

A Brief Analysis of Ruth Bader Ginsburg from the Theory of Existential Feminism

Han Bao^{1,a,*}, and Jiaruo Lin²

¹*School of Yan Zi Ji, Nanjing, 210000, China*

²*Beijing Academy, Beijing, 100000, China*

a. baohan@ldy.edu.rs

**corresponding author*

Abstract: *Ruth Bader Ginsburg* is a documentary film that recreates the life of Justice Ginsburg in the form of interviews. Ruth Bader Ginsburg is the second woman to serve on the U.S. Supreme Court. As a leader of the women's equality movement, she has devoted her life to improving the status of American women and eliminating potential gender discrimination in society. Under the patriarchal society, women have become "the other" in the marginal position of society. With the beginning of the Second Wave of Feminism, more and more people support gender equality, and women resist the current situation of inequality. In this process, Beauvoir put forward the theory of existential feminism. This theory suggests that women, as separate individuals, should not be subservient to men, which happens to have similar ideas to Ginsburg's idea of affirmative action. At present, there are few literature studies on the connection between Ginsburg, a prominent contributor to the feminist movement in the field of law, and the representative theory of the Second Wave of Feminism. This paper used theoretical and text analysis research methods, applying the theory of existential feminism to analyze Ginsburg and build connections for the plot in the documentary, which looks at Ginsburg's lifetime contribution to affirmative action from a relatively new perspective.

Keywords: Ruth Bader Ginsburg, equal rights between men and women, existential feminism, second wave of feminism

1. Introduction

With the awakening of women's thought, the Second Wave of Feminism was set off in order to obtain the equal social status of men and women. Women were once considered to be subordinate to men, subordinate to society, and not considered to be independent individuals. Women's freedom and personality are constrained by social rules.

Ruth Bader Ginsburg, the second woman to serve on the U.S. Supreme Court, is also an affirmative action advocate. In the 1950s, she made the following statement in court: "Women today face discrimination in employment, as pervasive and more subtle, than discrimination encountered by minority groups." According to the social situation at that time, such social discrimination against women existed in the whole society, not only in the workplace. Ginsburg said, "These distinctions have a common effect: they help keep women in her place, a place inferior to that occupied by men in our society." Kate Millet, a seminal figure in the Second Wave of Feminism, argues that the result

of this seemingly invisible discrimination is that women under the social conditions at that time cannot even tell whether they are being treated unfairly by society [1]. In the middle of the last century, Ginsburg began her lifelong struggle for the equal rights of men and women. The experience of unfair treatment made Ginsburg full of sympathy for women who were still oppressed by society and also strengthened her belief in seeking fair interests for women. What Ginsburg pursued and fought for was never that women should get different privileges from men, but tried to maintain the rights and freedoms that women should have. Simone de Beauvoir, one of the representatives of the feminist movement, also said that women must take their destiny into their own hands. In *The Second Sex*, she elaborated the theory of existential feminism, emphasizing that women should become free subject, get rid of the status quo of being dependent on men, pursue their own ideals and realize their own values [2].

In the Second Wave of Feminism, Ginsburg continued to fight for women's rights. She has promoted the change of the status of women in the world, and her lifetime contribution has had a huge and far-reaching impact on later generations. In the existing studies, few of them have built a connection between Ginsberg and the ideological theories of the Second Wave of Feminism and analyzed them based on this. Both of them are important figures in the affirmative action movement, and their ideas are equally similar. Few people know that the ideas Ginsburg uses to deal with cases contain the theory of existential feminism, so this study tries to connect Justice Ginsburg with the Second Wave of Feminism and analyzes Justice Ginsburg through the representative theory of existential feminism. Let more people know the theory of existential feminism, and also let more people know the contribution of Beauvoir and Ginsberg to affirmative action.

