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## Replacing Notorious: Barret, Ginsburg, and Postfeminist Positioning

Calvin R. Coker

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# REPLACING NOTORIOUS: BARRET, GINSBURG, AND POSTFEMINIST POSITIONING

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CALVIN R. COKER

*This essay offers a rhetorical reading of Amy Coney Barrett's confirmation hearings to make sense of how widespread outrage over replacing the late Ruth Bader Ginsburg with a conservative ideologue was resolved through the invocation of postfeminist motherhood. I argue that GOP Senators and Barrett herself positioned her nomination as the achievement of feminist goals, justified through rhetorics of choice and the idealization of (white) motherhood. These strategies cement Barrett as the logical and defensible successor to both Ginsburg's seat and her legacy of feminist work. I conclude with the implications of this circulation of postfeminist motherhood, with focus on political movements for equality and treatment of women.*

The death of Ruth Bader Ginsburg in 2020 was a loss for the nation's highest court and the many citizens who celebrated her career. Ginsburg ascended to celebrity status as the "Notorious RBG," a reverential and playful moniker in reference to slain rapper Christopher George Latore

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Wallace, the Notorious B.I.G.<sup>1</sup> Ginsburg's notoriety was warranted; her role on the court, alongside her biting dissents that have been variously described as feminist jurisprudence<sup>2</sup> and genre (re)defining,<sup>3</sup> cemented her as a feminist icon standing against patriarchal institutions. Beyond the immediacy of her loss, the passing of an historic figure in American politics, signaled by her honor as the first woman to lie in state in the U.S. Capitol, Ginsburg's final wish was protective of her feminist legacy. Prior to her death, Ginsburg was reported as saying, "My most fervent wish is that I will not be replaced until a new president is installed."<sup>4</sup> This wish would not be granted.

Following the injury of her passing, insult came from the Trump administration. In addition to Senate Majority Leader Mitch McConnell's (R-KY) announcement that her seat would be filled prior to the election in contravention of Ginsburg's wishes, President Trump's short list included Amy Coney Barrett, a conservative judge known to the public largely due to a battle over her confirmation to the U.S. District Court in 2017. Barrett, a former law professor at Notre Dame, was decried as the opposite of Ginsburg, a massive swing of the ideological and judicial pendulum.<sup>5</sup> Barrett's selection seemed particularly cruel given that her ascension would bolster a conservative majority on the court poised to reverse many of the gains and protections for marginalized individuals that Ginsburg had overseen. Worse still, Barrett's scholarly writings and Trump's penchant to signal his intentions suggested Barrett would be the determining vote in upcoming cases concerning the Affordable Care Act, election disputes, and restrictions on abortion.<sup>6</sup>

In hindsight, the success of Barrett's nomination felt inevitable given the composition of the Senate, the nature of the 2020 election, and the Republican Party's apparent immunity to hypocrisy alongside willingness to play constitutional hardball on judicial nominations.<sup>7</sup> We should not discount, however, either the outcry engendered by Barrett's ascension or the importance of confirmation hearings to the broader political culture of the United States.<sup>8</sup> Ginsburg was a legendary figure in her own time, mythologized through her public statements and multiple glowing biographical documentaries alongside cheeky merchandise and raunchy sketches on Saturday Night Live celebrating her vitality and wit. Barrett, then—a well credentialed conservative academic turned jurist—represented both a reversal and an affront to an icon. To replace an undeniable force for feminist jurisprudence with, at best, a deeply conservative juror and, at worst, an ideological hack, created a conundrum that begged rhetorical intervention.

In this essay, I argue the palatability of Barrett's nomination hinged

on a postfeminist articulation of her appropriateness to replace Ginsburg. Republican Senators positioned Barrett as the logical successor to Ginsburg, albeit one with significantly different ideological commitments, by contextualizing both her ascension and her professional and personal achievements as the fulfilment of feminist goals. In a postfeminist narrative of humble yet undeniable success, Barrett is both the result and the recipient of social gains that Ginsburg advanced. Postfeminism, as crystalized by Rosalind Gill and expanded by Angela McRobbie, is the constellation of discourses, images, and expectations that suggest contemporary feminist activism is misguided or harmful, having been rendered obsolete by the supposed gains of past generations.<sup>9</sup> In the confirmation hearings, GOP senators, and Barrett herself invoked longstanding conservative tropes of choice and motherhood to elevate her as a fitting replacement—the feminist, maternal, and neoliberal ideal that warranted her ascension to Ginsburg’s seat.

The articulation of postfeminism and motherhood in the political realm is not new,<sup>10</sup> but Barrett’s case is particular for two reasons. In the confirmation hearings, the combination of choice and motherhood is deployed to twice re-inscribe gender hierarchies: first, to create an impossible standard to discipline other women<sup>11</sup> and, second, as a justification to install on the Supreme Court a justice hostile to the material gains of movements seeking the betterment of women. As such, the implications for Barrett’s successful confirmation demonstrate the relevance of motherhood and postfeminist appeals in the present. Furthermore, the rhetorical ecology of Barrett’s nomination portends enormous difficulty for movements for reproductive justice, as the rhetoric of motherhood is co-opted and presented as a mode of shutting down pro-abortion arguments. Given that almost immediately Barrett proved the widespread concerns posited by progressives before and during her confirmation were justified and prescient by siding with the conservative majority to strip reproductive rights from Americans in 2022, the far-reaching impact of her confirmation will continue to be felt in the foreseeable future.

In this essay, I first outline the theoretical framework of postfeminism as a mode of analysis for discourses circulated in legal and public culture. I next analyze Barrett’s confirmation hearings to substantiate how actors within the hearings intermingle motherhood and postfeminism to position Barrett as Ginsburg’s logical successor. I conclude by expanding on how Barrett’s ascension to the court implicates feminist agitation for equality and on the rhetoric of motherhood in the political sphere.

