
**SIDNEY SHAINWALD
PUBLIC INTEREST LECTURE**

New York Law School
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A Conversation with

THE HONORABLE RUTH BADER GINSBURG
ASSOCIATE JUSTICE
UNITED STATES SUPREME COURT

and

NADINE STROSSEN
JOHN MARSHALL HARLAN II PROFESSOR OF LAW
NEW YORK LAW SCHOOL

RUTH BADER GINSBURG



Ruth Bader Ginsburg, Associate Justice, was born in Brooklyn, New York, March 15, 1933. She married Martin D. Ginsburg in 1954, and has a daughter, Jane, and a son, James. She received her B.A. from Cornell University, attended Harvard Law School, and received her LL.B. from Columbia Law School. She served as a law clerk to the Honorable Edmund L. Palmieri, Judge of the United States District Court for the Southern District of New York, from 1959-1961. From 1961-1963, she was a research associate and then associate

director of the Columbia Law School Project on International Procedure. She was a Professor of Law at Rutgers University School of Law from 1963–1972, and Columbia Law School from 1972–1980, and a fellow at the Center for Advanced Study in the Behavioral Sciences in Stanford, California from 1977–1978. In 1971, she co-founded the Women’s Rights Project of the American Civil Liberties Union, and served as the ACLU’s General Counsel from 1973–1980, and on the National Board of Directors from 1974–1980. She served on the Board and Executive Committee of the American Bar Foundation from 1979-1989, on the Board of Editors of the American Bar Association Journal from 1972-1978, and on the Council of the American Law Institute from 1978-1993. She was appointed a Judge of the United States Court of Appeals for the District of Columbia Circuit in 1980. President Clinton nominated her as an Associate Justice of the Supreme Court, and she took her seat August 10, 1993.

EXCERPTS FROM *MY OWN WORDS* BY RUTH BADER GINSBURG

Some of you asked me during recent visits why I want to be on the Supreme Court. It is an opportunity beyond any other for one of my training to serve society. The controversies that come to the Supreme Court, as the last judicial resort, touch and concern the health and well-being of our nation and its people. They affect the preservation of liberty to ourselves and our posterity. Serving on this Court is the highest honor, the most awesome trust, that can be placed in a judge. It means working at my craft—working with and for the law—as a way to keep our society both ordered and free.

Let me try to state in a nutshell how I view the work of judging. My approach, I believe, is neither liberal nor conservative. Rather, it is rooted in the place of the judiciary, of judges, in our democratic society. The Constitution's preamble speaks first of "We, the People," and then of their elected representatives. The judiciary is third in line and it is placed apart from the political fray so that its members can judge fairly, impartially, in accordance with the law, and without fear about the animosity of any pressure group. (p. 184)

Supreme Court Justices are guardians of the great charter that has served as our nation's fundamental instrument of government for over two hundred years. It is the oldest written constitution still in force in the world. But the Justices do not guard constitutional rights alone. Courts share that profound responsibility with Congress, the president, the states, and the people. Constant realization of a more perfect Union, the Constitution's aspiration, requires the widest, broadest, deepest participation on matters of government and government policy. (p. 183)

Rule of law virtues of consistency, predictability, clarity, and stability may be slighted when a court routinely fails to act as a collegial body. Dangers to the system are posed by two tendencies: too frequent resort to separate opinions and the immoderate tone of statements diverging from the position of the court's majority. (p. 233)

[T]he effective judge, I believe and will explain why in these remarks, strives to persuade, and not to pontificate. She speaks in "a moderate and restrained" voice, engaging in a dialogue with, not a diatribe against, coequal departments of government, state authorities, and even her own colleagues. (p. 229)

In sum, the U.S. Supreme Court in the 1970s, as I see it, effectively carried on in the gender discrimination cases a dialogue with the political branches of government. The Court wrote modestly, it put forth no grand philosophy. But by propelling and reinforcing legislative and executive branch reexamination of sex- based classifications, the Court helped to ensure that laws and regulations would "catch up with a changed world." (p. 162)

EXCERPTS FROM *MY OWN WORDS*
BY RUTH BADER GINSBURG (CONTINUED)

My remarks portray the progress of women at the bar and on the bench in the United States. Remembering the past, I am heartened by the progress. Yet, as the numbers reveal, women in law, even today, are not entering a bias-free profession. (p. 69)

Tonight I speak about a woman of courage who would not be put down, a woman who, in 1879, made the U.S. Supreme Court change its ways. Her name, Belva Ann Lockwood, her birth year, 1830. Lockwood was the first woman ever to gain admission to the U.S. Supreme Court's Bar, the first woman to argue a case before the nine Justices, and the first woman to run the full course for president....

