

## CHANGING THE LINES: RACE AND REDISTRICTING IN NEW JERSEY

*Ian Brett Yohai*

**W**hen millions of Americans fill out their census surveys every ten years, few are aware that their responses will be used to redraw every legislative district—federal, state, and local—in the country. The most recent redistricting process in New Jersey was particularly contentious, as it led to at least four separate lawsuits which caused a two-week postponement of the primary elections for the state legislature. Issues of race featured prominently in the debate, as the main point of controversy was so-called “majority-minority” districts, or districts in which minority voters make up the majority of the population. The fight in New Jersey was a microcosm of the larger issues of race and redistricting that have been playing out across the country over the last several years. This nationwide debate has focused on whether it is better to spread out minority voters over several districts or to concentrate them in a few districts.

### *Review of the Academic Literature*

Scholars have divided the question of how best to fairly represent minority interests in popularly elected institutions into two separate issues. The study of *descriptive representation* attempts to analyze the demographic requirements necessary to elect minority representatives. By contrast, the study of *substantive representation* refers to how well elected officials, regardless of their race, represent their minority constituents. Often the two issues are intertwined, but for sake of simplicity I present separately the relevant scholarly work that has been conducted on each question.

### *Descriptive Representation*

Since *Kirksey v. Board of Supervisors of Hinds County, Mississippi* in 1977, the courts have been inclined to use the “65 percent rule,” which suggests that a minority population of at least 65 percent is required in order to elect a minority representative. Two critical assumptions explain why the courts have set the threshold at such a high level. First, the 65 percent rule assumes

---

Ian Brett Yohai is a fourth-year undergraduate in the Department of Politics at Princeton University.

that voting is polarized—that is, white voters will vote white candidates while black voters will vote for black candidates. Second, it assumes that turnout among minorities is relatively low (Swain 195). As a result, districts that contain a 50 percent minority population are not sufficient, as whites in such districts would turn out in greater numbers, and therefore elect a white representative given the first assumption that voting is racially polarized. The courts acknowledge that the 65 percent rule is not immutable, as turnout rates differ across districts, so in some cases it may be appropriate to set the threshold at a lower level (Swain 195).

Although “civil rights advocates strongly endorse the 65 percent rule,” some more recent scholarly work indicates that a simple majority-minority district (i.e., a district containing a 50 percent minority population) is sufficient for the election of a minority representative (Lublin 278). In a study analyzing the 1970 and 1980 congressional races, Grofman and Handley concluded that “black members of Congress are elected from black plurality districts in which combined black plus Hispanic population is above 50 percent” (440). For a “realistic opportunity” of the election of a Hispanic representative, however, districts in states outside of California and New Mexico must have “a clear Hispanic plurality and a combined minority population of above 63 percent” (Grofman and Handley 443). Since the authors used general population statistics and not voting age population data, they hinted that the reason for the higher threshold needed for the election of Hispanic representatives is that larger numbers of Hispanics tend not to be citizens, and hence are ineligible to vote. Regardless, the results show that the threshold for both groups is below 65 percent, and significantly below 65 percent in the case of blacks. It is important to note, however, that the authors’ analysis was limited to a descriptive summary of the data, and ignored other factors that might influence election results such as income or education levels.

Other studies have used statistical models to account for factors other than race as well as to calculate the probability that a minority representative will be elected given a specific percentage of minority population. Lublin, for example, studied all congressional elections between 1972 and 1994, focusing on the effects of race on the election of black and Hispanic representatives, as well as the effects of several “nonracial demographic variables,” including the proportion of high school graduates, mean real family income, and age, among others (Lublin 273-275a). Significantly, he concluded that “race overshadows all nonracial demographic characteristics” as the main determinant of the probability of the election of minority representatives (Lublin 272a). Even as socioeconomic indicators converge as the gap between whites and minorities narrow, race will remain “an enduring feature of congressional elections” (Lublin 272a). Consistent with the recent trend in the literature, Lublin also finds that the “magic percentage” is significant-

ly below the 65 percent threshold. He concludes that for a district that contains a 55 percent black population – and an insignificant Hispanic population – the probability of the election of a black representative is 86 percent (Lublin 279a). In short, there is a narrow range in which the probabilities of the election of black representatives vary widely. A district which has less than a 45 percent black population, has “almost no chance of sending a black representative to Washington,” while a district with a black population above 60 percent “wastes” black votes because the election of a black representative is a virtual certainty (Lublin 279a). Similar results were found for Hispanics, with the necessary condition that overwhelming percentages (85 percent-90 percent) of the Hispanics be citizens. As discussed earlier, citizenship is not a factor in the case of blacks because overwhelming percentages of blacks are citizens.

