

Existing Diversity and Judicial Selection: The Role of the Appointment Method in Establishing Gender Diversity in State Supreme Courts*

Kathleen A. Bratton, *Louisiana State University*

Rorie L. Spill, *Oregon State University*

Objectives. To explore differences in the appointment and election method of selecting state high court justices in promoting gender diversity, and to explore the effect of existing gender diversity within the political institutions on the selection of women to office. *Methods.* Our data include all justices who have been selected to state courts of last resort from 1980 through 1997. We use logistic regression analysis to test the effect of existing gender diversity on a high court on the likelihood that a woman will be selected to fill a vacancy. *Results.* Women are significantly more likely to be selected to a state high court when initially appointed, and this effect is particularly pronounced when the governor is Democratic. When an appointment system is used, women are much more likely to be appointed to an all-male court than to a gender-diverse court. *Conclusions.* Appointment systems are more likely to create gender diversity on state courts; however, this effect operates primarily to diversify all-male courts. This difference between appointment and election systems may reflect differences in knowledge between elite actors and the mass public about the composition of the institution.

A variety of arguments have been offered for the promotion of gender diversity within government. The foundation of many arguments for increased diversity is the belief that, regardless of whether because of biological, psychological, or sociological differences, women bring a different set of attitudes and beliefs and different areas of experience and expertise to policy making (Darcy, Welch, and Clark, 1994; Sapiro, 1981). Those who advocate diversity within government frequently argue that overwhelmingly male political institutions do not adequately represent the diverse interests of the mass

*Direct correspondence to Kathleen Bratton, Department of Political Science, Louisiana State University, 240 Stubbs Hall, Baton Rouge, LA 70809. An earlier version of this paper was presented at the 2000 annual meeting of the Midwest Political Science Association in Chicago, Illinois. The authors would like to acknowledge the helpful comments of Lawrence Baum, Virginia Hettinger, Stefanie Lindquist, Barbara Palmer, Rick Matland, Leonard Ray, the Judicial Women's Working Group, and four anonymous reviewers. All data and coding materials are available from the first-named author for purposes of replication.

public. That is, descriptive representation, as Pitkin (1967) defined it, is desirable because it translates into more effective substantive representation.¹ A second argument for diversity is that basic fairness demands that women have equal opportunity to participate in government. Indeed, even in the absence of sex differences in attitudes and interests, equality in participation is generally regarded as an important element of a democracy (Phillips, 1998).² Moreover, a broader recruitment of representatives would more effectively utilize the talents of all of the citizenry (Darcy, Welch, and Clark, 1994) and may provide a more diverse set of role models for future political generations (Phillips, 1998). The lack of descriptive representation among political elites may be a signal that problems exist in the institutions that recruit and select those elites.

In recent years, calls for diversity in office have become increasingly apparent. It is likely that those who choose public officials, whether in the elite or the mass public, may respond to these demands for diversity. What is left unanswered, however, is whether those who select public officials respond to pressures to diversify beyond a token status, and whether elites, who are presumably more knowledgeable regarding the composition of political institutions, choose differently from the less informed mass public. This article addresses these questions with respect to state supreme courts.³

Gender Diversity and the Courts

Gender diversity on the federal bench has increased substantially in the past 25 years. In part this increase can be attributed to Carter's implementation of merit commissions in the selection process (Goldman, 1997; Martin, 1987) as well as Clinton's appointment of a record number and proportion of women to the courts (Goldman et al., 2000). Over the past two decades, the number of female judges at the state level has likewise increased substantially. From 1922 to 1974, only six women served on state courts of last resort; between 1976 and 1992, 55 women began service in these institutions (Allen and Wall, 1993). In recent years, motivated in part by the increased number of women serving on state and federal benches, scholars have begun to assess the influence of gender on judicial behavior and outcomes and have found differences in judicial behavior in some con-

¹Pitkin (1967) wrote that descriptive representative was present when a representative body shared politically relevant characteristics with the constituency, whereas substantive representation was present when the representative body reflected the constituency's interests.

²Phillips (1998:232) acknowledges that it is equal participation among the mass public, rather than among elites, that is generally regarded as an important component of democracy. She notes, however, that no persuasive argument can be made that men have some superiority of talent or experience that justifies their domination of representative bodies. Moreover, she argues that increasing the number of women in government will revitalize the democratic process.

