

FROM *ON THE BASIS OF SEX* TO
THE TRIAL OF THE CHICAGO 7:
RESISTANCE IN COURTROOM DRAMAS

by

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ABSTRACT

Courtroom dramas are a familiar film genre for American audiences, where lawyers argue cases to demonstrate the legal system's ongoing tension between law and justice. Films from the late 2010's, namely *On the Basis of Sex* and *The Trial of the Chicago 7*, demonstrate how courtroom dramas capture social justice issues of today and shed light on history's continuous fight for issues of justice. *On the Basis of Sex* represents resistance and the search for justice in a more traditional manner, where a central lawyer hero achieves institutional recognition that the law is wrong and works from within that system to change it. *The Trial of the Chicago 7*, however, breaks down the familiar elements of the courtroom drama to demonstrate resistance by pointing out the absurdism of the system and creating its own meaning of justice through the importance of the act of resistance itself. Ultimately, both films advocate to audience members that though resistance can take different forms, they must take it upon themselves to evaluate the legal system and the struggle between law and justice for themselves.

Unjust laws exist; shall we be content to obey them, or shall we endeavor to amend them, and obey them until we have succeeded, or shall we transgress them at once?

- Henry David Thoreau, "On the Duty of Civil Disobedience"

1. INTRODUCTION

When Ruth Bader Ginsburg takes the stand in *On the Basis of Sex* as a young lawyer, she describes the first American woman, Myra Bradwell, who wanted to become a lawyer. The state of Illinois denied her the ability to practice because she was a woman, and when she took it to the Supreme Court, they denied her the right as well. In 1908, women in Oregon wanted to work overtime and be paid the same as their male peers, but the Supreme Court also denied them. As Ginsburg states during her address, "you can draw a direct line from Myra Bradwell to Gwendolyn Hoyt, told ten years ago she was not entitled to a jury of her peers." Hoyt is the case of another woman in history that Ginsburg draws attention to earlier in the movie – when she was found guilty for murdering her abusive husband, a jury of all-men found her guilty. Hoyt and her lawyer argued at the time that the state of Florida discriminated against women being on juries, since they had to volunteer for jury duty while the state automatically registered men. When Ginsburg speaks of a "direct line," she is drawing that line between Bradwell, women in Oregon, and Hoyt, all of whom argued that the law and government were using gender-based discrimination against them. That same line extends to the case that she argues in the film itself. In her address, Ginsburg outlines a series of unjust verdicts that she would like to see change, and for legislation to shift toward protecting gender equality. However, she also draws attention to history, to the legacy that America has built its legal system on, and to the precedents that follow cases, particularly ones surrounding social justice, into the courtroom.

For a person who may never experience the judicial system for themselves, their only conception of what the American courtroom looks like may come from TV or film. The genre serves as a way for people to think about justice and injustice in society, especially for an audience member who may not have a career related to or a personal interest in the law. The fact that issues like gender equality and police brutality, two key social issues in the films of this paper, *On the Basis of Sex* and *The Trial of the Chicago 7*, remain relevant to the current era doesn't have to be a source of dread or disappointment. Filmmakers don't infuse courtroom dramas with cynicism or hopelessness. A trial is an active means of attempting to achieve justice, and even when the system itself may not allow for that, like in *The Trial of the Chicago 7*, the act of resistance itself is most meaningful. What matters more than anything, when watching and examining these films, is becoming aware of one of their central conflicts: law vs. justice. These two ideas are not necessarily opposing ones, but especially in the world of courtroom dramas, they often are. The law is the means by which citizens hope their government and their country achieves justice. When that does not feel true, that is where the conflict arises. In the case of these two films, though, they go beyond merely pointing this conflict out or using it for narrative drive. By the end of them, they ask the audience members to evaluate what to do with that tension, and to consider for themselves how they would help remedy it. This paper analyzes two courtroom dramas, *On the Basis of Sex* (2018) and *The Trial of the Chicago 7* (2020). Both are historical, taking place in the late 1960's and early 1970's. However, they each speak to the years they were released in. While not about those times – 2018 and 2022, respectively - they are about the same issues. That is what Ruth Ginsburg's address captures, both about court cases and about courtroom dramas, particularly historical ones. When an audience watches one of these

films, they become aware of the sweep of history. They have one foot in 1970 and one foot in 2020, but the difference in years matters less and less when the conflicts remain the same.

On the Basis of Sex (2018), directed by Mimi Leder, is a biopic and a courtroom drama about former Supreme Court Justice Ruth Bader Ginsburg's early career as a lawyer in the 1970s. It largely follows the first legal case she ever argued in court, *Moritz v. Commissioner*, a tax law case where a man named Charles Moritz was denied a tax reduction for a caregiver for his elderly mother, since the law only allowed the deduction for "a woman, a widower or divorcee, or a husband whose wife is incapacitated or institutionalized." Additionally, it follows her as she navigates presenting her first oral argument in court alongside her husband, Martin Ginsburg. Ruth¹ argues in court that the law discriminates on the basis of sex, which makes it unconstitutional. The case is particularly important because it opened the door for her and other lawyers to argue against other laws that discriminated on the basis of sex, particularly against women.