Unflagging effort marked her path to achievement. In 1869, then a mother of two approaching her thirty-ninth birthday, Lockwood applied for admission to D.C. area law schools. Her applications were rejected on a ground familiar in those not-so-good old days: Her presence, she was told, "would ... distract the attention of the young men" in the class. Lockwood persevered until the National University Law School (today, the George Washington University Law School) allowed her to matriculate. She encountered yet another impediment when the school refused to confer upon her the diploma she had earned....

Lockwood sought more than suffrage. She urged full political and civil rights for all women. Though she could not vote for president, she twice ran for the office herself, pointing out that nothing in the Constitution barred a woman's candidacy. (She took that bold step 124 years before Hillary Rodham Clinton first became a contender for the Democratic Party's nomination.) Explaining why she entered the race, she wrote in a letter to her future running mate, Marietta Stow: "We shall never have equal rights until we take them, nor equal respect until we command it." (pp. 65-67)

Once granted admission to law schools, women were not greeted by their teachers and classmates with open arms and undiluted zeal. An example from the University of Pennsylvania Law School: In 1911, the student body held a vote on a widely supported resolution to compel members of the freshman class to grow mustaches.

The bar's reluctance to admit women into the club played out in several inglorious cases. In denying Myra Bradwell admission to the bar, the Illinois Supreme Court observed in 1869 that, as a married woman, Bradwell would not be bound by contracts she made. The Illinois court thought it instructive, too, that female attorneys were unknown in the mother country. (p. 70)

EXCERPTS FROM *MY OWN WORDS*
BY RUTH BADER GINSBURG (CONTINUED)

As late as 1968, the law remained largely a male preserve. Textbooks and teachers at that time so confirmed. A widely adopted first-year property casebook published in 1968, for example, made this parenthetical comment: “[F]or, after all, land, like woman, was meant to be possessed.” (p. 71)

In the 1970s, a revived feminist movement blossomed in the United States. I was in those years a law teacher, general counsel to the American Civil Liberties Union, and a founder of the ACLU’s Women’s Rights Project. It was my good fortune to be in the right place at the right time, able to participate in the effort to place women’s rights permanently on the human rights agenda in the United States. (p. 154)

At the ACLU Women’s Rights Project, launched early in 1972, and in the law school seminars I conducted first at Rutgers...., then at Columbia University, work progressed on three fronts: we sought to advance, simultaneously, public understanding, legislative change, and change in judicial doctrine. (p. 155)

Those with whom I was associated at the ACLU kept firmly in mind the importance of knowing the audience—largely men of a certain age. Speaking to that audience as though addressing one’s “home crowd” could be counterproductive. We sought to spark judges’ and lawmakers’ understanding that their own daughters and granddaughters could be disadvantaged by the way things were. (pp. 157-158)

Mid-nineteenth-century feminists, many of them diligent workers in the cause of abolition, looked to Congress after the Civil War for an express guarantee of equal rights for men and women. But the text of the Fourteenth Amendment appalled the proponents of a sex equality guarantee. Their concern centered on the abortive second section of the amendment, which placed in the Constitution for the first time the word male. Threefold use of the word male, always in conjunction with the term citizen, caused concern that the grand phrases of the first section of the Fourteenth Amendment—due process and equal protection of the laws—would have, at best, qualified application to women.

After close to a century’s effort, the suffrage amendment was ratified, according to female citizens the right to vote. The most vigorous proponents of that amendment saw it as a beginning, not as a terminal point. Three years after the ratification of the Nineteenth Amendment, the National Woman’s Party succeeded in putting before Congress the equal rights amendment that has been reintroduced in every Congress since 1923. (pp. 140-141).

EXCERPTS FROM *MY OWN WORDS*
BY RUTH BADER GINSBURG (CONTINUED)

The Equal Rights Amendment, in sum, would dedicate the nation to a new view of the rights and responsibilities of men and women. It firmly rejects sharp legislative lines between the sexes as constitutionally tolerable. Instead, it looks toward a legal system in which each person will be judged on the basis of individual merit and not on the basis of an unalterable trait of birth that bears no necessary relationship to need or ability. (p. 148).

Will major legislative revision occur without the impetus of the Equal Rights Amendment? Probably not if past experience is an accurate barometer. Scant state or federal legislative attention focused on the discriminatory statutes identified by the National Woman's Party in the 1920s. After Congress passed the Equal Rights Amendment, it remained unwilling to ban sex discrimination in admissions to undergraduate schools, although the 1971 Newman report informed it that "discrimination against women, in contrast to that against minorities, is still overt and socially acceptable within the academic community." As a graphic illustration, the 1969 profile of the freshman class at a well-known state university cautions: "Admission of women on the freshman level will be restricted to those who are especially qualified." A candid response came from the Air Force Academy this year: We will enroll women in 1975 if the amendment is ratified, the superintendent said. If the amendment is not ratified, women will have to wait a long time before they can expect to enroll. (p. 143).

