Fall 2004

Ruth Bader Ginsburg: An Annotated Bibliography

Sarah E. Valentine
New York Law School

Follow this and additional works at: <https://academicworks.cuny.edu/clr>

Part of the [Supreme Court of the United States Commons](#)

Recommended Citation

Sarah E. Valentine, *Ruth Bader Ginsburg: An Annotated Bibliography*, 7 N.Y. City L. Rev. 391 (2004).
Available at: 10.31641/clr070207

The CUNY Law Review is published by the Office of Library Services at the City University of New York. For more information please contact cunylr@law.cuny.edu.

Ruth Bader Ginsburg: An Annotated Bibliography

Acknowledgements

The author wishes to express her appreciation to Ruthann Robson, Professor of Law, CUNY School of Law, for her encouragement and assistance, and to Camille Broussard, Acting Director of the Mendik Law Library, New York Law School, for her support and mentorship. Additionally, the author acknowledges Katerina Williams, CUNY School of Law Library, for her assistance with interlibrary loans, and Julie Graves, CUNY School of Law, Class of 2004 and Symposium Editor, for her preliminary contributions and editing, as well as to the editors and staff of the New York City Law Review.

RUTH BADER GINSBURG: AN ANNOTATED BIBLIOGRAPHY

*Sarah E. Valentine**

TABLE OF CONTENTS

I.	INTRODUCTION	392
II.	WORKS BY RUTH BADER GINSBURG.....	397
A.	Foreign or Comparative Legal Issues	397
1.	Books	398
2.	Articles and Book Chapters	398
B.	United States Federal Procedure	402
C.	Works on Sex Discrimination and Ginsburg's Litigation to Achieve Recognition of Gender Equality	403
1.	Books	404
2.	Articles	405
D.	Judicial Philosophy and the Judiciary.....	415
E.	The Legal Profession	420
1.	Appellate Advocacy.....	420
2.	Legal Ethics	421
3.	Legal Education	422
4.	Women "At" (and Behind) the Bench and Bar	423
5.	Jewish Justices and Jewish Identity.....	428
F.	Tributes, Remarks and Miscellany	429
III.	BOOKS, BOOK CHAPTERS AND LAW REVIEW ARTICLES ON OR ABOUT RUTH BADER GINSBURG	435
A.	Books and Book Chapters on or About Ginsburg	435
1.	Books Written for the Child or Young Adult Audience	435
2.	Books or Book Chapters on Ginsburg for the Academic or Scholar	436
B.	Law Review Articles on or About Ginsburg	439

* Reference and Collection Management Librarian and Professor of Legal Research, New York Law School. The author wishes to express her appreciation to Ruthann Robson, Professor of Law, CUNY School of Law, for her encouragement and assistance, and to Camille Broussard, Acting Director of the Mendik Law Library, New York Law School, for her support and mentorship. Additionally, the author acknowledges Katerina Williams, CUNY School of Law Library, for her assistance with inter-library loans, and Julie Graves, CUNY School of Law, Class of 2004 and Symposium Editor, for her preliminary contributions and editing, as well as to the editors and staff of the New York City Law Review.

I. INTRODUCTION

Ruth Bader Ginsburg changed the face of American jurisprudence. She is best known as the architect of the litigation strategy that made gender constitutionally relevant¹ and, in the process, changed the way women are viewed in American society.² Currently an associate justice of the U.S. Supreme Court, she has been called the Thurgood Marshall of the women's rights movement.³ Ginsburg is the only sitting member of the Supreme Court who has actually argued before it: she argued six separate times in the 1970s when she was litigating gender equality cases.⁴ She has been a judge since 1980 when she was appointed to the D.C. Circuit by President Jimmy Carter.⁵ In 1993 she was appointed to the Supreme Court by President Clinton with relatively little controversy.⁶ As a justice, she has "extended her commitment to opportunity and equality far beyond gender discrimination."⁷ Commentators find her an extremely intelligent, precise, pragmatic, hardworking

¹ Amy Leigh Campbell, *Raising the Bar: Ruth Bader Ginsburg and the ACLU Women's Rights Project*, 11 TEX. J. WOMEN & L. 157, 239 (2002).

² As Kathleen M. Sullivan remarks, "American women's equality is a story of creative interpretation of the Equal Protection Clause and of advocates' bravado. Led with inventiveness and strategic brilliance by now-Justice Ruth Bader Ginsburg. . . ." Kathleen M. Sullivan, *Constitutionalizing Women's Equality*, 90 CAL. L. REV. 735, 739 (2002).

³ As Professor Kushner eloquently put it,

[t]oday, when a woman graduates from this school or any school in the country, she has an equal chance at employment as her male classmates. The important thing to understand is that if we were going to ask, "is there an individual that is responsible for this change?" Without question it is Ruth Bader Ginsburg.

James A. Kushner *Introducing Ruth Bader Ginsburg and Predicting the Performance of a Ginsburg Court*, 32 SW. U. L. REV. 181, 181-82 (2003).

⁴ *Id.* at 183. Additionally, Ginsburg participated in the writing of nine briefs to the U.S. Supreme Court, fifteen amicus curiae briefs, and eleven petitions for certiorari. *Id.*

⁵ See, e.g., Edith Lampson Roberts, *Ruth Bader Ginsburg*, in THE SUPREME COURT JUSTICES: ILLUSTRATED BIOGRAPHIES, 1789-1995 531, 534-35 (Clare Cushman ed., 1995).

⁶ Like the confirmation hearings of other recent Supreme Court nominees, Ginsburg's were nationally televised, but in stark contrast to what the viewing public had witnessed when the Judiciary Committee had delved into the views and character of Clarence Thomas in 1991, there was scarcely any rancor or blatant partisanship in the committee's interrogation of Ginsburg. . . . Ginsburg was treated far more gently than most of other recent nominees to the Court."

DIANA KLEBANOW & FRANKLIN L. JONAS, *Ruth Bader Ginsburg*, in PEOPLE'S LAWYERS: CRUSADERS FOR JUSTICE IN AMERICAN HISTORY 349, 381 (2003). See also William G. Ross, *The Supreme Court Appointment Process: A Search for a Synthesis*, 57 ALB. L. REV. 993 (1994).

⁷ Deborah Jones Merritt & David M. Lieberman, *Ruth Bader Ginsburg's Jurisprudence of Opportunity and Equality*, 104 COLUM. L. REV. 39, 45 (2004).

consensus builder on the Court.⁸ She has been an assertive and productive justice since her appointment,⁹ and she has had remarkable success in guiding the Court to the center left on a number of issues.¹⁰

Throughout her career, Ginsburg has been a prolific writer. After graduating law school in 1959 and then clerking with a United States district judge, Ginsburg published works on foreign law, usually describing Swedish law or comparing Swedish and United States civil procedure.¹¹ Both of these topics were in keeping with her jobs during this time. Between 1961 and 1963, Ginsburg worked at the Columbia Project on international civil procedure. She began teaching at Rutgers School of Law in the fall of 1963 and taught civil procedure, remedies, and a comparative

⁸ David L. Shapiro, *Justice Ginsburg's First Decade: Some Thoughts about Her Contributions in the Fields of Procedure and Jurisdiction*, 104 COLUM. L. REV. 21, 21-22 (2004) (stating that her opinions are characterized by qualities that evince judging at its best: a high level of knowledge of the subject matter, lawyerly analysis of the issues at hand, a pragmatic approach that places great weight on the particular context and on what works best in that context in the interests of both judicial efficiency and fairness to litigants, and an insistence that decisions not be unnecessarily broad in their scope or implications.); Edith Lampson Roberts, *Tribute to Justice Ruth Bader Ginsburg*, 20 U. HAW. L. REV. 595, 595 (1998) (stating that:

[t]he hallmarks of her style of judging—meticulous attention to detail, abiding respect for the views of her judicial colleagues, and absolute clarity of expression in the opinions she authors—necessarily affect her view both of the appropriate outcome of each case and of the way in which a judge is obliged to explain that outcome.).

⁹ Despite the goal and norm of parity in assignments, new justices sometimes receive fewer opinion assignments than other justices as they become integrated into the Court's decision-making environment. This was true of Justices Souter, Scalia, and O'Connor. . . . [H]owever, this was not true of Ginsburg, whose nine majority opinions matched the Court's average and exceeded by one the number assigned to four of her colleagues. Presumably, Ginsburg's 13 years as a judge on the U.S. Court of Appeals for the District of Columbia Circuit enabled her to impress her colleagues with her competence in appellate opinion writing. . . . Thus, her workload was the same as that of other justices, and she was not treated by her senior colleagues as if she needed to learn the Court's decision-making processes. Ginsburg proved to be assertive in writing concurring and dissenting opinions. She exceeded the Court's average for productivity in both categories. With respect to concurring opinions, she was tied for third among all justices in the frequency of explaining her views when she agreed with the outcome of a case but did not write the majority opinion.

Christopher E. Smith et al., *The First-Term Performance of Justice Ruth Bader Ginsburg*, 78 JUDICATURE 74, 78 (1994) (citations omitted).

¹⁰ See Kushner, *supra* note 3, at 184-85 (using Ginsburg's decisions as examples).

¹¹ Campbell, *supra* note 1, at 161-62.

law seminar that focused on Swedish law.¹² Ginsburg has only intermittently written or spoken on comparative law since 1970, although she has published some recent pieces discussing the impact of international law on the Court.¹³

In 1970, Ginsburg began focusing, both as a writer and as a litigator, on sex discrimination in the United States. While teaching, she worked as the co-director of the Women's Rights Project and later as general counsel to the ACLU. During this time, she not only litigated but also used her pen to educate. She often wrote short pieces in then-new women's law reviews and journals,¹⁴ as well as in bar journals¹⁵ and traditional law reviews discussing sex discrimination and the cases she was or had been litigating.¹⁶ Another prominent topic during this period was the importance of securing the passage of the Equal Rights Amendment. She often argued that passage of the ERA was necessary so that the judiciary would have a constitutionally explicit foundation upon which it could base its gender equality doctrine.¹⁷

Her methodical and step-by-step litigation strategy¹⁸ in the 1970s reappears in her judging¹⁹ and in her judicial philosophy²⁰

¹² Herma Hill Kay, *Ruth Bader Ginsburg, Professor of Law*, 104 COLUM. L. REV. 1, 11 (2004).

¹³ Ruth Bader Ginsburg & Deborah Jones Merritt, *Affirmative Action: An International Human Rights Dialogue*, 21 CARDOZO L. REV. 253 (1999).

¹⁴ See, e.g., Ruth Bader Ginsburg, *Comment, Frontiero v. Richardson*, 1 WOMEN'S RTS. L. REP. 2 (1971-1974); Ruth Bader Ginsburg, *The Equal Rights Amendment is the Way*, 1 HARV. WOMEN'S L.J. 19 (1978) [hereinafter *Equal Rights Amendment*].

¹⁵ See, e.g., Ruth Bader Ginsburg, *The Need for the Equal Rights Amendment*, 59 A.B.A. J. 1013 (1973).

¹⁶ See, e.g., Ruth Bader Ginsburg, *Gender in the Supreme Court: The 1973 and 1974 Terms*, 1975 SUP. CT. REV. 1; Ruth Bader Ginsburg, *Gender and the Constitution*, 44 U. CIN. L. REV. 1 (1975).

