

12-15-1994

## Remarks for California Women Lawyers

Ruth Bader Ginsburg

Follow this and additional works at: <https://digitalcommons.pepperdine.edu/plr>



Part of the [Law and Gender Commons](#)

### Recommended Citation

Ruth Bader Ginsburg *Remarks for California Women Lawyers*, 22 Pepp. L. Rev. Iss. 1 (1994)

Available at: <https://digitalcommons.pepperdine.edu/plr/vol22/iss1/1>

This Speech is brought to you for free and open access by the Caruso School of Law at Pepperdine Digital Commons. It has been accepted for inclusion in Pepperdine Law Review by an authorized editor of Pepperdine Digital Commons. For more information, please contact [bailey.berry@pepperdine.edu](mailto:bailey.berry@pepperdine.edu).

**United States Supreme Court Justice  
Ruth Bader Ginsburg  
Address:  
Remarks for California Women Lawyers  
September 22, 1994**

I am delighted to be in your company this evening. When the California Women Lawyers heard, last summer, that there might be some opposition to my nomination, this grand organization volunteered testimony supporting my confirmation. The testimony was just right for the audience—the Senate Committee on the Judiciary—and I so appreciate the special effort many people in this room made to assure my smooth passage.

My remarks tonight borrow, in part, from a talk already captured on C-Span, one I gave in June, in my hometown, Brooklyn, New York. Then, as second woman appointed to the U.S. Supreme Court, I swore in the second woman to head Brooklyn's bar association. The audience at that ceremony included as many sisters- as brothers-in-law. As I spoke, I thought back to a summer day in 1959—a day when all of the women aspiring to bar membership in the neighboring borough of Manhattan (including me) were herded tightly together, confined to one small section of seats at the City Center, to take the bar examination; the men taking the exam were accommodated at several locations around town. I will speak of the exhilarating changes I have witnessed in the composition of our profession since that day, and of my hopes for the future.

I'll start with a snapshot of a moment in our Court long before my time, way back in 1853. Sarah Grimke, a great feminist and anti-slavery lecturer from South Carolina, was in Washington, D.C., that December, and wrote this to a friend:

Yesterday, visited the Capitol. Went into the Supreme Court, not in session. Was invited to sit in the Chief Justice's seat. As I took the place, I involuntarily exclaimed: "Who knows, but this chair may one day be occupied by a woman." The brethren laughed heartily. Nevertheless, it may be a true prophecy.

Today, no one would laugh at that prophecy.

My savvy, sympatique colleague and counselor, Supreme Court Justice Sandra Day O'Connor, confirms a report familiar to students who attended law schools in the 1950s, even in the 1960s. Justice O'Connor graduated from Stanford Law School in 1952 in the top of her class. Our Chief Justice, William Rehnquist, was in the same class, and he also ranked at the top. Young Rehnquist got a Supreme Court clerkship. No opportunity of that kind was open to Sandra Day. Indeed, no private firm would hire her to do a lawyer's work. "I interviewed with law firms in Los Angeles and San Francisco," Justice O'Connor recalls, "but none had ever hired a woman as a lawyer." (Many firms were not prepared to break that bad habit until years after Title VII of the Civil Rights Act of 1964 made it illegal.)

Women make up close to one-third of President Clinton's nominees to the federal bench, 42 out of 135 as of September 19, to be precise. A critical mass, social scientists might say. Are we really there? Well, not quite, I was reminded just last month when I received a note of apology from Reverend Jesse Jackson. In his syndicated column in the Los Angeles Times, he criticized a decision written by Justice Ruth Bader Ginsburg. There were, he later recognized, two things wrong with the criticism: the decision had issued prior to my appointment to the Court; and the writer was Justice O'Connor. The National Association of Women Judges, anticipating that such confusion might occur, presented Justice O'Connor and me with T-shirts last October. Hers reads: "I'm Sandra, not Ruth"; mine, "I'm Ruth, not Sandra."

Returning to the way it was, the few women who braved law school in the 1950s and 1960s, it was generally supposed, presented no real challenge to (or competition for) the men. What were those women, after all, one distinguished law professor commented, "only soft men." The idea was they would devote themselves *not* to paying clients represented by law firms, or to top jobs in corporations and government, but to serving the poor and the oppressed, the truly needy—those who could not afford to pay for legal services.

It was true in the 1950s and 1960s, and remains true today, that many women lawyers are sympathetic to, and active in, humanitarian causes, but so are the best men—the ones who care about the community and world our children and grandchildren will inhabit. A woman active in the suffrage movement, Lydia Pearsall, soon to celebrate her 104th birthday, expressed the idea this way: "I never wanted to become a man, just his equal, and in the process, it seemed to me we would both become a little better."

An American Bar Association report in the late 1980s expressed concern that lawyers in commercial practice may be losing their sense of perspective and ethics, under relentless pressure to produce business

and billable hours. The report noted the attendant tug on young lawyers to cut back on family involvement, but it ended on an upbeat note. The reporters expressed hope that the increasing participation of women in the profession would have an ameliorating effect. They suggested that, by persistently raising the crucial issues of family and work place, of leave time for parents and work place affiliated day care facilities, women lawyers could take the lead in bringing sanity and balance to the profession. In this regard, sisters need the aid of brothers-in-law. These issues must become human issues, not just "women's issues."