The implication of Lublin’s work is that majority-minority or near majority-minority districts are required for the election of minority representatives. One of the most recent major studies, however, suggests that even simple majority-minority districts might concentrate minority population too heavily, as geographic region is also a key determinant. In the Northeast, for example, Cameron, et al. finds that only a 28.3 percent black voting age population is required for the fair chance (i.e., 50 percent probability) of the election of a black representative (804). Such a low percentage may be due to the fact that Northeastern voters tend to be more liberal than voters in other regions, and their liberal voting tendencies may outweigh any inherent racial bias, especially when the alternative candidate is a white Republican. In the South – where voters tend to be more conservative – a 40.3 percent black voting age population is required for the fair chance of the election of a minority representative. Even in the South, however, the “magic percentage” is below the 50 percent level, which leads the authors to conclude that “minority candidates may have a substantial chance of being elected from districts with fewer than 50 percent minority voters.” If such a sweeping statement is accurate, the need for majority-minority districts would be eliminated entirely, as the creation of such districts would “waste” minority votes. Furthermore, other scholars have found that the “packing” of minority voters helps Republicans because it dilutes minority influence in surrounding districts (Brace, et al.; Hill).

Lublin points to a number of methodological difficulties in the Cameron, et al. study. He argues that Cameron, et al. failed to account for the effect of Hispanic voters and instead only focused on the black voting age population (183b). Referring to his own work, Lublin cites that blacks won only 72 of the 5,079 House elections between 1972 and 1994 in white “majority” districts, and of those 72, 45 occurred in districts in which black and Hispanics formed the majority of the population (184b). In response to

Lublin's critique, Epstein and O'Halloran modify the previous equations for several southern House elections by treating combined Hispanic and black voting age population as the independent variable. The authors still find that districts that contain under a 50 percent combined minority population have a fair chance of electing a minority representative (188a). Lublin also suggests that the initial Cameron, et al. study chose a poor data set on which to test their hypothesis, as many of the districts that contained 30-50 percent black voting age populations were eliminated following the 1990 redistricting (184b). Since 30-50 percent black voting age population is the critical range over which the trade-off between packing black voters into majority-minority districts and spreading them out becomes most acute, the lack of data from these districts is potentially very serious. Epstein and O'Halloran respond by supplementing their original analysis with data from the state level in order to increase the number of districts in the critical range. Their analysis of South Carolina Senate elections bolsters their claim that the "magic percentage" is still below 50 percent black voting age population (189a; b).

Lublin and Voss take a slightly different angle in their studies by examining the relationship between the probability of electing *Democrats* (regardless of race) and black voting age population. The authors conclude that the linear logit model fits the data well from Southern states that lack "Appalachian districts" – low-income, rural districts that usually vote Democratic even though they have few minority voters. Hence, in these states, increasing the percentage of black voters increases the probability of electing Democrats before leveling off sharply. States with Appalachian districts fit a natural log model, as these rural districts have a high probability of electing Democrats, but other districts with few minority voters have a high probability of voting Republican. However, in almost all states, there is little evidence of a "white-backlash" theory, which hypothesizes that districts that contain a significant, but not majority, minority population forces white voters into the hands of Republicans. As a result, the creation of majority-minority districts does cost the Democrats seats, but the effects were shown to be small, though it is important to remember that even the loss of a few seats can be enough to switch party control of the legislature (Lublin and Voss 805). By focusing on the probability of electing *Democrats* though, Lublin and Voss do not directly address the requirements necessary for the election of *black* representatives.

### *Substantive Representation*

While scholars debate the necessary requirements to achieve descriptive representation of minority groups, some have begun to question the assump-

tions that lie behind the descriptive representation model. Those who belong to the substantive representation camp believe that it is not the race of the elected representative that is the key to the fair representation of minority groups, but rather the political views that the elected representative holds. In other words, white representatives can fairly represent minority voters so long as their political ideology is roughly in concert with that of their minority constituents. If true, this implies that policymakers should concentrate enough minority voters in given districts so that they have an influence over the election of their representatives, but the concentration should not be as much as would be necessary for the election of a minority representative. Indeed, spreading out minority populations over a wider geographic area may increase their *substantive* representation because they would be key players in a number of districts rather than the dominant player in only a few districts. As Cameron, et al. summarizes:

Yet, it is unclear that minority interests are always best served by the creation of concentrated minority districts. These dilute minority influence in surrounding areas, which may then elect representatives unsympathetic to minority concerns. If minority voters can influence their representative's actions without necessarily comprising a majority of the electorate, then majority-minority districts may increase the number of votes in support of minority representation (794).

