



Making Her Case: Dramatisation, Feminism, and the Law in the Ruth Bader Ginsburg Biopic *On the Basis of Sex*

Christina Schönberger-Stepien

University of Augsburg

Abstract

The portrayal of women in film has experienced a remarkable increase in recent years (see for example *The Iron Lady*, *Hidden Figures*, *Jackie*, or *Judy*). Female biographical film becomes particularly powerful when its entire theme and ideology centres around the law and politics of gender and sex, as is the case in Mimi Leder's biopic *On the Basis of Sex* (2018) about the life of the late US Supreme Court justice Ruth Bader Ginsburg. The gender-conscious film portrays and dramatises the life of a determined woman who, despite struggles and sex-based discriminations, has transformed the justice system in terms of gender equality and the protection of women's rights since the 1970s. This article argues that by negotiating the intertwinement of personal life and public achievement, the film covers pivotal issues of the feminist biopic such as the dissolving of traditional gender roles and a narrative of female success but also points to a collective notion of the biopic in its attempt to initiate wider political and societal discourses. The dramatisation of Ginsburg's life in the form of a feminist courtroom biopic celebrates Ginsburg's legacy via a strong affective, political focus and a juxtaposition of private and public, personal and professional, accompanied by an aesthetics of symbolism and symmetry.

Keywords: feminist biopic, gender equality, women's rights, male professions

Zusammenfassung

Die filmische Darstellung von Frauen hat in den letzten Jahren einen bemerkenswerten Aufschwung erlebt (siehe zum Beispiel *The Iron Lady*, *Hidden Figures*, *Jackie* und *Judy*). Biographische Filme über Frauen sind besonders wirkmächtig, wenn sich deren Thematik und Ideologie den rechtlichen und politischen Hintergründen von Geschlechterfragen widmet, wie es in Mimi Leders Biopic *On the Basis of Sex* (2018) über Ruth Bader Ginsburg, Richterin des Obersten Gerichtshofs der USA, der Fall ist. Der geschlechtersensible Film porträtiert und inszeniert das Leben einer entschlossenen Frau, die trotz Hürden und geschlechtsspezifischer Diskriminierung seit den 1970er Jahren das Rechtssystem der USA im Hinblick auf die Gleichstellung der Geschlechter und den Schutz von Frauenrechten maßgeblich verändert hat. Dieser Artikel untersucht, wie der Film durch die Verflechtung von persönlichem Leben und öffentlicher Errungenschaften zentrale Themen des feministischen Biopics wie die Auflösung traditioneller Geschlechterrollen und eine Erzählung über weiblichen Erfolg behandelt, aber auch auf eine kollektive Komponente des Biopics hinweist, indem er umfassendere politische und gesellschaftliche Diskurse zu initiieren versucht. Die Inszenierung von Ginsburgs Leben in Form eines feministischen Gerichtsfilms zelebriert Ginsburgs Vermächtnis durch einen starken affektiven, politischen Fokus und eine Gegenüberstellung von Privatem und Öffentlichem, Persönlichem und Professionellem, begleitet von einer Ästhetik des Symbolismus und der Symmetrie.

Schlüsselwörter: Feministisches Biopic, Gleichstellung der Geschlechter, Frauenrechte, Männerberufe

Introduction: Ruth Bader Ginsburg as Pop Culture Icon and Feminist Legal Activist

One is not born, but rather becomes, woman. (Simone de Beauvoir)¹

'I ask no favor for my sex [...]. All I ask of our brethren is that they take their feet off our necks' (*On the Basis* 01:53:23).² In her confirmation hearing as the second female US Supreme Court Justice in 1993, Ruth Bader Ginsburg quoted these powerful words by early feminist Sarah Grimké and thereby summarised her understanding of gender equality since the beginning of her legal career. In recent years, her liberal decisions, dissents, and achievements on the Supreme Court resulted in an ongoing (pop-

cultural) ‘hype’ about her public persona and prompted an increasing production of memes and merchandise, Kate McKinnon’s impression of Ginsburg in the show *Saturday Night Live*, a Notorious RBG Tumblr,³ and several biographies and books about the justice. In 2019, Ginsburg was honoured with the Berggruen Prize for promoting gender equality and for strengthening the rule of law – as well as with an MTV Award for ‘Best Real-Life Hero’.

Given the exceptional impact on society and the celebrity status of the late Jewish Brooklynite Ruth Bader Ginsburg, née Joan Ruth Bader – ‘a symbol of justice, resistance and hope’⁴ – it is not surprising that her life has finally been made into a biopic. *On the Basis of Sex* (2018) was directed by Mimi Leder, written by Ginsburg’s nephew, Daniel Stiepleman, and stars Felicity Jones and Armie Hammer as Ruth⁵ and her husband Marty. The film covers the years from 1956 to 1972 and portrays the early legal career of a bright and determined woman who, despite experiencing obstacles, successfully shaped the US justice system in terms of gender equality and the protection of women’s rights. 2018 was quite a year for Ruth Bader Ginsburg and the public interest in her societal contributions, with the release of her biopic in addition to the insightful documentary *RBG* and the publication of a comprehensive biography written by Jane Sherron De Hart. While the documentary *RBG* by Betsy West and Julie Cohen (which won a Creative Arts Emmy Award) is a more factual though no less entertaining portrait of Ginsburg, *On the Basis of Sex* serves as its deliberately fictionalised narrative counterpart. It concentrates on Ginsburg’s first case on behalf of gender equality, an early tax law case she and her husband Marty (who became a prominent and successful tax attorney himself) argued together in court in 1972. The film explores the legal thinking and making of the female professional, finding *her* own voice in *her* story, while making *her* case for *all* women.

This article will address some noteworthy narrative and aesthetic strategies in the biopic *On the Basis of Sex*. Although the biopic as such is often considered a formulaic, clichéd, and ‘quintessentially middlebrow genre’,⁶ I will argue that by negotiating the intersection of personal life and public achievement, the film covers pivotal issues of feminist biography such as the dissolving of traditional gender roles and a narrative of female success, and contributes to public awareness of Ginsburg’s active role in the fight against sex-based discrimination in the US. The dramatisation of Ginsburg’s life in the form of a feminist courtroom biopic aims for an affective, political celebration of Ginsburg’s achievements with an emphasis on the successful and equal working couple, accompanied by an aesthetics of symbolism and symmetry. Furthermore, the article will outline the film’s female perspective, the different levels of sex-based

discrimination, and the portrayal of feminist activism. The film explores past events in order to establish their relevance for the present and counterpoises a political, informative agenda with a fictionalised and dramatic narrative mode. I will also argue that *On the Basis of Sex* thus not only provides a space for an individual story but also for an initiation of wider political and societal discourses about gender and the law.

On the Basis of Sex as Feminist Courtroom Biopic

In their introduction to *The Challenge of Feminist Biography*, Sara Alpern, Joyce Antler, Elisabeth Israels Perry, and Ingrid Winther Scobie claim that '[w]hen the subject is female, gender moves to the center of the analysis'.⁷ This assumption also applies to the biopic *On the Basis of Sex*, whose entire theme is centred around the politics and legal implications of gender and the struggle for gender equality. This section will explore the different generic conventions displayed in the film and its potential characterisation as a 'feminist courtroom biopic'.

