RUTH BADER GINSBURG INTERVIEW
MAKERS: WOMEN WHO MAKE AMERICA
KUNHARDT FILM FOUNDATION

Ruth Bader Ginsburg
U.S. Supreme Court Justice (1993-2020)
Interviewed by Betsy West
Total Running Time: 1 hour, 07 minutes and 19 seconds

START TC: 00:00:00:00

Ruth Bader Ginsburg

U.S. Supreme Court Justice (1993-2020)

00:00:09:00

INTERVIEWER:

Justice Ginsburg, when you were nominated to the Supreme Court, you spoke very movingly about your mother. Can you tell me about her and what she was like and what message she gave to you as a young girl?

RUTH BADER GINSBURG:

My mother died when she was 47. At the time I thought that was at least middle aged. Now I realize how young she was. She was one of the smartest people I ever knew. She had two messages for me in my growing up years. One was to be a lady and the other was to be independent. And by the first she meant, don't be distracted by emotions like anger, envy, resentment. These just sap energy and waste time. That was one message. And be independent was, yes, she hoped I

would meet Prince Charming and live happily ever after, but she stressed the importance of being able to manage on my own.

ON SCREEN TEXT:
Ruth Bader Ginsburg, Age 2
Brooklyn, New York

INTERVIEWER:
Can you tell me a little bit about your upbringing, kind of family that you grew up in, where you grew up?

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RUTH BADER GINSBURG:
I grew up in depression years and my parents lived with my... I had an unusual relationship. Two sisters, my mother and her youngest sister, married two brothers, my father and his youngest brother. And so they combined households in the '30s so they could get by. There was a great sadness in my growing up years and my sister, who would've been… Well, she was six years older, died at age eight. I have no memory of her, but she was a presence in our house.

INTERVIEWER:
What did you think you were going to do when you grew up?

ON SCREEN TEXT:
Ruth Bader Ginsburg, Age 15
Minerva, New York (1948)

00:02:28:00

RUTH BADER GINSBURG:

My family thought it would be a good idea to be a teacher. I had an aunt who was a junior high school teacher. The notion was, it's interesting work, it's a good, steady income, and women are welcome. No one ever suggested law as a career for me. I should say, on the subject of my mother, she was a voracious reader, and she communicated her love of books and reading to me, and I just loved to listen to her when I was very small, read stories to me. And then as I was able to read for myself, we would make weekly excursions to the library and I would have free access to the children's section. She would have her hair done and then come back for me when I had picked out my books.

INTERVIEWER:

She was self-educated? Or was she-

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RUTH BADER GINSBURG:

She finished high school at the age of 15. Typical of large Jewish families at the time, the most important thing was for the eldest son to have an education. So my mother's oldest brother went to Cornell University and his… the siblings who were of working age, all worked to help support his education.

INTERVIEWER:

And was there a sense that she wanted something different for you?

ON SCREEN TEXT:

Ruth Bader Ginsburg & Classmates
James Madison High School Field Day (1949)

00:04:11:00

RUTH BADER GINSBURG:
She lived at a time when men considered it a disgrace if their wives worked. It would somehow reflect on their inability to be a good provider. I think my father, years later, appreciated my mother would have been a more fulfilled person if she had worked. I mean, as it was, she – she had a lot to do with his business, so much so that when she died, his business went downhill.

INTERVIEWER:
How did it happen that you first became interested in the law and what intrigued you?

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RUTH BADER GINSBURG:
It was in my college years. I was at Cornell University from 1950 to 1954. It was a time that was not good for our country. It was the heyday of Senator Joseph McCarthy who saw a communist in every closet. People were being hauled before the House Un-American Activities Committee, the Senate Internal Security Committee. It was a blacklist for people in the entertainment world. I had a professor of government, a wonderful man named Robert Cushman. I worked as his research assistant and he wanted me to see that our country was straying from its most basic values, but that there were people who were working to bring it back. And many of them were lawyers who were standing up for people that were questioned in Congress.

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RUTH BADER GINSBURG:
The notion was that the law was, yes, a way to earn a living, but also to do things that would make life a little better for your community. I will confess that my family was not entirely happy with that, with my decision not to pursue a career as a high school teacher and instead go to law school, until I married my dear husband, Marty.

ON SCREEN TEXT:
Ruth Bader & Martin Ginsburg
Fort Sill, Oklahoma

RUTH BADER GINSBURG:
It was the same month I graduated from college, because the idea then was, well, Ruth wants to be a lawyer. She has a husband who can support her, so it's okay. And my marriage made going to law school acceptable.

INTERVIEWER:
Even if women were interested in the law back then, it was not easy to pursue a legal career in the 1950s. How did it happen that you really were able to go ahead with that goal?

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RUTH BADER GINSBURG:
First, I did very well in law school, and I attribute part of my success in law school to my daughter. She was 14 months old when I started. So my life wasn't

bound up in the law school, the constant pressure with no relief. I mean, every day at four o'clock my time at the law school was over and it was children's time. And I think that each was a respite from the other. When my daughter went to sleep, I was happy to go back to the books, but I was also happy to leave the books to go to the park with her and do the things that you do with a toddler.

