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**Who's on the Bench? The Impact of Latino Descriptive Representation on U.S. Supreme Court Approval
among Latinos and Anglos***

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Abstract

Objectives: Few studies have examined the impact of the descriptive representation of Latinos on evaluations of the judiciary. This study helps to fill that gap by examining the effect of the appointment of Sonia Sotomayor on Latinos' and Anglos' evaluations of the U. S. Supreme Court. *Methods:* Using repeated measures from surveys conducted in Texas in 2006 and 2011, we use ordered logit analysis to estimate the impact of the Sotomayor appointment on approval of the U.S. Supreme Court among Latinos and Anglos. *Results:* At all levels of political knowledge, Latinos were more aware of the Sotomayor appointment than Anglos. Moreover, Latinos' approval of the Court increased dramatically after the appointment, while Anglos' approval was unchanged. *Conclusions:* We find a political empowerment effect among Latinos, but find no evidence that Anglos considered the appointment a threat. Additionally, given that the Latinos in our sample are overwhelmingly of Mexican origin and Justice Sotomayor is Puerto Rican, we find evidence of panethnic effects.

Introduction

“I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life. ... We should not be so myopic as to believe that others of different experiences or backgrounds are incapable of understanding the values and needs of people from a different group. ... However, to understand takes time and effort, something that not all people are willing to give. ... Hence, one must accept the proposition that a difference there will be by the presence of women and people of color on the bench.” Circuit Court judge Sonia Sotomayor, October 26, 2001.¹

President Barack Obama nominated Circuit Court Judge Sonia Sotomayor to the U. S. Supreme Court in late May of 2009, responding to the increased political influence that has accompanied Latinos' rapid population growth. Before Sotomayor's confirmation, Latinos were simply not represented at the highest level of the federal judiciary. Thus, her appointment made “visible” that which was “invisible” (Johnson 2002; Pitkin 1967; see also Perea 1995); in that sense, Justice Sotomayor unmistakably embodies descriptive representation, “standing for” Latinos on the Supreme Court (Pitkin 1967).

Scholars often construe the descriptive representation of minorities as “empowering” previously underrepresented groups. In a landmark study, Bobo and Gilliam define minority empowerment as “the extent to which a group has achieved significant representation and influence in political decision making” (1990, 378). They find that the political empowerment of Blacks at the mayoral level leads to higher levels of political knowledge, trust and efficacy, and, indirectly, participation, among African Americans. Their research provides much of the empirical basis for what has become a broader theoretical view of political empowerment, that is, the “thesis that minority representation strengthens representational links, fosters more positive attitudes toward government, and encourages political participation” (Banducci, Donovan and Karp 2004, 534).

Considerable research over the past thirty years has examined the political empowerment of African Americans (for example, Abney and Hutcheson 1981; Banducci, Donovan and Karp 2004; Gay 2001, 2002; Howell and Fagan 1988; Overby 2005; Tate 2003; Scherer and Curry 2010). By contrast, a much smaller body of research

¹ Published as Sotomayor (2002).

examines the impact of the descriptive representation of Latinos (for example, Barreto 2007; Barreto, Segura and Woods 2004; Pantoja and Segura 2003; Sanchez and Morin 2011), despite the fact that Latinos are now the largest minority group in the United States.

With respect to the effects of Latino representation in the courts, there is virtually no scholarship. Sotomayor's appointment provides a unique opportunity to help fill this gap. In this research, we focus on the effect of the Sotomayor appointment on the attitudes of both Latinos and Anglos toward the U.S. Supreme Court.

Specifically, we examine changes in Latino and Anglo approval of the Supreme Court, using a unique data set taken from two statewide surveys conducted in Texas in 2006 and 2011. We expect Sotomayor's appointment to evoke different responses from the majority and minority communities: we expect it to bolster Latino approval of the Court due to political empowerment effects and to diminish approval among Anglos as a result of minority threat effects. Our findings demonstrate a dramatic increase in Latinos' approval of the Court, while Anglos' attitudes were relatively unaffected.

This paper contributes to the literature in several respects: it adds to the relatively sparse scholarship on Latino political empowerment; it is the first study to examine the impact of descriptive representation of any minority group on attitudes toward the U.S. Supreme Court; and it is the first study to examine attitudes toward the Supreme Court before and after an appointment. Methodologically, research that measures changes in support for political institutions before and after the addition of minority representation is rare.² Our use of this method allows a more confident assessment of the impact of the Sotomayor appointment than would be possible with cross-sectional analysis at one point in time.

Descriptive Representation: Literature and Hypotheses

For Hanna Pitkin, a descriptively representative assembly mirrors the composition of the represented in some important respects; descriptive representatives “stand for” those whom they resemble (Pitkin 1967). Although the theory of descriptive representation focuses on legislative and executive institutions, presidents have long considered the descriptive characteristics of their nominees for the U.S. Supreme Court. In part, they have done so

² One study that takes such an approach is Abney and Hutcheson's (1981) examination of the impact of the election of a Black mayor in Atlanta.

to increase their own support among particular groups, such as African Americans, women, and Jewish voters.³

Although for Pitkin, descriptive representatives need only “stand for” and need not necessarily “act for” those whom they represent (1967 61, 90), Mansbridge draws important connections between descriptive and substantive representation. She argues that the shared experience of descriptive representatives of women and Blacks “enhances the substantive representation of those groups by improving the quality of deliberation” of the body on which they serve (1999, 628)—a function arguably as central to the U.S. Supreme Court as to the legislature. In addition, descriptive representation conveys the sense that one’s views and experiences will be “represented with sensitivity” (Mansbridge 1990, 651); indeed, it is precisely this point that Sotomayor addressed in the quotation above. In this and other ways, descriptive representation increases the legitimacy of the legislature (Mansbridge 1999, 650-651) and, by extension, we argue, the Court.