2. Theoretical Framework

Since its rise, the main thrust of the feminist movement has been to oppose and eliminate social discrimination, oppression and exploitation of women. Before the 1960s, women existed as the social status at the bottom. Under the severe patriarchal society, women were educated and instilled with the concept of relying on men and even being dominated by men, and they lost the right to choose their life fate. The deepening oppression and discrimination and the development of society made women's consciousness begin to awaken, thus forming the Second Wave of Feminism. This wave, as the development and continuation of the first feminist wave, is much larger and more influential than the first one [3].

The resistance of female groups to the marginalized status of society under men is embodied in the propositions of existential feminism. This theory is systematically explained in *the Second Sex* by Beauvoir, a leading figure of the Second Wave of Feminism. Before that, women were confined to a social status inferior to men and suffered from social discrimination. As a French woman writer, Beauvoir is also one of the important representatives of the feminist movement. Her theory and creation have influenced the contemporary and later feminist movement and trend of thought for nearly 100 years.

Unwilling to submit to women being confined to a social status inferior to men, Beauvoir fought against them. She showed that the oppression and exploitation of women by patriarchal society led to the loss of their subjective initiative and the "objectification" of women under such long-term social discrimination [4]. Women in such confinement are molded into what the male-dominated society has disciplined them. Women should not exist as appendages of male subjects, they should also have independent personalities and exist as independent individuals. Women should have equal rights and social status with men, rather than "the other" who are marginalized in a male-dominated society. This represents the awakening of women to pursue their own rights and is one of the important symbols of the Second Wave of Feminism.

3. Ginsburg's Path to Equality

In the film, Ruth Bader Ginsburg (March 15, 1933 - September 18, 2020), life fragments and life memories record her life path, the early film introduces Ginsburg's childhood life and youth school experience. Born into a Jewish family in Brooklyn, New York, Ginsburg was undoubtedly lucky, strong and brave as one of the "victims" of the patriarchal society in the 20th century. With her childhood playmates, she recalled her mother as the initiator and educator of her thoughts and played a guiding role in her later ideas. When she was young, Ginsberg was able to enter the law school with her excellent grades. Such a learning opportunity does not represent the disappearance of social discrimination against women. Women's study and job hunting in the legal field have been opposed by society, and the outstanding Ginsberg failed to escape the fate of repeated rejection of job hunting after graduation. The injustice of The Times for women is in an imposing manner, but it also strengthened Ginsberg's ideological path of seeking equal rights for women.

In the middle and back of the film, Ginsburg's lifetime contribution to gender equality is connected through the typical cases related to gender discrimination accepted and heard by Ginsburg until she became a lawyer and served as a justice. Ginsburg is loyal to defending women's rights and interests and has accepted countless cases of gender discrimination in her life. Ginsburg said that the best explanation for feminism is "free to be you and me", and she advocated that society should pay more attention to cases that are treated differently because of gender. In the film, she says: "I think generally in our society, real change, enduring change, happens one step at a time." Her quest for broad freedom led to the reconstruction of gender norms and the transformation of social structures, a historic leap that is still in progress and cannot be delayed [5].

In the Second Wave of Feminism, women began to get rid of the identity of the marginalized "the other". Ginsburg brought the discrimination against women to the court so that society would pay attention to the problems encountered by women in the field of law attention. At that time, the social, legal system had deep-rooted injustice and discrimination against women. Ginsberg opposed the widespread and subtle discrimination against women under the legal system, and her ideological consciousness promoted the historical process of gender equality in the United States. Former U.S. Secretary of State Hillary Clinton praised her for "Ginsburg pave the way for so many women, including me. There will never be another like her. Thank you RBG."

4. The Connection Between Case and Theory

The film takes a large number of cases concerning social gender discrimination accepted by Ginsberg throughout her life as the main line to connect the whole documentary, and the connection between her thoughts and Beauvoir's existential feminism is reflected in it.

