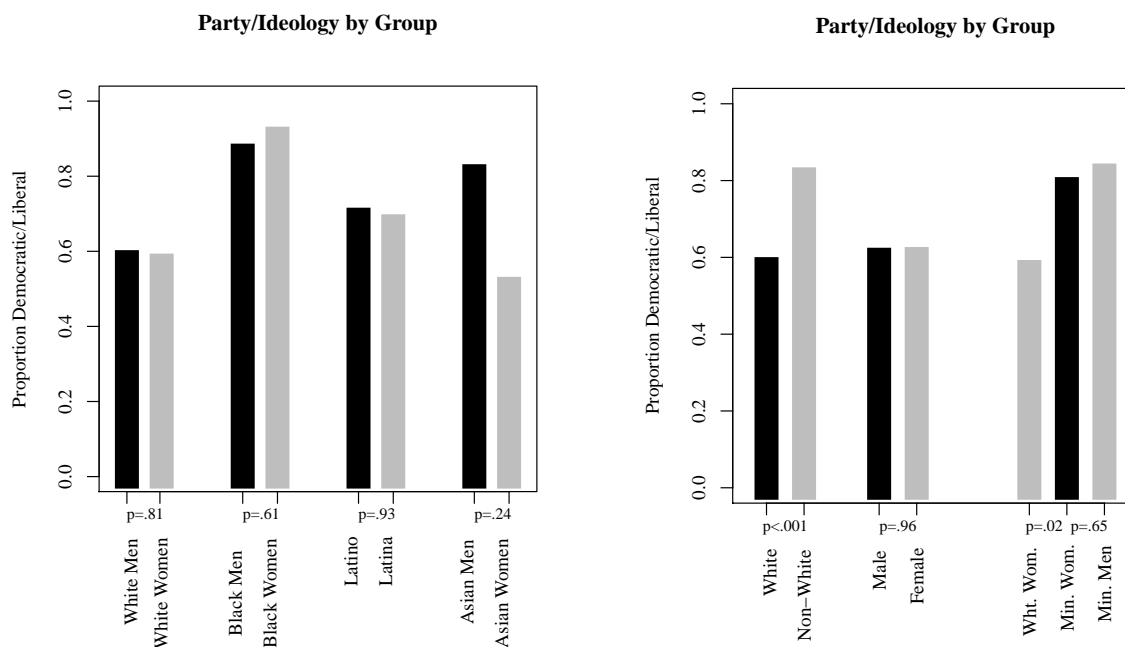
a greater proportion of minority judges were appointed relative to white judges ($p < .001$). Among women, a greater proportion of minority women were appointed than white women.

is relatively high, partisan election is associated with state supreme courts having their first black justice selected sooner. Glick and Emmert (1986) find that merit selection systems are the least likely to select religious minorities to state supreme court benches.

Party In addition to selection institutions, the partisanship of those tasked with selecting judges may shape judicial diversity: liberal selectors are expected to select more women and minority judges.(Bratton and Spill 2002), and liberal constituencies may be more likely to elect women and minority candidates both because diversity has become an issue associated with the Democratic party¹⁰ and because women and minority judges may be more likely to run as Democrats in partisan elections due to gender and racial partisan gaps (e.g. Kaufmann 2002; Gay and Tate 1998). Figure 7 shows that there are no gender differences among co-ethnics in party identification, but there is a difference ($p < .00$) between white and minority judges.

¹⁰For example, *The 2016 Democratic Platform* states, “Above all, Democrats are the party of inclusion. We know that diversity is not our problem – it is our promise” DNC (2016).

Figure 7: *Proportion of Judges who have been identified as liberal or Democratic.*



Summary: Selection Characteristics

Among selection characteristics, two patterns emerge. First, a greater proportion of minority judges are appointed by elites than white judges. Second, a greater proportion of minority judges are identified as liberal or Democratic than white judges. Both of these findings are resilient to p-value corrections for multiple comparisons.