³Pitkin (1967:117) notes that many theorists have regarded judges as political representatives "because they are responsive to pressures and popular demands."

texts (e.g., Allen and Wall, 1993; Davis, Haire, and Songer, 1993; Segal, 1997; Songer, Davis, and Haire, 1994; Walker and Barrow, 1985).⁴ These questions have implications for judicial selection as well as judicial decision making: *the expectation that women will add something to the judiciary is likely not unique to scholars; voters, governors, legislators, and others involved in selecting justices likely share the same perspective.* And, aside from the expectation that women may decide cases differently, it is likely that decisionmakers at both the mass and elite level may wish to involve all groups in the policy-making process. That is, it is likely that gender influences judicial selection.

It is certainly reasonable to expect that voters and state officials respond to pressure to diversify the state bench. The notion of the courts as representative institutions is not new. During the early periods of the U.S. Supreme Court, particularly when the Justices still “rode circuit,” seats were, by convention, set aside for certain regions. For some time, there were also religious seats; a Jewish and a Catholic seat existed on the Supreme Court (Sciligiano, 1971). In modern times, the notion of regional or religious seats on the Supreme Court is less prevalent (Baum, 1998). The elevation of Thurgood Marshall to the Supreme Court introduced racial diversity in our highest court; indeed, in 1991, when Bush needed to replace Marshall, there was little doubt that the President would find a suitable African-American conservative (Baum, 1998). Likewise, once Reagan appointed Sandra Day O’Connor to the Court, many thought a gender seat was created. Clinton’s appointment of Ruth Bader Ginsburg may relieve some pressure to appoint a woman to replace either O’Connor or Ginsburg, but it is unlikely that we will see a future Supreme Court without at least one woman sitting on the bench.

Yet, despite this increase in gender diversity, and despite conventional wisdom that presidents and, presumably, governors take gender into account when making judicial selections, we know little about the role gender plays in the selection of judges, particularly at the state level. Moreover, we know little about the degree to which the selection system affects gender diversity on the state bench. This lack of scholarly research is somewhat surprising: state courts of last resort are a particularly important, if overlooked, focus for such studies. As Alozie (1996) notes, given that state courts are the final arbiter of decisions based solely on the state constitution, state high courts are the court of last resort for most cases, and thus have a substantial influence on political outcomes. Indeed, state institutions in general have become more important policymakers in recent years, and judiciaries are no exception (Lopeman, 1999). There is a rich scholarly literature examining the factors that influence gender diversity in state legislatures

⁴Gender differences have also been demonstrated in other political contexts. There are gender differences in mass political opinions and behavior (Shapiro and Mahajan, 1986). Moreover, female legislators have different interests and priorities than their male counterparts (Bratton and Haynie, 1999; Thomas, 1994).

(e.g., Darcy, Welch, and Clark, 1994; Hogan, 2001; Matland and Brown, 1992; Norrander and Wilcox, 1998; Rule, 1990); we extend this literature to the judiciary.

Much of the discussion of diversity in the courts has centered explicitly or implicitly on *token seats*; generally, no suggestion is made that courts provide proportional representation. However, scholars have not considered the role that existing gender diversity plays in mediating the effect of gender on selection.⁵ We argue in this article that the likelihood of selecting a female justice to a state court of last resort is greatest when the court currently has no female members. Once a female justice is selected, however, we expect that the likelihood that future vacancies will be filled by women will drop significantly. Unlike prior research, therefore, we take into account the existing composition of the court when assessing the effect of gender on selection.