## LEGAL RHETORIC, GINSBURG, AND MOTHERHOOD UNDER POSTFEMINISM

Although nominations to the Supreme Court increasingly have been decided along close party line votes with hearings that function more as platforms for members of the Judiciary Committee,<sup>12</sup> hearings are not without importance. Even with political grandstanding, Skye de Saint Felix and Lisa Corrigan note that confirmation hearings are one of the few opportunities the public is presented to scrutinize candidates and assess difficult-to-measure attributes like temperament.<sup>13</sup> To that end, judicial confirmation hearings draw from the vocabulary of the legal profession to make sense of contested meanings for lay audiences.<sup>14</sup> At the same time, judges, lawyers, and politicians draw from the language of the broader culture when constructing legal arguments, both textually for opinions and performatively when asked to defend or explain the intersection of the public, politics, and the law. This understanding of confirmation hearings clarifies their importance for rhetorical analysis, even as judicial nominations have been decided on increasingly partisan bases in part due to procedural changes like the removal of the filibuster for district court, and eventually Supreme Court, nominations.<sup>15</sup> The rhetoric of the Supreme Court—including decisions, dissents, and confirmation hearings—can serve as flashpoints for the (re)articulation of cultural and political values and expectations.

Beyond hearings themselves, Supreme Court justices in the modern era have increased visibility and importance in American political culture, none more so than the late Associate Justice of the Supreme Court, Ruth Bader Ginsburg.<sup>16</sup> Ginsburg ascended to celebrity status outside of the legal sphere following public focus on her dissents against the conservative majority in the Supreme Court in the 2000s and 2010s. Her celebrity drew from the intersection of popular feminist discourses highlighting the voice of the second woman ever to sit on the Supreme Court and the humorous adoption of the moniker “Notorious RBG” following Shana Knizhnik’s circulation of the term. Much has been written about Ginsburg, including her rearticulation of the genre of judicial dissents,<sup>17</sup> her role in questioning and opinion writing alongside female justices Sonia Sotomayor and Elena Kagan as a demonstration of feminist skepticism,<sup>18</sup> and the complex and problematic articulation of the late justice with a slain black rapper.<sup>19</sup> Though Ginsburg’s life was part and parcel with victories aligned with feminist causes, discourses that situate her past experiences against her later work and victories suggest the work

of feminism is over and a new generation of women benefit from Ginsburg's success.<sup>20</sup> Given the commodification of Ginsburg through merchandise and public discourse, combined with focus on her individual successes within patriarchal fields, the application of postfeminism as a mode of analysis can explicate the political context of her death while offering a helpful vocabulary to explain the justifications for her subsequent replacement with Barrett.

This is not to say that a postfeminist reading of Ginsburg is the only or authoritative interpretation of the discourses surrounding her celebrity status. However, by understanding the postfeminist context within which Ginsburg was situated, scholars can better analyze the discourses of outrage corresponding with replacing a feminist icon with a conservative ideologue. Postfeminism is an oft referenced but difficult to define sensibility that pre-supposes the gains of feminist movements are durable, uncontroversial, and substantial enough that further moves towards equality are unnecessary and undesirable.<sup>21</sup> Angela McRobbie's treatise on the subject, following Rosalind Gill's and Mary Vavrus's works articulating a "postfeminist sensibility," informs contemporary analysis of the myriad cultural texts reinforcing postfeminism as a handmaiden to dominant ideologies.<sup>22</sup>

Postfeminism as a category of discourse is diffuse, though Vavrus highlights three distinct elements: an intensely individualistic focus, a view of feminist politics as a segment of "lifestyle" marked by consumption and choice, and treating the experiences of a subset of women (white, heterosexual, affluent) as representative of the whole.<sup>23</sup> These attributes have opened space for cooptation of feminist theorizing and organization; individualism, mixing politics with consumption, and unspoken racialization each slot neatly into neoliberal discourses,<sup>24</sup> patriarchal gender expectations,<sup>25</sup> and movement conservatism.<sup>26</sup> As a result, postfeminist analysis attends to the content and function of these discourses and how they discipline women within and against societal structures that reinforce gendered hierarchies.

Analysis of the postfeminist discourses and the institutions that intersect and support them reveal underlying expectations for how women conduct their affairs seemingly "outside" patriarchal structures while historicizing feminist movements as relics of the past.<sup>27</sup> In public and political culture, postfeminism is propped up by "images, cultural preoccupation, demands, and disciplines" that force women to respond or risk diminished social standing or violence, in part through representation of exemplary women in mediated contexts.<sup>28</sup> Contemporary work has focused on the myriad constitutive elements of a postfeminist sensibility in public life, including

the role of reality television and celebrity in articulating impossible sexual and professional standards for women, public and political campaigns in arenas of women's health and empowerment,<sup>29</sup> and the (re)articulation of motherhood as a cultural and political ideal.<sup>30</sup> A litany of scholars trace the emergence of postfeminist discourse to make sense of and discipline women in American politics, such that women are expected to adhere to gendered standards regarding motherhood, appearance, and behavior whilst slotting into masculinist paradigms and ideologies consonant with conservatism.<sup>31</sup>

One crucial foothold of postfeminism in American politics concerns motherhood as a political appeal and identity. Given Barrett's status as the first mother of school age children to ascend to the Supreme Court, of specific interest to the present project is how discourses of motherhood intersect with and bolster postfeminist ideals of professional, social, and political life. Scholars have studied the rhetoric of motherhood as a component of postfeminist sensibility with application to American politics.<sup>32</sup> Motherhood, in this context, functions differently along the axis of race; very often, when rhetorical scholars conceive of motherhood as a political tactic and appeal, they are outlining the contours of how motherhood is empowered and elevated for white women while acting as a liability for women of color.<sup>33</sup> Appeals to the expertise and subject position afforded by motherhood can (re)center the importance of (white) women in the political sphere<sup>34</sup> as they simultaneously draw alternative meanings of nurturance and kindness<sup>35</sup> and militancy and protectiveness.<sup>36</sup> Appeals to motherhood are not a universal good, however, as they can bolster oppressive structures while (re)situating women into a matrix of heteropatriarchal domination. Natalie Fixmer-Oraiz argues that motherhood has been interpellated in national security discourse such that the culturally understood role of mothers can be an index and reinforcement of the health of the nation state, often to the detriment of women's equality.<sup>37</sup> Discussions of motherhood can fit regressive political scripts through appeals to family life<sup>38</sup> and protective motherhood,<sup>39</sup> each consonant with and reinforcing conservative masculinity opposed to women's liberation. Christina Foust and Jenni Simon note that conservative responses to feminism draw from selective public memory of liberal feminism as "radical" to (re)situate modern women into comparatively narrow gender roles that retrench patriarchal power and reverse feminist gains.<sup>40</sup> Tasha Dubriwny and Amanda Siegfried similarly argue that organizing political appeals around choice for women invites co-option by neoliberal ideologies and conservative groups that support gendered hierarchies, in large part due to the ease with which



“choice” slots into those ideological apparatuses.<sup>41</sup> Rhetorics of motherhood can further feminist goals by justifying women’s role in politics and (re)claiming expertise in the public sphere, but motherhood can also be slotted into postfeminism that constrains and disciplines women.

