

## A CONVERSATION WITH JUSTICE RUTH BADER GINSBURG

JUSTICE RUTH BADER GINSBURG\*, GILLIAN METZGER† & ABBE GLUCK‡

**Professor Gillian Metzger:** Katherine, thank you for that wonderful overview of all that the Justice has achieved and the history of Columbia Law School. And I want to apologize for those to whom I am showing my back, but this will allow us to have more of a conversation with the Justice.

Justice, thank you so much for being with us today. It is a real privilege for us to get to talk to you this way, and we know for the entire audience. You have had—as you have now heard (LAUGHS)—an amazing and just tremendously varied career, spanning so many different roles of academic, public interest advocate, judge, now Justice. We can't possibly cover all of this in the time we have this morning, but what we are hoping to do is talk a little bit about each of these roles, how each step you took influenced the rest, and then we will be throwing it open after our conversation for questions from the audience.

We thought we'd begin at the beginning or reasonably close to it.

You grew up in Brooklyn and you attended Cornell on a full scholarship, graduated in 1954. And then you went to law school, and you spent your first two years at Harvard where you were one of nine women in a class of more than five hundred. Then came to Columbia where you were one of twelve women—you gained three female cohorts—but out of a class I believe of more than two hundred and eighty. So one first question is what made you decide to go to law school and what was it like being at law school in a group of so few women?

**Justice Ruth Bader Ginsburg:** Gillian, may I just make two footnotes to the splendid introduction that was given for me? I was not the first woman on the Columbia Law faculty. I was the first tenured woman, but Harriet Rabb was here, she came the year before I did, and she started up an employment discrimination clinic with George Cooper. That was the clinic that took on AT&T, *The New York*

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\* Ruth Bader Ginsburg is an Associate Justice of the Supreme Court of the United States.

† Gillian Metzger is Stanley H. Fuld Professor of Law and Vice Dean at Columbia Law School.

‡ Abbe Gluck is Associate Professor of Law at Yale Law School.

*Times*, and the major Wall Street law firms, and many more. (APPLAUSE) The second footnote is a question for you. I do work terribly hard, you know that, but don't you think that David Souter was number one in how many hours of the day he worked? (LAUGHS)

**Metzger:** I have to say my recollection is that everybody worked ridiculous hours at the Court (LAUGHS), but yes.

**Ginsburg:** But now let me turn to your question. You asked how I became interested in the law. One big turn-on for me was that I was going to college at a time that was not very good for the United States. It was the 50s, the heyday of Senator Joe McCarthy of Wisconsin, who saw a communist in every corner. I was working for a professor of constitutional law, Robert Cushman, as a research assistant. He wanted me to understand how far we were straying from our most fundamental values. And in the course of my work with him, I saw that there were lawyers, brave lawyers, standing up for the people who were called before the Senate Internal Security Committee, the House Un-American Activities Committee. So I thought, well, maybe that's what I would like to do. The other powerful influence was my dear spouse. We had decided that we would do together whatever it was. Medical school dropped out early on, thank goodness, because the chemistry labs interfered with golf practice. (LAUGHS) So then it came down to business school and law school. Well, Harvard, the university Marty set his sights on, made that decision easy for us. Women were not admitted to the business school until the 60s. The law school just started admitting women in 1950, '50-'51 was the first year. I think my father was rather concerned about my interest in becoming a lawyer because, realistically, there wasn't much of a demand for women lawyers. (LAUGHS) But then, when I got married, then it was fine because, after all, I would have a man to support me. (LAUGHS) So did I leave out any part of your question? (LAUGHS)

**Professor Abbe Gluck:** No, that was perfect. So Justice, you graduated from Columbia in 1959, and by 1963, you were teaching in academia. And as Professor Franke mentioned, your first love seemed to be procedure, particularly Swedish procedure. But by 1972, you had helped launch the Women's Rights Project at the ACLU and you were writing, litigating, and thinking about gender discrimination. And so we're curious if you could tell us a little more about how you got into the area and how in particular it was that you wound up working with the ACLU?

**Ginsburg:** My eyes were opened up in Sweden. This was in '62 and '63—women were about a quarter of the law students there, perhaps three percent in the United States. It was already well accepted that a family should have two wage-earners. A woman named Eva Moberg wrote a column in the *Stockholm Daily* paper with the headline, “Why should the woman have two jobs and the man only one?” And the thrust of it was, yes, she is expected to have a paying job, but she should also have dinner on the table at seven, take her children to buy new shoes, to their medical check-ups, and the rest. The notion that he should do more than take out the garbage sparked debates that were very interesting to me. Also in the months I spent there, a woman came to Sweden from Arizona to have an abortion. Her name was Sherri Finkbine. She had taken thalidomide and there was a grave risk that the fetus, if it survived, would be terribly deformed. So she came to Sweden and there was publicity that she was there because she had no access to a legal abortion in her home state. Well, that was at the start of the 60s. I put it all on a back burner until the late 60s when the women’s movement came alive in the United States.

My students, then at Rutgers, asked for a course on sex discrimination and the law. And I went to the library and inside of a month read every federal court decision on gender discrimination—no mean feat at all because there were so few, so very few. Also I had signed up as a volunteer lawyer with the ACLU of New Jersey, more because it was a respectable way of getting litigation experience than out of ideological reasons, I will admit. Complaints from women began trickling into the office, new kinds of complaints. For example, women who were school teachers were required to leave the classroom the minute their pregnancy began to show because, after all, the children shouldn’t be led to think their teachers swallowed a watermelon. (LAUGHS) Anyway, these were women ready, willing, and able to work, but forced out on so-called maternity leave, which meant “You’re out, and if we want you back, we’ll call.”

Another group of new complainants were women who had blue-collar jobs and wanted the same health insurance package for their family that a man would get. A woman could get health insurance for herself, but she wasn’t considered *the* breadwinner in the family. Only the man got family benefits. And just to indicate the variety, there was a wonderful summer program at Princeton. The National Organization for Women complained about it. Princeton had already become co-educational. The summer program was for students at the end of the sixth grade. It was a Summer in Engineering program. The children came on campus, they had an enriched program in math and science. There was just one

problem: it was for boys, not girls. I should also mention one other complainant. Abbe Seldin was her name. She was the best tennis player in her Teaneck, New Jersey high school, but she couldn't be on the varsity team. There was no team for girls, and although she could beat all the boys, she couldn't be on the team. So all this was underway. People were lodging complaints they were either too timid to make before or were sure they would lose. But in the 70s they could become winners because there was a spirit in the land, a growing understanding that the way things had been was not right and should be changed.