The Trial of the Chicago 7 (2020), directed by Aaron Sorkin, is a courtroom drama with an ensemble cast. In 1968, eight people – Abbie Hoffman, Jerry Rubin, Tom Hayden, Rennie Davis, David Dellinger, Lee Weiner, John Froines, and Bobby Seale - protested at the Democratic National Convention in Chicago. Most of them were protesting the Vietnam War, and they all stood trial for trying to incite a riot. The majority of the film takes place in the courtroom as the audience learns about what happened before, during, and after the protests. The judge, Julius Hoffman, shows contempt for the defendants and seems to sabotage them at every turn, often asking for the jury to leave for crucial moments of the trial. Abbie often states that the trial is a political trial, and the state is trying to make an example out of them, rather than give

¹ This paper will refer to the character of Ruth Bader Ginsburg as "Ruth" after this section, to differentiate her from her husband who shares a last name, as he will also be "Martin."

them any chance at a fair trial. As the proceedings go on, the other characters realize what Abbie means by a political trial, and though all of them except Bobby Seale were sentenced to jail time, Hayes uses their time for closing remarks to instead read the names of the thousands of American soldiers killed in Vietnam while the trial was taking place.

Courtroom dramas based on real events reflect the social justice issues in society today and encourage viewers to evaluate their perception of law vs. justice and, if necessary, decide how to make society or the law more just. *On the Basis of Sex*, with its adherence to the conventions of courtroom dramas, presents a form of resistance that may take place within the legal system. *The Trial of the Chicago 7* twists many of the established genre conventions to demonstrate the absurdism of its central trial and a form of resistance outside the legal system, where people can create meaning through the act of resistance itself. The films take different approaches to resistance, demonstrated through their relationships to the courtroom drama genre, but both ultimately show the importance of resisting, in one form or another, against the legal system's injustices.

2. COURTROOM DRAMAS

The genre's name does a lot of heavy lifting for describing to audiences what it's all about. The first word, courtroom, distills the genre down to its simplest form: these are films where the most important scenes take place in the courtroom. The second word, drama, refers to why this genre creates successful and engaging films. Trials can be made quite dramatic, with two opposing sides, and only one clear "winner." These two aspects, then, the setting and the conflict, are the central tenets of the genre. Film and legal scholar Nerit Grossman also extends her definition to include familiar characters in the genre, writing in her article "Just Looking:

Justice as Seen in Hollywood Courtroom Film,” that courtroom dramas have “at least one courtroom scene, characters affiliated with the field of law, and a legal issue as the central issue of the plot” (67). These three elements - setting, characters, and conflict - provide the similar dramatic elements between these films, but they also often demonstrate similarities in theme, too. This section provides an in-depth overview of the elements courtroom dramas have historically had, while also demonstrating how two courtroom dramas of the most recent decade continue to manifest those elements.

Since the genre’s beginnings, filmmakers have used courtroom dramas to create films about social issues. In his article “The Social Issue Courtroom Drama as an Expression of American Popular Culture,” Matthias Kuzina analyzes the work of researchers Peter Roffman and Jim Purdy on courtroom dramas, describing “preaching a social message as the salient feature of this category” (82). Speaking further, he explains that films provide a way to translate social problems into dramatic narrative, a means of exploring these issues that audiences may respond to more personally than a news broadcast or even a documentary on the same issue. Kuzina goes on to analyze the history of the genre, describing how times where it would most closely criticize the American legal system correlate with economic and social turmoil in history, such as the Great Depression (84). However, the advent of the Hays Code, an industry-created set of rules and regulations for content to avoid censorship from the government, prioritized the idea of giving people hope in the American Dream and the virtues of America as a country. As Kuzina writes, “It was almost impossible for Hollywood film-makers to effectively reduce the aspirations of the American Dream to the absurd” (85). Despite the realities of the injustices in the court system - which, to many people, may have felt absurd - Hollywood studios would

rather remove doubt about America's virtues from their films than risk the federal government directly censoring them.

By 1968, the industry had abandoned the Hays Code, but it ironically serves as the reason for why the idea of resisting is so necessary. Without external pressure, the established system has no reason to change. Avoiding the issues entirely, as in the case of the Hays Code, which encouraged the studios to stay silent on social issues, does not make that issue better, but it also does not make the issue go away. Public policy theorists often discuss the idea of incrementalism, where a law especially will almost never change overnight. Instead, change in the legal system, from local to federal government, occurs bit by bit over long periods of time. This is the position that Ruth Ginsburg and *On the Basis of Sex* have adopted. Winning the case that allows Moritz a tax break for his mother's caregiver may not seem like a radical act on its surface. However, as Ruth stresses throughout the film - all she had to do was prove one case where the law discriminated on the basis of sex, and have one case where the judges ruled that was unconstitutional. Her form of resistance is a "traditional" one, one that acknowledges the ways the system is unjust, but believes the system itself can correct those injustices.

According to Grossman, the concept of the law is a way to express the abstract notion of justice in concrete terms. People don't practice law just to practice it, but as a perceived means of achieving justice through criminal trial proceedings (70-71). The films in this paper, and often courtroom dramas at large, grapple with the idea of law vs. justice. The law is the established way to achieve justice within society's rules, but because the conflict of a courtroom drama stems from the struggle for justice, these films ask one question that *On the Basis of Sex* continuously comes back to, and which Ruth states during the movie: what if the law is wrong?

