

A Woman's Place is in The House, The Senate, Just Not The Judiciary?

An Empirical Analysis of the Relationship Between a Nominee's Gender and the Senate Confirmation Process

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Introduction

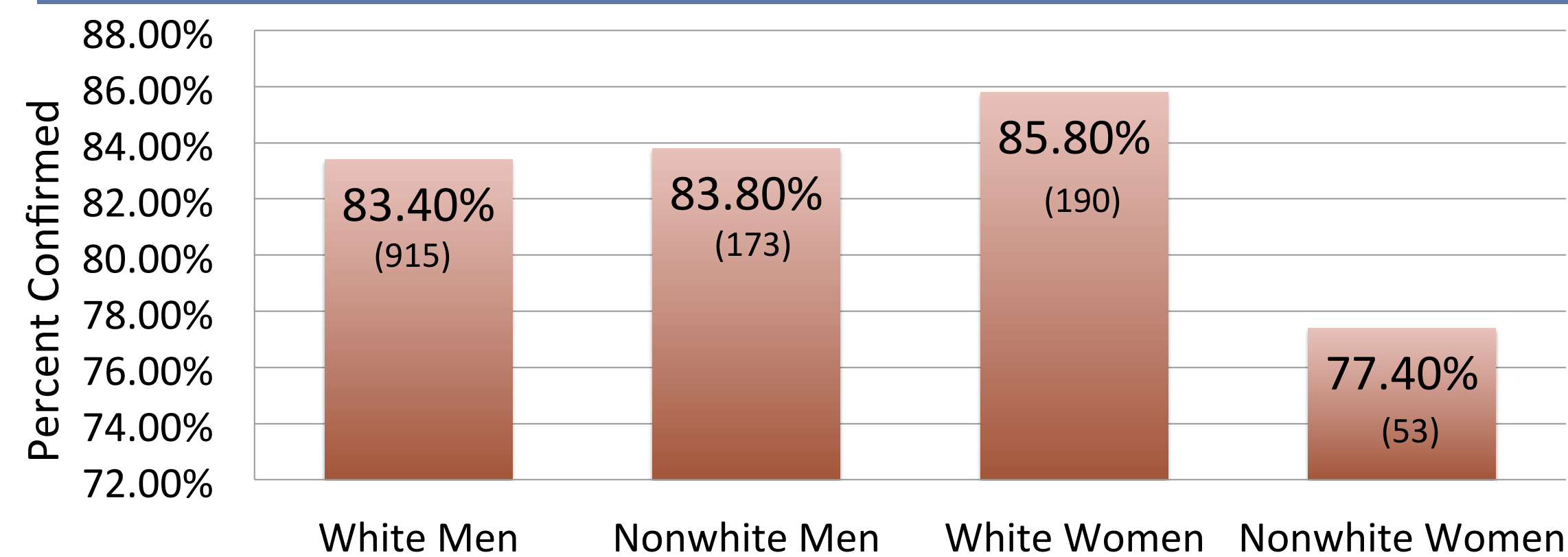
A rampant supposition exists that the judicial nominations of females are less successful due to the nominee's gender. It is thus paramount to further investigate empirically whether individual nominee characteristics, such as gender, inhibit the nominee's possibility of obtaining Senate confirmation. The purpose of this thesis is to understand the arduous process that is Senatorial confirmation for judicial appointments and the factors driving variation in success of the confirmation. Specifically, it aims to contribute to previous scholarship by providing an updated empirical analysis of the relationship between a nominee's gender and confirmation success as the outcome. Building on previous literature and empirical research, the primary objective is to identify the nuances of "[one of the] controversies that has dominated public discourse with regard to Congress and its confirmation responsibilities: the perception of differential treatment of female and minority nominees." This research empirically explores how factors such as race, ideology, and judicial qualifications are related to gender and whether they drive and explain unsuccessful Senate confirmations for female nominees.

Methodology

Wendy Martinek's Lower Federal Court Confirmation Database, including Article III District Court vacancies from 1977-2004, was used to examine whether individual nominee characteristics, such as gender, inhibit the nominee's possibility of obtaining Senate confirmation. This conjecture is explored empirically in two distinct ways:

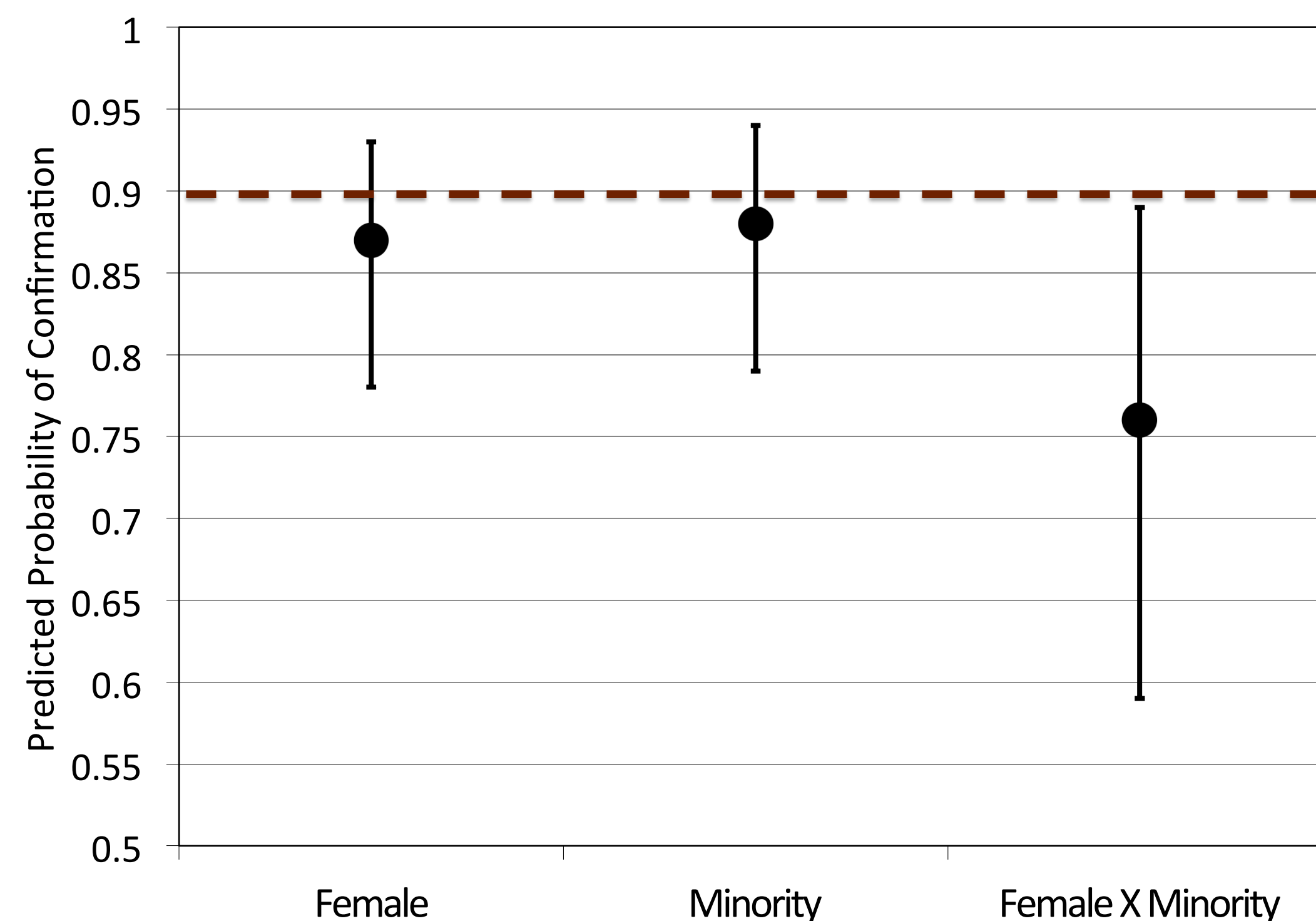
- ⌘ A difference of means test to determine whether women are confirmed to the District Court at a lower rate, on average, than are men
- ⌘ A Logistic regression that examines the influences of gender, race, and their interaction on the likelihood of confirmation, while controlling for other factors