While female biopics are often associated with female struggle and victimisation, Karen Hollinger claims that feminist film studies in fact show that 'it is not women's victimization that accounts for the film's attraction to a female audience, but their protagonists' triumph over or at least heroic survival of this victimization'.⁸ This triumph over victimisation, prejudice, and discrimination has been prominently displayed in other biopics which celebrate the role of a heroine and her attempts to promote equality and justice, such as *Erin Brockovich* or *The Battle of the Sexes*. Avoiding an 'easy melodramatic victimization'⁹, *On the Basis of Sex* thus focusses less on personal discrimination than on the consistent fight for gender equality as well as Ginsburg's legal reasoning and accomplishments. The film thus indulges neither in self-pity nor in men-bashing but rather works against the image of the patient and passive female character by sketching her path of finding her voice. The fact that the process of suffering is not the central theme in *On the Basis of Sex* ties in with Ginsburg's notorious rationality, determination, and eloquence.¹⁰ To approach the film as a feminist biopic, I use Annette Kuhn's definition of second-wave feminism as 'a set of political practices founded in analyses of the social/historical position of women as subordinated, oppressed or exploited either within dominant modes of production (such as capitalism) and/or by the social relations of patriarchy or male domination'.¹¹ Furthermore, the concept of 'affirmative' cinema will prove beneficial here, which Pedro R. Fortes defines as 'the production of motion pictures with a transformative ambition and a focus on the defense of minority rights'.¹² This definition leaves us with

a more inclusive form of biography – a space of recognition and collectivity – and an exhortative function of the biopic as a call for action or (further) change.

The biopic as a multi-generic form may overlap with other film genres (in this particular case, the courtroom drama comes to mind), which means that an analysis needs to take into account not only the biographical outline of the film but also the conventions of additional genres. The accuracy of legal proceedings in the film emphasises the film's reference to reality in an attempt to provide a historical perspective. Ginsburg is in fact said to have provided meticulous notes on aspects of the law in the biopic to make sure they are accurately represented.¹³ It is, however, essential to note that, in the case of the courtroom drama, films 'are not substitutes for legal books and scholarship or judicial decisions', as Fortes points out, 'but they can offer snapshots of important normative ideas'.¹⁴ Daniela Carpi writes that 'law is part of culture and is an intrinsic element of the cultural panorama of each historical period'¹⁵ as it 'is an entire canvas of customs and ideas that typify societies'.¹⁶ Consequently, Carpi argues that from a 'humanistic perspective the popularization of law through the media has the great advantage of bringing the legal system closer to the common man (or woman; CSS): through the media we can better understand legal procedures and we can even be taught some basic and rudimentary legal concepts'.¹⁷ The presence of the law in media culture may thus help to bring law and society together, make the law more accessible for society.¹⁸ As David R. Papke writes, in real-life legal work and at court 'things are much less dramatic than in the pop cultural courtroom'.¹⁹ This pop cultural courtroom often features a so-called 'pop cultural trial', meaning a trial portrayed in popular culture (as will be exemplified in my close reading of *On the Basis of Sex*), which 'serves as a symbol of law'²⁰ and particularly emphasises and dramatises the relevance of what is at stake – in this case gender equality before the law. As Papke points out further, 'writers and producers need a coherent story line with pieces that fit together. They must have drama to engage viewers and readers.'²¹

The symbolic force of court trials in popular fiction and the significance of dramatising and fictionalising certain elements are particularly relevant for the exhortative and transformative function of *On the Basis of Sex*. The aesthetic and narrative implications of this dramatisation of, if you will, the feminist courtroom biopic, will be addressed in the following section.

Narrative and Aesthetic Implications of Dramatising Ruth Bader Ginsburg

With biography being ‘the dominant narrative mode of our times’, as Hermione Lee suggests,²² this section will concentrate on *how* the life of the iconic figure Ruth Bader Ginsburg is narrated on screen. To briefly touch upon the documentary at this point, *RBG* (2018) displays an informative perspective of Ginsburg’s life, with a – no less entertaining and moving – compilation of source material, such as interviews (with friends, activists, politicians, students), (sound) recordings, photographs, or private and professional footage with a strong narrative effect. The documentary intersperses the archival material with interviews and footage of Ginsburg, emphasising her strength and endurance – for example when showing her with her personal trainer. In contrast to documentary films, Robert A. Rosenstone names as essential characteristics of the biographical film ‘the imposed fiction of a story, the creative use of fact, the translation necessary to make a life comprehensible and interesting’.²³ Rather than providing a full picture of Ginsburg’s life and career, *On the Basis of Sex* deliberately concentrates on particular, selected phases to make the story engaging and to enable a simultaneous exploration of the public and private spheres, which Ruth and Marty successfully combine. In film, both the image on screen and the additional information (sound, music) can work affectively through sensory stimulation. With regard to the immense ideological and societal relevance of the film’s subject, the question arises whether emotion and affect take anything away from the feminist power of the biopic.²⁴ In my reading of the film, the affective and dramatised elements, including an array of trial-like scenes, lead to a more accentuated portrayal of Ginsburg’s legal ethics and shape the subject positions offered by the film. I will thus comment on the film’s aesthetic and narrative choices of dramatisation, symbolism and symmetry, as well as the (affective) function of colour, lighting, sound, and *mise-en-scène*.

The introductory scene of the film starts *in medias res*, a common narrative strategy in biopics,²⁵ and establishes the main issues of gender inequality on the one hand and Ruth’s professional ambition on the other. A caption states that it is the year 1956. The song ‘Ten Thousand Men of Harvard’ plays triumphantly in the background, while a large crowd of men in their twenties with dark suits, ties, and shoes are shown from multiple perspectives, before close-ups reveal the men’s expectant faces. After one minute, the camera captures a woman’s blue dress. Surrounded by what seems to be an all-male crowd, Ruth enters Harvard Law School, a symbolic entry, if you will, into a male territory and profession. Her exceptional position among the group is

emphasised by an overhead shot in which her bright blue dress makes her visually stand out among a sea of dark suits. The kinetic symbolism indicates Ruth's ambition, which is emphasised by the camera barely moving and thus focusing on Ruth's progression (*On the Basis* 00:02:10; Fig. 1).



Figure 1: Screenshot depicting Ruth entering Harvard Law School.

Inside the building, the camera catches Ruth's excited face, while a panning shot gives an impression of the precious interiors and a hall full of men. After an irritated look from a male student sitting next to Ruth during the welcome ceremony, the camera catches some female faces in the crowd. There are in fact nine women present but the absence of other women in the first few minutes of the film emphasises the rarity of women in the male-dominated surroundings of Harvard Law School. The film sets the scene within a prestigious place of knowledge, while the incongruousness of Ruth's presence becomes clear when the Dean encourages the students to ask themselves 'What does it mean to be a Harvard man?' (*On the Basis* 00:04:10). The fact that Ruth is married and has a daughter only comes up in the next scene, which shows the Ginsburg's home, Ruth's husband Marty, and their daughter Jane – without providing any background information on how the couple met and thus avoiding the clichéd assumption that films about women require a romantic plotline.²⁶ The equal presence of Ruth's private sphere and the professional sphere is already established in the biopic's first couple of minutes.

On the Basis of Sex reserves only a good quarter of the film for the time span between 1956 and 1970, which establishes Ruth's education up until her struggles to land a job in NYC and ending up with a teaching job at Rutgers University. The years (1959-1969) in which Ginsburg, among other achievements, actually attained a clerkship in New York and conducted a book project in Sweden on comparative law,²⁷ where she experienced a much more advanced feminist movement and equality, as well as her early years at Rutgers University on her way to tenure, are left out. Although finding a job after her graduation from Columbia indeed proved to be challenging, Ginsburg was in fact offered a position at a New York law firm which she rejected, accepting an offer from Rutgers University instead.²⁸ The film jumps forward into the 1970s, emphasising the challenging career choices between legal practice and academic work by underrepresenting Ginsburg's flourishing academic career as a professor. The film constantly cuts back and forth between scenes at school and scenes at home, thus emphasising the strong intertwinement of the private and professional from an aesthetic and narrative viewpoint. This results in a thorough depiction of the progressive and symbiotic marriage between Ruth and Marty, up until and beyond the abrupt complication of the family life when Marty is diagnosed with testicular cancer.²⁹ The focus on the private realm is mostly constrained to the first quarter of the film, which features, for example, brief hospital scenes accompanied by dramatic music and a darker colouring.³⁰ This part of the film shows how Ruth juggles her own course work, then attending Marty's classes as well (a fictionalisation, as according to Ginsburg, Marty's fellow students shared their notes with them), typing his papers, taking care of their daughter, and then dealing with her own course work at night. This simultaneity is reflected in the mise-en-scène in Fig. 2 (*On the Basis* 00:22:36), as it visually juxtaposes Ruth's and Marty's career and places the typewriter (a symbol of work) as the unifying object in the centre.

