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| |  | | --- | |  |  |  |  |  |  | | --- | --- | --- | --- | | Taunya Lovell Banks  is Jacob A. France Professor of Equality Jurisprudence, University of Maryland School of Law       |  | | --- | | [Readers' comments](http://docs.google.com/user_feedback3.htm#comjudge) |     The over representation of women and black male judges on television not only sends an erroneous message about the extent of their representation in the judiciary, but may actually undermine popular support for increased racial and gender diversity on the bench by suggesting that our nation's benches are already diverse, or that blacks and/or women have taken over the courts. | |  | | --- | | **Will the Real Judge Stand-Up: Virtual Integration on TV Reality Court Shows**  by Taunya Lovell Banks  Reality court shows have been around since the mid 1980s when Judge Joseph A. Wapner, a retired member of the Los Angeles County bench, handled small claims cases, on *The People's Court*. Although not a ratings smash, *The People's Court* was successful enough, and in a classic example fiction merging with legal reality, Judge "Wapner became America's most famous jurist better known, said the polls, than United States Supreme Court Chief Justice William H. Rehnquist." Almost twenty years later, television reality court shows have replaced soap operas as the top daytime viewing genre.  On shows like *The People's Court* the "judge" is the center of attention due in part to the absence of lawyers. While the absence of lawyers is not unusual in pro se courts, Divorce Court suggests pro se representation also is the norm in family court. Thus, viewers like Anthony Widgeon mistakenly think they know how the family court system works from watching *Judge Judy* and *Judge Joe Brown*, the two most popular daytime court reality television programs on commercial television. Instead, when Mr. Widgeon appeared in circuit court on a domestic matter without legal representation, he quickly ended up in jail. He mistakenly thought he could delay his case by making a motion for a continuance.  Real court, however, is not like *Judge Judy*. Daytime reality television court shows are real fake courts involving minor, even petty matters. Ads for some shows tout them as offering the viewers real judges, real disputes and real justice. What the promotions for these shows do not clearly disclose is that what we are seeing is a distorted form of arbitration portrayed as a real trial. In truth, television syndicators hire the "judges" most, but not all, of whom are former real-life judges, seeks out and pays litigants to present their case before television cameras in courtroom settings constructed by producers.  Despite their entertainment value, the impact of reality court shows on viewer's perceptions of the legal system cannot be over estimated. Two social scientists writing in 1988 about litigant's expectations of the civil justice systems were struck by litigants' repeated references in small claims court to *The People's Court*. They wrote "we now suspect that the television program is a significant factor in many litigants' decisions to go to small claims courts and an important influence on the way they prepare their  cases." These studies fail to address whether contemporary reality court shows' educational function is overshadowed by what some argue is a gross distortion of the judicial system, an important American institution. Also unclear is whether these court shows reflect reality, or create a false realty so powerful that it overshadows conventional public perceptions about the actual civil court system in America.  For more than forty years, television has been a window to our world, shaping our image of local and world events. Today approximately 100 million American homes have television sets. In 1995 it was estimated that collectively, Americans watch over 120 billion hours of television each year. Television is a primary news source for most Americans, and "an almost constant companion of many." Studies of television viewing audiences find that women, especially women over 50, watch more television than men; blacks watch more television than whites; and less educated and less affluent Americans watch more television than more educated and more affluent Americans.  Given the pervasiveness of television, its power to affect and define how the viewing audience perceives the legitimacy of public and private institutions of power is great. The resulting public perceptions about institutions like the court may affect whether the institutional failings are corrected. One clear distortion of the American judicial system present in the TV reality court shows is the representation of judges.  During the 2000-2001 television season there were nine reality court shows in syndication, *The People's Court, Judge Judy, Judge Joe Brown, Divorce Court, Judge Hatchett, Judge Greg Mathis, Curtis Court, Judge Mills Lane, and Moral Court*.  Six of the nine judges were male, two were white, and four were black. Three judges were women, one white woman, Judge Judy and two black women, Judge Hatchett, and Mablean Ephraim on Divorce Court. When the 2001-2002 television season began, there were eight daytime court shows, and none of the judges were white males. In January 2002 Larry Joe Doherty, a white male, aired on a new show entitled Texas Justice. When the 2002-2003 season began seven shows remained with three male and four female judges. The fourth woman was Judge Marilyn Milian, a Cuban American, who took over *The People's Court*. Of the seven current television judges, only Judge Doherty is white and male.  In real life, however, most judges are white and male. Only 3.3% of all judges in the United States are black, and the percentages are even lower for Latinas/os and Asian Americans. Women comprise only 7% are of all federal judges and 9% of all state judges. The percentage of black women judges is even lower than the percentages for blacks and women generally. Thus, it is surprising that two black women, one Cuban American woman, one white woman, two black men and only one white man preside over the seven reality court television shows that air daily in most major cities.  