INTERVIEWER:
Many people would think that having a toddler in law school would be a disadvantage.

ON SCREEN TEXT:
Martin, Jane & Ruth Bader Ginsburg
1958

00:08:10:00

RUTH BADER GINSBURG:
No, for me, I appreciated that there were other things in life beyond the first year of law school.

INTERVIEWER:
Can you set the stage for me at Harvard Law School in the mid 1950s? How many women in your class, and what was that like?

RUTH BADER GINSBURG:
Well, first, Harvard Law School did not admit women until 1950. So the first woman who was appointed to the US Court of Appeals for the D.C. Circuit,

Patricia Wald, who earned her law degree at Yale, could not have gone to Harvard because she ended law school in 1949. So Harvard took its first group of women in 1950. By the time I got there, it was 1956 and there were nine women in my class, nine out of over 500. This was a jump from my husband's class. He was one year ahead of me and his class had five women.

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RUTH BADER GINSBURG:

We were divided into sections. So most sections had two women. You felt in class as if all eyes were on you and that if you were called on and didn't perform well, you would be failing not only for yourself, but for all women. So there was an incentive to do the best we could. There were so many anomalies. I had come from Cornell University, where there were four men to every woman. And the excuse for that was the women had to live in campus housing. The men could live in college town. When I get to the Harvard law school, there's no room in the dorms for women. Dorms are reserved for men and the women have to find a place in Cambridge or another surrounding town.

ON SCREEN TEXT:

Harvard Law Review

Ruth Bader Ginsburg & Members

INTERVIEWER:

How did the dean of the law school, sort of the power structure at the law school, how did they treat the nine women who were there?

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RUTH BADER GINSBURG:

The dean greeted the women in the first year class with an invitation to dinner at his home. And we thought, "Oh, how thoughtful." We didn't appreciate some things about that dinner. One is, each of us was to have an escort, a distinguished member of the faculty. And I must say that the dean was a teetotaler, but our escorts had gone across the street to Judge McRudy's house and had as many cocktails as they wish. So they were feeling no pain.

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RUTH BADER GINSBURG:

After a dinner that was nondescript, the dean brought us into his living room, set up the chairs in a semi-circle and called on each of us to tell him, in turn, why we were at the Harvard Law School occupying a seat that could be held by a man. Now, most of us were mortified. But I have come to understand what the dean was doing. He was not a man noted for his sense of humor. There were still members of the Harvard faculty who doubted the wisdom of admitting women. So the dean's idea, with his question at the dinner, was to be armed with stories from the women themselves about what they expected to do with their legal career. I think when the class size, when women got up to about 20, he stopped having his dinners.

INTERVIEWER:

As you said, you were mortified. It didn't make you angry at all?

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RUTH BADER GINSBURG:

It's just the way things were, where we accepted so much. Classes were taught in two buildings. Only one of them had a women's bathroom. In fact, the most expensive item, what was going to cost the law school to admit women, was having a women's restroom. And I must say it was done on a low budget. It was always overheated. The ceiling was dripping with asbestos. But they did have that facility for the women. If you were taking an exam in the building without the bathroom, and exams were four hours in those days, and you had to use the facilities, I mean, it was a question. You didn't want to lose precious time. So you would make a mad dash to the other building and then come back.

INTERVIEWER:
Did you have a lot of solidarity with those other eight women?

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RUTH BADER GINSBURG:
Yes. I think we were, each of us supported the other.

ON SCREEN TEXT:
Columbia Law School
1959

INTERVIEWER:
What did you expect when you graduated and what happened?

00:14:02:00

RUTH BADER GINSBURG:

I had very good grades. In my second year, I applied for a summer job with a number of New York firms. One well known firm, interview came in. He barely exchanged two sentences when he offered me a job. I understood how that happened. This was a firm that wanted to show how avant-garde it was. So it was going to have a woman as a summer associate. I had the highest grades of the women who applied, so no point in wasting time on conversation. They would have their woman. That same firm did not give me an offer, although I think I did a very good job as a summer associate. They didn't give me an offer, because by then they had what you might call a twofer. That is Pauli Murray, a distinguished poet, author, lawyer, and eventually episcopal minister.

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RUTH BADER GINSBURG:

Pauli was a Black woman. And so they had made their point about how progressive they were. And there was no need for another token. When you think about what would've happened, suppose I had gotten a job as a permanent associate. Probably I would've climbed up the ladder and today I would be a retired partner. So, so often in life, things that you regarded as an impediment turned out to be a great, good fortune. So I didn't work for that law firm, but I did clerk for a US District Court judge, a Trial Court judge. And how did I get that job?

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RUTH BADER GINSBURG:

By then, I was at Columbia where I finished my third year. A very distinguished scholar, Gerald Gunther, he was a leading constitutional law scholar, was in charge of clerkships. And he was determined to get a job for me. He contacted

almost every District Court judge, Court of Appeals judge in the area. Most of them said no. Then he called one who always took his clerks from Columbia. He was himself a Columbia graduate. And he said, "I want you to give Ruth a chance. And if she doesn't work out, there's a young man in her class who's going to a downtown firm, and he will step in and complete the year. If you don't give her a chance, then I will never recommend another Columbia clerk to you."