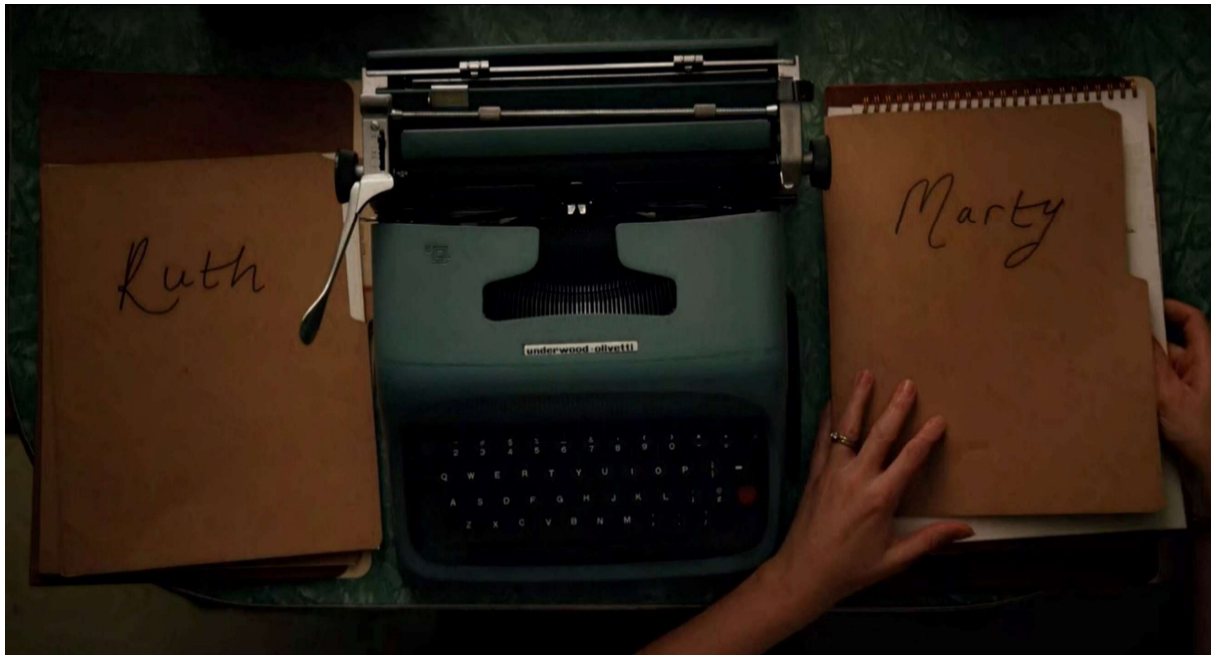


Figure 2: Screenshot depicting Ruth managing her and Marty's coursework.

On the Basis of Sex reserves nearly three quarters of the time to cover the years between 1970 and 1972 and privileges Ruth's professional role as a legal practitioner by focusing on one legal case, marking a crucial phase in her career. The organisation of the film and its strong emphasis on courtroom drama suggest its reliance on *showing* Ruth at work. It tries to make visible the legal argument and the long struggle towards accomplishing changes in the legal system and thus promoting gender equality. The film deals at length with a lesser known tax law case named *Moritz v. Commissioner of Internal Revenue* (1972), a case which in fact enabled Ginsburg to 'make her mark outside legal academia'.³¹ Charles Moritz, who needed to care for his elderly mother, was not eligible for tax deduction due to the fact that he was a bachelor. This case was an example of 'sex-based discrimination against a man' (*On the Basis* 00:41:16), as Ruth excitedly announces when Marty brings the case to her attention. Although this was in fact not Ginsburg's most influential case, it was Ruth's and Marty's first joint gender-discrimination case giving Ruth the legal precedent on which to build her career and argument to overturn 178 further federal laws which discriminated on the basis of sex. With the help of the ACLU (American Civil Liberties Union) and its director Mel Wulf (who, in fact, is an ambiguous character in the biopic as he seems to be progressive in terms of gender equality but equally condescending and patronising at times), the case becomes a turning point in Ruth's career. The narrative choice of focussing on Ruth's and Marty's shared legal work instead of Ginsburg's bigger cases again serves to emphasise the intertwining of private and professional and the

progressiveness of their relationship as equal work partners in a time when the roles of women and men were mostly traditionally shaped. This representation of the 'working couple' is for example visualised in the equal share of workspace at home (*On the Basis* 00:56:40; Fig. 3). The mise-en-scène in this shot, with its symmetry (both characters assume the same amount of space, the window in the middle divides the table equally) is particularly noteworthy as it accentuates the simultaneity of home and profession, private and public, but also the equal *worth* of Ruth's and Marty's work.



Figure 3: Screenshot depicting Ruth and Marty working together.

The highly regulated visual language of *On the Basis of Sex* aims towards an extrapolation of outstanding moments in Ginsburg's life without claiming exclusiveness or comprehensiveness but with a deliberate focus on relevant episodes of her formative years.³² The selection of particular life phases as well as the dramatic storyline of the courtroom drama are essential characteristics of the dramatic nature of the film. At times, this obviously implies the dramatisation of steps which might not be visually compelling for an audience and are thus appropriated in ways which further visual and narrative interest for viewers. The second part of the film creates suspense by dramatising the work process, similar to a courtroom drama, for example by cutting back and forth between the defendants and the opponents, by depicting opponents in a darkened room discussing their strategy (*On the Basis* 01:14:00), and by including a final, productive phase depicting Ruth, Marty, and their assistants typing,

walking around, collecting arguments, which is visualised by close-ups of typewriters. A disastrous mock trial scene, in which Ruth practices her argument before a befriended 'court', is a fictional means to create suspense and emphasise her struggle to find a voice.³³ When put on the spot, Ruth stumbles and Ruth and Marty decide to split the argument (which, in reality, had always been the plan). This scene is contrasted with the final court scene, in which Ruth is momentarily lost for words, struggles, and asks for rebuttal, and then, very much symbolically, finds her voice and reassumes her argument. This fictional twist dramatises the development of Ruth's skills, control, and self-confidence over the course of the film. Before Ruth argues the Moritz case at the Court of Appeals in Denver, the film does not miss the chance of including a bit of pathos by having Marty say: 'You're ready for this, you've been ready for this your whole life. Now go in there and let the judges see the Ruth Ginsburg I know' (*On the Basis* 01:33:09). The shot visualises her leadership role by showing Ruth walking towards the Court, as though fired up by Marty's pep talk, accompanied by her family and followed by the opposing party. Before the hearing begins, Ruth looks at the words engraved behind the judges' chairs, 'Reason is the soul of all law', which corresponds with her legal logic and reasoning throughout the film. The condescending behaviour of the judges in the film refers to the various times in which Ginsburg indeed had to explain that discrimination on the basis of sex really existed,³⁴ making sure her response to ignorance was 'never in anger' (*RBG* 00:41:50). Rather, she used these situations as an 'opportunity to teach' (*RBG* 00:41:57). In the biopic, accompanied by dramatic music, Ruth's final statement 'You can right this wrong' (*On the Basis* 01:50:27) concludes the court scenes and the courtroom drama and calls for future action.