Taken together, this section suggests motherhood can both disrupt and retrench postfeminist ideology in the public sphere depending on its context, (re)circulation, and uptake within popular discourse. In the subsequent section, I demonstrate through analysis of Barrett’s confirmation hearings that choice and (white) motherhood can be mobilized to defend and intensify a postfeminist sensibility that resolves the tension engendered by replacing Ginsburg with a person that represents a risk to the legacy of Ginsburg’s work.

### CONFIRMING BARRETT AND THE IDEAL (WHITE) MOTHER

Public discussion of Barrett prior to her Supreme Court confirmation hearing dissected her professional and personal life within a rhetorical context overshadowed by the memory of Ginsburg. At the Rose Garden Ceremony announcing her nomination, President Trump contended, “It is highly fitting that Justice Barrett fills the seat of a true pioneer for women, Justice Ruth Bader Ginsburg. Tonight, Justice Barrett becomes not only the fifth woman to serve on our nation’s highest court, but the very first mother of school-aged children to become a Supreme Court justice.”<sup>42</sup> In response, Lara Bazelon in the *New York Times* argued “Trump [. . .] was cynical and insulting to the millions of women who view the late Supreme Court justice as a feminist icon.”<sup>43</sup> She goes on to note that women are not fungible, not “gym socks, purchased in bulk so that a replacement can be seamlessly substituted into the rotation when one goes missing in the washing machine.” Robin Givhan of the *Washington Post* summarized the circumstances thusly:

Not since Clarence Thomas filled the seat vacated by Thurgood Marshall has a Supreme Court appointment been as consequential as Ruth Bader Ginsburg’s replacement is likely to be. If Amy Coney Barrett is confirmed, a die-hard conservative will once again replace a civil rights hero, and the resulting shift will be tectonic.<sup>44</sup>

Outside of liberal consternation, of which there was much, the stakes of

exchanging a feminist icon for a conservative ideologue were apparent when circulated in national news media.

A confluence of factors, including Republican hypocrisy on the confirmation timeline, Trump's insistence that he would only nominate judges expected to support his policy preferences, and the possibility that the results of the 2020 election hinged on legal battles, created an impetus for Barrett's defenders to situate her as a legitimate and desirable successor to Ginsburg. Those defenses sought to neutralize the threat posed by Barrett's ideological differences compared to Ginsburg, to diffuse criticism aimed at Barrett's potential to stymie, and/or to reverse legal protections for marginalized groups.

The defense of Barrett, coming from both the nominee herself and Republican Senators on the Judiciary Committee, featured three core elements. First, Barrett was positioned by Republican Senators as the fulfillment of Ginsburg's legacy, with the nominee's ascension cast as the latest victory in an unbroken march of feminist progress. Second, Barrett's proponents elevated choice as a sacrosanct feminist value to flatten the difference between Ginsburg and Barrett and cement the nominee as a postfeminist icon. Finally, Senators invoked Barrett's motherhood to articulate her as an ideal neoliberal postfeminist subject—a professional made better by raising a large family to become a (white) “woman who has it all.”

### *FULFILLING FEMINISM'S PROMISE*

Postfeminist discourses rely, in part, on situating the struggles of feminist movements as historical occurrences with clear beginnings and endings prior to the present.<sup>45</sup> In the hearings, Republican Senators cast Barrett's ascension as a fulfillment of feminism's promise for all women. Chairman of the Judiciary Committee Senator Lindsey Graham (R-SC) opened the first day by extolling the memory of Ginsburg before elevating Barrett to the same pantheon of greatness. Graham suggests, “the person appearing before this committee, is in a category of excellence, something the country should be proud of, and she will have a chance to get to make her case to be a worthy successor.”<sup>46</sup> Trevor Parry-Giles notes that the increasingly public face of the Supreme Court—combined with ideological shifts like replacing Marshall with Thomas—centers public understanding of nominees on biography over discussions of ideology or legal minutia.<sup>47</sup> Graham situates Barrett within this strategy when he notes, “Amy Barrett, the individual, she and her husband

have seven children. Two adopted. Nine seems to be a good number.”<sup>48</sup> Though such statements appear to do little to allay concerns—few if any serious individuals would suggest that the number of people in the Barrett household means she is a worthy successor—Graham ends by suggesting Barrett’s nomination is a near seamless transition for the court as, “This is a vacancy that’s occurred through a tragic loss of a great woman. And we’re going to fill that vacancy with another great woman.”<sup>49</sup> Graham’s opening remarks empower other Senators to consider the ways Barrett and Ginsburg rhetorically are similar while rejecting differences.

For Graham to suggest Barrett is of the same caliber as Ginsburg, her nomination must be (de)contextualized as the result of, rather than an orthogonal move away from, feminist struggles. To that end, Senator Marsha Blackburn (R-TN) states, “We know from studying American history that women have had to always fight for a seat at the table. This goes back to Abigail Adams who urged her husband, John, to please remember the ladies in their fight for independence.”<sup>50</sup> This historicization of feminism ignores the enormous barriers to women’s political participation and situates in the past structural changes affording equality within the last fifty years. This move reduces feminist political commitments to representation of women in politics, regardless of whether those women reject patriarchal power structures. The problem with representational politics is relatively clear: the understandable desire and demands for representation can sometimes lead to moments where representation of *any woman* is preferable to the status quo.<sup>51</sup> This casting also occurs against a backdrop of conservative reckoning and attempted reconciliation with feminist organizing or, at the very least, feminist labels. Both Sarah Palin and Michelle Bachmann adopted the language of feminism coupled with conservative values within their campaigns even as they supported policies antithetical to dismantling patriarchal structures.<sup>52</sup> Conservative women’s groups routinely (re)define feminism as either too radical to include *all women* or inclusive enough to accommodate women who do not share the goals of intersectional feminist organizing.<sup>53</sup> Blackburn’s statement invites listeners to consider Barrett’s position not as a flashpoint within feminist political struggles but instead as the *fulfillment* of a feminist desire for a place at the table. The discussion of gender, situated as a relevant *past* conversation, occludes *present* gender inequities and the nominee’s intersection with those systems.