We do not suggest, of course, that the U. S. Supreme Court is a representative body in the sense of direct democratically elected representation. Alexander Hamilton elaborates on the implications of the judiciary’s design in #78 of *The Federalist*. Hamilton takes care to argue that, as an unelected branch, the judiciary is the weakest, i.e., the “least dangerous,” of the three branches of government. He takes pains to deny that the doctrine of judicial review implies that the judicial branch is superior to the elected legislature, going so far as to refer to the judiciary’s “natural feebleness.” However, the U.S. Supreme Court has proved far from feeble, and with its indefinite term of office (“during good behavior”), the all-important legitimacy of the Court, about which #78 is implicitly concerned, is arguably enhanced by the appointment of justices who mirror the citizenry.

In that connection, Hamilton suggests that the judicial branch serves as an essential safeguard against “the injury of the private rights of particular classes of citizens.” He goes on to point out that, if allowed to persist, such injuries and injustices will destroy the “foundations of public and private confidence,” and replace them with “universal distrust and distress.” We suggest “public and private confidence” is at least as relevant in the modern context as they were in Hamilton’s day. And, while we think it fair to say those “particular classes of citizens” had little to do with ethnicity and gender, today that concept has taken on a far broader meaning. Such groups now

³ All Democratic presidents since 1976 have pursued diversity strategies in appointments to the federal courts, while Republicans have eschewed such strategies (Scherer 2011).

encompass women, African Americans, Latinos, and a growing list of other potential suspect (or quasi-suspect) classes.

Therefore, we argue that race, ethnicity and gender are appropriate factors in defining the Court as a “representative” body in this broader sense. The seating of members of these groups on the Court has the dual benefit of increasing the likelihood 1) that the Court has some sense of the perspective of these minorities and 2) that the Court’s decisions will be respected by members of these groups. Moreover, members of these classes have come to expect, in some cases to demand, they be represented descriptively in all levels of government.

The United States Supreme Court is no exception. It was not by accident that President Lyndon Johnson appointed Thurgood Marshall to the Court, to be replaced by another African American, Clarence Thomas, in 1991, nor was it serendipity that led Ronald Reagan to appoint Sandra Day O’Connor in 1981; the appointments of other women – Ruth Bader Ginsburg and Elena Kagan (after Sotomayor) - followed. It is hardly surprising that Sotomayor’s appointment is seen as expanding perceptions of the Court as a representative institution.

Scholars have examined empirically the impact of descriptive representation on virtually all branches and levels of government, with the exception of the U.S. Supreme Court. Most of that research focuses on the representation of African Americans and has produced conflicting results. Research on the impact of Black mayors finds empowerment effects (Abney and Hutcheson 1981; Bobo and Gilliam 1990; Howell and Fagan 1988; Rahn and Rudolph 2005). However, research on the impact of minority representation in Congress on minority attitudes and behavior is mixed, finding in some cases little or no impact (Gay 2001; 2002) and, in others, positive effects (Banducci, Donovan and Karp 2004; Tate 2003).⁴ Finally, research on the impact of African American representation in state courts finds no empowerment effects (Overby, et al. 2005, while positive effects are seen at the level of the federal courts below the U.S. Supreme Court (Scherer and Curry 2010).

In the limited number of studies of the impact of descriptive representation on the political empowerment of Latinos, scholars have found Latinos are more likely to turn out to vote in Latino majority districts (Barreto,

⁴ Tate’s (2003) findings are nuanced. While Blacks represented by Blacks are more knowledgeable about and approving of their own members of Congress on a number of measures (121), they did not experience empowerment effects (141). However, the higher their perception of the Black composition of Congress, the higher their approval of the institution itself and the higher their trust in government (Tate 2003, 148).

Segura and Woods 2004) and, more generally, when Latino candidates are on the ballot (Barreto 2007). Moreover, Latinos with a higher sense of linked fate and attachment to the Spanish language tend to prefer descriptive representation in Congress (Wallace 2013). In addition, Latinos represented by Latino mayors are less politically alienated and have higher levels of internal political efficacy (Sanchez and Morin 2011). Similarly, there is evidence the descriptive representation of Latinos in state legislatures reduces Latinos' sense of political alienation (Pantoja and Segura 2003).

Thus, on balance, extant research shows that descriptive representation enhances the political empowerment of minority groups. More specifically, there is evidence those groups' support for an institution increases as they begin to believe their interests will be advocated by members of their group. Support for the U.S. Supreme Court has not been examined in this way. However, Johnson (2002, 3) notes the appointment of Thurgood Marshall to the Supreme Court "represented an achievement for the entire African American community, unmistakably signaling that it in fact is an important part of the nation as a whole ... A Latina/o appointment under similar circumstances could have a comparable impact." Moreover, as the discussion above suggests, if descriptive representation in and of itself promotes confidence in government among members of a specific group, this effect can occur before the public official has done anything at all or in the absence of people's awareness of what that official has actually done.

Minority Empowerment and Latino Evaluations of the Judiciary

Few of the studies mentioned above investigate public evaluations of the judiciary as a function of minority representation. The two that do so focus on African Americans. Overby et al. (2005) find that descriptive representation has no impact on blacks' perceptions of fairness of the Mississippi judicial system. In contrast, Scherer and Curry's (2010) experimental study finds such representation significantly enhances blacks' diffuse support for the federal courts.

A likely impediment to the existence of an impact of descriptive representation on public attitudes and behavior is lack of awareness of that representation (Overby et al. 2005), especially among the relevant minority group. However, the Sotomayor appointment did not suffer from a lack of visibility. Her confirmation hearings attracted intense coverage, especially by Spanish language media, which often emphasized her ethnicity.

Significantly, Manzano and Ura (2013) find that Internet searches for "Sotomayor" were concentrated in areas with high Latino population densities, suggesting Sotomayor's nomination cued a panethnic Latino identity, with Latinos

of all national origins exhibiting heightened interest.⁵ As we demonstrate in this study, Sotomayor's nomination was, indeed, characterized by its salience to the broader Latino community.

Given the balance of scholarly evidence in favor of empowerment effects and the high level of media attention to—and the resulting interest in—the appointment of Sonia Sotomayor to the Supreme Court, we hypothesize the following:

H₁: Latino approval of the U.S. Supreme Court increased following the appointment of Sonia Sotomayor.