4.1. Women's Right to Abortion

With the rise of the Second Wave of Feminism, the resistance to the marginal social status of females "the other" began the feminist movement with the slogan of "reproductive rights", to call on women to have the right to abortion. Ginsburg promoted the development of women's reproductive rights through *Roe v. Wade*, *Geduldi v. Aiello* and other cases, and Congress also passed the Anti-Pregnancy Discrimination Act. However, later, Congress banned partial-birth abortion because of the impact of abortion on pregnant women's health.

Ginsburg has a strong attitude in this regard. She shows that women want autonomy [6], and this kind of bill that seems to "protect" women actually seriously infringes on women's legitimate rights and interests and violates the proposition of the Constitution [7]. Women should be free to decide their own life trajectory, and society should protect women's decision-making rights. In the Second Wave of Feminism, female groups believe that the individual is politics, emphasize the important role

of the individual as an individual's body and mind in politics, and identify the social problems faced by women as political issues [8]. As Beauvoir once said, "Women must take their fate into their own hands" [2]. Under Ginsburg's call, people began to re-examine women's reproductive choices, which greatly improved the social situation of women as an appendage of men and the family.

4.2. **Reed v. Reed**

In 1971, the first sex discrimination case to reach the Supreme Court since the 1960s, *Reed v. Reed*, was represented by Ginsburg. At the time, the law stated that among several persons with equal rights, preference must be given to men. And divorce client Sally Reed's status as a woman placed her right to inherit her son's estate after her ex-husband's. Ginsburg pointed out that women should not be treated differently because of gender reasons beyond their control, which infringes on women's legitimate rights, and she used sharp words to let the justices understand that gender discrimination is also a violation of the legitimate rights of citizens. Ginsburg eventually won the case, and the court struck down the law that discriminated based on sex [6].

Under the social conditions at that time, some federal laws believed that women, as marginalized objects whose social status was lower than that of men and who depended on men for survival, were unable to maintain heritage well compared with men due to their weak and incompetent physical characteristics. If women cannot prove that their husbands are completely incapable of administering the estate, then it is clear that the estate does not belong to them under legal recognition. Obviously, women are still in a weak position in society and appear as weak. De Beauvoir believed that women, as "the other", lost their initiative and passively accepted social discipline. Ginsburg argued that gender is innate and that women should not be treated differently by society or even the law because of objective factors they cannot choose. She advocated the revision of relevant laws to broaden the path for women to pursue equal rights.

4.3. **Ledbetter v. Goodyear**

After Ginsburg became a Supreme Court justice, she heard *Ledbetter v. Goodyear Co.*, in which Ledbetter was repeatedly sexually harassed and paid less than men for the same work; the court ruled that there was not enough evidence to identify the company as a hostile work environment for her. Eventually, Ginsburg issued a dissent calling for the case to be addressed. After numerous media reports, Congress reversed the Supreme Court's decision and passed the Lilly Ledbed Fair Pay Act.

In the social situation at that time, the employment scope of women was already narrow, mostly low-income occupations, and women were regarded as weak, obedient, uncompetitive, and passive groups [9]. The American society, which advocates that "all people are born equal", avoids "human rights" [10]. The discrimination in the workplace is hidden, and women have become inferior to men under the backlog of this kind of discrimination that is easily ignored. In the process of the women's movement, women in the pursuit of equal rights began to try to solve the problem of gender discrimination in violation of social norms from the legal level. As a justice, Ginsburg tried to correct the loopholes in the law that male judges could not understand. Her efforts made women gain more respect in the workplace. As Beauvoir argued, women's dependence on men was reduced, and women's subordination to men was reduced, allowing them to work relatively independently and get their due pay.

4.4. **United States vs. Virginia**

The single-sex education of Virginia Military Academy strictly divides men and women according to sex, strengthens gender stereotypes, and discriminates against women. They see women as weak, unable to achieve great things, let alone participate in the war. This kind of single-sex education

seems to help women get away from the extreme way of life and learning, but in fact, this male-only enrollment policy deprives women of the equal right to education with men, thus aggravating social inequality. Ginsburg explained the objective unfairness of this policy through the implementation basis, and finally, the court ruled that this policy did not meet the equal protection clause, and later, some women studied in this school [6].

