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## Notoriously Ruthless: The Idolization of Justice Ruth Bader Ginsburg

Lucille Moran

Macalester College, lmoran1@macalester.edu

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**Notoriously Ruthless: The Idolization of Justice Ruth Bader  
Ginsburg**

Lucille Moran  
Advised by Professor Patrick Schmidt  
Political Science Honors Project  
1 May 2019

## **Abstract**

It is now a fixture of mainstream commentary in the United States that Supreme Court Justice Ruth Bader Ginsburg has become a popular idol on the political left. Yet, while Justice Ginsburg's image and story has reached an unprecedented level of valorization and even commercialization, scholars have yet to give sustained attention to the phenomenon and to contextualize it: why has this idolization emerged within this context, and what is its impact? This paper situates her portrayal in the cultural imagination as the product of two political forces, namely partisanship and identity politics. Considering parallel scholarly discourses of reputation, celebrity, and mythology in the legal context, and comparing the figure of Justice Ginsburg to the construction of other justices (historic and contemporary) in elite and popular discourse, the paper examines how this phenomenon represents both a continuity and break for the cultural position of judges in America.

## **Acknowledgements**

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## Introduction

Since her appointment to the U.S. Supreme Court in 1993, Justice Ruth Bader Ginsburg has crossed an unspoken judicial line and is now widely regarded as a cultural icon. Various types of merchandise—such as t-shirts, coffee mugs, mints, dolls, and cards—feature the justice who fans affectionately call the “Notorious R.B.G” and dominate both online and in-person stores. Justice Ginsburg is also featured widely in social media, specifically through the use of internet memes. She has become a feminist superhero, whose face can be recognized even when photoshopped onto Wonder Woman’s Body. A living icon, her life has been recorded both in documentary form already viewed by over 12 million people, and a blockbuster movie released in December 2018.<sup>1</sup> This celebrity status for a Supreme Court justice appears unique in degree and perhaps in type.

Scholars have yet to fully grapple with what a celebrity judge is, much less what it means for both society and the bench. Set against the backdrop of celebrity politicians generally, and the influence of social media in politics today, we are still coming to terms with the distinctiveness of Justice Ginsburg’s idolization. This paper fills the gap in the literature by differentiating Ginsburg’s status in the public sphere from that of past judges as well as celebrity politicians. I ask two questions: why has this celebrity idolization emerged within this context, and what is its impact?

Throughout the paper, I argue that Justice Ginsburg’s valorization is the product of two interacting political forces: partisanship and identity. Her presence within popular

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<sup>1</sup> John Anderson, “Ruth Bader Ginsburg and Mister Rogers: Hollywood’s Newest Breakout Stars.” *The New York Times*, June 26, 2018; Bruce Fretts, ‘On the Basis of Sex’ Trailer: Can Felicity Jones Handle Ruth Bader Ginsburg’s Accent?” *The New York Times*, July 16, 2018.

culture revolves around both her iconic liberal dissents as well as her reputation of standing up for women's rights. Through an examination of portrayals of Justice Ginsburg—including memes, children's books, a Saturday Night Live sketch, and a blockbuster movie—I provide evidence as to how these forces are contributing to her fame. Additionally, I examine popular liberal news sites that reference the “Notorious R.B.G.,” and argue that the reference serves to prolong this narrative. Finally, I will end with a discussion on the implications of what a contemporary celebrity justice means for the Supreme Court.

## **Literature Review**

### *Celebrity Culture*

Since the early 1910s, the rise of the television and other popular culture media, the United States has seen a significant uptick in celebrity presence.<sup>2</sup> As television's mass audiences brought an easier rise to fame, the celebrity became intertwined with consumer culture, and people understand that individuals are promoted as objects, made for society's public consumption. Celebrity culture is, “perfectly consonant with commodification – the process whereby everything, including public figures, can be converted into an article of trade to be exchanged in the marketplace.”<sup>3</sup> Social media certainly does nothing to disrupt that culture except to break the hold (and marketshare)

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<sup>2</sup> Daniel Boorstin, *The Image: A Guide to Pseudo-Events in America*. (Vintage, 1992); Amy Henderson, “From Barnum to “bling bling”: The Changing Face of Celebrity Culture,” *Hedgehog Review* 7, no. 1 (2005): 37-46.

<sup>3</sup> “Celebrity Culture” *Sociology Research Network* quoting Graeme Turner, *Understanding Celebrity*, (SAGE Publications, 2013) and Helga Dittmar, Jane Beattie, and Susanne Friese, “Gender identity and material symbols: Objects and decision considerations in impulse purchases,” *Journal of Economic Psychology* 16, (1995) 491–511.

of TV and movie stars, now competing with reality show personas, politicians, YouTube stars, social media personas, and more. Langer describes how all such social media celebrities can now be considered as part of the “publicity regimes and fame-making apparatus” that create and enhance celebrities in our society.<sup>4</sup>

Since the 1990s and early 2000s academics from multiple disciplines have examined the impact of celebrities in our society.<sup>5</sup> Among many lessons and morals scholars might weave across disciplines a consensus holds that celebrities play an important social function. Turner describes this function as “not only implicated in the production of communities such as fan groups or subcultures, but also the generation of celebrity culture and social networks, and it also participates in the field of expectations that many, particularly the young, have of everyday life.”<sup>6</sup>

### *Celebrity Politicians*

Celebrity culture has certainly touched the realm of politics. Scholars speak of two types of celebrity politicians—CP1s and CP2s. Some people, CP1s, place more emphasis on their careers as *politicians*, and are defined as “an elected politician (or a nominated candidate) whose background is in entertainment, show business or sport, and who trades on this background (by virtue of the skills acquired, the popularity achieved or the images associated) in the attempt to get elected.”<sup>7</sup> This definition would apply to

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<sup>4</sup> John Langer, *Tabloid Television: Popular Journalism and the ‘Other’ News*. London: Routledge, 1998, 53.

<sup>5</sup> Graeme Turner, "Approaching Celebrity Studies." *Celebrity Studies* 1, no. 1 (2010): 11-20; Kerry Ferris, "The Sociology of Celebrity." *Sociology Compass* 1, no. 1 (2007): 371-384; Olivier Driessens, "The Celebrityization of Society and Culture: Understanding the Structural Dynamics of Celebrity Culture." *International Journal of Cultural Studies* 16, no. 6 (November 2013): 641-57; Kim Allen and Heather Mendick, "Young people's uses of celebrity: class, gender and 'improper' celebrity." *Studies in the Cultural Politics of Education* 34, no. 1 (2013): 77-93.

<sup>6</sup> Graeme Turner, "Approaching Celebrity Studies," 14.

<sup>7</sup> John Street, "Celebrity Politicians: Popular Culture and Political Representation." *British Journal*

Ronald Reagan and Jessie Ventura because they can both be considered people who were celebrities and then used their positions in the public eye to achieve elected office. CP2s, on the other hand, are less interested in running for office and are instead more focused on their positions as *celebrities* who use their status in the public eye to promote political agendas. A CP2, like Bono or Jane Fonda, is specifically defined as, “the entertainer who pronounces on politics and claims the right to represent peoples and causes, but who does so without seeking or acquiring elected office. Their engagement tends to take the form of public gestures or statements aimed at changing specific public policy decisions.”<sup>8</sup> The major difference between these two types of celebrity politicians is whether they seek public office.

Since this distinction was originally crafted, the definition of CP1s has been expanded to include politicians like President Bill Clinton and President Barack Obama as a new form of a celebrity politician; while neither of them were exceptionally famous before they became presidents, they both used media outlets to obtain votes in a way similar to that used by T.V. and film stars to gain fame and fans.<sup>9</sup> President Clinton has been identified as the catalyst in the development of politicians who do not begin their careers as celebrities but gain celebrity status as their campaigns develop. He was the first presidential candidate to frequently appear on talk shows and invite other celebrities to

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*of Politics and International Relations, The* 6, no. 4 (2004): 435-452, 437.

<sup>8</sup> John Street, "Celebrity Politicians: Popular Culture and Political Representation," 438.

<sup>9</sup> David Marsh, Paul Hart, and Karen Tindall, "Celebrity Politics: The Politics of the Late Modernity?" *Political Studies Review* 8, no. 3 (2010): 322-340.; Mark Wheeler, "The Democratic Worth of Celebrity Politics in an Era of Late Modernity." *The British Journal of Politics and International Relations* 14, no. 3 (August 2012): 407-22; Matthew Wood, Jack Corbett, and Matthew Flinders. "Just Like Us: Everyday Celebrity Politicians and the Pursuit of Popularity in an Age of Anti-Politics." *The British Journal of Politics and International Relations* 18, no. 3 (2016): 581-598; Mark Wheeler, *Celebrity Politics*, Polity 2013; David Marsh, Paul Hart, and Karen Tindall. "Celebrity Politics: The Politics of the Late Modernity?" *Political Studies Review* 8, no. 3 (2010): 322-340.

campaign at events while he was running for president.<sup>10</sup> Celebrities like Robin Williams, Sarah Jessica Parker, Whoopi Goldberg, Paul Newman and many more endorsed President Clinton.<sup>11</sup> In fact, although anticipated by President John F. Kennedy's ties to Marilyn Monroe, Mark Wheeler offers that "no other president moved with such ease within Hollywood's leading circles as Clinton."<sup>12</sup> Ever since Clinton, the desire of politicians to use celebrity to their advantage has been transformed in even more contemporary figures such as Representative Beto O'Rourke.

The emergence of celebrity politicians in society has lead academics to an overwhelming consensus that this celebrification of politicians strongly correlates with the personalization of politics and a general weakening of political parties.<sup>13</sup> A candidate-centered politics moves "from a focus primarily upon political institutions (parties, government, cabinet) and policies (ideologies, manifestoes) towards individual politicians."<sup>14</sup> This personalization can be attributed to how politicians are using media and television outlets to garner support.<sup>15</sup> As politicians use social media and other news

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<sup>10</sup> Mark Wheeler, *Celebrity Politics*.

<sup>11</sup> Mark Wheeler, *Celebrity Politics*.

<sup>12</sup> Mark Wheeler, *Celebrity Politics*, 66.

<sup>13</sup> Christina Holtz-Bacha, Ana Ines Langer, and Susanne Merkle, "The Personalization of Politics in Comparative Perspective: Campaign Coverage in Germany and the United Kingdom." *European Journal of Communication* 29, no. 2 (2014): 153–70; Peter Van Aelst, Tamir Sheafer, and James Stanyer. "The Personalization of Mediated Political Communication: A Review of Concepts, Operationalizations and Key Findings." *Journalism* 13, no. 2 (2012); Juliet E. Carlisle, and Robert C. Patton, "Is Social Media Changing how we Understand Political Engagement? An Analysis of Facebook and the 2008 Presidential Election." *Political Research Quarterly* 66, no. 4 (2013): 883-895.

<sup>14</sup> Brian D. Loader, Ariadne Vromen, and Michael A Xenos, "Performing for the Young Networked Citizen? Celebrity Politics, Social Networking and the Political Engagement of Young People." *Media, Culture & Society* 38, no. 3 (2016): 400–419, 405.

<sup>15</sup> Gianpietro Mazzoleni, "A return to civic and political engagement prompted by personalized political leadership?" *Political Communication* 17 (2000): 325–328; Meyrowitz J. *No Sense of Place: The Impact of Electronic Media on Social Behaviour*. New York: Oxford University Press, 1985; Juliet E. Carlisle, and Robert C. Patton, "Is Social Media Changing how we Understand Political Engagement? An Analysis of Facebook and the 2008 Presidential Election." *Political Research Quarterly* 66, no. 4 (2013): 883-895; Stacey Frank Kanihan, and Hyejoon Rim "Media use and Political Learning: Comparing Trump Supporters To Celebrity Candidate Voters." *Atlantic Journal of Communication* 26, no. 4 (2018): 251-266.

sources to promote themselves and amass more public attention, they are consequently becoming separated from their political parties.<sup>16</sup> It is also just as important *how* they communicate and how this has driven a personal style. Politicians are now more than ever before using social media, specifically Facebook and Twitter, to communicate to voters, and the nature of this communication is often personal as well as political, which contributes to the explanation for this rise in personalized politicians.<sup>17</sup> While the trend of sharing personal information online allows the public to relate more closely to their elected representatives and encourages engagement within the political process,<sup>18</sup> it is widely accepted that its consequence is the diminishing importance of political parties in the United States.