Minority Threat and Anglo Evaluations of the Judiciary

A common covariate of the minority empowerment thesis is the racial/minority threat hypothesis (Key 1949; Howell and Fagan 1988). Broadly conceived, the “minority threat” hypothesis holds that, as a minority racial or ethnic group achieves increased power and representation in politics and government, the reaction of the majority is oppositional. That is, the majority sees power as a zero-sum game in which minority gains mean majority losses (Key 1949; Theobald and Haider-Markel 2008; Scherer and Curry 2010; Wenzel 2006). A number of studies find support for this hypothesis (Key 1949, Abney and Hutcheson 1981; Gay 2001; Giles and Buckner 1993; Bratton 2002; Ulbig 2009; Wenzel 2006; Scherer and Curry 2010; Rocha, et al. 2011). With respect to the federal courts, Scherer and Curry (2010) find that perceptions of black representation lead to lower levels of diffuse support for the federal courts among whites. However, some studies (Bobo and Gilliam 1990; Howell and Fagan 1988) have not found such effects, and others have found mixed effects (Kelleher and Wolak 2007).

In the case of Justice Sotomayor, the chances of a minority threat effect are increased by the political toxicity of the political environment in which her appointment occurred. By the beginning of her confirmation hearings in July 2009, her nomination had become something of a cause célèbre on both sides of the partisan divide. Conservatives inveighed against her alleged judicial activism, while liberals, buoyed by the prospect of the elevation of the first Latina to the Supreme Court, responded enthusiastically. Conservative efforts to mobilize opposition to Sotomayor’s nomination, particularly their negative response to her famous “wise Latina” remark, may have evoked the intended reaction among some Anglos in the form of an expectation that descriptive representation would lead to substantive representation running counter to their preferences. We examine this possibility with the following

⁵ In addition to strong pan-ethnic effects, Manzano and Ura (2013) found even stronger co-ethnic effects on Internet searches, with those of Puerto Rican origin being even more likely than other Latinos to search for information on Sotomayor.

hypothesis:

H₂: Anglo approval of the U.S. Supreme Court decreased following the appointment of Sonia Sotomayor to the Court.

Data and Methods

Our data are taken from two independently drawn statewide surveys of Texans conducted in 2006 and 2011. Nicholson-Crotty and Meier (2002) recommend single-state studies when measurement advantages outweigh the limited generalizability of the results, and when such an approach allows more rigor in the study design. This study meets those criteria. Our existing 2006 survey data on Texas Latinos' and Anglos' approval of the U.S. Supreme Court offered a unique research opportunity to administer a follow-up survey after Sotomayor's appointment. The resulting before-and-after analysis of attitudes is not currently possible with existing cross-sectional national surveys. Thus, the use of the two Texas samples allows us to test for period effects of the Sotomayor appointment on Latinos' approval of the Supreme Court (Firebaugh 1997). Texas offers the additional advantage of a large Latino population, making it possible to survey enough Latinos and Anglos to compare the two groups' responses.

Another significant advantage of conducting this study in Texas is that we can test for the existence of a panethnic empowerment effect (Manzano and Ura 2013). Our sample is overwhelmingly of Mexican origin; the number of people in Texas (and in our sample) who, like Justice Sotomayor, are of Puerto Rican descent is exceedingly small.⁶ There is evidence in previous scholarship that the effects of national origin exceed those of panethnicity (for example, Sanchez and Morin 2011). If this is the case, the effects of Sotomayor's appointment on our sample's attitudes would be attenuated. Although we cannot estimate the relative impact of national origin and panethnicity, any empowerment effect among Latinos in Texas would necessarily reflect the impact of panethnic Latino identity rather than common national identity.

The 2006 survey consists of a pooled random sample of Texans interviewed during the summer by telephone from the Texas Tech University Survey Research Center combined with an oversample of Latinos interviewed at the same time by telephone from the University of Texas Pan American (now the University of Texas

⁶ According to the 2010 Census, the percentage of the Texas population of Puerto Rican origin is approximately .5%.

Rio Grande Valley) Center for Survey Research. Respondents were asked if they preferred to be interviewed in English or Spanish. Those expressing a preference for Spanish were interviewed by bilingual native Spanish speakers.

The 2011 data were collected through a statewide survey of Texas residents conducted in February and March by the Center for Survey Research at the University of Texas Pan American.⁷ Respondents were randomly sampled using a dual-frame, i.e., cell phone (approximately 1/4 of the total sample) and landline. The dual frame allows us to avoid selection bias from a landline only sample, a problem that has increased since 2006 (Ansolabehere and Schaffner 2010; Dutwin et al. 2010; Keeter et al. 2010a, b; Link et al. 2007).⁸ Again, respondents were interviewed in their choice of language.

The 2006 and 2011 data were then merged, with an indicator variable for year. The analysis was restricted to Latinos and non-Latino whites, or Anglos, resulting in a merged sample size of 1,203.⁹ As noted above, a major

⁷ In 2006, AAPOR Response Rates (3) were 18.5% for the statewide sample and 22.8% for the Latino oversample. Response rates for the 2011 survey were 7.1% for the land-line sample and 7.6% for the cell phone sample (AAPOR Response Rate 3). Despite the decline in the response rate since 2006, the Latino portion of the sample is virtually identical to the state of Texas as a whole as of 2012: 38% for both (U.S. Census 2014).

⁸ Our data provide support for this literature. The cell phone sample is, on average, younger, less affluent, less well educated, and more heavily minority than the landline sample.

⁹ The overall sample size for 2006 and 2011 is 732 and 700, respectively. We limit the analysis to Latinos and non-Latino whites, yielding a sample size for 2006 of 624 and for 2011 of 579, resulting in a total sample of 1,203. The sampling error for the total sample is ± 2.83 ; for the 2006 sample, the sampling error is ± 3.92 ; for 2011 it is ± 4.07 . We omit other racial and ethnic minorities partly for theoretical reasons and partly because the N for such groups is too small for analysis. In particular, African Americans, the largest such group, comprises 4.5 percent of the 2006 sample (N=33) and 9.9% of the 2011 sample (N=69).