If courtroom drama's central tension is law vs. justice, where it seems the law is often in the *wrong*, then what exactly is the rightness of justice? Theresa Ellen Webb examines the meaning of justice in society, in the legal system, and in courtroom dramas in her dissertation "The Aesthetics of Justice in Contemporary American Film." Webb explains that the law, and the state's application of that law, may only be just when the criminal justice system is using "force" in an appropriate or effective manner. Force may be physical, like a police officer arresting someone with handcuffs, or it may be symbolic or indirect, such as enforcing home ownership laws (Webb 13). *On the Basis of Sex* demonstrates the government using a form of abstract force, which is denying Moritz the ability to write off a caregiver for his mother on his taxes. It is still force, though, since the law is preventing Moritz from doing something, something that Ruth believes he should be able to do according to the ideas of gender equality. She takes up the case because the government is not using force in an appropriate and effective manner, and she'd like to argue why. *The Trial of the Chicago 7* highlights many forms of force the state and/or criminal justice system may use, from the police's use of physical force against protesters, to Judge Hoffman's misuse of a more symbolic force by not allowing the jury to hear the testimony of former Attorney General Ramsey Clark. In the case of their trial, though, the defense team is not trying to change any law, and most of the defendants have resigned themselves to the idea that the government believes they're guilty before they even walked in the courtroom. That film, then, dedicates its time to showing the many misuses of force, which constitute instances of injustice.

If courtroom dramas explore the ways the law is wrong, though many different people think of justice differently, there must be some way that American culture conceives of justice, and deems the law flawed when it does not meet that conception. In her dissertation, Webb

analyzes a common symbol found in American courtrooms, the goddess Themis. Themis is a woman often depicted holding a sword in one hand, a scale in the other, and with a blindfold over her eyes. In Western culture, people may see her as the personification of justice, as she was in Ancient Greece. Her three main symbols - sword, scale, and blindfold - represent the virtues necessary for those who seek justice. The sword represents the aforementioned use of force. The scale represents balance or fairness, where hopefully justice will feel equal between the parties involved. Finally, the blindfold represents impartiality, in the hopes that the pursuit of justice may be unbiased from outside factors (Webb 17-18). In the form of Themis, then, American culture does have an ideal of justice to aspire to: justice must have the ability to use force, but that force must be carried out equally and impartially. Citizens may feel the legal system isn't living up to standards if they experience disruption in any of those three areas. Inappropriate use of force, inequality, or biases are all examples of injustices found in both films.

The Trial of the Chicago 7's set design alludes to the ideals of justice that the legal system may aspire to. Inside the courtroom, there is a large mural above Judge Hoffman's head depicting an artwork called *The Beneficence of the Law*, painted by American artist Kenyon Cox. According to Howard Wayne Morgan, author of a book about Cox's life and art, Cox "wanted a legend to summarize his idealistic view of the proper role of law in a cohesive society" (158). The art depicts three women who personify Law, holding a golden scepter and a book; Justice, holding a pair of scales; and Peace, holding an olive branch. In the lower half of the mural, a woman gives fruits to cherubs, "symbolizing the prosperity that flowed from just social law" (Morgan 158). The great irony of placing *The Beneficence of the Law*, with its symbolic depictions of law, justice, peace, and prosperity, above Judge Hoffman's head is that the film makes it abundantly clear that this judge and this trial are not achieving any of these ideals for

the “proper role of law.” Even when culture has some abstract notion of what justice, and thus just laws, might achieve, the spaces dedicated to this pursuit may not achieve it. Courtroom dramas grapple with that tension, and as a genre, are uniquely qualified to do so.

A narrative’s conclusion often provides the audience with the resolution of both story and theme, and for courtroom dramas, the conclusion and thus the importance of the conclusion comes in the form of the verdict. Grossman writes that legal proceedings are a form of narrative, especially when watching a literal narrative film (93-94). She writes about one of the most important parts of both a trial and a film, its ending, saying that, “The closure of legal narrative is significant in the issue of achieving justice. The verdict is perceived in society as the most dramatic tool for realizing justice” (Grossman 94). In *On the Basis of Sex*, Ruth recognizes the verdict as “the most dramatic tool for realizing justice” not just in a symbolic way, but a literal way as well: the caregiver’s tax deduction cannot legally apply to Moritz until the judges hand down a verdict that says so. Additionally, if Ruth can win this one trial, then the verdict that the law does discriminate on the basis of sex would be just, and that verdict would cause ripple effects across the legal system in deciding court cases. For *The Trial of the Chicago 7*, a pre-determined verdict is a major facet of a political trial. Abbie knows that no matter what happens in court, they will be found guilty, which ultimately strips the verdict as “the most powerful tool” of its power. Justice, then, cannot be achieved through the verdict, which means that the only way to bring justice to their courtroom is to continue to call attention to the absurdism and unfairness of the trial.