Perhaps the overrepresentation of women, blacks and black males on TV reality court shows simply reflects network attempts to reach targeted viewing audiences. Yet this over representation is not only a distortion of actual judicial demographics in the United States, it also is a distortion of demographic make-up of the television population generally. A recent survey of the small screen by Children Now found that only 17% of the prime time television population is black; 75% of the prime time television population is white. Women account for only a third of prime time television characters.  The Children Now study concedes that increasingly women are portrayed on television as professionals like lawyers and doctors, and whites and blacks "appear with about equal frequency as physicians, attorneys and in service/retail/restaurants jobs." Thus, television creates the impression that women and non-whites, primarily black male lawyers, are well represented in the legal community.  Whatever the reasons, the over representation of women and non-white judges on reality court shows, coupled with the perceived over representation of black judges on television in general, is problematic in the highly racialized society in which we live. The over representation of women and black male judges on television not only sends an erroneous message about the extent of their representation in the judiciary, but may actually undermine popular support for increased racial and gender diversity on the bench by suggesting that our nation's benches are already diverse, or that blacks and/or women have taken over the courts.  Arguably, the overrepresentation of women and black men on daytime reality court shows creates a "'synthetic experience,' a substitute for reality that feels real." Leonard Steinhorn and Barbara Diggs-Brown argue in their book, BY THE COLOR OF OUR SKIN: THE ILLUSION OF INTEGRATION AND THE REALITY OF RACE, that "the average white American family. . . . see[s] more blacks beamed into their living room on a typical evening than they have seen at any other time or place during the day. . . . creating the impression that the world is more integrated than it truly is." They call this phenomenon virtual integration. Thus, it is conceivable that the composition of daytime reality court shows misleads viewers about the racial and gender composition of real judges.  On television the court room is integrated. On the shows the race of the bailiff is always different from the race of the judge. Also male judges tend to have female bailiffs and female judges tend to have male bailiffs. Since all the shows share this feature, clearly race and gender are factors considered by snydicators. Perhaps syndicators realize that integrated courtrooms with women and black judges appeal to television audiences. The presence of women and non-white judges in integrated settings reassure viewers that justice in the United States is meted out impartially. While there are positive aspects to this portrayal of the courts, there are negative aspects as well.  One political scientist speculates that white's misperceptions about blacks' standing in American society make be the result of the success of some blacks. "As the black middle class swells, more whites see blacks who have the same skills, earn the same money, and live in the same kinds of neighborhoods," and the increased sense of competition these observations engender in white Americans. It is no surprise that whites with the greatest misperceptions about the socio-economic status of blacks are less educated and affluent. Since less affluent and educated viewers are some of the same people who watch more daytime television, the possibility of the distorted information about the gender and racial composition of the judiciary is increased.  When virtual integration actually occurs, it easy for this group of whites viewers to doubt claims of the under representation of women and non-whites in the judiciary and the need for American society to make meaningful steps to address this problem. The fantasy of a racially integrated society keeps many whites from confronting how little contact they have with non-whites, especially black Americans, in real life. Given these concerns, reality television court shows bear closer examination.  Overall, the women judges, especially Judge Judy, the prototype for the new daytime reality court shows, come off as shrill. Judge Mablean Ephraim is an especially discomforting television image with her harsh sermons, mammy-like physique and gestures. Glenda Hatchett, initially more reserved during her first season, has become increasingly shrill as her show lags behind *Judge Judy, Judge Joe Brown and Divorce Court* in the ratings.  A brief comparison of *The People's Court* and *Judge Judy* with *Divorce Court* and *Judge Hatchett* suggests that the two black women judges, in varying degrees go beyond the legal framework of the law to help litigants resolve their problems. The willingness of judges to openly go beyond the law can be seen by the viewing audience as either a positive or negative attribute. Viewers who do not have much faith in the American judicial system might feel more positively about using the system to resolve grievances.  On the other hand, other viewers may conclude, especially when comparing *Divorce Court* and *Judge Hatchett* with *The People's Court* and *Judge Judy*, that black women judges, like the black jurors in the O.J. Simpson case, routinely nullify or disregard the law. As a result, these viewers may be less inclined to support the election or appointment of black women judges in real life. It is simply too early to know whether this suspicion is true or false, but the impact of these two shows on viewer perceptions about the courts and judges bears watching.  Even if one concludes that the over representation of women and non-white male judges on reality court shows distorts the civil justice system, there is no clear linkage between over representation on television, and under representation in real court rooms across the nation. The long-term impact, if any, is something to be monitored. Nevertheless, one should not under estimate the power of virtual integration in shaping public perceptions.  Posted January 16, 2003 |   **Would you like to comment on this article? Please submit your comments** [**here.**](http://docs.google.com/submit-comments.htm) |  |  | | --- | | [Top of page](#gjdgxs) |  |  | | --- | | [Home](http://docs.google.com/index.html) | [Silver Screen](http://docs.google.com/silver_screen.htm) | [Small Screen](http://docs.google.com/smallscreen/small_screen.htm) | [News & Views](http://docs.google.com/newsnviews.htm) | | |