Selection Mechanisms and Gender

There are five major formal judicial selection systems employed across states, including executive appointment, commission or “merit” selection, legislative election, and nonpartisan and partisan election (Berkson, Beller, and Grimaldi, 1980). “Merit” selection systems in particular are designed to reduce the emphasis on patronage and public opinion in the judicial selection process and are designed to recruit a diverse set of judges (Alozie, 1996; Githens, 1995, Goldman, 1997). At the national level, Carter combined an emphasis on merit with an effort to diversify the federal bench. At the state level, some scholars argue that a merit appointment process may favor women because the criteria for selection are more concrete; merit is the basis rather than patronage or political activism (Githens, 1995). On the other hand, as Alozie (1996) points out, judicial nominating systems are dominated by white males who may not be any more likely than voters or elected officials to diversify a state’s judiciary. Indeed, some scholars argue that governors, as electorally accountable officials, would be the most likely to respond to pressures to diversify (Fund for Modern Courts, 1985). And, of course, distinctions between selection mechanisms are not always clear; governors are often formally or informally involved in selection of both the merit commission and the justice. Graham (1990) found that African Americans were more likely to be appointed rather than elected; however, mixed evidence exists regarding the effect of the type of system used on the degree of gender diversity achieved. In an analysis of state high courts during the 1980s, the Fund for Modern Courts (1985) concluded that women were more likely to obtain judicial office in executive appointment or merit

⁵ Observers have noted that in Norway, parties often followed each other’s lead in nominating women to office; however, pressures to diversify were satisfied at only a token level (Matland, 1993).

selection systems. However, in an analysis of the Baltimore City Trial Court Nominating Commission, Githens (1995) found that gender and racial bias in the selection process existed even under a merit-based system. Analyzing judges on state high courts in 1993, Alozie (1996) found little evidence that the type of selection system affected the degree of diversity on a court. Given the differences among the analytical procedures employed and the data used, it is difficult to assess the effect of selection method on gender diversity within the courts.

Moreover, prior research on differences across selection systems does not take into account differences between elite and mass behavior in response to gender diversity. One difference between a merit or gubernatorial appointment system and an elective system is a difference of knowledge. In the former, the actors are presumably aware of the current gender composition of the panel, and, if the panel is all male, there is likely pressure to select a woman. Conversely, there may be much less such pressure once a court reaches any degree of gender diversity. Judicial elections, in contrast, are low-information events. Voters rarely know who is running for judicial office, much less the composition of the remainder of the panel (Hojnacki and Baum, 1992; Baum, 1998). Voters in the mass public are less likely than elite actors to weigh the current composition of the panel in making a decision.

We expect that the influence of existing gender diversity on selection will be most evident when a justice is appointed rather than elected. Governors and judicial nominating systems, as well-informed decisionmakers, are more likely to appoint women, and are also more likely to be influenced by existing gender diversity. Similarly, the influence of existing gender diversity on selection will be least evident when justices are selected by voters because voters often know little about the composition of state government in general and state courts in particular. Of course, even with the election method, there may be some effect of existing diversity on the likelihood of selecting a female justice; nominees for judicial election are generally elected by a small group of presumably knowledgeable political elites. Nonetheless, because political elites do not control the entire electoral process, we expect existing diversity to matter most with the appointment method.

Therefore, we test three hypotheses in this article.

- H₁: *If a justice is initially appointed, there is an increased likelihood that a woman will be selected.*
- H₂: *The likelihood of a woman being selected to a state supreme court decreases if another woman is presently serving on the court.*
- H₃: *The effect of existing gender diversity on the court will be most substantial when justices are initially appointed rather than elected.*

Data and Methods

The hypotheses are tested with data containing information regarding all justices that have been selected to state courts of last resort from 1980 through 1997, the last year for which data for all variables are available.⁶ We choose 1980 as our starting point; prior to this date, too few women were selected to state high courts for empirical analysis. Our unit of analysis is the selection of an individual judge to the state supreme court. We expect that it will be less likely that the justice selected will be female if there is already at least one woman on the state court. To determine whether existing gender diversity on a court influences the likelihood that a woman will be selected to the court, we predict whether the selected justice is female. Our independent variable of primary interest is a dummy variable coded 1 if the court, at the time of selection, has a female justice serving, and 0 if the court is all male. Because we also wish to test whether the influence of existing diversity is more pronounced when the governor (often with the assistance of a judicial nominating commission) is appointing the new justice, and least pronounced when the new justice is elected, we include in our analysis a variable coded 1 if the justice is initially appointed *and* there is already a female justice present on the court.⁷ The estimate for this variable tells us whether there is an additional negative effect of existing diversity when the justice is initially appointed.