¹⁷ See, e.g., Ruth Bader Ginsburg, *Let's Have E.R.A. as a Signal*, 63 A.B.A. J. 70 (1977); *Equal Rights Amendment*, *supra* note 14; Ruth Bader Ginsburg & Philip B. Kurland, *Is the ERA Constitutionally Necessary?*, UPDATE ON LAW-RELATED EDUC. 16 (Spring 1978); Ruth Bader Ginsburg, *Ratification of the Equal Rights Amendment: A Matter of Time*, 57 TEX. L. REV. 919 (1979).

¹⁸ See Joan R. Tarpley, *An Open Thank-You Note to Justice Ruth Bader Ginsburg for Her Spirit of Belonging*, 24 WOMEN'S RTS. L. REP. 1, 1 (2002) (thanking Ginsburg for both her "vision of gender equality" and "the practical step-by-step methodology employed" to "make that vision become today's constitutional reality"). See also Henry J. Reske, *The Trailblazing Women's Rights Litigator Becomes a Moderate Judge*, 79 A.B.A. J. 16, 19 (Aug. 1993) ("Ginsburg developed a strategy of chipping away precedent, establishing new principles step-by-step").

¹⁹ "Ginsburg had always adhered to liberal values and goals, but had tempered these beliefs as a judge on the court of appeals by her emphasis on procedure and precedent and by her commitment to the doctrine of judicial restraint." KLEBANOW & JONAS, *supra* note 6, at 379.

²⁰ See generally Ruth Bader Ginsburg, *Speaking in a Judicial Voice*, 67 N.Y.U. L. REV.

when she was appointed to the D.C. Circuit in 1980. It is interesting to note that in 1985 she reiterated her belief in the importance of a methodological and moderate approach to securing civil rights, warning against seeking bold judicial victories alone.²¹ She is, by many accounts, a careful, moderate judge²² who believes in narrow rulings and the importance of *stare decisis*.²³ Linda Greenhouse, the New York Times Supreme Court reporter, has called her a “judicial-restraint liberal,” with a “liberal vision of a muscular and broadly inclusive Constitution coupled with a pragmatist’s sense that the most efficacious way of achieving the Constitution’s highest potential as an engine of social progress is not necessarily through the exercise of judicial supremacy.”²⁴ Ginsburg’s own articles on the judiciary and her judicial philosophy reflect the importance of these attributes.²⁵

Since her appointment to the Court in 1993, she has lectured and written on many different aspects of the legal profession and has shown an interest in legal history as well.²⁶ She also has addressed the importance of protecting the independence of the judiciary from politicalization and from criticism that seeks to

1185 (1992). In a section of the article entitled “Measured Motions in the Third Branch of Decisionmaking,” Ginsburg argues that “measured motions seem to me right, in the main, for constitutional as well as common law adjudication. Doctrinal limbs too swiftly shaped, experience teaches, may prove unstable.” *Id.* at 1198.

²¹ Ruth Bader Ginsburg, Remarks at the Saturday Roundtable Discussion at the Conference on Civil Rights Developments (Nov. 17, 1984), in 37 *RUTGERS L. REV.* 1107 (1985).

²² Laura Krugman Ray, *Justice Ginsburg and the Middle Way*, 68 *BROOK. L. REV.* 629, 629 (2003).

²³ See Mei-Fei Kuo & Kai Wang, Comment, *When Is an Innovation in Order?: Justice Bader Ruth Ginsburg and Stare Decisis*, 20 *U. HAW. L. REV.* 835, 859 (1998) (stating that, “Justice Ginsburg’s early years as a judge were marked by her great judicial restraint in preserving precedent. She paid utmost respect to a settled body of law. When faced by a precedent conflicting with her moral beliefs, she still followed the precedent and abided by one of the primary tenants of *stare decisis*—‘to keep judges from infusing their own moral beliefs.’” (citation omitted). See also CASS R. SUNSTEIN, *ONE CASE AT A TIME: JUDICIAL MINIMALISM ON THE SUPREME COURT* (1999) (arguing that the analytical heart of the current Court—comprised of Justices Breyer, Ginsburg, Kennedy, O’Connor, and Souter—tries to avoid broad rulings, and instead prefers to decide cases narrowly based on the specific facts at hand).

²⁴ Linda Greenhouse, *Learning to Listen to Ruth Bader Ginsburg*, 7 *N.Y. CITY L. REV.* 213 (2004).

²⁵ See Sarah E. Valentine, *Ruth Bader Ginsburg: An Annotated Bibliography*, 7 *N.Y. CITY L. REV.* 391 (2004).

²⁶ See Ruth Bader Ginsburg, Remarks at the City University School of Law (Mar. 11, 2004), in 7 *N.Y. CITY L. REV.* [] (2004) [hereinafter Remarks]; Ruth Bader Ginsburg, Welcoming Remarks to the Judicial Fellows (Jan. 22, 1998), in 5 *SW. J. L. & TRADE AM.* 3 (1998); Ruth Bader Ginsburg, *Reflections on Way Paving Jewish Justices and Jewish Women*, 14 *TOURO L. REV.* 283 (1998).

intimidate judges who do not rule the way “ ‘the home crowd’ wants.”²⁷

In addition to her own writing, Ginsburg’s work has been the subject of many other authors, most notably legal academics and law students. Scholars have analyzed her opinions in specific cases, such as *VMI*,²⁸ or in particular areas, such as capital punishment,²⁹ or in combinations of areas.³⁰ Additionally, Ginsburg has been the topic of various types of tributes and biographies, including children’s books.

This bibliography collects and annotates works by and about Ginsburg. As the first annotated bibliography of Ginsburg, it is intended to assist researchers seeking specific information that titles alone often do not convey. Further, the categorization in this bibliography should facilitate access to the particular subjects about which a researcher is concerned.

After this brief introduction, Part II provides a comprehensive listing of works by Ginsburg. Its divisions generally correspond to the chronological trajectory of her legal career. Subsection A includes her works on foreign or comparative law, much of which was done prior to 1971, while subsection B collects her publications on U.S. civil procedure. Subsection C encompasses her works on sex discrimination, the topic on which she has been most prolific. The pieces collected in subsection D were authored after her ascent to the bench and address her judicial philosophy as well as her concerns about the growing threat to judicial independence. In addition to her writings on the judiciary, Ginsburg has written widely on the legal profession. In subsection E, this bibliography assembles and categorizes her writings devoted to appellate advocacy, legal ethics, legal education, women and the bench and bar, and Jewish justices. Finally, subsection F of Part II collects those

²⁷ See Ruth Bader Ginsburg, Remarks on Judicial Independence, Remarks at the Hawai’i State Bar Reception (Feb. 3, 1998), in 20 U. HAW. L. REV. 603, 603 (1998); Ruth Bader Ginsburg, *Inviting Judicial Activism: A ‘Liberal’ or ‘Conservative’ Technique?*, John A. Sibley Lecture in Law delivered at the University of Georgia School of Law (Jan. 26, 1981), in 15 GA. L. REV. 539 (1981).

²⁸ *United States v. Virginia*, 518 U.S. 515 (1996). See, e.g., Carey Olney, *Better Bitch than Mouse: Ruth Bader Ginsburg, Feminism, and VMI*, 9 BUFF. WOMEN’S L.J. 97, 115 (2000-2001).

²⁹ See, e.g., Sidney Haring & Jeffrey L. Kirchmeier, *Scrupulous in Applying the Law: Justice Ruth Bader Ginsburg and Capital Punishment*, 7 N.Y. CITY L. REV. 241 (2004).

³⁰ See, e.g., Rebecca Barnhart & Deborah Zalesne, *Twin Pillars of Judicial Philosophy: The Impact of the Ginsburg Collegiality Philosophy on Her Separate Opinions in Gender Discrimination Cases*, 7 N.Y. CITY L. REV. 275 (2004); M. Isabel Medina, *Real Difference and Stereotypes—Two Visions of Gender, Citizenship, and International Law*, 7 N.Y. CITY L. REV. 315 (2004).

short pieces by Ginsburg that are tributes, general remarks, and other miscellaneous writings that she has given since she was appointed to the federal bench.

Part III of this bibliography is devoted to publications about Ginsburg and her work. Subsection A lists all the books and book chapters that relate to Ginsburg. This subsection is then divided into two sections, one of which catalogues children's or young adult works, while the other includes books or book chapters on Ginsburg written for an adult audience. It is hoped that this division will be especially useful to scholars who wish to limit their research to more sophisticated texts, as works aimed at a non-adult audience are cited in scholarly adult works, causing some confusion. Subsection B then lists law review articles about Ginsburg's jurisprudence and contributions. This subsection is limited to pieces that focus on Ginsburg, excluding articles in which Ginsburg, as author of a particular opinion, is incidental to the author's analysis. Part III excludes works from the popular press because this bibliography is aimed primarily at legal and other scholarly researchers.

Taken as a whole, this annotated bibliography provides a portrait of a prolific litigator, scholar, and jurist, as well as the tremendous "changes around here"³¹ philosophy that her work reflects and animates.

II. WORKS BY RUTH BADER GINSBURG

A. *Foreign or Comparative Legal Issues*

After clerking for Judge Palmierie in the Southern District of New York, Ruth Bader Ginsburg worked at the Columbia Project on International Civil Procedure, becoming Associate Director of the project within a year.³² She learned the Swedish language, co-edited several books on Swedish Civil Procedure, was awarded an honorary doctorate by the University of Lund,³³ and was considered a leading scholar on Swedish law.³⁴ She served on the editorial board of the *American Journal of Comparative Law* and is regarded as a respected comparativist.³⁵

³¹ See Greenhouse, *supra* note 24, at 219.

³² Campbell, *supra* note 1, at 242.

³³ Malvina Halberstam, *Ruth Bader Ginsburg: The First Jewish Woman on the United States Supreme Court*, 19 CARDOZO L. REV. 1441, 1146 (1998).

³⁴ James A.R. Nafziger, *International and Foreign Law Right Here in River City*, 34 WILLAMETTE L. REV. 4, 26 (1998).

³⁵ Ruth B. Cowan, *Woman's Rights Through Litigation: An Examination of the American*

1. Books

RUTH BADER GINSBURG & ANDERS BRUZELIUS, *CIVIL PROCEDURE IN SWEDEN* (Hans Smit ed., 1965). The first volume in the Project on International Procedure of the Columbia University School of Law, this handbook on Swedish civil procedure, co-authored with Swedish Judge Anders Bruzelius, includes an introduction to Swedish legal history and governmental organization, legal education, the organization of the judicial system, and discusses the more practical aspects of civil procedure, including jurisdiction, service of process, evidentiary issues, appellate practice, and enforcement of judgments.

ANDERS BRUZELIUS & RUTH BADER GINSBURG, *THE SWEDISH CODE OF JUDICIAL PROCEDURE* (Ginsburg trans. & ed. 1968). This book is a translation of the rules governing both civil and criminal procedure and the organization of the Swedish courts as promulgated in 1942, effective date 1948, and includes a brief introduction to Swedish procedure.