Even more deeply, personalized politics has also contributed to an increasing role of identity and identity politics in the United States. Bennett argues that, “Social fragmentation and the decline of group loyalties have given rise to an era of personalized politics in which individual expression displaces collective action frames in the embrace of political causes.”<sup>19</sup> As a result, politicians champion identity-defining characteristics such as race and gender as opposed to their exact political parties. This experience does

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<sup>16</sup> Ian McAllister, “The Personalization of Politics.” In: Dalton RJ, Klingemann HD *The Oxford Handbooks of Political Science: The Oxford Handbook of Political Behaviour*. (Oxford: Oxford University Press, 2007); Shannon McGregor, Regina G. Lawrence, and Arielle Cardona, “Personalization, Gender, and Social Media: Gubernatorial Candidates’ Social Media Strategies.” *Information Communication Society* 20, no. 2 (2017): 264-283.

<sup>17</sup> Jason Gainous, and Kevin M. Wagner, *Tweeting to Power: The Social Media Revolution in American Politics*. New York: Oxford University Press, 2014.

<sup>18</sup> Gianpietro Mazzoleni, “A return to civic and political engagement prompted by personalized political leadership?”; Juliet E. Carlisle, and Robert C. Patton, “Is Social Media Changing how we Understand Political Engagement? An Analysis of Facebook and the 2008 Presidential Election.”

<sup>19</sup> Lance Bennett, “The Personalization of Politics: Political Identity, Social Media, and Changing Patterns of Participation.” *Annals of the American Academy of Political and Social Science* 644, (2012): 20-39, 37.

not stop with politics—and has extended into the business and legal worlds—with more CEOs and other professionals representing entire companies and movements.

*Reputation of “Great” Supreme Court Justices*

Even though a growing presence of celebrity politicians can provide insight into Justice Ginsburg’s fame, many Supreme Court justices before her have been acknowledged as “great.” Supreme Court justices have enjoyed varying levels of popularity throughout our history, some beyond academic and legal circles. In a symbol of fascination itself, scholars since the mid-1950s have ranked past Supreme Court justices according to their judicial “greatness”<sup>20</sup>, and there is a surprising degree of consensus, with Chief Justice Marshall, Chief Justice Warren, Louis Brandeis, Oliver Wendall Holmes, Benjamin Cardozo, and Hugo Black appearing on almost every list of the greatest and most influential justices.<sup>21</sup> William Ross’ synopsis of the factors used in such rankings include: impact on legal development, longevity of tenure, intellectual ability, pre-court and post-court careers, proximity in time, attention from historians, eccentric decisions, personal characteristics (integrity factor), administrative skills, extra-

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<sup>20</sup> Felix Frankfurter, “The Supreme Court in the Mirror of Justices” 105 U. PA. L. REV. 781, 783-84 (1957); John Frank, *Marble Palace: The Supreme Court in American Life*, (Knopf, 1958); George R. Currie, “A Judicial all-Star 9.” *Wisconsin Law Review* no. 1 (1964): 3-31, Albert Blaustein and Roy M. Mersky. “Rating Supreme Court Justices.” *American Bar Association Journal* 58, no. NOV (1972): 1183-1189; Thomas G Walker and William E. Hulbary, “Selection of capable justices: factors to consider” In *The First One Hundred Justices*, Albert Blaustein and Roy Mersky (eds.), (Hamden, Conn.: Archon Books, 1979); Bernard Schwartz, “The Judicial Ten: America’s Greatest Judges.” *S.Ill.L.Rev.* (1979); James Hambleton, “The All-Time All-Star All-Era Supreme-Court.” *American Bar Association Journal* 69 (1983): 462-464; William Pederson and Norman Provizer. *Great Justices of the U.S. Supreme Court: Ratings and Cases*. (Peter Lang Inc., International Academic Publishers, 1993); Albert Blaustein and Roy M. Mersky, *The First One Hundred Justices* (Hamden, CT Archon Books, 1978); Richard A. Posner *Cardozo: A Study in Reputation*. (Chicago: University of Chicago Press, 1993); William Ross, “The Ratings Game: Factors That Influence Judicial Reputation.” *Marquette Law Review* 79, vol. 2 (1996): 401–52; Frank Cross and Stefanie Lindquist. “Judging the Judges.” *Duke Law Journal* 58, no. 7 (2009): 1383-1437; Frank B. Cross and James F. Spriggs II, “The Most Important (and Best) Supreme Court Opinions and Justices,” *Emory L.J.* 407, 491 (2010).

<sup>21</sup> Currie, “A Judicial all-Star 9”; Blaustein and Mersky, *The First One Hundred Justices*; Blaustein and Mersky, “Rating Supreme Court Justices.”; Ross, “The Ratings Game: Factors That Influence Judicial Reputation.”

judicial activities, influence and leadership on the courts, and quality and quantity of opinions.<sup>22</sup>

Many of the initial rankings of Supreme Court justices relied heavily upon subjective opinions about the tenure of Supreme Court justices;<sup>23</sup> others have pushed academia for a more quantitative and replicable measure of greatness, based of influence over the law as opposed to their personal attributes. Since, the coding of Supreme Court decisions and opinions based on frequency of citation by subsequent judges and Justices, the reversal of precedent, inclusion in legal textbooks, and ideologically charged opinions have become commonplace to determine a justice's legacy.<sup>24</sup>

The most common variable studied is the number of times a justices' opinion has been cited in subsequent cases at the U.S. Supreme Court and at the U.S. Court of Appeals. A study published in 2017, for example credited Justice Stevens with 1,640 citations, Justice O'Connor with 1,235 citations, and Justice Scalia with 1,195 citations.<sup>25</sup> Meanwhile, Justice Ginsburg's opinions have only been cited a total of 208 times, suggesting that by these indicators, she would not be considered a very influential justice in the modern era.

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<sup>22</sup> Ross, "The Ratings Game: Factors That Influence Judicial Reputation."

<sup>23</sup> Frankfurter, "The Supreme Court in the Mirror of Justices"; Currie, "A Judicial all-Star 9"; Blaustein and Mersky. "Rating Supreme Court Justices"; Bernard Schwartz, "The Judicial Ten: America's Greatest Judges."

<sup>24</sup> William Landes and Richard Posner, "Legal Precedent: A Theoretical and Empirical Analysis" *The Journal of Law & Economics*, Vol. 19, No. 2, *Conference on the Economics of Politics and Regulation* (1976), pp. 249-307; Cross and Spriggs II, "The Most Important (and Best) Supreme Court Opinions and Justices"; Lee Epstein et al, "Rating the Justices: Lessons from Another Court" in *Annual Meeting of the Midwest Political Science Association Conference*, (1992): 1-31; Beverly Cook, "Measuring the Significance of U.S. Supreme Court Decisions." *The Journal of Politics* 55, no. 4 (1993): 1127-1139; Haines 1977; Montgomery Kosma, "Measuring the Influence of Supreme Court Justices." *Journal of Legal Studies*, *The* 27, no. 2 (1998); Steven Choi, "Choosing the Next Supreme Court Justice: An Empirical Ranking of Judge Performance." *Southern California Law Review* 78, (2004); Omri Ben-Zvi, "Judicial Greatness and the Duties of a Judge." *Law and Philosophy* 35, no. 6 (2016): 615-654.

<sup>25</sup> Tom Pryor, "Using Citations to Measure Influence on the Supreme Court." *American Politics Research* 45, no. 3 (2017): 366-402.

These rankings of the most prominent and influential justices are compiled by legal scholars, in whose measures Ginsburg does not necessarily fulfill rise to greatness, in spite of her contemporary popularity. Indeed, this disjoint is important as an object of inquiry itself. I hope to fill this gap by delineating those factors that legal scholars have determined contribute to “greatness” and by exploring the role adoration plays in deciding who is “great” in terms of their influence in the public sphere.

### *Popular Image of Judges*

The measure of legal influence assumes passivity by the judge, whereas, in fact, judges actively promote themselves and are promoted by others. In addition to how academics determine judicial greatness, we can also look into how judges self-promote in order to compare this to Justice Ginsburg.

The fallacy of a completely private and objective judiciary, if ever commonly accepted, has been largely discredited. It is now commonplace to understand that judges within our political system seek to advance their political goals through their written interpretation of the law. Epstein and Knight note that this idea that judges are motivated by their desire to shape policy has become, “so firmly ingrained in the literature that almost all serious theoretical and empirical work proceeds from it.”<sup>26</sup>

While the idea that judges seek to advance individual policy goals is not new, Lawrence Baum asserted an additional claim that judges (both federal and Supreme Court Justices) are actually motivated not only by their desire to influence policy, but also by

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<sup>26</sup> Lee Epstein and Jack Knight, "Reconsidering Judicial Preferences." *Annual Review of Political Science* 16, no. 1 (2013): 14.

their desire to impress their audiences.<sup>27</sup> He furthers the understanding of self-presentation as a form of pursuing policy goals as also contributing to the judges' motivation to impress their audiences and seek attention. Baum cites oral arguments, opinions, announcements of decisions, speeches from judges, interviews with media, and academic writing all as evidence that judges are seeking to impress their audiences and gain more public attention.<sup>28</sup> He specifically discusses how some judges, most notably Justice Scalia, use very strong and often humorous language in his opinions to gain attention.<sup>29</sup> Baum also notes that it is now more common on the modern Supreme Court that justices conduct speeches as well as involve themselves with interviews with different media.<sup>30</sup>

There are also prominent judges in our society that have become famous from different television programs. The most obvious example is the show *Judge Judy*, which features the retired Family Court Judge Judith Sheindlin, whose show features the settlement of small-claims. During the early 2000s, this show was the highest rated reality courtroom program, coming in second in daytime television only to the Oprah Winfrey Show.<sup>31</sup> She has since released four self-help books and one children's book.<sup>32</sup> Kohm points out, however, that Judge Sheindlin is entirely focused on the individual promotion of herself. She refers to herself throughout the show as the ultimate "truth

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<sup>27</sup> Lawrence Baum, *Judges and Their Audiences: a Perspective on Judicial Behavior*. Princeton: Princeton University Press, 2009.

<sup>28</sup> Lawrence Baum, *Judges and Their Audiences: a Perspective on Judicial Behavior*.

<sup>29</sup> Lawrence Baum, *Judges and Their Audiences: a Perspective on Judicial Behavior*.

<sup>30</sup> Lawrence Baum, *Judges and Their Audiences: a Perspective on Judicial Behavior*.

<sup>31</sup> Steven Kohm, "The People's Law Versus Judge Judy Justice: Two Models of Law in American Reality-Based Courtroom TV." *Law & Society Review* 40, no. 3 (2006): 693-728.

<sup>32</sup> Kohm, "The People's Law Versus Judge Judy Justice: Two Models of Law in American Reality-Based Courtroom TV."

machine,” as an almost supernatural ability.<sup>33</sup> As a result, she has reached unprecedented levels of fame and sparked more television courtroom realities that popularize law and judges; however, there is a crucial difference between her adoration and that of Justice Ginsburg’s. While Judge Sheindlin promotes her individual fame, Justice Ginsburg has had her fame thrust upon her.

### *Conclusion*

In a celebrity culture with seemingly snowballing momentum, the question of how Justice Ginsburg has reached a heightened level of adoration becomes more pressing. For all the abundance of research on the reputation of celebrity culture, celebrity politicians in the United States, and how justices and judges portray themselves in the public sphere, strikingly absent is research on celebrity *justices*. This research seeks to fill this gap: how do justices who are traditionally insulated from public adoration become pop icons? Unlike politicians, Supreme Court Justices have lifetime appointments and are presumed to be removed, as individuals, from the public spotlight. Supreme Court justices are not elected and thus never have to worry about obtaining votes or vying for political support. The purpose of the judiciary was to ensure independent judges were isolated from the whims of the majority party. Even though the idea that Supreme Court justices are nonpartisan and are not policymakers has been largely challenged by a growing literature,<sup>34</sup> there is still a general understanding that justices do not typically garner celebrity status from their work on the bench. However, this is clearly not the case for one Supreme Court Justice in particular, Justice Ruth Bader

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<sup>33</sup> Kohm, "The People's Law Versus Judge Judy Justice: Two Models of Law in American Reality-Based Courtroom TV."

