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Does Descriptive Race Representation Enhance Institutional Legitimacy? The Case of the U.S. Courts

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In the past two decades, numerous studies have tested empirically the normative theory of descriptive race representation. Here, we focus specifically on one aspect of descriptive representation—the relationship between increased racial representation and institutional legitimacy. Does greater racial diversity within a political institution increase its reservoir of good will? Using a novel experimental design centered on the federal courts, we find that greater descriptive representation for blacks causes increased legitimacy for the institution among African Americans. However, we also find that white support declines under the same experimental condition. In probing our data further, we discover that increased diversity does not impact blacks and whites in the same manner across the ideological spectrum. Rather, a person's ideology mediates how he or she assesses racial diversity on the bench. We conclude by discussing the implications of our findings.

In order to function effectively, governing bodies must be viewed as legitimate institutions as our government is dependent on people voluntarily obeying the law (Easton 1958; Tyler 1990). Legitimacy is often equated with a ''reservoir of good will'' that an institution acquires—good will that insulates the institution from public backlash in the event it issues an unpopular decision (Easton 1965). Easton (1975) thus draws an important distinction between short-term support for an institution's specific policy decision (specific support) and long-term good will for an institution (diffuse support). For political leaders, the critical issue is: how does an institution build up its reservoir of good will?

In this article, we test empirically one distinct normative theory about institutional legitimacy: the theory of descriptive representation. Does an increase in a minority population's presence within a political institution lead to greater legitimacy for that body by the underrepresented group? Conversely, how do white citizens react to an increase in minority representation? To this end, we employ an experimental research design which allows us to establish whether, in fact, a causal link exists between descriptive representation and institutional legitimacy. Specifically, we focus on a particular minority group—African Americans—and one political institution—the U.S. courts. We explore whether increasing the percentage of blacks on the federal bench affects both blacks' and whites' levels of diffuse support for the federal Judiciary.

How do Political Institutions Enhance Their Legitimacy?

Easton (1965, 1975) identifies three separate sources of institutional legitimacy: structural, ideological, and personal. These theories roughly correlate to the three leading theories in the social sciences about institutional legitimacy: procedural justice, substantive representation, and descriptive representation. The theory of ''procedural justice'' has its origins in the social psychology literature. Thibaut and Walker (1975), who coined the term ''procedural justice,'' found that litigants' satisfaction with the resolution of their legal dispute was largely influenced by the fairness of the process, rather than the substantive

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outcome of the dispute. In a large body of research, Tom Tyler and colleagues built on Thibaut and Walker's work; they argue that procedural justice not only leads to satisfaction with the resolution of a specific case, but much more broadly, to greater satisfaction and trust in the legal system as a whole (Tyler 1984, 1988, 1990, 1994; Tyler, Casper, and Fisher 1989; Tyler and Lind 1990; Tyler and Mitchell 1994; Tyler and Rasinski 1991). This theory of procedural justice has also been found to operate in other political institutions as well (Hibbing and Theiss-Morse 1995, 2001; Tyler 2001). However, some scholars question whether most citizens are familiar enough with an institution's internal procedures for those procedures to have a meaningful impact on the public's views on institutional legitimacy (Gibson 1989; Mondak 1993).

A second theory about institutional legitimacy posits that institutions build legitimacy not by virtue of using fair *procedures*, but rather, by garnering public support for their *substantive* decisions (Brady 1988; Caldeira and Gibson 1992; Durr, Gilmour, and Wolbrecht 1997; Mondak 1991, 1992; Mondak and Smithey 1997; Tanenhaus and Murphy 1981). To the extent an institution's substantive outputs are well-received by the public over a long period of time, the institution can build up its reservoir of good will in the event it one day makes an unpopular decision. However, scholars in this camp have reached inconsistent conclusions about whether short term support for an institution's substantive outputs drives long term support (e.g., Mondak and Smithey 1997) or vice-versa (e.g., Gibson, Caldeira, and Baird 1998; Gibson, Caldeira and Spence 2003).

Descriptive representation is yet a third normative theory about how political institutions enhance legitimacy (Birch 1993; Griffiths and Wollheim 1960; Mansbridge 1999; Pitkin 1967). The theory posits that, to be viewed as legitimate by all segments of society, a political institution must mirror the image of that society. Thus, "Black legislators represent Black constituents, women legislators represent women constituents and so on" (Mansbridge 1999, 629). The theory of descriptive representation is particularly concerned with enhancing institutional good will among groups traditionally underrepresented within that institution due to state-sanctioned discrimination, namely women and minorities. In other words, having long been excluded from the halls of power, descriptive representation sends a signal to underrepresented groups that "certain features of one's identity do not mark one as less able to govern" (651). Unlike the first two theories of institutional legitimacy, the theory of descriptive representation states that an institution acquires legitimacy not by what it actively does (substantively or procedurally), but rather, by what it looks like.

Descriptive representation, like the other two theories of institutional legitimacy, is not without its critics. Many scholars contend that minority groups do not need representation by one of their own in order to be adequately represented because the only meaningful form of representation is substantive representation (e.g., Pennock 1979; Pitkin 1967; Swain 1993; Thernstrom and Thernstrom 1997). Moreover, some have argued that efforts to increase descriptive representation in Congress actually decrease a minority's overall substantive representation within the institution. Empirical studies seem to support this view (e.g., Cameron, Epstein, and O'Halloran 1996).[1]

Empirical Studies on Descriptive Race Representation

As our study specifically focuses on racial diversity, we turn our attention to studies looking at the impact of descriptive *race* representation. The benefits said to accrue to underrepresented groups by virtue of descriptive representation are not limited to enhancement of institutional legitimacy, but rather, include both behavioral and attitudinal changes. For example, on the behavioral side, empirical scholars have found that, for African Americans, having a black descriptive representative leads to: better communication between representative and constituent (Banducci, Donovan, and Karp 2004; Bullock 1981); greater voter mobilization (Voss and Lublin 2001; but see Tate 2003); and increased political activism (Harris, Sinclair-Chapman, and McKenzie 2006; but see Tate 2003).