As already suggested, the film puts a strong focus on symmetry, either in single shots or in the mirroring of the first and final scene. Ginsburg's favourite colour blue dominates the visuality of the film in her clothes and is particularly mirrored in the first and final scene, in a symbolic depiction of her struggle and literal rise towards success and justice. While the film begins with Ruth entering Harvard Law School, it ends with a very similar scene, in which Ruth climbs the steps to the Supreme Court in a blue outfit. While Ruth is surrounded by dark suits in the first scene, the brightness of the stones of the Supreme Court makes her stand out confidently. We hear solemn, classical music but the focus is on the original recordings of Ginsburg's appeals in court in the background to create authenticity, stating the names of further cases which overturned further laws discriminating on the basis of sex. The caption reads 'Moritz

v. Commissioner and Reed v. Reed became the first federal cases to declare discriminations on the basis of sex unconstitutional' (*On the Basis* 01:52:30).



Figure 4: Screenshot depicting Ruth mounting the steps of the Supreme Court.

Following a long shot of the building which presents Ruth near the top of the staircase (*On the Basis* 01:53:04; Fig. 4), the film cuts to a medium shot showing Ruth from the front. The camera then begins to slowly circle a pillar, only to reveal the real-life justice Ginsburg mounting the last steps herself. The symmetry in this long shot prominently displays Ginsburg as an influential female figure in her relationship with a place of justice but also of male dominance (the court or the justice system), while the visibility of the inscription 'Equal justice under law' on top of the Supreme Court building points towards the main pillar of the justice system: equality. The dramatic scene may symbolise her professional success, but its kinetic symbolism indicates that we have not attained full gender equality yet. The continuing forward/upward movement can be read as signalling that there is still ground to be covered in what Ruth describes in her argument in the Moritz case as a fight to '[p]rotect the right of the country to change' (*On the Basis* 01:50:00). This ties in with Fortes's concept of affirmative cinema and illustrates the transformative potential and agenda of the film. The dramatisation of the first and final scenes of the film thus provides a symbolical framework for the depiction of Ruth's development but also highlights, as is common in historical films, a 'paradox in which the present is figured as both historical and ongoing'.³⁵ The institution of the court not only has historical relevance but also symbolises activity

and agency for Ruth. Ruth's agency is thus portrayed via her engagement with the law and eventually her appearance in court, as well as in the prominent use of legal language in the biopic, which permeates both Ruth's private and professional life. At the courthouse, she symbolically negotiates discourse relating to gendered space, the mobility of women, and entering male professions. Just as Harvard Law School in the beginning of the film, the courtroom as a traditionally male space has now been occupied by a woman – a woman with high ambitions to undermine existing stereotypes and discrimination in this very building. Ruth's literal entering of male space (for example Harvard Law School, the Denver Court of Appeals, the Supreme Court) symbolises her agency and her transgressive dissolving of the distinction between female and male space. The motif of walking and entering buildings can then, in consequence, be understood as the feminist movement.

As has been shown in this section, the narrative and aesthetic choices of dramatisation in *On the Basis of Sex* contribute to the film's engaging quality and its display of formative feminist concerns. Elements of the courtroom drama and Ruth's privileged professional role, the visual composition and symmetry as well as the symbolisms in the film account for a nuanced dramatisation to foreground central motifs and themes related to gender equality.

Female Subjectivity and Sex-Based Discrimination

Today's feminist criticism is of course pivotal for feminist filmmaking, which is why an essential question to be asked of the feminist biographical film is whether and how female subjectivity is constructed. Director Mimi Leder, one of the few high-profile female directors in the film industry, stated in an interview that she shares some of the experiences of discrimination and gender inequality with Ginsburg, although of course within her own professional field.³⁶ Underpinning her feminist intentions, Leder's aim was to portray the way Ginsburg found her voice and thus focus on female agency and subjectivity. In fact, one of the strongest assets of *On the Basis of Sex* is perhaps the female perspective through which the film and Ginsburg's story is told. Among other aspects, Dennis Bingham mentions the dominance of a female voice as a possible strategy to overcome tendencies towards victimisation and the assumption of a patriarchal perspective.³⁷ This section will outline the relevance of the female perspective and the different levels of sex-based discrimination which become visible in the film.

In *On the Basis of Sex*, the camera perspective is mostly at eye-level with Ruth (which is emphasised in instances when the camera depicts other characters from below) and thus upholds a female perspective throughout the film. There is one scene in which Ruth attempts to land a job with a law firm in NYC, which features an iconic medium shot of her at the centre in an elevator with a group of men to display the constellation of characters (*On the Basis* 00:26:35; Fig. 5). This recurring motif of Ruth being surrounded by male students or colleagues constantly points towards her exceptionality, both positively and negatively speaking. She stands out as a woman, the focus being firmly placed on her person. The filmmaker thus tries to ensure a female perspective, a perspective represented by Ruth.



Figure 5: Screenshot depicting Ruth in an elevator with a group of men on her way to a job interview.

Ruth's environment is not characterised by discrimination in all dimensions equally, although Ginsburg once asserted that, throughout her life, 'being a woman was an impediment'.³⁸ In *On the Basis of Sex*, sex-based discrimination or inequality become visible on three levels: (1) in the private sphere, (2) in non-legal institutions, and (3) in institutional or legal contexts.

In the private sphere, sex-based discrimination does not seem to be an issue. The equal and affectionate marriage between Ruth and Marty is, in fact, one of the central themes of the biopic. The private sphere is characterised by mutual respect and room for personal and professional development on both sides. In the family, Marty assumes

the role of the supportive spouse (who can cook), which is a role traditionally attributed to women. *On the Basis of Sex* does not thematise the way Ruth and Marty arranged their lives before they had children, nor does the film explore the family beyond the core family. It does not stress the 'tension between domestic and public realms of a woman's life'³⁹ which is traditionally displayed in female biopics in terms of struggles to accommodate professional development or education with expectations of traditional female roles. In the film, the domestic sphere is portrayed as emancipated and progressive. As biographer De Hart writes, 'in her private life she had always taken for granted the principle of equal partnership. She and Marty had based their marriage on the premise that shared work-family roles permitted both partners to share the burdens and joys of domestic life and the professional world alike'.⁴⁰ That this progressive thinking is not self-evident becomes clear at a dinner party at which Ruth observes the spatial division between women and men. Marty's boss announces: 'You're a smart girl, Ruth. You married a star' (*On the Basis* 00:39:57). Although the statement acknowledges Ruth's intelligence, it makes clear that this intelligence is based solely on her marriage choice. This scene is pivotal and marks a turning point in the film as it incites Ruth's disappointment and frustration with her current situation: *She* wants to be the lawyer who changes the world and not only encourage her students to do so (*On the Basis* 00:40:55). Tensions, consistent setbacks, and instances of discrimination predominantly appear in the public and professional sphere. While Ginsburg has always stuck to her mother's advice 'Be a lady, and be independent',⁴¹ which explains her considerate and rational way of arguing *and* her feminine style, *On the Basis of Sex* negates the conservative order that has men occupy the public sphere while women are relegated to the private sphere.

Discrimination in non-legal institutions takes place in a variety of situations, particularly in education and the job market. A central scene is the Dean's welcome dinner for the nine women who made it into Harvard Law School, including Ruth. After the professors 'escort the women in' (Ruth is irritated), the women are asked to 'report who you are, where you're from, and why you're occupying a place at Harvard that could have gone to a man' (*On the Basis* 00:06:42).⁴² Ruth's sarcastic answer is: 'My husband Marty is in the second-year class. I'm at Harvard to learn more about his work, so I can be a more patient and understanding wife' (*On the Basis* 00:08:12). In another scene, Ruth is being ignored in lectures at first, before she is finally allowed to give an answer, and even then, she is interrupted by male students. In this scene, she is, again, centred in a medium shot, and thus stands out as a woman among her laughing peers (*On the Basis* 00:12:28; Fig. 6).