<sup>34</sup> Robert Dahl, "Decision-Making in a Democracy: The Supreme Court as a National Policy-Maker." *Journal of Public Law* 6, no. 2 (1957): 279-295

Ginsburg. My thesis seeks to fill this void in the research literature by examining two growing political phenomena—partisanship and identity—and how these are playing a role in Justice Ginsburg’s fame.

## **Why Now and Why R.B.G?**

### *Biographical Context*

Before diving into the paper, it is important to provide some biographical information on Justice Ginsburg in order to contextualize the rest of the piece. Ruth Bader was born in 1933 in Brooklyn, New York. Growing up, she was not immediately drawn to the law, instead attending Cornell University as an undergraduate with the intention of studying literature to perhaps become a teacher (on her mother’s suggestion). However, after taking her first constitutional law class, a future in the legal profession quickly became her natural fit. Bader was a standout in the class, and even began to work with the professor as a research assistant following the course’s completion. Part of this early legal work included following the events occurring in the House Un-American Activities Committee during the McCarthy Era as well as researching censorship and book burning. As a result, Ginsburg became fascinated with the importance of civil liberties and eventually remarked that she, “got the idea that being a lawyer was a pretty good thing” since as a lawyer, “you could do something good for your society.”<sup>35</sup> After graduating from Cornell with honors, she went on to attend Harvard Law School—one of only nine females in the 1956 first year class.

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<sup>35</sup> Irin Carmon, and Shana Knizhnik, *Notorious RBG: The Life and Times of Ruth Bader Ginsburg*, (New York, NY: Harper, an imprint of HarperCollins Publishers, 2017) 30.

After graduating from law school and experiencing firsthand the prejudice and discrimination that many women faced in the legal profession, Ginsburg founded the ACLU Women's Rights Project. In this role, she argued six cases in front of the Supreme Court, winning five. Her path-breaking career as a litigator for women's rights caught the attention of President Carter, who nominated her to the U.S. Court of Appeals for the District of Columbia Circuit in 1980. During her time on the Court of Appeals, Ginsburg was considered a steady liberal vote in an increasingly conservative legal environment. Although she was consistently a liberal judge, she also often made an effort to build unanimity on the bench.<sup>36</sup> When President Clinton nominated her to the U.S. Supreme Court in 1993, he referred to her as a "moderate" and a "consensus builder," even among her more conservative counterparts.<sup>37</sup> The U.S. Senate was easily convinced of Ginsburg's qualifications, and on August 3, 1993, the Senate confirmed her nomination by a vote of 96-3, making the Ginsburg the second woman to ever serve on the United States' Highest Court.<sup>38</sup>

As Justice Ginsburg's time on the court has progressed, she has found herself leaning increasingly liberal in her opinions due to the increasing conservative majority present on the Court. In the 2013 case of *Shelby County v. Holder*, which struck down a major portion of the Voting Rights Act, not only did Ginsburg author a dissent, but she also broke common precedent and read her dissent aloud in open court. This quickly caught the attention of the nation when Shana Khizhnik started a tumblr blog entitled

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<sup>36</sup> Paul Richter, "Clinton Picks Moderate Judge Ruth Ginsburg for High Court: Judiciary: President calls the former women's rights activist a healer and consensus builder. Her nomination is expected to win easy Senate approval" *LA Times*, June 15, 1993.

<sup>37</sup> Richter, "Clinton Picks Moderate Judge Ruth Ginsburg"

<sup>38</sup> Jane Sherron de Hart, *Ruth Bader Ginsburg: A Life*, (New York, NY: Knopf, 2018).

“Notorious R.B.G.,” which has since gone viral and will be explored later. Justice Ginsburg is now frequently glorified in the public for her fiery dissents in an increasingly conservative legal sphere.

### *Why Now?*

The Supreme Court is currently experiencing its most polarized era in history.<sup>39</sup> Bartels argues that the current polarization on the Court generally follows the increasingly polarized public and largely attributes this polarization to the role of presidential nominations. He argues that, “starting with President Clinton, presidents have increasingly—and successfully—emphasized ideological compatibility and reliability as standards for selecting judges.”<sup>40</sup> Neal Devins and Lawrence Baum further demonstrate that not only have presidential nominations become more ideologically aligned, but Democratic appointees and Republican appointees to the bench have also become more ideologically separated.<sup>41</sup> Since the mid-1950s, scholars have grappled with the implications of, and reasoning behind, a polarized court. Bartels argues that the emphasis on ideology has created more ideologically firm justices and has slowly caused the disappearance of “swing justices,” thus resulting in more politically contentious decisions.<sup>42</sup> Devins and Baum point to the Republicans refusal to consider Merrick Garland and the repudiation of the filibuster to push the nomination of Neil Gorsuch

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<sup>39</sup> Neal Devins and Lawrence Baum, *The Company They Keep: How Partisan Divisions Came to the Supreme Court*, (Oxford University Press, 2019).

<sup>40</sup> Brandon Bartels, “The Sources and Consequences of Polarization in the U.S. Supreme Court.” In *American Gridlock*, eds. James Thurber and Antoine Yoshinaka. (New York, NY: Cambridge University Press, 2016), 176.

<sup>41</sup> Neal Devins and Lawrence Baum, “Split Definitive: How Party Polarization Turned the Supreme Court into a Partisan Court.” *Supreme Court Review* (2017).

<sup>42</sup> Bartels, “The Sources and Consequences of Polarization in the U.S. Supreme Court.”

through the Senate as demonstrations of the heightened partisan climate that surrounds and permeates the Supreme Court.

Not only has the Supreme Court become more polarized, but there is also increasing evidence of politicization as the result of partisanship within the Court. In the modern age, the Supreme Court has increasingly crossed into the political arena by ruling on political issues that in the past Justices would have used the political question doctrine to prohibit the Court from ruling on the matter. The political question doctrine is used to determine whether or not the Court, within its constitutional limits, has the authority to rule on the issue at hand. The doctrine operates on the premise that questions regarding legislative issues are merely political and thus fall outside of the Court's purview.<sup>43</sup> However, ever since *Baker v. Carr*—whereby the Supreme Court ruled that the redistricting of state legislatures falls under the federal courts' jurisdiction and therefore is not a political question<sup>44</sup>—scholars argue that we have seen a decline in the use of the political question doctrine and thus an increase in the Court's political decisions.<sup>45</sup> In fact, it has become increasingly argued in academia that the Supreme Court can no longer accurately be described as the true nonpartisan branch of the government.

This conversation surrounding the increased rate of partisanship on the Supreme Court is an important element in the development of a hypothesis for the cause of Justice Ginsburg's idolization because her path to fame began with her fiery dissent in a politically charged case. Ginsburg not only authored a strongly worded dissent in the case

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<sup>43</sup> Rachel Barkow, "More Supreme than Court? The Fall of the Political Question Doctrine and the Rise of Judicial Supremacy." *Columbia Law Review* 102, no. 2 (2002)

<sup>44</sup> *Baker v. Carr* 369 U.S. 186 (1962).

<sup>45</sup> Barkow, "More Supreme than Court? The Fall of the Political Question Doctrine and the Rise of Judicial Supremacy"; Tom S. Clark, "Measuring Ideological Polarization on the United States Supreme Court." *Political Research Quarterly* 62, no. 1 (2009): 146-157; David Paul Kuhn, "The Incredible Polarization and Politicization of the Supreme Court." *The Atlantic*, 2012.

*Shelby County v. Holder*, but she also broke common precedent and read her dissent aloud in open court, thereby capturing widespread attention. A quote from her dissent reads, “throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet,”<sup>46</sup> and this quote has since been printed on t-shirts, mugs, buttons, etc. The case’s focus on the highly polarizing issue of voting rights, as well as Justice Ginsburg’s commitment and reputation as one of the most liberal justices on the bench, leads me to believe that partisanship is an important driving force behind her national fame and also contributes greatly to her image as a superhero.

#### *Why R.B.G.?*

While partisanship could explain part of Justice Ginsburg’s idolization, it is not the only factor, for if partisanship were the sole political force contributing to Justice Ginsburg’s fame, then we would see other liberal Supreme Court justices receiving the same kind of national attention that Justice Ginsburg receives. However, this is not the case. Justice Ginsburg remains unique in her national fame. The literature surrounding celebrity politicians suggests that part of the politicians’ fame may be tied to their different identities and how they present themselves. This explanation suggests that Justice Ginsburg’s idolization and reputation as a liberal superhero may also be tethered to her identity as a woman—particularly as a strong woman, unafraid to stand up and fight against discrimination.

Howard Wiarda further describes how identity politics as the emphasis on, “sub-

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<sup>46</sup> *Shelby County v. Holder* 570 U.S. 529 (2013)

national solidarities of particularly oppressed groups which may cross national frontiers.”<sup>47</sup> Wiarda continues by describing how identity politics is now being used as a mobilizing tactic for political movements; for instance, “people are being organized and urged to act and vote not just as Americans but as Irish-Americans, and so on.”<sup>48</sup> While voting is not tied to Supreme Court justices, I am suggesting that the national reaction to Justice Ginsburg is a demonstration of identity permeating the Supreme Court. She is held in high esteem not as simply a Supreme Court justice but as a woman who fights vehemently for the rights of others. Before her time on the bench, Justice Ginsburg fought for the inclusion of gender equality as a civil right. Her successes as a litigator altered the legal landscape and completely changed the way that women can pursue discrimination cases in a court of law. She has also continued this fight for equality through her time on the Supreme Court.

### *Hypothesis*

In sum, the cause of Justice Ginsburg’s idolization is complex, with more than one factor likely contributing to it. An examination of her developing fame soon after her dissenting opinion in *Shelby County v. Holder* suggests a hypothesis: the widening partisan gap in American politics. However, partisanship alone cannot be the only explanation. While Justice Ginsburg serves as an icon in a time of severe partisanship, her reputation as a feminist hero, willing to fight against discrimination at all costs, certainly contributes to her idolization. This paper not only attempts to define what it

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<sup>47</sup> Howard J. Wiarda, *Political Culture, Political Science, and Identity Politics: An Uneasy Alliance*, (Routledge, 2016) 150.

<sup>48</sup> Howard J. Wiarda, *Political Culture, Political Science, and Identity Politics: An Uneasy Alliance*, 151.

means to have a celebrity justice, but also suggests that it is this interaction between identity and partisanship that contributes to the development of such a unique feat.

## **Examination of Popular Culture**

Justice Ginsburg's fame has manifested in a variety of different ways, particularly in popular culture. The internet has played a crucial role, both through a social media platform for images and memes and in a commercialization outlet for her likeness and words. Etsy, a popular website used to sell handmade/vintage items, has 3,520 products related to Ruth Bader Ginsburg, the most popular items including pins, mugs, prints, shirts, and stickers.<sup>49</sup> Additionally, Justice Ginsburg has been the focus of a number of movies and books, including a December 2018 Hollywood biopic, and four children's books released since 2016.<sup>50</sup> Accounting even for a portrayal on the long-running popular television program, *Saturday Night Live*, it is appropriate to treat these diverse expressions as a collective body of evidence reflecting celebrity status.

Thus, I undertake a comprehensive examination of the portrayals and presentations of Justice Ginsburg through popular culture to investigate the hypothesis that Justice Ginsburg's idolization is tied to partisanship and individual identity. This exploration included three major avenues of popular culture: social media, children's books, and entertainment. Because of the wide variety of material examined, each of the

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<sup>49</sup> Found through a search of: "Ruth Bader Ginsburg" on Etsy.com on November 12, 2018.

<sup>50</sup> Daniel Stiepleman, *On the Basis of Sex*. Focus Features, 2018; Debbie Levy and Baddeley, Elizabeth (Illustrator). *I Dissent: Ruth Bader Ginsburg Makes Her Mark*. New York: Simon & Schuster Books for Young Readers, 2016; James Roland, *Ruth Bader Ginsburg: Iconic Supreme Court Justice*. Lerner Publications, 2016; Kathleen Krull and Nancy Zhang (Illustrator). *No Truth Without Ruth: The Life of Ruth Bader Ginsburg*. New York, NY: Harper, 2018; Jonah Winter and Stacy Innerst (Illustrator). *Ruth Bader Ginsburg: the Case of R.B.G. vs. Inequality*. New York: Abrams Books for Young Readers, 2018.

sections requires individually tailored methods and discussions before I weave them together in a wider analysis.

