The Sound of RBG

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The Notorious Aficionado

The year 2023, which is slowly approaching its end, has marked a twofold jubilee of the late US Supreme Court Justice Ruth Bader Ginsburg. It is both the 90th anniversary of her birth and the 30th anniversary of her Supreme Court appointment. Her immense impact on US law and culture has been honored in a variety of ways, from a special issue of the Harvard Law Review and a ship's name to a LEGO figure. One dimension of her remembrance, however, often escapes notice, although it offers a unique understanding of RBG's legacy. This dimension is classical music. Music history has on many occasions venerated living or recently deceased contemporaries – it is enough to mention Verdi's *Requiem* and the tangled ways of Beethoven's *Eroica* dedication. It is, however, an extremely rare form of tribute when extended to lawyers for the sake of their legal accomplishments as such. It is hence even more striking that RBG became the subject of several classical music compositions (not to mention popular songs). They encompass a cycle, *The Long View: A Portrait of Ruth Bader Ginsburg in Nine Songs*, a string quartet in memoriam of RBG and other pieces as well. This phenomenon can only in part be explained by the fact that RBG herself was notorious for her love of classical music, especially opera. The actual reasons are more complex and offer insights into the intrinsic cultural link between music and law. Three of the RBG-themed compositions are particularly telling in this regard. Let's take a look at them.

Scalia/Ginsburg

RBG became a classical music protagonist or the first time in 2015 when Derrick Wang (holder of dual degrees in music and law) published in the Columbia Journal of Law & the Arts his libretto for an opera titled *Scalia/Ginsburg*, for which he also composed music. The opera was from the outset intended as a playful rendition of the clash between two approaches towards law within the US Supreme Court, for over two decades personified by RBG and Antonin Scalia as the most vociferous promoters. Its libretto is composed of quotes from judicial opinions, texts, and other public statements by the two Justices, painstakingly embroiled with references to the operatic tradition (mostly resolved by the author in robust footnotes). The plot is a humorous reiteration of a classic scenario that sees Justice Scalia imprisoned by a divine force ("a celestial bureaucrat") in the Court's building for his excessive dissenting from Supreme Court judgments. To be freed, he has to undertake three tasks and defend thereby his view on law. Justice Ginsburg comes to his rescue, and they undergo the scrutiny together, singing the duet "We are different, we are one". This quote encapsulates at the same time the main message of the opera which – besides its parodic spirit – advocates an inclusive legal order which can bring together opposing views on the nature of law and its role in democracy. *Scalia/Ginsburg* was successfully staged in a few US opera theaters, and was academically analyzed for its general conception of both legal order and legal interpretation as well as for its further ramifications.

Reflection of Justice

Shortly after RBG's passing away in the fall 2020, Jeffrey Biegel, a concert pianist and composer, dedicated to her a piece for a piano solo (also later orchestrated by Harrison Sheckler): *Reflection of Justice: An Ode to Ruth Bader Ginsburg*. This four-minute composition rests on a classical ternary structure. The opening and ending component are calm and rather elegiac in their general tone. The central part consists of a few variation-like transformations of the main theme of the US national anthem (*The Star-Spangled Banner*), which gradually increase the emotional tension and

lead to two dramatic climaxes. The first builds on RBG's initials and her nickname ('Kiki') transformed into musical notation. This subscribes to a long tradition of encrypting names in musical notes (so, for instance, the B-A-C-H motive in the final *Contrapunctus* of the *Art of Fugue* by J.S. Bach), hence adding more textual dimension to the tonal expression. The second climax are three series of five chordal beats each, which in the composer's own words represent strikes of judge's gavel. After re-entrance of the opening theme, the piece approaches a short *coda* which brings the piece to a soothing end. Notably, the composition is intended to ultimately form a triptych together with pieces on Martin Luther King and John Fitzgerald Kennedy, also built around a musical notation of their initials.

Remembering Ruth Bader Ginsburg

The last component of the RBG trilogy is the mini-opera for mezzo-soprano, piano and orchestra, *Remembering Ruth Bader Ginsburg*, written by the modern symphonic composer Ellen Taaffe Zwilich. The fifteen-minute piece, commissioned by the Dallas Symphony Orchestra to commemorate the first anniversary of Justice Ginsburg's death, was structured as a tripartite music cycle to the poem *The house she lived* in by Lauren K. Watel (a direct reference to *The house I live in* by Frank Sinatra, with "house" being a metaphor for the US). Each of the parts ("Acts" as the piece creators called them) relates to one stage of RBG's life. More precisely: each of them relates to a stage of her life against the backdrop of the struggle for female empowerment. As the composer elucidates in a documentary accompanying the 2021 premiere, the first act depicts RBG's arrival at that metaphorical house featuring lowered ceilings and bolted doors, with women in corners and on pedestals. Act II portrays RBG in the process of (sometimes forcefully) reconstructing the house, by demolishing ceilings, ripping down doors and false walls, and helping allegorical female figures down from their pedestals. Act III speaks on RGB's legacy as a lawyer and social activist. Like in the *Scalia/Ginsburg* opera, also this one builds around RBG's quotes. In this case, the librettist searched for metaphors used by her to depict legal values (hence, the pillars and other building imagery, as RBG was apparently keen on architectural metaphors). The text is bracketed by the word "justice", thus playing with its double meaning as both an expression of the justice ideal and, when capitalized, as the honorary title of a judge.