**Metzger:** That leads wonderfully to the gender discrimination litigation that you then started. I was wondering if you could tell us a little bit about what your first cases were about, and as that litigation progressed, what your strategy was in trying to set up the issues before the Court.

**Ginsburg:** Well, it has been said that I was mostly a champion of men's rights. I think what I've just said about the school teachers and the blue-collar workers should lead you to conclude that that's a questionable description. (LAUGHS) But the first case I litigated did involve a man. His name was Charles E. Moritz, a man who took good care of his mother, then age eighty-nine. Moritz was in his sixties.<sup>1</sup> He was a never-married man. The Internal Revenue Code at the time allowed a deduction for the care of a child or a disabled dependent of any age. The deduction was available to any woman or any widowed or divorced man. Charles E. Moritz did not fit any of those categories. He litigated his case *pro se* in the tax court with a brief that was the soul of simplicity. It said, "If I were a dutiful daughter, I would get this deduction. I'm a dutiful son. This makes no sense." The tax court said "We glean that the taxpayer is making a constitutional argument. (LAUGHS) But everyone knows the Internal Revenue Code, which makes so many arbitrary distinctions, is immune from constitutional challenge." (LAUGHS) Well, my husband, who was a great tax lawyer and teacher, noticed this case in the tax advance sheets, and said, "I'd like you to read this opinion." With some impatience, I answered, "Marty, you know I don't read tax cases." (LAUGHS) "Read this one," he said. I did, and immediately reacted, "Let's take it." And so we did. I regard the brief filed in the Tenth Circuit in the *Moritz* case as kind of the grandparent brief.

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<sup>1</sup> See *Moritz v. Comm'r*, 469 F.2d 466 (10th Cir. 1972).

The next Supreme Court brief was prepared in a case called *Reed v. Reed*.<sup>2</sup> As any of you who has taken a gender discrimination class or even a constitutional law class should know, *Reed v. Reed* was the turning-point gender discrimination case in the Supreme Court. The case was commenced by Sally Reed of Boise, Idaho, who had a young son. She and her husband separated. When the son was, quote, “of tender years,” she was the custodian, but when the boy was ready to be prepared for a man’s world, the judge—the family court judge—thought the boy should live at least part of the time in his father’s house. Sally was very distressed about that and for good reason. The boy became tremendously depressed and one day took out one of his father’s many rifles to kill himself. Sally wanted to be appointed administrator of his estate. She applied for the appointment and then, about two weeks later, her former husband applied. The probate court judge told Sally, “The law decides this question for me. It reads, ‘As between persons equally entitled to administer a decedent’s estate, males must be preferred to females.’”

A brilliant lawyer at the ACLU, then serving as one of three General Counsel, Marvin Karpatkin, spotted Sally’s case in *Law Week* and said, “This is going to be the one that turns them around.” He was right. In November 1971, the United States Supreme Court returned a unanimous judgment in Sally’s favor. Idaho’s law was invalidated for denying Sally the equal protection of the laws. My idea had been to pair Sally Reed’s case with Charles Moritz’s case. Both showed how arbitrary, utterly irrational, gender-based classifications could be. But the Tenth Circuit took over eighteen months to decide Charles E. Moritz’s case. By that time, the Supreme Court has decided *Reed*.

**Metzger:** I saw a few students from my Con Law class in the room and I think many of them will feel deeply the comment that the argument, “That makes no sense,” is at its core a constitutional law argument. (LAUGHS) Now you filed, as Katherine recounted, many briefs, and you also argued many cases before the Court. And I was wondering are there any briefs or arguments that are particularly memorable to you to this day?

**Ginsburg:** My first oral argument at the Court was in *Frontiero v. Richardson*.<sup>3</sup> Sharron Frontiero was a lieutenant in the Air Force. When she married, she did not get the housing allowance that a married male officer would get. And her husband didn’t have access to the medical and dental care free to service members and

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2 See *Reed v. Reed*, 404 U.S. 71 (1971).

3 See *Frontiero v. Richardson*, 411 U.S. 677 (1973).

dependents of service members on the base. We presented a divided argument. Local counsel argued that there was no rational basis for granting married male officers greater fringe benefits than married female officers. I argued that gender classification should get the same degree of scrutiny, should be regarded with the same skepticism, as race classification. I had, if I recall correctly, twelve minutes of argument time. I was not asked a single question. Both of you have observed many arguments, you know how extraordinary that is. I was puzzled. Were the Justices just indulging me or were they listening? The decision in *Frontiero v. Richardson*, with a plurality opinion that closely resembled the ACLU's brief, showed that perhaps they were listening.<sup>4</sup>

My last argument at the Court was in the Fall of 1978. The case was *Duren v. Missouri*, the last of the "we don't put women on juries on the same basis as men" cases.<sup>5</sup> Missouri had an opt-out system. Women were called for jury duty. But they were sent a card announcing in big letters: If you're a woman, you don't need to serve. If you don't want to serve, check off here. And if the woman didn't return the card, it was assumed she did not want to serve. That, too, was a divided argument. Fifteen minutes for the public defender from Kansas City, Missouri, and the remaining fifteen minutes for me. I was about to sit down, satisfied I had conveyed just about everything I wanted to get across, when my later Chief, then Justice Rehnquist said, "And so Mrs. Ginsburg, you won't be satisfied with Susan B. Anthony's face on the new dollar." (LAUGHS) Racial jokes, it was well understood, were off limits, but women remained fair game. I became very fond of Chief Justice Rehnquist in the course of our service together. Fast forward to early Fall 1993. I am about to be made a member of the Supreme Court. I will take the oath of office, and Janet Reno, then our Attorney General, will read my commission. Most Attorneys General like to be called General, but Janet Reno didn't. She wanted to be called "Ms. Reno." Well, the Chief wasn't accustomed to Ms. He knew Mrs. and Miss. So we had a little dress rehearsal because he wanted "Ms." to sound natural. (LAUGHS) I was in his chambers, and listened as he said, "Ms. Reno, Ms. Reno" three times until he felt comfortable using that inauspicious title. (LAUGHS) Anyway, after the Susan B. Anthony remark, I thought of a good comeback in the cab going to the station. "No, Mr. Justice Rehnquist, tokens won't do." (LAUGHS) Wish I had said that for the record.

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4 See Brief of ACLU as Amicus Curiae, *Frontiero v. Richardson*, 411 U.S. 677 (1973) (No. 71-1694).