### 1. *Social Media*

Just years after its development, social media yields undeniable political power. Now more than ever before politicians are engaging in social media to reach wider audiences.<sup>51</sup> Social media is also facilitating changing patterns and styles of political participation, especially among those under the age of 35. A study in 2012 found that 66% of social media users have utilized their accounts to post about political issues.<sup>52</sup>

The ecology of social media, recirculation (“retweeting”) and the pursuit of rapid feedback (“likes”), invites not merely text but the generation of all forms of expression that communicate quickly and poignantly. Thus, important subjects of injury have been political memes that have become widely circulated. Memes are defined as, “units of popular culture that are circulated, imitated, and transformed by individual Internet users, creating a shared cultural experience in the process.”<sup>53</sup> Memes are often plays on words or popular images that are adjusted to portray an alternative, often comedic, meaning. While some scholars who have investigated memes in the current political climate refer to them as “nonsensical” and “meaningless,”<sup>54</sup> Seiffert-Brockmann et al. argue that “when a meme starts life as a piece of strategic political messaging, it spreads and

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<sup>51</sup> John Langer, *Tabloid Television: Popular Journalism and the ‘Other’ News*; Clay Shirky, “The Political Power of Social Media: Technology, the Public Sphere, and Political Change.” *Foreign Affairs* 90, no. 1 (2011): 28-41.

<sup>52</sup> Lee Rainie, Aaron Smith, Kay Lehman Schlozman, Henry Brady, and Sidney Verba, “Social Media and Political Engagement” *Pew Research Center*, October 12, 2012.

<sup>53</sup> Limor Shifman. “Memes in a Digital World: Reconciling with a Conceptual Troublemaker.” *Journal of Computer-Mediated Communication* 18, no. 3, (2013): 367.

<sup>54</sup> Yuval Katz and Limor Shifman. “Making sense? The structure and meanings of digital memetic nonsense.” *Information, Communication & Society* 20, no. 6 (2017): 825-842; Limor Shifman. “Memes in a Digital World: Reconciling with a Conceptual Troublemaker.”

mutates according to communication logic governed by both digital culture and political culture.”<sup>55</sup> In the 2016 election, memes played a significant role in allowing a younger demographic to participate in the political system.<sup>56</sup> The current literature emphasizes that, while they are often intended for comedic purposes, memes are becoming a cultural artifact and therefore must be considered in the literature for political discourse online.<sup>57</sup> Because memes often highlight celebrities and politicians and they can be constructed by anyone, memes reflect how people formulate opinions about different celebrities. Certain websites, namely Tumblr, Reddit, and 4chan, can be considered “meme hubs” because they facilitate this exchange, together with Twitter, Facebook, and Instagram.

The intellectual conversation around memes is directly relevant to Justice Ginsburg and the development of her fame. Memes surrounding Justice Ginsburg are constantly being developed and currently dominate many different social media platforms. Due to the nature of how memes operate, they can mutate as they travel from person to person. As a result, there is no all-encompassing meme database that can keep up with the way that memes evolve.<sup>58</sup>

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<sup>55</sup> Jens Seiffert-Brockmann, Trevor Diehl, and Leonhard Dobusch, "Memes as Games: The Evolution of a Digital Discourse Online." *New Media & Society* 20, no. 8 (2018): 2.

<sup>56</sup> Andrew S. Ross, and Damian J. Rivers, “Digital cultures of political participation: Internet memes and the discursive delegitimization of the 2016 U.S. Presidential candidates” *Discourse, Context & Media* 16, (2017).

<sup>57</sup> Ross, and Rivers, “Digital cultures of political participation: Internet memes and the discursive delegitimization of the 2016 U.S. Presidential candidates.”; Stefka Hristova, “Visual memes as neutralizers of political dissent” *tripleC: Communication, Capitalism & Critique: Open Access Journal for a Global Sustainable Information Society* 12, no. 1 (2014): 265–276; Ryan Milner, “Pop polyvocality: Internet memes, public participation, and the occupy Wall Street movement.” *International Journal of Communication* 7, no. 34 (2013): 2357-2390.

<sup>58</sup> Select studies have used a popular website called knowyourmeme.com in order to collect memes for academic purposes. This website does indeed contain a large database of different memes, viral videos, images, etc. and uses a wiki software to update regularly. However, the website lacks an in-depth collection of memes related to Justice Ginsburg.

Because it is difficult to be systematic about the origin, incidence, and frequency of all memes, I instead select on the dependent variable to conduct a visual analysis of two of the most popular memes of Justice Ginsburg to keep with the framework of other scholars who have studied memes. Emerging scholarship on the prevalence of Internet memes attempts to determine what makes a meme “go viral,”<sup>59</sup> though scholars still have not reached a consensus on the definition of the term itself. One understanding is that the most popular memes are often actually commercialized.<sup>60</sup> Popular memes that surface turn up in all different kinds of consumer goods, including t-shirts, mugs, buttons, etc. Thus, I selected the two following memes as a result of their commercialization—both of them gained significant popular attention and have maintained it through the sale of related products. Each case study will describe how the initial meme became replicated commercially. While I recognize that examining two memes does not necessarily speak to the entire social media presence of images related to Justice Ginsburg, I believe the popularity of these two images can indeed provide evidence into the public’s fascination with Justice Ginsburg.

i. *Case Study: The Notorious R.B.G.*

Justice Ginsburg’s social media presence links directly and perhaps surprisingly to her dissenting opinion authored in the highly salient case, *Shelby County v. Holder* (2013). The majority opinion in this case struck down Section 4b of the Voting Rights

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<sup>59</sup> Jens Seiffert-Brockmann, Trevor Diehl, and Leonhard Dobusch, "Memes as Games: The Evolution of a Digital Discourse Online."; Rosanna E. Guadagno, Daniel M. Rempala, Shannon Murphy, and Bradley M. Okdie. "What Makes a Video Go Viral? An Analysis of Emotional Contagion and Internet Memes." *Computers in Human Behavior* 29, no. 6 (2013): 2312-231.

<sup>60</sup> Jonathan L. Zittrain, “Reflections on Internet Culture.” *Journal of Visual Culture* 13, no. 3 (December 2014): 388–94.

Act (VRA), which required certain states to obtain preclearance from the U.S.

Department of Justice before altering their voting laws. The states that this section of the VRA specifically targeted had a history of disenfranchising minority voters through restrictive voting laws. In her broadside response to the majority ruling, Justice Ginsburg not only wrote a scathing dissent but also broke common precedent by reading her dissent aloud in open court. Then-law student Shana Knizhnik, who was following the case, read Justice Ginsburg's dissent and was inspired to start an online tumblr page entitled "Notorious R.B.G."— a nod to the iconic rapper, also known as Biggie Smalls, who was crowned "King of New York."<sup>61</sup> Issues of social justice were deeply intertwined within the music Biggie created, which contributed to a lasting legacy of stardom for him. Knizhnik is quoted with coming up for the idea of the meme after she saw someone post on social media that Justice Ginsburg was "notorious." This gave her the idea to transform Justice Ginsburg into the "Notorious R.B.G." On this tumblr page, Knizhnik created the meme that went on to become the foundation of Justice Ginsburg's online presence. Since the development of this meme, the image of the "Notorious R.B.G" has dominated social media and commercial platforms. On Etsy alone, there are 2,386 different items of clothing and jewelry available for purchase.<sup>62</sup> This "Notorious R.B.G." meme is significant to analyze because it signaled not only the start of Justice Ginsburg's

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<sup>61</sup> Brad Callas, "The 'King of New York' Title Belt." *Medium*, September 28, 2018.

<sup>62</sup> Found by searching "Notorious R.B.G" on Etsy.com on November 12, 2018.

“memefication,” but also her departure from her previously more socially anonymous and traditional position as a Supreme Court justice. Figure 2<sup>63</sup> below is a replica from the famous meme with Justice Ginsburg, along with Figure 1<sup>64</sup>, which is a photo of the Notorious B.I.G. for comparison.



Figure 1



Figure 2

As evident from the figures above, Knizhnik’s initial image of Justice Ginsburg is a stark comparison to the pop culture reference of the Notorious B.I.G. It is important to note the obvious racial elements to this transformation. Some might view this as an appropriation of his likeness due to turning an iconic African American man into a white woman.

However, central to these two images is the ironic contrast between a powerful, strong, and male rapper with the diminutive, scholarly, and female justice. Most importantly,

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<sup>63</sup> Unknown, Profile Image on Notorious R.B.G. Facebook webpage, 2015, digital image, *Facebook*, accessed on April 29, 2019, <https://www.facebook.com/notoriousRBG/photos/a.682719971748590/1029235197097064/?type=1&theater>

<sup>64</sup> Unknown, Profile Picture on Notorious B.I.G. Facebook webpage, 2015, digital image, *Facebook*, accessed on April 29, 2019, <https://www.facebook.com/NotoriousBIG/photos/a.201868686489858/1038215196188532/?type=1&theater>

what unites them is their “notorious” reputations and how they have rose to stardom in their respective disciplines.

The two most important elements of this meme are Justice Ginsburg’s crown and her dissent collar. The crown in this image—while obviously mirroring Notorious B.I.G’s crown—strips her of some of the “bling” associated with the racialized portrait of a rapper and instead conjures images of royalty. She is the reigning symbol of the Supreme Court as a queen of social justice. The crown image, combined with the words “notorious,” meaning famous or well-known, hands authority and voice to Justice Ginsburg. It suggests to the viewer that she is the all-powerful leader.

In addition to the crown—but absent from the original image of Notorious B.I.G—is the incorporation of Justice Ginsburg’s “dissent collar.” It is well known that Justice Ginsburg often wears different kinds of collars while at the Court. In 2009, she remarked on the need for women to possess an alternative judicial dress because, “The standard robe is made for a man because it has a place for the shirt to show, and the tie.”<sup>65</sup> As a result, Justice Ginsburg and Justice Sandra Day O’Connor often wore collars on the bench, which has subsequently been well documented as a unique fashion choice for a Supreme Court justice. The collar is both a literal and figurative way for her to assert herself as an influential member of the Court. First, it provides a physical way of identifying Justice Ginsburg that separates her from the other justices. Perhaps more importantly, however, the collar also signifies the way that Justice Ginsburg embraces her femininity and resists the assumed place of men on the bench.

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<sup>65</sup> Robert Barnes, “Justices Have Differing Views of Order in the Court” *Washington Post*, September 4, 2009.

Its inclusion in this popular meme suggests that the public has taken notice and that it has become a feminine symbol of resistance on the Court.

Then, while the dissent collar is a reminder of her gender, its partisan significance also comes through. Since its development, Justice Ginsburg's reputation has been tied to that of "dissent," even if this is an overstatement.<sup>66</sup> In an increasing conservative legal environment, her collar signifies the way that Justice Ginsburg herself is embodying resistance and fighting back. The specific association of the words "dissent" with the collar serves as a celebration of outspoken resistance on the Court even when nominally in defeat. Now, the public can purchase dissent collars online and in stores and images of Justice Ginsburg next to the words "dissent" cover the internet. This collar is subtle and graceful, and provides a vehicle to people who may not be resisters by nature to participate in this national resistance movement.

ii. *Case Study: Ruth Bader Ginsburg as Rosie the Riveter*

While the original "Notorious R.B.G." meme depicted in Figure 1 inspired and greatly contributed to Justice Ginsburg's viral fame, hundreds of other R.B.G. memes have emerged in its aftermath. One particularly prominent meme transforms Justice Ginsburg into the well-known "Rosie the Riveter" character. Since its development, this meme has been adopted by many commercial organizations—such as Etsy, Amazon, Teepublic, and Redbubble—and sold on numerous different commercial products. Currently, there are over 1000 products on Amazon and over 30 products on Etsy alone

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<sup>66</sup> According to the data collected by Washington University in St. Louis, over the course of her tenure on the Supreme Court, Justice Ginsburg has been a part of over 2000 decisions. In this time period, she has issued 388 dissents. On average, she issues approximately 20 dissents per judicial term, and these dissents have remained consistent throughout her time on the bench. Given that the Supreme Court typically hears between 100-150 cases per year, this would mean that Justice Ginsburg dissents less than 20% of the time.

that feature Justice Ginsburg as Rosie the Riveter.<sup>67</sup> Figure 3<sup>68</sup> represents this historical image, while Figure 4<sup>69</sup> depicts just one of many imitations of Justice Ginsburg as Rosie.