The strategy of expanding feminism to include retrograde conservatism was aided and endorsed through a postfeminist sensibility from Joni Ernst

(R-IA). The centrality of Blackburn and Ernst in the confirmation hearings was not accidental; Graham himself borrows the language of feminist centering when he states, "In my world, to be a young conservative woman is not an easy path to take. We have two women on this committee. They can talk about it better than I."<sup>54</sup> A long political history exists of conservative women in politics and conservative women's groups, employing postfeminist language to reverse the gains of feminism and situate women with a right-wing ideology hostile to gender equality within mainstream political movements.<sup>55</sup> In the past, both senators have mixed conservative messaging and heteropatriarchal rhetoric with feminism; Blackburn previously used her gender as a justification for attacking Planned Parenthood, and Ernst achieved notoriety for following Palin's combination of feminist language, masculinity, and agrarian and frontier myths to fit within mainstream conservatism.<sup>56</sup> Their unique positions as conservative women in a caucus that is overwhelmingly male dominated, both demographically and rhetorically,<sup>57</sup> empowers them to articulate a postfeminist defense of Barrett that suggests she is the superior successor to Ginsburg's feminist legacy.

Barrett is understood as the logical end point of feminist struggle generally and the goals of Ginsburg specifically, as the nominee demonstrates how far the country has come in making considerations of gender obsolete. In her opening remarks, Barrett invokes gender-blindness supposedly desirable in the present day:

I remember preparing for a grade school spelling bee against a boy in my class and to boost my confidence, my dad saying, "Anything boys can do, girls can do better." And at least as I remember it, I spelled my way to victory. I received similar encouragement from the devoted teachers at St. Mary's Dominican, my all-girls high school in New Orleans. When I went to college, it never occurred to me that anyone would consider girls less capable than boys.<sup>58</sup>

The notion that "capability" is neutral and unbounded by societal restrictions configures a present that ignores gender and racial hierarchies to the detriment of women. If a woman reacts disparagingly to an institution or dynamic that is decidedly hostile along gender lines, the logical response is to remind her that she is, in fact, "capable" of transcending those obstacles even if she is marginalized by multiple parts of her identity.<sup>59</sup> Barrett is a case study in the ability for neoliberal white supremacist patriarchy to hide the advantages afforded to wealthy white women when they conform

enthusiastically to racialized gender norms. Barrett's circumstances, gathered from news reports explaining her history, reveal that she was the beneficiary of numerous advantages from family assistance in childrearing, prestigious placements through conservative connections, and even financial assistance while matriculating through law school.<sup>60</sup> Each of these advantages—extended kin structures, favors and mentorship, resources afforded through informal means—are normalized for Barrett through her placement in the heteropatriarchal matrix of power while being critiqued and foreclosed for people of color.<sup>61</sup> Indeed, the same attributes that warrant praise for Barrett—deep ties to her community, graciously receiving assistance, a large and somewhat nontraditional family—would mark any non-white mother as deviant and a threat to the broader society.<sup>62</sup>

By failing to contextualize her nomination against Barrett's exceptional path through a conservative legal and political culture both implicitly and explicitly hostile to non-wealthy individuals and BIPOC, the nominee is held up as a promise and an inspiration for all women because of the nominal barriers she is breaking. Perhaps the crystallization of this point comes from Graham in the third day. He suggests:

There's one group in America I think has had a hard time of it and that's conservatives of color and women conservatives. There's an effort by some in the liberal world to marginalize the contribution because you come out on a different side of an issue, particularly abortion. So this hearing to me is an opportunity to not punch through a glass ceiling, but a reinforced concrete barrier around conservative women. You're going to shatter that barrier.<sup>63</sup>

Capitalizing on Ernst's and Blackburn's conceptions of conservative feminism, Graham articulates Barrett as overcoming the (supposed) structural barriers facing conservative women and conservatives of color. To Graham's point, many pundits and political elites have difficulty naming the dearth of high-profile conservative women and conservatives of color. Despite the 117th Congress being the most racially and ethnically diverse in history, the number of non-White, non-male Republicans is low relative to national demographic trends and the Democratic party.<sup>64</sup> Though this lack of diversity is likely overdetermined, at a minimum the GOP has shunned the opportunity to shift their policy platforms and rhetoric to be more inclusive towards individuals who are not white men,<sup>65</sup> and the realization of conservative goals in the Trump administration unified the modern Republican party with the goals

of white Christian nationalism antagonistic towards plurality and gender equality.<sup>66</sup> Despite these explanations, Graham concludes:

This is the first time in American history that we've nominated a woman who's unashamedly pro-life and embraces her faith without apology and she's going to the court [sic]. A seat at the table is waiting on you. And it will be a great signal to all young women who share your view of the world that there's a seat at the table for them.<sup>67</sup>

The notion that Barrett is accepting a position of power that systematically has been denied to her (despite her prior position in the U.S. District Court), and that young women who share her views will see her ascension as inspirational, ignores the nature of feminist agitation by reducing the core achievement to representation. Ultimately, Barrett's story is parlayed into victory for *all* women, even as her ascension is decorated with the abundant hypocrisy and selectivity of Republican senators invested in a project of white Christian nationalism.<sup>68</sup>

In response to opening statements from Democrats casting doubt on the legitimacy of the hearings and the risk that Barrett would rubber stamp the Trump administration's attempts to legislate through the courts, Blackburn suggests criticism of Barrett is anti-feminist:

Given your track record, you would think that my colleagues would jump at the opportunity to support a successful female legal superstar, who is highly regarded by both her democratic [sic] and Republican colleagues and who is a working mom. But as today's increasingly paternalistic, and frankly, disrespectful arguments have shown, if they had their way, only certain kinds of women would be allowed into this hearing room.<sup>69</sup>

In this context, critiques of process and predictions germane to Barrett's publicly available writing are not good faith engagement by Democrats but rather an effort to gatekeep women. Blackburn claims, "[Democrats] do not believe that all women deserve to have the opportunity to have a seat at the table."<sup>70</sup> Similar tactics occurred in response to postfeminist manifestos like Sheryl Sandberg's *Lean In*. Fixmer-Oraiz argues that critiquing *Lean In* for its individualistic take on structural oppression was cast as anti-feminist, as Sandberg's arguments suggesting it was a women's choice to become empowered in the workplace lean on feminist discourses while negating the persistence

of gender hierarchies.<sup>71</sup> In this context, Blackburn decries critiques of Barrett as patriarchal gatekeeping such that interrogation of Barrett's underlying commitments is foreclosed in the name of getting more women to the table.