5 See *Duren v. Missouri*, 439 U.S. 357 (1979).

**Gluck:** Justice, the first time I ever met you was when I was interviewing for a job with you and you told me that story, and I happened to be reading the biography of Katharine Graham the same day, and on the way home on the train, I wrote that “Mr. Justice Rehnquist, a token will not do” in the back of my book because it was such a wonderful story. (LAUGHS) I still have it, it’s really special. Let me ask a different kind of question. Later, when you were on the Court, you had the chance to write the majority opinion in *United States v. Virginia*, the case challenging the exclusion of women at the Virginia Military Institute.<sup>6</sup> I’m wondering if it was different for you to be thinking about those issues as a Justice and not as a litigant. How did it feel to be approaching them from the bench?

**Ginsburg:** VMI was a very special case for me. It was a bright sign of the changing times. First of all, who brought that case? The United States, so the United States was the proponent instead of the opponent as it had been in the days I was arguing. Another aspect of the *VMI* case, there was only one dissent. Now there might have been two, I’ll admit. Justice Thomas’s son was attending VMI so he recused, leaving Justice Scalia the only dissenter. Justice Scalia came to my chambers one early June day. You know what June is like at the Court, certainly the cruelest month because of the need to get out all of the term’s opinions not yet announced. I circulated the majority opinion in *VMI* in April and awaited the dissent. I was about to go off to the Second Circuit Judicial Conference at the start of June. Justice Scalia tossed his draft dissent on my desk saying, “Ruth, this is my penultimate draft. I’m not ready to circulate yet, but I want to give you as much time as I can to answer.” You know what Justice Scalia’s drafts are like (LAUGHS), he absolutely ruined my weekend at the Second Circuit Judicial Conference. But I was glad to have the additional days to respond.

A third aspect of *VMI* relates to a case I briefed but didn’t argue in the Court, titled *Vorchheimer v. School District of Philadelphia*.<sup>7</sup> Philadelphia at the time, and the time is the middle 70s, had two public high schools for intellectually gifted students: One was called Central and the other was called Girls. The plaintiff in the *Vorchheimer* case, Susan Vorchheimer, wanted to go to Central because it had better math and science facilities and many other advantages. She prevailed in the district court but lost in the Third Circuit two to one. Next, the Supreme Court divided four to four, which meant automatic affirmance of the Third Circuit’s judgment. So Central High versus Girls High was a case that took

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6 See *United States v. Virginia*, 518 U.S. 515 (1996).

7 See *Vorchheimer v. Sch. Dist. of Philadelphia*, 532 F.2d 880 (3d Cir. 1976).

me twenty years to win. (LAUGHS) But the most affecting thing about the *VMI* case for me was a letter I received from a man who said he had graduated from VMI some years ago. He wrote that he had met many women in his working life who were at least as tough and as capable as he was. He was very pleased that VMI would admit women, perhaps his teenage daughter would go there. Some months later, I got another letter from the same man with something tightly wrapped up inside. I opened the wrapping and found a little tin soldier attached to a pin. The letter explained, "This is the keydet pin that the mothers of all VMI graduates receive. My mother died last week. I think she would like you to have this pin."

**Gluck:** Wow, that's a wonderful story. Now in the past, you've made some remarks and written a little bit about the difference between the way the lines of the gender discrimination cases and the reproductive rights cases developed. I wonder if you could talk to us a little bit more about what you see as the relationship between those two lines of cases or maybe the disconnect between them.

**Ginsburg:** The ACLU had two projects in the 70s: the Women's Rights Project and the Reproductive Freedom Project. The separation was in large part funding-induced. The Ford Foundation at that time was willing to fund our Women's Rights Project, but they didn't want to have anything to do with abortion. The Rockefeller Foundation, on the other hand, didn't make women's rights a priority, but did care about population control, so they were willing to fund the Reproductive Freedom Project. There was another contributing element. The ACLU had been involved with the first contraception case decided by the Court, *Griswold v. Connecticut*. *Griswold* featured a right-to-privacy argument pinned to the Due Process Clause. Lawyers who had worked on the *Griswold* case thought the ACLU should stay with the argument that yielded a victory.<sup>8</sup> ACLU's briefs, as amicus in *Roe v. Wade*, and as counsel for petitioner in *Doe v. Bolton*, made privacy the prime argument instead of stressing women's autonomy, their right to chart their own life's course.

May I tell you about the reproductive freedom case I hoped would be first to reach the Supreme Court? In time, it would have preceded *Roe v. Wade*. The plaintiff was Captain Susan Struck, who served as a nurse in Vietnam. She became pregnant while in service there and was told by the base commander, "You have a choice: You can have an abortion, which you can have here on base or, if you do not terminate the pregnancy, you will be discharged." Our armed

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8 See *Griswold v. Connecticut*, 381 U.S. 479 (1965).



forces, at the start of the 70s, were offering abortions to women in service and dependents of men in service. Susan replied, "I'm Catholic and cannot have an abortion. But I will use only my accumulated leave time and I've made arrangements to surrender the child at birth for adoption." She might have added, "If I had become an alcoholic here in Vietnam or I had become a drug addict, and if I reported myself, you would have kept me in service month after month in a rehabilitation program. I plan to take much less time off than that."

Captain Struck was represented by the ACLU of the State of Washington. Although she lost in the district court and lost two to one in the Ninth Circuit,<sup>9</sup> her discharge was stayed every month, so she was always in the position of being in, fighting to stay in rather than shut out, trying to get back in. The Supreme Court grants her cert petition, and then the Dean of the first law school I attended, Erwin Griswold, who was then the United States Solicitor General, met with the Air Force brass. He said in effect, "This case has loss potential. I think you should change the rule and you should waive Captain Struck's discharge." So that's what happened. I called Susan—this was in '72, and said, "Isn't there anything that you're missing so we can say this case is not moot?" (LAUGHS) She replied, "I'm not out any pay or allowance. Sure, I didn't choose to be in Minot Air Force base in South Dakota (LAUGHS), but we can't make anything of that. There is one thing: my dream is to be a pilot, but the Air Force doesn't give flight training to women." We both laughed because in 1972, that was an impossible dream. That's one clear sign of how much has changed. But we can only guess whether the Court would have taken a different path if the first reproductive choice case it heard involved a woman whose choice was birth.