A just verdict provides not only the resolution for one particular case, but since the genre is so much about universal social issues, it often represents the dominant culture’s shift toward justice for that social issue. In courtroom dramas, Grossman writes that verdicts may not only

provide closure for a case, but also “advance a social or institutional change” (95). This idea is at the heart of *On the Basis of Sex*. If they can argue one case where the law discriminates on the basis of sex, then as the film’s antagonists continually stress, Ruth and her team have established precedent to go after hundreds of laws that do the exact same thing. Grossman’s idea that it is merely to “advance” change is an interesting one, since *On the Basis of Sex* argues that the court’s decision certainly isn’t the progenitor of the change, but rather an institutional recognition that the change is occurring in society. Ruth even states that society doesn’t ask permission to change - it simply does, and it is the law’s job to not only change along with it to reflect the society that it’s supposed to provide the rules and regulations for, but as Ruth states, “to protect the right of the country to change” (*On the Basis of Sex*).

The final characteristic of courtroom dramas brings back the idea of history, where it may not matter specifically when or where a trial takes place, but how it addresses the ongoing social issues in society. Grossman argues that every courtroom drama is representative of a larger metaphor: “Most courtroom films present the achieving of justice as the hero’s goal. The judicial process is a metaphor for everyman’s journey to justice” (83). Each individual case a courtroom drama may touch on is representative of the larger struggle within society and the judicial system to achieve justice with each case that moves through it. This connects to the idea of history, where it’s less important what specific time period these films take place in when audiences are still experiencing a universal struggle for justice in the legal system. *On the Basis of Sex* draws attention to this idea within the film itself - the state is concerned with the idea that if Ruth can win this one case, then that becomes her opportunity to start overturning all sorts of laws that discriminate on the basis of sex. Ruth and her allies are also acutely aware of this idea, which is why when they put on a moot court to allow her the chance to practice the oral arguments and it

goes poorly, they all believe that her husband should do the oral arguments instead. They know that winning one case will bring justice to this one man, but also to many people in the years to come. *The Trial of the Chicago 7* presents a similar idea with how it depicts the protests at the 1968 Democratic National Convention. The director combines black-and-white archival footage from the time period alongside dramatic recreations of the events with the actors the audience has been following throughout the film, cutting between the two. Additionally, in an interview with *Entertainment Weekly*, Sorkin describes how after the Black Lives Matter protests in summer 2020 and particularly the murder of George Floyd, he added to the sequence where the characters find out that Fred Hampton, head of the Chicago Black Panther Party, was shot and killed by the police. Sorkin added black-and-white photographs from the crime scene, in particular an image of police officers, to draw a direct line between the issue of police violence then and now (Agard). He illustrates the idea that protest is its own way of striving for justice, when it seems like the legal system has no interest in upholding it, and that people throughout American history can and will continue to protest when they feel that the government and other institutions are not upholding justice.

3. FOLLOWING AND SUBVERTING CONVENTION

To illustrate their ideas of resistance, *On the Basis of Sex* and *The Trial of the Chicago 7* both interact with the genre convention of courtroom dramas in different ways. These conventions include narrative elements such as the central lawyer hero and the legal space, as well as more cinematic ones like expected character attire or cinematography. *On the Basis of Sex* serves an example of its genre, following the expected characteristics, which represents its more traditional form of resistance and faith in the system. The film does not need to disrupt the

courtroom drama genre because it fulfills each of its aspects and provides a resolution at the very end with the verdict that sets the precedent for striking down other laws that discriminate on the basis of sex. In contrast, *On the Basis of Sex* plays with each of the genre conventions in various ways, to do what Kuniza once implied was impossible for a film to do, exposing the absurdism of the American Dream. When the verdict is no longer what will give their trial the most meaning, the forms that the film disrupts each of the conventions create that meaning instead.

On the Basis of Sex is a biopic as well as a courtroom drama, which means it emphasizes the idea of a central hero. For courtroom dramas, these people are most often lawyers, the ones actively engaged in courtroom proceedings, as Ruth Bader Ginsburg is. *The Trial of the Chicago 7* does have two main characters that are lawyers, William Kunstler and Leonard Weinglass, but since the film has an ensemble cast, Kunstler and Weinglass are not quite the conflict's central figures. Grossman writes that the heroes at the center of genre films "demonstrate and intensify the conflicts to be found in the social systems in which the film deals...the genre hero, according to his role in the community, evokes the cultural conflicts of the genre community" (84). *On the Basis of Sex* illustrate this idea with its protagonists: Ginsburg as a woman is a representative of the social groups affected, or in this case, discriminated by the case she is arguing.

In *The Trial of the Chicago 7*, the cast is largely an ensemble cast. Though there are two lawyer characters closely involved in the case and the plot, the film is not strictly about them. The fact that there's seven defendants, and actually eight including Bobby Seale, is indicative of the issue at hand, which was protesting the Vietnam War. America's involvement in the war affected people of all ages, from all walks of life, which gave every different kind of person reason to protest it. Additionally, it captures a more nuanced version of the protagonist that Grossman outlines. Ginsburg as a woman may represent the social group her legal issues affect,

but she doesn't necessarily represent the struggles that every woman would face in court, such as a Black woman. A courtroom drama with seven or eight main characters more accurately captures the fact that one issue may affect people of many different social groups, and each of these groups may experience injustices differently.