Society's stereotype of women has influenced women's educational path. The education the people receive determines their outlook on life, which has been shaped since their childhood. Society judges women as weak, weak objects that need to be protected, and men, as social subjects [11], are refused admission to military colleges because women are generally weak. Society's inherent stereotypes prevent women from choosing what they want to study and what they want to do. "Women are not born, they are made" [2]. Beauvoir once said of society's perception of women. When Ginsburg climbed trees, climbed rooftops, and ran around the backyard in pants like a boy, it was not understandable at the time, and women grew up wearing dresses and tying up their hair. When she was young, Ginsberg was lucky that the restrictions of society had not yet fallen on her, which made her free all her life, mind and soul, and she pursued the freedom of women from the spirit to the body, from the inside out.

5. Conclusion

No matter in Ginsberg's era or today, the issue of women's pursuit of equal rights has never been a reasonable result, but there are souls in every era who pursue freedom and lead women to a higher social class. In the film, Ginsburg, as the second female justice in the history of the United States Supreme Court, changed the situation of women in society to a certain extent by appealing various cases for gender equality and fighting for the rights of women. Her idea of equal rights is similar to the existential feminism of Beauvoir, whose theory is reflected when Ginsburg accepts cases. They both hope that women can get rid of the bondage of men, freely pursue life and enjoy due rights. As she takes on case after case, the status of women is slowly improving. This paper analyzes Ginsberg's Existential feminist theory and looks at Ginsberg's contribution to equality in her life from a relatively new perspective. Because there are few studies to explain the embodiment of existential feminism in Ginsberg's case and the similarities between the two theories, this paper only builds the connection between the theory and the case and analyzes the surface without particularly in-depth exploration. Hopefully, more people will pay attention to Beauvoir's theory and Ginsberg's efforts for the affirmative action movement. It is also hoped that when giving women rights, they will also be given equal freedom and the right to choose their own life, hoping that they will no longer be treated differently by society because of their objective gender.

Author's Contribution

All the authors contributed equally, and their names were listed in alphabetical order.

References

- [1] Millett, K. (2000), *Sexual Politics*. Jiangsu People's Publishing House.
- [2] De Beauvoir, S. (1988), *The Second Sex*. China Book Publishing House.
- [3] Gu Xidan. (2023). Beauvoir's "Second Sex" Conceptual Analysis and Its Inspiration. *Journal of Chaohu University* (01),23-29.
- [4] Jin Tipu. (2018). Women and the Other: Interpreting the Second Sex. *Journal of Heihe University*(02),157-158.
- [5] Zheng Luoluo. (2022). On Ruth Bader Ginsburg's View of Justice (Master's Thesis, Sichuan University of Foreign Chinese).
- [6] Zheng Yueming. (2020). Justice Ginsburg's Affirmative Action Research (Master's Thesis, Liaoning University).

- [7] Zhu Hongda & Jin Hengshan. (2022). *Constitutional Interpretation of the U.S. Supreme Court's Abortion Rights Case: An Examination from Roe Case, Casey Case to Dobbs Case*. *American Studies* (02), 97-124+280-281.
- [8] Liu Bohong. (2002). *International Women's Movement and Women's Organizations* [M]. China Women's Publishing House.
- [9] Liu Jie. (2008). *Research on the Unequal Pay of Women and Men in the United States (60s-70s of the 20th Century)* (Master's Thesis, Nanjing Normal University).
- [10] Li Xin & Qi Qingwen. (2020). *The Shaping and Mission of Legal Persons: "Dissenting Moments: The Discredited Justice Ginsburg" after reading*. *Sichuan University Law Review* (01), 255-267.
- [11] Tang Boyuan. (2023). *A Study of Beauvoir's Women's Free Thought* (Master's Thesis, Hubei University).