**Gluck:** Right.

**Ginsburg:** Anyway, Solicitor General Griswold saw to it that we did not have that opportunity. (LAUGHS)

**Metzger:** So Justice, let's maybe shift gears a little bit because you've had such a remarkable career as an advocate, but of course, you've also had a remarkable career as a judge for more than thirty years already. So we wanted to ask you whether or not your approach to cases changed once you came on the bench and switched from the role of public interest litigant to federal judge. Did your view on what makes a good case alter, or how the law should develop alter once you went on the bench?

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9 See *Struck v. Sec'y of Def.*, 460 F.2d 1372 (1971), *vacated*, 409 U.S. 1071 (1972).

**Ginsburg:** Well, you know what life is like on a collegial court, and especially at the Supreme Court. In the D.C. Circuit, you had to carry one other mind to make law. In the Supreme Court, the magic number is five. So when you're writing for a collegial court, you're never writing just for yourself. You can't write the opinion as you would if you were queen. (LAUGHS) You two know very well about the "Dear Ruth" letters. We circulate an opinion, we think it's just fine, but a colleague writes, "Dear Ruth, I might join your opinion if you change this, that, or the other thing." And almost invariably, I accept the suggestions that my colleagues make. The collegiality part is a factor law students, even law teachers, tend to overlook about opinions that speak for the Court. An opinion of the Court very often reflects views that are not a hundred percent what the opinion author would do, were she writing for herself.

**Metzger:** Right. That connects actually to something that I think you've often spoken and written about, which is the importance of moderation and restraint in judging. What's interesting is that you've also at times emphasized that there are some instances in which judges can't or shouldn't exercise restraint. And some of your writings contrasted two major constitutional law cases to make this point, the contrast being between *Roe* and *Brown*, where you've spoken of the former as a case in which maybe restraint would have been preferred, but the latter as one in which restraint really was just not an option, in your view. I was wondering if you would be willing to elaborate on that for us and explain how you see the difference between the two.

**Ginsburg:** In *Brown*, the Court really had no choice. The political process was not capable of ending apartheid in America because the Southern states were adamant in their view. So the Court had to take the step that it did. At the time of *Roe v. Wade*, abortion law was in a state of flux across the country. Four states, at least in the first trimester, made abortion available if that's what the woman chose. Other states allowed abortion on specified grounds, including the woman's physical or mental health. So the law was changing and the direction of change was away from absolute prohibition. The law before the Court in *Roe* was the most extreme in the nation. No abortion unless it was necessary to save the woman's life, not health. The Court could have struck down that most extreme law and stopped there. Then it would have put its imprimatur on the side of change and perhaps states would have continued in the direction in which they were heading instead of reversing course and chopping away at *Roe v. Wade* as they did. There was

an easy stopping point for the Court. It could have said no to the Texas law in *Roe* or even to the Georgia law at issue in *Doe v. Bolton*.<sup>10</sup> Or it could have waited. It could have decided the Texas case and deferred consideration of the questions presented in the Georgia case. Very often the Court decides, “Yes, this is an issue we should deal with, but we should let it percolate a little longer.” Or, “This vehicle is not so good, let’s wait for another one.” So instead of rendering a decision that made every abortion law in the country invalid, even the most liberal, the Court could have rendered a more moderate and restrained judgment.

In my view, the Court reached the right decision about the Texas law, which took a position most States had rejected. Instead, the Court moved too far too fast, and it also relied on once discredited substantive due process argument instead of stressing the women’s equality dimension of the matter. The *Roe v. Wade* decision emphasizes the doctor’s right to recommend to his patient what he thinks his patient needs. The constant picture is of the woman in consultation with her physician, not of the self-standing woman seeking to take charge of her life’s course. We continue to have the annual Right to Life March in D.C. on *Roe v. Wade*’s anniversary. I appreciate that others hold different views and that we’ll never know whether I’m right or wrong, that things might have played out differently if the Court’s opinion had been more restrained.

**Gluck:** Justice, in addition to moderation, you talk an awful lot about collegiality at the Court, and just related to that, I wanted to ask you specifically about dissents. Do you think the voice of the Justice is or should be different when she is in dissent than when she’s in the majority?

**Ginsburg:** Yes, I mean you can let out all the stops when you’re a dissenter. (LAUGHS) I would distinguish two kinds of dissent. There’s the great dissent written for a future age—the Brandeis and Holmes Free Speech dissents around the time of World War I are exemplary. They are the law of the land today. Another kind of dissent aims to prompt immediate action from the legislature. The Lilly Ledbetter case is a recent example.<sup>11</sup> I should tell Lilly Ledbetter’s story because some of you may not know it.

Lilly Ledbetter worked as an area manager for a Goodyear Tire Plant. She was hired in the 70s, then the only woman doing that job, and was initially

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10 See *Roe v. Wade*, 410 U.S. 113 (1973); *Doe v. Bolton*, 410 U.S. 179 (1973).

11 See *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007).

paid the same as her male colleagues. Over time, her pay slipped. She might have suspected it but she didn't know it for sure because Goodyear, like most employers, didn't give out its wage records. One day, she found a little slip in her box at the plant; it listed the salaries of the men employed as area managers. Compared to Ledbetter's salary, the disparity was startling, as much as forty percent. In the years of her employment at Goodyear, she'd done a pretty good job, earning satisfactory performance ratings, so she thought she had a winnable case. She filed suit and won in the district court, gaining a substantial jury verdict. On appeal, Goodyear argued that Ledbetter sued too late. She should have sued within 180 days—Title VII says within 180 days of the discriminatory incident, so if you count from the very first time her pay slipped, that would have been back in the 70s. The Supreme Court agreed that her claim was untimely, which meant the jury's verdict for damages was overturned.

My dissenting opinion pointed out that a woman in Ledbetter's position, the only woman doing a job up till then done only by men, doesn't want to rock the boat. She is unlikely to complain the first time she suspects something is awry. She will wait until she has a secure case. My opinion suggested that if she had sued the first time her paycheck was lower, had she found out about it, she probably would have lost because the excuse would have been "She doesn't do the job as well as the men." But after twenty years, that argument can't be made with a straight face. By then, she has a winnable case. The Court's answer, she sued too late. She argued that every paycheck renewed the discrimination. I agreed. My dissenting opinion concluded: The ball is now in Congress's court to amend Title VII to say what I thought Congress meant all along. Within two years, the Lilly Ledbetter Fair Pay Act was passed. It was the first piece of legislation signed by President Obama. The audience to which my dissent appealed was Congress. Congress picked up the ball with a little help from the many groups (LAUGHS) that prodded legislators to amend Title VII.