Retirement characteristics

In this final section I compare characteristics of retirement across race and gender. Specifically, I compare length of tenure and reasons for vacating the bench, and then I describe patterns of replacement for minority women judges.

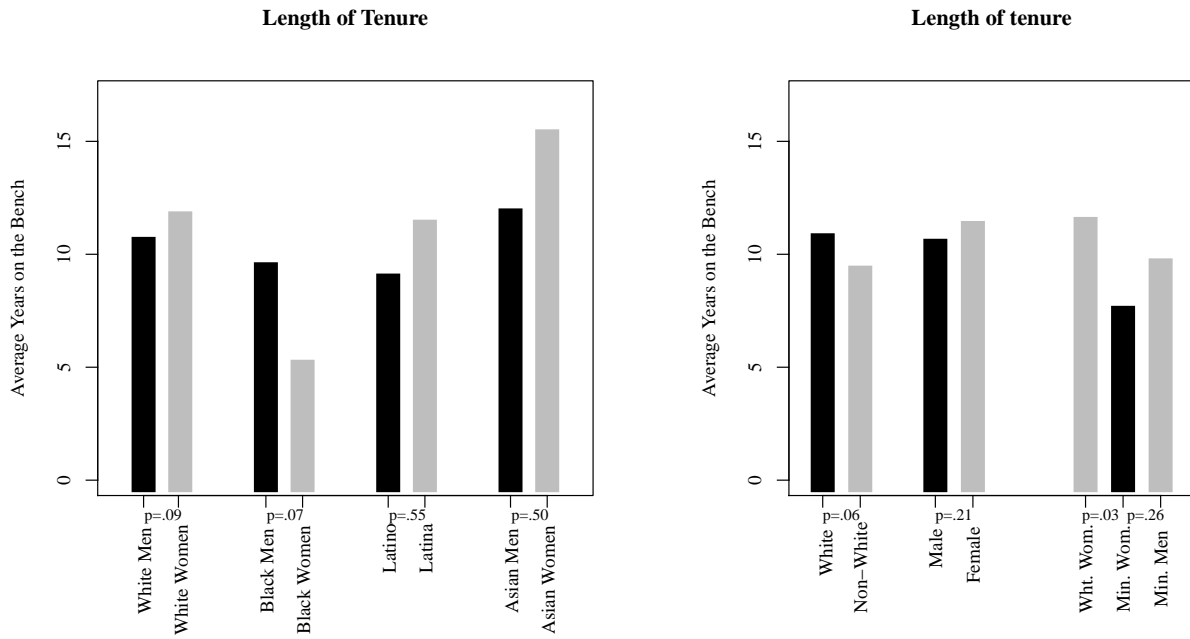
Length of Tenure There are a few reasons why we might expect women, minority, or minority women to serve on the bench for a different length of time than white or male judges. Women, minority, and minority women may be appealing candidates for the federal bench, particularly for presidents who aim to diversify the federal judiciary. If women and

minority judges are often nominated to the federal judiciary, their tenures on state supreme court benches may be brief. In addition, experiences of sexism or racism while serving on the bench may lead female and minority judges to retire earlier than their white male colleagues. Finally, differences in the likelihood of winning retention elections or facing electoral opposition may cause discrepancies in tenure length (although Luskin et al. (1993) find no racial differences in retention election vote share). In contrast, limitations in moving up the career ladder outside of the judiciary – that is, less opportunity in the private or academic sectors – may leave women, minority, and minority women delaying retirement and maintaining their seats longer. Yoon (2003) finds that for judges on federal courts between 1945 and 2000, on average, women served 8.5 years less than their male counterparts while black judges served 3.9 years less than white judges.

