

The death of Ruth Bader Ginsburg (1933-2020)

By Tom Carter
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The death of Supreme Court Justice Ruth Bader Ginsburg on Friday has occasioned an around-the-clock artillery bombardment of tributes from sections of the American media aligned with the Democratic Party. These tributes present the late Supreme Court justice as a “progressive icon,” praising her to the skies and crediting her with significant responsibility for the social gains of women towards equality over the past half-century.

This is not the American population’s first experience with such nationwide canonization campaigns, which have coincided with the deaths of John Lewis, Antonin Scalia, Ronald Reagan, Nancy Reagan, John McCain, and numerous others.

It is not a question of “speaking ill of the dead” but of maintaining a standpoint of independence and objectivity, and of not getting swept away by the deluge of official propaganda.

These campaigns of official mourning are a ritualized spectacle of American political life. The deceased is inevitably held up as an “icon,” a “towering figure” and a “legend.” Every bourgeois politician and media personality is expected to line up to render the proper obeisance, with each individual politician “paying respects” becoming a news item in itself.

The accomplishments of the decedent, sometimes real and sometimes invented, are spun out of all proportion to reality. The propaganda campaign functions as a sort of loyalty test, with anyone who is not willing to recite the official slogans flagged as a possible traitor.

The *New York Times* proclaimed Sunday that the “nation mourns” the death of Ruth Bader Ginsburg, a “trailblazing feminist.” Ginsburg has been eulogized as a “progressive icon” (NPR, *Washington Post*), “feminist leader” (Vox), “feminist icon” (*New York Times*, NBC News), and a “jurist of historic stature” (*Los Angeles Times*). President Trump himself issued a statement calling Ginsburg a “titan of the law.”

The *New York Times* went so far as to claim that Ginsburg “transformed the roles of men and women in society.” The increasingly implausible and even absurd claims that are now being made about Ginsburg were anticipated by the release of two propaganda films within a one-year period, which have been part of a major effort by the Democratic Party and its media affiliates to paint a holy aura around the most senior justice on the Supreme Court’s ostensibly “liberal” wing.

The real Ruth Bader Ginsburg is a more complex figure than the national saint being presented in the media.

At the time of her appointment to the Supreme Court in 1993, Ginsburg was not considered a “progressive icon” but a “moderate-to-conservative” judge, occupying “center” positions acceptable to both Democratic and Republican parties of the time. On her nomination, President Bill Clinton stated, “Ruth Bader Ginsburg cannot be called a liberal or conservative. She has proved herself too thoughtful for such labels.” She was confirmed by a Senate vote of 96-3.

The *New York Times*, which is now hailing Ginsburg as a hero of radical and trailblazing reformism, was far more restrained in its own coverage of her nomination. In an article published in the Times on June 15, 1993,

journalist Richard L. Berke presented Ginsburg as occupying a “center” position between Republicans and Democrats: “In her 13 years on the United States Court of Appeals for the District of Columbia Circuit, the 60-year-old Brooklyn-born judge has occupied an unpredictable center on a panel that has grown into rigidly hostile ideological camps. She has ruled in favor of abortion rights, but has also criticized the 1973 Supreme Court decision that made abortion a Constitutional right [i.e., *Roe v. Wade*], saying it went too far, too fast.”

As a Supreme Court justice since 1993, Ginsburg proved herself a reliable steward of the longterm interests of American imperialism, with her jurisprudence conforming to that same “moderate-to-conservative” inclination for which she was known on the D.C. Circuit.

In 2014, for example, Ginsburg joined a 9-0 unanimous Supreme Court decision granting qualified immunity to the police officers who killed Donald Rickard and Kelly Allen.

Police had attempted to pull over Donald Rickard in July 2004 because he had only one working tail light. Rickard unsuccessfully attempted to flee, his car eventually spinning out into a parking lot where police tried to box him in with their cruisers. When Rickard maneuvered his car in an effort to drive away, police opened fire with a hail of 15 bullets, causing the car to crash. Rickard was struck by gunfire and killed, and so was Kelly Allen, who was seated in the passenger seat.