**Gluck:** I see some of my Legislation students in the room, and that Lilly Ledbetter case, it's such a wonderful example of the Court initiating a dialogue with Congress, so we've talked about that a lot in my class. So related to this, like *Ledbetter*, some of your most impassioned dissents have been on women's issues or in gender-related issues, like in *Carhart*,<sup>12</sup> the late-term abortion case, and also last term in *Wal-Mart*,<sup>13</sup> which is, of course, as you know, the class action case

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12 See *Gonzalez v. Carhart*, 550 U.S. 124 (2007).

13 See *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541 (2011).

involving gender discrimination. And I was wondering if you view your voice as particularly important, your perspective as particularly different, when you're writing in cases like that, particularly in dissent.

**Ginsburg:** Part of the case, the part of *Wal-Mart* from which I dissented, was very much like a case Harriet Rabb litigated in the 70s. Harriet's case involved AT&T and the issue was promotion to middle management level. There were many criteria, but the last step in getting the promotion was what was called the total person test. Women lost out at that step. Why? Because the interviewer was male, and had confidence in persons who look like himself in the mirror and on the record, persons who were white and male. The point was simply this: unconscious bias may be operating in personnel choices. So it seemed in *Wal-Mart*. There was an interview, after which women were disproportionately dropped from the promotion list. Unconscious bias can be overcome if you're determined and ingenious enough. Think of what orchestras did to counter unconscious bias. When I was growing up, you almost never saw a woman in a symphony orchestra, save occasionally as harpist. Then someone had the bright, beautifully simple, idea of dropping a curtain so that the people conducting the audition could not see the people who were auditioning. The result, women began to show up in symphony orchestras in numbers. When I mentioned the curtain last summer at a musical festival in Castleton, Virginia, a star violinist, Jennifer Koh, told me, "You left out one thing. Not only is there a curtain but we audition shoeless so they don't hear a woman's heels coming on stage." (LAUGHS)

**Gluck:** Just one more question as we shift gears to outside of the gender cases. We have a lot of 1Ls in this room who have just finished Civil Procedure, and in addition to all your gender work, you are the Court's civil procedure specialist, many would say, and you've written some enormously important cases. I had to tell my 1Ls that I wasn't picking the cases that you wrote just because I clerked for you but that these really are the most important cases. (LAUGHS) They're laughing because I did tell them that because it seemed like every single case we were reading was something that you had written. And I was just wondering if you could talk a little bit about your role in that capacity or whether there are any particular civil procedure opinions that really stand out for you as disappointing or incredibly important.

**Ginsburg:** I'd write all the procedure decisions for the Court if I could, but (LAUGHS) the Chief has an idea that we should all be generalists. So, you can see, I'm still teaching or trying to teach procedure. Among stand-out misguided decisions, I

don't know if you've gotten up to *Erie*, is the *Shady Grove* case.<sup>14</sup>

**Gluck:** Yes. (LAUGHS)

**Ginsburg:** That case is a true mystery to me. People otherwise ranked as states' righters voted to remove to federal court certain actions originating in state court. State law disallowed class proceedings, federal procedure allowed them. The law creating the claim—New York law—said no class actions in this type of suit. That law should have governed, my dissent explains.

Also on my list of wrong decisions, *Nicastro*, a personal jurisdiction case. The Court got it right in *Goodyear*,<sup>15</sup> but wrong in *Nicastro*.<sup>16</sup> Anyway, hope springs eternal. If I lose today, there's hope that tomorrow will be better. Oh, I should say in *Nicastro*, my newest colleague, Elena Kagan, who also taught Procedure and Administrative Law, got it right. She joined my dissent (Justice Kagan was not on the Court when *Shady Grove* was decided).

**Metzger:** Katherine mentioned that we are celebrating in part the fortieth anniversary of your joining the Columbia faculty, and spoke a little bit about women as academics at Columbia and your life as an academic. We were wondering if you had some words to say about that time, about what stands out for you about being an academic and whether you see influences of those years now in your role as a judge.

**Ginsburg:** One thing is the flowering of clinics. There were not many in the 70s. George Cooper and Harriet Rabb launched the Employment Discrimination Clinic. Harriet later did other things, like the Big Apple Clinic. Now, a variety of clinical opportunities are offered in law school, and I think that's all to the good. Another huge change, in law schools nowadays, fifty percent of the students are women, in some law schools, more than fifty percent. In the legal profession, there are no doors closed to women anymore.

**Metzger:** This is actually probably in some ways a self-interested question because one of the things legal academics do wonder about sometimes is how the courts view our work, our scholarship, and what we do. So I'm curious whether—now that you've got a few faculty members in a room, whether you'd have any words of

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14 See *Erie R.R. Co. v. Tomkins*, 304 U.S. 64 (1938); *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 130 S. Ct. 1431 (2010).

15 See *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct. 2846 (2011).

16 See *J. McIntyre Mach., Ltd. v. Nicastro*, 131 S. Ct. 2780 (2011).

advice or what you think of the role of legal academics is and should be today?

**Ginsburg:** There's nothing a judge appreciates more than a good law review article on the topic. But sometimes we have the sense that the law faculties frankly are more interested in talking to each other and regard the courts as unimportant or obsolete, so they don't speak the language the court relates to. But I should add, at once, that a number of law schools have constitutional litigation clinics. Probably the most frequent player in our Court is the one at Stanford. So those law schools, or at least their clinic leaders, seem very interested in what we're doing. I should note, too, that a number of the law professors are involved in death penalty case representation, and many write or sign on to *amicus curiae* briefs. But I would like to emphasize that there really is nothing better than a good unbiased law review article in a field, and if we have that, we're served better than we are by the lawyers' briefs.

**Gluck:** Justice, if you'll permit us two final questions before we open it up to the group. First, I thought we could have a question for the law students in the room. Any advice that you have to young lawyers today? The legal world is so different now, maybe than it was when you graduated. Particularly advice to the young women lawyers in the room as they think about how to shape their careers as they start out?