We also test whether the appointment method has an independent effect on the likelihood of selecting a female justice, and whether that effect is conditional on the partisanship of the governor. As noted above, Democratic presidents have been more aggressive in promoting diversity on the federal bench (Goldman, 1997). Similarly, a study of women in the state judiciaries reveals that Democratic governors and mayors appoint a higher number of women to the bench (Fund for Modern Courts, 1985). Likewise, Bullard and Wright (1993) suggest that Democratic governors may be more likely to appoint women to head state agencies. We thus control for the partisanship of the governor with two dummy variables: the first coded 1 if the governor was Democratic and the justice was appointed, and the second coded 1 if the governor was Republican and the justice was appointed. The parameter estimates for these two variables represent the difference between the appointment and election methods in the likelihood of selecting a female justice. Positive and significant estimates for both variables would indicate that women are generally more likely to be selected

⁶Oklahoma and Texas each have a supreme court and a court of criminal appeals that serve as courts of last resort (Council of State Governments, 1994:184). We include only the supreme courts in these states.

⁷We measure appointment as actual appointment by governor and/or judicial nominating commission, rather than as selection in a state with an appointment system. That is, justices who are appointed as replacement justices in election systems are considered appointed justices.

under the appointment method; a positive and significant estimate for Democratic governor (but not for Republican governor) would indicate that women are more likely to be selected under the appointment method if the governor was Democratic.

We include controls for several other likely influences on judicial selection. Indeed, one of the advantages of our research design is that we can measure many controls at a point in time relatively close to the selection of a particular justice. We control for both state characteristics (including the state liberalism, urbanness, size of eligible pool), and institutional characteristics (the size of the court, and the prestige of the institution).

State Liberalism

Though rarely used to predict female representation in state institutions, state liberalism, like culture, likely influences the selection of women to state judiciaries. Scholars have shown that liberal voters in low-information elections are more likely to cast a ballot for women (McDermott, 1997). In more liberal states, both officials and voters are more likely to view diversity on the bench as an imperative. We use measures of citizen ideology developed by Berry et al. (1998).⁸

Urbanization of State

Urban environments, because they are more diverse and because they are more likely to offer the necessary organizational infrastructure for the recruitment and election of a more diverse set of candidates, are arguably more likely to have diverse representation (Darcy, Welch, and Clark, 1994). Several scholars have investigated the effect of urbanization on female representation, with mixed empirical results. Research has found no relationship between the urbanization of the state and the proportion of women in the state legislature (Rule, 1981); however, several scholars have found that within states, women are more likely to be elected from urban areas (Nechemias, 1985; Hogan, 2001); the same is true for congressional elections (Rule, 1981). Still other scholars have demonstrated that this effect varies across states (Matland and Brown, 1992). Little work has been done focusing on the relationship between urbanization and the selection of women to the judiciary, but, based on legislative research, it is reasonable to expect that a positive relationship exists. In a judicial election system, an urban constituency may be better able to recruit and elect female judicial candidates; in a judicial appointment system, an urban constituency may be

⁸In alternative analyses, we included a dummy variable coded 1 for southern states, and 0 otherwise; this regional variable had no significant effect on the likelihood of selecting a female justice. Measures of political culture taken from Johnson (1976) also had no significant effect on the likelihood of selecting a female justice.

more likely to pressure governors, legislatures, and judicial selection commissions to prioritize gender diversity (Allen, 1984). We thus control for the proportion of the state population that is urban, measured by data from the decennial census most proximate to the selection of that particular justice.⁹

Attractiveness of Position

Several scholars have concluded that women are more likely to be represented in less competitive and less prestigious positions (e.g., Diamond, 1977; Carroll, 1985). Service in high-status offices is thought to conflict with sex-role socialization and family responsibilities. However, as Darcy, Welch, and Clark (1994) note, the overall evidence for this claim is mixed. Karnig and Welch (1979) found that women were less likely to serve in prestigious mayoral positions, but that prestige had little effect on female representation in city councils. Rule (1990) found that small assemblies no longer presented obstacles to female representation. Hogan (2001) found weak but significant effects of legislative professionalism on female representation in state legislatures. Following this previous research, we include two control variables for the status of the institution: Caldeira's 1983 rankings of state courts (in the form of a dummy variable coded 1 if the court is one of the 10 most prestigious courts, and 0 otherwise), and the length of term served by justices.¹⁰