Figure 6: Screenshot showing Ruth among her fellow students.

Such instances of discrimination in non-legal institutions portray the constant necessity to legitimise Ruth's (rightful) place at Harvard. The dimensions of work (productive or reproductive) in the film are particularly noteworthy. For example, she is not permitted to transfer from Harvard to Columbia University to complete her law degree there and be with her husband, who landed a job as a tax lawyer in New York. Dean Griswold, despite having permitted similar arrangements to male students, does not see a 'reason your husband cannot provide for you while you and your child are in Cambridge' (*On the Basis* 00:24:25) and thus 'no compelling need to transfer' (*On the Basis* 00:24:40). More struggles surface when Ruth is trying to land a job after university despite graduating top of her class and having been a member of both the Harvard and Columbia Law Review. One employer aptly summarises the reservations of other law firms, stating that Ruth is 'a woman, a mother, and a Jew to boot' (*On the Basis* 00:27:10).⁴³ The scene leaves room for Ruth to sum up the various 'reasons' for being rejected, such as for example being too busy at bake sales, too emotional to be a lawyer, or possibly being a bad colleague due to her excellence. After being rejected again, the film captures Ruth's face in the street as she walks in slow motion towards the camera while we hear her reading the story of Cinderella finding her prince to her daughter Jane (*On the Basis* 00:29:20).

Discrimination in institutional or legal contexts is the basis for a central theme of the film, which is more broadly concerned with limitations to women's rights. In the

film, this form of discrimination is dealt with only in Ruth's cases, not in her own experience. The film deals with women's social and legal position in the mid-fifties. But the film's subject has also, literally, *shaped* gender politics not only by exemplifying female success and achievement in the face of discrimination but also by transforming, step by step, the justice system in the US which had long provided the basis for such discrimination. In *On the Basis of Sex*, Ruth first teaches at Rutgers University after finishing her degree at Columbia Law School, offering courses on law and discrimination on the basis of sex (and becoming one of the first leading experts in the field).⁴⁴ Following the idea that 'adopting a feminist identity' was 'a process'⁴⁵ for Ruth Bader Ginsburg, the film depicts this profession as a starting point for Ruth's interest in feminism and her ultimate realisation that 'Discrimination on the basis of sex is legal' (*On the Basis* 00:35:17). The film thus moves from a theoretical and academic engagement with institutional and legal discrimination to Ruth's active participation in legal activism. In her career, Ginsburg considered feminism 'an institutional phenomenon' and 'truly believed that if gender barriers erected by law and culture could be removed and supportive social policies implemented, women would function as men's full equals in the nation's social, political, and economic life'.⁴⁶ The film displays Ginsburg's conviction via a consistent emphasis on legal, social, and economic sex-based discrimination and on gender bias in law and practice. As institutional or legal discrimination is connected to the development of feminist consciousness, the different forms of feminist activism are a central concern of the film. The references to other feminists at the time such as Gloria Steinem and Dorothy Kenyon (performed by Kathy Bates) are a means to portray Ruth in a tradition of feminist activism that has contributed to gender equality. However, to indicate the complex discourses of varying feminist positions in the film, a few powerful scenes depict the mother-daughter relationship to contrast Ruth's legal reasoning with her daughter Jane's more active and confrontational take on feminism, as displayed in Jane's statement: 'It's not a movement if everyone's just sitting. That's a support group' (*On the Basis* 00:37:40). In fact, while Ruth works as a professor at Rutgers, these quarrels with her daughter, heated discussions with her (mostly female) students at university and seeking advice from other feminists such as Dorothy Kenyon are depicted as necessary impulses for Ruth to step into her power. The film acknowledges Ruth's unsuitability for demonstrations and upholds her personal form of activism – working (with) the law. The depiction of strong female characters such as Jane, Ruth's students, and Dorothy Kenyon – with the powerful message 'Change minds first, then change the law' (*On the Basis* 00:59:18) – promotes a sense of community and

systematically represents an array of different feminist traditions and positions. In combination with a focus on individual female subjectivity, the film thus also works towards a collective biography of feminism and gender struggle.

As such, *On the Basis of Sex* supports Belén Vidal's claim that 'the contemporary biopic shows a renewed engagement with the formative narratives of feminism'⁴⁷ and explores how women managed to successfully enter the public realm or a male profession while being hindered by prejudice, obstacles, and discrimination. While indeed covering personal instances of sex-based discrimination, all narrated from a female perspective and thus ensuring a portrayal of female subjectivity, *On the Basis of Sex* engages with systemic discrimination and pays tribute to Ginsburg's accomplishments in jurisprudence and to her success in combining the private and public spheres. The film displays three levels of inequality to emphasise the various degrees in which discrimination shapes and complicates the fight for gender equality. Discriminations in the private sphere, in non-legal institutions, and in institutional and legal contexts emphasise the complexity and overarching impact of inequality on society and the legal system.

Celebrity Culture and the Biopic: The Individual, Collective, and Political

Sandra Mayer and Julia Novak emphasise that 'celebrity must today be considered one of the most pervasive phenomena of global media culture that permeates virtually all aspects of life'.⁴⁸ This may explain why, even though the biopic is often considered inferior to other art forms, it remains so popular with regard to its box office success as well as with regard to awards or award nominations.⁴⁹ From a marketplace perspective, *On the Basis of Sex* feeds into the ongoing fascination with Ruth Bader Ginsburg but at the same time caters to a more general need for real-life and visible female role models – especially when they were as successful and ground-breaking as the legendary jurist. It seems that the increase in female biopics responds to this demand and provides viewers with a more gender-sensitive celebrity culture. The selection of Ginsburg as a figurehead for gender-sensitive issues does not come as a surprise. The film potentially serves as a platform to negotiate Ginsburg's societal impact on the one hand, and the immediacy and current relevance of feminist thinking and activism on the other. As a result, the film is both historical *and* relevant for the present.

When addressing celebrity culture, the role of performance and the body is a noteworthy aspect to be considered in *On the Basis of Sex*. Actor Felicity Jones is unavoidably subject to comparison and to an analysis of how convincing her performance is. As Vidal states, ‘the role of the actor focuses the tension between the factual basis of the reenactment, the pro-filmic body; and the image as conduit of the biopic’s mimetic imagination’.⁵⁰ Vidal thereby refers to Jean-Louis Comolli’s concept of a ‘body too much’, which implies that the actor’s body on screen is always a ‘bodily supplement’⁵¹ to the biographical subject. It is clear that the performance can only be a mediation and interpretation of the present truth. Jones’s mimetic appearance (make-up, hair, costume), her voice, accent, and gestures are necessary ingredients of the role and shape the performative aspect of the biopic but can only be a reference to the historical figure.⁵² In fact, ‘the actor’s very presence can equally obstruct the suspension of disbelief demanded by film representation, especially when he or she plays a figure who belongs to the collective memory of the film’s intended audience’.⁵³ In the case of *On the Basis of Sex*, this intended audience is an audience familiar with the ‘superhero celebrity icon’ Ruth Bader Ginsburg. This complicates once more the relation between fact and fiction, historical truth⁵⁴ and dramatisation – an aspect which is further emphasised by Ginsburg’s actual cameo appearance in the final minutes of the biopic. The actor seems to serve as a placeholder for the film’s biographical subject to enable a visualisation of the feminist role model: The dramatic ‘reenactment’⁵⁵ of Ginsburg’s life in fact shapes the increasing media attention paid to the justice, stressing the relevance of the biopic as a form of making a living person accessible and *visible* beyond the image of a ‘real-life superhero’.⁵⁶