**Ginsburg:** It's a great age to be a lawyer. I mean, there are so many opportunities. Of course, there is a problem that women encounter to a greater extent than men. There are no closed doors. Women come to law firms at the associate level as often as men do. No clerkships are closed to women. I would have given anything to clerk for Learned Hand. But his view was "I can't take a woman as a law clerk because I would feel uncomfortable. She would inhibit my speech." (LAUGHS) And he was able to say that up front. There was no Title VII then. (LAUGHS)

So overt discrimination is gone. But what happens when a baby arrives? And how can workplaces be encouraged to accommodate to the reality that people have a work life and a family life? Now that's changing, but not swiftly, and it takes people who care. For twenty-one years, Marty my husband, worked at Weil, Gotshal & Manges, known as one of the biggest sweatshops in town. (LAUGHS) We had agreed that unless something was really urgent, we would have dinner together with the children every night. So he wasn't at the firm after seven o'clock and somehow the tax department flourished. If you were working in the antitrust department or bankruptcy department, yours was an around-the-

clock job. It takes people, men as well as women, who appreciate that there is a family life as well as a home life to be lived, and press for change.

**Gluck:** So my next question was going to be about family and about Marty, and we—Gillian and I—had the great privilege of knowing him, a remarkable man, and the rest of your family: our dear friend and colleague, Jane, and your son who could not be here. We've heard you talk before about how you all supported each other through all of your careers while you maintained this family balance, and if it's not too personal, if you could tell us a little more about how your family supported you in turn while you found time for them as you embarked on all these careers, that would be wonderful.

**Ginsburg:** Well, I had the great good fortune to marry a man who thought my work was as important as his. That was rare in the 50s. Thanks to the encouragement he got from my food-loving children, I was phased out of the kitchen (LAUGHS), which became entirely his domain. When I was appointed to the D.C. Circuit in 1980, people would ask, "Isn't it hard on you commuting back and forth between D.C. and New York?" They didn't think that Marty would move with me.

Marty's family was also tremendously supportive. Jane was the first grandchild in the family and Marty's mother, no matter what it was, she was there if I needed her. Sometimes it got to be more than a little trying. I remember once my mother-in-law made a sign and put it on my mirror. It said, "Even this shall pass." And my father-in-law was similarly helpful. I became pregnant when Marty was in service and we were living in Fort Sill, Oklahoma for nearly two years. I wondered whether I could manage Harvard Law School with an infant. My father-in-law's advice: "You know, Ruth, if you don't want to go to law school, no one will think the less of you. You have the best reason in the world. But if that's what you want to do, if you want to be a lawyer, you will pick yourself up, you will stop feeling sorry for yourself, and you will find a way." And that attitude is one that I have tried to maintain ever since.

**Gluck:** Well, this has been such a wonderful conversation. We're so excited, looking forward to the rest of the day. We thought we would be generous now and give some others a chance to ask you some questions. Let me just note that there are microphones at your seats, so please push the button if you're called upon. Professor Metzger and I will call on you. And of course, there are some questions that Justice Ginsburg, as a sitting Justice, will not be able to answer and we know you all understand that. So forgive us if that happens.



**Ginsburg:** It's the famous Ginsburg rule, invoked in Senate Judiciary Committee confirmation hearings: "Please do not ask me about a case that is before the Court or an issue that may come before the Court."

**Gluck:** Right, issues that may come before the Court. You should hold back those kinds of questions. Don't be shy.

**Audience:** Justice Ginsburg, I'd like to ask you a question about *Wal-Mart*. You alluded to it in the dissenting opinion, but you weren't explicit about it. It seems to me that the lawyers in *Wal-Mart* made a mistake in not bringing it as a disparate impact case. They brought it as a disparate treatment case. Didn't that tie the Court's hands and almost inevitably lead to the result that it led to?

**Ginsburg:** It was that, Kathleen, and more than that. It was just too much to bring before the Court at that time. Kathleen Peratis was my wonderful co-worker at the ACLU Women's Rights Project. You know, Kathleen, that we tried to do things step by step. We tried to win cases and avoid bringing cases that had great loss potential. So *Wal-Mart* could have been pared down. Diminished in size, it might have been a winner. But, I agree, the lawyering had a lot to do with why it lost.

**Audience:** I was interested in some comments you made recently about whether the United States Constitution is necessarily a good model for new countries that are forming their new governments now, especially in Egypt. And I was wondering especially on the fact that our Constitution still does not have an Equal Rights Amendment, whether you think that would actually solve some of the problems that we see coming up in constitutional cases repeatedly in the United States and how also statutes are interpreted such as the—I know you can't speak to the result in it—but the recent case about whether women should be given space for breast-feeding in the work place and so on. Would an Equal Rights Amendment fix that sort of case? And do you think that sort of Amendment is necessary for the new republics that are being formed these days?

**Ginsburg:** There isn't a Constitution in the world written since 1950 that doesn't have an Equal Rights Amendment. Well, that's one difference between a Constitution written at the end of the eighteenth century and a Constitution written more recently. I was puzzled by some commentary on my remarks in an Egyptian TV interview. If you were writing a Constitution today, would you look back to an eighteenth century model and not consider newer constitutions? I mentioned specifically the Constitution of South Africa, the Canadian Charter of Rights and Freedoms, and the European Convention on Human Rights. So yes, the United

States Constitution, particularly on the structure of government, you might look to that as one model. But in the end, I think most systems abroad will retain parliamentary systems and will not have our separation of legislative and executive powers. Also, in most countries, there's no federalism issue. It's one nation, not composed of several states. As to the Equal Rights Amendment, as important as I thought and think it is as a symbol—that among the fundamental premises that the society is committed to is the equal citizenship stature of men and women—even though I wish that I would see that stated in our Constitution in my lifetime, an Equal Rights Amendment is not a cure-all. It takes people who care about implementing the right to ensure that it becomes real and not just paper statement. It's nice to have the statement there, but if people don't care about implementing it, it will be just that, a paper statement.

**Audience:** Justice Ginsburg, you spoke about two types of dissents, dissents that are written for the moment and dissents that are written for ages to come. And I was wondering if there was a particular dissent from either this term or the last couple of terms that you thought was written for the ages.

**Ginsburg:** Yes. *Citizens United*.<sup>17</sup> (LAUGHS, APPLAUSE)

**Audience:** Justice Ginsburg, you mentioned that the writing of a majority opinion involves a process of negotiation with your colleagues, and some have commented that the Court has in recent years gone in the direction of having more pluralities and more dissents and concurrences, and I was just wondering if you have a view of whether that is a change the Court is trying to do something about and whether or not you have a view as to whether unanimity and opinions or these sort of splintered opinions has an effect on the Supreme Court's development of its jurisprudence.