Postfeminist discourses allay the shock of replacing Ginsburg with her ideological opposite by suggesting that feminist agitation, and by extension Ginsburg's corpus of work, were necessary in the past, but no longer. By viewing feminist organizing and theorizing as historical relics, feminism becomes a mutable term that can encompass all women regardless of ideology. An extension of mutability comes in the (re)circulation of "choice" by Barrett's proponents to preclude meaningful engagement with the ideological differences between Barrett and Ginsburg.

### CHOICE

Postfeminist discourses often refuse particularity in their discussion of gender as a category of difference, both *between* different genders and *within* genders. Postfeminist sensibilities alternate between denying gender-based differences in treatment while essentializing socialized categories of gender difference as "natural."<sup>72</sup> Notably, these strategies are consonant with movement conservatism; strict gender roles and the valorization of the past before "radical feminist" organizing both articulate biological and social demands on women. One mechanism of squaring the proscription of rigid gender hierarchies with feminist theorizing is discursive acrobatics under the banner of "choice." With structures (re)enforcing gender hidden from sight, individual choices become evidence of progress.<sup>73</sup> In effect, then, postfeminist discourse flattens the meaningful differences between women by refusing to consider (racialized, classed) forces that discipline some women more severely than others, thereby structuring and restricting their choices.<sup>74</sup>

Choice is a sacrosanct (post)feminist value, both in radical feminist organizing to privilege bodily autonomy and in conservative discourses pairing neoliberal principals with espoused preferences for specific social and familial structures. The intersection between choice and postfeminism is clear in appeals that insulate Barrett from criticism. The nominee defended herself from the "caricatures" of her faith and her conservative ideology by suggesting:

I've made distinct choices. I've decided to pursue a career and have a large

family. I have a multi-racial family. Our faith is important to us. All of those things are true, but they are my choices. And in my personal interactions with people . . . I have a life brimming with people who've made different choices. And I've never tried, in my personal life, to impose my choices on them.<sup>75</sup>

Barrett's positioning ensures that differences between her and Ginsburg, or her and *any* woman, are reducible to individual choices that they have made. Note also that Barrett's framing precludes accountability for the way her choices impact the lives of others. If she, individually, disavows an "imposition" of her perspective on others, difference becomes an inconsequential component of a person's life. Such framing is consonant with understanding her ascension to the Supreme Court as a victory for feminism; representation of women, regardless of their (lack of) claim to feminist ideological commitments, is articulated as a victory for all women.

Barrett's coupling of choice and the individual is furthered by Senator Ben Sasse (R-NE), who defended the nominee from questions about prior political commitments. Sasse suggests Barrett's past statements are unobjectionable because she used:

Free assembly rights as an individual when you were a faculty member or as a wife and mom and neighbor in South Bend, when you signed something walking out of church, that sort of implied that there was something inappropriate when the default assumption in our system is that we all have these freedoms because the civil society associations that we have, are where we actually find happiness, meaning, joy and love.<sup>76</sup>

Sasse's rebuke extends logically from postfeminism generally, and Barrett's framing specifically, in that it presumes unrestricted individual choice is itself a worthwhile goal. Sasse's rebuke further demonstrates how postfeminist sensibility excludes meaningful discussion of how choices may be an index of future behavior, thereby insulating Barrett from criticism.

The strategy of using choice to dodge criticism is reinforced when meaningful differences between political ideologies and women who support them are flattened under the banner of empowerment. Blackburn argues:

All women deserve the opportunity to rise. I find it so interesting that they don't want to say support women from the political right because we do not submit to the leftist agenda. We won't submit to that. So then free thinkers end



up being called bad women and traitor to our gender and other disparaging comments that are out there.<sup>77</sup>

The notion that “bad women” or “gender traitors” exist reinforces postfeminism by elevating universal tolerance of women’s choices as a “feminist” ideal, even if those choices are materially regressive on the individual or societal level. In the confirmation hearings, to suggest that critiques of Barrett’s conservatism or her legal philosophy constitute hypocritical attacks on her gender excludes the possibility that Barrett’s choices and professional trajectory could manifest in material harm to women. In this instance, the risk is not simply that Barrett will *fail* to further feminist ends; rather, the combination of her clear ideological preferences and the shifting makeup of the Supreme Court solidify the notion that she could be *uniquely harmful* to women and BIPOC by repealing a litany of legal protections afforded in the last sixty years.<sup>78</sup>

Ernst furthers this obfuscation by centering choice to understand the multiplicity of meanings for feminism. She adopts a universal persona speaking for misunderstood women, stating, “We are all too often perceived and judged based on who someone else needs or wants us to be, not on who we actually are.”<sup>79</sup> The rejection of strict roles and narrowly confined lives was at the core of the women’s liberation movement and the invocation during the confirmation of “who someone else needs or wants us to be” hearkens to a past where women lacked agency over their lives.<sup>80</sup> Such strategies draw from both conservative women’s organizations that (re)define feminism to include rigid adherence to gender hierarchies and widespread popular discourses that selectively conceive of the women’s liberation movement as *exclusively* about women’s right to choose.<sup>81</sup> Ernst then pivots to expand on empowerment:

The great freedom of being an American woman is that we can decide how to build our lives, whom to marry, what kind of person we are, and where we want to go. I served in the army, something not exactly popular at various points in America’s history. We don’t have to fit the narrow definition of womanhood. We create our own path.<sup>82</sup>

Ernst closes by aligning Barrett with her predecessor, suggesting that the nominee was the beneficiary of past work from feminist icons. Ernst suggests, “Justice Ginsburg was one such woman, and I would like to pay tribute to her for what she did to pave the way for women of today.”<sup>83</sup> This articulation

positions Barrett as the similar rejection of narrow womanhood that achieved notoriety for Ginsburg.