With respect to the representativeness of the sample, we compare the two samples with the 2010 Census figures (the closest to both of the surveys) for the voting age population (age 18 and older) of Texas. Here, the denominator is the percentage of Latinos plus the percentage of Anglos. In the 2010 Census, the VAP is distributed as follows: Latinos, 40%; Anglos, 60% (Texas State Data Center 2015). The 2006 sample, which

advantage of pooling the data is that we are able to use a repeated measures design. We can thus determine whether one or more of the relationships between the independent and dependent variables have changed between the two surveys (Firebaugh 1997, 4).

The dependent variable is a measure of respondents' approval of the U.S. Supreme Court. Respondents were asked, "In general, do you approve or disapprove of the way in which the Supreme Court has been handling its job?" Of the responses, "disapprove" = 1; "don't know" = 2; "approve = 3".¹⁰ The model is estimated using ordered logit analysis.

To estimate the impact of the Sotomayor appointment on attitudes toward the Supreme Court, we include three independent variables. A dummy variable, *Latino*, takes the value of 1 for those who self-identify with that ethnic group. The reference category is Anglos.¹¹ *2011* is also a dichotomous variable set to 1 for observations from the second survey. The impact of the appointment on Latinos' attitudes toward the Supreme Court is measured by the interaction between those two variables: *Latino x 2011*.

oversampled Latinos, consists of Latinos, 48%; Anglos, 52%. The 2011 sample consists of Latinos, 38%; Anglos, 62%. Thus, the sample for 2011 is highly representative, while the 2006 sample somewhat over-represents Latinos. With respect to the voting age population overall (including other minorities in addition to Latinos), in 2010 Latinos comprised 34 percent and Anglos made up 50 percent of the total (Texas State Data Center 2015). Thus, in terms of VAP, Texas was, at the time of our data collection, not quite a majority-minority state, with white Anglos making up by far the largest proportion of the population and Latinos still a minority. Given that fact and the large population of Latinos, Texas is a good case for research on minority representation.

¹⁰ We also measured approval as a dichotomous variable, dropping all respondents who answered "don't know" and estimating the model with logit analysis. The results were similar: all of the same variables were significant at or exceeding the .05 level, with signs unchanged. (The results are available from the authors.) The trichotomous dependent variable is similar to that used by Gibson and Caldeira (2009a), who also used "don't know" as an intermediate value in a study of preferences for confirmation of Alito to the Supreme Court.

¹¹ African Americans account for 7.12 percent of the sample, N=102; "other" constitutes 6 percent of the sample, N=86; these numbers are too small for meaningful analysis; thus we omit those respondents from the sample.

We include a number of control variables as well. To account for the possibility that partisanship affects attitudes toward the Supreme Court (a reasonable expectation given the partisanship of the appointment and confirmation process as well as the Court's split decisions), we include the following dummy variables: *Democrat*=1 if the respondent self identifies as such, 0 otherwise; *Independent* is similarly defined. Republican identification is the reference category. Given the conservative direction of the Court's decisions during the period of our surveys, we expect Democrats to express a lower level of approval for the Court than Independents or Republicans. Indeed, over a 40 year period, Republicans have been more approving of the Supreme Court (Smith 2012).

It is possible that approval of the Supreme Court reflects a respondent's broad-based approval of major political institutions. Two dummy variables control for such effects, specifically, measures of approval of the job performance of the President and Congress—*Presidential Approval* and *Congressional Approval*. We expect those who express higher levels of approval for the other institutions will also be more approving of the Supreme Court. To control for the possibility that more politically involved respondents exhibit different attitudes toward the Court, we include *Voted*, which =1 for 2006 respondents who voted in 2004 and for 2011 respondents who voted in 2010; *Voted*=0 otherwise. We do not have a specific expectation with respect to this variable, but assume that those who are more politically active are also more knowledgeable and may therefore have different attitudes toward the Court than those who are less involved. Finally, we include three demographic controls: *Female*, as women may show greater approval due to the appointment of a female justice; this expectation is consistent with the literature cited here on race, ethnicity, and descriptive representation. We also include *Education* and *Age*. Consistent with the findings of the General Social Survey on confidence in the Supreme Court (Smith 2012), we expect younger and more educated Latinos to express higher levels of approval than those who are older and less educated.¹² Table 1 displays the descriptive statistics for these variables.¹³

¹² In a similar vein, Abrajano (2005) finds that among Latino voters, Latino candidates and those who use personalistic ethnic appeals (such as speaking Spanish) appeal more strongly to women, younger voters, and less educated voters.

¹³ The survey questions and responses are as follows:

Table 1 about here

Results

Before testing the hypotheses, it is worthwhile to determine the extent to which Latinos and Anglos were aware of Sotomayor's appointment to the U.S. Supreme Court. In the 2011 survey, respondents were presented with a list of former and current public officials and asked which one was a member of the Supreme Court. Only one person on that list—Sotomayor—was a Justice.¹⁴ Figure 1 presents the relationship between ethnicity and awareness of Justice Sotomayor. Large majorities of Latinos and Anglos correctly named her as a member of the Supreme Court (61 percent and 68 percent, respectively).¹⁵

Although the relationship between ethnicity and awareness of Sotomayor falls just short of conventional levels of statistical significance (Chi Sq=2.998; Pr=.083), it is worth examining whether that weak association masks

Supreme Court Approval: In general, do you approve or disapprove of the way in which the Supreme Court has been handling its job? Disapprove = 0, Don't know = 2, Approve = 3

Ethnicity: In Texas there are many different ethnic groups. Would you please tell us which ethnic group you belong to? Anglo = 1, Hispanic/Latino = 2, Black = 3, Other (specify) = 4, Don't know = 8, Refused = 9

Party: In politics TODAY, do you consider yourself a Republican, Democrat, Independent or other (specify)? Republican = 1, Democrat = 2, Independent = 3, Other = 4

Presidential approval: In general, do you approve or disapprove of the way in which the President has been handling his job? Disapprove = 1, Don't know = 2, Approve = 3

Congressional approval: In general, do you approve or disapprove of the way in which the Congress has been handling its job? Disapprove = 1, Don't know = 2, Approve = 3

Education: What is the highest level of education you have received?