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RUTH BADER GINSBURG:

So there was the carrot and the stick. And once I had that first job and performed well, then there were no barriers. Many firms were willing to take a chance on me. But there was no such thing as Title VII. I mean, employers were above board, open about it. They would say, "We had a woman lawyer once and was she dreadful." Well, how many men have you had that didn't work out?

ON SCREEN TEXT:

Ruth Bader Ginsburg

Law Professor

INTERVIEWER:

You had a teaching job in the mid '60s, when you became pregnant with your second child.

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RUTH BADER GINSBURG:

I started teaching at Rutgers Law School in Newark in 1963. How did I get that appointment? To be frank about it, Rutgers had a teacher of procedure, very fine

teacher. He left to become dean of the Howard Law School. The Rutgers faculty tried to replace him with another Black man. Having failed in that quest, the next best thing was a woman. So, that's how I got my teaching job in 1963. I wanted to work at a law firm for about five years. My idea was eventually to become a law teacher, but not right away. But here was a burden in hand. And in those days, less than 20 women were teaching in law schools across the country. So if I didn't take it, there might not be another opportunity. That's how I began my career in law teaching.

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RUTH BADER GINSBURG:

Two years later, and a wonderful thing happened, I became pregnant with my son. But I was on a year to year contract. And I feared that if I disclose my pregnancy, my contract would not be renewed. So for the last several weeks I wore my mother-in-law's clothes, one size larger than mine. And with the new contract in hand, on the last day of the semester, I told my colleagues that when I came back in the fall, there'd be one more in the family.

INTERVIEWER:

Were you being a little paranoid about this or was there a real danger that they might not accept a pregnancy?

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RUTH BADER GINSBURG:

Oh, it certainly was... One of the first kinds of discrimination cases in the sixties… Title VII is enacted in 1964, and complaints came into the New Jersey office of the ACLU where I was a volunteer lawyer. Complaints of a kind that

they had never gotten before. School teachers who were put on so-called maternity leave. Maternity leave was a euphemism. It meant that when the woman begins to show, she had to leave the classroom. After all, you don't want the children to think the teacher swallowed a watermelon.

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RUTH BADER GINSBURG:
And then she could come back if the school district wanted her, if they needed her. There was no guarantee that she could come back. So women who were forced out at the fourth month, the fifth month, complained that they were perfectly healthy, perfectly capable of teaching. Why should they lose their work? So that problem, the assumption that if you are pregnant, you are a dropout from the labor force, you will spend the rest of your time being a good wife and mother, that thinking was prevalent.

ON SCREEN TEXT:
Ruth Bader Ginsburg
Sex Discrimination Law Seminar (1970s)

INTERVIEWER:
I'm wondering when and how you became interested in legal issues involving women's rights.

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RUTH BADER GINSBURG:
I first thought about the issue in 1962 and '63. I was working on a book about the Swedish judicial system together with a Swedish jurist. And I'm working at the

law faculty in Lund. There, by then, 25% of the students are women, when they were about 4%, no more than 5%, in the United States. I observed proceedings. One I remember to this day, where the presiding judge was eight months pregnant. And then there was an incident. I don't remember if it was '62 or '63, but a woman from Arizona who had taken thalidomide and was in great risk of having a severely deformed baby–

ON SCREEN TEXT:
Sherri Chessen, Her Husband & Son
July 4th, 1962

RUTH BADER GINSBURG:
– came to Sweden to get an abortion because she couldn't get one in her home state of Arizona. So there was much coverage of that in the press.

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RUTH BADER GINSBURG:
So these things were working on me, but I kind of put them on the back burner. Then I think it was while I was in Sweden, I read Simone de Beauvoir's Second Sex. And that was an eyeopener. But it wasn't until the late '60s, when the feminist movement was revived, not just in the United States, but all over the world. 1975 was International Women's Year. So I began to think, well, maybe the law could catch up with changes in society. I was helped in that regard by women who were complaining. There were other women who had a factory job and wanted to get health insurance, a package for the whole family, and were told women workers can get coverage for themselves.

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RUTH BADER GINSBURG:

Only men could get family coverage. I remember one woman who worked for the Lipton Tea Company, and that company had a better health insurance package than her husband's. So that was another case. So the new complaints were coming in to the ACLU, and my students asked, it must have been about 1969. They had heard that there was a course at Yale Law School in women and the law. So they asked if we could have at least a seminar at Rutgers. And that's when I went to the library, there was no LexisNexis, Westlaw then, and inside of a month, I read every federal case that had to do with women's equality or the lack thereof, and every law review article. Now that seems like it was quite an undertaking, but in fact, it was easily manageable because there was so little, there was less from the beginning of the nation to 1970, than there is produced now, I'd say, in a month or two.

INTERVIEWER:

This was just an area that had been ignored.