To illustrate my point, travel back with me to an incident in the mid-1970s, when I was teaching at Columbia Law School and trying to manage a full docket of sex equality cases in or headed toward the Supreme Court. The incident concerned my son, then a spirited ten-year-old. You know the kind—challenging as a youngster but now, at age twenty-nine, a genuinely fine human. In my son's early school years, there were calls from the principal, almost monthly, requesting a meeting with me to discuss my lively child's most recent adventure. One afternoon, when I felt particularly weary, I responded: "This child has two parents. Please alternate calls for conferences." After that, although I observed no quick change in my son's behavior, the telephone calls came barely once a semester. There was more reluctance to take a father away from his work. There still is.

But as women join men in diverse fields of endeavor, as lawyers, engineers, bartenders, computer programmers, we are discovering that personality characteristics for both sexes span a wide range. Harvard President Neil L. Rudenstine, at a Radcliffe Convocation in March 1994, expressed what we are coming to appreciate: "We [now] know that talents of all kinds analytic, creative, athletic, argumentative, and entrepreneurial are distributed in essentially equal portions and an infinite variety of combinations among women and men alike."

Immodest aspiration is as evident in some women as it is in some men. Caring for one's family, on the other hand, sharing in bringing up children or attending to elderly parents, cooking dinners, helping to keep the house in order, no longer mark a man as strange. (To the abiding appreciation of my daughter, son, and now grandchildren, meals at our house, some fourteen years ago, were taken completely off Mommy's track she has no talent for the job—and switched to Daddy's—he has indeed mastered the art.)

Yes, large problems remain. Largest of all, raising young children continues to present more trying psychological and logistical obstacles for women than for men. A representative of the Women's Legal Defense

Fund recently commented on the reality in some quarters: "A women who does less than everything for her child is seen as a terrible mother; a man who does more than nothing is praised as a wonderful father."

Yet the distance traveled from the 1950s to the 1990s is large, and I am optimistic that the trend toward shared roles for men and women, at work and at home, will continue. And I am heartened by a recent University of Michigan survey, undertaken by Professor David Chambers, showing that of all lawyers graduated from that fine law school, women with children are the most content. They are beleaguered, the survey report noted, but they are also satisfied. They enjoy their family lives. They enjoy their jobs. And to the extent each causes stress, each also provides respite from the other.

There is a hopeful sign, too, in a United Nations report published in conjunction with the recent world population conference in Cairo. The report emphasizes that the best way to avert a catastrophic global population explosion is to educate and empower women. "Had we paid more attention to empowering women thirty years ago," the Director of the UN Fund for Population Activities observed, "we might not have to battle so hard for sustained development today."

There are still those who insist that men inevitably have an edge on leadership opportunities—on power positions at the bar and on the bench—because men are innately more aggressive. I am particularly fond of the comment on that point made in a book published in 1974, *The Psychology of Sex Differences*.<sup>1</sup> The authors, two Stanford University Professors, Eleanor Maccoby and Carol Jacklin, convincingly confirmed a link between aggression and dominance in little boys—and also in apes. But, those authors hastened to add, human boys grow up. The leadership style thought most effective in civilized society is not the ruthless tough guy who forcibly imposes his will on others. Rather, the qualities that count most are the ability to conciliate among opposing factions and to foster development of younger, less experienced people in return for their loyalties. These interactive qualities, the kind vital to the successful mediation of controversies, do not appear to be linked to one sex to a greater extent than to the other. Women, I believe, are as generously endowed with them as men are.

Theoretical discussions are ongoing today—particularly in academic circles—about differences in the voices women and men hear, or in their moral perceptions. When asked about such things I usually abstain. Generalizations about the way women or men are—my life's experience bears out—cannot guide me reliably in making decisions about particular

---

1. ELEANOR E. MACCOBY & CAROL N. JACKLIN, *THE PSYCHOLOGY OF SEX DIFFERENCES* 239, 263 (1974).

individuals. At least in the law, I have found no natural superiority or deficiency in either sex. I was a law teacher until I became a judge. In class or in grading papers over seventeen years, and now in reading briefs and listening to arguments in court for fourteen years, I have detected no reliable indicator of distinctly male or surely female thinking—or even penmanship.

Minnesota Supreme Court Justice Jeanne Coyne reports an exchange several time quoted by Justice O'Connor, and more than once by me. Justice Coyne was asked: "Do women judges decide cases differently by virtue of being women?" She replied that, in her experience, "a wise old man and a wise old woman reach the same conclusion." I agree. But I also have no doubt that women, like persons of different racial groups and ethnic origins, contribute what a fine jurist, the later Fifth Circuit Judge Alvin Rubin, described as "a distinctive medley of views influenced by differences in biology, cultural impact, and life experience." (Judge Rubin said that in a case brought in his court in the middle 1970s, a case that put an end to the once prevalent exclusion of women from service on juries.)<sup>2</sup> A system of justice is the richer for diversity of background and experience. It is the poorer in terms of appreciating what is at stake and the impact of its judgments, if all of its members—its lawyers, jurors, and judges—are cast from the same mold.

A *New York Times* reporter, writing about the Supreme Court last Term, commented that, although the work is hard, the Justices reap rewards for it, including attention and respect typically harvested at public appearances. For this evening's abundant harvest, my thanks and very best wishes for all the endeavors of the California Women Lawyers.

---

2. *Healy v. Edwards*, 363 F. Supp. 1110, 1115 (E.D. La. 1973).