The settings and spaces that courtroom dramas take place in are important for orienting the audience in the world of these films and of the legal system. Courtroom dramas typically present the courthouse visually with low angle shots to emphasize its power and often as a larger building in relation to the others around it (Grossman 76). When Ruth and her team first arrive at the courthouse, the establishing shot of it is from a low angle, which lets the building fill the frame and give a sense of grandeur. The sequence also has a musical score with a steady drumbeat underneath it, conveying a sense of marching, like the trial is a battle to be won. Films may also show courthouses that have inscriptions in the building itself about the virtues of the law (Grossman 76). *On the Basis of Sex* features a close-up shot of an inscription in the courthouse, before Ginsburg has to make her big address, that reads: "Reason is the soul of all law." Leder uses shots of Ruth looking at the inscription both before and after she cuts to it so that the audience understands Ruth is internalizing these words, as characters have emphasized to her throughout that the basis of their argument is their ability to logically defend it.

The architecture of courthouses is supposed to be logical and rational - "contrary to the external chaotic world, within the courthouse space, there is order - and justice is achieved by ordered logic" (Grossman 74). In a film like *The Trial of the Chicago 7*, the world is certainly chaotic - the case revolves around the character's actions during an anti-war protest that resulted in hundreds of injured people, both civilian and police. Yet when they're in the courtroom, they attempt to examine those chaotic events through as ordered a process as possible. Judge Hoffman

finds it necessary to continuously preserve “order,” by banging his gavel or giving out charges of contempt of court, often as a tactic for quite literally silencing those on defense, to the extreme case of eventually tying up Bobby Seale. Once Judge Hoffman gives out enough of these contempts of court, both the characters and the audience come to understand them as meaningless. At one point, when the defendants are asking to further testify, Abbie points at the crowd before Judge Hoffman can give his reply, and the crowd ends up saying at the same time as the judge, “overruled.” Moments like these call attention to the idea that the rigid order of the courtroom is almost meaningless when it is not pursuing justice. In fact, for the judge, the rigid order - an order that affords him nearly absolute power - becomes a means to actively *suppress* the pursuit of justice. In this way, *The Trial of the Chicago 7* is a courtroom drama deeply critical of the idea of a courtroom itself. The public displays that Abbie puts on, such as pointing to the crowd to hear them say, “overruled,” demonstrate his method of creating meaning, or perhaps even future justice, out of a political trial. He is using the platform to teach, to point out the ways that the system is flawed. While it may do nothing for his current position, he can only hope that it will make an impact in the future, by helping people realize the lack of justice in a political trial with a predetermined verdict.

Grossman identifies the attire of everyone involved in the courtroom as another way of signifying the courtroom as a space for law and justice and lending the proceedings an air of credibility. In an epigraph for her discussion on the space of law, she presents a guide from the Supreme Court of the United States on how counsel should dress: conservative and business-like, preferably in a dark color like navy blue or charcoal gray (Grossman 70). In *On the Basis of Sex*, for the finale courtroom scene, though they’re not at the Supreme Court, Ruth does wear a navy blue blazer, a perfect example of these guidelines. Her strict adherence to a literal dress code, in

this instance, demonstrates her adherence to and belief in the legal system itself. In addition to giving the proceedings an air of formality and professionalism, Grossman says that clothing is a way for the audience to “identify the role of the various characters” (Grossman 77). Sorkin plays with the idea of attire in *Trial of the Chicago 7*, during the scene where Abbie and Jerry Rubin show up wearing judge’s robes, even though they’re the ones on trial. By doing this, Abbie attempts to manipulate and ultimately undermine the expected signs and symbols of the courtroom, including the judge’s robes, and to challenge the roles in the courtroom. By wearing some of his own, he demonstrates that he does not respect the judge as an authority, and invites those who witness his act to also reconsider their preconceived understandings about who has authority in a trial and why. When Judge Hoffman orders them to take off the judges’ robes, Abbie and Rubin remove them to reveal they’re revealing police uniforms underneath, with the word “pig” written over the name badge. By wearing another provocative outfit, Abbie once again wants to try and reframe people’s perception of the trial events by reminding them that the events of the 1968 Democratic National Convention are largely remembered as acts of police violence.

Courtroom dramas’ cinematography choices, particularly in framing, also inform how the audience perceives the courtroom and the players within it. Grossman analyzes how courtroom dramas’ cinematography may try to emphasize the authority of the judge, similar to the courthouse, through the use of framing, like with low angle shots (79-80). When Ruth and her husband, Martin, begin the proceedings, Martin delivers the first half of their oral argument. The sequence is confrontational as the film cuts between shots of Martin and the judges quickly, particularly while the judges hit him with questions he has difficulty answering. When Ruth stands up to approach the podium and give their rebuttal, the shot is very balanced. The camera