Grade 1-9 = 1, Grade 10-12 = 2, One year college = 3, Two years college = 4,

Three years college = 5, College graduate = 6, Master's degree = 7, Ph.D./J.D./M.D. = 8

¹⁴ The list was drawn from the Pew Hispanic Center's political knowledge survey. The other names were Senate Majority Leader Harry Reid, Energy Secretary Steven Chu and former Secretary of State Madeleine Albright.

¹⁵ This high level of name recognition among Texas Latinos corresponds well with a 2010 national Pew survey in which 67% of Latinos recognized Sotomayor (Pew Hispanic Center 2010).

important nuances in the differences between ethnic groups. Specifically, we would expect those who are more informed about politics overall would be more likely to be aware that Sotomayor is a member of the Supreme Court. To assess that possibility, respondents were asked three questions measuring their level of political knowledge: which political party attained a majority in the U.S. House of Representatives in the November 2010 midterm elections, which presidential candidate won the 2008 election in their state, and which political party (Democratic or Republican) is more conservative at the national level.¹⁶ Possible scores range from zero to three, depending on the number of questions answered correctly.

We investigate whether knowledge of Sotomayor was distributed similarly across all levels of political information among Anglos and Latinos. Overall, Anglos possess much higher levels of political knowledge than Latinos: 45.74 percent of Anglos correctly answered all three questions, compared to only 11.52 percent of Latinos. As Figure 1 shows, at the highest level of political information (i.e., those who answered all three political information questions correctly) Anglos are slightly more aware of Sotomayor than Latinos.

Figure 1 about here.

However, at all three lower levels of knowledge, Latinos are more aware than Anglos. Among those who correctly answered only one of the political information questions, nearly 61 percent of Latinos identified Sotomayor, while only 36 percent of Anglos did so. Among those who answered none of the questions correctly, Latinos out-perform Anglos by more than one-third. Thus, the aggregate percentages of each group who were aware of Sotomayor's presence on the Court obscure considerably higher levels of awareness among less politically knowledgeable Latinos.

Higher levels of awareness among Latinos could be due in part to the fact that Sotomayor's nomination and the subsequent Senate confirmation hearings received heavy coverage in the Spanish language media. In addition, given the potential of the appointment to enhance minority empowerment on the Court, such coverage may have

¹⁶ The American National Election Study measures political knowledge in this way (http://www.electionstudies.org/neguide/toptable/tab1c_2.htm, 6/22/11)

been more salient to Latino respondents than stories that involved a reference to such matters as the party in control of Congress and thus may have registered with a wider range of Latinos than Anglos.¹⁷

The major hypotheses of this study are that approval of the U.S. Supreme Court increased among Latinos and declined among Anglos. Figure 2 provides a first look at the data showing levels of approval among Anglos and Latinos in the independent samples drawn before and after Sotomayor's appointment. Prior to the appointment, in 2006, nearly two-thirds of Latinos (63 percent) disapproved of the U.S. Supreme Court; less than half that percentage of Anglos disapproved. At that time, a majority of Anglos approved, while only 15 percent of Latinos did so. After the appointment, the percentage of Latinos who disapproved of the Court plummeted from 63 percent to 28 percent. Moreover, Latinos' approval rate more than doubled, rising from 15 percent to 39 percent. This first cut into the data favors Hypothesis 1.

Figure 2 about here.

Hypothesis 2 fares less well: there is virtually no movement in Anglos' approval of the Court after Sotomayor's appointment. Indeed, for Anglos, the before-and-after difference within each category never reaches two percentage points—an insubstantial and insignificant difference. This suggests the Sotomayor appointment did not provoke a backlash - or, indeed, any substantive change - among Anglos.

To determine whether these effects persist when tested with multivariate analysis, we estimate an ordered logistic regression model of approval of the U.S. Supreme Court. The dependent variable is the ordinal approval variable employed in Figure 2. We expect that the appointment of Sotomayor to the Supreme Court in 2009 changed Latinos' and Anglos' attitudes toward the Court. To test for such a period effect, the appropriate measure is a variable that interacts Latino ethnicity with the survey year in which the change is expected to appear: *Latino x 2011* (Firebaugh 1997). We expect the coefficient to be positively signed, indicating that in 2011, Latinos' approval of the Supreme Court had improved relative to their attitude in 2006.

Table 2 presents the results of the ordered logit analysis. The year of the survey does not have a significant impact, which means that in 2011, Anglos were no more likely to approve of the Court than in 2006 (Latinos'

¹⁷ Baretto (2010) notes the importance of the Spanish-language media in the mayoral races of Antonio Villaraigosa in Los Angeles and Orlando Sanchez in Houston. Moreover, Kerevel (2011) finds Spanish-language television influences Latinos' attitudes toward immigration as well as their group consciousness.

approval in 2011 is accounted for by the interaction term). However, *Latino x 2011* is positive and highly significant, indicating that, following the appointment of Sotomayor, Latinos' approval of the Court rose significantly. The results provide strong support for H₁ but no support for H₂.

Table 2 about here.

Several control variables also have significant effects, all in the expected direction. Democrats are less likely to approve of the U.S. Supreme Court than Republicans (the reference group). Moreover, those who approve of Congress are also more likely to approve of the Supreme Court. The z-score for presidential approval falls just short of the conventional .05 level of significance, but the coefficient is positive. Finally, more educated respondents are more likely to approve of the Court than those who are less educated. Three remaining control variables – whether the respondent voted, age, and gender – did not have significant effects, although two of them – *Voted* and *Female* – have the expected positive signs. Although we expected that Sotomayor's appointment would generate approval among women regardless of their ethnicity, that is not the case. Instead, Sotomayor's ethnicity evidently carries more power among Latinas than her sex, while for female Anglo voters, other variables, such as partisanship, are clearly more important. Given that Sotomayor was one of three women serving on the Supreme Court in 2011, it is clear that gender representation was less important than her other characteristics.