The study of substantive representation cannot be accomplished by looking at election returns and counting the number of minority representatives. Instead, political scientists have attempted to “quantify” the political ideology of elected representatives through an analysis of roll-call votes in legislative bodies. Many interest groups across the political spectrum regularly issue report cards that rank legislator voting patterns. A natural place for researchers to start is the report cards issued by civil rights groups, like the Leadership Conference on Civil Rights (LCCR) or the National Association for the Advancement of Colored People (NAACP). Many of the studies discussed below used such indices. Others used indices that cover a somewhat broader range of issues than “civil rights,” as minority groups often have strong positions on policy debates over education, health care, unemployment, and housing. Still others have created their own indices that cover the full range of issues debated in the particular legislative bodies on which their studies focused.

Intuitively, one might expect a fairly linear relationship between the racial composition of districts and representatives' scores on these indices. Cameron, et al., however, points to at least four other potential models that might explain the relationship between racial composition of districts and substantive representation. The relationship could be (1) “majoritarian,” in

which minority voters would have little influence over their representatives until they consisted of a majority of the population, (2) “polarized,” where there might be an inverse relationship because “hot-button” civil rights issues would rise to the surface only when minorities made up a large, but not majority, percentage of districts, and hence white representatives would feel forced to align themselves with white voters at the expense of minority voters, (3) “curvilinear,” where minority influence would rise at low levels of minority population but then would decrease as the polarization effect takes over, or finally (4) “threshold,” where minority influence would be low until the minority population reached some minimum level, after which influence would rise linearly until flattening out at some maximum level (795-796).

It seems that there are three key variables which explain why scholars vary in their conclusions regarding which model best explains the relationship between racial composition of a district and substantive representation: time, geographic region, and political party. Those scholars who conducted their research in earlier periods (the 1960s and 1970s) would be more likely to have findings consistent with the polarization or curvilinear models because racial discrimination in those time periods was presumably more salient than it is today. Similarly, studies confined to the study of the South might also support the polarization or curvilinear models given the historical roots of discrimination in that region. Political party could be a factor because studies that analyzed both Democrats and Republicans might be more likely to support the majoritarian model than studies limited exclusively to Democrats. Minority voters would probably have limited influence in Republican districts because Republican candidates could rely almost exclusively on white voters for their election. Studies limited exclusively to Democrats might support the threshold or direct relationship models because Democrats presumably would need large minority support in order to be elected.

All three of these variables—time, geographic region, and political party—were examined in a comprehensive study conducted by Grofman, et al. By using roll-call data from the House of Representatives from 1961, 1971, 1981, and 1989, their study encompasses four cycles of redistricting (367). In Democratic districts outside the South, the authors conclude there was a slight positive relationship (threshold or direct relationship), while in Democratic districts in the South the model shifts from negative (polarization) to curvilinear to slightly positive (threshold or direct), consistent with fading discrimination over time (373). The authors found no statistical relationship between racial composition and substantive representation for Republicans in all times periods, which is consistent with the hypothesis that minority voters have little influence in Republican districts because Republicans can rely on white voters almost exclusively (373). The implica-

tion of their findings for the most recent time period is as follows:

Outside the South in 1989, we appear to maximize mean aggregate liberalism by maximizing the number of representatives selected from districts with a population at least 20 to 30 percent black. In the South, ADA-type liberalism [see footnote 19 for an explanation of the ADA index] appears to be optimized by creating as many districts as possible with a majority black population (374).

In other words, the creation of majority-minority districts is justified only in the South, and much lower levels of concentration of minority voters are appropriate in the North.

The more recent studies continue the assault on majority-minority districts from a substantive point of view. Swain, also studying the 100<sup>th</sup> Congress (1987-1989), concludes that “regardless of the percentage of blacks in their district, almost all white Democrats are supportive of black interests” (17). This holds true even in districts that contain extraordinarily low levels (0 percent-9 percent) of black voters. After studying the 103<sup>rd</sup> Congress (1993-1995), Cameron, et al. argues, “the most important objective for minority representation in these areas [outside the South] is to elect Democrats, either black or non-black” (807). Even in the South, the “formula to maximize black representation” is to “construct as many districts as possible that are approximately 47 percent black,” which is below the percentage necessary to be classified as majority-minority districts (807). The message to policymakers is clear: “Districting schemes that maximize the number of minority representatives do not necessarily maximize substantive minority representation” (807).

Although the debate continues to rage over how best to fairly represent the interests of minority voters, the pendulum has swung away from majority-minority districts as the solution, as the “65 percent rule” appears counterproductive in light of the findings on substantive representation. Spreading minority voters out over more districts seems more promising from the recent evidence. Having considered the theoretical context, I now explore how the issues discussed above have manifested themselves in the specific case of the redistricting of the New Jersey state legislature after the most recent census.