As the film describes a period leading up to Ginsburg’s success and breakthrough which shapes her public image today, it renegotiates her political impact and provides a new perspective on the public persona. In fact, to some extent, the film even questions the cult of the individual by laying bare the origins of Ginsburg’s formative and rational legal work as collaboration and by incorporating the solid relationships enabling her achievements. The film is thus both a celebrity narrative that feeds into the public fascination with Ginsburg *and* a feminist move to create awareness. This is not, as so often, a film to recover the forgotten woman but to provide a historical background to an already established figure of political, societal, and cultural impact. What feeds into this shift towards the historical collective is the fact that *On the Basis of Sex* seems to move away from the current dominance of the protagonist’s name in the title (see for example *Jackie*, *Judy*, or *Colette*), which may traditionally be regarded as an attempt to create subjectivity and to promote a turn towards the inward or

intimate. Instead, the biopic seems to emphasise Ginsburg's political productivity and accomplishments by highlighting the implications of discrimination *on the basis of sex*. The title thus aims for a more collective and political narrative and shifts the focus from the celebrity subject towards the urgency of a problem which, to engage Ginsburg's reasoning here, affects *all* people who are discriminated against. An underlying element of the title is a consideration of both Ginsburg's private struggle and everyday discriminations on the basis of sex *and* the political, professional, and legal comprehensiveness of women's inequality before the law.

Such filmic engagement with Ruth Bader Ginsburg as a central figure of justice and gender equality is a timely undertaking in the #MeToo era and in a current climate in which equal treatment of all sexes still leaves much to be desired. According to Rebecca Sheehan, who explores the biopic and its cultural instantaneity, the biopic can also be understood as 'taking the broadly known events of this person's life and, through them, remarking upon an ongoing political or cultural event'.⁵⁷ With regard to the political urgency of the topic and the possibility of providing a background narrative for a person so central to legal feminist activism, the fact that *On the Basis of Sex*, *RBG*, and her biography all appeared in one year, emphasises the potential of the celebrity narrative to engage the public in wider political discourses.

Concluding Remarks

... there is nothing radical about common sense. (Judith Butler)⁵⁸

The biopic *On the Basis of Sex* explores mid-twentieth-century gender politics and Ginsburg's early feminist legal activism, thus making visible the subject's agency, her efforts to transform the legal system and the historical fight against legal discrimination on the basis of sex. The biopic feeds into the discourse of women's equality and feminist struggle by centring it on a famous woman who constantly tried to make her case by fighting inequality. It displays the various ways in which Ginsburg made her mark on jurisprudence but also on (American) society and popular culture.

This article has explored the notion of the feminist courtroom biopic, has analysed the narrative and aesthetic strategies of dramatisation, symbolism and symmetry in *On the Basis of Sex*, and has emphasised the role of a consistent intertwining of personal life and public achievement in an emancipated depiction of male and female gender roles in a relationship and in a narrative of female success. As has been argued in this article, *On the Basis of Sex* does not focus on victimisation but accentuates

Ginsburg's consequent legal reasoning by emphasising her accomplishments and thus providing an inspirational and motivational example of female success in a traditionally male profession. My close reading of *On the Basis of Sex* has offered insights into the narrative and aesthetic implications of dramatising the life of an outstanding legal jurist, placing symbolism and symmetry at the centre of the film's affective, political function. While Ginsburg is mainly celebrated for her achievements in the judicial system, the film also brings obstacles into view which lie beyond her professional success and her private life. This article has therefore outlined both the relevance of female subjectivity and the different levels of sex-based discrimination in private, non-legal, and institutional contexts which become visible in the film.

As 'the hallmark of feminist biography is close attention to the connections between subjects' personal and professional lives',⁵⁹ the symbiotic intertwinement of the personal and the professional in *On the Basis of Sex* certainly renders it an exemplar of the genre. Through its dramatic (and, at times, melodramatic) quality and its selective dramatisation of certain periods of Ginsburg's life, the film emphasises her life before her celebrity status as the notorious jurist (though sometimes departing from biographical facts) and thus the professional person behind the pop culture icon she is perceived as today. Although *On the Basis of Sex* generally conforms with the conventions of the biopic genre, it does not focus solely on the individual and thus captures not only her professional background but a communal experience of female empowerment and subjectivity. It thus contributes to the public and collective awareness of gender inequality and sex-based discrimination. The exploration of Ginsburg's past as an attempt to foreground the political and societal implications of her legacy has shown that the film's generic status encourages a space for an individual celebrity portrait but also favours the relevance of collective feminist activism and the transformative potential of the biopic to initiate wider political discourses.

While *On the Basis of Sex* may fit into an array of typical and 'classic stories of achievement',⁶⁰ the biopic manages to provide a nuanced gender-sensitive approach to female biographical film: by being factual, when factuality is needed to ensure a historically accurate portrayal of (legal) facts, by being fictional, when dramatisation is wanted to engage the audience in the narrative, and by being sensitive *and* determined when reflecting on political and ideological issues of gender-and-sex-related discrimination. *On the Basis of Sex* manages to cover the central role of reason and the law in Ruth Bader Ginsburg's life by reassessing, reimagining, and recreating

a narrative of female empowerment and of making her case for equality before the law.

Works Cited

- Alpern, Sara et al. 'Introduction'. *The Challenge of Feminist Biography: Writing the Lives of Modern American Women*, edited by Sara Alpern et al. Urbana: University of Illinois Press, 1992. 1-15.
- Bingham, Dennis. 'The Lives and Times of the Biopic'. *A Companion to the Historical Film*, edited by Robert A. Rosenstone and Constantin Parvulescu. Chichester: Wiley-Blackwell, 2013. 233-254.
- Bingham, Dennis. *Whose Lives Are They Anyway? The Biopic as Contemporary Film Genre*. Piscataway, NJ: Rutgers University Press, 2010.
- Bradshaw, Peter. 'On the Basis of Sex Review – Ruth Bader Ginsburg Starts Her Ascent'. *The Guardian*, 20 February 2019, <https://www.theguardian.com/film/2019/feb/20/on-the-basis-of-sex-review-ruth-bader-ginsburg-felicity-jones-armie-hammer>. Date accessed: 23 August 2021.
- Brown, Tom, and Belén Vidal. 'Biopics'. *Oxford Bibliographies*, 27 July 2016. DOI: 10.1093/OBO/9780199791286-0206. Date accessed: 15 May 2020.
- Butler, Judith. *Gender Trouble*. New York: Routledge, 1999.
- Carpi, Daniela. 'Focus: Law, Literature and (Popular) Culture'. *Pólemos* 8:1 (2014) 1-9. DOI: 10.1515/pol-2014-0001.
- Comolli, Jean-Louis. 'Historical Fiction: A Body Too Much'. *Screen* 19:2 (1978) 41-54. DOI: 10.1093/screen/19.2.41.
- Custen, George F. *Bio/Pics: How Hollywood Constructed History*. New Brunswick: Rutgers University Press, 1992.
- De Beauvoir, Simone. *The Second Sex*. New York: Vintage Books, 2011.
- De Hart, Jane Sherron. *Ruth Bader Ginsburg: A Life*. New York: Alfred A. Knopf, 2018.
- Donaldson, Lucy Fife. 'Performing Performers: Embodiment and Intertextuality in the Contemporary Biopic'. *The Biopic in Contemporary Film Culture*, edited by Tom Brown and Belén Vidal. New York: Routledge, 2014. 103-117.
- Fortes, Pedro R. 'Affirmative Cinema: When Film-Makers Defend Minorities'. *Law and Popular Culture: International Perspectives*, edited by Michael Asimov and Shannon Mader. Cambridge: Cambridge Scholars Publications, 2014. 269-284.
- Hollinger, Karen. *Biopics of Women*. London: Routledge, 2020.
- Hollinger, Karen. *Feminist Film Studies*. London: Routledge, 2012.