Figure 8 shows racial and gender differences in length of tenure on state supreme court benches. White women may serve longer than white men ($p=.09$); black men may serve longer than black women ($p=.07$), white judges may serve slightly longer than non-white judges ($p=.06$), and minority women serve for a shorter length of time than white women due to short average length of tenure among black women ($p=.03$). However, the multiple comparisons made from on sample with few observations for minority women, it should be noted that the probability of committing a type-I error is greater than the reported p-values.

Reasons for Leaving the Bench While length of tenure does not show clear discrepancies across race or gender, there may be patterns across race and gender for the reasons judges leave the bench. Table 4 shows the number and percentage of judges who vacated the bench for different reasons. A greater percentage of minority women are selected to temporary, interim appointments than white and male judges, and a greater percentage of minority women are nominated to the federal judiciary than white and male judges. Table 6 in the appendix shows the results of several linear probability models that estimate race and gender based on reasons for vacating the bench. The only differences that remain statistically significant once multiple comparisons are accounted for are differences in interim appointments: both women and minority judges are more likely to be appointed on an interim basis

Figure 8



that white and male judges. There are no other statistically significant differences in reasons for vacating state supreme court benches across race and gender.

Table 4

Reason for Leaving the Bench	White Men	White Women	Minority Men	Minority Women
Mandatory Retirement	147 22.7%	17 13.8%	15 20.5%	3 18.6%
Defeated, Removed, Not re-nominated	66 10.2%	18 14.6%	13 17.8%	2 12.5%
Retired or Resigned	341 52.7%	68 55.9%	33 45.2%	5 31.3%
Nominated to Federal Judiciary	35 5.4%	9 7.3%	2 2.3%	2 12.5%
Interim Appointment	9 1.4%	6 4.9%	5 6.8%	3 18.8%
Died in Office	35 5.4%	5 4.1%	4 5.5%	1 6.3%
Appointed/Elected to National office	14 2.2%		1 1.4%	
Total, non-missing	647	123	73	16

Reasons for vacating the bench by race and gender. There have only been 15 judges identified as minority women to serve and leave the bench. Dorothy Comstock Riley of Michigan is counted twice in this table: in 1983 she was removed from office after she was appointed to fill a vacancy by Governor Milliken right before his term ended. In 1984 she was elected to the Supreme Court and served until she retired in 1997. There is substantial missing data for white men (n=111) that is not included in the calculation of the percentages for "All Men."

Replacement Patterns A final analysis addresses the predecessors and successors of minority women state supreme court judges. Arrington (2018) shows that the gender of vacating judges and replacement judges are interdependent: when a woman judge vacates the bench she is more often replaced by another woman. When men vacate, they are more often replaced by men than women. Replacing a minority woman justice with a white man justice will decrease both the gender and racial diversity on the bench. Therefore, judicial selectors may face additional pressure to replace a vacating female judge of color with a woman, minority, or minority woman in order to maintain some diversity on the bench.

Of the 15 minority women who have left the bench, 13 have clear successors.¹¹ Of those 13 minority women judges, six were replaced by white women, four were replaced by minority women, one was replaced by a minority man, and two were replaced by white men.

Of the 36 identified minority women selected to a state supreme court, 35 have clear predecessors.¹² Of the 35 minority women justices selected to the bench, 18 replaced white men, eight replaced minority men, five replaced white women, and four replaced minority women. In other words, 48.6% of minority women were selected to fill seats vacated by non-white-men. Table 5 reports the number and percentage of white men, minority men, white women, and minority women who were the predecessors and successors of minority women alongside the percentage of judges selected in total between 1970-2016 and 2000-2016 as a comparison. Given the high overall proportion of judges who are white men, minority women have low rates of being replaced by white men. Although there are very few minority women who have vacated the bench, only 15% of their successors were white men. In contrast, between 2000 and 2016, 61% of judges selected to the bench were white men. The pattern of vacancies made by minority women being predominately filled by other women and minorities suggests that selectors face strong incentives to maintain some diversity on the bench when women of color vacate.