Rickard’s daughter sued the police for wrongful death, alleging that the use of lethal force was excessive and unreasonable. The police claimed “qualified immunity,” but both the federal district court and the Sixth Circuit Court of Appeals sided with Rickard’s family in allowing the case to proceed.

When the police appealed to the United States Supreme Court, the Obama administration sided with the police, with Solicitor General Donald B. Verrilli, Jr. filing a brief arguing for immunity.

In May 2014, the Supreme Court unanimously granted qualified immunity to the police, and Rickard’s daughter’s case was thrown out of court without a trial. In the context of already endemic police brutality, the decision was a green light for more police killings. Together with supposed “progressive icon” Ruth Bader Ginsburg, the unanimous decision was also joined by Obama appointees Sonia Sotomayor and Elena Kagan.

In addition to the Rickard case, Ginsburg joined a decision in 2014 expanding the doctrine of qualified immunity from police to paid agents of the state who are not full-time employees, and in 2017, signed off on a decision permitting Donald Trump’s anti-Muslim travel ban to go into effect.

In February 2012, Ginsburg traveled to Egypt on behalf of the State Department. At that time, Egypt was ruled by a US-backed military junta, which had been installed in the wake of mass protests that deposed dictator Hosni Mubarak.

Ginsburg’s role, which she discussed with Secretary of State Hillary Clinton and which was announced by State Department spokesperson

Victoria Nuland, was to lend credibility to the junta's promise to develop a new constitution and make a "transition to democracy."

In reality, what followed was not a "transition to democracy" but mass executions of dissidents and political opponents. In just one day in 2014, 700 death sentences were handed down.

In recent years, Ginsburg occasionally wrote opinions dissenting from the more extreme reactionary decisions of the far-right majority, such as the 2013 Supreme Court decision gutting the landmark Voting Rights Act. For emphasis, in accordance with the Supreme Court custom, she would sometimes read these dissenting opinions from the bench.

Juxtaposed with the fascistic grunting of Supreme Court justices like Antonin Scalia and Clarence Thomas, if Ginsburg's dissents appear as more reasonable, that is only an indication of how far the American political establishment has traveled to the right over the span of her tenure on the court.

During her first decade on the Supreme Court, Ginsburg occupied a position to the right of John Paul Stevens, who had been appointed by Republican President Gerald Ford. Asked how a Republican appointee had wound up on the far left "liberal" wing of the Supreme Court, Stevens would say that he had not moved, but that the Supreme Court had shifted to the right while he had remained in place.

Similarly, to the extent that Ginsburg ended up writing occasional dissents criticizing the far-right majority that emerged in the first two decades of the 21st century, it is only because the court had shifted so far to the right that a "moderate-to-conservative" judge of the early 1990s wound up constituting the far left wing.

Many of the media tributes to Ginsburg refer to her work in the 1970s as an advocate for women's rights. She cofounded the Women's Rights Project at the American Civil Liberties Union (ACLU) in 1972, and before becoming a judge in 1980, she litigated a number of significant cases challenging legalized discrimination based on gender.

It is not to diminish the democratic significance of overturning legalized discrimination to point out that by the time of Ginsburg's feminist legal advocacy, the outcome of these cases was already a foregone conclusion. At the time, the United States was lagging behind many other countries in terms of abolishing openly discriminatory laws, a point that Ginsburg herself made repeatedly in her arguments from this period.

In the context of the ideological campaign against communism and the Soviet Union, it was increasingly considered an international embarrassment to the United States that openly racist and sexist laws were still on the books in many parts of the country. If anything, the scandal is that it took so long to abolish them. The Supreme Court did not strike down Louisiana's so-called "Head and Master law," which gave sole control of marital property to the husband, until 1981.

Ginsburg's rise through the ranks of the legal profession coincided with the ebbing of the wave of social struggles that had culminated in the protests against the war in Vietnam and in the civil rights struggles to end segregation and Jim Crow apartheid in the South. Just as an effort was made to bring the more conservative sections of the civil rights movement under the wing of the Establishment, exemplified by the trajectory of John Lewis, Ginsburg's elevation represented an effort to bring "women's liberation" into the service of American imperialism.