#### *Redistricting 2001: New Jersey*

Following the decennial census, New Jersey, like all states, began the complex task of redrawing their state legislative electoral districts based on the new population data. The New Jersey state legislature consists of an 80-member General Assembly and 40-member Senate. Since there are only 40

state legislative districts, two members of the General Assembly are elected from each district, with voters choosing two candidates out of four on the ballot. In addition, voters choose one member of the Senate out of two candidates on the ballot. Elections occur every two years for the General Assembly, and every four years for the Senate, except for the first Senate term of every decade, which is only two years long so that elections for that body would occur in the year immediately following the decennial redistricting. A special commission, called the New Jersey Apportionment Commission, was assigned the task of redrawing the districts consistent with the 2000 census. Initially, the commission was comprised of ten members, five appointed by the state Democratic Party chair and five appointed by the state Republican Party chair. When the commission was unable to reach a consensus on a new legislative map, a nonpartisan eleventh member was appointed to the commission by the Chief Justice of the New Jersey Supreme Court. The eleventh member appointed was Larry Bartels, professor of politics and public affairs at Princeton University.

After “intense political bickering” and some ten days of meetings, Professor Bartels eventually sided with the Democratic plan, breaking the deadlock and allowing the new map to be adopted, just two months before voters went to the polls in the June primary elections (Jackson 12 April). The day after the plan was approved, Republican leaders in the legislature filed suit in US District Court, arguing that the new map violated the Voting Rights Act of 1965 (Jackson 13 April). At issue were four districts around Newark, two of which were majority-black districts under the 1991 legislative map and a third contained a substantial black minority. The fourth district contained an insignificant black population. Under the new plan, the geographic boundaries were redrawn so that some of the black voters in the three heavily black districts were shifted to the fourth district. Consequently, blacks no longer comprised the majority of the population in the two previously majority-black districts.

Initially, the District Court judge dismissed the Republicans’ lawsuit after a one-day hearing, as he believed that the Republicans could not prevail in a full-blown trial on the merits of the case (Jackson 21 April). An appeals court, however, ruled that the District Court judge could not decide the case on his own, as “federal law calls for creation of ... a tribunal [of three federal judges] when lawsuits argue that state apportionment plans challenge people’s constitutional rights” (Jackson 21 April). As a result, a trial was ordered in which testimony would be taken before the three-judge panel. At trial, the Republicans charged that by dismantling the majority-black districts, the new plan would “dilute” black voting rights, because the incumbent black legislators from Districts 27, 28, and 29 would be unable to win reelection given the districts’ reduced black populations.

As we have seen in the previous section, however, this would only be the case if voting were racially polarized. Recall that one recent study found that only a 28.3 percent black voting age population was required in the Northeast for a fair chance of the election of a black legislator (Cameron, et. al. 804). Moreover, three of the new districts—28, 29, and 34—were still majority-minority districts, if one added the Hispanic population to the black population. The central claim behind the Republicans' argument, then, was that Hispanics and blacks could not be considered as a homogeneous voting bloc (USD Ct., *Page v. Bartels* 22). The plaintiff's expert witnesses testified at trial that this was the case because the major issues of concern to Hispanic voters are immigration and bilingual education, neither of which is foremost on the minds of black voters. Additionally, one of the Republicans' experts testified that "because different ethnic groups within the Hispanic community had varied interests and political affiliations, even among themselves, there was no consistency in voting between Hispanics and African Americans" (USD Ct., *Page v. Bartels* 22). Even this expert conceded, however, that the "new Districts 28 and 29 do not diminish minority voting opportunities," probably because the black population in both of these districts is still quite substantial (USD Ct., *Page v. Bartels* 14). As a result of this concession by the Republicans' expert, the three-judge panel concentrated principally on Districts 27 and 34.

The Democrats responded by arguing that voting would not be racially polarized in the new districts as the Republicans claimed. As a result, black legislators would be elected from the districts that they had been elected from previously, and would actually gain opportunities for election in other districts. As the District Court put it,

In essence, the defendants [the Democrats] seem to suggest that, although the "old" Districts 27, 28, and 29 have elected African-American representatives, some of these votes are being "wasted" under the 1991 plan, because those representatives would have been elected in any event with a much diminished minority population. Hence, if the "wasted" excess was diverted to the new districts (such as the new District 34), even more avenues for the election of minority representatives would be opened up (14).

To rebut the Republicans' assertion that Hispanics and blacks have fundamentally different voting patterns, the Democrats called several black and Hispanic legislators to testify that the two communities worked together on a number of occasions. For example, United States Congressman Robert Menendez informed the judges that the Congressional Black Caucus and the Congressional Hispanic Caucus have joined forces on immigration issues (USD Ct., *Page v. Bartels* 23-24). Most relevant at the state level, the minority state legislators called to testify pointed to the joint efforts of the two

groups in the unified Black and Latino Caucus.