Pool of Candidates and Court Size

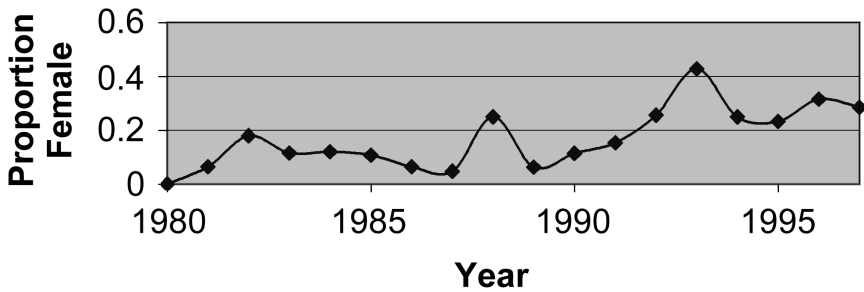
Two likely influences on the selection of women to the state judiciary are the size of the pool of eligible candidates and the number of seats available. Scholars have often pointed out that discrimination takes place not only in the selection of government officials, but also at an earlier stage when individuals gain the resources and knowledge to enter political positions (Welch, 1978). Indeed, the size of the eligible pool may have particular influence in selection to fields that demand specialized training (MacManus, 1992; Welch, 1978); Wefing (1997) finds that previous judicial experience is more prevalent among state supreme court justices than any other background characteristic. Surprisingly, previous research found little empirical evidence

⁹Urbanization is defined according to the census definition of proportion of individuals that reside in towns of 2,500 or more. We performed alternative analyses measuring urbanization as the proportion in standard metropolitan areas, and the proportion in cities with a population greater than 100,000; the results are substantively the same as those presented in this article.

¹⁰In alternative analyses, we measured prestige with a dummy variable coded 1 if the court was one of the top 10 in terms of compensation, and 0 otherwise; this variable had no significant effect on the likelihood of selecting a female justice. Length of term in states without life-time tenure ranged from six years to 14 years. Life terms (with or without age limits) were coded as 15 years.

FIGURE 1

Selection of State Supreme Court Justices 1980–1997



for the expectation that the eligible pool of female judges affects gender diversity on state high courts (Alozie, 1996). However, given that we depart from previous research by using the individual judge as the unit of analysis, our analysis may uncover more convincing evidence for this expectation. We thus control for the proportion of judges in the state that are female at the time of appointment of a justice on the court of last resort. Moreover, larger courts may also indicate higher overall turnover and a greater opportunity for diversification. Alozie (1996) finds a significant effect of the size of the court on the likelihood that the court will have some gender diversity. We therefore control for the number of seats on the court.

Time

Finally, in recognition that female justices are more likely to be selected in later years, we control for time, measured as years since 1979 (the earliest year of appointment in our sample is 1980).

Findings

As noted above, the number of women on state courts of last resort has increased dramatically over the past two decades. In 1993, women composed 15 percent of the justice positions on state courts of last resort, and 15 states had no female justices (Alozie, 1996). By 1999, women composed approximately 24 percent of these courts, and only New Hampshire, South Dakota, and Wyoming had all-male courts. Almost half of state courts of last resort had multiple women serving during 1999. During the 1980s, approximately 10 percent of the justices selected were female; after 1990, about 28 percent of the justices selected were female. Figure 1 demonstrates the increase over time in the selection of women to state supreme courts;

TABLE 1
Effects on the Likelihood of Selecting a Woman to the State Court

Independent Variables	Range	Parameter Estimate
Court Diversity and Appointment Method		
Female present on court	0–1	–0.479 (0.497)
Female already present on court—new justice appointed ^a	0–1	–1.049* (0.572)
Justice appointed, Democratic governor	0–1	1.012** (0.418)
Justice appointed, Republican governor	0–1	0.927* (0.433)
State Culture, Demographics, Politics		
State liberalism	0–1	0.021* (0.010)
Proportion of state population living in urban area	0.32–0.93	0.277 (0.956)
Attractiveness of Position, Pool of Candidates		
Proportion of lower court judges that are female	0.06–0.49	0.384 (1.440)
Prestigious court	0–1	0.439 (0.378)
Size of court	5–9	0.228* (0.131)
Length of term	6–20	–0.026 (0.063)
Time	1–20	0.169** (0.030)
Constant		–6.212** (1.603)
Number of Justices (n)	514	

NOTE: Dependent variable: coded 1 if justice selected is female.