Figure 3



Figure 4

This comparison is important because Rosie the Riveter was used first as a political tool and eventually as a symbol of female empowerment. In its origin, the poster of Rosie the Riveter was a widely circulated propaganda image used to encourage and represent women who went to work during World War II. Following the end of the war, this image of a powerful and competent woman quickly became a symbol of feminism and feminine strength that dominated 20<sup>th</sup> century ideas of feminism. Figure 4 replaces Rosie the Riveter with Justice Ginsburg, and as a result, holds the Justice up as the image of

<sup>67</sup> Found by searching “Ruth Bader Ginsburg as Rosie the Riveter” on both Amazon and Etsy on November 16, 2018.

<sup>68</sup> Howard Miller, “We Can Do It!” 1942, digital image, *National Museum of American History*, accessed on April 29, 2019, [https://americanhistory.si.edu/collections/search/object/nmah\\_538122](https://americanhistory.si.edu/collections/search/object/nmah_538122)

<sup>69</sup> Unknown, “Ruth Bader Ginsburg RBG Rosie the Riveter Resist Poster,” 2017, screenshot of poster from larger image, *JuntoTees at Etsy.com*, accessed on April 29, 2019. [https://www.etsy.com/listing/658046533/ruth-bader-ginsburg-rbg-rosiethe?ga\\_order=most\\_relevant&ga\\_search\\_type=all&ga\\_view\\_type=gallery&ga\\_search\\_query=rbg+as+rosie+the+riveter&ref=sr\\_gallery-1-1&organic\\_search\\_click=1&frs=1](https://www.etsy.com/listing/658046533/ruth-bader-ginsburg-rbg-rosiethe?ga_order=most_relevant&ga_search_type=all&ga_view_type=gallery&ga_search_query=rbg+as+rosie+the+riveter&ref=sr_gallery-1-1&organic_search_click=1&frs=1)

feminism today. This comparison could be a nod to her previous litigation experience before the Court as well as a way to highlight her continued commitment to women's rights on the Court. In addition, the portrayal of Justice Ginsburg as Rosie the Riveter could also represent her strong presence on the Supreme Court—the one who stands up against of opposition. The meme itself also adds in the image of a “RBG” tattoo. Ostensibly, it helps the viewer identify the figure as Justice Ginsburg, but it also modernizes the indicia of resistance. Presented on the same arm wears what appears to be a pearl bracelet, the tattoo works like the “notorious” connection to the Notorious B.I.G to make her ironically appealing to a younger, hipper, and more anti-establishment audience.

Although the origins of this meme are less clear, an examination of online shops containing this image on commercial products largely began circulating in early 2018. The timing of the popularity of the meme coupled with how Justice Ginsburg is paired with the word “resist,” is important to note. While we cannot know for certain, the rising popularity of the “resist” meme could serve as both a response and a rallying cry for the liberal populous in our current political environment. Similarly to the Notorious R.B.G. meme's inclusion of the dissent collar, the association between Justice Ginsburg and the word “resist” speaks to how the public views Justice Ginsburg's identity and reputation with that of a leader leading the resistance movement. It not only emphasizes her identity as a woman, but also grants her the power of this leadership role. Through this image, Justice Ginsburg becomes an icon for social change and resistance in an increasing partisan environment.

The message behind these memes are inherently political because they both associate her with dissenting or resistance. Additionally, both memes elevate Justice Ginsburg's position as a Supreme Court justice to both a queen and a feminist leader. Overall, these two popular memes only begin to demonstrate the presence of Justice Ginsburg on social media. However, their presence and proliferation in social media that has since bled into the commercial market make them the perfect source of analysis for this paper. These two images provide support for my hypothesis that the combination of partisanship and identity is driving Justice Ginsburg's idolization.

## 2. *Children's Books*

Another representation of Justice Ginsburg's idolization appears within children's books. Unlike most books and biographies in which Supreme Court justices are often featured, few justices have had numerous children's books written about them while they were still serving on the bench.<sup>70</sup> Justice Ginsburg remains the exception—with a total of four children's books dedicated solely to her: *No Truth Without Ruth: The Life of Ruth Bader Ginsburg* by Kathleen Krull, *I Dissent: Ruth Bader Ginsburg Makes Her Mark* by Debbie Levy, *Ruth Bader Ginsburg: the Case of R.B.G. vs. Inequality* by Jonah Winter, and *Ruth Bader Ginsburg: Iconic Supreme Court Justice* by James Roland. All four of these publications are directed at readers between the ages of 8-14 years.

Children's books provide a unique opportunity for analysis because they are designed to play a formative role in children's lives by teaching lessons and providing a simplified understanding of the world that exists around them. Throughout U.S. history,

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<sup>70</sup> Both Justice Sandra Day O'Connor and Justice Sonia Sotomayor each have one children's book dedicated to them.

children’s books have been used as mechanisms to portray “radical” views to children—including portrayals of cooperation, interracial friendship, critical thinking, feminism, and histories of marginalized peoples in repressive times.<sup>71</sup> The text, images, and themes often contain underlying messages. Thus, children’s books can largely be thought of as vehicles of political propaganda designed to reach a wide audience.

In order to effectively analyze the children’s books about Justice Ginsburg, I employ a framework provided by Gery Ryan and H. Russell Bernard to identify themes in qualitative data. Ryan and Bernard offer a multistage process for discovering themes based on “(1) an analysis of words (word repetitions, key-indigenous terms, and key-words-in contexts); (2) a careful reading of larger blocks of texts (compare and contrast, social science queries, and searching for missing information); (3) an intentional analysis of linguistic features (metaphors, transitions, connectors); and (4) the physical manipulation of texts (unmarked texts, pawing, and cut and sort procedures).”<sup>72</sup> For the purposes of identifying themes in the children’s books focused on Justice Ginsburg, I focused specifically on the word-based techniques of word repetition and key-words-in-context (KWIC) to identify themes.

Word repetition focuses on how often different phrases are used, with a technique creating a list of commonly used words or phrases and using a “key-words-in-context,” approach after to separate how the commonly used words are then used in context by their authors. Themes are then identified by arranging these key words into categories of words with similar meanings. Applying this method to my own examination of these

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<sup>71</sup> Julia Mickenberg, *Learning from the Left: Children’s Literature, the Cold War, and Radical Politics in the United States*. (Oxford University Press, 2005)

<sup>72</sup> Gery W. Ryan, and H. Russell Bernard, “Techniques to Identify Themes.” *Field Methods* 15, no. 1 (February 2003): 85–109.

books yields noteworthy results in the following prevalent key words: woman/women, equality/inequality/equal, and fairness/unfairness. Table 1 includes a summary of the frequency in which these key words appear by each of the children's books examined. Table 1 highlights that the most prevalent key word is woman/women, which was used at least 23 times (with a maximum of 48 times) in each of the children's books describing Justice Ginsburg's life. This phrase is followed in popularity by equality/inequality/equal and next by fairness/unfairness.

**Table 1: Key Word Identification in Children's Books**

Children's Books	Equality/Inequality/Equal	Fairness/Unfairness	Girl/Woman/Women
<i>No Truth Without Ruth: The Life of Ruth Bader Ginsburg</i> by Kathleen Krull	4	17	44
<i>I Dissent: Ruth Bader Ginsburg Makes Her Mark</i> by Debbie Levy	15	5	23
<i>Ruth Bader Ginsburg: the Case of R.B.G. vs. Inequality</i> by Jonah Winter	4	5	32
<i>Ruth Bader Ginsburg: Iconic Supreme Court Justice</i> by James Roland	9	6	48

After identifying the most common key word of woman/women present in Justice Ginsburg’s children’s books, I conduct an additional KWIC analysis to determine the books’ actual themes. The key word “woman/women” can be further analyzed in reference to the following contexts: women’s rights, gender discrimination, advocacy work, and overall work on the Supreme Court. Table 2 includes a summary of the frequency in which these words appear in each context in the children’s books examined.

**Table 2: Key Word in Context in Children’s Books**

Children’s Books	Women’s Rights	Gender Discrimination	Advocacy Work	Work on the Supreme Court
<i>No Truth Without Ruth: The Life of Ruth Bader Ginsburg</i> by Kathleen Krull	4	22	14	4
<i>I Dissent: Ruth Bader Ginsburg Makes Her Mark</i> by Debbie Levy	3	11	6	3
<i>Ruth Bader Ginsburg: the Case of R.B.G. vs. Inequality</i> by Jonah Winter	2	19	7	4
<i>Ruth Bader Ginsburg: Iconic Supreme Court Justice</i> by James Roland	12	17	12	7

Table 2 illustrates that the most common use of the word “woman/women” was in the context, or theme, of gender discrimination. The use of the word woman/women in the portrayal of gender discrimination was used at a minimum of 11 times and a maximum of 22 times. The second most common theme represented by “women/woman” focused on Justice Ginsburg’s career as a litigator before she was appointed to the U.S. Court of Appeals, followed closely by her work on the U.S. Supreme Court and women’s rights.

The key words in the children’s book allow me to identify important messages in the novels, but it is the words in context that illustrate and provide explanations to the common themes that contribute to Justice Ginsburg’s idolization. My KWIC demonstrates that it is not simply the fact that Justice Ginsburg is a woman on the Supreme Court—in fact, that part of her career is hardly highlighted in the books—but the fact that she is a female justice who has been raising awareness about gender discrimination and continuously fighting for women. Similar to the memes, the children’s books contribute to her popular image as both a feminist icon as well as a fierce advocate against discrimination. The messages in the book go beyond a typical children’s book of providing context for the historical significance of Justice Ginsburg and also serve to demonstrate the way in which readers are engaging with Justice Ginsburg and how her identity as a woman as well as an avid resister contributes to this idolization.

### *3. The Entertainment Image*

In addition to Justice Ginsburg’s persona in popular social media memes and children’s books, another interesting avenue through which to explore her unique modern idolization is her appearances and portrayals in popular television shows and movies.

Unlike most sitting Supreme Court justices, Justice Ginsburg has become a focal point for both comedic television programming as well as a successful blockbuster movie.

The role of the entertainment industry in our mainstream culture has shifted greatly in the past few decades. Television and different forms of media have grown from their historical role as merely entertainment to occupying a more politically and culturally influential position in society.<sup>73</sup> In the 1990s, Bill Clinton became one of the first major political figures to develop a popular culture media presence while running for president. Clinton invited well-known celebrities to campaign events, and—most notably—frequently appeared on national, televised, late night talk shows such as *Saturday Night Live* (SNL) and *The Daily Show*.<sup>74</sup> Since then, the political relevance of late night television in our mainstream and political culture has only increased. Many studies now recognize that late night comedic television programs are now considered trustworthy and informative, and have even been found to influence public opinion.<sup>75</sup> One study even noted that up to 47% of voters between 18-29 years admit to receiving most of their political information from late night entertainment.<sup>76</sup>

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<sup>73</sup> John Street, "Do Celebrity Politics and Celebrity Politicians Matter?" *The British Journal of Politics & International Relations* 14, no. 3 (2012): 346-356.

<sup>74</sup> John Street, "Do Celebrity Politics and Celebrity Politicians Matter?"

<sup>75</sup> David Niven, S. R. Lichter, and Daniel Amundson. "The Political Content of Late Night Comedy." *Harvard International Journal of Press/Politics* 8, no. 3 (2003): 118-133; Jonathan Morris and Jody Baumgartner, "The Daily Show and attitudes towards the news media". In *Laughing matters: Humor and American politics in the media age*, Edited by: Baumgartner, Johnathan and Morris, Jody. 315–332, (New York, NY: Routledge, 2008); Paul Brewer and Xiaoxia Cao, "Late night comedy television shows as news sources: What the polls say" In Baumgartner J. C., Morris J. S. (Eds.), *Laughing matters: Humor and American politics in the media age*, 263-278, (New York, NY: Routledge, 2008); Angela D. Abel and Michael Barthel, "Appropriation of Mainstream News: How Saturday Night Live Changed the Political Discussion." *Critical Studies in Media Communication* 30, no. 1 (2013): 1-16; Patricia Moy, Michael A. Xenos, Verena K. Hess, "Priming Effects of Late-Night Comedy." *International Journal of Public Opinion Research* 18, no. 2 (2006): 198–210.

<sup>76</sup> Chris Smith and Beth Voth, "The Role of Humor in Political Argument: How Strategy and Lockboxes Changed a Political Campaign." *Argumentation and Advocacy* 39, no. 2 (2002).