BUSINESS REGULATION IN THE COMMON MARKET NATIONS, VOL. 1 (Ruth B. Ginsburg ed., 1969). Ginsburg served as the volume editor for this first volume in a series of books on "restraints of trade and monopoly" in the European Economic Community. This volume includes sections on the nations of Belgium, the Netherlands, and Luxembourg by separate authors.

RUTH BADER GINSBURG, *A SELECTIVE SURVEY OF ENGLISH LANGUAGE STUDIES ON SCANDINAVIAN LAW* (1970). This book is a selective and partially annotated bibliography of approximately fifty pages of sources on Swedish, Danish, Norwegian, and Finnish law.

2. Articles and Book Chapters

Ruth Bader Ginsburg & Deborah Jones Merritt, *Affirmative Action: An International Human Rights Dialogue*, 21 *CARDOZO L. REV.* 253 (1999); *reprinted in* 1 *RUTGERS RACE & LAW* 193 (1999). Ginsburg and her co-author describe the different ways that the courts of the United States, India, and the European Union have handled legislative attempts to redress historic discrimination. The authors conclude that legislative redress of bias often generates opposition and urge those in the U.S. judicial system to look beyond U.S. shores, as both India and the European Union have done, to gain

Civil Liberties Union Women's Rights Project 1971-1976, 8 *COLUM. HUM. RTS. L. REV.* 373, 384 (1976).

knowledge and perspective about attempts to eradicate bias and discrimination.

Ruth Bader Ginsburg, *An Overview of Court Review for Constitutionality in the United States*, 57 LA. L. REV. 1019 (1997). In this piece, which was the twenty-fifth John M. Tucker Jr. Lecture in Civil Law at the Louisiana State University Law School, Ginsburg lays out the framework for judicial review of constitutional questions. She compares and contrasts the manner in which U.S. courts control legislative and executive action with those of other Western nations.

Ruth Bader Ginsburg, *Civil Procedure—Basic Features of the Swedish System*, 14 AM. J. COMP. L. 336 (1965). The first part of this article sketches the Swedish bench and bar circa 1965, with a general description of how law was practiced there, including the use of lay attorneys, lay judges (the *nämnd*), and the use of the civil *ombudsman*, which oversees all of Sweden's nonmilitary officialdom. The remainder of the article provides a brief overview of Sweden's Code of Procedure, which was streamlined in 1942. Ginsburg provides a short description of each of the major categories of procedure: preparation for hearings, rules of competence (jurisdiction), service, and pleadings.

Ruth B. Ginsburg, *Sweden, Comparative Study of Hearsay Evidence Abroad*, 4 INT'L LAW. 163 (1969-1970). This short essay is one of a series created by *International Lawyer* in the late 1960s and early 1970s on specific topics of foreign law. Several authors covered one or more countries, addressing the countries' various approaches to the legal process. Ginsburg outlines salient features of the receipt and evaluation of evidence under Swedish law.

Ruth B. Ginsburg, *The Competent Court in Private International Law: Some Observations on Current Views in the United States*, 20 RUTGERS L. REV. 89 (1965). Focusing on cases involving parties residing outside the forum state, Ginsburg compares and contrasts traditional American common law concepts of jurisdiction with those of Western European countries. Ginsburg argues that the United States has moved away from personal service as the basis of a court's adjudicatory authority and moved toward the more continental view of basing such authority on the state's relationship to the defendant or to the particular litigation involved.

Ruth Bader Ginsburg, *The Constitutional Status of Human Rights Here and Abroad*, Remarks Before the Women's Bar Association of the District of Columbia (June 22, 1982), in 3 ANTIOCH L.J. 5 (1985). In this speech, then-Judge Ginsburg laments the failure to ratify the E.R.A. and predicts that protection against govern-

ment abridgement of rights because of sex will be a secure constitutional principle by 2000. She goes on to broadly describe systems of constitutional review in several countries, including France, Italy, Japan, the People's Republic of China, and West Germany.

Ruth Bader Ginsburg & Jonathan Weinberg, *Fundamental Differences in the Acquisition and Enforcement of Patents, Copyrights, and Trademarks in the United States*, Address Before the [Tokyo] Institute of Intellectual Property by Ruth Bader Ginsburg (Aug. 3, 1994). This is a speech, translated and bound by the Institute, in which the authors provide an overview of patent, copyright, and trademark protections in the United States for a Japanese audience. The authors use examples from both American and Japanese film, as well as U.S. case law to illustrate their points. They also suggest that the issue of digital technology will be the new frontier in intellectual property law.

Ruth Bader Ginsburg et al., *International Co-operation in Litigation: Denmark; International Co-operation in Litigation: Finland; International Co-operation in Litigation: Norway; International Co-operation in Litigation: Sweden*; *in* INTERNATIONAL CO-OPERATION IN LITIGATION: EUROPE, at 52, 105, 281, 333 (Hans Smit ed., 1965). This book was published by the Columbia Project on International Procedure where Ginsburg worked after her clerkship and prior to being hired at Rutgers. Ginsburg, who is co-author of each of the above chapters with local (to the country covered) practitioners, drafted the chapters based on results from extensive questionnaires, which the local practitioners answered.

Ruth Ginsburg, *The Jury and the Nämnd: Some Observations on Judicial Control of Lay Triers in Civil Proceedings in the United States and Sweden*, 48 CORNELL L.Q. 253 (1962). In this comparative law study, Ginsburg contrasts the U.S. jury system with that of the Swedish *Nämnd*, in which a panel of lay triers of fact and law is guided in its determinations by a professional judge.

Ruth Bader Ginsburg, *Looking Beyond Our Borders: The Value of a Comparative Perspective in Constitutional Adjudication*, Sherman J. Bellwood Lecture at the University of Idaho (Sept. 18, 2003), *in* 40 IDAHO L. REV. 1 (2003). In this lecture, Ginsburg describes the slow but perceptible movement the Supreme Court has made toward examining and learning from jurisprudence of other countries. She points to the increased number of references to international conventions in Court opinions, as well as to two recent cases where the Supreme Court specifically referenced non-U.S.

opinion and jurisprudence: *Atkins v. Virginia*,³⁶ and *Lawrence v. Texas*.³⁷

Ruth Ginsburg & Anders Bruzelius, *Professional Legal Assistance in Sweden*, 11 INT'L & COMP. L.Q. 997 (1962). This is an in-depth overview of the practice of law in Sweden. The authors present information covering many aspects of the legal system, including admission requirements at law schools, relationships between lawyers and clients, and relationships between public defenders and prosecution authorities.

Ruth Bader Ginsburg, *Proof of Foreign Law in Sweden*, 14 INT'L & COMP. L.Q. 277 (1965). This short note provides an overview of literature and case law on the subject of how Swedish courts determine the applicability of foreign law.

Ruth Bader Ginsburg, *Recognition and Enforcement of Foreign Civil Judgments: A Summary View of the Situation in the United States*, 4 INT'L LAW. 720 (1969). This article provides an overview of the subject of enforcing foreign civil judgments. The article details underlying policies, conditions, and trends in case law and examines potential developments governed by treaties. Extensively footnoted, the article contains many citations to cases and secondary sources. The article also was published (with only minor changes) as *Recognition and Execution of Foreign Civil Judgments and Arbitration Awards*, in LEGAL THOUGHT IN THE UNITED STATES OF AMERICA UNDER CONTEMPORARY PRESSURES 237-59 (John N. Hazard & Wenceslas J. Wagner eds., 1970).

Benjamin Busch, *The Right of United States Lawyers to Practice Abroad: In Sweden, Report by Ruth B. Ginsburg*, 3 INT'L LAW. 903 (1969). This short essay is one in a series compiled by *International Lawyer* in the late 1960s and early 1970s on specific topics in foreign law. Several authors covered one or more countries, addressing the countries' various approaches to the legal process. Ginsburg outlines salient features of the receipt and evaluation of evidence under Swedish law. In her report, Ginsburg addresses the

³⁶ 536 U.S. 304 (2002) (holding that execution of mentally retarded criminals is an excessive punishment). The majority noted that "within the world community, the imposition of the death penalty for crimes committed by mentally retarded offenders is overwhelmingly disapproved." *Id.* at 316 n.21.

³⁷ 539 U.S. 558 (2003) (declaring unconstitutional a Texas statute criminalizing consensual, same-sex intimate conduct). The majority opinion cited specifically to European Court of Human Rights as well as acknowledged that "[t]he right the petitioners seek in this case has been accepted as an integral part of human freedom in many other countries." *Id.* at 576-77.

ability of a U.S. attorney to practice in Sweden and, in doing so, gives a broad outline of the Swedish legal system.

Ruth B. Ginsburg, *Nordic Countries, Service of Process Abroad*, 4 INT'L LAW. 150 (1969-1970). This is another in the series described immediately above. In this essay, Ginsburg explains that service of process in Denmark, Finland, Norway, and Sweden does not affect the jurisdiction of the court, but merely serves to provide notice. The article also outlines procedure for service both inside and outside the countries, as well as service of foreign documents.

Ruth Bader Ginsburg, *The Status of Women*, 20 AM. J. COMP. L. 585 (1972). In this introduction to the Status of Women Symposium, Ginsburg describes the symposium as a survey of the status of women in various countries. She suggests that the problems other countries have had in implementing statutes intended to create equality between men and women may be instructive to those in the United States who seek to achieve gender equality.

Benjamin Busch & Ruth Bader Ginsburg, *Summary Adjudication: Sweden*, 4 INT'L LAW. 882 (1969-1970). This piece is part of the series of short essays Ginsburg wrote for *International Lawyer* where she was one of many writers to describe how an individual European country handled some aspect of the law. Here Ginsburg discusses Swedish proceedings that are expedited or shortened in some form to speed adjudication.

Ruth B. Ginsburg, *Survey of Products Liability Law: Sweden*, 2 INT'L LAW. 153 (1967). This piece is another essay in the *International Lawyer* series on aspects of the law in a European country. In this essay, Ginsburg examines products liability as applied to motor vehicles under Swedish law. Noting that there is an absence of legislation on this matter, she provides three principal classes of cases where the issue of liability for a defective vehicle might arise.

B. *United States Federal Civil Procedure*

Ginsburg taught civil procedure for seventeen years³⁸ and wrote many articles on aspects of Swedish civil procedure. She also wrote two major pieces on United States civil procedure while at Rutgers Law School, one of which is considered her tenure piece.³⁹ However, after these articles were published, she never again wrote a major article that focused on civil procedure, and, in what Herma

³⁸ Elijah Yip & Eric K. Yamamoto, *Justice Ruth Bader Ginsburg's Jurisprudence of Process and Procedure*, 20 U. HAW. L. REV. 647, 663 n.159 (1998).

³⁹ Herma Hill Kay, *Ruth Bader Ginsburg, Professor of Law*, 104 COLUM. L. REV. 1, 11-12 (2004).

Hill Kay called a “stunning reversal of field,”⁴⁰ she turned her attention to other topics, notably gender equality. This is not to imply that Ginsburg’s interest or knowledge of civil procedure has faded: Justice Ginsburg rebuked at least one scholar who implied that her ascent to the Court as Justice White’s replacement would mean a deterioration of the Court’s procedural expertise.⁴¹

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). After tracing Supreme Court precedent in conflict of judgment cases, Ginsburg argues in this article that because some state courts have skirted the last-in-time rule supported by the Court, the Court must provide an explicit federal solution that would provide consistency in this area of the law.