Ultimately, postfeminist sensibility in the confirmation hearings softens the shock of replacing Ginsburg with an opposing ideologue. “Choice” flattens the difference between Ginsburg and her successor, such that Barrett’s commitments appear indistinguishable from Ginsburg. These postfeminist discourses set the stage for a final robust defense of Barrett—articulating her professional and personal savviness as *mommy economicus*, a neoliberal postfeminist subject who is outstanding *because* of how motherhood intersects with her potential and expertise.

### CHOOSING MOTHERHOOD

Following logically from the presumption that Barrett fulfills the promise of feminism due to her individual choices, Barrett is elevated as a worthy nominee through the coupling of achievements in her professional and personal life. Though an inexperienced jurist—Barrett had been a judge for a scant three years on the U.S. Court of Appeals for the Seventh Circuit prior to her nomination, making her the least experienced nominee in the last thirty years—Barrett boasts a fierce intellect, respect amongst her peers, and a robust body of legal scholarship.<sup>84</sup> Those achievements were aligned, closely, with Barrett’s role as the mother of seven school age children. When proponents praised Barrett’s choice to become a mother while also lauding her professional accomplishments alongside and because of her familial role, they drew from both conservative and neoliberal understandings of motherhood.

In this way, Barrett can be understood as *mommy economicus*, a postfeminist neoliberal subject who is desirable *because* that subject can outperform nonparents in the economic arena.<sup>85</sup> Through analysis of neuropsychological research and popular discourses, Davi Thornton chronicles an impossibly capable figure whose motherhood generates an economic edge through the literal and metaphorical rewiring of their brain to better navigate the modern markets of parenthood and professional life. The figure of the *mommy economicus* looms large in response to, and in defense of, the patchwork system of social support for caregivers in the United States. Parenting in America is largely an individualistic endeavor because of the country’s gutted social safety net, the geographic spread of kin groups, and emphasis on the nuclear family.<sup>86</sup> In response to this abandonment, parents navigate

tenuous balancing acts between caregiving, professional advancement, and social goals. At the same time, discourses of parenthood increasingly emphasize both the stakes of failure along racial lines and the seemingly impossible job of parents and, specifically, mothers to “have it all.”<sup>87</sup> Taken together, discourses invoking elements of *mommy economics* can elevate or misrepresent exceptional circumstances as a promise and a disciplinary tool to govern women’s behaviors.

In the confirmation hearings, the linkage between motherhood and postfeminism became obvious through statements in awe of Barrett’s professional success while raising an enormous family. Senator Mike Crapo (R-IN), in statements submitted to the record, suggests Barrett’s “remarkable resume shows she is a pioneer in the legal field. She will be the fifth woman and the first mother of school-aged children to serve on the Supreme Court. In many ways, she’s the ideal candidate to fill this current vacancy.”<sup>88</sup> By pairing professional acumen with maternal prowess, Barrett becomes the postfeminist ideal—quite literally a woman who has it all—and a uniquely qualified individual because of parenthood. It is worth noting that in mediated contexts “very large families are shorthand for conservative credentials” such that invocations of Barrett’s family life call to mind the wholesome aspects of midwestern, (white) Christian life.<sup>89</sup>

The desirability of the kind of motherhood proffered by Barrett’s proponents—a working mother of a much larger family than the American average—is undergirded by Barrett’s whiteness. Scholars note that the praise of mothers is but one side of a misogynistic coin and that misogynoir—the specific targeting of black women—routinely manifests in critiques of black women as unfit mothers even as they successfully raise families and navigate the workforce.<sup>90</sup> The praise of strong (white Christian) mothers who repopulate and educate the next generation of (white) Americans is part and parcel with punitive treatment towards mothers of color. Fixmer-Oraiz confirms the underlying racial dimension of motherhood in the United States through her study of national security discourse. Motherhood is treated in both mainstream and fringe political discourse as an index of the health of the nation, leading to a dichotomy wherein elite actors can articulate a “good motherhood” (wealthy, white, stay-at-home mother who engages in neoliberal discipline and consumption) versus “bad motherhood” (non-white, non-wealthy, forced to split time between child rearing and employment).<sup>91</sup> Barrett’s large family is acceptable because of her white Christianity; she

is the archetype of the kind of woman who acts as a handmaiden to white supremacist fascism.

Given Barrett's whiteness and conservative credentials, many senators coupled the burden of childrearing and professional achievement as something to be marveled at—evidence of Barrett as a postfeminist icon par excellence. Blackburn suggests, "The ABA has rated you as well-qualified to serve as a Supreme Court justice. I appreciate that many times you've probably done this with the child in your arms, on your hip, or somewhere in tow."<sup>92</sup> Similarly, Senator Diane Feinstein (D-CA) asks, "You don't have a magic formula for how you do it and handle all the children, and your job, and your work and your thought process, which is obviously excellent, do you?" To which Barrett responds, "Its [sic] improv."<sup>93</sup> Though the mix of parenting and professional achievement is laudatory in a country that mixes apathy and open disdain for parents, its articulation during the confirmation hearing is evidence of a postfeminist sensibility that elevates Barrett while disciplining other women. One can hardly imagine a black woman being praised for the exact same actions—a counterfactual demonstrated by the markedly distinct treatment of eventual Associate Justice of the Supreme Court Ketanji Brown Jackson less than two years later. Though Jackson's opening statement for her confirmation hearing pointed to the difficulties of navigating motherhood alongside her legal career—noting for her daughters that she "did not always get the balance right"—that humility did not keep Republican senators like Josh Hawley (R-MO) from lobbing outrageous accusations at Jackson of leniency in sentencing of child sexual predators.<sup>94</sup>