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RUTH BADER GINSBURG:

Well, there had been brave women who tried, like Myra Bradwell in 1872. She had qualified for admission to the bar of the State of Illinois, but there was one thing wrong. She was a woman. And she took her case to the Supreme Court. And the Supreme Court said it's a reasonable restriction for the state to make. No surprise, because the Supreme Court itself did not admit women to practice here. Another brave woman, Belva Lockwood, she applied for admission in 1876. The

court turned down her application six to three, and I have a replica of the vote sheet in chambers. Well, she didn't go off in a corner and feel sorry for herself.

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RUTH BADER GINSBURG:

She went to Congress and she lobbied relentlessly for a change in the law that would require the federal courts to allow women to practice. So there were those examples. There was Virginia Minor, who said, "Now here's this Fourteenth Amendment. And it says, 'All persons are entitled to the equal protection of the law.' Well I'm a person, and I am being denied the most basic right of citizenship. I can't vote." And the court took her case and said, "You surely are a person. There's no question that women are persons, but so do our children, and who would suggest that children should have the right to vote?" So the Supreme Court, until 1971, never saw a gender classification it didn't like.

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RUTH BADER GINSBURG:

One of the later cases, 1961, this is in the time of the liberal Earl Warren court, a woman who was standing trial for the murder of her philandering abusive husband. She was from Hillsborough County, Florida, where women were not put on the jury rolls. And so she had the notion that she did not have the opportunity to be judged by a jury of her peers, because there's no one who looked like her. And the court dispatched her case by saying, "Well, the women have the best of both worlds. If they want to go to the clerk's office and sign up, they will be put on the jury roll. But if they don't want to serve, they are not required to do so."

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RUTH BADER GINSBURG:

The idea is, if you are a citizen, you have obligations as well as rights, and being part of the justice system is one of those obligations. So that was 1961. Before that, there was a case in 1948 of a woman who owned a tavern and her daughter was her bartender. But the law in Michigan passed, I think with the enthusiastic support of the bartenders union, was that only men could mix drinks.

ON SCREEN TEXT:
Wanda Naismith
Detroit Bar (1946)

RUTH BADER GINSBURG:
Only men could be bartenders. Of course, the women could serve. The women could be waitresses and bring the drinks to the thirsty men. So there was an unbroken line that whatever the legislature decided to do with respect to the differential treatment of men and women was okay, the court kept its hands off. But then there had been the Civil Rights Movement in the '60s, the invigoration of the Fourteenth Amendment's Equal Protection Clause. And in 1971, for the first time in the history of the United States, the Supreme Court found a gender classification it didn't like at-

INTERVIEWER:
Tell me about that case.

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RUTH BADER GINSBURG:

The case was Reed v. Reed. It emerged in tragic circumstances. Sally Reed was an everyday woman. She didn't call herself a feminist. She might not even have heard the term.

ON SCREEN TEXT:
Women's Liberation March
Washington, D.C., August 26th, 1970

RUTH BADER GINSBURG:
She had a son. And when he was small, she and her husband divorced. She was given custody of the boy. When the boy reached his teens, the father applied to the Family Court and said, "This boy needs to be prepared for a man's world, so I should have custodial rights." Sally fought against that because she thought the father would be a bad influence on the boy. But the court said, "Sally, you were the preferred parent when your boy was of tender years, but now he should have the experience of living with his father because he's going to be part of man's world."

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RUTH BADER GINSBURG:
Well, the boy, he got into trouble with the law. He was in a youth home of detention for a year. When he got out, Sally tried again to get him back in her custody. The court again said no. And one day, the boy was severely depressed, and he took out one of his father's many rifles and committed suicide. So Sally wanted to be appointed administrator of his estate, not for any monetary reasons, for sentimental reasons. What did he have? He had a record collection, a guitar.

And then her former husband, perhaps out of spite, also applied to be administrator. The Probate Court judge said, "I have instructions in the Idaho law, it tells me what to do when there are rival applications. And the law reads, 'As between persons equally entitled to administer a decedent estate, males must be preferred to females.'" That simple.

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RUTH BADER GINSBURG:
Sally financed her case. She had a local lawyer from Boise, through to the Idaho Supreme Court. And the Idaho Supreme Court said if there's to be a change, it's for the legislature to make it. At that point, a very able lawyer at the ACLU, Marvin Karpatkin, he was a volunteer lawyer. He had a substantial private practice. He read Law Week, which reports decisions in the federal courts. And he said... Well, and in the state courts as well. He said, "This will be the turning point case." And he was absolutely right.

INTERVIEWER:
And he brought it to your attention?

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RUTH BADER GINSBURG:
He brought it to the attention of the then legal director of the ACLU, Mel Wulf. When the Supreme Court agreed to hear the case, I asked Mel, who I knew for many years, if I could write the brief. And he said, "Ruth, we will write the brief." Which, we was Mel and me. That was the case.

ON SCREEN TEXT:

Ruth Bader Ginsburg (1977)

INTERVIEWER:
What did you decide to do?