is behind Ruth's head facing the judges and Leder frames her directly in the middle of the three of them. The judges' table creates a straight horizontal line in the frame, which both Ruth and the judges are situated on, like the sky's horizon. By framing Ruth and the judges in such a balanced way, Leder calls attention to the shift that's about to take place in the trial as Ruth delivers her winning argument. In this moment, despite the history of upholding laws that discriminate on the basis of sex, Ruth has finally achieved real hope of changing things from within the legal system. The government no longer holds sole power; Ruth and the judges are on an equal playing field for her to make her appeal to justice. In *The Trial of the Chicago 7*, particularly when Sorkin introduces Judge Hoffman, he sits on an elevated seat with all the defendants below him. Whenever defendants speak directly to him, Sorkin often frames the judge responding in a wide shot, emphasizing the amount of distance between the judge and the defendant by placing distance between them in the frame. This helps capture Judge Hoffman's disdain for the Chicago 7. The film concludes with a shot that slowly dollies out, showing more and more of the people in the courtroom that are standing and cheering for the names of those who have died in the Vietnam War, while Judge Hoffman bangs his gavel over and over again to no avail. While this effect does show the entire courtroom applauding, it also serves to make the judge's bench look smaller and smaller until he's no larger or more powerful in the frame than anyone else. In this way, Sorkin effectively ends the film with the idea that once the defendants refuse to give him any, the judge no longer holds any symbolic power over any of them.

Grossman writes that the courtroom drama's "conventions emphasize the difficulty in achieving justice in the legal system, and all of them together create the feeling that the person in the legal space struggles...against a permanent factor existing in all of these films - the legal system" (91). Each film's unique presentations of the genre conventions reflect what their films

have to say about the legal system. In *On the Basis of Sex*, though the state and to some extent the law as it exists are presented as antagonistic forces, the act of arguing in court is still presented as the just and rational thing to do. Though Ginsburg believes the *law* is wrong, she does not see fault with the legal system itself, perhaps because she herself is a lawyer. She, and the film, holds no interest in critiquing legal proceedings themselves, but rather prevailing in the arena that society provides for legal debate. Both these films are in contrast to *The Trial of the Chicago 7*. As demonstrated by the various ways Sorkin highlights the absurdity of the trial, from the judge's gross misconduct to efforts by Abbie to discredit the process by playing with clothing and presentation, Sorkin criticizes the very idea of legal proceedings themselves. In some ways, he critiques the idea of a courtroom drama itself, by making his film an ensemble piece where the central hero is not one lawyer trying to achieve justice. The absurdity of much of the courtroom proceedings is in stark contrast to the reality of other scenes, such as Bobby Seale's gagging or the protestors' eventual violent clash with the police. During these moments, the audience isn't meant to laugh at the absurdism of a political trial, but rather sit with the injustices that this trial is truly about.

Webb writes of courtroom dramas that, "such films unveil weaknesses in the system of American democracy...the American legal system knows no master other than current social and moral values...an implicit dominant morality therefore will resonate in verdicts and sanctions" (321). True to form, *On the Basis of Sex* follows this line of thinking, especially when part of Ruth's argument for extending the caregiver deduction to Moritz is the idea that it would be "most in line with the legislative intent." Assuming that an unmarried man was a weakness in creating the law that Ruth aims to correct. Additionally, the other part of her argument rests on the latter half of Webb's quote, about how current social and moral values will dictate

legislature. She appeals to the idea that the culture surrounding gender roles have already changed and it is the law's responsibility to adapt to the change.

The Trial of the Chicago 7 reflects the first half of Webb's idea, where the state and Judge Hoffman use a variety of methods, from dismissing the jury to refusing to allow Ramsey Clark to testify, to prevent a fair trial, exposing the weaknesses that Webb writes of. Additionally, the film calls into question the "current social and moral values." Nixon's attorney general wanted someone, namely the Chicago 7, to answer for the anti-war protests that took place outside the conventions due to the fact that Nixon's administration was intent on continuing to send troops to Vietnam. In a paper titled "American Public Opinion and the War in Vietnam," researchers William L. Luch and Peter W. Sperlich gathered data showing that by the end of 1986, only 37% percent of Americans answered "No" to the question "In view of developments since we entered the fighting in Vietnam, do you think the U.S. made a mistake sending troops to fight in Vietnam?" (25). The Vietnam War was a famously unpopular war; therefore, current social and moral values at the time may support people like the Chicago 7 who opposed the war. *The Trial of the Chicago 7* illustrates a weakness in the legal system that goes beyond what Webb describes: an "implicit dominant morality" may not surface in a case where the government has a significant interest in seeing the defendants found guilty. This is Abbie's idea of a political trial, and what Sorkin is trying to show: a version of the legal system so twisted, a trial so rife with injustice, that there is no choice but to resist against the idea of legal authority itself to generate any meaning from a trial with a predetermined verdict.

4. REMAINING CRITICAL OF CRITIQUES

In analyzing films that invite the audience to be critical, it is important to be critical of the films themselves, too. Particularly for films based on a true story, a central piece of their presentation is how the filmmakers choose to present real-life events. One instance where the audience should decide for themselves how well the film upholds the tension of law vs. justice is during the sequence in *The Trial of the Chicago 7* where Judge Hoffman orders the court police to tie up Bobby Seale. The gagging and tying up of Bobby Seale is an infamous image from this period of American history, and *The Trial of the Chicago 7* is not the first attempt to put it as well as this specific trial on film.