It should be noted, however, that while the majority of minority state legislators supported the Democrats' redistricting plan, support was not unanimous. Senator Ronald L. Rice, who is African American and represents District 28, testified that he was concerned about the reduced black population in his district (Handley 1 May). Two mostly white towns were placed in District 28, and he believed he would need additional time to campaign in order to convince voters in these new areas to vote for him. His argument was more nuanced than the broader Republican claim that whites would simply not vote for minority candidates, as he said, "in order for whites to vote for African Americans, my experiences have been that they have to get to know us" (USD Ct., *Page v. Bartels* 17).

Some African American leaders from outside New Jersey also weighed in on the redistricting debate. One of the Republicans' witnesses was C.T. Vivian, the chairman of the board of the National Voting Rights Museum in Selma, Alabama, who argued that black candidates were only guaranteed election when their districts contained 50 percent to 60 percent black populations (Handley 1 May). Mr. Vivian's testimony, however, might have been influenced by his experiences with elections in the South. As discussed earlier, recent studies have shown that black candidates in the South require more substantial black populations in order to be elected than do black candidates in the North. The statements of Martin Luther King III, who is a member of the Southern Christian Leadership Conference, highlight the importance of considering the totality of the circumstances when evaluating redistricting plans. Initially, Mr. King sent a letter to Professor Bartels urging that Districts 27, 28, and 29 be preserved as the 1991 plan had drawn them, perhaps as a "first-instinct" reaction to the reduction of black voters in those districts (USD Ct., *Page v. Bartels* 17). Upon further consideration, however, Mr. King sent another letter to Professor Bartels, in which he stated, "I...understand that the Commission's plan actually *enhances* the opportunities for increased minority representation in the New Jersey Legislature" (USD Ct., *Page v. Bartels* 22).

Ultimately, the special three-judge panel was not persuaded by the Republicans' argument, and upheld the new legislative districts that had been created by the Commission. In their opinion, the judges concluded that "the new Districts 27 and 34 each have a sufficient African-American voting-age population to provide African Americans with a reasonable opportunity to elect candidates of their choice" and that "African Americans and Hispanics often vote in support of each other's candidates" (USD Ct., *Page v. Bartels* 31). The simple fact that eight of the fifteen current African-American New Jersey state legislators (combined General Assembly and Senate) were elected from districts that contained less than 30 percent black voting age popula-

tions no doubt weighed heavily on the judges' minds. As Professor Bartels summarized, "Obviously, multiracial coalitions are feasible and even fairly common in New Jersey legislative elections" (May 2001). Many of the legislators that were elected by such multiracial coalitions were called by the Democrats to testify in person about their experiences at the trial.

While the legal issues were playing themselves out in federal court, the political debate quickly denigrated into an all-out war, as Republicans charged that the Democrats were infringing on the rights of minority voters. During the floor debate over whether to push back the primary elections until the Republicans' lawsuit had been resolved, Republican Senator Norman Robertson charged flatly, "This map is racist" (Norman 24 April). He went on to say, "It [the map] is the result of the manipulation of the African-American community to serve a white political establishment" (Norman 24 April). It was not lost on the Democrats that Senator Robertson represented District 34, which, as discussed above, was substantially reconfigured so that many more African-American voters were moved in; the new district seriously jeopardized his chances for reelection. Responding to Senator Robertson's comments, Senator Sharpe James, an African-American Democrat, said:

Bull Connor [the infamous commissioner of public safety for Birmingham, Alabama during the heart of the civil rights movement] cannot speak for African-Americans...And I don't think Senator Robertson and the GOP, in part to defend their actions, can speak for minority representation, and most certainly not the African-American and Latino communities (Jackson 24 April).

The implications of the new legislative map went far beyond Senator Robertson's chances for reelection. Some political observers predicted that the Democrats might recapture one or both houses of the Legislature for the first time since 1991 (Handley 8 May). Other issues that factored into the predictions included the expected strong showing of Democratic gubernatorial candidate James McGreevey and the redrawing of some other districts that placed two Republican incumbents running for the same seat. But those factors were largely beyond the Republicans' control, which is probably why they attempted to make constitutional challenge based on the reconfigured Districts 27, 28, 29 and 34. It appears to have been a last ditch effort to overturn the Commission's work and possibly gain a more favorable map if the judges decided to order the Commission to go back to the drawing board. After the new legislative map survived the legal challenge, even the Senate majority leader, John O. Bennett, was predicting that the Republicans would lose seats in the next election, although he added that Republicans would remain in control (Handley 8 May).

