

Ruth Bader Ginsburg, Saying and Being Everything of Value (1933-2020)

*John Q. Barrett**

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In late January 2020, Justice Ruth Bader Ginsburg gave what is to my knowledge her last extensive on-the-record interview. Justice Ginsburg spoke to lawyer and *Slate* Supreme Court reporter Dahlia Lithwick at the Court for almost a full hour.

Justice Ginsburg gave this interview as part of an excellent research and reporting project. Dahlia Lithwick and her colleagues produced “The Class of RBG,” an [Amicus podcast](#) and companion online text report, about the experiences of Ruth Bader Ginsburg and nine other women who, along with five hundred or so men, entered Harvard Law School as first-year students in September 1956.



1957-1958 *Harvard Law Review* editors

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For an archive of selected Jackson List posts, many of which include document images or photographs, visit <http://thejacksonlist.com>. This piece is posted there with “live” hyperlinks.

To subscribe to The Jackson List, which does not display recipient identities or distribute their email addresses, use the “Subscribe” button at <http://thejacksonlist.com/> or email me at barrettj@stjohns.edu.

I encourage you to listen to the full podcast, and to join *Slate Plus*, the podcast subscription platform.

But you do not need to subscribe now to hear the full podcast—it is posted here, outside the paywall:

- Click here for [Part One](#); and
- Click here for [Part Two](#).

I also encourage you to listen, even before you listen to the podcast, to Justice Ginsburg’s full interview. Since her death on Friday evening, it has been released in full outside the *Slate Plus* paywall, and it is extraordinary.

So, download and listen to *Amicus* podcast’s “An Interview with Justice Ruth Bader Ginsburg.” Every minute is one to savor, especially in this sad time. You can get this podcast for free wherever you get your podcasts. (If you are not familiar with downloading podcasts, a young-ish person can assist you.) You also can listen to the full Ginsburg interview by [clicking here](#).

I will highlight one spot in Justice Ginsburg’s interview because it echoes a message that I was lucky to get directly from her. In the interview, at time counter reading 19:00, and again at 41:55, Justice Ginsburg described her first year Civil Procedure professor at Harvard, Benjamin Kaplan. That second mention of him occurred in the wonderful “after-interview” portion of the interview—the Justice kept talking after the interviewers thought that they were done, and you will hear them packing up their equipment only to stop, and luckily they kept recording, because Justice Ginsburg was still speaking. She called Professor Kaplan “one of the— maybe the best teacher I ever had....” She explained that “[h]e was never— never did anything to wound or offend. He was a master of the Socratic technique, but he always used it in a positive way. So if a student would give an answer, he would rephrase it and say, ‘You mean—’”

I was very fortunate to know Benjamin Kaplan in his old age, and in our conversations to get much of that kind of brilliant and gentle teaching. He told me—taught me—much about 1945, when he was an important lawyer on Justice Robert H. Jackson’s U.S. team prosecuting Nazi war criminals at Nuremberg following World War II.

When Ben Kaplan died in 2010, I wrote a Jackson List post about him.¹ Justice Ginsburg read it and then very kindly wrote to me about her great admiration for Ben Kaplan. (She also published a beautiful essay tribute to him.²)

Near the conclusion of her January 2020 interview, Justice Ginsburg identified an urgent problem that she saw as a law student and that still plagues us today:

It's unconscious bias. It's the expectation— your lowered expectation when you hear a woman speaking. I think that still goes on, that instinctively, when a man speaks, he will be listened to, where people will not expect the woman to say anything of value. All of the women of my generation have had, time and again, that experience, where you say something at a meeting and nobody makes anything of it. And maybe [a] half hour later, a man makes the identical point, and people react to it and say, "Good idea." That, I think, is a problem that persists. And getting over unconscious bias by becoming conscious of it— I've told the story about the symphony orchestra many times, how people were so sure that they could tell the difference between a woman playing and a man. And when blindfolded, they could not.

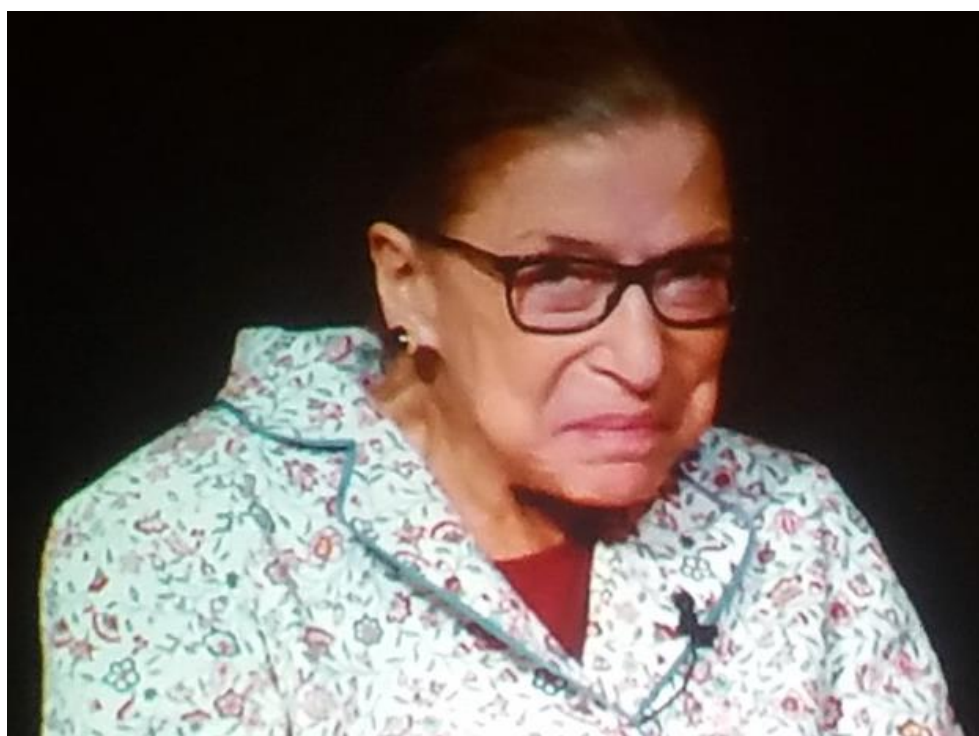
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¹ See John Q. Barrett, *Benjamin Kaplan (1911-2010), Nuremberg Architect & Prosecutor*, THE JACKSON LIST (post of Aug. 22, 2010), <https://thejacksonlist.com/wp-content/uploads/2014/02/20100822-Jackson-List-Ben-Kaplan.pdf>.

² See Justice Ruth Bader Ginsburg, *In Memoriam: Benjamin Kaplan*, 124 HARVARD LAW REVIEW 1349-51 (April 2011), available online at https://harvardlawreview.org/wp-content/uploads/pdfs/vol124_kaplan_tribute.pdf.

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We are beyond lucky to have had Justice Ruth Bader Ginsburg in our time. In her life, her teaching, her judging, and her writing, she changed expectations in the U.S. and worldwide. She taught us about excellence and equality by saying so well, by being so tangibly, so obviously, so much of high value.



June 15, 2018: Justice Ruth Bader Ginsburg at the Second Circuit Judicial Conference, Saratoga Springs, New York (photograph © by John Q. Barrett)