**Ginsburg:** Well, in fact, we have had fewer of those fractured opinions. It once was, when the Court was handling a hundred and fifty cases a term, there simply was no time to get together and compose differences. So you would get "Justice So-and-so announced the judgment of the Court and an opinion in which Justices A, B, and C joined Part 1, C and D." (LAUGHS) That kind of fracturing is rare nowadays. To give you a graphic example of how time can make a difference: *Bush v. Gore* yielded four dissenting opinions.<sup>18</sup> If we had had time, it would

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17 See *Citizens United v. Fed. Election Comm'n*, 130 S. Ct. 876, 929 (2010) (Stevens, J., dissenting).

18 See *Bush v. Gore*, 531 U.S. 98, 123 (2000) (Stevens, J., dissenting); *id.* at 129 (Souter, J., dissenting); *id.* at 135 (Ginsburg, J., dissenting); *id.* at 144 (Breyer, J., dissenting).

have been one dissenting opinion. But the Court took it on a Saturday, briefs were filed on Sunday, argument on Monday, and opinions were out on Tuesday. There was simply no time to get together on a single dissent. We do try. You don't sacrifice anything that's important, but if something isn't all that important, why not accommodate your colleagues? I sometimes quote Charles Evans Hughes, who commented, "So your colleague wants you to add something and if it takes that vote to make a majority, in it goes and let the law schools figure out what it means." (LAUGHS)

**Audience:** Related to the question about the new Constitutions, obviously that means there are a lot of new constitutional decisions around the world. Do you find that amicus briefs that are filed on comparative law issues are useful to you on the Court or interesting but irrelevant?

**Ginsburg:** I think they're interesting and also relevant. I'm glad to say that is the view of a majority of the Court. Some on the Court, it is true, think it's okay to look to foreign law, but for goodness sake, don't cite it in the opinion. It is not a matter that should stir controversy. I might note that in the *Reed v. Reed* brief, we mentioned two decisions of the then West German Constitutional Court. One had to do with a provision of the German Civil Code that said, "When the parents can't agree on the education of the child, the father decides." The other involved a kind of land holding. The eldest son would inherit the entire farm, never mind that he had older sisters. We cited those two decisions, not expecting the Supreme Court to mention them in its opinion, but for psychological effect. We were in a sense saying to the Court, "If this is where the West German Constitutional Court is, how far behind can the United States Supreme Court be?"

Some recent opinions have explicitly referred to opinions of other courts. One was *Lawrence v. Texas*,<sup>19</sup> the consensual sodomy case. The Court referred to a leading decision of the European Court of Human Rights. And in cases involving the death penalty for the mentally retarded and for juveniles, the Court has taken account of foreign judgments.<sup>20</sup> The American Society of International Law has published a paperback with speeches by different justices on the utility of referring to foreign law.<sup>21</sup> I say "foreign law" because international law is part

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19 See *Lawrence v. Texas*, 539 U.S. 558 (1970).

20 See *Atkins v. Virginia*, 536 U.S. 304 (2002); *Roper v. Simmons*, 543 U.S. 551 (2005).

21 See AMERICAN SOCIETY FOR INTERNATIONAL LAW, "A DECENT RESPECT TO THE OPINIONS OF MANKIND . . .": SELECTED SPEECHES BY JUSTICES OF THE U.S. SUPREME COURT ON FOREIGN AND INTERNATIONAL LAW (Christopher

of our law, it's not foreign. And so it is binding in a way that, of course, the law of another country is not. But we can look to other courts' responses to problems that we share and we can be informed by the solution that other courts have reached.

**Audience:** Justice Ginsburg, I saw that you said recently that if you were up for a confirmation today, you never would have been confirmed, given your background in women's rights litigation. I'm wondering if given that reality of the way that the courts have changed, if you're worried about your legacy in terms of lower courts and subsequent justices preserving the women's rights values that you fought so hard for?

**Ginsburg:** My dear husband once said that the symbol of the United States really isn't the bald eagle. It's the pendulum. (LAUGHS) And I recall that there were some pretty rough confirmations before, long before I was nominated. I once wrote an article on Senate rejections of the President's judicial nominees. When my colleague, Bob Bork, was rejected by the Senate, I looked back to see how often that had happened. Surprisingly often. I was the beneficiary of two prior confirmation hearings that were rather divisive. The Senate was then determined to do it better. My biggest champion on the Senate Judiciary Committee was Orrin Hatch. People who were coaching me for the hearings—we had a few moot court sessions at which people from the White House played the roles of various Senators—and questions of this kind would be asked: "Were you on the ACLU Board in the year 1974 when they passed this, that, or the other resolution? How did you vote on it?" My response, "Now just stop, because I am not going to badmouth the ACLU." As it turned out, there wasn't a single question, not one question, about my ACLU affiliation. That was 1993. Justice Breyer had a similarly uncontroversial hearing the next year, and then the divisiveness started up again. I'm hoping a saner view will prevail and we will get back to the process the way it should be.

A President who made a major change in the composition of the federal judiciary was Jimmy Carter. He looked at the federal bench and noticed, "They all look alike. They look like me. But there's a lot of talent out there in the great United States that's missing, so I'm going to try to put women and minority members on the bench in numbers." Although he had only one term in office and no Supreme Court appointment to make, he certainly succeeded in that effort. One of the first women that he nominated to a Court of Appeals was Cornelia

Kennedy. He elevated her from the district court to the Sixth Circuit. Now she was a good solid Republican all her life, but it didn't make any difference. She was a good judge. So that bipartisan spirit, I hope, will someday return.

**Audience:** Justice Ginsburg, you've written, of course, many impartial articles as a scholar. I think, for example, of an article I teach every year in my Conflict of Laws course, your article about judgments last-in-time, about the Treinies against the Sunshine Mining Company case.<sup>22</sup> You've written many briefs, of course, and I'm wondering how you think a professor should approach differently or whether a professor should approach the same way what the professor puts in a scholarly article and what he puts in a brief. Not in terms of the sort of presentation but in terms of the conclusions of law that he or she is prepared to advocate.

**Ginsburg:** I should tell everyone in the room that Herma Hill Kay, who asked that question, was the woman who came to me in 1972 and said, "Would you like to join us in writing" what would turn out to be the first-ever case book on sex discrimination and the law? I knew about Herma because she was a great conflicts scholar, and well, it really was love at first sight. (LAUGHS)

**Audience:** It was mutual. (LAUGHS)

**Ginsburg:** And we have been dear friends ever since. But one thing about writing a brief. You have to keep it simple. You have to remember that judges are overwhelmed with reading cases briefs, so it was my aim to try to write a brief that could be incorporated—could be made the opinion of the court. That meant keep it simple, never write a sentence that has to be read again to be understood. (LAUGHS) A legal scholar might want people to stop and think about it, but if you're writing for a busy court, you want them to get it immediately, and if they find it too difficult to grasp your writing, chances are they're going to read the summary of the argument and not the rest of it. So I think when you're writing for a judicial audience, you should strive to keep it in a form that the judges can easily digest.