Empirical studies investigating attitudinal changes have largely focused on changes in perceptions about the quality of the representation provided by a descriptive black representative versus a white representative.

[1]Cameron, Epstein, and O'Halloran (1996) looked specifically at the impact of majority-minority congressional districts—those intentionally drawn to concentrate black voters so as to ensure the election of a black congressman in the district—on aggregate levels of substantive representation of blacks in Congress. They found that districts surrounding a majority-minority district tend to elect more conservative representatives to Congress than would otherwise be elected if black voters were dispersed among several voting districts. This trade-off between substantive and descriptive representation is not at issue in the context of allocating federal judicial seats (see 3–4).

For example, Box-Steffensmeier and colleagues (2003) found that blacks rate the performance of a black congressman higher than a white congressman. However, two studies found that black citizens with a descriptive representative do not believe the government to be more politically efficacious than when represented by a white person (Banducci, Donovan, and Karp 2004; Tate 2003). More relevant to this study, a number of scholars have examined whether a descriptive race representative improves blacks' perceptions about our government writ large.[2]

Early studies on descriptive race representation showed blacks experienced increased pride in our government when a black official was elected (e.g., Gurin, Hatchett and Jackson 1989; Preston 1978). Bobo and Gilliam (1990) also found blacks living in cities with black mayors have greater trust in municipal government than blacks living under white mayors. Later studies, however, reached more pessimistic conclusions about descriptive representation. Gay (2002, 2001), Tate (2003, 1994) and Banducci et al. (2004) all found that being represented by a black congressman has *no* impact on blacks' "trust" in the institution.

Rather than focusing on whether descriptive race representation by a single representative affects levels of institutional trust among African Americans, two studies of note took a broader view. Specifically, they looked at whether increasing *aggregate* levels of black representation within a political institution—what Mansbridge refers to as a "critical mass" (1999)—in turn increases support for that institution among African Americans whether or not their particular elected representative is black (Overby et al. 2005; Tate 2003). However, these aggregate-level studies produced conflicting results. Overby and colleagues (2005) relied on a random sample of Mississippi citizens in order to test whether black citizens have higher levels of confidence in the fairness of the state judicial system given the state's fairly sizable percentage of elected black judges (29%).[3] Overby et al. found no support for their hypothesis. In contrast, relying on a national random sample of African Americans, Tate (2003) found that black citizens who believe (albeit, incorrectly) that blacks are overrepresented in Congress (more than 20% of members) have more trust in the institution than those who believe blacks occupy but a small percentage of seats in Congress.

The difference in the results of these two studies is likely explained by the perceptions of the survey respondents about levels of black representation within the respective institutions under examination. As Overby et al. acknowledge, their nonfinding regarding the impact of descriptive race representation within the Mississippi judicial system likely stems from citizens' lack of information about the relatively high level of racial diversity on the state bench. In contrast, Tate's (2003) survey—the 1996 Black National Election Study—specifically asked respondents what they believed to be the percentage of blacks in Congress.

Descriptive Representation on the Federal Bench

The behavioral studies on descriptive representation cited above—those in which the behavior of black constituents changes by virtue of a descriptive representative—are largely inapposite here because of the unique relationship between judges and litigants, courts and public. First and foremost, federal court judges are appointed for life terms, not elected for fixed terms. Thus, we have no theoretical basis to believe that the appointment of more black judges to the federal bench would lead to greater voter mobilization by the black population. Another important distinction between the judicial branch and Congress is that there is no trade-off between appointing more blacks to the bench and substantive representation of blacks within the federal judiciary.[4] This is due to the fact that the boundaries for federal districts and circuits are not drawn so as to concentrate minority populations within a single district to ensure the election of more black judges; the decision to seat more black judges lies largely within the president's discretion. Nor does a president's appointment of a

[2]As discussed below, scholars have used a variety of single question responses to capture the construct "trust in government" (e.g., approval, "trust" or "fairness), whereas here we use a battery of questions to test a respondent's willingness to resist fundamental change in the institutional structure of the federal courts even when they do not agree with their substantive outputs. We maintain that, though questions about trust get at certain aspects of legitimacy, our approach is a more accurate measure of institutional legitimacy.

[3]Overby and colleagues reported only the number of black elected judges in Mississippi. To calculate the percentage of blacks on the Mississippi bench, we looked to two sources for the total number of state judgeships: http://www.mssc.state.ms.us/trialcourts/countycourt/countycourtjudges.pdf and http://www.mississippi.gov/ms_sub_sub_template.jsp?Category_ID=13.

[4]When we refer to substantive representation by blacks on the bench, we mean votes cast by judges in cases that raise issues of particular import to the black community, such as race discrimination (Scherer 2004).

black judge in one federal district court impact the ideology of judges appointed in neighboring districts or even within the same district. Indeed, since we know presidents appoint federal judges who share their ideological values (Scherer 2005), all federal judges appointed by the same president lie relatively close on the ideological spectrum.

Another important distinction between the elected branches and the federal judiciary is that a litigant does not choose his judge or panel of judges; judges in the federal court system are randomly assigned. Nor do judges perform constituent service or communicate *ex parte* with litigants or members of the public on an issue that is, or even may come, before them. Thus, a black judge cannot be politically responsive to the needs of the black community the way an elected representative is expected to be.