A question I am often asked: What does women's participation in numbers on the bench add to our judicial system? It is true, as Jeanne Coyne of Minnesota's Supreme Court famously said: at the end of the day, a wise old man and a wise old woman will reach the same decision. But it is also true that women, like persons of different racial groups and ethnic origins, contribute what the late Fifth Circuit Judge Alvin Rubin described as "a distinctive medley of views influenced by differences in biology, cultural impact, and life experience." Our system of justice is surely richer for the diversity of background and experience of its judges. It was poorer when nearly all of its participants were cut from the same mold. (p. 77)

The institution we serve is ever so much more important than the particular individuals who compose the Court's bench at any given time. And our job—the job of judging in a U.S. federal court generally—is, in my view, the best work a U.S. lawyer could wish for. We serve no client, our commission is to do what is right—what the law requires and what is just. (p. 213)

EXCERPTS FROM *MY OWN WORDS*
BY RUTH BADER GINSBURG (CONTINUED)

Another often-asked question when I speak in public: “Do you have some good advice you might share with us?” Yes, I do. It comes from my savvy mother-in-law, advice she gave me on my wedding day. “In every good marriage,” she counseled, “it helps sometimes to be a little deaf.” I have followed that advice assiduously, and not only at home through fifty-six years of a marital partnership nonpareil. I have employed it as well in every workplace, including the Supreme Court of the United States. When a thoughtless or unkind word is spoken, best tune out. Reacting in anger or annoyance will not advance one’s ability to persuade. (Preface, xv)

Neither of my parents had the means to attend college, but both taught me to love learning, to care about people, and to work hard for whatever I wanted or believed in. (p. 182)

What has become of me could happen only in America. Like so many others, I owe so much to the entry this nation afforded to people yearning to breathe free. (p. 182)

I am a judge, born, raised, and proud of being a Jew. The demand for justice runs through the entirety of the Jewish tradition. I hope, in all the years I have the good fortune to serve on the bench of the Supreme Court of the United States, I will have the strength and courage to remain steadfast in the service of that demand. (p. 88)

High on my list of inspirers is Emma Lazarus, cousin to the great jurist Benjamin N. Cardozo. Emma Lazarus was a Zionist before that word came into vogue. She wrote constantly, from her first volume of poetry published in 1866 at age seventeen, until her tragic death from cancer at age thirty-eight. Her love for humankind, and especially for her people, is evident in all her writings. Her poem “The New Colossus,” etched on the base of the Statue of Liberty, has welcomed legions of immigrants to the United States. (p. 86)

...I have lived long enough to see big changes. Who would believe, for example, in the 1950s when Justice O’Connor and I graduated from law school, that two women no law firm would hire simply because we were women, would one day be seated on the highest Court in the land? Or that the president of the United States would be an African-American, himself the child of an interracial marriage? Yes, we still have a way to go to ensure that all people in our land enjoy the equal protection of the laws, but considering how far we have come there is good cause for optimism about our country’s future. (p. 267)

EXCERPTS FROM *MY OWN WORDS*
BY RUTH BADER GINSBURG (CONTINUED)

Scalia/Ginsburg is for me a dream come true. If I could choose the talent I would most like to have, it would be a glorious voice. I would be a great diva, perhaps Renata Tebaldi or Beverly Sills... Even so, I grew up with a passion for opera, though I sing only in the shower, and in my dreams. (pp. 43-44).

I would like my granddaughters, when they pick up the Constitution, to see that notion—that women and men are persons of equal stature—I'd like them to see that is a basic principle of our society. (p. 140)

SIDNEY SHAINWALD PUBLIC INTEREST LECTURERS
(2004 TO PRESENT)

April 22, 2004

Kenneth R. Feinberg, Esq.

Special Master, September 11th Victim Compensation Fund
The Feinberg Group, LLP

June 1, 2005

Senator Edward M. Kennedy

Senior Senator from Massachusetts

May 2, 2006

The Honorable Stephen G. Breyer

Associate Justice, United States Supreme Court

October 11, 2007

The Honorable Chuck Hagel

Senior Senator from Nebraska

April 29, 2009

The Honorable Jack B. Weinstein

United States District Court for the Eastern District of New York

April 6, 2010

The Honorable Justice Sandra Day O'Connor (Ret.)

United States Supreme Court

March 2, 2012

The Honorable John F. Kerry

Senior Senator from Massachusetts

September 16, 2014

The Honorable Nancy Pelosi

House Democratic Leader and 60th Speaker of the House

March 14, 2016

The Honorable George J. Mitchell

Former Senate Majority Leader and U.S. Special Envoy for Middle East Peace

February 6, 2018

The Honorable Ruth Bader Ginsburg

Associate Justice, United States Supreme Court

THE SIDNEY SHAINWALD PUBLIC INTEREST LECTURE

185 West Broadway
New York, NY 10013-2921

T 212.431.2800

F 212.791.2150

E alumni@nyls.edu

www.nyls.edu/alumni

NEW YORK
LAW SCHOOL