While Justice Ginsburg has been mentioned at least 77 times on prominent late night television programs since 2012,<sup>77</sup> and even appeared one herself,<sup>78</sup> the evidence within this analysis focuses on *portrayals* of Justice Ginsburg in order to speak to her idolization within the public sphere. More specifically, shows like *SNL*, since the 2008 election, have been found to alter public perceptions of politicians within mainstream culture.<sup>79</sup> Specifically one study found that depictions of Sarah Palin on *SNL* influenced the way that news media then referenced her.<sup>80</sup> Consequently, I will concentrate solely on *SNL*, a late night television show that features actors who impersonate others in comedic sketches.

While late night television has become politically relevant within the past three decades, feature-length motion pictures have been used as political propaganda since the early 20<sup>th</sup> century. During World War II specifically, the U.S. government found that the insertion of propaganda within Hollywood movies had the power to significantly alter public perception of the war.<sup>81</sup> During this time, government officials often helped write movie scripts and even pressured moviemakers to exclude information in movies that

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<sup>77</sup> Through a search of “Ruth Bader Ginsburg” on a number of different late night television websites, I have detected at least 77 mentions of Justice Ginsburg on prominent late night television program. The Late Night Show With Stephen Colbert (2015- present) made 32 mentions; Late Night With Seth Meyers (2014-present) made 27 mentions; Full Frontal with Samantha Bee (2016-present) made 3 mentions; The Daily Show with Jon Stewart (2012-2014) made 9 mentions; The Daily Show with Trevor Noah (2016-present) made 3 mentions; Last Week Tonight With John Oliver (2014-present) made 2 mentions; The Late Late Show With James Corden (2015-present) made 1 mention.

<sup>78</sup> On March 28, 2018, Stephen Colbert recorded himself visiting the Supreme Court and accompanying Justice Ginsburg for her daily workout regimen—its accompanying video has since garnered over 1.7 million views on YouTube: <https://www.youtube.com/watch?v=0oBodJHX1Vg&t=2s>

<sup>79</sup> Abel and Barthel, "Appropriation of Mainstream News: How Saturday Night Live Changed the Political Discussion."

<sup>80</sup> Abel and Barthel, "Appropriation of Mainstream News: How Saturday Night Live Changed the Political Discussion."

<sup>81</sup> Clayton Koppes and Gregory Black, *Hollywood Goes to War: How Politics, Profits, and Propaganda Shaped World War II Movies*, (University of California Press, 1990).

might reflect negatively on them.<sup>82</sup> They were thus able to control as well as shape public opinion about the government and the political process. Likewise, Hollywood movies have also been able to alter public perception of the government and different government officials.<sup>83</sup> Movie portrayals of politicians and other political figures have been found to influence the way the public perceives public officials. For instance, movie portrayals of President Richard Nixon post-Watergate resulted in people often viewing him as an “evil” or “villainous” president.<sup>84</sup> Meanwhile, other presidents, like Lincoln, Roosevelt, and Kennedy, are portrayed as American icons through movies and the positive depictions contribute to their reverence.<sup>85</sup>

Justice Ginsburg has recently been the focus of two successful movies. A documentary, produced by CNN and released in May 2018 titled “RBG,” tells the story of Justice Ginsburg as an “unlikely rock star.”<sup>86</sup> This documentary received a rating of 95% on rotten tomatoes and has grossed over \$14 million, making it one of the most highly acclaimed and highest grossing documentaries of all time.<sup>87</sup> While it is not unusual to have a documentary focused on a Supreme Court justice, it is unusual for an accompanying blockbuster movie to premiere in the same year.<sup>88</sup> *On the Basis of Sex*,

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<sup>82</sup> Clayton Koppes and Gregory Black, *Hollywood Goes to War: How Politics, Profits, and Propaganda Shaped World War II Movies*.

<sup>83</sup> Kingsley Marshall, “The Cinematic Watergate: From All the President’s Men to Frost/Nixon.” In: Genovese M.A., Morgan I.W. (eds) *Watergate Remembered. The Evolving American Presidency Series*, (New York: Palgrave Macmillan, 2012).

<sup>84</sup> Kingsley Marshall, “The Cinematic Watergate: From All the President’s Men to Frost/Nixon.”

<sup>85</sup> Iwan Morgan, *Presidents in the Movies: American History and Politics on Screen*, (New York, Palgrave Macmillan, 2011).

<sup>86</sup> Betsy West and Julie Cohen, *RBG*. Magnolia Picture, 2018.

<sup>87</sup> Michael O’Connell, “TV Ratings: ‘RBG’ Rollout Continues With Strong CNN Showing” *Hollywood Reporter*, September 6, 2018.

<sup>88</sup> The movie *Marshall* based on the life of Justice Thurgood Marshall was just released in 2017, 24 years after Justice Marshall passed away. Chadwick Boseman portrays Justice Marshall in the film, which focuses on one of the first cases he tried as a litigator when working for the NAACP. The film had a \$12 million budget and earned \$10.1 million at the box office.

produced by Focus Features, debuted in December 2018. Because my inquiry here concerns the role movies play in public perception, my analysis focuses on *portrayals* of Justice Ginsburg, and so I will focus solely on *On the Basis of Sex*.

i. *Television: “RBG Rap”*

Since Justice Ginsburg’s appointment to the bench, Kate McKinnon—a prominent member of SNL’s cast—has portrayed the Supreme Court justice a total of eight times, beginning with a sketch on November 15, 2014.<sup>89</sup> Each of Kate McKinnon’s portrayals of Justice Ginsburg has garnered millions of subsequent views. The most recent adaptation of Justice Ginsburg aired on November 17, 2018, featuring a satirical rap depicting certain aspects of her career as well as her prominence in the public eye.<sup>90</sup> It has since garnered over 1.5 million views on YouTube in addition to the millions of viewers who watched when it aired.<sup>91</sup> In the sketch, Kate McKinnon plays Justice Ginsburg while Pete Davidson and Chris Redd perform the rap about Justice Ginsburg’s life. To analyze this source, I completed a content analysis on the rap’s lyrics and visual appearance, adopting the framework from Abel and Barthel, which analyzed an *SNL* sketch of Sarah Palin through an examination of the quotes used in the sketch. To tailor this method to my own hypothesis, I flag in my analysis any lyrics containing the word “woman,” or any of its synonyms, any mention of “liberal,” and any discussion of political office. The stanzas that remain include:

*You know there’s only one lady holding the whole damn thing*

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<sup>89</sup> “Ruth Bader Ginsburg Sketches” *Saturday Night Live* as of November 21, 2018.

<sup>90</sup> “RBG Rap” *Saturday Night Live*, November 17, 2018.

<sup>91</sup> Number of views is from February 11, 2018.

*together right*

*She was out on the strip telling Trump to delete your account*

*Fighting for women's rights, equal rights, she's the s\*\*\**

*She worked for Presidents Jimmy Carter and Bill Clinton.*

*She's experienced as f\*\*\*, she should be president*

*The court is the stage write // dissents that throw shade*

*tell Trump stay out her way // don't f\*\*\* with my Roe v. Wade.*

*Supreme Court's a boys club she holds it down no cares given*

*// who else has six movies about them and still living<sup>92</sup>*

Much of Justice Ginsburg's portrayal within this SNL rap is driven by partisanship and ideological divides. To begin, the lyric "She's experienced as f\*\*\*, she should be president," immediately associates Ginsburg with the presidency and thus attempts to push her into a political party, in spite of the fact that justices are expected to be publically nonpartisan. However, this line signals the disconnect between Justice Ginsburg's actual role on the court with her perceived ideologically driven glorification. Instead of being seen as a judge who is known to make liberal rulings, these lyrics push her position to the point where people believe that she actually belongs in a partisan office. The lyric that follows, "tell Trump, stay out her way," could potentially serve as a nod towards the Supreme Court power of judicial review and its capacity to check executive power. However, this line more likely celebrates her comments regarding President Trump during the 2016 presidential election, in which she referred to him as a

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<sup>92</sup> Full Lyrics can be found here: <https://www.nbc.com/saturday-night-live/video/rbg-rap/3832217>

“faker.”<sup>93</sup> These comments sparked controversy due to the rarity and perceived impropriety of any Supreme Court justice asserting opinions about a presidential candidate. However, these *SNL* lyrics imply that, instead of being viewed as problematic, Justice Ginsburg’s comments should be considered a positive deviation from history. This combination of lyrics illustrates the ideologically driven emphasis on Justice Ginsburg that exists in popular culture.

In addition, the lyric, “the court is her stage / write dissents that throw shade” again highlights the prominent theme that Justice Ginsburg is often seen as the focal point of the resistance movement. The reference of a stage suggests that the Supreme Court is a performative body in which Justice Ginsburg has been given the microphone. As discussed previously, Ginsburg’s infamous reputation for dissents is what initially led to her fame, and these lyrics suggest that its momentum and prominence has only grown. This combination of Justice Ginsburg’s reputation of advocacy as well as the obvious partisan leaning within the *SNL* rap provides evidence that at least some part of her glorification can be tied to her public political image.

While these lyrics highlight a clear partisan motivation, the story does not end there. Applying the gender-aware lens to the stanzas also highlights the role that Justice Ginsburg’s identity as a female advocate plays in her idolization. The rap’s initial lyrics of the “only one lady holding the whole damn [country] together” combined with the description of her fighting for “women’s rights, equal rights, she’s the s\*\*\*,” signal the immediate glorification of her as an individual woman who is single handedly using the Court as a platform to advocate for women. This depiction elevates her status from a

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<sup>93</sup> Joan Biskupic, “Justice Ruth Bader Ginsburg calls Trump a 'faker,' he says she should resign,” *CNN*, July 13, 2016.

Supreme Court justice to the heightened position of an outspoken feminist leader.

Additionally, while Pete Davidson and Chris Redd perform the actual rap, Kate McKinnon accompanies the song dressed in a judge's robe—complete with Justice Ginsburg's famous dissent collar—while dancing and flexing her muscles throughout its entirety. The combination of lyrics and with these images of a physically fit Justice Ginsburg makes her out to be a tenacious woman, who fights—literally—for women.

Not only do these lyrics portray Justice Ginsburg as a feminist icon, but they also perhaps misconstrue some of Justice Ginsburg's true beliefs. The lyrics, “tell Trump stay out her way // don't f\*\*\* with my *Roe v. Wade*,” demonstrate the commonly held public belief that Justice Ginsburg is a vehement supporter of *Roe v. Wade*. However, in 1985, Justice Ginsburg—then a judge—published an article critiquing not only the language of the opinions in *Roe* but also suggesting the decision in *Roe* was handed down with too much haste and was responsible for the widespread public backlash against legal abortions.<sup>94</sup> Of course, Justice Ginsburg is indeed an avid proponent of legalized abortions, her initial wariness towards *Roe* is ignored within the *SNL* Rap. The lyrics mention “my *Roe v. Wade*” as if associating *Roe v. Wade* as the object of Justice Ginsburg's possession. By doing so, it fits the narrative and image of her as a feminist icon who forcefully stands for women's rights and transforms her into something she may not be.

Finally the *SNL* rap ends on a comedic note where Chris Redd says to Pete Davidson, “now you know we love RBG, yo tell em your favorite RBG decision dog.” Davidson looks around blankly and finally sheepishly comments, “I don't know.” While

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<sup>94</sup> Ruth Bader Ginsburg, “Some Thoughts on Autonomy and Equality in Relation to *Roe v. Wade*” *North Carolina Law Review* 63, no. 2 (1985): 375-386.

this is outside the scope of the lyrics flagged by my original content analysis, this line speaks to the fact that very few lay-people actually know what kind of decisions Justice Ginsburg makes, even those who idolize her. This underscores that Justice Ginsburg's reputation as a liberal superhero who fights for women frequently supersedes her actual position on the court, at least in the public eye. All comedy aside, this *SNL* sketch provides a projection of Justice Ginsburg's image that exists within popular culture that holds her up as a feminist, liberal partisan warrior.

ii. *Movie: On the Basis of Sex*

*On the Basis of Sex*, which debuted in December 2018, is a biopic movie about Justice Ginsburg that stars numerous A-list actors including Felicity Jones (playing Justice Ginsburg), Armie Hammer, Justice Theroux, Kathy Bates, and Sam Waterson. This \$20 million budget film garnered over \$27.3 million through February 2019.<sup>95</sup> Because of the nature of a blockbuster movie to reach a wide audience and spread a certain message, the film provides an illustrative and unique opportunity for analysis regarding Justice Ginsburg's portrayal within popular culture. For the purpose of this analysis, I chose to loosely follow the model set by scholars Gina Escamilla, Angie L. Cradock, and Ichiro Kawachi in their analysis on the portrayals of female smoking in Hollywood movies.<sup>96</sup> They began by compiling a list of themes involving women smoking throughout their movies. Through an identification of themes, they selected specific scenes and then the coded each by behavior, context, and location and recorded each time they were seen smoking. While I like this method, an in-depth coding analysis

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<sup>95</sup> "On the Basis of Sex (2018)" *Box Office Mojo*. Retrieved February 7, 2019.