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RUTH BADER GINSBURG:
Our strategy was the soul of simplicity. It was to go after the stereotypes that were written into law. That is, why are little girls made of sugar and spice and everything nice, and boys snails and puppy-dogs' tails. But girls were this way and boys were that way. Girls were fit to be teachers, to be nurses. They were not fit to be lawyers, doctors, engineers, Indian Chiefs. The idea was to break down those stereotypes and say, "It may be true in general." For example, it may be true in general that women live longer than men. But should individuals be classified on the basis of generalizations? Because there are many men who live long and women who die young. So this is not a hypothetical case. It was one of the hardest nuts to crack, that is to get the insurance companies to combine their mortality tables, that their notion was if a woman had an annuity, she would get less each month because actuarially there would be equality. She would live longer.

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RUTH BADER GINSBURG:
So the notion was to pick cases in which someone is—has a role that one doesn't think of automatically in relation to women. Like Sharon Frontiero was a case. She is a lieutenant in the Air Force and she's married. Her husband is going to school on the GI Bill.

ON SCREEN TEXT:
Lt. Sharon Frontiero (1972)

RUTH BADER GINSBURG:
So she is a dominant earner in the family. She gets no housing allowance for being a married officer, and her husband doesn't have access to the base medical and dental facilities. So this is the woman as wage earner, not woman as dependent.

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RUTH BADER GINSBURG:
Then the case that I think it probably tugged at the court's heartstrings, involved a male plaintiff, Stephen Wiesenfeld, whose wife died in childbirth. He had a healthy baby boy and he was the sole surviving parent. So we went to the local Social Security office expecting that he would get child care benefits. And he was shown the provision of the act. And it says, "mother's benefit." Why do mothers have the benefit? Because they take care of children. Here is his babe in his arms, he takes care of children. The notion, in that case, was the discrimination was ever place you looked. First, the woman as wage earner, because her social security taxes did not net for her family the same protection that a male wage earner's would.

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RUTH BADER GINSBURG:
There was discrimination against Stephen because he could not spend time at home with his child. He had to make money to support the family. And then it was discrimination against the baby. What rationality is there to the notion that if

it's one surviving parent and the parent is female, that parent will have an opportunity to care for the child, but not if the surviving parent is male. So it was the stereotypes of male as breadwinner, woman as caretaker of the home, caregiver to the child, that… We wanted people to be judged by what they do, by the functions they performed and not by gender. In the course of the '70s, almost all of those laws were either repealed or modified.

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RUTH BADER GINSBURG:

There are very few lingering provisions. There was a wholesale bill in Congress changing many of the provisions. In some cases, it was just a name that needed to be changed. But the idea was to go after the stereotype and to show that men could be disadvantaged by the stereotype as well as women.

INTERVIEWER:

I've read you talk about the art of the possible. I suppose that's a little bit in the choice of the cases that would appeal to the justices, where they would see the disadvantages that a man had as well as a woman?

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RUTH BADER GINSBURG:

Yes. And we were selective. Some cases were not brought because it was too early. And I remember one in particular was a woman who was in the army and she had been in an armored vehicle division, a tank division. She had gotten training, and she said that she was the best performer in her class. But then they wouldn't assign her to an armored car unit. Why? Because a lawsuit had just been started to open the doors of West Point and Annapolis to women. And the

government was nervous about having a woman who could show that she could do whatever the men in the unit could do and even better. So we thought that that case, pushing the idea that women in service should be—that all occupational classifications should be open to women, even combat posts, that it was too early. That that would be… it would have damage potential. It would have been a likely loser in those days.

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RUTH BADER GINSBURG:
And an example of a case that we did take involving a military woman was Captain Susan Struck, who became pregnant when she was in Vietnam. And this is in the early '70s. This is a few years before Roe v. Wade. This is about 1970, Roe v. Wade is 1973. She's told by her base commander, "You can have an abortion on base, or you can resign from the service, but you cannot remain in service with a child."

ON SCREEN TEXT:
Captain Susan Struck & Her Baby
Tacoma, Washington (1970)

RUTH BADER GINSBURG:
And she said she planned to use only her accumulated leave time for the child. She was Catholic and would not think of having an abortion. But she regarded the Air Force as her career and wanted to stay in. But she was faced with the discharge order. She had excellent lawyers from the ACLU in Seattle, where she

was sent back to Seattle. And they got a stay of her discharge month by month, every month.

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RUTH BADER GINSBURG:

And although she lost in the Trial Court, she lost in the Court of Appeals, the Supreme Court took her case. And I thought, "What an ideal case, an ideal case to introduce the court to the idea of reproductive freedom." This is a woman who chose birth and that that choice should not be made for her by her government. The same man who was the dean of the Harvard law school when I was a student there, is now a Solicitor General. He sees damage potential in this case. So he convenes the military top officers and he tells them, "You should waive captain Struck's discharge, you should keep her in service. Then you should change your regulation and allow women to remain in service even though they're pregnant, even though they are mothers." So that's what the Air Force did, waived her discharge. And that made her case moot. So the Supreme Court never heard argument, of course never decided it.

INTERVIEWER:

Can you tell me what that was like, the first time when you went up in front of those nine justices to argue your first Supreme Court case on a sexual discrimination issue?

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RUTH BADER GINSBURG:

The first case I argued here was Frontiero v. Richardson.