This trajectory is best exemplified by Ginsburg's decision in the case that is most often held up as her great accomplishment, a famous 1996 Supreme Court opinion permitting women to attend the traditionally all-male Virginia Military Institute.

Known as the "West Point of the South," VMI is a historic bastion of bigotry and reaction, where students would traditionally sing "Dixie," salute the Confederate flag, and pay their respects to the tomb of Confederate General Robert E. Lee.

As Ginsburg wrote in her opinion, "VMI cadets live in spartan barracks where surveillance is constant and privacy nonexistent; they wear

uniforms, eat together in the mess hall, and regularly participate in drills. ... Entering students are incessantly exposed to the rat line, 'an extreme form of the adversative model,' comparable in intensity to Marine Corps boot camp. ... Tormenting and punishing, the rat line bonds new cadets to their fellow sufferers and, when they have completed the 7 month experience, to their former tormentors."

Noting that "[w]omen cadets have graduated at the top of their class at every federal military academy," Ginsburg reasoned that there were no constitutional grounds to deny women admission into the institute.

This was the logical end point of the "trailblazing feminism" of Ginsburg: women in command of invading and occupying armies, women with the codes to launch nuclear missiles, female torturers, female assassins, female war criminals, and women and men brutalized together in the barracks.

Ginsburg is often quoted as saying, "women belong in all places where decisions are being made," and this quotation sums up her particular brand of feminism. Her objection is not to the capitalist system, or to the rotten and criminal social order, but to the fact that the positions of power, prestige, and influence within that system are not as accessible to women as they should be. In this regard, it is necessary to take note of her uncritical endorsement of the "#MeToo" campaign, a media-instigated witch hunt that ran roughshod over the presumption of innocence.

It is also necessary, in the context of any review of her tenure on the Supreme Court, to mention her close personal friendship with Antonin Scalia, an arch-reactionary and bigot whose antics disgraced the Supreme Court from 1986 to 2016. This friendship, which the media celebrated as a demonstration of "bipartisanship" and "civility," extended to regular trips to the opera, where they made their appearances in Washington society, as well as travel abroad. In one particularly notorious photo, they were shown riding an elephant together in India.

Ginsburg was by no means the most villainous character on the American political scene, which is teeming with unsavory characters. She was among the last Supreme Court justices who was able to write in language that still echoed, however faintly, the democratic legal traditions that could be traced to the American Revolution and Civil War. (In the VMI case, she wrote, quoting historian Richard Morris: "the history of our Constitution ... is the story of the extension of constitutional rights and protections to people once ignored or excluded.")

And in her writings and public appearances, Ginsburg conducted herself with relatively more prudence, thoughtfulness, and decency than is otherwise common in American politics, which as a general rule is abysmally degraded and filthy.

One senses that the media has manufactured and then exaggerated a great deal of Ginsburg's supposed popularity, but to the extent that any such popularity genuinely exists, it was these qualities that contributed to her appeal.

Ginsburg displayed open contempt for Donald Trump when he began his campaign for president, and was later compelled to confess that her conduct was "ill advised." She had not thought it possible that a semiliterate real estate swindler would actually win the nomination and the election. The unfolding political crisis in America seems to have crashed over this aging liberal in the twilight of her life, as she witnessed her doctrine of patient and incremental change being overtaken and shattered by events she had not foreseen.

As her death approached, Ginsburg reportedly dictated a statement to her granddaughter: "My most fervent wish is that I will not be replaced until a new president is installed."

There is a note of dismay and panic in this highly unusual and even tragic last testament. Indeed, the abrupt news of her death was greeted with the sound of thousands of daggers being unsheathed in Washington, D.C. Her body was likely still warm when Christian fundamentalists and leading figures in the Republican Party began celebrating shamelessly and

publicly, proclaiming their intention to ram through a replacement before the November elections.

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