- Ide, Wendy. 'On the Basis of Sex Review – Can't Do Justice to Ruth Bader Ginsburg'. *The Guardian*, 23 February 2019, <https://www.theguardian.com/film/2019/feb/23/on-the-basis-of-sex-review-ruth-bader-ginsburg>. Date accessed: 23 August 2021.
- Kuhn, Annette. *Women's Pictures: Feminism and Cinema*. London: Verso, 1994.
- Lee, Benjamin. 'On the Basis of Sex Review – Patchy Ruth Bader Ginsburg Biopic'. *The Guardian*, 9 November 2018, <https://www.theguardian.com/film/2018/nov/09/ruth-bader-ginsburg-on-the-basis-of-sex-review>. Date accessed: 23 August 2021.
- Lee, Hermione. *Biography: A Very Short Introduction*. Oxford: Oxford University Press, 2009.
- Mayer, Sandra, and Julia Novak. 'Life Writing and Celebrity: Exploring Intersections'. *Life Writing* 16:2 (2019) 149-155.
- Minda, Gary. *Postmodern Legal Movements: Law and Jurisprudence at Century's End*. New York: New York University Press, 1995.
- On the Basis of Sex*. Directed by Mimi Leder, performances by Felicity Jones and Armie Hammer, Focus Features, 2018.
- Papke, David R. 'The American Courtroom Trial: Pop Culture, Courthouse Realities, and the Dream World of Justice'. *South Texas Law Review* 40:4 (1999) 919-932. <http://scholarship.law.marquette.edu/facpub>. Date accessed: 23 August 2021.
- Polaschek, Bronwyn. *The Postfeminist Biopic: Narrating the Lives of Plath, Kahlo, Woolf and Austen*. Houndmills: Palgrave Macmillan, 2013.
- RBG*. Directed by Betsy West and Julie Cohen, Magnolia Pictures, 2018.
- Rosenstone, Robert A. *History on Film/Film on History*. Harlow: Pearson Education Limited, 2006.
- Scott, A. O. 'On the Basis of Sex Review: How Ruth Bader Ginsburg Became "Notorious"'. *New York Times*, 24 December 2018, <https://www.nytimes.com/2018/12/24/movies/on-the-basis-of-sex-review.html>. Date accessed: 23 August 2021.
- Sheehan, Rebecca A. 'Facebooking the Present: The Biopic and Cultural Instantaneity'. *The Biopic in Contemporary Film Culture*, edited by Tom Brown and Belén Vidal. New York: Routledge, 2014. 35-51.
- Sims, David. 'What It's Like Making Your First Film After 18 Years in "Movie Jail"'. *The Atlantic*, 16 January 2019, <https://www.theatlantic.com/entertainment/archive/2019/01/mimi-leder-on-the-basis-of-sex-director-sexism-hollywood-movie-jail-interview/580525/>. Date accessed: 23 August 2021.

- Thompson, Anne. 'Ruth Bader Ginsburg Guided *On the Basis of Sex*, Say Armie Hammer and Felicity Jones'. *Indie Wire*, 26 December 2018, <https://www.indiewire.com/2018/12/on-the-basis-of-sex-ruth-bader-ginsburg-armie-hammer-felicity-jones-1202030147/>. Date accessed: 23 August 2021.
- Vidal, Belén. 'Feminist Historiographies and the Woman Artist's Biopic: The Case of *Artemesia*'. *Screen* 48:1 (2007) 69-90. DOI: 10.1093/screen/hjm004.
- Vidal, Belén. 'Introduction: The Biopic and Its Critical Contexts.' *The Biopic in Contemporary Film Culture*, edited by Tom Brown and Belén Vidal. New York: Routledge, 2014. 1-32.
- Ware, Susan. 'Writing Women's Lives: One Historian's Perspective'. *Journal of Interdisciplinary History* 40:3 (2010) 413-435. DOI: 10.1162/jinh.2010.40.3.413.

About the Author

Christina Schönberger-Stepien is currently lecturer at the University of Augsburg, where she received her PhD in October 2020. Her doctoral research on second- and third-person autobiographical writing was fully funded by the German Academic Scholarship Foundation. She holds a PhD in English Literature, an MA in English and American Studies, and a Master of Education. In 2019, she held a Visiting Scholarship at the Oxford Centre for Life-Writing at Wolfson College. Her main research and teaching areas include life-writing, working-class literature, Victorian literature and, more generally, literary theory and British literature and culture from the 19th to the 21st century.

Email: schoenberger.ch@icloud.com

Notes

¹ De Beauvoir, Simone, *The Second Sex*, New York: Vintage Books, 2011 (330).

² All references preceded by the short title '*On the Basis*' are to the following source: *On the Basis of Sex*, directed by Mimi Leder, performances by Felicity Jones and Armie Hammer, Focus Features, 2018.

³ Referring to the Notorious B.I.G., one of the most influential and successful rappers of the 1990s.

⁴ Lee, Benjamin, 'On the Basis of Sex Review – Patchy Ruth Bader Ginsburg Biopic', in: *The Guardian* (9 November 2018), <https://www.theguardian.com/film/2018/nov/09/ruth-bader-ginsburg-on-the-basis-of-sex-review>, date accessed: 23 August 2021.

⁵ To avoid confusion, I will refer to the character in the film as 'Ruth' and to the historical person as 'Ginsburg'.

⁶ Brown, Tom, and Belén Vidal, 'Biopics', in: *Oxford Bibliographies* (27 July 2016), DOI: 10.1093/OBO/9780199791286-0206, date accessed: 15 May 2020. The reviews at the time were mixed. *Rotten Tomatoes* claims that '*On the Basis of Sex* is nowhere near as groundbreaking as its real-life subject,

but her extraordinary life makes a solid case for itself as an inspirational, well-acted biopic'. In a *Guardian* review, the film is considered a 'watchable', 'sympathetic' biopic. See: Bradshaw, Peter, 'On the Basis of Sex Review – Ruth Bader Ginsburg Starts Her Ascent', in: *The Guardian* (20 February 2019), <https://www.theguardian.com/film/2019/feb/20/on-the-basis-of-sex-review-ruth-bader-ginsburg-felicity-jones-armie-hammer>, date accessed: 23 August 2021. Another *Guardian* review calls the film a 'lurching melodrama' and a 'stolidly conventional "triumph against the odds" narrative.' See: Ide, Wendy, 'On the Basis of Sex Review – Can't Do Justice to Ruth Bader Ginsburg', in: *The Guardian* (23 February 2019), <https://www.theguardian.com/film/2019/feb/23/on-the-basis-of-sex-review-ruth-bader-ginsburg>, date accessed: 23 August 2021.

⁷ Alpern, Sara et al, 'Introduction', in: Sara Alpern et al. (eds.), *The Challenge of Feminist Biography: Writing the Lives of Modern American Women*, Urbana: University of Illinois Press, 1992, 1-15 (7).

⁸ Hollinger, Karen, *Biopics of Women*, Abingdon: Routledge, 2020 (2-3). This work offers the most recent and comprehensive study on women's biopics. For an earlier insight into feminist film studies, see Hollinger, Karen, *Feminist Film Studies*, London: Routledge, 2012.

⁹ Bingham, Dennis, *Whose Lives Are They Anyway? The Biopic as Contemporary Film Genre*, Piscataway, NJ: Rutgers University Press, 2010 (218-219).

¹⁰ Ginsburg's strong interest in words was intensified by one of her professors, Vladimir Nabokov. See: De Hart, Jane Sherron, *Ruth Bader Ginsburg: A Life*, New York: Alfred A. Knopf, 2018 (33).

¹¹ Kuhn, Annette, *Women's Pictures: Feminism and Cinema*, London: Verso, 1994 (4).

¹² Fortes, Pedro R, 'Affirmative Cinema: When Film-Makers Defend Minorities', in: Michael Asimow et al. (eds.), *Law and Popular Culture: International Perspectives*, Cambridge: Cambridge Scholars Publications, 2014, 269-284 (269).