What is theoretically attainable through descriptive representation on the bench is a change in attitudes about the legitimacy of the federal courts. Accordingly, proponents of descriptive representation have long argued that the theory should apply with equal force to the federal Judiciary, despite its unique political nature among the three branches of the national government. Arguments in favor of descriptive representation center on the issue we study here—diversity's ability to enhance the legitimacy of the U.S. courts. Some scholars go so far as to argue that descriptive representation in our courts, particularly for African Americans, is even more critical than in the elected branches of government: "Judges have a more direct and irrevocable impact in the lives of many Americans than local or even national legislators. This is particularly true for African Americans, who are disproportionately involved with the judicial system" (Ifill 2000, 407–08; see also Overby et al. 2005). Moreover, as the federal courts lack purse and sword, their decisions are not self-executing. Enhanced legitimacy thus ensures that court orders which are unpopular will nevertheless be voluntarily obeyed. Accordingly, there have been many calls in the last three decades to diversify the federal bench so as to enhance institutional legitimacy among African Americans and other historically underrepresented classes as well (i.e., women and Hispanics).

Without question, the two most prominent advocates of descriptive representation for the federal bench were Presidents Carter and Clinton. When, upon their elections, these presidents were confronted with a federal judiciary comprised overwhelmingly of white men, both Carter and Clinton made racial and gender diversity on the bench the bedrock of their federal judicial selection strategies (Goldman 1997; Scherer 2005). As Carter's Attorney General Griffin Bell explained: "[I]t is assumed that a national judiciary should resemble its national demographic constituency. Therefore, large groups which have been denied extensive representation in government should now be given a greater degree of representation. These values cannot be tested and confirmed or refuted. One can only accept or reject them" (Bell, quoted in Neff 1981, 150).[5]

Hypotheses

Despite Bell's claim—that the normative theory of descriptive representation "cannot be tested or refuted"—we now set out to do just that. Unfortunately, given the widely mixed results of past studies on descriptive race representation—and the absence of *any* empirical research about the theory's applicability to the federal courts—formulating hypotheses is particularly challenging. We thus look for guidance beyond empirical studies strictly about descriptive representation, and instead turn our attention to studies on "group consciousness."

The theory of group consciousness posits that members of certain groups will have a "political awareness or ideology regarding the group's relative position in society along with a commitment to collective action aimed at realizing the group's interests" (Miller et al. 1981, 495). But, to have group consciousness requires more than objective membership in the group; rather, a person must feel subjective closeness to the group as well (Conover 1988). Numerous studies have concluded that African Americans have high levels of racial group consciousness—i.e., they feel a psychological attachment to their race (e.g., Dawson 1994; Harris-Lacewell and Junn 2007). What this means is that, by virtue of their racial group consciousness, African Americans experience a "linked fate" with fellow black citizens when evaluating salient political issues. Thus, "African American political choices are shaped by their perceptions of racial group interests [rather than self interests] and the absolute and relative status of the black community" (Dawson 1994, 157; see also Conover 1988). By virtue of blacks' high level of racial group consciousness, we would expect black citizens to perceive a federal bench on which blacks are well represented to be more legitimate than

[5]Similarly, Clinton famously remarked during his 1992 presidential campaign that the federal courts must "look like America" if the federal judiciary is to be perceived as legitimate (Mannies 1992).

one on which they are not because such a diverse bench sends a message that the federal judiciary is an institution of inclusion for the black race.

H1: Levels of diffuse support for the U.S. Judiciary increase among African Americans as the percentage of African Americans on the federal bench increases.

As for white citizens, racial group consciousness mediates public attitudes in a starkly different manner. For whites, there is much less of a feeling that what is best for their race is best for the individual (Harris-Lacewell and Junn 2007). Instead, whites (the ingroup) focus on their relationship to blacks (the outgroup), and how whites are faring in competition between the races, including competition for political power (Blalock 1967; Leighley and Vedlitz 1999). When whites perceive that blacks are being given an unfair advantage over whites, race relations become hostile (Conover 1988). These feelings of intergroup conflict and hostility are most pronounced when the government engages in efforts to improve the social and economic status of blacks (for example, through affirmative action programs; e.g., Bobo 1983; Sears, Hensler, and Speer 1979). Whites' feelings of hostility towards blacks may derive from either a perceived threat that scarce resources are being given, undeservedly, to blacks over whites, or from feelings of racial prejudice (Conover 1988). In either case, we would hypothesize the following:

H2: Levels of diffuse support for the U.S. Judiciary decrease among whites as the percentage of African Americans on the federal bench increases.

Experimental Design

All prior empirical studies testing the theory of descriptive representation have relied exclusively on mass public opinion data. We propose a new approach—an experimental research design—which is recognized as the optimal method for establishing causation, as opposed to studies utilizing mass public opinion, which can only demonstrate correlation (e.g., Brewer 2000, 3–16; McDermott 2002, 334–35).[6] Our use of an experimental approach is an important contribution to the extant literature on descriptive race representation because it allows us to isolate whether different levels of racial diversity within a political institution, rather than some other explanatory variable, is actually driving levels of public support for the institution under study—here, the federal courts. Moreover, through use of controlled conditions, we know each respondent's level of information on the percentage of blacks on the bench, which improves dramatically on the study of the Mississippi judicial system (Overby et al. 2005). Thus, although our study focuses on the federal Judiciary, our experimental approach will yield important insights on how levels of descriptive race representation may affect the legitimacy of other American political institutions as well.

Participants for the experiment were recruited in the following way. In January and May 2007, members of our research team approached individuals in Pennsylvania Station, Bryant Park, and Central Park in New York City.[7] These individuals were offered $10 in exchange for their participation in "a fifteen-minute study about American politics." To test the theory of descriptive race representation, it was critical that we survey a sizable number of African Americans. Accordingly, we intentionally oversampled the black population so that blacks would comprise approximately half of the subjects we surveyed in our experiment—89 blacks and 91 whites. Those who did not identify themselves on the survey as "black" or "white" were excluded from the analysis.