Ruth Bader Ginsburg, *Special Findings and Jury Unanimity in the Federal Courts*, 65 COLUM. L. REV. 256 (1965). In this piece, Ginsburg focuses on Rule 49 of the Federal Rules of Civil Procedure, specifically jury unanimity in cases in which a jury returns either a special verdict or a general verdict accompanied by answers to interrogatories. The problem she addresses is what constitutes a unanimous verdict in situations where separate fact theories have been proffered in support of an ultimate issue. Ginsburg outlines the nature of the problem and the government’s responses to it, using several illustrative cases. She then proposes that the federal courts choose to define jury unanimity as striking a balance between extremes from both sides.

C. *Works on Sex Discrimination and Ginsburg’s Litigation to Achieve Recognition of Gender Equality*

Ginsburg is considered a highly respected litigator⁴² who developed and implemented much of the legal strategy for the Women’s Rights Project in the early and mid-1970s.⁴³ Examining her writings and those of others from this period, it is easy to recognize

⁴⁰ *Id.* at 12.

⁴¹ See Steven Alan Childress, *Constitutional Fact and Process: A First Amendment Model of Censorial Discretion*, 70 TUL. L. REV. 1229, 1319 n.420 (1996) (citing letter in which Justice Ginsburg, in response to his speculation that the Court would be less concerned about procedural issues now that she had replaced Justice White, reminded him that she had taught civil procedure for seventeen years).

⁴² See Kathleen M. Sullivan, *Constitutionalizing Women’s Equality*, 90 CAL. L. REV. 735, 739 (2002). See also Gerald Gunther, *Ruth Bader Ginsburg: A Personal, Very Fond Tribute*, 20 U. HAW. L. REV. 583, 584 (1998); David Cole, *Strategies of Difference: Litigating for Women’s Rights in a Man’s World*, 2 LAW & INEQ. 33, 54 (1984); Campbell, *supra* note 1, at 162.

⁴³ Campbell, *supra* note 1, at 162.

the calm, methodical moderate who helped educate a Court which, until the early 1970s, failed to even recognize the existence of unconstitutional sex discrimination. In a few years, she and the ACLU Women's Rights Project were able to move the Court a considerable distance in the area of sex-based discrimination, only narrowly missing the fifth vote for requiring that sex-based legislation meet the strict scrutiny standard.⁴⁴ Much of her writing during the 1970s and early 1980s focuses on the major gender discrimination cases of this period:⁴⁵ *Reed*,⁴⁶ *Frontiero*,⁴⁷ *Kahn*,⁴⁸ *Weisenfeld*,⁴⁹ *Craig*,⁵⁰ *Goldfarb*,⁵¹ *Webster*,⁵² and *Vorchheimer*.⁵³

1. Books

KENNETH M. DAVIDSON, RUTH B. GINSBURG & HERMAN H. KAY, *TEXT, CASES AND MATERIALS ON SEX-BASED DISCRIMINATION* (1974). In this casebook intended for use in law school classrooms, Gins-

⁴⁴ See, e.g., Ruth Bader Ginsburg & Wendy Webster Williams, *Court Architect of Gender Equality: Setting a Firm Foundation for the Equal Stature of Men and Women in REASON AND PASSION* (E. Joshua Rosenkranz & Bernard Schwartz eds., 1997); Ruth Bader Ginsburg, *Constitutional Adjudication as a Means of Realizing the Equal Stature of Men and Women Under the Law*, 14 *TOCQUEVILLE REV.* 125 (1993); see also Toni J. Ellington et al., Comment, *Justice Ruth Bader Ginsburg and Gender Discrimination*, 20 *U. HAW. L. REV.* 699 (1998); Ruth B. Cowan, *Woman's Rights Through Litigation: An Examination of the American Civil Liberties Union Women's Rights Project 1971-1976*, 8 *COLUM. HUM. RTS. L. REV.* 373 (1976).

⁴⁵ These cases are introduced and cited in this introduction to avoid repetition in the annotations that follow.

⁴⁶ *Reed v. Reed*, 404 U.S. 71 (1971) (invalidating Idaho law that required that males be selected over females when a court is choosing among persons equally qualified to administer an estate).

⁴⁷ *Frontiero v. Richardson*, 411 U.S. 677 (1973) (declaring unconstitutional a federal law permitting differential treatment of military personnel's entitlement to benefits solely on the basis of sex).

⁴⁸ *Kahn v. Shevin*, 416 U.S. 351 (1974) (upholding Florida statute providing widows but not widowers with a small reduction in property taxes). This was the only case Ginsburg argued before the Supreme Court that she lost.

⁴⁹ *Weinberger v. Wiesenfeld*, 420 U.S. 636 (1975) (holding unconstitutional Social Security laws that provided benefits to widows but not widowers).

⁵⁰ *Craig v. Boren*, 429 U.S. 190 (1976) (declaring unconstitutional an Oklahoma Statute that required that males be age twenty-one to purchase beer but females only age eighteen, and determining that "intermediate scrutiny" should apply to sex classifications).

⁵¹ *Califano v. Goldfarb*, 430 U.S. 199 (1977) (declaring unconstitutional a Social Security law that limited a widower's right to receive benefits from taxes paid by a working spouse, but did not similarly limit a widow's right to receive such benefits).

⁵² *Califano v. Webster*, 430 U.S. 313 (1977) (upholding certain sex-based classifications in a Social Security scheme).

⁵³ *Vorchheimer v. School District of Philadelphia*, 430 U.S. 703 (1977) (a four-four decision affirming a lower court ruling that allowed parallel single-sex high schools in Philadelphia).

burg authored three chapters, entitled “Constitutional Aspects,” “Educational Opportunity,” and “Comparative Side-Glances,” which include materials from the United Nations and foreign nations.

2. Articles

Ruth Bader Ginsburg, *All about the E.R.A.*, COSMOPOLITAN, Nov. 1979, at 166. Writing for a popular women’s magazine, Ginsburg seeks to educate her audience by dispelling some of the prominent myths that surrounded the Equal Rights Amendment during the 1970s. It includes the statement “We do not regard men as the ‘enemy,’ of course. Most of us are very fond of them . . .” a somewhat amusing reminder of the sorts of stereotypes supporters of the E.R.A. faced in 1979. *Id.* at 168-70.

Ruth Bader Ginsburg, *Bakke Decision*, Remarks Presented at Panel Discussion (Sept. 20, 1978), in 65 WOMEN LAW. J. 11 (1979). This is a short piece that analyzes the three opinions that comprise the *Bakke*⁵⁴ decision. Ginsburg argues that the decision is very narrowly tailored and will probably have limited impact on gender-based discrimination cases or even other race-based affirmative action programs.

Ruth Bader Ginsburg, *The Burger Court’s Grapplings with Sex Discrimination*, in THE BURGER COURT: THE COUNTER REVOLUTION THAT WASN’T 132 (Vincent Blasi ed., 1983). Ginsburg argues that although the Burger Court’s opinions “do not form an altogether even pattern” in the area of gender discrimination, its performance has been striking from a Court sometimes typecast as conservative. Ginsburg begins her survey with Chief Justice Burger’s opinion for a unanimous Court in *Reed* in 1971 and ends her discussion with a postscript critiquing the 1980 cases of *Harris v. McRae*⁵⁵ and *Michael M.*⁵⁶

Ruth Bader Ginsburg, *Comment on Reed v. Reed*, 1 WOMEN’S RTS. L. REP. 7 (1971-1974). In this brief piece, Ginsburg compares

⁵⁴ *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978) (known as the first “reverse discrimination” case and involving a white male medical student who challenged the use of a special admissions program at U.C. Davis that relied in part on race in considering admissions).

⁵⁵ 448 U.S. 297 (1980) (holding that states participating in the Medicaid program were not obligated to fund medically necessary abortions under Title XIX of the Social Security Act).

⁵⁶ *Michael M. v. Super. Ct. of Sonoma County*, 450 U.S. 464 (1980) (holding that California’s statutory rape law, which was gender specific, did not violate the Equal Protection clause of the Fourteenth Amendment).

the limited measure taken by the U.S. Supreme Court in *Reed* in declaring a sex-based statute unconstitutional even under the lowest tier of review to the California Supreme Court's decision in *Sail'er Inn v. Kirby*,⁵⁷ which held that sex was a suspect classification. In pointing out how small a step the Court took in *Reed*, she suggests that reliance on the judiciary for "firm, unequivocal constitutional commitment to equality of rights for men and women is at best a dubious course." *Id.* at 8.

Ruth Bader Ginsburg, *Comment: Frontiero v. Richardson*, 1 WOMEN'S RTS. L. REP. 2 (1971-1974). Ginsburg provides a very brief history of sex discrimination prior to 1971 and then discusses *Reed* and *Frontiero*. She draws attention to the unusual 4-1-3-1 split of the Court in *Frontiero* and the language the differing Justices used in establishing (or failing to establish) a coherent standard for reviewing sex-discrimination cases.

Ruth Bader Ginsburg, *Constitutional Adjudication as a Means of Realizing the Equal Stature of Men and Women Under the Law*, 14 TOCQUEVILLE REV. 125 (1993). Ginsburg focuses on extending equality to women in the United States. She begins with a short overview of the Bill of Rights and other major points in the struggle for equality, including opinions by the Supreme Court. She then contrasts the manner in which the Court was able to push society toward acceptance of its equality jurisprudence without a backlash, unlike the highly contentious and divisive manner in which it handled the abortion issue. She argues that Courts imperil their position as final arbiters of Constitutional meaning when they step too far out in front of society.

Ruth Bader Ginsburg, *Constitutional Adjudication in the United States as a Means of Advancing the Equal Stature of Men and Women Under the Law*, 26 HOFSTRA L. REV. 263 (1997). Ginsburg first provides a background on the evolution of individual rights in the Constitution, both via amendment and through judicial interpretation. She then presents the line of cases, from *Reed* through *VMI*, which represent the point at which women "began to count in constitutional adjudications." *Id.* at 266.

Ruth Bader Ginsburg & Wendy Webster Williams, *Court Architect of Gender Equality: Setting a Firm Foundation for the Equal Stature of Men and Women*, in REASON AND PASSION (E. Joshua Rosenkranz & Bernard Schwartz eds., 1997). This piece, which is interspersed with dialogue between the two authors, describes Justice Brennan's

⁵⁷ 5 Cal. 3d 1, 485 P.2d 529 (Cal. 1971).

attempts to set the standard for constitutional review of sex-based classifications. It follows his opinions from *Frontiero* through *Wiesenfeld* and *Goldfarb*, and other sex discrimination cases of the 1970s, many of which Ginsburg either argued or wrote supporting briefs. The article juxtaposes Ginsburg's memories of the briefs and arguments with Brennan's judicial opinions.

Ruth Bader Ginsburg, *Employment of the Constitution to Advance the Equal Status of Men and Women*, in *THE CONSTITUTIONAL BASES OF POLITICAL AND SOCIAL CHANGE IN THE UNITED STATES* 185 (Shlomo Slonim ed., 1990). This volume had its genesis in a conference held at the Department of American Studies at the Hebrew University of Jerusalem in 1987, commemorating the bicentennial of the U.S. Constitution. Ginsburg's twelve-page contribution acknowledges that "[w]omen played no part in the Constitution, as originally conceived[.]" before moving to a discussion of the gender equality cases decided by the Court in the 1970s. *Id.* at 185.