If it were true that Republicans were challenging the new plan solely for political advantage rather than from legitimate concerns for the interests of minority voters, it would not be the first time that they were accused of such tactics. After analyzing the role of the Reagan Justice Department in enforcing the Voting Rights Act, political scientist Charles Bullock found that the creation of majority-minority districts in several Southern states had aided Republicans. He concluded his analysis by writing,

Although there is no proof that the Reagan Justice Department sought to use its preclearance responsibilities [of state redistricting plans] to advance Republican fortunes, the results are in line with that interpretation (Brace, et al. 182).

Other scholars point to explicit alliances between some African-American communities and Republicans in a number of states during the previous round of redistricting. Those African Americans who joined forces with the Republicans felt that the election of black representatives was of primary concern, and the fate of the Democratic Party could only be considered secondarily. Such alliances were not limited to the African-American community, as there is some evidence that Mexican-American groups teamed up with Republicans in California (Brace, et al. 182).

Given the academic debate recounted in the previous section and the debate over redistricting in the specific case of New Jersey, minority voters and policymakers will increasingly be forced to challenge old assumptions of how best to achieve fair representation in legislative bodies throughout the country.

#### *Descriptive Representation in New Jersey*

Much of the legal battle, as noted above, focused primarily on issues of descriptive representation in the four districts that were challenged by the Republicans. Since each Assembly district elects two members, there are 80 elections each year for a total of 160 observations. While most minority representatives were elected from districts that contain substantial minority populations, there were nonetheless 10 representatives who won election in majority white districts.

Using this data, I performed a logistic regression analysis with race of the member as the dependent variable, coded 1 for a minority member (either black or Hispanic), and 0 otherwise. MINPOP is the independent variable. A multivariate analysis treating median family income and education levels as control variables did not significantly alter the bivariate model, so it is not presented here. Not surprisingly, the coefficient on MINPOP is highly significant, indicating that the racial composition of districts is a key determi-

nant of the type of representatives elected.

The data clearly indicates that 40-50 percent minority population is the range over which the tradeoff between the benefit gained from packing minority voters and the risk of "wasting" their votes occurs. A 48 percent combined minority population represents the population at which there is a fair chance (i.e., 50 percent probability) of electing a minority representative. As previously stated, the minority population in District 27 was reduced to 42 percent while the minority population in District 34 was increased to 51.8 percent. The results above show that District 34 would have a 60 percent chance of electing a minority representative, and District 27 a 33 percent chance. Hence, minorities in New Jersey would be no worse off, as any loss in District 27 would be offset by District 34. Additionally, the odds of electing two minority assemblymen from these districts substantially increases, as the old District 34 had only a 23.2 percent minority population (and associated 5.4 percent chance of electing a minority assemblyman). While this might be considered powerful evidence that majority-minority districts "waste" minority votes by concentrating minority voters too heavily, it seems as though even greater evidence is provided when one looks at issues of substantive representation in New Jersey as well.

#### *Substantive Representation: A Case Study*

The studies presented above show that Democratic white representatives often have ideologically similar voting patterns to their minority colleagues. Consequently, a trade-off might exist between descriptive and substantive representation. As minority voters are concentrated in majority-minority districts, the remaining districts are more likely to elect Republicans, who are presumably less likely to vote with minority legislators than are the Democrats.

The following fact crystallizes the issue: no Republicans were elected from districts that contained over a 27 percent minority population in the 1997 and 1999 Assembly elections. This suggests that if white Democrats can fairly represent the interests of their minority constituents, even when their districts contain relatively insignificant minority populations, then perhaps policymakers should look more to the expected political party of representatives from the districts they draw rather than the race of those representatives. On the other hand, if white Democrats only fairly represent the interests of their minority constituents when their districts contain substantial minority populations, then policymakers must continue to consider race in the redistricting process. A third possibility, of course, is that even white Democrats that come from districts with sizable minority populations might have significantly different voting patterns than their minority colleagues. If

that were the case, then the creation of districts that will ensure the election of minority representatives would be appropriate. The remainder of this section attempts to determine which of the three possibilities best describes issues of substantive representation in New Jersey.

### *Methods*

Consistent with the methodology used in earlier studies, I attempted to “quantify” the political ideology of members of the New Jersey General Assembly through an analysis of roll-call voting. Unlike at the federal level, political interest group “report cards” are not readily available at the state level. I created my own broad-based index, in which all roll-call votes of the 2000-2001 legislative session were analyzed. In order to be included in the index, the matter that was being voted on had to meet two criteria. First, at least 10 percent of the members had to cast a vote that was different from the remaining legislators. This criterion was necessary so that only those roll-call votes in which there was at least minor opposition to the majority opinion were included. Inclusion of all roll-call votes would have artificially inflated the scores, making it difficult to determine differences in voting among members with respect to political party and race. Second, at least 75 percent of the minority legislators, defined as those members who were African-American or Hispanic, who cast votes (i.e., did not abstain or were absent) had to vote the same way, either “yes” or “no.” Issues that significantly divided the minority community could not have cut across racial lines, so they were eliminated from the study.