Figure 1: Difference in Confirmation Rates to District Courts



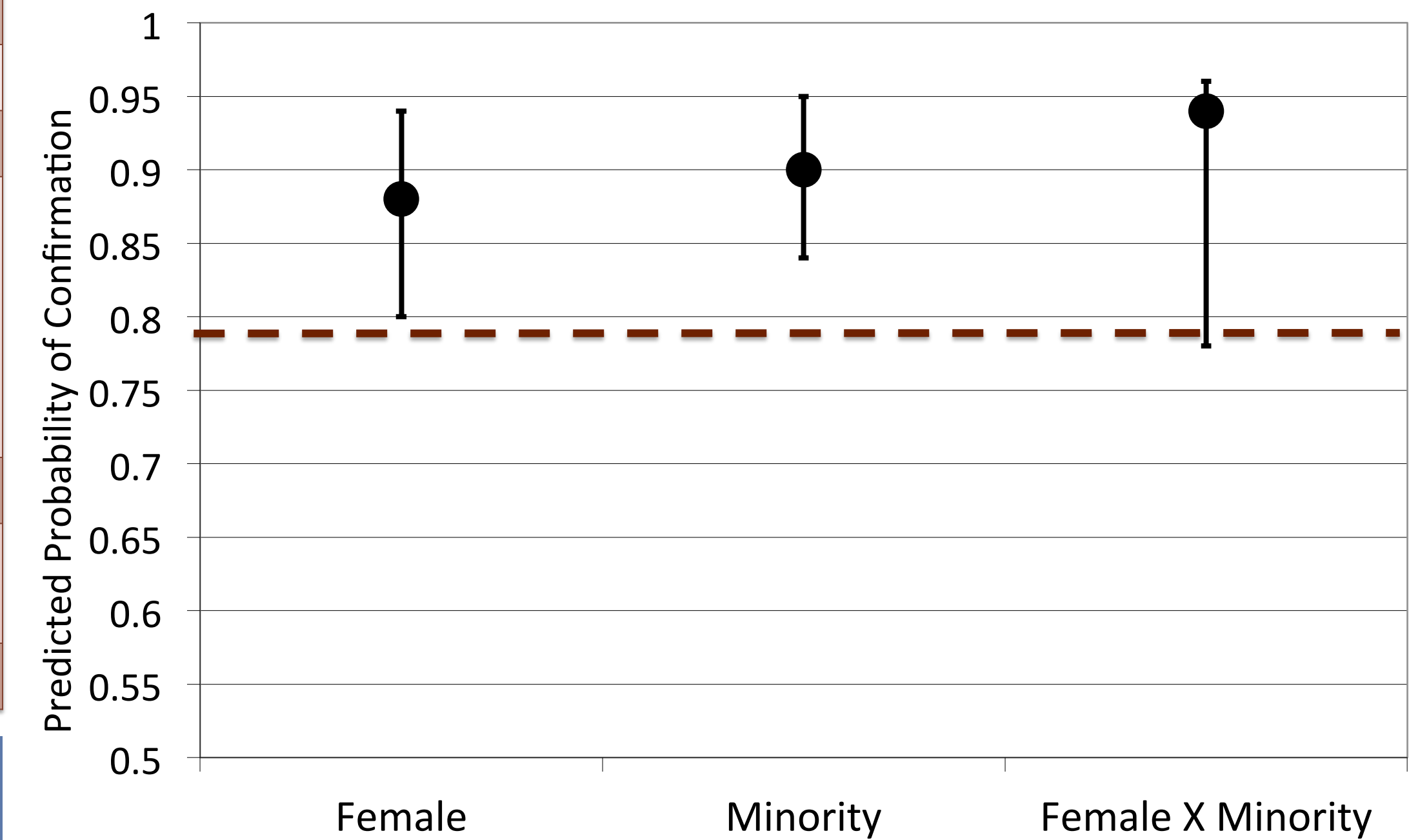
Hypothesis	Variable	Hypothesized Effect on Likelihood of Confirmation
H1	Female Nominee	-
H2	Non-White Female Nominee	-
	Racial Minority Nominee	-
H3	GOP Controlled Senate x Female Nominee	-
	GOP Controlled Senate x Non-White Female Nominee	-
	ABA Score	+
	Renomination of previous Nominee for Same Seat	+
	Presidential Year	-

Figure 2: Predicted Probability of Confirmation During GOP Controlled Senate



Consulting Figure 1 serves to visually highlight the substantive size of the effects of being a woman, a racial minority, and the merger of both on the probability of confirmation. Significantly lower is the predicted probability of confirmation for a racial minority nominee, which is 0.76 with a 95% confidence interval of [0.59, 0.89].

Figure 3: Predicted Probability of Confirmation During Democrat Controlled Senate



Examination of Figure 2 illustrates how dramatically different the effects are under a Democrat controlled Senate. It suggests that the positive effect of being a minority is statistically different from zero, and confirms that a minority nominee would be more likely to obtain a successful confirmation during a Democrat controlled Senate when compared to the median white male nominee.

Conclusions & Implications

- ⌘ Gender and minority status of a nominee separately do not appear to pose a significant threat to confirmation success, as determined by a series of difference of means tests and logistic regressions. However, when these two individual characteristics interact, the Senate confirmation process for nominees is no longer a level playing field.
- ⌘ The empirical results are supportive of the hypothesis that racial minority females are less likely to be confirmed by a GOP controlled Senate than their white female and male counterparts.
- ⌘ Incorporating JCS Scores to control for ideology did not eliminate differences in confirmation success and instead this independent variable magnified the importance of institutional factors during Democratic control.
- ⌘ The race factor and its synergy with gender has been missing, and this analysis is an appeal for different cleavages in existing literature to be individually explored.