Ruth Bader Ginsburg, *The Equal Rights Amendment is the Way*, 1 *HARV. WOMEN'S L.J.* 19 (1978). This comment was based on remarks delivered at the Judicial Conference of the Second Circuit in September, 1976. In it, Ginsburg argues that the E.R.A. would relieve judicial *uneasiness* in interpreting the Constitution in ways that view women as equal to men.

Ruth Bader Ginsburg, *From No Rights, to Half Rights, to Confusing Rights*, *HUMAN RIGHTS*, May 1978, at 12. In this short piece, Ginsburg finds that at the end of the 1977 term, the Court "continues to respond uncertainly and unevenly to sex-equality claims." *Id.* at 13. In trying to discern why the Court showed promising gains in this area of the law in the 1970s, only to retreat from this position and change its doctrine in later cases, Ginsburg posits that it is the Court's inability to deal consistently with pregnancy that may provide the explanation.

Ruth Bader Ginsburg, *The Role of the Equal Rights Amendment in Promoting Legislative and Judicial Change*, Panel Presentation: Gender-based Discrimination and the Equal Rights Amendment, Second Circuit Judicial Conference, 74 *F.R.D.* 315 (1976). Ginsburg argues in favor of the Equal Rights Amendment, suggesting that it will provide both the Court and the legislatures (state as well as federal) the impetus to eliminate gender-based references in statutes and that it will require that any such distinctions meet the strict scrutiny standard of review.

Ruth Bader Ginsburg, *Gender in the Supreme Court: The 1973 and 1974 Terms*, 1975 *SUP. CT. REV.* 1 (1975). Ginsburg traces the seven

cases that impacted sex discrimination jurisprudence in these two terms. She criticizes the Court as unwilling to recognize the pervasiveness of sex role stereotyping and thus unwilling to develop new doctrine in the area. She laments the Court's practice of addressing the issues on a case-by-case basis without acknowledging the underlying similarities of the cases.

Ruth Bader Ginsburg, *Gender in the Supreme Court: The 1976 Term*, in CONSTITUTIONAL GOVERNMENT IN AMERICA: ESSAYS AND PROCEEDINGS FROM SOUTHWESTERN UNIVERSITY LAW REVIEW'S FIRST WEST COAST CONFERENCE ON CONSTITUTIONAL LAW 217 (Ronald K. L. Collins ed., 1980). Giving the 1976 Supreme Court term a decidedly mixed review, Ginsburg details many of the opinions issued during the term, among them *Craig*, *Goldfarb*, *Webster*, and *Vorheimer*, as well as the Medicaid abortion decisions, which she labels a "stunning curtailment" of *Roe v. Wade*.⁵⁸

Ruth Bader Ginsburg, *Gender and the Constitution*, 44 U. CIN. L. REV. 1 (1975). This article is based on a series of lectures given at the University of Cincinnati College of Law in 1974. Ginsburg provides a history of judicial deference to discriminatory sex lines drawn by legislatures up through 1971. She then contrasts some of the cases from the early 1970s that indicate the beginning of sex discrimination doctrine. Finally, she contrasts the use of the equal protection principle (already enshrined in the Constitution) with the potential boost to equality that would follow the passage of the Equal Rights Amendment in fighting gender discrimination.

Ruth Bader Ginsburg, *Introduction to Women and the Law—A Symposium*, 25 RUTGERS L. REV. 1 (1970). Written prior to the Court's decision in *Reed*, this piece foreshadows the legal developments of the 1970s. Ginsburg describes both the nascent litigation that was beginning to challenge laws that discriminated on the basis of sex, as well as the societal changes that were forcing these moves.

Ruth Bader Ginsburg & Philip B. Kurland, *Is the ERA Constitutionally Necessary?*, UPDATE ON LAW-RELATED EDUC., Spring 1978, at 16. In dueling articles, Ginsburg, then at Rutgers Law School, answers the query of the title, "[y]es it will impel long overdue reform and insure that women are equal under the law." Philip B. Kurland, a professor at University of Chicago Law School, answers the question, "[n]o, it is an irrelevancy that diverts energy from secur-

⁵⁸ 410 U.S. 113 (1973).

ing effective legislation.” Each of the authors provides a short argument supporting her or his position. *Id.* at 16.

Ruth Bader Ginsburg & Brenda F. Fastreau, Columbia Law School Equal Rights Advocacy Project, *The Legal Status of Women Under Federal Law* (1974). At more than 200 pages and written as a report to the United States Commission on Civil Rights, this title-by-title analysis of the federal statutes illustrates both “unnecessary or inappropriate gender-based references in need of terminological revision, and substantive differentials inconsistent with the principle of equal rights, responsibilities and opportunities” *Id.* at 10. The report’s recommendations include Congressional revision of statutes to include sex-neutral terminology, except in rare instances, functional rather than gender distinctions, distinctions between child bearing (sex-specific) and child-rearing (sex-neutral), termination of sex-segregation in penal institutions, except as to sleeping and bathroom facilities, and removal of statutory sex-based exclusions in occupational opportunities, including the military.

Ruth Bader Ginsburg, *Let’s Have E.R.A. as a Signal*, 63 A.B.A. J. 70 (1977). After summarizing the Court’s historical treatment of gender discrimination cases as “anything goes,” Ginsburg tracks the Court’s recent (post-1971) decisions and argues that the Court treats the cases as “isolated instances in a narrow frame.” *Id.* at 72. She posits that passage of the Equal Rights Amendment would provide the judiciary with a legislatively adopted principle under which the courts could build a coherent set of gender discrimination opinions.

Symposium, *Men, Women and the Constitution: The Equal Rights Amendment*, 10 COLUM. J.L. & SOC. PROBS. 77 (1973). This is a transcript of comments from a panel discussion held at Columbia University. Ginsburg argues that, without the Equal Rights Amendment to act as a springboard, major legislative revision of the hundreds of sex-based references in state statutes will only continue piecemeal, as will litigation challenges to those statutes. She provides samples of archaic and harmful statutes as well as the judiciary’s rueful responses when such statutes have been challenged, prior to *Reed*. She also addresses some of the myths that opponents of the Amendment have raised.

Ruth Bader Ginsburg, *The Need for the Equal Rights Amendment*, 59 A.B.A. J. 1013 (1973). In this short article, Ginsburg posits that societal changes, such as women working outside the home, contribute to the Court’s (then recent) willingness to declare unconsti-

tutional statutes legislating sex discrimination in *Reed* and *Frontiero*. She argues that the Equal Rights Amendment would give both the legislature and the judiciary the needed impetus to revise the statute books to eliminate sex-based discrimination. She also seeks to rebut a series of myths that opponents of the Amendment had proffered.

Ruth Bader Ginsburg, *Ratification of the Equal Rights Amendment: A Question of Time*, 57 TEX. L. REV. 919 (1979). Presented as the 1979 Will E. Orgain Lecture at Columbia University, this article focuses on the legal issues and policy ramifications of the 1978 Congressional extension of the time limitations for the ratification of the Equal Rights Amendment.

Ruth Bader Ginsburg, Remarks at the Saturday Roundtable Discussion at the Conference on Civil Rights Developments (Nov. 17, 1984), in 37 RUTGERS L. REV. 1107 (1985). In this piece, Ginsburg offers some advice and a warning to civil rights advocates. Her advice is to focus on state tribunals and lobbying legislatures, rather than attempting bold litigation in federal court, saying that it may take longer but the success will be more secure. She warns against attacking particular judges for their legal interpretations, arguing that such attacks will be used against advocates for progressive legal change in the future. She also warns against seeking or accepting "special treatment" for pregnancy, arguing that such treatment can create doctrine that would erode the equality victories of the 1970s. *Id.* at 1110.

Ruth Bader Ginsburg, *Reproductive Autonomy*, in ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION 1552 (Leonard W. Levy et al. eds., 1986). The entry is an analysis of United States Supreme Court cases affecting reproductive freedom, from *Skinner v. Oklahoma*,⁵⁹ through the birth control cases of *Griswold v. Connecticut*,⁶⁰ *Eisenstadt v. Baird*,⁶¹ and *Carey v. Population Serv. Int'l*,⁶² and the landmark abortion case of *Roe v. Wade*. Most of the piece involves a discussion of *Roe* and its progeny. Ginsburg analyzes the opinions of individual justices in reproductive rights cases since *Roe*, predicting only a continued adherence to *Roe*, and declining to predict

⁵⁹ 316 U.S. 535 (1942) (invalidating an Oklahoma statute requiring compulsory sterilization for habitual offenders).

⁶⁰ 381 U.S. 479 (1965) (declaring unconstitutional as applied to married persons, a statute criminalizing the sale of contraceptives).

⁶¹ 405 U.S. 438 (1972) (holding unconstitutional on equal protection grounds, a statute that prohibited the distribution of contraceptives to unmarried persons).

⁶² 431 U.S. 678 (1977) (invalidating a New York law prohibiting the sale of contraceptives to minors).

how the Court might rule on extensions of the principles in *Roe*.⁶³ This piece was reprinted in the second edition of the *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION* 2203 (Leonard W. Levy et al. eds., 2d ed. 2000). The piece also was excerpted in *CIVIL RIGHTS AND EQUALITY*. See next entry.

CIVIL RIGHTS AND EQUALITY 310-321 (L. Levy et al. eds., 1989) (1986). See prior entry for annotation.

Ruth Bader Ginsburg, *Sex Discrimination*, in *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION* 1666 (Leonard W. Levy et al. eds., 1986). The entry is an overview of how the United States Supreme Court has addressed sex discrimination from early cases allowing protective discrimination such as *Muller v. Oregon*,⁶⁴ through the explosion of sex discrimination cases in the 1970s and early 1980s. Describing the evolution of the Court's recognition of gender discrimination, Ginsburg finds that "[t]he Court, since 1970 has creatively interpreted clauses of the Constitution (equal protection and, less securely, due process) to accommodate a modern vision of sexual equality in employment, in access to social benefits, in most civic duties, in reproductive autonomy." *Id.* at 1673. This piece also was reprinted in the second edition, *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION* 2389 (Leonard W. Levy et al. eds., 2d ed. 2000) and was excerpted in *CIVIL RIGHTS AND EQUALITY*. See next entry.

CIVIL RIGHTS AND EQUALITY 310-321 (L. Levy, et al. eds., 1989) (1986). See prior entry.

Ruth Bader Ginsburg, *Sex Equality and the Constitution*, 52 *TUL. L. REV.* 451 (1978). This article is based on a speech given as the George Abel Dreyfous Lecture in 1978. Ginsburg traces the history of gender-based discrimination, beginning with the writing of the Constitution through the development of the middle tier of review in sex discrimination cases decided in the 1970s.

⁶³ It appears safe to predict continued "adher[ence] to *stare decisis* in applying the principles of *Roe v. Wade*." But other issues remain beyond the zone of secure prediction. Current opinions do not indicate whether the Court eventually will relate its reproductive autonomy decisions to evolving law on equal status of men and women. Nor can one forecast reliably how science and population will influence the next decades' legislative and judicial decisions in this area.