**Audience:** Justice Ginsburg, this is actually another question about your writing. You said that when writing your opinions, you keep an eye towards how you would have liked to see an opinion written when you were a law professor and even a law student. First of all, thank you very much for that. (LAUGHS) Second of all, is there a particular jurist, even past or present, whose writings you've particularly admired either in form or function?

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<sup>22</sup> See Ruth B. Ginsburg, *Judgments in Search of Full Faith and Credit: The Last-In-Time Rule for Conflicting Judgments*, 82 HARV. L. REV. 798 (1969).

**Ginsburg:** Well, there are so many. If you take dissents, starting with Justice Curtis who wrote the dissent in *Dred Scott*,<sup>23</sup> the first Justice Harlan's dissent in the *Civil Rights Cases* and later *Plessy v. Ferguson*.<sup>24</sup> Those are examples of dissents written for a future age. Something notable about the way we work at the business of judging and the way it's done most places in the world—we have individual writing styles. If you were to put a tape over the opinion author and ask me which of my colleagues wrote it, if Justice Scalia was the author, I would get it right every time. (LAUGHS) My writing style tends to be, some people might think, more bland. I'm not as immediately attention-grabbing (LAUGHS), but I hope what I write has staying power. So now I got away from—what was his—the thrust of his question?

**Metzger:** Jurists that you admire.

**Ginsburg:** Yes.

**Audience:** Justice, you've thought a lot about advocacy strategy in at least one domain, and I wondered if I could ask you to reflect a little on advocacy strategy in another domain, that of disability. As you probably know, there are many debates about whether disability is better thought of on a kind of universal model, that we're all either disabled or not yet disabled or if we're lucky to live long enough we will be disabled in one or more ways. Or in more of a minority group model, the idea that there's a subset of the population who are particularly in need of the solicitude of laws and policies. You know, on the side of the universal approach, right, is the idea that this is a big tent, it makes us all understand how we have a stake in disability rights. Against that, though, there is the concern that there's a subset of people who may be of particular need and who may be ignored by a more universal approach. There also may be the idea that psychologically it makes people nervous to make them think about the fact that they might be disabled the next minute. Do you have any thought on what, as a sort of practical or realistic or strategic matter, any of these models look like from your experience?

**Ginsburg:** Well, I thought when you were beginning, you were going to include age because I think it's easier for jurists to grasp, "Yes, I was once young (LAUGHS) and I hope I will one day be old." But as you suggested, with disability it is different. People don't like to think about that prospect or they think "Well, it

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23 See *Dred Scott v. Sandford*, 60 U.S. 393, 529 (1856) (Curtis, J., dissenting).

24 See *The Civil Rights Cases*, 109 U.S. 3, 33 (1883) (Harlan, J., dissenting); *Plessy v. Ferguson*, 163 U.S. 537, 552 (1896) (Harlan, J., dissenting).

won't happen to me." And for the disabled now, most of the litigation is not constitutional litigation, it's the Americans with Disabilities Act. Think of the learning process that goes into even getting Congress to pass that law, informing the legislature so that its members will understand the problems, the restrictions that people face. So there, I would not think that you would at this time try to get the courts to erect some constitutional edifice. You would like to take the law, the Disabilities Act, and move forward with that legislation.

**Audience:** Justice Ginsburg, this has been such a rich and illuminating conversation. I can't tell you how much we appreciate it. I think this really is a conversation for the ages and I wish—I hope we will be able to show it to the ages. I wanted to just circle back to a question that Professor Metzger asked you at the beginning. Could elaborate a little bit more on what it was like to be a law student in law school in the 1950s when you were one of the very few women there.

**Ginsburg:** My entering law school class of 500 or so had nine women, a big jump from my husband's class—he was a year ahead of me—his had five women. So that meant that in my first year section, there was just one other woman student, maximum two. You felt, whether it was true or not, that all eyes were on you, that if you gave a wrong answer, you would fail not simply for yourself, but for all women. Recall the not altogether ancient days, when people would say, "What do you expect of a woman driver?" So the women students in my day were extremely well-prepared. To explain the difference, I will relate the comment of a great teacher at this law school, Willis Reese, who taught Conflict of Laws. No matter how tired I was, my head never nodded in his classes. He complained about what had happened in the course of the Seventies. He said in the old days, if the class was moving slowly and you wanted to get a crisp right answer, you called on the woman. (LAUGHS) She was always prepared. She would give you what you were looking for and then you could move on. Nowadays, he said, there's no difference. (LAUGHS) The women are as unprepared as the men. (LAUGHS)

Oh, I must add, I passed a door this morning that said "Lactation Room." How the world has changed. When I started law school, this was at Harvard, there were two teaching buildings. Only one had a woman's bathroom. It was in the basement of Austin Hall. Pretty tough if you were taking a class in the other building, in Langdell, worse if you were taking an exam. Yet we never complained. That was just the way it was. Like so many other things.

**Gluck:** One last question?

**Audience:** Justice Ginsburg, I'm from Rutgers Law and on behalf of the Gender Justice Advocates there, I thank you for everything you've done there as well. Lawyers concerned with the plight of women of color and from disadvantaged backgrounds face special challenges. What advice do you have for them?

**Ginsburg:** The same advice I would give to any of you. Don't take no for an answer, but also don't react in anger. You may think, oh, this person is a racist or whatever, but regard every opportunity, every encounter, as an opportunity to teach someone. As an advocate in gender discrimination cases in the Seventies, I thought of myself as akin to a grade school teacher. (LAUGHS) I was talking to people who really didn't understand, they didn't understand that there was discrimination against women. They thought women were on a pedestal. Justice Brennan had picked up the image that sometimes, the pedestal, on closer inspection, turns out to be a cage. That image came from a decision of the California Supreme Court, as Wendy Williams well knows. The idea was to educate. This is somebody who doesn't understand, and so I'm going to help that person understand what it is like, what life is like for people who are different.

**Audience:** Thank you.

**Gluck:** Justice Ginsburg, I want to thank you so much. This was a wonderful conversation. (APPLAUSE)

**END OF CONVERSATION**