<sup>96</sup> Gina Escamilla, Angie Cradlock, Ichiro Kawachi, "Women and smoking in Hollywood movies: a content analysis." *American journal of public health* 90, no. 3 (2000): 412-414.

of *On the Basis of Sex* could not be completed in exactly the same way since the film transcripts are not yet available. However, I did follow their initial step of the identification of broad themes, which helped to identify important scenes for a visual analysis.

The film *On the Basis of Sex* follows Justice Ginsburg's life from immediately after she enters law school to when she argues her first case in front of the Tenth Circuit Court of Appeals—a roughly 20 year time period. The movie does not attempt to highlight Justice Ginsburg's career tenure on the Supreme Court, and instead focuses on her career as a litigator, whose eventual success led to the inclusion of gender as a suspect category for sex discrimination cases.

One of the most prominent themes throughout the movie is the prevalence of sexism in the legal profession. This theme played out in several scenes, beginning when Ginsburg attends a Harvard orientation dinner for new students. Dean Griswold infamously asks each of the nine women admitted to Harvard Law how they could justify taking the place of a qualified man. This sexism continues once Ginsburg graduates from law school at the top of her class and is incapable of finding a job. One male interviewer even mentions that the wives of the men in the office would worry about their husbands if there was a woman in the office.

This gender-based discrimination continues as a Ruth Bader Ginsburg—now a law professor at Rutgers University—attempts to convince the ACLU to take on the case of Charles Moritz, who had claimed a tax deduction for hiring someone to care for his elderly mother. The existing law assumed that a caregiver had to be the female spouse and so his tax deduction was denied. Ginsburg brought this case to the attention of the

ACLU, argued that this was discrimination against a man, and highlighted the problematic nature of discrimination against all genders. Ironically, even the ACLU is resistant to acknowledging that gender discrimination is something that needed to be recognized by the legal system. There are multiple scenes with Ginsburg engaging in heated discussions with Mel Wulf—the legal director at the ACLU—who mentions that if Ginsburg loses the case, she will, “set the women’s movement back 100 years.” When the ACLU finally agrees to back her case and when Ginsburg is actually in front of the Tenth Circuit judges, they even try to silence her, preferring instead to let her husband argue the case.

In spite of recurring acts of discrimination, there is also the encouraging theme of persistence throughout the movie. In the film, Ginsburg is portrayed as an enthusiastic and resilient leader for women’s rights, challenging the discrimination she faced at every corner. For instance, when Mel Wulf initially refuses to back the Moritz case, she recruits Dorothy Kenyon—an early feminist attorney—to assist in convincing him. Both she and Kenyon visit Wulf multiple times over an extended period until they finally get him to agree to support gender equality as a civil right. This stunt wins her the approval of the ACLU, and she vehemently prepares for the case—even going so far as to set up a mock trial in her living room. When its time to argue the case in front of the Tenth Circuit, the judges attempt to silence her, but she once again refuses to be restrained. Her breakthrough comes right at the end of the film where she stands up to the judges, makes her argument, and ends up winning the case. While the theme of sexism in the legal profession is clearly present, the more inspirational theme of preservation in the face of discrimination carries through as a message of resistance and defiance.

While Ginsburg did receive some initial resistance to her attempt to bring the case forward, the movie dramatizes Mel Wulf's reaction to her plan. According to a recent biography on Ginsburg, Wulf never outright refused; he merely waited three days to give her his support.<sup>97</sup> This moment of biographical inaccuracy is important to the film because it emphasizes and glorifies Justice Ginsburg's persistent and strong-willed nature as a factor in her success. With this narrative of perseverance in the face of adversity, the film effectively interprets her life as an icon of triumph, which fits more into the contemporary expectations of a feminist hero.

*On the Basis of Sex* transforms Justice Ginsburg's biographical information into an identity story. Not only does the content of the movie present Justice Ginsburg as a liberal hero who championed the legal fight for women's rights, but the existence of a movie itself speaks to the way that the public is idolizing her. While her position as a Supreme Court justice would be enough to garner admiration, the film focuses on her work prior to the Court, as if her current work is, or must be, a continuation of that crusade. By doing so, the movie effectively reconstructs her biographical history as a story both of women's empowerment and partisan ambition. Justice Ginsburg becomes a feminist icon through her identity-driven struggle to see through a victory.

### *Conclusion*

In sum, in each of the media contexts, Justice Ginsburg's idolization is driven by both partisan motivations and her identity as a woman who fights against discrimination. Examinations of two widely commercialized memes demonstrate not only her

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<sup>97</sup> Sherron de Hart, *Ruth Bader Ginsburg: A Life*

significance as a liberal justice, but also the importance of her identity as a woman who will stand up the face of discrimination. The original Notorious R.B.G. meme emphasizes the fact that the public holds up Justice Ginsburg as the “queen” of the Supreme Court as well as presents her dissent collar which has come to represent a symbol of resistance in the public. This image has given new meaning to the word, “notorious,” one that demonstrates how Justice Ginsburg herself embodies resistance. In a similar vein, the meme of Justice Ginsburg as Rosie the Riveter demonstrates how her fans are holding her up as the symbol of women’s empowerment today. Rosie the Riveter was a pivotal image that encouraged women to become involved in the workforce, and is still a popular feminist image today. The replacement of Justice Ginsburg as Rosie the Riveter and its popularity suggests that the public has re-associated Justice Ginsburg as one of the most prominent figures of feminism today.

Children’s books present additional evidence about the construction of Justice Ginsburg’s fame. An identification of the most prominent themes within them suggest how her fame is manifested among the public. Synonyms of the word “woman” was easily the most reoccurring word throughout the entirety of each of the four children’s books. The word “woman” in context throughout all the children’s books was most often used to highlight discrimination. The second most common contextual mention of the word “woman” throughout was to highlight Justice Ginsburg’s career as an advocate. The minimal focus of Justice Ginsburg’s career on the Supreme Court demonstrates that the public is not merely glorifying her because she is one of the few women to ever sit on the Court, and instead suggests that this idolization is due to her reputation as a fierce advocate of women’s rights and career dedicated to fighting against discrimination.

Next, Justice Ginsburg's portrayals through entertainment suggest that the interaction between partisanship and identity is driving her fame. The *Saturday Night Live* rap weaves together praise for fighting for "women's rights, equal rights," with lyrics like "she's experienced as f\*\*\*, she should be president." These lyrics align Justice Ginsburg to a political party and reinforce the public perception that she uses her position to fight for ideologically driven causes. Additionally, Kate McKinnon's performance as a dancing Justice Ginsburg adds a comedic element and plays to the image that Justice Ginsburg uses her physical strength to fight for women. Portrayals on the big screen are also illustrative, both dramatizing her life to enhance her reputation as a feminist icon transforming her into the progressive symbol of women's resistance.

Overall, an examination of each separate popular culture avenue yields interesting results that provide evidence towards Justice Ginsburg's idolization. Each investigation suggests that Justice Ginsburg's fame is motivated by partisanship as well as her identity as a woman, and thus provides evidence to support my hypothesis.

### **The Role of the Liberal News**

Having traced the iconography of Justice Ginsburg through entertainment, social media, and children's books, what is left is to turn to the traces of her image in the news media. Specifically, an analysis of the content of left-leaning news organizations sheds light on how the narrative behind Justice Ginsburg's idolization has been sustained and even amplified.

From my previous analysis, Justice Ginsburg's persona of "Notorious R.B.G" has come to represent how people view her as both a feminist icon and heroic dissenter. Due

to the association of the persona “Notorious R.B.G,” I trace its mention throughout a number of different liberal news sources. Using widely regarded media bias charts,<sup>98</sup> I selected three solidly liberal news outlets: Huffington Post, Slate, and Vox and examined their references to Justice Ginsburg since 2015. I searched their archives for any mention of the words “Ruth Bader Ginsburg” as well as “Notorious R.B.G.” Table 3 below displays both the number of times Justice Ginsburg’s name as well as “Notorious R.B.G” was mentioned by each source.

**Table 3: References to Justice Ginsburg in the Liberal News**

<b>Liberal News Outlet</b>	<b>Mentions of Justice Ginsburg since 2015</b>	<b>Mentions of “Notorious R.B.G.” since 2015</b>
Huffington Post	157	16
Slate	> 100 <sup>99</sup>	31
Vox	201	16

Table 3 highlights how many times each of these three liberal news sources mention Justice Ginsburg’s name as well as how many times they mention “Notorious R.B.G” In total, each of these three liberal sources have mentioned Justice Ginsburg’s name a combined total of over 458 times, and “Notorious R.B.G” a combined total of 63 times since 2015. Vox wrote the most articles mentioning Justice Ginsburg’s name with 201, and Huffington Post and Slate followed behind with 157 and 100 times, respectively.

<sup>98</sup> “Media Bias Chart” *Ad Fontes Media*; “Media Bias Chart” *Marketwatch*; “Media Bias Chart” *Allsides*.

<sup>99</sup> There are likely more than 100 mentions of Justice Ginsburg by Slate magazine, however, the archives only allow us to search the most recent 100 articles with the keywords “Ruth Bader Ginsburg.”

Slate wrote the most articles mentioning “Notorious R.B.G,” with 31, and Huffington Post and Vox followed behind with 16 mentions each.

While mere mentions are interesting in and of themselves, I also wanted to investigate *how* exactly the newspapers were using “Notorious R.B.G” in the context of their mentions. Similar to the KWIC analysis I conducted for children’s books, I examined how “Notorious R.B.G” was used, and formed three themes: unremarked reference to Justice Ginsburg herself as Notorious, self-conscious reference to “Notorious R.B.G.” as Justice Ginsburg’s nickname, and finally references to “Notorious R.B.G” in a different context. The results are listed in table 4.

**Table 4: “Notorious R.B.G” in Context**

<b>Liberal News Outlet</b>	<b>References Justice Ginsburg as “Notorious”</b>	<b>References “Notorious R.B.G” as a nickname</b>	<b>References “Notorious” in a different context</b>
Huffington Post	9	4	3
Slate	21	7	3
Vox	12	3	1

The results illustrate that the most common use of the word “Notorious R.B.G.” was in the context of reference to Justice Ginsburg as the Notorious R.B.G. The use of referring to Justice Ginsburg as the “Notorious R.B.G” was used a minimum of 9 times and a maximum of 21 times. The second most common reference to the “Notorious R.B.G.”

was in referencing it as Justice Ginsburg’s nickname, with a minimum mention of 3 times and a maximum mention of 7 times.

The distinction between referencing Justice Ginsburg as the Notorious R.B.G, and referencing that her *nickname*, as “Notorious R.B.G” is subtle, yet illustrative. A few examples include:

“Perhaps Roberts is sick of being the conservative traitor who joined up with the **Notorious RBG** to save the Affordable Care Act”<sup>100</sup>

“it’s **Notorious R.B.G.**’s birthday on March 15”<sup>101</sup>

“It was, as you would expect from the **Notorious RBG** herself, 100 percent delightful”<sup>102</sup>

In these articles, the reference to Justice Ginsburg as Notorious conflates the nickname with Justice Ginsburg and makes it a part of her identity. The word “notorious” when referencing Justice Ginsburg has come to mean more than just its original connotation. It is associated with her reputation as a feminist, liberal justice whose dissents are what made her famous. By referencing Justice Ginsburg as “notorious,” in a nonchalant way, they are perpetuating this narrative of partisanship and identity. It reinforces this idea in the mind of the reader that Justice Ginsburg has become this icon who embodies dissent. Additionally, the fact that this was the most common in-context theme of the Notorious R.B.G in these articles suggests that it is now commonplace to consider Justice Ginsburg as the Notorious R.B.G. These news outlets assume that the reader knows exactly what they are discussing and further demonstrates how this narrative surrounding Justice Ginsburg is firmly embedded into our culture.