Ruth Bader Ginsburg, *Reproductive Autonomy*, in *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION*, 1552, 1557 (Leonard W. Levy et al. eds., 1986).

⁶⁴ 208 U.S. 412 (1908) (affirming a state court's upholding of a statute restricting employment hours of women and taking judicial notice of the historical belief that women require protective legislation).

Ruth Bader Ginsburg, *Sex Equality and the Constitution: The State of the Art*, 4 WOMEN'S RTS. L. REP. 143 (1978). Looking specifically at several cases decided in the 1976-1977 term, Ginsburg finds the Court's middle-tier standard of review for sex-based classification cases in flux. She argues that the passage of the Equal Rights Amendment would give the Court a more secure foundation for its rulings than that provided by the Fifth and Fourteenth Amendments.

Ruth Bader Ginsburg, *Sex Equality and the Constitution: The State of the Art*, 14 WOMEN'S RTS. L. REP. 361 (1992). This piece serves to update the original article of the same title, written fourteen years earlier. See prior entry. Ginsburg continues to find the constitutional law surrounding sex equality "in mid-passage," evolving but confronting a "sharply divided" Court. *Id.* at 366. To reach this conclusion, she focuses on several discrimination decisions of the Court during the 1976 term. The cases, beginning with *Craig v. Boren*, include *Califano v. Goldfarb*, *Califano v. Bakke*, and *Vorchheimer v. School District of Philadelphia*, illustrate that the Court "either does not see, or is unwilling to acknowledge, all of these cases as part and parcel of a single larger issue." *Id.* at 361-2.

Ruth Bader Ginsburg, *Sex and Unequal Protection: Men and Women as Victims*, 11 J. FAM. L. 347 (1971). The article is based on the keynote address given by then-Professor Ginsburg at the Southern Regional Conference of the National Conference of Law Women in 1971. Ginsburg states that the "challenge for the 1970's is to dislodge artificial props that continue to support a sex role division made obsolete by technology and society's drastically curtailed child-production goals." *Id.* at 350. It is noteworthy that the article describes two cases, *Reed v. Reed* and *Stanley v. Illinois*,⁶⁵ as having been accepted recently for review by the Supreme Court. These decisions became what Ginsburg later described as the first hint that the Court was moving in a new direction in sex discrimination cases.⁶⁶

Ruth Bader Ginsburg, *Sexual Equality Under the Fourteenth and Equal Rights Amendments*, 1979 WASH. U. L.Q. 161 (1979). This piece originally was a lecture presented on February 14, 1979 as part of the series, *The Quest for Equality*. Ginsburg addresses the is-

⁶⁵ 405 U.S. 645 (1972) (holding that Illinois' denial of fitness hearing to an unwed father when the state provided such a hearing to other parents was a denial of equal protection).

⁶⁶ Ruth Bader Ginsburg, *Gender and the Constitution*, 44 U. CIN. L. REV. 1, 11 (1975).

sue of whether the Equal Rights Amendment is needed to advance women's equal treatment under the law, given the development of equal protection law under the Fourteenth Amendment. Analyzing many of the sex discrimination cases decided in the mid-1970s, she finds that the development of the law in this area has been muddled and uneven. She posits that passage of the ERA would provide the judiciary with a constitutional principle of equality that would be the basis upon which to build a clear and strong equality jurisprudence.

Ruth Bader Ginsburg & Barbara Flagg, *Some Reflections on the Feminist Legal Thought of the 1970s*, 1989 U. CHI. LEGAL F. 9 (1989). Ginsburg discusses *Reed*, *Frontiero*, and *Wiesenfeld*, in the context of the criticism the cases received from legal theorists. She argues that the importance of these early cases was their ability to educate the Supreme Court to recognize the underlying assumptions of sex-based classifications. Without such education, she argues, the Court would not have been able to depart from its precedents, which severely limited women's participation in society. This piece illustrates Ginsburg's role as a pragmatist and consensus builder: she urges that while feminism in the 1980s is a "house of many gables," it is important to focus on common ground and respect the contributions from all those involved in the fight. *Id.* at 18-21.

Ruth Bader Ginsburg, *Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade*, William T. Joyner Lecture on Constitutional Law at the University of North Carolina School of Law (Apr. 6, 1984), in 63 N.C. L. REV. 375 (1985). Contrasting the public reaction to the sex discrimination cases of the 1970s with that of the reproductive autonomy cases (*Roe* and its progeny), Ginsburg suggests that the Court was overreaching in *Roe* because it called into question almost all state abortion statutes. She also argues that the Court presented an incomplete justification for its decision because it did not link its opinion to women's autonomy and to the sex discrimination doctrine that existed at the time. Ginsburg posits that with a narrower opinion and a linkage to equal protection-based arguments, the public reaction against *Roe* could have been abated.

Ruth Bader Ginsburg, *Some Thoughts on Benign Classification in the Context of Sex*, 10 CONN. L. REV. 813 (1978). An abbreviated, non-footnoted version of this article appeared originally in November-December, 1977 issue of *Civil Liberties Review*, at 8, under the title, *Women, Equality & the Bakke Case*. See next entry. In the article, Ginsburg discusses the Court's departure from the acceptance of

“women protective” rationalizations for legislation, but notes that the Court has left a “corridor for genuinely compensatory classification” similar to those used in racial discrimination cases. *Id.* at 823.

Ruth Bader Ginsburg, *Women, Equality and the Bakke Case*, C.L. REV., Nov.-Dec. 1977, at 8, expanded and reprinted as Ruth Bader Ginsburg, *Some Thoughts on Benign Classification in the Context of Sex*, 10 CONN. L. REV. 813 (1978). See prior entry for annotation.

Ruth Bader Ginsburg, *Women as Full Members of the Club: An Evolving American Ideal*, 6 HUM. RTS. 1 (1976). Ginsburg examines recent federal and state equal protection cases that indicate that, as of 1976, there was no clear judicial support for repudiating sex-based statutes or actions. She suggests that placing women’s equality explicitly in the Constitution via the Equal Rights Amendment would provide the stimulus for courts to aggressively remedy sex-based discrimination.

Ruth Bader Ginsburg, *Women, Men and the Constitution: Key Supreme Court Rulings*, in WOMEN IN THE COURTS 21 (Winifred L. Heplerle & Laura Crites eds., 1978). Ginsburg provides a fairly detailed account of the major sex discrimination cases of the 1970s and includes a specific section on the issue of pregnancy and its ability to divert the quest for gender equality. This piece is noteworthy for its extensive examination of women’s status in the Constitution and in the courts prior to 1965. Ginsburg describes the effects of *Lochner*,⁶⁷ *Muller*,⁶⁸ *Goesaert*,⁶⁹ and *Hoyt*⁷⁰ in shaping how women were perceived and treated by the law.

Ruth Bader Ginsburg, *Women’s Right to Full Participation in Shaping Society’s Course: An Evolving Constitutional Precept*, in TOWARD THE SECOND DECADE: THE IMPACT OF THE WOMEN’S MOVEMENT ON AMERICAN INSTITUTIONS 171 (Betty Justice & Renate Pore eds., 1981). The volume is composed of talks originally given at West Virginia University in 1978. Ginsburg’s contribution focuses on the constitutional litigation regarding gender-based discrimination, including *Reed*, *Frontiero*, and *Craig*, in light of her argument that protectionism is discrimination. She writes, “every gender-classifying law can be characterized as favor or as discrimination, depending on one’s perspective.” *Id.* at 180.

⁶⁷ *Lochner v. New York*, 198 U.S. 45 (1905).

⁶⁸ *Muller v. Oregon*, 208 U.S. 412 (1908).

⁶⁹ *Goesaert v. Cleary*, 335 U.S. 464 (1948).

⁷⁰ *Hoyt v. Florida*, 368 U.S. 57 (1961).

D. Judicial Philosophy and the Judiciary

In 1980, President Jimmy Carter appointed Ginsburg to the Court of Appeals of the District of Columbia.⁷¹ With this appointment, she entered another phase in her legal career that continues today—that of a judge on an appellate bench. She also began to define and describe those attributes that she felt most strongly reflected the role of an appellate judge, those of moderation,⁷² collegiality,⁷³ independence,⁷⁴ and intelligence. Ginsburg also devoted scholarly attention to the unique aspects of the work of appellate judging,⁷⁵ as well as on the negative impact that an increased caseload⁷⁶ and politics⁷⁷ could have on the judiciary.

Ruth Bader Ginsburg, *A Moderate View on Roe*, CONST., Spring/Summer 1992, at 17. In a short guest column, Ginsburg compares how the Court handled the sex discrimination cases in the 1970s with the *Roe v. Wade* decision. She argues that in the sex discrimination cases, the Court opened a dialogue with the legislature in urging them to rethink their laws, but that the Court in *Roe* overrode the legislative branch by calling into question the constitutionality of all abortion statutes. By stopping the legislative process in this way, she believes that the Court itself was responsible for the backlash to the decision and the prolonged divisiveness of the abortion controversy.

Ruth Bader Ginsburg, Keynote Address at Bicentennial Celebration of the District of Columbia Circuit (Mar. 8-9, 2001) (pts. 1

⁷¹ See Olney, *supra* note 28, at 115.

⁷² “Measured motions seem to me right, in the main, for constitutional as well as common law adjudication. Doctrinal limbs too swiftly shaped, experience teaches, may prove unstable.” Ginsburg, *supra* note 20, at 1198. Ginsburg often uses the example of *Roe* as one in which the Court moved too far too fast, causing an unnecessary backlash. *Id.* at 1199-1201, nn.81-100.

⁷³ Ginsburg has frequently criticized the growing use of separate opinions in the appellate courts, arguing that their overuse would dilute and undermine the authority of federal court decisions. See Ruth Bader Ginsburg, *Styles of Collegial Judging: One Judge’s Perspective*, 39 FED. B. NEWS & J. 199, 200 (1992). See generally Ruth Bader Ginsburg, *Speaking in a Judicial Voice*, 67 N.Y.U. L. REV. 1185 (1992); Ruth Bader Ginsburg, *Remarks on Writing Separately*, 65 WASH. L. REV. 133 (1990).

⁷⁴ Ginsburg, Remarks on Judicial Independence, *supra* note 27, at 603 (calling the independent judiciary one of the “crown jewels” of the U.S. system of government).

⁷⁵ See generally Ruth Bader Ginsburg, *The Obligation to Reason Why*, 37 U. FLA. L. REV. 205 (1985).

⁷⁶ See generally Ruth Bader Ginsburg, *Reflections on the Independence, Good Behavior and Workload of Federal Judges*, 55 U. COLO. L. REV. 1 (1983).

⁷⁷ See generally Ruth Bader Ginsburg, Confirming Supreme Court Justices: Thoughts on the Second Opinion Rendered by the Senate, David C. Baum Lecture at the University of Illinois College of Law (Jan. 27, 1988), in 1988 U. ILL. L. REV. 101 (1988).