Motherhood is not just something that Barrett has mastered through "improv." Rather, in the vein of *mommy economicus*, Barrett received distinct praise because motherhood affords her unique insight capitalizing on her perceived innate gendered skills. Motherhood functions as a "pivot point for neoliberalism" by offering women a mode of sociopolitical engagement that (re)stabilizes gender hierarchies.<sup>95</sup> Though mothers of all races under neoliberalism are subject to increasing surveillance, discipline, and economic hardship, *mommy economicus* articulates the intersection of motherhood and professional life as an advantage where (white) women get to treat experiences in each field as applicable to the other.<sup>96</sup> To that end, Barrett's motherhood is taken as experience that portends empathy on the bench while rebutting opponents' claims of radical ideology. In his opening statement, Senator Chuck Grassley (R-IA) said of Democratic claims that Barrett was poised to be the deciding vote to dismantle the Affordable Care Act, "That's outrageous,

as a mother of seven, Judge Barrett clearly understands the importance of healthcare.”<sup>97</sup> Similarly, in response to a question from Senator Cory Booker (D-NJ) on her capacity to empathize with people without insurance, Barrett suggests:

I can certainly empathize with people who are struggling. I can empathize with people who lack healthcare. One of the things that was so striking to me when we went to get our daughter Vivian from the orphanage in Haiti was the lack of access to basic things like antibiotics. And it just made me appreciate the fact that we had access to healthcare.<sup>98</sup>

Ample evidence existed to suggest that Barrett could be the crucial vote against the Affordable Care Act; she had written an academic article critiquing Robert’s majority opinion,<sup>99</sup> the Trump administration openly had signaled its commitment to nominating anti-ACA judges,<sup>100</sup> and Barrett’s mentorship with Scalia and her commitment to originalism did not portend acceptance of the constitutionality of the healthcare law. As such, Barrett’s motherhood acting as evidence of her empathy was crucial to the success of her nomination as it discouraged investigating her ideological commitments while elevating her parenthood as a seemingly unobjectionable justification for her nomination.

The coupling of parenthood with legal acumen continued during committee member’s questions of racial equity. When Senator John Cornyn (R-TX) asked if Barrett had seen the video of George Floyd’s murder, and what impact it had had on her, she stated, “given that I have two black children, that was very, very personal for my family.”<sup>101</sup> After detailing how hard it would be to explain to her children the risks of “hatred or violence” based on race, Barrett concluded, “it’s a difficult one for us, like it is for Americans all over the country.”<sup>102</sup> This line of coupling parenthood to professional skill is furthered by Hawley, who asks Barrett to explain the “experience you bring to the bench because of your experience as a parent [of a multiracial family]?” Barrett responds by drawing a razor thin line between empathy and her respect for the law:

While my life experiences I hope have given me wisdom and compassion, they don’t dictate how I decide cases because . . . sometimes you have to decide cases in ways where you don’t like the result. So while I hope that my family has made me a better person, and my children definitely have given

me new perspectives on life, I still, in applying the law and deciding cases, don't let those experiences dictate the outcome.<sup>103</sup>

Barrett carefully articulates her experiences as a parent with, but not in opposition to, objective interpretation of the law. The rhetorical tightrope between professional and personal is the hallmark of *mommy economicus*; Barrett can navigate the contradictory tensions of work and personal life, so much so that she is *better* in both arenas than she would be if she was relegated to one. In this way, discourses of motherhood elevate Barrett as professionally desirable, which, following the importation of postfeminist sensibility into the hearings, solidifies her as replacement for Ginsburg. The specific emphasis on the multiracial composition of Barrett's family is not accidental; it positions Barrett as an understanding protector of (currently) innocent brown bodies.<sup>104</sup>

Motherhood is a resource to articulate not only the acceptability of women in politics but the *urgency* of their presence based on their unique relationship to children.<sup>105</sup> When asked about how the confirmation process has upended her life, Barrett explains that the questioning had upset her children, specifically her son Liam. Nevertheless, Barrett asserts:

That in many ways the children are the reason not to do it, but they're also the reason to do it, because if we are to protect our institutions and protect the freedoms and protect the rule of law that's the basis for this society and the freedom that we all enjoy, if we want that for our children and our children's children, then we need to participate in that work.<sup>106</sup>

Thus, the protective qualities of motherhood offer political urgency and expediency to Barrett's political project, an urgency that justifies the risk to her family in the favor of making the world better.

Motherhood can be slotted neatly into neoliberal discourses when participants in the hearings hold up a specific kind of knowledge intrinsic to parenthood as both necessity and advantage in the context of Barrett. Ultimately, motherhood affords Barrett not only expertise but a claim to the seat to which she has been nominated.

## BARRETT, THE COURT, AND THE FUTURE OF MOTHERHOOD

In this final section, I highlight three possible implications for politicians' use of neoliberal motherhood in defense of Barrett. First, political discourse elevating Barrett as an exemplar for women facilitates the retrenchment of postfeminist neoliberalism by allowing political actors and institutions to point to Barrett's exceptional case of enthusiastic participation in white neoliberal patriarchy as a new standard for women generally. Second, Barrett's position on the Court portends the rollback of legal gains for marginalized individuals and, finally, further complicates motherhood as a rhetorical strategy by emptying motherhood of its political potential.

First, politicians' postfeminist defense of Barrett facilitates further removal of social and governmental support for marginalized individuals while increasing the probability of neoliberal discipline for those same groups. Neoliberalism, variously configured, relies on a constellation of discourses, practices, and institutions to govern individual sensibilities, bringing citizens to heel under austerity and rugged individualism.<sup>107</sup> Elevating Barrett as an exceptional jurist, on the same level or even superior to Ginsburg, conveys the promise of achievement for (certain) women. The content of that promise include a loving partner and children, professional achievement and advancement, and praise for competence without corresponding misogynistic backlash and objectification. The idealized *mommy economicus* portrayed during Barrett's confirmation creates a new sexual contract that hides, or even accepts outright, the material hardship experienced by most working mothers.

McRobbie articulates the sexual contract as a discursive arrangement of expectations that govern how women are supposed to present, act, and desire within and absent the presence of men. She isolates a new sexual contract that seemingly supports feminism but in reality (re)situates women within a heterosexual matrix of power.<sup>108</sup> The possibility of full citizenship for women acts as both potential and threat for women entering professions and romantic relationships. Institutions and actors employ the sexual contract to articulate expectations that strengthen and calcify gender hierarchies while promising transcendence of, or at least peaceful existence within, the hierarchies that feminism has worked to change or dismantle.