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<sup>100</sup> Jim Newell, “Brett Kavanaugh Isn’t the Real Threat to Obamacare” *Slate*, July 11, 2018.

<sup>101</sup> Danielle Gonzales, “15 RBG Gifts For The Ginsburg Lover In Your Life” *Huffington Post*, March 7, 2019.

<sup>102</sup> Amanda Taub, “This video of Ruth Bader Ginsburg talking about feminism is even better than you hoped” *Vox*, February 7, 2015

The second most common theme to refer in context to Notorious R.B.G was to reference it as a nickname. Some examples include:

“She’s also become a culture hero for progressives — lovingly nicknamed the **Notorious R.B.G.**”<sup>103</sup>

“Like the online fandom that’s coalesced around 82-year-old Supreme Court justice Ruth Bader Ginsburg and nicknamed her ‘**Notorious RBG**’”<sup>104</sup>

“She has been affectionately dubbed the ‘**Notorious RBG**’ a play on the name of the late rapper Notorious BIG and a homage to her strength.”<sup>105</sup>

These article references are distinct from the ones above in that they acknowledge that the Notorious R.B.G persona is merely an affectionate, humorous nickname that her fans awarded to her. Through distinct, it bears noting that the media still presented these in an uncritical way and signal the importance of acknowledging the widely known nickname.

While I am not arguing that the liberal news is responsible for the development of her idolization, the news media’s unremarked use of “notorious” contributes to and even reinforces this narrative surrounding Justice Ginsburg. With the rhetoric they use, these liberal news sources not only appeal to their liberal audience, but also remind their readers of this narrative of resistance and dissent that surrounds Justice Ginsburg.

## Implications and Conclusion

This thesis argues that partisanship and identity are the leading contributing factors in the public idolization of Justice Ginsburg. To reach these conclusions, I compared two popular R.B.G memes, thoroughly examined children’s literature about Justice Ginsburg, and examined her portrayals in the entertainment industry.

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<sup>103</sup> Dara Lind, “Ruth Bader Ginsburg is in the hospital with 3 broken ribs,” *Vox*, November 8, 2018.

<sup>104</sup> Amanda Hess, “Yas We Can: The Curious Social Media Strategy of Hillary Clinton’s Campaign,” *Slate*, December 21, 2015.

<sup>105</sup> Mary Papenfuss, “Ruth Bader Ginsburg Voted From Hospital To Block Trump Asylum Restrictions” *Huffington Post*, December 22, 2018.

Furthermore, through analyzing three liberal news sources, I found that this image of Justice Ginsburg is sustained and exacerbated by liberal news sources due to their continued references to her as the “Notorious R.B.G.” In this conclusion, I turn to the potential implications of a celebrity Supreme Court justice, examining parallel scholarly discourses on celebrity politicians as well as Supreme Court legitimacy. While a traditionalist view of this phenomenon could suggest that Justice Ginsburg’s fame is problematic for the respect and political independence of the Court, I argue that the idolization of Justice Ginsburg should instead be considered a positive consequence of an increasingly polarized society because it encourages social engagement with an elite and distant government institution.

While the majority of the U.S. population still cannot name a single Supreme Court justice,<sup>106</sup> the historical idea that justices on the Supreme Court are shielded from the public eye has largely faded in the modern era. Richard Hasen points out that public appearances of Supreme Court justices have reached unprecedented levels within the past decade alone.<sup>107</sup> Increased television interviews, public statements, testimonies before Congress, and public speaking engagements demonstrate the increasing presence of Supreme Court justices in our society. Advances in technology and media also facilitate and boost this public presence by increasing the levels of exposure and the reach of each individual appearance.

Along with this increase, a new trend has also arisen in the 21<sup>st</sup> century whereby Supreme Court justices specifically appear before audiences that are more sympathetic to their individual points of view. For instance, Neal Devins and Lawrence Baum point out

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<sup>106</sup> Robert Green and Adam Rosenblatt, “Supreme Court Survey” *C-SPAN*, released on March 17, 2017.

<sup>107</sup> Richard Hasen, “Celebrity Justice: Supreme Court Edition,” *Green Bag* 19, no. 2 (2016): 157-173.

that liberal justices are more likely to speak in front of historically liberal organizations like the American Constitution Society, while conservative justices are more likely to speak in front of traditionally conservative organizations like the Federalist Society.<sup>108</sup>

These researchers also suggest that justices will continue to use these different forums to strengthen their ties to their distinct ideological social networks and minimize interactions with groups who maintain opposing views. A good example is the development of the Federalist Society, which was created in response to the liberal Warren Court.<sup>109</sup> Founders of the society focused on the recruitment of conservative law students, who were then given clerkships with conservative judges, and led eventually to a strong insular community of conservative scholars who yield immense power.<sup>110</sup>

Today, it would be unlikely to have a conservative Supreme Court nominee who was not involved within the Federalist Society. This is a further demonstration of how the court is not only responding to an increasingly polarized society, but also participating and even exacerbating this polarization. The consequences of such polarization will likely include fewer unanimous Supreme Court decisions, more ideologically charged decisions, and further contentious Supreme Court nominations.<sup>111</sup>

This increased popularization raises the question of the legitimacy of the Supreme Court. There is a prominent theory among legal scholars that the Supreme Court must be perceived as nonpartisan in order to maintain its legitimacy. The theory states that if the

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<sup>108</sup> Neal Devins and Lawrence Baum, *The Company They Keep: How Partisan Divisions Came to the Supreme Court*

<sup>109</sup> Amanda Hollis-Brusky, *Ideas with Consequences. The Federalist Society and the Conservative Counterrevolution*. (Oxford University Press, 2015).

<sup>110</sup> Amanda Hollis-Brusky, *Ideas with Consequences. The Federalist Society and the Conservative Counterrevolution*; Steven Teles, *The Rise of the Conservative Legal Movement: The Battle for Control of the Law*. (Princeton University Press, 2010); Jefferson Decker, *The Other Rights Revolution: Conservative Lawyers and the Remaking of American Government*. (Oxford University Press, 2016).

<sup>111</sup> Brandon Bartels, “The Sources and Consequences of Polarization in the U.S. Supreme Court.”

Supreme Court is viewed as a partisan institution, then public trust in the Court as an institution will diminish. Richard Posner sums this idea as, “political stability depends to a degree on popular acceptance of the legitimacy of the basically political institutions of a society, including its judiciary.”<sup>112</sup> In essence, if the public does not view the Supreme Court as legitimate, then no one will abide by its decisions. Within this framework, the celebrification of Justice Ginsburg would be viewed as a problematic because it is ideologically motivated and thus harmful to the Court’s overall legitimacy. One could suggest that Justice Ginsburg’s fame detracts from the traditional role of a Supreme Court justice and thus threatens the legitimacy of the entire institution.

In spite of these arguments, I believe that the conversation around Justices Ginsburg’s fame should not be focused on legitimacy. In a society and political culture of heightened partisanship, the Supreme Court will not and has not been insulated from this polarization. Judicial nominations are already more contentious than ever before. In 1993, Justice Ginsburg was confirmed based on a 96-3 Senate vote. This kind of consensus over a Supreme Court nomination almost seems unimaginable now. In 2016, Senate Republicans refused to even consider President Obama’s nomination of Merrick Garland to replace the conservative Justice Antonin Scalia, and then subsequently employed the “nuclear option” to eliminate the required 60-vote majority to confirm a Supreme Court justice in order to push through President Trump’s nomination of Neil Gorsuch. Not only is the appointment process political, but there are even discussions by some in the public over whether the next Democratic president should revisit “court packing,” changing the total number of justices in order to gain a liberal majority, an idea seemingly unthinkable

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<sup>112</sup> Richard Posner, “The Supreme Court and Celebrity Culture” *Chicago-Kent Law Review* 88, no. 2 (2013): 304

since 1937. The Court is necessarily entangled in political conflict. These trends suggest a more fundamental challenge to the foundation of legitimacy. If the myth of neutrality is destroyed, and reconstructed along partisan lines, then it may be necessary to rethink Justice Ginsburg's celebrity status as a boost to the Court's legitimacy among a certain audience.

Rather than attempting to view Justice Ginsburg's fame within the literature on the Supreme Court's legitimacy, I propose that we should instead consider how her "celebrity status" is changing the way that people interact with the Supreme Court and the law. Similar to how celebrity politicians have been found to increase public awareness and political participation, Justice Ginsburg's idolization should be viewed as a positive consequence of an increasingly polarized society because it encourages the public to become more engaged with the Court and to take the time to understand how the Court's work affects our lives. The Supreme Court has historically been viewed as an elite institution with limited connection to the people that its decisions affect. Justice Ginsburg's fame is making the Supreme Court noticed by a wider audience. People are paying closer attention to how the Court operates and taking note of the important issues on its docket. While many people are not necessarily supportive of Justice Ginsburg, and may even be critical of her idolization, this contention is sparking a new conversation around how the Court operates.

Little about the public's engagement with Justice Ginsburg is traditional. People are buying a variety of merchandise that display dissent collars and the slogan "notorious R.B.G." It may be a brave new world in which high school students attend movies about a sitting Supreme Court justice, while wearing t-shirts emblazoned with her image. But

that brings a new audience to the world of litigation and appellate courts. Whether or not the audience agrees with her judicial philosophy, these types of media expand the awareness of the issues—such as discrimination in the legal field, women’s rights, etc.—and highlight the role the Court plays in advancing society. Recall the *Saturday Night Live* rap, featuring lyrics like, “The court is the stage write // dissents that throw shade. Tell Trump stay out her way // don’t f\*\*\* with my Roe v. Wade.” These lyrics highlight not only the way that Justice Ginsburg has been idolized but also include actual legal issues and court cases, like *Roe v. Wade*, that have become part of public discourse. Because of Justice Ginsburg, legal cases are now being discussed in the public mainstream media on popular late-night television and other programs that reach millions of viewers every week. Even if people are not necessarily reading every decision that Justice Ginsburg is a part of, one of the implications of her idolization is that legal issues facing the Court have become normalized within popular culture.

Not only are people worshipping the idol through movies, television, and commercial products, the digital age also ensures that people actively interact with the law in new ways. Images of Justice Ginsburg are sprawled over social media through memes on networks such as Twitter, Facebook, and Instagram. Memes, while often used to display satire or comedy, are made to be changed and altered as they make their way through social media. All comedy aside, these memes of Justice Ginsburg are constantly changing and thus actually encouraging interaction with the law. This process of redistribution and reimagination encourages people to become actively engaged in the changing platform of law. People consume information about Justice Ginsburg and learn more about the Supreme Court as an institution, but the nature of this evolving

technological field is morphing the public into the actual producers of these images in which Justice Ginsburg is the object. Again, even if the general public still does not necessarily read Supreme Court decisions, the digital era encourages this new type of interaction of law and the legal system through Justice Ginsburg.

Moreover, as a reaction to Justice Ginsburg's celebrity status, we are seeing conservative groups emulating this popularization. There are already signs that conservatives are attempting to capitalize on the power and influence of idolization. Justice Antonin Scalia, for example, is featured on a number of different t-shirts with quotes that read, "Scalia is my homeboy" or "what would Antonin do?"<sup>113</sup> While the scope of the commercial presence of Justice Scalia is not nearly as expansive as Justice Ginsburg's, it suggests that the existence of a celebrity justice does not end with Justice Ginsburg. Thus, we are likely to see idolization of both conservative and liberal judges in the future. Justice Ginsburg's unique status as a celebrity today can be considered a cultural phenomenon; however, such a feat may indeed be considered commonplace in the future. Due to this, we should expect to see continued admiration and popularity of the Court and its members within the American public.

Ultimately, I argue that Justice Ginsburg's legacy as a popular icon has revolutionized how people interact with the seemingly distant Supreme Court. Perhaps more important is how this idolization will inspire future generations. Many commercial items displaying images of Justice Ginsburg are geared toward young adults and even children. This type of popularity signals that the potential reach of her fame has yet to even be realized. Young children will likely grow up in a world that remembers Justice

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<sup>113</sup> Found by searching "Antonin Scalia" on Amazon.com on March 27, 2019.

Ginsburg and promotes a message that law is a productive mechanism of social change. Quite conceivably, the politics of judicial celebrity enacted through the Notorious R.B.G will set a template for future expansion and evolution. Thus, while Justice Ginsburg's substantive influence on Court decisions may be minimal today, it is likely that the long-term effects of her glorification on our society have yet to be fully realized.

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