ON SCREEN TEXT:
Ruth Bader Ginsburg
Rutgers Law School (1971)

RUTH BADER GINSBURG:
I had only 10 minutes of that argument heard. Local counsel had 20 minutes. In that precious 10 minutes, I thought very carefully about what I wanted to convey to the court. It was an afternoon argument. I didn't dare eat lunch because I was afraid I wouldn't retain it. I must say that I was really taken aback, because I spoke continuously for 10 minutes. There was no interruption. So the thought was, "Well, maybe they're just letting me have my say because they know it's not important." Or maybe they were really listening. At least some of them were really listening when the opinion came out. That was clear.

INTERVIEWER:
What was it like when you heard that you had won the day?

00:44:50:00

RUTH BADER GINSBURG:
It was modified joy, let's say. Because four of the justices thought that sex should be declared as so-called suspect classification just like race. Before, it doesn't make a majority on this court. So I knew that we were not going to get that ruling, because the lines were set, that the others who voted in Sharon Frontiero's favor said, "Well, the equal rights amendment is now on the political hopper. We should go slow. We should say as little as possible and let the equal rights amendment run its course. If it's adopted, then we can have something that's clearer on this

point, clearer than the Equal Protection Clause." So, as I said, I had to kind of adjust the strategy, when we were not going to get sex declared a suspect classification, but we could urge a kind of elevated– elevated standard of review. And that is what happened.

ON SCREEN TEXT:
Senate Confirmation Hearing
1993

INTERVIEWER:
Was being on the Supreme Court something that you had long aspired to, and what was it like to get that call?

00:46:10:00

RUTH BADER GINSBURG:
People of my generation, you aspire to getting a job in the law. Sandra Day O'Connor will tell you the same story. She had top grades at the Stanford Law School–

ON SCREEN TEXT:
Supreme Court Justice Sandra Day O'Connor
October 1st, 1993 in Washington, D.C.

RUTH BADER GINSBURG:
–and no one would hire her. She volunteered to work for a county attorney and said, "I'll stay here for four months, if you think I'm worth it, you can put me on

the payroll." That's how she got her first job. So there were no women judges. Well, there had been only one woman on a Court of Appeals. In 1934, President Roosevelt appointed Florence Allen. When she retired, there were none. President Johnson appointed Shirley Hufstedler. She was a lone woman on a Court of Appeals. There was no woman on a Federal Trial Court bench until 1948. So the bench was not something to which women aspired, unless you were a dreamer.

00:47:09:00

RUTH BADER GINSBURG:

And it wasn't until President Jimmy Carter that things changed. Things changed because President Carter looked at the federal bench and said, "They don't resemble all of America. They seem all of one kind." And he was determined to change the complexion of the US judiciary.

INTERVIEWER:

And was that when you thought, "Well, perhaps-"

00:47:36:00

RUTH BADER GINSBURG:

Yes, it was the first time I ever thought that was possible. And this is in the late '70s. And he didn't just talk. He appointed 25 or more women to the trial bench. He appointed 11 to Courts of Appeals. And I was one of the lucky 11. There really was no thought until then, but when Jimmy Carter made that change, there's no president went back to the old ways. President Reagan didn't want to be outdone. So it was his mission to appoint the first woman to this court. And he did a nationwide search and came up with an absolutely spectacular candidate to be the first woman.

ON SCREEN TEXT:
Announcement of Supreme Court Justice Nominee
The White House Rose Garden, June 15, 1933

INTERVIEWER:
And when you got the call from president Clinton, what was that like?

00:48:32:00

RUTH BADER GINSBURG:
I was on cloud nine. I was so tremendously happy. And then the president said, "We'll have a little ceremony tomorrow in the Rose Garden, and we'd like you to make a few remarks." So I knew I had to sit down and get myself together and write something appropriate.

INTERVIEWER:
Tell me about that ceremony.

00:49:01:00

RUTH BADER GINSBURG:
It was a bright, beautiful day. It was very moving. People asked me what it felt like coming out to the rose garden with the president and the first thing that came into my head, well, it felt a little bit like being a bride.

INTERVIEWER:
And you talked about your mother.

RUTH BADER GINSBURG:
Yes.

INTERVIEWER:
Can you tell me what you said?

RUTH BADER GINSBURG:
Something to the effect that I hoped that I could be what she might have been had she lived at a time when society cherished daughters as much as sons.

INTERVIEWER:
That got to President Clinton.

00:49:49:00

RUTH BADER GINSBURG:
Yes. Well, in fact, one of the things— One of the props I brought with me— The first person in our family to meet Hillary Clinton was my granddaughter at age three. Hillary was helping her husband campaign for the presidency, and she stopped at a nursery school in New York where my granddaughter was enrolled. So the picture was featured in the New York News or the Post. And it was Hillary Clinton and my granddaughter, Clara Spera, doing the Toothbrush Song, singing the Toothbrush Song together. I brought that photograph with me and said something about that picture.