The magnitude of the effect of the Sotomayor appointment on Latinos' approval of the Supreme Court is revealed by the predicted probabilities generated from the ordered logit analysis, shown in Figure 3. In this analysis, all independent variables other than the variable being manipulated are set at the mean or, in the case of dummy variables, the mode. Prior to the appointment, Latinos' probability of disapproving of the Court was .646; the probability of approving was only .185. Following the appointment, Latinos' probability of disapproving dropped to .272; the probability of approving increased dramatically to .526. The comparable probabilities for Anglos before the appointment were .286 (disapproval) and .507 (approval). Moreover, among Anglos there was barely any movement in attitudes following the appointment.

Thus, we find that the descriptive representation of Latinos exerted a positive impact on Latinos' support for the Supreme Court. However, we do not find a commensurate decline in support among Anglos. Finally, while the distribution of opinion among Anglos and Latinos was very different before the appointment, it was virtually identical afterward.

Figure 3 about here.

Discussion

The results of this study strongly support Hypothesis 1. The appointment of a Latina to the U.S. Supreme Court has the expected effect of increasing Latinos' approval of that institution. This result suggests that this emerging minority reacts strongly to the presence of a co-ethnic in a high position. Not only does Latino approval of the Court increase dramatically after the Sotomayor appointment, but Latinos' political awareness of that appointment is higher than would otherwise be expected, given the group's lower levels of political knowledge relative to Anglos.

The findings with regard to Anglos do not support the minority threat hypothesis (H₂). This suggests either Anglos do not perceive one Latina out of nine members of the Court to threaten their position of dominance, or the appointment of a Latina to the Court is not necessarily seen as a zero-sum game between Anglos and Latinos. As noted in the literature review above, the evidence for a minority threat effect is mixed; the circumstances under which it does and does not occur are unclear. It may be the case that the minority threat effect is activated when minority membership of a body reaches a critical mass and substantive decisions rendered by that body suddenly threaten the dominance of the majority group. That was not the case with Sotomayor, who replaced liberal Justice David Souter. As a consequence, her appointment portended no change in the ideological balance of the Court. To the extent that ideology is more important than ethnicity to Anglos, her appointment would not have triggered a sense of threat among Anglos. The threshold level of the minority threat effect is a matter of speculation at this time, but it merits continued analysis.

Among the most striking of our findings is that, after the appointment, Latino and Anglo evaluations of the Court were virtually identical. Thus, the representation of a previously excluded group on the Supreme Court not only resulted in higher approval levels, but also aligned the views of that group with the majority. We should also note the 2011 survey was conducted during Justice Sotomayor's second term on the Supreme Court. It is possible any backlash to her appointment among Anglos dissipated upon a realization that her ethnicity had not exerted a noticeable effect on the Court's decisions to that point.

In a similar vein, it is possible that Latinos' evaluations of the Court are due to factors other than Justice Sotomayor's appointment. Perhaps Latinos were responding to changes in the overall ideological composition and behavior of the Court. To account for this (admittedly remote) possibility, we first examined the Court's ideological demeanor over the 2005 to 2011 period. An examination of the Martin—Quinn (2002) scores for the U.S. Supreme

Court over that period indicates that the Court, both individually and collectively, did not become more ideologically friendly to Latino causes.

Alternatively, perhaps the substantive decisions of the Court between the time of Sotomayor's appointment in 2009 and the 2011 survey explain Latinos' more positive evaluations of the Court. One case, *Padilla v. Kentucky*, decided in the spring of 2010—was likely of substantial interest to Latino rights advocates. Yet a search of major newspapers reveals little attention to that case and even less attention to Sotomayor's role in the 7-2 decision in favor of immigrant defendants in criminal cases.

To further test for the possibility that changes in Latinos' views were a result of specific Court decisions, we conducted an analysis using only the Latino respondents in the 2011 sample and included measures of political knowledge overall and knowledge of the Sotomayor appointment in particular (neither variable is available in the 2006 survey). Had the Court returned decisions during that period from which Latinos found comfort, the impact would likely be greatest among the more politically aware and knowledgeable members of the community. However, the results, reported in Table 3, indicate that more politically knowledgeable Latinos were no more likely than their less informed counterparts to offer a positive evaluation of the Court. Those with knowledge of the Sotomayor appointment, however, were more likely to approve of the Court than those who were unaware of her appointment. Taken together, these results support the conclusion that Latinos' approval of the Court increased due to descriptive representation.¹⁸

Table 3 about here

This study is the first to take advantage of a unique opportunity to use repeated surveys to assess change over time in approval of the U. S. Supreme Court as a function of a minority appointment. Nevertheless, the study has limitations. First, it is not a panel study. Rather, the surveys are cross-sectional. Consequently, we cannot

¹⁸ In the analysis presented in Table 3, we include a variable that measures acculturation, which has a positive impact on approval of the Court. That measure is drawn from Marin, et al. (1987); our measure consists of a scale combining selected items from the language and media use subscales presented in that paper. The acculturation variable is not included in the model in Table 2, as that model merges responses from Latinos and Anglos, who were not asked acculturation questions.

measure changes in the attitudes of specific individuals. Second, the sample consists of only one state, albeit a state with a large population of Latinos.

However, the study design compensates for these limitations in two interrelated ways. First, the fact we have surveys at two points in time with identical questions allows us to estimate the period effects of the Sotomayor appointment on the attitudes of a state's population (Firebaugh 1997). Second, a major advantage of conducting this study in Texas is that we have essentially tested for—and found evidence of—panethnic interest and a panethnic empowerment effect. Because the Latino respondents in this study are overwhelmingly of Mexican origin or descent, our findings reflect the impact of panethnic Latino identity rather than national origin identity.

Conclusions

In this study we address two serious gaps in the literature: the lack of scholarship on Latinos' approval of the U. S. Supreme Court in general and, in particular, the effect of descriptive representation on Latinos' approval of the Court. This research constitutes a first step in filling this gap. We also extend the work of Overby, et al. (2005) and Scherer and Curry (2010) on African American representation in state and federal courts respectively to a second minority group and to the highest level of the federal judiciary.