Thus, Barrett represents a new kind of sexual contract—a promise that women who follow her path of almost superhuman focus and competence while adhering to rigid political and religious dogma that subordinates women will find a sustainable, even desirable, location within the white heteropatriarchal

matrix of power. The promise constitutes a cruelty of expectations on most women, however, for two reasons. First, the postfeminist motherhood isolated in my analysis obscures the material structures that ensured Barrett's success and thereby magnifies the capacity for those discourses to justify bodily control, stigmatization, and rejection of deviant (read: non-white, non-Christian, non-heterosexual) mothers. Barrett's childrearing is never contextualized with the help she received from her extended family and her community, including the People of Praise, nor does any substantive discussion of the doors opened to her by virtue of acceptance within conservative legal circles exist. Though no hearing could realistically capture all this information, the presentation of Barrett as a postfeminist icon absent the corresponding factors that facilitated her rise means that Barrett-as-exemplar serves not an inspirational purpose but a disciplinary one, specifically for poor women and BIPOC. Rather than extend support to women, gatekeepers can now point to Barrett's ascension as evidence of possibility in order to justify withholding the tools of actualization from a generation of women.

The second cruelty comes in the capacity for Barrett, specifically, to unwind the legal gains of marginalized groups subject to the discipline of her ascension. Barrett already has voted sympathetically and reliably with the right-wing block of the Supreme Court, and her appointment constitutes a path to the actualization of the goals of a hyper-conservative legal movement aided by individuals like Clarence Thomas and Samuel Alito.<sup>109</sup> Barrett brings the number of conservative justices on the current Court to six, strengthening the conservative hold on the jurisprudence of the Court. As such, Barrett's place on the court increases the likelihood of legal questions germane to non-dominant groups that routinely have been in the crosshairs of conservative activists. In 2022 alone, Barrett voted with the conservative majority to strip reproductive rights from people who are pregnant, allow state infringement on indigenous nations' sovereignty, and curtail the Establishment Clause to privilege Christianity in public venues.<sup>110</sup> It cannot be overstated the extent to which Barrett's appointment can and has led to the removal of rights from and increased material hardship for non-dominant groups in the United States of America. The multifold assault on reproductive freedom and (non-Christian) religious expression are not abstractions or academic exercises; people will suffer injury and death as they navigate the legal landscape engendered by the wanton disregard of precedent and a Court sympathetic to white Christian nationalism's open hostility toward alternative ways of being.<sup>111</sup>



Finally, as demonstrated by Dubriwny and Siegfried, rhetorical options for movements towards reproductive justice increasingly are limited by the (in)ability of topoi like choice to capture the difficult decisions engendered by constricting access to abortive services.<sup>112</sup> The authors isolate a specific kind of motherhood, martialled as a defense of late term abortions, as a representative anecdote for the difficulty in articulating the need for reproductive justice in terms that are intelligible and palatable for a wide audience. Barrett's ascension to the Court relied on a particular type of motherhood to construct a decidedly postfeminist context, one that elevates choice as sufficient to ensure that women are supported. This neoliberal focus empties motherhood of its political potential by flattening differences between choices and removing any degree of political expertise or urgency incumbent in motherhood. Barrett's motherhood, elevated as a partial reason for her exceptionalism and coupled consistently with choice to deflect criticism, will make it harder to use motherhood as a political appeal in the future because the liberatory political potential of the subject position of motherhood is muddled, if not co-opted, through an understanding of Barrett as *mommy economicus*. This difficulty is twofold; first, by framing motherhood primarily in terms of choice, the political exigence of a mother's engagement with politics—and, by extension, her appeals to her own embodied knowledge and experiences—is minimized as simply one more characteristic in a lifetime of “choices.” This minimization constitutes a mode of (de)politicizing motherhood such that women activists' and politicians' claims to urgency or subject matter expertise is dismissed because other women who have children have *chosen* not to view motherhood in the same way. Second, the immediacy with which Barrett voted to remove reproductive rights from Americans can and will engender skepticism, even cynicism, towards claims of motherhood as political expertise. As both the nominee and GOP Senators deflected prescient criticism of her anti-abortion beliefs by pointing to her motherhood, reasonable observers will likely be less trusting of future appeals to motherhood given the ease and speed with which Barrett contradicted the arguments made in her confirmation. Though that skepticism is warranted in this case, entering the American political sphere as a woman and as a mother may now feature yet another discursive barrier as appeals to motherhood receive more criticism and pushback.

The ascension of Amy Coney Barrett to the Supreme Court is the culmination of—or at least one of the most visible and naked attempts to pursue—an ideological project of undoing slow legal gains for marginalized groups. Replacing Ginsburg with a conservative ideologue required, in part, a deft

rhetorical response that situated Barrett as both the result and the beneficiary of the work to which the late justice devoted her life. Regrettably, both the rhetoric of the confirmation hearings and the reconfiguration of the Court will empower the Court's conservative majority to come closer to realizing a legal regime organized around white heteropatriarchal theocratic fascism.

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89. Lagerway, *Postfeminist celebrity*, 98.
90. Mann's *Down Girl* provides a helpful analytic framework for the consideration of misogyny as a distinct category of discourse and behavior, while Borda's "Embodied maternal" and Guillem and Barnes's "Am I a good [white] mother?" provide evidence and context to misogynoir, or the anti-black racist misogynistic backlash directed at black women, initially theorized in Moya Bailey, and Trudy, "On misogynoir: Citation, erasure, and plagiarism," *Feminist Media Studies* 18 (2018): 762–768.
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107. For deeper readings, consider Wendy Brown's *In the ruins of neoliberalism: the rise of antidemocratic politics in the West* (Columbia University Press, 2019); and *Undoing the demos: Neoliberalism's stealth revolution* (MIT Press, 2015). For contemporary examples of neoliberalism in modern political discourse, consider Calvin Coker, "Recasting the Founding Fathers: The Tea Party Movement, Neoliberalism, and American Myth," *Speaker & Gavel* 54 (2017); Calvin R. Coker and Ryan Corso-Gonzales, "With

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110. Adam Liptak and Jason Kao, "The major Supreme Court decisions in 2022," *New York Times*, June 21, 2022, <https://www.nytimes.com/interactive/2022/06/21/us/major-supreme-court-cases-2022.html>.
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