Each member’s score was computed by dividing the number of votes that were consistent with the votes of the minority members by the total number of votes cast. In this way, abstentions and absences were not considered; doing so would have, in effect, classified the abstentions and absences as “no” votes. Following the computation of scores, a multivariate regression was run with the following variables:

$$y = A + B_1x_1 + B_2x_2 + B_3x_3 + B_4x_4 + B_5x_5 + U,$$

where  $y$  = index score

$A$  = constant

$x_1$  = minority population (combined black and Hispanic) of the district

$x_2$  = percentage of the population of the district that had college degrees

$x_3$  = median family income of the district

$x_4$  = political party of the member (1=Democrat, 0=Republican)

$x_5$  = race of the member (1=nonwhite, 0=white)

$U$  = error term

Based on the recent studies discussed earlier, I expected that political party would dwarf all the other variables in significance. The “minority population” variable might show a slight positive relationship with index score, consistent with the notion that representatives become more attentive to the needs of their minority constituents as their numbers increase. Similarly, the “race of the member” variable might show a slight positive relationship with index score, as there might be a difference between white representatives with relatively low levels of minority constituents and those from districts that contain substantial minority populations, creating a slight “racial gap.” The “median family income” and “college education” variables were included because presumably they would influence members on redistribution issues.

### *Results*

The coefficient on the political party variable is highly significant, while the coefficients on the others variables are not significant at conventional levels. Even after controlling for demographic variables, political party is by far the most important determinant of voting behavior on issues in the index – that is, on issues that unified minority representatives. Even at low levels of MINPOP, Democrats still have high index scores, while Republicans with moderate levels of MINPOP have low index scores. No Democrat had an index score below 88, while no Republican had an index score above 19. The tradeoff between descriptive and substantive representation is particularly stark in this case—while significant levels of MINPOP (> 40 percent) are required to elect minority representatives in New Jersey, all Democrats, white and nonwhite, have essentially the same voting patterns. From the data, it is clear that those wishing to maximize the substantive representation of minority voters in New Jersey should in the first instance try to maximize the number of Democrats, even if fewer minority representatives are elected as a consequence.

### *Implications and Criticisms*

It is evident from the data that voting in the New Jersey General Assembly is polarized along party lines and not along racial lines. Even Democratic members that had relatively few minority constituents in their districts had high index scores. Such a finding implies that white representatives in New Jersey can represent minority constituents from a substantive point of view, suggesting that policymakers might have to think anew about their assumptions with regard to redistricting and race. Much of the legal dispute in the New Jersey, as recounted above, dealt with issues of descriptive representation, with little mention of issues of substantive representation. It

would also be interesting to examine issues of both descriptive and substantive representation in other state legislatures, particularly in different regions of the country.

There are limits, of course, to how far one can push substantive representation as a viable means of determining whether minority interests are being fairly represented. It would be of little comfort to African American or Hispanic voters, after decades of discrimination, to know that the majority of their legislators were attuned to their concerns if no faces of color were present among them. As Swain writes,

Although a white representative can “think, act, and talk black,” he or she can never *be* black. White representation of blacks will never replace black representation. Like the members of other ethnic groups, African Americans are proud of the achievements of their group (217).

Such statements point to the shortcomings of quantitative models like the one employed here. Moreover, it may be the case that issues of concern to the minority community would not be raised without significant numbers of minority legislators bringing the issues to the floor. For example, when the issue of racial profiling was first brought to the nation’s attention after revelations about police practices in New Jersey, the Black and Latino Caucus held a number of hearings on the issue and its members continue to press for action. But just as substantive representation has its limits, so too does descriptive representation, especially if heavy concentrations of minority voters in some districts limit their influence in other districts. Policymakers must consider both issues when they face the important challenge of producing redistricting schemes that are consistent with the aspirations of all voters.

*Postscript: The 2001 New Jersey State Legislative Elections*

When work began on this paper, it was unclear how the new legislative map would work in practice. Since that time, New Jersey voters, as they do every two years, went to the polls to elect their new state legislators. Buoyed by a strong gubernatorial candidate and general fatigue with the Republicans that controlled Trenton for nearly a decade, the Democrats swept the election, capturing the General Assembly and earning a tie in the Senate. But the new legislative map also played its part. Despite the reductions of minority voters in Districts 27 and 28, all four General Assembly incumbents were easily reelected. New Democratic General Assembly members were elected in District 29. Senator Rice, who was concerned about the reduction of minority voters in his district, easily won reelection. As predicted, Democrats made gains in District 34, as an African American candidate, Nia

Gill, defeated Senator Robertson and the two General Assembly seats, previously held by Republicans, were also captured. The Republican concerns over reduced minority influence were certainly not borne out by the facts. But as this paper has tried to make clear, one should look to both issues of substantive *and* descriptive representation before making such pronouncements.