^aIncludes appointment by governor and/or judicial nomination commission.

** $p < 0.01$; * $p < 0.05$ (one tailed test).

during the 1980s, the selection of women varied across time, but increased substantially in the early 1990s.¹¹

Of course, a multivariate analysis is best suited to sort out influences on gender diversity within the state judiciary. As noted above, the advantage of a research design that predicts the sex of the selected justice is that we are

¹¹ Our data differ slightly from those collected by others (e.g., Allen and Wall, 1993; Brisbin and Kilwein, 1996) because we use the year of election, or the year in which the appointment was made, rather than the year in which service began. An alternative multivariate analysis was conducted using an additional variable controlling for whether the justice was appointed after 1990; the results are substantively the same as those presented in this article.

TABLE 2

Predicted Probabilities of a Female Justice Being Selected to a State High Court

	Predicted Probabilities ^a
No woman serving on court; appointment method used; Democratic governor	0.28
No woman serving on court; appointment method used; Republican governor	0.26
No woman serving on court; new justice is elected	0.12
Woman serving on court; appointment method used; Democratic governor	0.08
Woman serving on court; appointment method used; Republican governor	0.07
Woman serving on court; new justice is elected	0.09

^aControl variables set at mean.

able to control for state and court characteristics at the time of appointment. The multivariate results are presented in Table 1.

In keeping with our first hypothesis, women are significantly more likely to be selected to a state high court when initially appointed, and this effect is particularly pronounced when the governor is Democratic. Moreover, our third hypothesis is also supported. If the justice is initially appointed to the court by the governor or a merit commission (or some combination of the two), women are much more likely to be appointed to an all-male court than to a gender-diverse court. Our second hypothesis, that existing diversity matters for both methods of selection, is not supported; although the sign of the parameter estimate is in the right direction, the estimated effect is not statistically different than zero. Existing diversity matters primarily if the justice is initially appointed. The consequence of these findings is clear: those who speculated that appointment systems would increase the diversity of the court were right, at least under certain conditions. Women were able to increase their chances of selection through appointment. However, the appointment method appears vulnerable to the effect of existing diversity; this method of selection essentially works to diversify otherwise homogeneous institutions. The predicted probabilities presented in Table 2 illustrate this pattern. Women have a relatively high probability of being selected to state high courts only when the court is all male.

Regarding other influences on the selection of women to high courts, our study both reinforces previous work and adds new dimensions to the study of the gender diversity within judicial institutions. Like Alozie (1996), we find that larger courts are more likely to be gender diverse. Also replicating Alozie (1996), we find that the size of the eligible pool does not significantly affect gender diversity on state high courts; it seems clear that the lack of gender diversity cannot be easily addressed by increasing women's presence in lower courts.

We find that women are more likely to be selected to more prestigious courts, although the effect falls short of statistical significance. We also add to current research by demonstrating more directly the political influences on the selection of women to state high courts: relatively liberal states are particularly likely to have gender-diverse courts. The effect of the partisanship of the governor is much less pronounced: women are marginally more likely to be appointed by Democratic rather than Republican governors. It appears that governors, regardless of partisanship, support diversification of the courts. Women themselves are a diverse group in terms of partisanship, and thus Republican governors likely can find qualified Republican female candidates. We find as well that women are increasingly likely to be selected to state courts as time passes.

Discussion and Conclusions

Political theorists have long been preoccupied with the question of diversity within political institutions. Writing in 1861, John Stuart Mill argued that true democracy at the very least demands a system of proportional representation; the ideal system would be one in which each minority, no matter how geographically dispersed or how small, would be entitled to a proportion of seats in a legislature. In contemporary politics, some voters appear to value diversity in government (McDermott, 1997), and certainly elite political actors have expressed similar sentiments. Yet scholars rarely address the question of whether existing gender diversity is taken into account when selecting government officials. Most importantly, we demonstrate that *existing gender diversity matters in the selection of women to public office*. Women had a substantial chance of being appointed to a vacancy on an otherwise all-male court; however, the chance that a woman will be appointed to the bench drops significantly once the court achieves any degree of gender diversity. That existing diversity matters more for appointed justices than for elected justices likely reflects an important difference in knowledge between elite and mass decision making. And, unlike previous scholars (Alozie, 1996), we also find that the method of selection to state supreme courts did influence the likelihood of selecting women, at least under some conditions. The appointment method served to diversify otherwise all-male courts.