00:50:41:00

RUTH BADER GINSBURG:

I didn't tell the story about my first meeting of our president. It was when I was asked to give a talk at University of Arkansas Law School at Little Rock. The then chief justice, Justice Burger's aide, had formerly been the dean of the law school at Little Rock. So I'm giving this talk and the governor walks in. I came home and called my husband. I said, "You won't believe who came to listen to me at Little Rock. The governor of the state." And my husband's response was, "What else is there to do at night in Little Rock?"

INTERVIEWER:
Were you in any way surprised about what life was like on the court, and has it made a difference–

ON SCREEN TEXT:
U.S. Supreme Court Justices (2010)
Sandra Day O'Connor, Sonie Sotomayor, Ruth Bader Ginsburg & Elena Kagan

INTERVIEWER:
–to have female colleagues or not? You've been in both situations.

00:51:38:00

RUTH BADER GINSBURG:
The surprise was the level of collegiality here. As different as we are on some important questions, we genuinely care about each other. And I have seen that now. I've had two cancer bouts while I've been on the court, first colorectal cancer and then pancreatic cancer. And on both occasions, my colleagues held me up,

made it possible for me not to miss any court days. And it was just so kind and thoughtful.

INTERVIEWER:
And having women on the court? Now you have-

00:52:23:00

RUTH BADER GINSBURG:
Well, it is a picture now. It's some difference. I'm sort of toward the middle now. And Justice Kagan is to my left and Justice Sotomayor to my right. My newest colleagues are very lively. And to tell you the truth, Justice Sotomayor is giving Justice Scalia a run for his money. They are in competition for who asks the most questions at an oral argument. So they're not shrinking violets. People certainly know that women are present on the court. We are all over the bench and we are certainly here to stay.

INTERVIEWER:
It must have been gratifying to read the, and to write, and to read the VMI decision.

ON SCREEN TEXT:
Virginia Military Institute
Hell Week, 1997

INTERVIEWER:
What was the import of that decision?

00:53:09:00

RUTH BADER GINSBURG:

The idea that there could be an opportunity reserved just for men or just for women… VMI was important as a teaching tool. Many of the women's colleges combined to write a brief in support of the position, the government's position, because the suit was the United States against Virginia. So they understood this was in no way an attack on single sex schools. It simply meant that the state cannot offer an opportunity to boys, a superb opportunity, that would... VMI is a military institute, but only 15% of the graduates end up in the military. There is an old boys' network that helps these graduates as they make their way in the world. And there was nothing like that for women. So that was our point. A state cannot make an educational opportunity open to men and provide nothing equal for women.

00:54:24:00

RUTH BADER GINSBURG:

Now when, given the choice, this has happened with race and then with gender… it was conceivable that a new VMI could be built. Conceivable, but really not possible.

INTERVIEWER:

What was that like to read that decision?

00:54:44:00

RUTH BADER GINSBURG:

I summarized the decision from the bench and I hope everyone in the courtroom appreciated what a significant decision this was. It was, for me, a victory that

came 20 years late because the ACLU women's rights project had been involved in a case involving a school in Philadelphia called Central High School. It was a school for gifted boys. There was a school for girls, it was called Girls High.

ON SCREEN TEXT:
West Philadelphia Catholic Girls' High School (1953)

RUTH BADER GINSBURG:
I think the captions told the story. Central and Girls. A girl who was admitted to Girls High, but wanted to go to Central, said, "Central has better science and math facilities, it has a better library, it has a better old boys' network, it has better athletic facilities."

00:55:46:00

RUTH BADER GINSBURG:
That case ended up with an even division in the federal courts. She won in the Trial Court, lost two to one in the Court of Appeals. And this court affirmed the decision against her by an equally divided vote. That means no opinion is written. The decision has no precedential value. So. the court decided in the VMI case what it might have decided 20 years earlier in that case.

INTERVIEWER:
You had a very long and strong–

ON SCREEN TEXT:
Ruth Bader & Martin Ginsburg

June 14th, 1993

RUTH BADER GINSBURG:
–marriage before your husband died last year. Can you tell me about him and about what made your relationship work?

00:56:34:00

RUTH BADER GINSBURG:
We met when I was 17, he was 18. My first year in college, his second year. We each had a significant other someplace else. And the thought was, Ithaca can get pretty cold during the week, so we could keep each other company. And so that's how we started out as best friends. Then I came to appreciate that Marty was really interested in what I thought. Most boys at that time really didn't care if a girl had a brain. In fact, it would be better if she didn't. And then at every stage of our life, Marty has been, not simply in my corner. I come to law school and I'm a little concerned about how I will fare with a 14-month-old child. Marty is bragging to all the people in his class that his wife is going to be on the Law Review. That's how he was.

00:57:34:00

RUTH BADER GINSBURG:
When I got my first good job in D.C., in the US Court of Appeals here, so many people thought I was commuting back and forth to New York. They couldn't imagine that Marty would've left his very successful practice in New York to come to Washington D.C., so that we would have our life together here. He was also a fabulous cook and he attributed that to two things. One, his mother, and I think he's unfair about that. And the other, to me. And I'd say that that is an

accurate judgment. So when we started our married life, he was the company and the weekend cook. And I was the everyday cook. My daughter, Jane, who is herself a very good cook today, in her high school years, noticed a tremendous difference between Mommy's cooking and Daddy's cooking and decided that Mommy should be phased out of the kitchen altogether.