### References

- Bartels, Larry. Certification in *Page v. Bartels*  
 ---. "Redrawing the Lines." *The Philadelphia Inquirer*. 22 May 2001.  
 Brace, Kimball, et. al. "Does Redistricting Aimed to Help Blacks Necessarily Help Republicans?" *The Journal of Politics* 49 (Feb.1987): 169-185.  
 Cameron, et. al. "Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?" *American Political Science Review* 90 (Dec. 1996): 794-812.  
 Canon, David T. *Race, Redistricting, and Representation*. Chicago: The University of Chicago Press, 1999.  
 Canon, David T., et. al. "The Supply Side of Congressional Redistricting: Race and Strategic Politicians, 1972-1999." *Journal of Politics* 58 (Aug.1996): 846-862.  
 Epstein, David and Sharyn O'Halloran (a). "A Social Science Approach to Race, Redistricting, and Representation." *American Political Science Review* 93 (Mar. 1999), 187-191.  
 ---. "Measuring the Electoral Policy Impact of Majority-Minority Voting Districts." *American Journal of Political Science* 43.2 (1999): 367-395.  
 Grofman, Bernard, ed. *Race and Redistricting in the 1990s*. New York: Agathon Press, 1998.  
 Grofman, Bernard, et. al. "The Effect of Black Population on Electing Democrats and Liberals to the House of Representatives." *Legislative Studies Quarterly* 17.3 (1992).  
 Grofman, Bernard and Lisa Handley. "Minority Population Proportion and Black and Hispanic Congressional Success in the 1970s and 1980s." *American Politics Quarterly* 17 (Oct. 1989): p. 436-445.  
 Handley, Robert. "4 Black Democrats Testify Against Redistricting Map." *The New York Times* 1 May 2001.  
 ---. "New Districts Imperial G.O.P. in New Jersey." *The New York Times*. 8 May 2001.  
 Hill, Kevin A. "Does the Creation of Majority Black Districts Aid Republicans? An Analysis of the 1992 Congressional Elections in Eight Southern States." *Journal of Politics* 57 (May 1995): 384-401.  
 Jackson, Herb. "Judges OK legislative map changes." *The Bergen Record*. 3 May 2001.  
 ---. "Judge puts legislative map on hold." *The Bergen Record*. 12 Apr. 2001.  
 ---. "Legislative map fuels tempers in the Senate." *The Bergen Record*. 21 Apr. 2001.  
 ---. "New political map adopted." *The Bergen Record*. 13 Apr. 2001.  
 Lublin, David. *The Paradox of Representation*. Princeton: Princeton University Press, 1997.  
 ---. "The Election of African Americans and Latinos to the US House of Representatives, 1972-1994." *American Politics Quarterly* 25 (July 1997): 269-286.  
 ---. "Racial Redistricting and African-American Representation: A Critique of "Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?" *American Political Science Review* 93 (Mar. 1999): 183-186.  
 Lublin, David and D. Stephen Voss. "Racial Redistricting and Realignment in Southern State Legislatures." *American Journal of Political Science* 44 (Oct.2000): 792-810.  
 Overby, Marvin L. and Kenneth M. Cosgrove. "Unintended Consequences? Racial Redistricting and the Representation of Minority Interests." *Journal of Politics* 58 (May

1996): 540-550.

*Page v. Bartels*. United States District Court Opinion.

Pinney, Neil and George Serra. "The Congressional Black Caucus and Vote Cohesion: Placing the Caucus Within House Voting Patterns." *Political Research Quarterly* 52 (Sept. 1999): 583-608.

Sharpe, Christine Leveaux and James C. Garland. "Race, Roll Calls, and Redistricting: The Impact of Race-Based Redistricting on Congressional Roll-Call." *Politics Research Quarterly* 54 (Mar. 2001): 31-51.

Swain, Carol. *Black Faces, Black Interests: The Election of African Americans in Congress*. Cambridge: Harvard University Press, 1995.

Whitby, Kenny J. "Bill Sponsorship and Intraracial Voting Among African American Representatives." *American Politics Research* 30 (Jan. 2002): 93-109.

Whitby, Kenny J. and George A. Krause. "Race, Issue Heterogeneity and Public Policy: The Republican Revolution in the 104<sup>th</sup> US Congress and the Representation of African-American Policy Interests." *British Journal of Political Science* 31: 555-572.