Music, law and emotions

Like law, musical notation also expresses a set of rules to be interpreted and followed by the performers (be it a conductor, an orchestra member or a judge). However, the question posed by the musical homages to RGB is situated elsewhere. None of the three pieces tackle legal or social issues between the lines (as did, for instance, Mozart or Verdi). They try to go directly to the essence of the contemporary constitutional debates, addressing them without any costume or pretext. Are these attempts futile? Does it make sense at all to describe something so intrinsically textual as law in the non-verbal form of music? Despite the apparent oddity of this question, the answer is not bizarre at all. Although Western civilization conceived law as the purportedly objective machinery for administering rights and duties in society, in its underlying structure, law inherently responds to emotions. They do not only guide human behavior that may be of legal relevance (think, for instance, of behavioral studies in consumer and criminal law). They may be also one of the key drivers in the application of certain legal institutions, such as good faith or damages for moral harm. In constitutional law – which oftentimes tackles subtle social valuations – individual and collective emotions assume a special place in shaping rules and putting them to use. The modern idea of constitutional law builds on a direct plea for popular support. Its aim is to ensure that constitutional rules and values are not only respected but also internalized by the political community. In other words, constitutional law is not about forcing people to obey, but rather about building common identification around legal foundations that can accommodate polyphonic social structure. Here is where collective emotions and their artistic expression come into play.

The legal politics of music

The close link between constitutional law and music builds also on another feature of the latter: in spite of its apparent neutrality, music can be inherently political. It has certainly played a strong role in channeling human emotions into political acts. The examples are countless – it is enough to mention the Belgian revolution of 1830, whose outbreak was catalyzed by the (apparently innocuous) performance of an opera embedded in the time of the anti-Spanish uprising of the 17th century (*La Muette de Portici* by Daniel Auber); and to point to the role of Verdi's opera as a source of national identification for the Italian society, uniting the country in 1860s (to the extent that the *Va, pensiero* chorus from *Nabucco* was for some time seriously contemplated as a national anthem for the newly-established Italian state). More recent times supply even more examples of music that encapsulates values and identities of a political nature (sometimes also deeply concerning ones, given, for instance, the Nazi ideas of national identity built around Wagner). Remarkably, this role is attached not only to opera (which – by its textual dimension can directly convey social and legal ideas), but also to instrumental music. One of the clear instances is the compound political trajectory of Beethoven's *Ninth Symphony*. In the 200 years of its existence, it has been constantly reinterpreted and appropriated to express various political and constitutional notions. Its recent incarnation as the European Union's anthem proves that the link between music (along with the entire social and political imaginary associated with it) and constitutional law is quite organic. By speaking "about" and "to" peoples' emotions, music can convey messages that cannot be expressed in words of law or politics. The problem constitutional law has with words stems not only from the fact that certain emotions that served to establish the polity (such as trust and solidarity) cannot be readily translated into a legal vocabulary. In many instances, music may also provide a more direct way of expressing certain values than abstract concepts of law, or it may offer a more unifying and neutral language (allowing one to steer clear of the social contention that may be caused by words).

How does the law sound?

So, can lawyers be remembered through music? Or – can music express legal ideas through the music itself (and not merely through an opera's libretto or the lyrics of a song)? The musical venerations of RBG provide telling examples that music can indeed serve as a way of conveying thoughts about law. The language of this expression is different than for legal texts. The matter of music is emotions encoded in sounds and rhythm, sometimes associated with sonoric symbols brought to life this way (such as the gavel strikes in *Reflection of Justice*). The way music speaks about law is, hence, deeply metaphoric and calls for listeners' interpretation. Nonetheless, it is not entirely subjective. Music is always 'read' in context, as established by social, cultural and legal phenomena. For this reason, being a universal way of expressing emotions, music can also be inherently entangled with the particular message about a society, its values and its identity. Mozart's *Le Nozze di Figaro* or Penderecki's *Threnody for the Victims of Hiroshima* could be listened to for their sheer artistic quality. Placed in their particular contexts, however, they make certain political statements (respectively, about the yearning for social equality in a decaying feudal order and about peace and universal regard for human life) that add another dimension to the way certain values are expressed within the political community. There is no doubt that in this way the emotions conveyed by music may also elicit emotions about law, voice opinions in debates, and foster social mobilization around the pursuit of legal values.

The three musical tributes to RBG – each of a different genre, style and ambition – speak on their own terms to this tradition. Certainly, it would not do justice to them to mark these pieces only as curiosities of modern classical music. Similarly, it would not do much justice to consider them as simply memorializing pieces for a remarkable figure of US legal and political life. They should be read rather as artistic reactions to the legal discourse in which RBG was one of

the central protagonists over the past few decades. This musical trilogy features a set of voices on constitutional law and constitutional politics, where intellectual affirmation of legal values is translated into the language of emotion-decoding metaphors. Apart from being an interesting way of paying tribute to RBG herself, the three pieces are clear proof of the vitality of classical music – also in its purely instrumental form – as an articulation of legal ideas, one furthering their comprehension and inviting reflection on their meaning. Given the ongoing transformation of classical music, which over the past few decades has become more socially engaged and sensitive to present-day realities, the near future is likely to bring more compositions and performances where the law will be portrayed through sound.

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