

Gender and Judicial Nominations

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Abstract

Since the Democratic and Republican parties committed to diversifying the federal bench in the 1970s, Democratic and Republican presidents have sought out qualified female and racial and ethnic minorities for judgeships. Diversifying the bench offers symbolic and substantive benefits to both parties, but those benefits come at a cost, namely that of finding non-traditional nominees in a system built for finding the most obvious (mostly White, mostly male) nominees possible. Presidents consequently take one of two different approaches for diversifying the bench: they maintain the existing level of diversity by replacing one woman or racial and ethnic minority with another, or they keep adding women and racial and ethnic minorities to the bench to avoid creating "anchor" seats. Using a novel dataset of district and circuit court nominations made between 1981 and 2020, we examine presidents' nominations of women and find that parties have different approaches to this type of diversification. Republican presidents tend to replace one woman with another, while Democratic presidents are more likely to nominate women to the bench and do so without concern about the gender of the judge who previously held the seat. We also find that state delegations in the Senate play a big role in diversification, as delegations with at least one woman in them are more likely find female judges for the job.