& 2), in 204 F.R.D. 499, 504, 548 (2002). This speech closely follows the themes developed in Ginsburg's and Bloch's article *Celebrating the 200th Anniversary of the Federal Courts of the District of Columbia*, 90 GEO. L.J. 549 (2002). In the first part of the address, Ginsburg provides a short history of the D.C. Circuit, and then focuses on the court's role, bolstered by its location, as the overseer of both the executive and legislative branches of government. She points to its involvement in controversial cases, including Watergate,⁷⁸ the Pentagon Papers,⁷⁹ and the Korean War "steel seizure" case.⁸⁰ In the second part of the address, Ginsburg focuses on the court's role in race and gender discrimination litigation. Employing narratives from cases ranging from restrictive covenant and school desegregation cases to early suffrage and abortion cases, she concludes that the D.C. courts have "participated prominently in the evolution of the concept 'We the People' to encompass all who dwell in this land, including people once excluded, ignored or undervalued." *Id.* at 555.

Susan Low Bloch & Ruth Bader Ginsburg, *Celebrating the 200th Anniversary of the Federal Courts of the District of Columbia*, 90 GEO. L.J. 549 (2002). This is the article upon which Justice Ginsburg's speech at the Bicentennial Celebration of the District of Columbia Circuit (May 8, 2001) was based. See prior entry. It examines the history of D.C. courts and the race and gender cases that had come before the courts, and analyzes the viewpoint of the D.C. Circuit court, as protector of the rule of law and responder to the pleas of the vulnerable.

Ruth Bader Ginsburg, *Communicating and Commenting on the Court's Work*, Address, 83 GEO. L.J. 2119 (1995). This address is revised and reprinted in another article.⁸¹

Ruth Bader Ginsburg, *Confirming Supreme Court Justices: Thoughts on the Second Opinion Rendered by the Senate*, David C. Baum Lecture at the University of Illinois College of Law (Jan. 27, 1988), in 1988 U. ILL. L. REV. 101 (1988). This piece elaborates on a portion of Ginsburg's 1981 article, *Inviting Judicial Activism: A 'Liberal' or 'Conservative' Technique?*, John A. Sibley Lecture in Law delivered at the University of Georgia School of Law (Jan. 26, 1981) in 15 GA. L. REV. 539 (1981). Ginsburg starts with a short

⁷⁸ *United States v. Nixon*, 418 U.S. 683 (1974).

⁷⁹ *New York Times Co. v. United States*, 403 U.S. 713 (1971).

⁸⁰ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

⁸¹ Ruth Bader Ginsburg, *Informing the Public about the U.S. Supreme Court's Work*, 29 LOY. U. CHI. L.J. 275 (1998).

history of the Senate's role of advising and consenting to presidential judicial appointments. She discusses several of the candidates who have been rejected by the Senate and then focuses on Robert Bork's nomination, which she argues was an overt politicization of the judicial selection process. Ginsburg also discusses state judicial processes, and examines another instance of what she deems to be overt politicization, the recall of Rose Bird from the California Supreme Court. However, even as she worries that these cases and others like them have the potential to negatively affect judicial selection, she states that she is heartened by the lack of rancor and politicization in Justice Kennedy's confirmation.

Ruth Bader Ginsburg, *Informing the Public about the U.S. Supreme Court's Work*, 29 LOY. U. CHI. L.J. 275 (1998). This is a revised, updated version of the lecture, *Communicating and Commenting on the Court's Work*, 83 GEO. L.J. 2119 (1995). Ginsburg details how the Court attempts to inform the public of its decisions and she describes the process of obtaining feedback from the public, from the legal academy, and from fellow jurists and how this informs opinion-writing.

Ruth Bader Ginsburg & Peter W. Huber, *The Intercircuit Committee*, 100 HARV. L. REV. 1417 (1987). In this commentary, Ginsburg and Huber argue that the creation of an Intercircuit Panel to resolve intercircuit conflicts on federal statutory interpretation is not the answer to the Supreme Court's workload problems, suggesting that such a panel could actually undermine the Court and its relationship to the other branches of government. The authors attribute the problem to poor legislative drafting and suggest that Congress take more care when drafting statutes or that Congress institute a system of legislative review and revision once a court has identified an issue with a statute.

Ruth Bader Ginsburg, *Interpretations of the Equal Protection Clause*, 9 HARV. J.L. & PUB. POL'Y 41 (1986). Pointing out that it was the "conservative" Burger Court and not the "activist" or "liberal" Warren Court that issued the series of rulings in the 1970s that declared many sex discrimination statutes unconstitutional, Ginsburg argues that labeling judges as conservative or liberal is often a strategy of those who have not prevailed in the litigation. She contends that the federal judiciary is and should be composed of independent thinkers skeptical of party lines and ready to examine their own premises so as to remain impartial.

Ruth Bader Ginsburg, *Inviting Judicial Activism: A "Liberal" or "Conservative" Technique?*, 15 GA. L. REV. 539 (1981). In this piece,

Ginsburg argues that it is not judges who have become more political or more activist, rather it is the explosion of political litigation and a legislature that fails to speak with precision and fails to oversee administrative agencies. She illustrates each of these positions with references to case law, legislation, and litigation anecdotes. She concludes by remarking on the attempts to actively politicize the judiciary by requiring political interrogations of federally appointed judges.

Ruth Bader Ginsburg, *A Plea For Legislative Review*, 60 S. CAL. L. REV. 995 (1987). This piece is the publication of the Justice Lester William Roth Lecture; it later was developed into the article, *The Intercircuit Committee*, 100 HARV. L. REV. 1417 (1987), cited previously in this section.

Ruth Bader Ginsburg, *The Obligation to Reason Why*, 37 U. FLA. L. REV. 205 (1985). Generally referencing the D.C. Circuit's internal court policy, Ginsburg describes the trail of an appellate decision, through oral argument, the assignments of authoring opinions, and publication. She addresses the practice of issuing abbreviated and unpublished decisions, supporting their use, but urging safeguards such as circulation to the full bench and publication outside of the Federal Reporter.

Ruth Bader Ginsburg, *On Amending the Constitution: A Plea for Patience*, Spring 1990 Ben J. Altheimer Lecture, University of Arkansas at Little Rock School of Law (Feb. 7, 1990), in 12 U. ARK. LITTLE ROCK L. REV. 677 (1990). Ginsburg outlines the processes for amending the Constitution as well as provides a historic overview of the many attempts to do so. While she mentions that she supports the eventual passage of the Equal Rights Amendment, she stresses that the relative lack of amendments in the Constitution is a source of strength and clarity for the document.

Symposium, *On Becoming a Judge: Socialization to the Judicial Role*, 69 JUDICATURE 139 (1985). Ginsburg was one of six judges on a panel addressing and evaluating the processes that new judges use to adapt to being judges. Ginsburg offers some interesting anecdotes about how the requirement that judges limit their interactions with those outside the courthouse has affected her.

Ruth Bader Ginsburg, *On Muteness, Confidence, and Collegiality: A Response to Professor Nagel*, 61 U. COLO. L. REV. 715 (1990). Responding to the article, Robert Nagel, *Political Pressure and Judging in Constitutional Cases*, 61 U. COLO. L. REV. 685 (1990), Ginsburg questions some of Professor Nagel's postulations that muteness suggests satisfaction with a political process. She further argues that

the U.S. system of allowing divided opinions that invite public discussion is a reflection of the confidence the United States has in its judicial system.

Ruth Bader Ginsburg, *Reflections on the Independence, Good Behavior, and Workload of Federal Judges: The John R. Coen Lecture Series*, in 55 U. COLO. L. REV. 1 (1983). Arguing that the “good behavior” clause of Article III serves as a guarantee of judicial independence, Ginsburg posits that the growing workload of federal judges threatens that independence. She offers several possible solutions to this problem, including the elimination of diversity jurisdiction, discretionary appeals in administrative agency appeals, the requirement of five rather than four votes in the United States Supreme Court for certiorari, and the elimination of appeals by right.

Ruth Bader Ginsburg, *Remarks on Judicial Independence*, Remarks at the Hawai’i State Bar Reception (Feb. 3, 1998), in 20 U. HAW. L. REV. 603 (1998). In this speech, hailing the necessity and importance of judicial independence, Ginsburg comments that the slow pace of judicial appointments threatens a strong judiciary.

Ruth Bader Ginsburg, *Remarks on Writing Separately*, 65 WASH. L. REV. 133 (1990). This article provides a brief overview of three types of appellate judgments: the British system of individual opinions from each member of the bench; the single anonymous opinion with no dissent, which is most often used in civil law countries; and the U.S. system of a single opinion, with dissents and concurrences. Ginsburg suggests that the U.S. Supreme Court has moved unsettlingly close to the British system, with a growing number of separate opinions. She argues that this can ultimately weaken the clarity and certainty of judicial decisions.

Ruth Bader Ginsburg, *Some Thoughts on Judicial Authority to Repair Unconstitutional Legislation*, 28 CLEV. ST. L. REV. 301 (1979). Ginsburg addresses the choice courts face with legislation that is unconstitutional because it is underinclusive: either nullification or extension. Using Supreme Court cases, she details the various factors the Court has taken into consideration when making the decision to nullify or extend. She argues that while the decision to extend may be judicial legislating, it is better to preserve a law employing common sense and sound judgment than to nullify it and completely destroy the legislative purpose.

Ruth Bader Ginsburg, *Speaking in a Judicial Voice*, 67 N.Y.U. L. REV. 1185 (1992), reprinted in *THE UNPREDICTABLE CONSTITUTION* 71 (Norman Dorsen ed., 2002). Ginsburg addresses the impor-

tance of collegiality and moderation in appellate courts. On collegiality, she stresses the importance of limiting separate writings (either concurrences or dissents), arguing that too many of either undermines the respect for individual judicial determinations. Urging judicial moderation and using *Roe v. Wade* as an example of judicial overreaching that fueled instead of settled a controversy, she suggests that the Court should rarely issue broad opinions. She suggests that the judiciary is better served by narrowly drawn opinions that force legislatures to reexamine their positions. Ginsburg states her belief that only in the rare case—such as when it becomes obvious that the legislature is failing to act—should courts take the lead.

Ruth Bader Ginsburg, *Styles of Collegial Judging: One Judge's Perspective*, 39 FED. B. NEWS & J. 199 (1992). Ginsburg stresses the importance of collegial judging and of using dissents sparingly, explaining that the virtues of the rule of law such as consistency, predictability, clarity, and stability, are threatened by courts that issue numerous dissenting or concurring opinions. She also describes the D.C. Circuit's internal policies, which help keep its judges institutionally focused rather than individualistic.

E. *The Legal Profession*

Most, but not all, of these pieces were written after Ginsburg was appointed to the federal bench in 1980. Given that she has practiced law, taught law, and now sits on the nation's highest court interpreting its laws, she is in a uniquely qualified position to comment on many aspects of the legal profession.

1. Appellate Advocacy

In these pieces, Ginsburg offers advice on all aspects of appellate advocacy, including deciding to appeal, drafting the brief, and making oral arguments. In keeping with descriptions of her as a “judge’s judge” and “a tiger on the bench” “who won’t tolerate obfuscation or sloppy thinking,”⁸² Ginsburg’s views on appellate advocacy are short, concise and pointed, and highly useful for any appellate lawyer.