This study raises exciting questions. In the Court's coming terms, commentators anticipate a number of controversial cases addressing Latino-centric disputes. Justice Sotomayor's votes and opinions in these cases will offer her an opportunity to validate her claim to "wise Latina" status through substantive representation of her ethnic group, and likely will generate reactions from the racial/ethnic minority and majority communities. For example, in 2012, Sotomayor joined the majority in voting to overturn many of the anti-immigrant provisions of Arizona's S.B. 1070. Future research could examine the impact of such decisions on approval of the U.S. Supreme Court among both Anglos and Latinos.

Answering these questions will require a significant investment in data collection and analysis. In the meantime, future replications of this survey will offer the opportunity to examine on a more limited scale the long-term effect of the Sotomayor appointment. More broadly, the results of this study suggest that as national demographics change and Latinos assume a greater role in the governing process, this enhanced role will positively influence Latinos' attitudes toward government.

The feeling of inclusion in the polity that comes from being descriptively represented “makes the polity more legitimate in one’s eyes.” (Mansbridge 1999, 651). The results of this research support Mansbridge’s assessment.

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Figure 1. Awareness of Sotomayor by Ethnicity and Political Knowledge

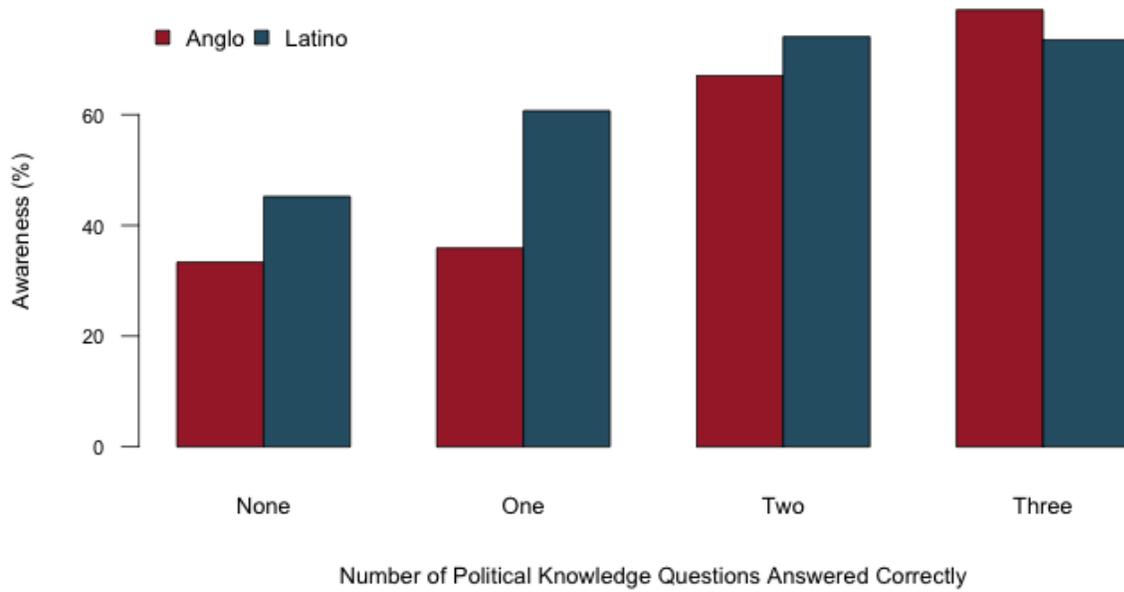


Figure 2. Approval of the Supreme Court Among Anglos and Latinos

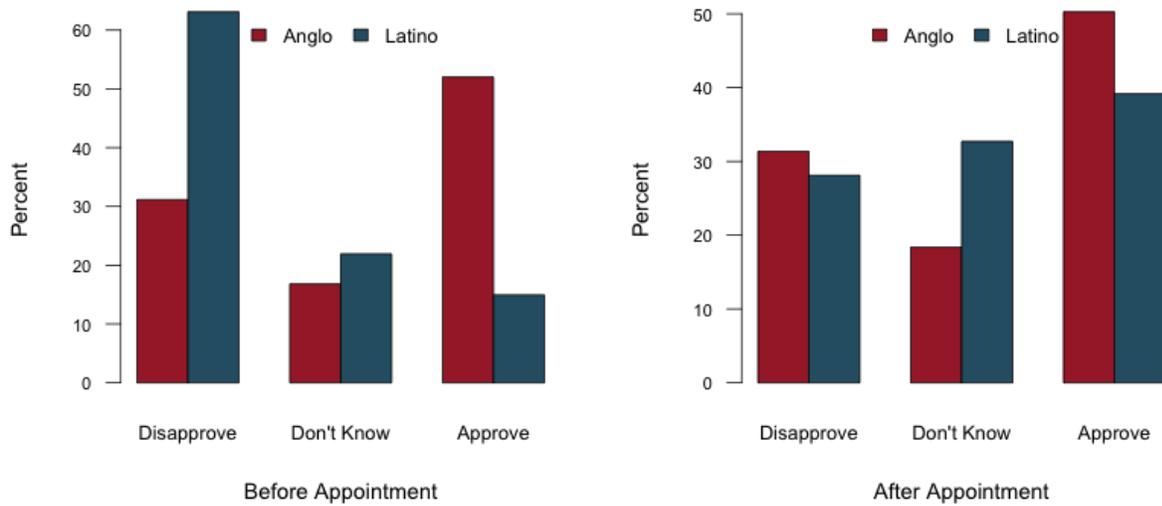


Figure 3. Change in Probability of Approval of Supreme Court Among Anglos and Latinos