Subjects were shown a mock newspaper article describing a recent report issued by the Administrative Office of the U.S. Courts reporting: (1) the percentage of African American judges currently on the federal bench; (2) the percentage of African Americans on the federal bench 20 years ago; and (3) the percentage of African Americans in the U.S. population. The newspaper articles were purported to be from the *Chicago Tribune* and were formatted to look as if they had been downloaded from the *Tribune's* website, but were actually created by us for this study. Copies of these articles are set forth in the online Appendix A at http://www.wellesley.edu/Polisci/Scherer/index.html.

[6]Admittedly, there is a trade-off between the two methods. While optimal to establish causation, experiments, like ours, tend to rely on populations of convenience and thus lack the generalizability that random sample surveys provide.

[7]Pennsylvania Station is a major transit hub in midtown Manhattan. It serves commuters on the Long Island Railroad and the New Jersey Transit System and New York City subway riders on numerous subway lines. It also provides intercity train service nationwide through Amtrak. Bryant Park and lower Central Park (where participants were recruited) are public spaces located in midtown Manhattan; both attract people who live and/or work in New York as well as tourists from around the country. Accordingly, although the majority of our subjects hail from New York and New Jersey (78%), the remainder of our subjects lives in states as far away from New York as California, Arizona, and Oregon.

The manipulation in this experiment involved showing participants either an article reporting that blacks today comprise 23.2% of the federal bench or an article reporting that blacks make up 3.9% of the federal bench.[8] All other information in the articles remained the same, including the fact that, 20 years ago, blacks comprised 3.6% of the federal bench. A third control group was given no newspaper article.[9] Thus, participants were randomly assigned to one of three experimental conditions: one in which blacks were described as being overrepresented on the bench; one in which blacks were described as being underrepresented on the bench; and one in which no information was given about the percentage of blacks on the bench.[10] After reading the article (or, for the control group, immediately upon beginning the experiment), participants answered a number of questions designed to measure their feelings regarding the legitimacy of the federal judiciary—alternatively referred to herein as diffuse support for the federal judiciary—as well as demographic information about themselves. Upon completion of the experiment, participants were debriefed and thanked.

In order to ensure that the experimental conditions were randomly distributed—thus establishing the internal validity of our experiment—we performed difference of means tests on the demographic composition of the subjects assigned to each of the three experimental conditions. The results of these tests are set forth in Tables 1a (black participants) and 1b (white participants). As Tables 1a and 1b confirm, there were no statistically significant differences between conditions on any of the demographic variables.

ANOVA

Having established the random assignment of experimental conditions, regression analysis of our data is not required; we need only perform an analysis of variance (ANOVA) to test our hypotheses as the control variables that would be employed in a regression were randomly distributed between the three experimental conditions.

The dependent variable used in the ANOVA is the experiment participant's level of diffuse support for the federal Judiciary. Diffuse support is measured through a battery of eight questions originally developed by Caldeira and Gibson (1992, 1995) in their seminal studies of public opinion about the Supreme Court. The questions were adapted for this study about the entire federal court system, not just the Supreme Court. These questions were specifically designed to test citizens' willingness to resist fundamental changes to the institutional structure of the Supreme Court even when citizens disagree with the substantive policy outputs of the Supreme Court.

It is important to note that our measurement of diffuse support is markedly different than measurements used in past studies in which scholars sought to test, as we do here, whether descriptive race representation raises levels of institutional legitimacy among African Americans. For the descriptive representation studies cited above (2–3), scholars used a single survey question about respondents' ''trust'' in the institution under study. While a person's trust in government is deemed one facet of diffuse support (Easton 1975), levels of trust standing alone may only measure a citizen's satisfaction with an institution's substantive outputs—i.e., specific support (Easton 1975). Here, however, we want to ensure that we are measuring long-term support for the courts, that which captures a person's willingness to defend an institution in the long term even when they disagree with the outputs of the institution in the short term. Just as Caldeira and Gibson argued (1992), we believe the battery of eight questions (including a question on respondent's ''trust'' in the courts) taps into the broader constructs of legitimacy and good will we seek to measure herein. Moreover, as others have noted (Overby et al. 2005), a word like ''trust'' is somewhat ambiguous; this may well explain previous

[8]Because of the uneven results of prior studies on descriptive representation, we decided that the optimal course of action in constructing our experimental conditions was to present respondents with an article reporting overrepresentation of blacks in the U.S. Judiciary, rather than one reporting exact descriptive representation. This type of experimental design is appropriate to ensure that the experimental stimuli produce the intended effect (Aronson, Wilson, and Brewer 1998, 117). In future iterations of the experiment, we will test lower levels of racial diversity on the bench, including exact descriptive race representation, to assess what level of diversity is minimally necessary to produce levels of diffuse support that are statistically higher than the control group.

[9]In all likelihood, participants assigned to the control group (and thus given no information about the degree of racial diversity on the federal bench) underestimated the level of descriptive race representation in the federal Judiciary, just as Tate (2003, 150) found to be true of survey respondents' estimates of descriptive race representation in Congress.

[10]As of January 1, 2007 (the experiment's start date), 8.6% of all sitting federal judges (including active and senior status judges) were black (www.fjc.gov), while 12.3% of the U.S. population identified themselves in the 2000 census as black (single race). Blacks are descriptively represented on the federal bench at close to the same level as they were in the 110th Congress (43 of 535 representatives—8.0%).

Table 1 Difference of Means Tests: Demographic Characteristics by Experimental Condition

Table 1a African American Respondents

Variable	Overrepresentation (N = 27)	Underrepresentation (N = 31)	No Article (N = 31)	Total (N = 89)	P Value*
Male	.56	.39	.58	.51	.265
Age	3.37	3.23	3.94	3.52	.162
Income	2.56	2.10	2.32	2.31	.359
Education	2.44	2.06	2.23	2.24	.356
Ideology	3.33	3.77	3.61	3.58	.483
Christian	.59	.65	.39	.54	.102

See the online Appendix B for demographic coding.
*P values are two-tailed tests.