Sorkin's specific decisions for his creation of this scene highlight one of the main themes of the film, which is the idea of resistance. In his article "Prometheus in Chicago: Film Portrayals of the Chaining and Gagging of Bobby Seale and the "Real-ization of Resistance," Greg Burris writes that "images of oppression are at the same images of resistance." Burris argues that the image of Seale bound and gagged can act as a symbol of resistance. He tried again and again in the courtroom to make himself heard, until the judge had to literally silence him. When the viewer sees Seale handcuffed and gagged, they see a visual representation of the silencing that he has endured throughout the trial. In 1970, Bobby Seale recorded a book called *Seize the Time*, and in one chapter, he discusses the events of the trial in Chicago and the day he was bound and gagged. He says, "I sat there and something else came up. [Judge] Hoffman said something else about me, so I rattled the handcuffs against the metal chair - clang, clang, clang, clang - as a means of objecting, still trying to defend myself" (Seale 188). This relates to Burris's idea about symbols of oppression becoming symbols of resistance, in certain contexts. In this instance, Seale is using the literal objects the court is trying to silence him with to continue to try and

make noise and object. He also states that whenever they did take the gag off him, Seale would always remind the courtroom of the Eighth Amendment, which bars the use of cruel and unusual punishment (Seale 192). Until the very end, when the court finally dismissed his case as a mistrial, he ironically used the law and the Constitution to appeal to a sense of justice that Judge Hoffman and the courtroom he was present in had clearly lost.

Interestingly enough, Sorkin made a couple changes to his version of Bobby Seale's story. For one, in *The Trial of the Chicago 7*, the officers use rope, not handcuffs, to restrain Seale, which means he's unable to make the clanging noise he describes in his book. Additionally, Sorkin paints the federal prosecutor, Schultz, in a more sympathetic light than Seale presents him in his book. He describes one incident where, after Seale attempted to explain to Schultz that his mischaracterization of the Black Panther Party and their Power to the People salute was racist, Schultz "jumped out of his chair...turning red... 'Your honor,' he says in a very loud voice and trying to make it sound derogatory, 'Mr. Seale has called me a racist, your honor. And he has called you a racist'" (Seale 187). In *The Trial of the Chicago 7*, Schultz and Seale never clash, and it is actually Schultz who says to Judge Hoffman after he has Seale tied up and gagged that he's just had a man bound and gagged in an American courtroom. For his film version, Sorkin chose to make Schultz more sympathetic than he potentially was in real life - perhaps to make it easier to portray Judge Hoffman as such a villain, for the sake of a Hollywood narrative.

By including this sequence in *The Trial of the Chicago 7*, Sorkin uses Seale's ordeal both as a symbol of resistance while simultaneously failing to portray the full scope of the injustices that Seale faced in the courtroom. In translating his story to a fictional context, Sorkin had to pick and choose what would serve the narrative. In that way, perhaps it is a downside that

courtroom dramas present each trial as a narrative. To fulfill the more simplified steps of a narrative – rising action, climax, resolution, etc. – a film may end up simplifying how complex injustice and oppression is in the real world. While *The Trial of the Chicago 7* comes close to fully embracing the absurdity of a political trial and assigning the greatest meaning to the act of resistance itself, it falls short in its presentation of Seale's story, making it still subject to scrutiny by an audience.

5. CONCLUSION

On the Basis of Sex and *The Trial of the Chicago 7* both end shortly after the audience hears the final verdict; *On the Basis of Sex* concludes walking out of the courtroom, and *The Trial of the Chicago 7* ends in the courtroom itself. *On the Basis of Sex* is a clear celebration of a just verdict that has overturned previous injustice. *The Trial of the Chicago 7*, however, since the characters have emphasized the idea that the verdict is already predetermined, must create meaning for the audience in a different way. Sorkin creates this meaning through Hayden's defiant reading of the thousands of soldiers that have died in the Vietnam War throughout the course of the court proceedings. It demonstrates one final, sustained act of defiance against the courtroom and the legal proceedings, especially when the judge believed by asking Hayden to deliver the closing statement, he chose the defendant most likely to abide by the rules and regulation of the court. Sorkin comes full circle on the absurdist and ineffective portrayal of the courtroom here. Because there is no meaning, and certainly no justice, found in the verdict, both the defendants and the film turn elsewhere for meaning. In this case, it's honoring the social cause that initially brought them to the courtroom. While the court is concerned with putting in jail those who have protested against the actions of the government, the defendants turn the

attention back on the government's actions: by continuing to participate in the war, these are people who have died as a result of that decision.

Since Grossman compared a legal narrative to a story narrative, she also states that courtroom dramas deliver catharsis in the same way that Aristotle outlined (95-96). *On the Basis of Sex* demonstrates catharsis through justice achieved, by overcoming great odds against the legal system and established institutions; Ruth can walk away knowing she has helped not only her defendant, but also helped to further her social cause. In *The Trial of the Chicago 7*, the audience feels catharsis watching Hayden and the rest of the defendants resist until the very end. Sorkin's message is fairly clear: when the law treats people unfairly, though the law is how society hopes to achieve justice, it may not necessarily be where and how people do achieve that justice.