For those who promote the goal of increasing gender diversity within the judiciary, these findings represent both pessimism and optimism. This research suggests that pressures to increase gender diversity may be largely satisfied at a relatively low level. This reflects much of the contemporary debate over affirmative action in general. Affirmative action may promote gender and racial diversity, but the degree to which affirmative action promotes diversity beyond a token level is an open question. State supreme court justices themselves have indicated they believe that it may be difficult for women to increase their numbers on the bench (Bakst, 1997). Yet it is at

the same time clear that all-male courts are largely institutions of the past, and it is likely that, as time passes, the number of women on the court will increase. It is also possible that once women move beyond a token number in an institution, resistance to diversification of the institution attenuates; recently, a majority of the justices serving on two state supreme courts (Massachusetts and Minnesota) have been women. As courts become more diverse, scholars may examine whether the effect of existing diversity continues to operate even as courts become more gender diverse.

REFERENCES

- Allen, David W. 1984. "Condition and Consequences of Women on State Courts of Last Resort." Unpublished Ph.D. dissertation. Milwaukee, Wis.: University of Wisconsin-Milwaukee.
- Allen, David W., and Diane E. Wall. 1993. "Role Orientations and Women State Supreme Court Justices." *Judicature* 77:156-65.
- Alozie, Nicholas O. 1996. "Selection Methods and the Recruitment of Women to State Courts of Last Resort." *Social Science Quarterly* 77:110-26.
- Bakst, M. Charles. 1997. "Maureen McKenna Goldberg: A Judge's Testimony." *Providence Journal-Bulletin* April 27.
- Baum, Lawrence. 1998. *American Courts: Process and Policy*, 4th ed. Boston, Mass.: Houghton Mifflin.
- Berkson, Larry C., S. Beller, and M. Grimaldi. 1980. *Judicial Selection in the United States*. Chicago, Ill.: American Judicature Society.
- Berry, William D., Evan J. Ringquist, Richard C. Fording, and Russell L. Hanson. 1998. "Measuring Citizen and Government Ideology in the American States, 1960-93." *American Journal of Political Science* 42:327-48.
- Bratton, Kathleen A., and Kerry L. Haynie. 1999. "Agenda-Setting and Legislative Success in State Legislatures: The Effects of Gender and Race." *Journal of Politics* 61:658-79.
- Brisbin, Richard A. Jr., and John C. Kilwein. 1996. "State Supreme Court Justices: Jan. 1970 to Jan. 1994." Typescript.
- Bullard, Angela M., and Deil S. Wright. 1993. "Circumventing the Glass Ceiling: Women Executives in America." *Public Administration Review*. 53:189-203.
- Caldeira, Gregory A. 1983. "On the Reputation of State Supreme Courts." *Political Behavior* 5:83-108.
- Carroll, Susan J. 1985. *Women as Candidates in American Politics*. Bloomington, Ind.: Indiana University Press.
- Council of State Governments. 1994. *Book of the States*. Lexington, Ky.: Council of State Governments.
- Darcy, Robert, Susan Welch, and Janet Clark. 1994. *Women, Elections, and Representation*, 2nd ed. Lincoln, Neb.: Nebraska University Press.
- Davis, Sue, Susan Haire, and Donald R. Songer. 1993. "Voting Behavior and Gender on the U.S. Courts of Appeals." *Judicature* 77:129-39.
- Diamond, Irene. 1977. *Sex Roles in the State House*. New Haven, Conn.: Yale University Press.