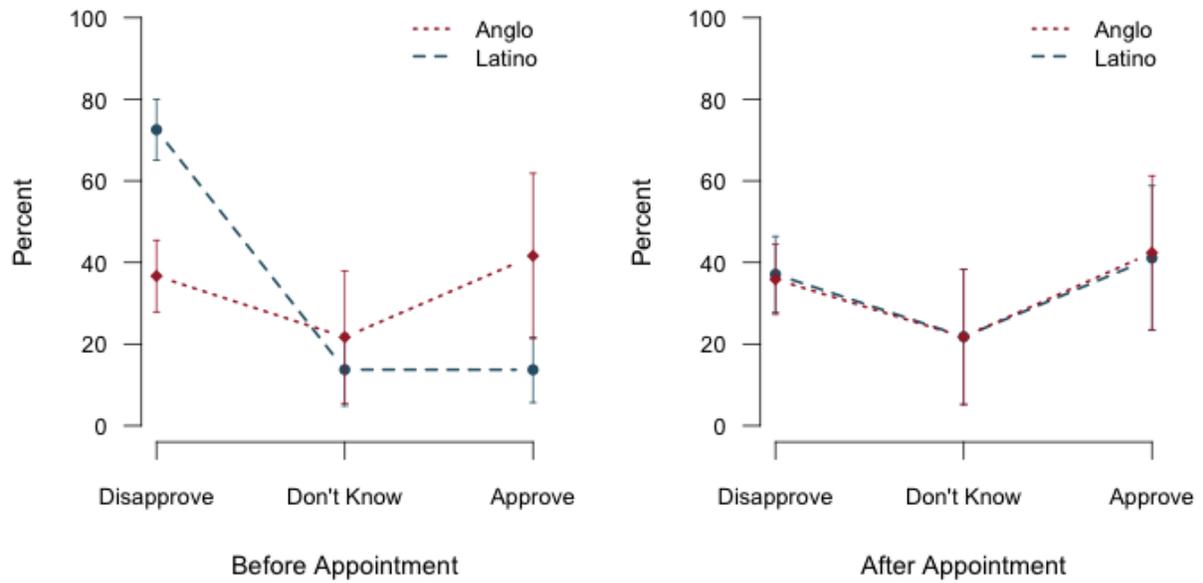


Table 1. Descriptive Statistics

Variables	Anglo		Latino	
	2006 321 (51.4%)	2011 359 (62.0%)	2006 303 (48.6%)	2011 220 (38.0%)
Supreme Court				
Disapprove	100 (31.2 %)	111 (31.4 %)	190 (63.1 %)	61 (28.1 %)
Don't Know	54 (16.8 %)	65 (18.4 %)	66 (21.9 %)	71 (32.7 %)
Approve	167 (52.0 %)	178 (50.3 %)	45 (15.0 %)	85 (39.2 %)
Congress				
Disapprove	204 (63.7 %)	268 (74.9 %)	143 (47.5 %)	122 (56.0 %)
Don't Know	31 (9.7 %)	30 (8.4 %)	46 (15.3 %)	43 (19.7 %)
Approve	85 (26.6 %)	60 (16.8 %)	112 (37.2 %)	53 (24.3 %)
President				
Disapprove	126 (39.4 %)	203 (57.2 %)	154 (51.7 %)	86 (39.4 %)
Don't Know	15 (4.7 %)	13 (3.7 %)	23 (7.7 %)	29 (13.3 %)
Approve	179 (55.9 %)	139 (39.2 %)	121 (40.6 %)	103 (47.2 %)
Voted in Last Election				
No	46 (15.1 %)	63 (19.4 %)	163 (58.6 %)	41 (30.4 %)
Yes	259 (84.9 %)	261 (80.6 %)	115 (41.4 %)	94 (69.6 %)
Partisanship				
Republican	132 (46.5 %)	127 (40.6 %)	43 (17.1 %)	29 (16.6 %)
Democrat	69 (24.3 %)	81 (25.9 %)	128 (51.0 %)	81 (46.3 %)
Independent	83 (29.2 %)	105 (33.5 %)	80 (31.9 %)	65 (37.1 %)
Gender				
Male	194 (62.6 %)	170 (47.5 %)	155 (51.7 %)	100 (45.5 %)

Variables	Anglo		Latino	
	2006 321 (51.4%)	2011 359 (62.0%)	2006 303 (48.6%)	2011 220 (38.0%)
Female	116 (37.4 %)	188 (52.5 %)	145 (48.3 %)	120 (54.5 %)
Age				
Years	53.4 (\pm 17.3)	53.8 (\pm 16.9)	39.7 (\pm 17.5)	42.3 (\pm 16.7)
Education				
Years	4.8 (\pm 1.9)	4.9 (\pm 1.9)	3.3 (\pm 1.9)	3.0 (\pm 1.9)
Acculturation				
Level	NA (\pm N/A)	NA (\pm NA)	18.1 (\pm 8.4)	17.3 (\pm 7.8)

Note: Mean and standard deviation, \bar{x} (\pm SD), reported for continuous variables. Percentages reported for categorical variables, N(%).

Table 2. Approval of the U.S. Supreme Court Pre- and Post-Sotomayor Appointment^a

Latino	-1.531 (0.220)***
2011	0.036 (0.172)
Latino × 2011	1.478 (0.293)***
Democrat	-0.514 (0.170)**
Independent	-0.047 (0.173)
Pres. Approval	0.054 (0.072)
Cong. Approval	0.346 (0.085)***
Voted	0.194 (0.171)
Female	0.039 (0.138)
Education	0.099 (0.036)**
Age	0.000 (0.004)
<i>(Intercepts)</i>	
Disapprove Don't Know	0.244 (0.399)
Don't Know Approve	1.085 (0.400)*
AIC	1680.780
BIC	1742.860
Log Likelihood	-827.390
Deviance	1654.780
Num. obs.	876

*** p < 0.001, ** p < 0.01, * p < 0.05

^a A positive coefficient indicates higher levels of approval.

Table 3. Descriptive Representation and Approval of the U.S. Supreme Court

Political Knowledge	0.163 (0.171)
Sotomayor	0.704 (0.346)*
Acculturation	0.979 (0.215)***
Female	0.047 (0.023)*
Education	-0.259 (0.331)
Age	-0.164 (0.081)*
Democrat	-0.015 (0.010)
Independent	-0.992 (0.500)*
Pres. Approval	-0.644 (0.529)
Cong. Approval	0.262 (0.175)
AIC	332.757
BIC	369.955
Log Likelihood	-154.379
Deviance	308.757
Num. obs.	164

*** p < 0.001, ** p < 0.01, * p < 0.05,