Table 1b White Respondents

Variable	Overrepresentation (N = 31)	Underrepresentation (N = 30)	No Article (N = 30)	Total (N = 91)	P Value*
Male	.55	.53	.53	.54	.991
Age	3.84	3.77	4.00	3.87	.801
Income	3.29	3.97	3.63	3.63	.157
Education	2.65	2.93	2.93	2.84	.451
Ideology	3.23	3.97	3.37	3.52	.138
Christian	.52	.53	.70	.58	.285

See the online Appendix B for demographic coding.
*P values are two-tailed tests.

findings that descriptive representation has no impact on trust in a political institution such as Congress (Gay 2002; Tate 2003) or the Mississippi courts (Overby et al. 2005).

All diffuse support questions began by asking respondents: "To what extent do you agree or disagree with the following statement?" The eight statements were: (1) Claims of race discrimination should be settled between employer and employee without involving the courts; (2) If the courts started making a lot of decisions that most people disagree with, it might be better to do away with the federal courts altogether; (3) The right of the courts to decide certain types of controversial issues should be reduced by Congress; (4) It would not make much difference to me if the U.S. Constitution were rewritten so as to reduce the powers of the courts; (5) People should be willing to do everything they can to make sure that any proposal to abolish the Supreme Court is defeated; (6) The courts can usually be trusted to make the right decision; (7) People should obey a court decision even if they do not agree with it; and (8) Courts get too mixed up in politics. The 7-point response options were anchored "strongly disagree" and "strongly agree." Responses to these questions were rescaled so that larger numerical responses would reflect higher levels of diffuse support for the federal courts. They were then averaged to create a single variable (Cronbach's alpha = .62).

We conducted two ANOVAs, one for black respondents and a second for white respondents. Each ANOVA employed one independent variable—the experimental condition to which the respondent was assigned (control group, underrepresentation of blacks on the bench, overrepresentation of blacks). Significant differences in levels of diffuse support were detected across the experimental conditions for both black [$F(2, 86) = 3.76$, $p = .027$] and white [$F(2, 88) = 4.72$, $p = .011$] respondents. Post hoc tests revealed statistically significant differences in levels of diffuse support between individuals assigned to the control condition and the overrepresentation condition.

Figures 1a and 1b illustrate these differences in diffuse support by condition for blacks (Figure 1a) and whites (Figure 1b). As these graphs indicate, black respondents who were given no information regarding the racial composition of the federal bench (the control group, representing baseline levels of diffuse support) registered a mean diffuse support level of 4.35 (on a scale of 1 to 7), while whites a mean level of 5.27. As for the condition in which respondents were told African Americans are underrepresented on

FIGURE 1 Levels of Diffuse Support by Experimental Condition

FIGURE 1a African American Respondents

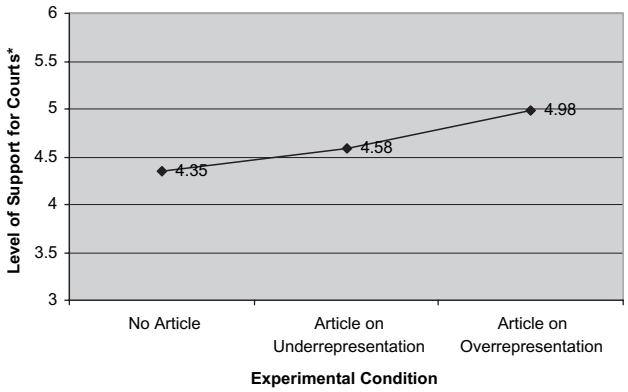
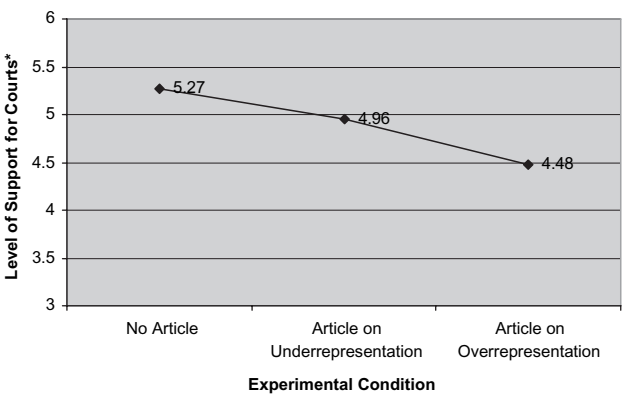


FIGURE 1b White Respondents



*Scale of 1 to 7 with 7 representing the highest level of diffuse support.

the federal bench, blacks had a mean diffuse support level of 4.58 and whites 4.96; there is no statistically significant difference between the baseline condition and the underrepresented condition for either black or white respondents. Turning to the condition in which respondents were informed that African Americans comprised a greater percentage of the federal bench than African Americans in the general population, levels of diffuse support among black respondents rose significantly from the baseline (from 4.35 to 4.98). To our knowledge, *this is the first time any study has been able to establish a direct causal link between an aggregate increase in racial diversity within a political institution and an increase in the legitimacy of that institution among members of the underrepresented class.* However, along with this increase in support among African Americans comes a reciprocal and statistically significant *decrease* in support among whites as racial diversity rises (from 5.27 under the control condition to 4.48 for the overrepresentation condition). Thus, in our experiment, blacks and whites respond in distinctly opposite ways to greater racial diversity on the bench.

Are Citizens of All Ideologies Similarly Impacted by Greater Racial Diversity?