- Fund for Modern Courts, Inc. 1985. *The Success of Women and Minorities in Achieving Judicial Office*. New York: Fund for Modern Courts, Inc.
- Githens, Marianne. 1995. "Getting Appointed to the State Court: The Gender Dimension." *Women and Politics* 15:1–24.
- Goldman, Sheldon. 1997. *Picking Federal Judges: Lower Court Selection from Roosevelt Through Reagan*. New Haven, Conn.: Yale University Press.
- Goldman, Sheldon, Elliot Slotnick, Gerard Gryski, and Gary Zuk. 2000. "Clinton's Judges: Summing Up the Legacy." *Judicature* 84:228–54.
- Graham, Barbara L. 1990. "Do Judicial Selection Systems Matter?" *American Politics Quarterly* 8:316–36.
- Hogan, Robert E. 2001. "The Representation of Women in State Legislatures: The Influence of State and District Conditions." *American Politics Research* 29:4–24.
- Hojnacki, Marie, and Lawrence Baum. 1992. "Choosing Judicial Candidates: How Voters Explain Their Decisions." *Judicature* 75:300–09.
- Johnson, Charles. 1976. "Political Culture in American States: Elazar's Formulation Examined." *American Journal of Political Science* 20:491–509.
- Karnig, Albert K., and Susan Welch. 1979. "Correlates of Female Office Holding in City Politics." *Journal of Politics* 41:478–91.
- Lopeman, Charles. S. 1999. *The Activist Advocate: Policy Making in State Supreme Courts*. Westport, Conn.: Praeger.
- MacManus, Susan A. 1992. "How to Get More Women in Office." *Urban Affairs Quarterly* 28:159–70.
- Martin, Elaine. 1987. "Gender and Judicial Selection: A Comparison of the Reagan and Carter Administrations." *Judicature* 71:136–42.
- Matland, Richard E. 1993. "Institutional Variables Affecting Female Representation in National Legislatures: The Case of Norway." *Journal of Politics* 55:737–55.
- Matland, Richard E., and Deborah Dwight Brown. 1992. "District Magnitude's Effect on Female Representation in U.S. Legislatures." *Legislative Studies Quarterly* 17:469–92.
- McDermott, Monika L. 1997. "Voting Cues in Low-Information Elections: Candidate Gender as a Social Information Variable in Contemporary United States Elections." *American Journal of Political Science* 41:270–83.
- Nechemias, Carol. 1985. "Geographic Mobility and Women's Access to State Legislatures." *Western Political Quarterly* 38:119–31.
- Norrander, Barbara, and Clyde Wilcox. 1998. "The Geography of Gender Power: Women in State Legislatures." In Sue Thomas and Clyde Wilcox, eds., *Women and Elective Office*. New York: Oxford University Press.
- Phillips, Anne. 1998. "Democracy and Representation: Or, Why Should It Matter Who Our Representatives Are?" Pp. 224–40 in Anne Phillips, ed., *Feminism & Politics*. Oxford: Oxford University Press.
- Pitkin, Hanna. 1967. *The Concept of Representation*. Berkeley, Cal.: University of California Press.
- Rule, Wilma. 1981. "Why Women Don't Run: The Crucial Contextual Factors in Women's Legislative Recruitment." *Western Political Quarterly* 34:60–77.

- . 1990. "Why More Women are State Legislators: A Research Note." *Western Political Quarterly* 43:437–48.
- Sapiro, Virginia. 1981. "When are Interests Interesting? The Problem of Political Representation of Women." *American Political Science Review* 75:701–16.
- Sciligiano, Robert. 1971. *The Supreme Court and the Presidency*. New York: Free Press.
- Segal, Jennifer. 1997. "The Decision Making of Clinton's Nontraditional Judicial Appointees." *Judicature* 80:279.
- Shapiro, Robert Y., and Harpreet Mahajan. 1986. "Gender Differences in Policy Preferences: A Summary of Trends from the 1960s to the 1980s." *Public Opinion Quarterly* 50:42–61.
- Songer, Donald R., Sue Davis, and Susan Haire. 1994. "A Reappraisal of Diversification in the Federal Courts: Gender Effects in the Courts of Appeals." *Journal of Politics* 56:425–39.
- Thomas, Sue. 1994. *How Women Legislate*. New York: Oxford University Press.
- Walker, Thomas G., and Deborah J. Barrow. 1985. "The Diversification of the Federal Bench: Policy and Process Ramifications." *Journal of Politics* 47:596–617.
- Welch, Susan. 1978. "Recruitment of Women to Public Office." *Western Political Quarterly* 31:372–80.
- Wefing, John B. 1997. "State Supreme Court Justices: Who Are They?" *New England Law Review* 32:47–94.