¹³ Thompson, Anne, 'Ruth Bader Ginsburg Guided On the Basis of Sex, Say Arnie Hammer and Felicity Jones', in: *Indie Wire* (26 December 2018), <https://www.indiewire.com/2018/12/on-the-basis-of-sex-ruth-bader-ginsburg-armie-hammer-felicity-jones-1202030147>, date accessed: 23 August 2021.

¹⁴ Fortes (271).

¹⁵ Carpi, Daniela, 'Focus: Law, Literature and (Popular) Culture', in: *Pólemos* 8:1 (2014) 1-9 (2), DOI: 10.1515/pol-2014-0001.

¹⁶ Ibidem.

¹⁷ Carpi (6).

¹⁸ Ibidem.

¹⁹ Papke, David R, 'The American Courtroom Trial: Pop Culture, Courthouse Realities, and the Dream World of Justice', in: *South Texas Law Review* 40:4 (1999) 919-932 (927), <http://scholarship.law.marquette.edu/facpub>, date accessed: 23 August 2021.

²⁰ Idem (931).

²¹ Idem (930).

²² Lee, Hermione, *Biography: A Very Short Introduction*, Oxford: Oxford University Press, 2009 (17).

²³ Rosenstone, Robert A, *History on Film/Film on History*, Harlow: Pearson Education Limited, 2006 (92).

²⁴ As one of Ginsburg's classmates states in De Hart's biography, 'she seemed to have a natural ability to be logical and reasoned, and not let emotions get in her way'. See: De Hart (35).

²⁵ Vidal, Belén, 'Introduction: The Biopic and Its Critical Contexts', in: Tom Brown and Belén Vidal (eds.), *The Biopic in Contemporary Film Culture*, New York: Routledge, 2014, 1-32 (9), summarising Custen's observations.

²⁶ Ruth went to Cornell University first, where she met Martin Ginsburg. Marty was not threatened by Ruth's intelligence and was most progressive for a man of his generation. See: De Hart (65).

²⁷ See, for example: De Hart (87).

²⁸ De Hart (91).

²⁹ The way of detecting the disease is fictionalised in the biopic. Instead of breaking down while playing charades with friends, Marty had a car accident which led to the detection of his disease. See: De Hart (70).

³⁰ Note, for example, the emotionality in Ruth's assertion after Marty's diagnosis: 'We're never giving up. Keep working, keep studying. Jane will have her father. You will be a lawyer. I'm spending my life with you, Martin Ginsburg' (*On the Basis* 00:18:50).

³¹ De Hart (139).

³² A *New York Times* review reads: 'Historical narratives are best when they pique curiosity as well as satisfy it, and this one is too conscientious to proclaim its own comprehensiveness. It knows that it's a piece of a larger story, one that is very much unfinished'. See: Scott, A. O, 'On the Basis of Sex Review: How Ruth Bader Ginsburg Became "Notorious"', in: *New York Times* (24 December 2018), <https://www.nytimes.com/2018/12/24/movies/on-the-basis-of-sex-review.html>, date accessed: 23 August 2021.

³³ According to biographer De Hart, Ginsburg thought at the time: '[N]ever, never, she vowed, would she be threatening or emotional. Rather, she must lead the judges to the desired judgment in a way that would be comfortable for them. Moritz deserved to win. But her larger goal remained that of establishing equal protection as a viable weapon with which to attack sex discrimination in the law'. See: De Hart (129).

³⁴ A nod to the theoretical nuances of gender studies is also included, when in the brief for the Moritz case the word 'sex' is replaced by the word 'gender' to make it less distracting, even though the word 'sex' describes the biological factor as the basis for discrimination.

³⁵ Sheehan, Rebecca A, 'Facebooking the Present: The Biopic and Cultural Instantaneity', in: Tom Brown and Belén Vidal (eds.), *The Biopic in Contemporary Film Culture*, New York: Routledge, 2014, 35-51 (36).

³⁶ Sims, David, 'What It's Like Making Your First Film After 18 Years in "Movie Jail"', in: *The Atlantic* (16 January 2019), <https://www.theatlantic.com/entertainment/archive/2019/01/mimi-leder-on-the-basis-of-sex-director-sexism-hollywood-movie-jail-interview/580525>, date accessed: 23 August 2021.

³⁷ Bingham (222).

³⁸ RBG (00:21:50).

³⁹ Polaschek, Bronwyn, *The Postfeminist Biopic: Narrating the Lives of Plath, Kahlo, Woolf and Austen*, Houndmills: Palgrave Macmillan, 2013 (57).

⁴⁰ De Hart (120).

⁴¹ RBG (00:07:26); see: De Hart (25).

⁴² De Hart (56).

⁴³ Idem (78-80).

⁴⁴ Idem (104-144). Part of the problem was that modern legal theory at the time 'spoke the language of patriarchy', which is why feminist legal theory of the 1970s 'offered alternative stories to reveal the gender bias of law, and to expose how legal rhetoric of free choice and autonomy ignored other experiences and other knowledges.' See: Minda, Gary, *Postmodern Legal Movements: Law and Jurisprudence at Century's End*, New York: New York University Press, 1995 (140).

⁴⁵ De Hart (104). Ginsburg, who 'had yet to identify herself as a feminist', and her endeavour to promote gender equality were incited and informed by Simone de Beauvoir's *The Second Sex*. See: De Hart (119).

⁴⁶ Idem (121).

⁴⁷ Vidal, Belén, 'Feminist Historiographies and the Woman Artist's Biopic: The Case of *Artemesia*', in: *Screen* 48:1 (2007) 69-90 (77). DOI: 10.1093/screen/hjm004.

⁴⁸ Mayer, Sandra, and Julia Novak, 'Life Writing and Celebrity: Exploring Intersections', in: *Life Writing* 16:2 (2019) 149-155 (150).

⁴⁹ Brown and Vidal state that 'the biopic's showcase of film performance and its star-making capabilities have proved particularly fertile field of debate. [...] In our era of media convergence and the explosion of celebrity culture, the biopic is at the center of a new wave of scholarly interest in transmedia formats (such as the biopic/docudrama hybrids) and the possibilities opened up by a new digital culture obsessed with the self'.

⁵⁰ Vidal, 'Introduction' (11).

⁵¹ Comolli, Jean-Louis, 'Historical Fiction: A Body Too Much', in: *Screen* 19:2 (1978) 41-54 (49). DOI: 10.1093/screen/19.2.41.

⁵² Donaldson, Lucy Fife, 'Performing Performers: Embodiment and Intertextuality in the Contemporary Biopic', in: Tom Brown and Belén Vidal (eds.), *The Biopic in Contemporary Film Culture*, New York: Routledge, 2014, 103-117 (105).

⁵³ Vidal, 'Introduction' (11).

⁵⁴ As Brown and Vidal point out, at its origins 'the biopic began to be studied as a form of historical cinema, and as such it could become the target of historians' concerns about fidelity and (mis-) representation, agency, and the ideological subtexts underpinning the retelling of history as well as the reconstruction of national narratives'.

⁵⁵ Vidal, 'Introduction' (3).

⁵⁶ Women's rights activist Gloria Steinem says about Ginsburg in the documentary *RBG*: 'She is [...] the closest thing to a superhero I know' (00:02:56).

⁵⁷ Sheehan (36).

⁵⁸ Butler, Judith, *Gender Trouble*, New York: Routledge, 1999 (xix).

⁵⁹ Ware, Susan, 'Writing Women's Lives: One Historian's Perspective', in: *Journal of Interdisciplinary History* 40:3 (2010) 413-435 (417). DOI: 10.1162/jinh.2010.40.3.413.

⁶⁰ Vidal, 'Introduction' (3).