The findings reported above raise vexing normative issues about descriptive racial representation within our U.S. political institutions. While increasing the percentage of a particular racial minority's representation may increase support among that particular group—exactly the type of causal impact that proponents of descriptive representation hope to achieve—the unintended effect of racial diversity may be, as was true in our experiment, that diffuse support among whites decreases in the presence of descriptive race representation.

One possible alternative explanation for our findings is that a respondent's ideology may play a more pivotal role in assessing diffuse support than our initial hypotheses considered. Could it be that our respondents (both black and white) see the increased presence of blacks on the bench not as purely *symbolic* representation—for blacks, that the halls of power are now open to minorities; for whites, that blacks are threatening to take over a previously white-dominated bench—but rather, as the implementation of liberal *substantive* policy? For example, respondents may see increased black presence as a transformation of the federal courts into a forum eager to advance liberal legal causes or as a government-sponsored racial quota system to allocate judicial seats. If increasing the number of blacks on the bench is seen, in part, as a liberal substantive policy and, in part, as a symbolic measure, then our alternative hypotheses are as follows:

AH1: Black levels of diffuse support should rise for all respondents across the ideological spectrum as diversity increases, but the magnitude of the increase should decline as a person becomes more conservative.

AH2: White levels of diffuse support should lessen for all respondents across the ideological spectrum as diversity increases, but the magnitude of the decline should increase as people become more conservative.

What these alternative hypotheses assume is that levels of diffuse support for the courts are not driven

by racial diversity alone, but rather, by racial diversity filtered through an ideological lens. The alternative hypotheses also offer a new approach to understanding descriptive representation. Although past studies have considered whether descriptive representatives also provide better substantive representation for black constituents (e.g., Scherer 2004; Tate 2003), the theory we posit here is quite different. Unlike prior studies, we expect substantive and descriptive representation to be blurred without looking at a single vote cast by a judge (or, as in Tate's study, votes cast by black congressmen). Instead, under our theory, liberal substantive policy is assumed by the public simply by virtue of more blacks being appointed.

In order to test these alternative hypotheses, we ran two regression models—one for whites and one for African Americans—interacting the overrepresentation condition with the respondent's ideology. The models also include other demographic characteristics that may impact diffuse support. Our dependent variable is the same as described above in the ANOVA analysis (6–7). Coding for our independent variables is set forth in the online Appendix B and includes the following: *Ideology*, *Underrepresentation, Overrepresentation*, *Ideology * Overrepresentation*, *Male*, *Income*, *Christian*, *Education* and *Age*.

Regression Results

Because our dependent variable is continuous, we use ordinary least squares regression to estimate our regression models. The results of the regression analysis are set forth in Tables 2a and 2b.[11] As expected, in both the black and white models, we find the coefficient for the interaction term Overrepresentation * Ideology is negative (meaning that, for respondents receiving the overrepresentation condition, the higher the level of conservatism the lower the level of diffuse support) and statistically significant. This provides initial support for our alternative hypotheses that ideology and racial representation together, rather than descriptive representation and ideology exerting independent influence on diffuse support, are driving our results.

[11]In order to avoid extrapolating beyond the parameters of our data, we analyzed only black respondents with ideological scores ranging from 1 to 5 (''extremely liberal'' to ''somewhat conservative''), as none of the African Americans in the overrepresentation condition identified themselves as ''conservative'' or ''extremely conservative.'' Similarly, because none of the white respondents in the control condition identified themselves as ''extremely conservative,'' we only analyzed white respondents with ideology scores 1 through 6.

With inclusion of the interaction term, the coefficients of interest in Tables 2a and 2b (Overrepresentation, Ideology and Overrepresentation * Ideology) are now conditional, making their interpretation more difficult (e.g., Brambor, Clark, and Golder 2006, 76). Accordingly, we present the substantive effects of the interactive relationships between Overrepresentation and Ideology in both tabular form and graphical form.

Tables 3a and 3b report the precise levels of diffuse support for each ideology score; the change in levels of diffuse support from control condition to the overrepresentation condition; and whether the difference between the control and overrepresentation conditions is statistically significant. Looking first at Table 3a, we see that overrepresentation of blacks on the federal bench exhibits a statistically significant impact on levels of diffuse support for those African American respondents identifying themselves as liberal or moderate (ideology score = 1, 2, 3, or 4). Specifically, ''extremely liberal'' African Americans exposed to the overrepresentation condition had a diffuse support score of 4.90 (control group = 3.60; difference = 1.30); ''liberal'' blacks a diffuse support score of 4.53 (control group = 3.54; difference = .99); ''somewhat liberal'' blacks a score of 4.16 (control group = 3.48; difference = .68); and ''moderate'' blacks a score of 3.79 (control group = 3.42; difference = .37). For ''somewhat conservative'' blacks, we also find an increase in support under the overrepresentation condition, but the difference is not statistically significant, no doubt due to the small number of black respondents who identified themselves as conservative.

Figures 2a and 2b graph the results presented in Tables 3a and 3b. What is immediately striking from these graphs is that *levels of diffuse support rose for blacks across the entire ideological spectrum.* This suggests that descriptive representation is enhancing legitimacy for all blacks in our experiment, including moderates and conservatives, notwithstanding the fact that increased diversity also seems to imply there is a liberal substantive policy at work (which causes levels of support to decline as a person becomes more conservative). Just as Dawson (2004) found in his groundbreaking study of black public opinion, blacks in our experiment appear to experience a linked fate with other members of their race; this linked fate thus causes even conservative and moderate blacks to have higher levels of diffuse support in the face of a seemingly liberal substantive policy initiative at work through the appointment of more black judges. All blacks in our study assessed the racial make-up of the

TABLE 2 Ordinary Least Squares Regression Results Diffuse Support for U.S. Courts

TABLE 2a African American Respondents

Independent Variables	Coef.	S.E.	P*
Experimental Condition			
Overrepresentation	1.61	.64	.007
Underrepresentation	.17	.24	.236
Control Group	Baseline	—	—
Ideology	−.06	.11	.285
Overrepresentation * Ideology	−.31	.18	.044
Male	−.05	.20	.403
Christian	.31	.19	.056
Age	.14	.06	.017
Education	.17	.10	.056
Income	−.03	.09	.347
Constant	3.66	.50	.000
	N = 82		
	R-squared = .29		
	Adjusted R-squared = .20		

Dependent Variable Coded 1 through 7; 7 = highest level of diffuse support.
*P values are one-tailed tests.