00:58:37:00

RUTH BADER GINSBURG:
It was for me like Tom Sawyer and the fence. I have now been living in the District of Columbia since 1980. So it's over 30 years. I have not cooked a meal in all that time. And the routine was Marty would start to call around seven o'clock and say, "It's time to come home for dinner." Then he'd call 7:30 and says, "It's getting late." Eight o'clock, "Come home." Now with Marty gone, my daughter comes once a month to cook for me and fills my freezer with food.

INTERVIEWER:
It must have been challenging to be working as hard as you were working, arguing cases before the Supreme Court when you had two children. What was his role as a dad?

ON SCREEN TEXT:
Ruth Bader Ginsburg & Family
St. Thomas (1979)

00:59:29:00

RUTH BADER GINSBURG:

When we were in law school, it was easy to be—we were interchangeable and taking care of the house, taking care of Jane. He started in a law firm and was climbing up the ladder to become a partner. I kind of accepted that I would be the one who had primary responsibility with Jane. And then, when I decided I wanted to be— I wanted to have an experience of living alone I never had, that was my sweetest adventure when I wrote the book. So Jane still had a month— I left in May, and she still had some weeks. And Marty said, "Do you want to do this? It's fine with me. We'll send Jane when she finishes school."

01:00:26:00

RUTH BADER GINSBURG:

Now in… let's take the beginning of the '70s. I'm teaching at Columbia Law School. My son, a very lively child, is constantly getting into trouble in school. I'm getting calls once a month to come down and see the room teacher, the principal, the school psychologist. And one day, very weary, I said, "This child has two parents. I suggest you alternate calls, and it's his father's turn." So they called Marty. He went off to meet the principal and my son's, what was his great offense? He stole the elevator. It was one of those handheld elevators and his classmate dared him to take the kindergartners up to the top floor where he was greeted by the principal and the room teacher.

01:01:27:00

RUTH BADER GINSBURG:

Anyway, so Marty's response to this terrible thing my son had done was, "He stole the elevator. How far could he take it?" Now, either it was Marty's sense of humor or that the school was much more reluctant to take a man away from his work than a woman, calls came barely once a semester. Now there was no great change

in my son's behavior, but that was… they wouldn't think twice about—in fact, maybe it was that I should feel a little guilty that my child is so lively. By the way, today he's a grand human in any case. So Marty had a lot to do with the children. And then when we moved to Washington D.C., when he was always there, whatever I needed and whether I needed being boyed up or just well fed, he was a remarkable man. He was so comfortable about himself that he never regarded me as being any kind of a threat. On the contrary, I think he may have figured out, well, he's so good, so the person he picked to be his life's partner has got to be the cat's meow.

ON SCREEN TEXT:
Ruth Bader and Martin Ginsburg
Columbia Law School, September 12th, 2003

INTERVIEWER:
Why do you think American young women think of feminism as a dirty word?

01:03:10:00

RUTH BADER GINSBURG:
Because they don't understand what it means. Feminism, I think the simplest explanation, and one that captures the idea, is a song that Marlo Thomas sang. It was for a project of Ms. Magazine. And it was, Free To Be... You And Me. Free to be, if you were a girl, whatever you would like to do, be an engineer… doctor, lawyer, Indian Chief, anything you want to be. And if you are a boy and you like teaching, you like nursing, you would like to have a doll, that's okay too. In one song, William has a doll. But that notion that we should each be free to develop

our own talents, whatever they may be, and not be held back by artificial barriers, man made barriers, certainly not heaven sent.

INTERVIEWER:
Do you worry that the hard fought gains that you worked for could be rolled back because of a lack of interest among younger generations and women who don't understand?

01:04:37:00

RUTH BADER GINSBURG:
I don't think we will ever go back to the way it was. There are just too many women out there doing things. Sometimes, every once in a while, a journal, including the *New York Times*, runs an article about these well educated women, you know what they're doing? They are staying home and taking care of their children. Well fine. Think of Justice O'Connor. She had three sons. She took at least three years out. Judge Patricia Wald of the D.C. Circuit, she had five children, and she took out at least five years. So you can do both. And I suspect that many of these women that the surveys put down as dropouts are going, eventually, to be doing something that isn't home centered, just how long we live makes that inevitable. Most of us now will live most of our years without children in the home.

INTERVIEWER:
What's the most meaningful, useful piece of advice that you've ever received?

01:05:58:00

RUTH BADER GINSBURG:

The most useful advice given to me by my mother-in-law on the day of my marriage. We were married in Marty's home, and his mother took me into her bedroom and said, "Dear, there is a secret to a happy marriage and I want you to know it. It is, every now and then, it helps to be a little deaf." And with that, she handed me a packet of MAX ear plugs, which are still the best ear plugs one can find in the drugstore. But it was that notion, it was that advice has stood me in good stead, not simply in dealing with my marriage, but in dealing with my colleagues, even my colleagues today on this court. You just tune out. You don't hear the unpleasant remark.

END TC:01:07:07