

## RUTH BADER GINSBURG AT HER QUARTER CENTURY ON THE SUPREME COURT: BRIEF REFLECTIONS

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Nobelist Daniel Kahneman, in his work *Thinking, Fast and Slow*, describes two systems that guide us as we confront life, as we respond to situations and people. System One is quick, automatic—our reactions may be based upon our emotions, our convictions informed by knowledge and experience.<sup>1</sup> System One is the epitome of thinking fast.<sup>2</sup> System Two involves arduous mental work—it is deliberate, effortful—the epitome of thinking slow.<sup>3</sup> The classic System Two is a computation problem—say 12 x 8.33 - 13. Most of us won't have an immediate response—we have to proceed through a sequence of steps, retrieving from memory the cognitive program for multiplication, then implementing it.<sup>4</sup> The exercise is that of thinking slow. Let's contrast System Two, thinking slow, with System One, thinking fast. By way of example, I say to you this name: Ruth Bader Ginsburg. And immediately, you have a reaction. Thoughts come quickly to mind: pathmarking lawyer in defense of gender equality, Supreme Court Justice who we need now more than ever, scholar, teacher, mentor, workout specimen, film box office sensation, opera lover, friend, Mother (to a most accomplished Columbia Law professor and to the highly innovative founder of Cedille Records), Bubbe (including to my wonderful clerk, Clara Spera), Marty and Ruth. And no doubt other thoughts quickly come to mind as well. That the name Ruth Bader Ginsburg moves us to thinking fast—Kahneman's System One—is a tribute to a life, whose extraordinary impact has so deeply affected our own consciousness that we have a quick, but well grounded, reaction, one that gives us strength as she inspires us by her example. Of course, by comparison other names may yield quick but negative reactions, but we needn't dwell on those here, at this celebratory gathering.

For myself, I want to say a few words about one of my quick System One reactions to the name Ruth Bader Ginsburg: that is, friend. Ruth is an apt name, derived as it may be from a contraction of the Hebrew *reut*, meaning, companion, compassionate friend, fellow woman, beauty. She is a friend to many and in many ways.

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\* Then-Chief Judge, and now a Senior Circuit Judge, of the U.S. Court of Appeals for the Second Circuit gave these remarks at a Columbia Law School event celebrating the twenty-fifth anniversary of Justice Ginsburg's investiture to the Supreme Court.

1. See Daniel Kahneman, *Thinking, Fast and Slow* 20–30 (2011).
2. See *id.*
3. See *id.*
4. See *id.*

Ruth Bader Ginsburg is a friend to the rule of law and the better functioning of our institutions. Read her legal writings, listen to her in oral argument, and you will see what I mean.

Ruth Bader Ginsburg is a friend to those who have suffered discrimination, whose grievances deserve to be recognized and addressed.

She is a friend to those with aspirations, with hopes, who need encouragement and assistance.

Ruth Bader Ginsburg is a friend of the arts, championing artists and sometimes joining them on stage to thunderous applause.

She is a loyal friend who places others ahead of her own convenience. As Circuit Justice of the Second Circuit, she is our guardian angel, whose presence and participation at our Circuit Conference is the highlight of our gathering; she joins us in what is for her an exceptionally busy time at her Court, delivers a substantial report on the current Term of her Court, and joins for a question-and-answer session with some lucky judges of the circuit. The entire circuit loves her and we are hugely grateful for her time and generosity.

Ruth Bader Ginsburg is a friend for all seasons, an incomparable friend, to me and to my wife Jennifer.

More than a quarter century ago, I had the privilege of witnessing Ruth Bader Ginsburg's Supreme Court confirmation journey—as special counsel to Senator Moynihan and her, and reporting to Marty Ginsburg each day. Marty's laser mind elevated each day's review. He was a force that all of us who knew him feel very much still. His wife did exceptionally well, with senators from every political category, as indicated by her 96-3 confirmation vote.<sup>5</sup>

I remember well, in particular, then-Judge Ginsburg's response to a senator's question as to how she wanted to be remembered. She said, in words that so well-captured her: "I would like to be thought of as someone who cares about people and does the best she can with the talent she has to make a contribution to a better world."<sup>6</sup>

Thinking Fast, System One, Ruth Bader Ginsburg, we love you and cherish you for all that you are, with deep thanks for all that you have given to us, with profound appreciation for all that you will continue to do in the years ahead to make the world a better place.

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5. See Robert A. Katzmann, Reflections on the Confirmation Journey of Ruth Bader Ginsburg, Summer 1993, *in* *The Legacy of Ruth Bader Ginsburg* 199, 204 (Scott Dodson ed., 2015).

6. Nomination of Ruth Bader Ginsburg, to Be Associate Justice of the Supreme Court of the United States: Hearings Before the S. Comm. on the Judiciary, 103d Cong. 232 (1993) (statement of Ruth Bader Ginsburg, Nominee).