Though a courtroom drama may reach its conclusion like any other film, the conclusion is often not the end for the themes and conflicts they explore. In her analysis of courtroom dramas, Grossman writes that "the conclusion of courtroom films, whether a verdict has been handed down or not, does not provide a solution to the central conflict with which the films cope" (98). This central concept is the idea of law vs. justice, and the questions of if the law is right and just, and what happens when it is not. One reason that courtroom dramas don't provide a solution to this tension is because the conflict between law and justice is ongoing, and is necessary for the legal system to continue to grapple with. This acknowledgement actually makes courtroom dramas a fairly unique genre, since they are one genre that embraces the ambiguity present in life. It may explain why people continue to make and watch courtroom dramas and why it's as enduring a genre as romance or action, despite being far more specific.

The same way that romance remains a fundamental truth about human existence, so does the tension between law and justice, especially for American society.

For these courtroom dramas, the question of how to resist in order to bring the ideas of law and justice into greater harmony is one that resonates throughout American history. In his famous “Letter from Birmingham Jail,” Martin Luther King Jr. explains that there are both just and unjust laws, and there is no time to waste resisting and reforming unjust laws (3). He states, “I have almost reached the regrettable conclusion that the Negro’s great stumbling block in the stride toward freedom...is the white moderate who is more devoted to order than justice” (King 4.) “Law and order” is familiar rhetoric from politicians during times of unrest; Donald Trump stated it on television and Twitter throughout the summer of 2020, and the Chicago mayor, Mayor Daley, during the events of the *The Trial of the Chicago 7* also stated he would maintain law and order in Chicago as he brought in the National Guard against protestors (Little). Additionally, Judge Hoffman is obsessed with maintaining order, though in the film’s final scene, he bangs his gavel over and over again shouting “order!” while no one listens to him, demonstrating a deconstruction of the idea of order and its barriers to justice, as King states. He also goes on to write, “It is the strangely irrational notion that there is something in the very flow of time that will inevitably cure all ills. Actually, time is neutral. It can be used either destructively or constructively” (King 4). King criticizes the idea that if people only wait, then all of society’s problems will work themselves out. Instead, he presents the idea that people can use time “destructively,” by remaining complacent and allowing more time to go by with injustices, or people can use time “constructively,” which is to take up the fight against injustice as soon as possible. By creating these films in the era they did, the filmmakers of *On the Basis of Sex* and *The Trial of the Chicago 7* demonstrate that fights for social justice are ongoing and the

ways people have resisted in the past provide context for people may resist in the future. With room for people to decide for themselves how they'd like to bring about social change, both films do emphasize that at the very least, a person cannot do nothing. By doing absolutely nothing, then a person falls into the destructive use of time.

On the Basis of Sex and *The Trial of the Chicago 7* both released during times of great social aware for an issue in society. For *On the Basis of Sex*, the conversation surrounding gender equality gained momentum in the late 2010's due to the Me Too movement. The actress who plays Ruth Bader Ginsburg, Felicity Jones, states in an interview how, ““What we were finding, with the current revolution that we're in, is that the momentous things happening are, in many ways, things that Ruth had been arguing for years and years and years”” (Patel). Jones's use of the word “revolution” speaks to the cultural moments of both the film and the real life world of 2018. Though the Me Too movement began on social media, one of the most iconic and cathartic images from the time was that of Harvey Weinstein's trial, and the court eventually finding him guilty. In that way, popular culture assigned the Me Too movement gravity and justice when the legal system found Weinstein guilty. Similar to the themes of *On the Basis of Sex*, pursuing a form of resistance through the legal system itself and finding catharsis through a verdict brought justice for people in the situation. Only two years later, though, with the release of *The Trial of the Chicago 7*, American culture would find itself in a much more chaotic state when it came to resistance. The summer of 2020 was marked by the Black Lives Matter and the marches across the country against police brutality. When discussing the sequence covering Fred Hampton's murder, and his inclusion of pictures of police officers, Sorkin states that, “Now in the world of Rashard Brooks and Breonna Taylor and George Floyd, having those shots and having one of them be police offers obviously resonates today” (Agard). Sorkin acknowledges the world

people are living in 2020 will resonate with a Black man's murder at the hands of the police. One cornerstone of the Black Lives Matter movement is drawing attention to the fact that the police, a facet of the criminal justice system, use force inappropriately by killing Black people.

Another cornerstone, though, is the lack of justice the legal system affords these cases, such as the case of Eric Garner's killer, who was never charged with murder. These events mirror *The Trial of the Chicago 7* in a few ways, where people cannot count on the legal system to provide justice, so they have to take to a form of resistance such as protesting to try and achieve that justice.

When audiences watch courtroom dramas, particularly these films of the late 2010s, the films remind them not only of the social issues that continue to endure, but of the flow of history. These films emphasize what Martin Luther King Jr. wrote about time, and how it can be either constructive or destructive. Hopefully, when audiences watch these and walk away, they will feel compelled not simply to wait for how things will play out, but to understand the urgency of the fights for equality, anti-racism, anti-sexism, and anti-war today, and use time in a constructive way. After watching films like these, audiences must confront their own ideas about resistance, about whether they believe a traditional form of resistance like changing the system from within or a form of resistance like protesting is more effective. Courtroom dramas capture a constant about people's lives, which is ever-shifting social change and anxieties about where society is going in the future. They also hope to encourage people to decide what side of those changes they would like to be on, to evaluate how and why laws work as they do, how the government fulfills the will of the people, and most importantly, how those things could change.

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