¹¹I have not confirmed the successors of Cynthia Baldwin and Felicia Toney-Williams. Both justices were selected on an interim basis.

¹²Bernette Joshua Johnson of Louisiana was selected to fill a new seat on the bench.

Table 5

	Predecessors of Minority Women	Successors of Minority Women	All Judges Selected, 1970-2016	All Judges Selected, 2000-2016
White Men	51.4% (18)	15.4% (2)	73.3% (934)	61% (239)
Minority Men	22.9% (8)	7.7% (1)	7.3% (93)	8.2% (32)
White Women	11.3% (5)	46.2% (6)	16.5% (201)	25% (98)
Minority Women	11.4% (4)	30.8% (4)	2.9% (35)	5.9% (23)

Race and gender characteristics of those who preceded and succeeded minority women state supreme court justices. Due to the vast number of white judges, I do not have specific information on who succeeded and replaced each white judge.

Conclusion: Are Minority Women Judges Distinct?

Using data on the racial and gender identification of women, minority, and minority-women state supreme court judges, the goal of this project was to uncover potential ways in which women, minority, and especially minority-women are similar to and different from white and male judges. Although statistical significance should be interpreted with caution due to the increased probability of committing type I errors with multiple comparisons, the evidence presented here indicates that there may be a few race and gender differences in characteristics of state supreme court justices.

Minority women are more likely to have attended ivy league law school than white women but are no more or less likely to have prior judicial experience than white women or minority men. Minority women are not discernibly older or younger than white women or minority men at selection, while white men are, on average, the oldest at time of selection. Minority women are less likely to be elected than white women, but there are no differences in selection method between minority men and minority women. Minority men and women are more likely to be liberal or Democratic than white men or white women, and minority women have shorter average length of tenure than white women. Minority women have the highest rate of interim appointment, and they also have the highest rate of nominations to the federal judiciary. Although there have only been 15 minority women who have left the bench, their vacancies are rarely filled by white men. Instead, vacancies by minority women are most often filled by white women and other minority women.

Across the six categories where minority women can be directly compared to minority men and white women (ivy league education, prior judicial experience, age, selection method, party, and length of tenure), minority women are indistinguishable from minority men in all six categories. In contrast, minority women differ from white women across four categories (ivy league education, selection method, ideology, and tenure). The comparisons presented here suggest that minority women state supreme court justices may be more similar to minority men than white women.

Appendix

Table 6

	<u>Dependent Variable</u>			
	(1) Men vs. Women	(2) White vs. Non-White	(3) Wht Wom. vs. Min. Wom.	(4) Min. Men vs. Min. Wom.
Mandatory Retirement	Reference Category			
Defeated, Removed, Not re-nominated	0.09 p= 0.04	0.05 p=0.16	-0.05 p=0.62	-0.03 p=0.81
Retired or Resigned	0.05 p=0.10	-0.01 p=0.6	-0.08 p=0.31	-0.04 p=0.75
Nominated to Federal Judiciary	0.12 p=0.05	-0.02 p=0.75	0.03 p=0.79	0.33 p=0.12
Interim Appointment	0.28 p<0.01	0.25 p<0.01	0.18 p=0.15	0.21 p=0.21
Died in Office	0.02 p=0.7	0.01 p=0.81	0.02 p=0.91	0.03 p=0.87
Appointed/Elected to National office	-0.11 p=0.26	-0.03 p=0.69		-0.17 p=.68
Intercept	0.11 p<0.01	0.1 p<0.01	0.15 .04	0.17 .07
n	859	859	139	89
r²	0.02	0.02	0.05	0.07

Linear probability regression results for comparing men and women judges; white and non-white judges; white women and minority women judges, and minority men and minority women judges. For all models, the reference category is Mandatory Retirement. Positive coefficients indicate an increased probability that the judge is female in model (1), non-white in model (2), minority and female in model (3), and minority and female in model (4).

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