TABLE 2b White Respondents

Independent Variables	Coef.	S.E.	P*
Experimental Condition			
Overrepresentation	.39	.61	.262
Underrepresentation	−.27	.27	.165
Control Group	Baseline	—	—
Ideology	.00	.09	.487
Overrepresentation * Ideology	−.36	.17	.018
Male	.09	.22	.342
Christian	−.03	.24	.457
Age	.01	.08	.435
Education	.14	.11	.111
Income	−.02	.09	.423
Constant	4.83	.59	.000
	N = 90		
	R-squared = .19		
	Adjusted R-squared = .10		

Dependent Variable Coded 1 through 7; 7 = highest level of diffuse support.
*P values are one-tailed tests.

federal bench in terms of the benefit to their entire race, rather than the benefit to the individual. However, we cannot definitively reject the null hypothesis because one category of ideology (somewhat conservative blacks) did not produce a statistically significant difference between the overrepresentation and control groups. Yet, this is fairly strong evidence in support of our first alternative hypothesis.

Turning to Table 3b, we find that, for white respondents, descriptive representation of blacks has a statistically significant impact at the opposite end of the ideological spectrum from that observed for blacks (''conservative,'' ''somewhat conservative,'' ''moderate,'' and ''somewhat liberal''). Specifically, we see that ''conservative'' whites exposed to the overrepresentation condition had a diffuse support score of 3.08 (control group = 4.83; difference = –1.75); ''somewhat conservative'' whites a diffuse support score of 3.44 (control group = 4.83; difference = –1.39); ''moderate'' whites a diffuse support score of

Table 3 Levels of Diffuse Support by Ideology and Experimental Condition

Table 3a African American Respondents

Ideology	Control Condition	Overrepresentation Condition	Δ	P Value*
Extremely Liberal	3.60	4.90	1.30	.004
Liberal	3.54	4.53	.99	.002
Somewhat Liberal	3.48	4.16	.68	.003
Moderate	3.42	3.79	.37	.073
Somewhat Conservative	3.36	3.42	.06	.435

Levels of diffuse support range from 1 through 7; 7 = highest level of diffuse support.
*P values are one-tailed tests.

Table 3b White Respondents

Ideology	Control Condition	Overrepresentation Condition	Δ	P Value*
Extremely Liberal	4.83	4.86	.03	.470
Liberal	4.83	4.51	−.32	.175
Somewhat Liberal	4.83	4.15	−.68	.007
Moderate	4.83	3.79	−1.04	.001
Somewhat Conservative	4.83	3.44	−1.39	.001
Conservative	4.83	3.08	−1.75	.001

Levels of diffuse support range from 1 through 7; 7 = highest level of diffuse support
*P values are one-tailed tests.

3.79 (control group = 4.83; difference = –1.04); and ''somewhat liberal'' whites a diffuse support score of 4.15 (compared to 4.83 for the control group; difference = –.68). While diffuse support scores also fell for those identifying themselves as ''liberal'' (though the difference is not statistically significant), it rose 0.03 points for ''extremely liberal'' whites (also not statistically significant), precluding us from making any conclusions about these two groups of whites. Figure 2b also depicts an opposite trend as observed for blacks; as whites become more conservative, differences between the overrepresentation and control conditions increase rather than decrease.

These results also provide solid evidence that ideology is acting as a filter through which whites in our study assessed increased diversity on the bench. First, except for extremely liberal whites, all whites across the ideological spectrum experienced decreased levels of diffuse support when told that blacks were well represented on the bench. This is true *even for liberal white respondents* who, in theory, should react positively to the implementation of a liberal substantive policy. However, while racial group consciousness and feelings of hostility towards the outgroup (in this experiment, blacks) continue to impact the views of all whites, ideology also tempers an individual's hostility, as more liberal white respondents see smaller decreases in diffuse support than conservative whites. Ultimately, however, we cannot reject the alternative null hypothesis as not all ideological categories of white respondents exposed to the overrepresentation condition experienced a statistically significant decrease in diffuse support compared to the control condition.

Conclusion

In this paper, we set out to explore whether descriptive racial representation has any causal impact on institutional legitimacy, as its proponents claim. Unlike all prior empirical studies of descriptive representation—which employed mass public opinion—our use of an experimental research design allows us to resolve thorny issues of causation between increased racial diversity and institutional legitimacy. Moreover, our use of a battery of eight questions probing citizens' willingness to resist fundamental change to the federal judicial system, even when they do not agree with the substantive outputs of the federal courts, is a more concrete measure of the related constructs of

FIGURE 2 Differences in Levels of Diffuse Support by Ideology
FIGURE 2a African American Respondents

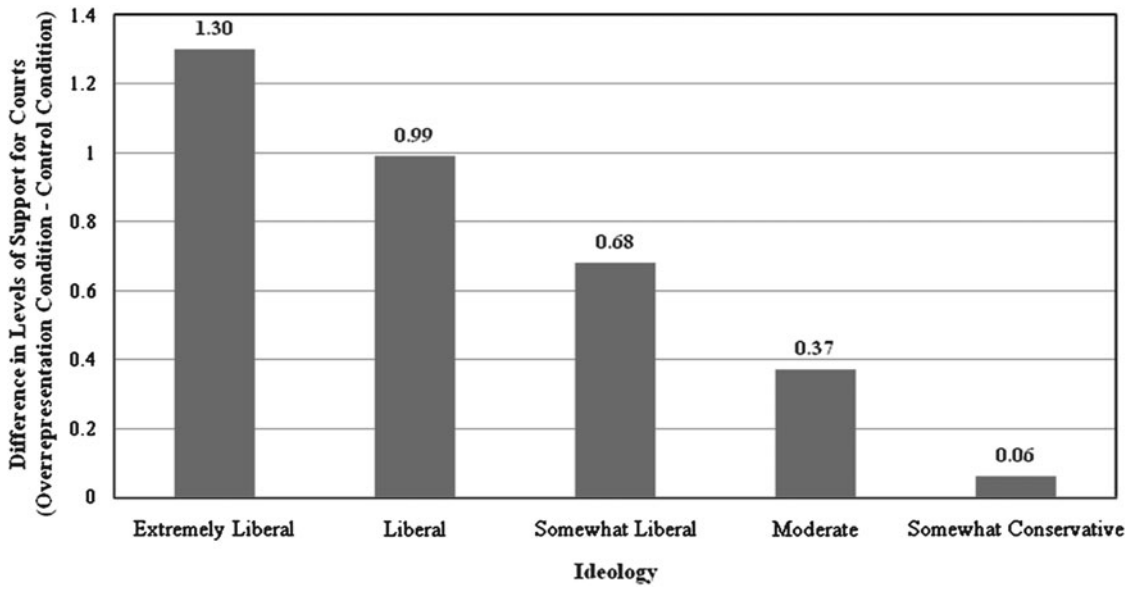
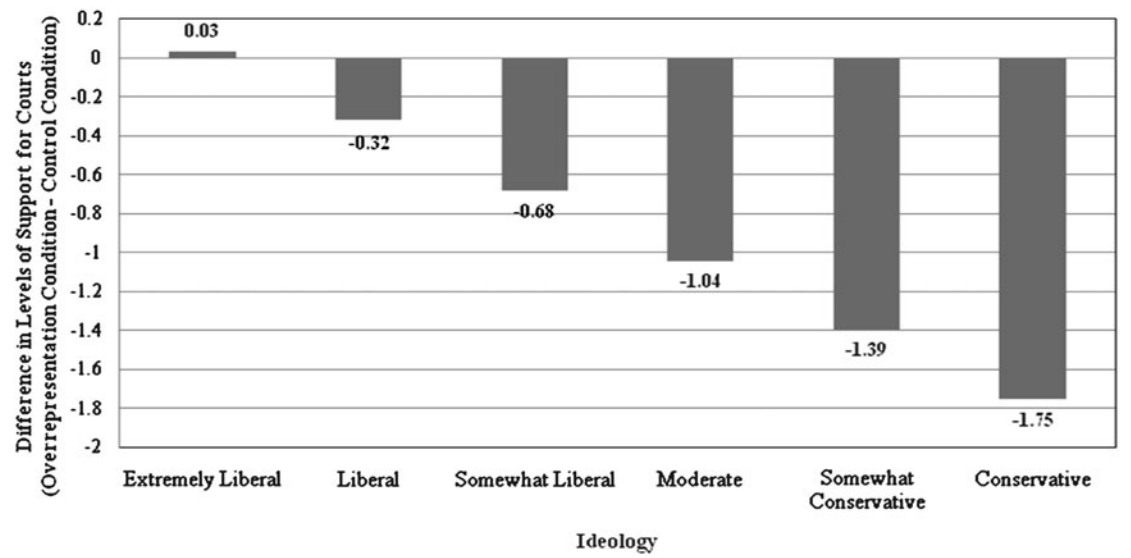


FIGURE 2b White Respondents



legitimacy/good will/diffuse support than prior measures relying on a single question about "trust" in government.

With these methodological and measurement innovations in place, the initial results of our experiment showed that, for the African Americans we surveyed, there exists a strong and positive causal relationship between aggregate levels of descriptive race representation within an institution and diffuse support for that institution. White respondents, however, reacted to the experimental condition in the opposite manner; white diffuse support declined when blacks were well-represented on the bench. Our study thus invites further investigation as to whether, using our experimental method, other political institutions experience similar results.

A decline in support for the courts among white respondents in the face of racial diversity on the bench led us to probe further. We tested an alternative theory to see whether ideology might be, at least in part, driving our initial findings. According to our theory—in which the lines between descriptive and substantive representation are blurred—as blacks and whites become more conservative, levels of diffuse

support should decline. At the same time, however, we expected even conservative blacks to have greater diffuse support for the courts under the overrepresentation condition, and liberal whites less diffuse support under the same condition. The results of our regression models provided strong support for our theory. It would seem, then, that both blacks and whites view descriptive racial representation not in isolation, but rather, filtered through an ideological lens.

Our findings have several important implications. First, *descriptive representation may never be able to enhance institutional legitimacy among the entire population* because blacks and whites, as they did in our experiment, may experience increased racial diversity in polar opposite ways. As long as whites continue as the racial majority in this country, diversity on the bench may jeopardize aggregate levels of legitimacy for the U.S. courts. Second, as in our experiment, *descriptive representation may be inextricably intertwined with substantive representation.* As long as the appointment of more black judges (or election of more black officials in other contexts) is seen, in and of itself, as a "liberal" substantive policy, institutional legitimacy will rise much more significantly for liberal blacks, and ebb much more significantly for conservative whites. Scholars may now want to reassess the normative implications of our findings. Is it better to increase levels of institutional legitimacy among a minority population even though efforts to do so sacrifice aggregate levels of legitimacy?

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