Ruth Bader Ginsburg, *Foreword* to DAVID C. FREDERICK, *THE ART OF ORAL ADVOCACY* ix (2003). Claiming that oral advocacy is an art, but one that can be learned, Ginsburg presents her creden-

⁸² Susan H. Williams & David C. Williams, *Sense and Sensibility: Justice Ruth Bader Ginsburg's Mentoring Style as a Blend of Rigor and Compassion*, 20 U. HAW. L. REV. 589, 590 (1998).

tials (arguing six times before the Supreme Court, and observing arguments as a judge for twenty-two years) and offers a ringing endorsement of Frederick's book. She also offers her own view of what an argument should be—"a discussion between knowledgeable attorneys and jurists who have done their homework." *Id.* at x.

Ruth Bader Ginsburg, Panel II: Appellate Advocacy Today: What Wins and What Loses, Judicial Proceedings—D.C. Circuit, (June 7, 1991), *in* 140 F.R.D. 481 (1991). Here, Ginsburg joins then-Chief Judge Stephen Breyer of the First Circuit Court of Appeals and Solicitor General Kenneth Starr, among others, in a panel discussion of effective appellate advocacy. She suggests that lawyers should be ready to concede when an issue is not genuinely in doubt, she urges brevity and concision, and exhorts advocates to avoid disparaging opposing counsel. She also gives advice to lawyers on the same side of issues, suggesting joint briefs and restricting oral arguments so that positions are not merely repeated but refined.

Ruth Bader Ginsburg, *Remarks on Appellate Advocacy*, IOWA ADVOC., Spring/Summer 1987, at 18. In a short piece, Ginsburg initially suggests that most cases should not be appealed and points to statistics indicating that most cases are affirmed. But to those preparing to appeal, she argues for concise, precisely drafted briefs which do not belabor their points. She also urges advocates to cite to academic commentary to support their arguments.

Ruth Bader Ginsburg, *Remarks on Appellate Advocacy*, 50 S.C. L. REV. 567 (1999). In this short but informative piece, originally delivered as a speech, Ginsburg provides a guide to brief writing and oral argument that distills the details of good appellate advocacy and the difficulty in bringing a successful appeal. She points out that the brief is far more persuasive than the oral argument. She also states that the best briefs are highly selective, only cite cases with parentheticals, and cite commentary or other scholarly analysis. With regard to oral argument, she urges lawyers to listen carefully to the questioning from the bench, using such questions as cues for focusing one's argument.

2. Legal Ethics

While legal ethics has not been one of Ginsburg's predominant interests, she has devoted scholarly attention to ethical issues in several recent pieces. As might be predicted from her other work, she is concerned with issues of access to justice, including public interest lawyering and pro bono efforts by the bar.

Ruth Bader Ginsburg, *In Pursuit of the Public Good: Access to Justice in the United States*, 7 WASH. U. J.L. & POL'Y 1 (2001). Originally given as the Jurist in Residence Address, in this piece Ginsburg focuses on public interest lawyering, discussing legal aid organizations and pro bono services of the private bar. She finds the recent drop in pro bono activities of the private bar cause for concern but also sees hopeful signs in the growth of neighborhood legal clinics supported by law schools and law firms.

Ruth Bader Ginsburg, *In Pursuit of the Public Good: Lawyers Who Care*, 52 ME. L. REV. 301 (2000). In this publication of the Frank M. Coffin Lecture on Law and Public Service at Maine Law School, Ginsburg refers to many current public service lawyers and judges, including Frank Coffin, as well as Roger Baldwin, Charles Hamilton Houston, Burnita Shelton Matthews, Ralph Nader, and Reginald Huber Smith, to illustrate the importance of those who dedicate their practice to the public good.

Ruth Bader Ginsburg, Supreme Court Discourse on the Good Behavior of Lawyers: Leeway Within Limits, Remarks at Drake University Law School's Dwight D. Opperman Lecture (Oct. 25, 1995), in 44 DRAKE L. REV. 183 (1996). Ginsburg presents a survey of Supreme Court cases concerning legal ethics. She covers the areas of privilege, work product, barriers to admission, solicitation, and discussing on-going proceedings.

Ruth Bader Ginsburg, Supreme Court Pronouncements on the Conduct of Lawyers, Remarks at the 25th Anniversary of Hofstra University's Law School (Mar. 1996), in 1 J. INST. STUD. LEGAL ETHICS 1 (1996). This is a revised version of *Supreme Court Discourse on the Good Behavior of Lawyers: Leeway Within Limits*. See prior entry.

3. Legal Education

Having taught law for seventeen years, Ginsburg remains interested in legal education. Her work often references the importance of the legal academy to the judiciary as legal commentators, lawyers arguing before the court, or as authors of amicus briefs.

Ruth Bader Ginsburg, *The Changing Complexion of Harvard Law School*, 27 HARV. WOMEN'S L.J. 303 (2004). In a speech celebrating the more than 5,000 female graduates from Harvard Law School, Ginsburg notes that although Harvard did not allow her to effectuate a spousal transfer and thus prevented her from being a Harvard law graduate, she enjoyed her time at Harvard, especially her classes with Benjamin Kaplan and Al Sacks as well as her work with the law review.

Ruth Bader Ginsburg, Remarks, *On the Interdependence of Law Schools and Law Courts*, 83 VA. L. REV. 829 (1997). This piece is based on remarks Ginsburg made when receiving the Thomas Jefferson Memorial Foundation Award in Law. She highlights the two ways law schools affect the judiciary: law professors becoming judges and the judiciary's use of scholarly legal writings. Recognizing that commentary critical of the judiciary is important, she urges legal writers, law teachers and others to defend the judiciary by educating the press and the public about legal processes.

Ruth Ginsburg, Remarks, Judicial Conference—D.C. Circuit (June 1, 1981), in 93 F.R.D. 157, 180 (1982). Taking part in a panel on *Legal Education in the 80s: Focus on Tradition versus Reform*, Ginsburg describes the outlook for law schools and students in the 1980s as less than heartening. She makes several suggestions for law school curriculum changes, including a required concentration in the second and third years, the use of clinics, and the use of experiential problems in conventional courses. She also addresses the issue of law students' inability to write in clear and concise language.

Ruth Bader Ginsburg, Remarks at the Rededication Ceremony, University of Illinois College of Law (Sept. 8, 1994) in 1995 U. ILL. L. REV. 11 (1995). Ginsburg recounts the history of legal education in America and also points to the heavy reliance of both the bench and the bar on legal scholarship.

Ruth Bader Ginsburg, Remarks in Celebration of Stetson's Law Library and Information Center (no date provided), in 28 STETSON L. REV. 231 (1998). Ginsburg discusses the history and importance of law libraries in supporting legal education and advocacy.

4. Women "At" (and Behind) the Bench and Bar

Women in the law is a favorite topic of Justice Ginsburg, perhaps because it seems to flow from her work on sex discrimination issues. She has long written on early women lawyers or law clerks and has recently expanded her focus by researching the wives of past Supreme Court Justices. She was instrumental in publishing Malvina Shanklin Harlan's work, *Some Memories of a Long Life, 1854-1911*,⁸³ a project she addressed in her remarks at CUNY School of

⁸³ "Recently, with urging from Justice Ginsburg, Random House agreed to publish *Some Memories of a Long Life, 1854-1911*." Ann Hemmens, *Memoirs of a Supreme Court Spouse*, LAW LIBRARY NEWS (May 27, 2002), at <http://lib.law.washington.edu/news/2002/May272002.html> (on file with the New York City Law Review).

Law, which appear in this Symposium issue.⁸⁴

Ruth Bader Ginsburg, *Women's Work: The Place of Women in Law Schools*, 32 J. LEGAL EDUC. 272 (1982), reprinted in Ruth Bader Ginsburg, *The Progression of Women in the Law*, 28 VAL. U. L. REV. 1161 (1994). Excerpted from a speech delivered to a conference on legal education at New York University, Ginsburg describes the progress of women in the legal academy.

Ruth Bader Ginsburg, *Excerpts from Remarks Given at the International Women's Forum Lunch* (Oct. 15, 1999), in 10 COLUM. J. GENDER & L. 25 (2000). Ginsburg embraces the feminist label and argues the importance of speaking out against exclusion based on people's perceived differences in the world's communities.

Ruth Bader Ginsburg, *The First Female Law Clerks*, in SUPREME COURT DECISIONS AND WOMEN'S RIGHTS: MILESTONES TO EQUALITY 236-37 (Clare Cushman ed., 2001). This is a short piece on several of the first female law clerks.

Ruth Bader Ginsburg, *Foreword to MALVINA SHANKLIN HARLAN, SOME MEMORIES OF A LONG LIFE, 1854-1911*, vii (2001). This is Justice Ginsburg's foreword to the memoir of Justice John Harlan's wife, which came to light during Ginsburg's research into stories about the wives of Supreme Court Justices. Ginsburg is credited with the book's publication: she sought out publishers and encouraged reviewers to write about it. Ginsburg's foreword explains how she became involved in the project and provides several anecdotes from the work itself.

Ruth Bader Ginsburg, *Foreword to Symposium: Women, Justice, and Authority*, 14 YALE J.L. & FEMINISM 213 (2002). Using anecdotes from her many years litigating women's rights cases, Justice Ginsburg provides an optimistic assessment of the progress women have made as members of the bench and bar. However, she cautions that women's unequal responsibilities surrounding child rearing continue to pose a formidable obstacle to full equality.

Ruth Bader Ginsburg, *Foreword to The Second Circuit's Task Force on Gender, Racial and Ethnic Fairness in the Courts*, 1997 ANN. SURV. AM. L. 1. Here, Ginsburg introduces the Report of the Second Circuit's Task Force on Gender, Racial and Ethnic Fairness in the Courts, and traces the history of the task force, and urges the bench and bar not to become complacent in the face of progress.

Ruth Bader Ginsburg, *Foreword to The Report of the Special Committee on Gender*, 84 GEO. L.J. 1651 (1996). In this foreword to the

⁸⁴ Ginsburg, Remarks, *supra* note 26.

Report of the Special Committee on Gender, prepared for the D.C. Circuit Task Force on Gender, Race and Ethnic Bias, Ginsburg outlines the progress that has been made in eliminating gender bias in the court system. However, she cautions that the “critical mass” of women attorneys and upper level courthouse employees necessary to eradicate the effects of bias and discrimination in the D.C. Circuit courts has not yet been reached. *Id.* at 1653.

Ruth Bader Ginsburg & Martin Ginsburg, A Grand Ideal for the Future, Excerpts From a 1992 Commencement Address at Northwestern School of Law, *in* 53 OR. ST. B. BULL. 19 (1993). Ginsburg and her husband jointly addressed the graduating class of Northwestern School of Law. In this excerpt, she acknowledges the success of having forty-three percent of the graduates be women, but warns that “[r]aising young children . . . continues to pose more formidable psychological and logistical obstacles for women than for men.” *Id.* at 21. She points to her own husband’s willingness to take part in the upbringing of their children as an example of how child raising can be handled to allow both parties to flourish.

Ruth Bader Ginsburg, *Introduction*, 1 COLUM. J. GENDER & L. 1 (1991). Ginsburg provides a short overview of “the way it was” in terms of women’s participation in the legal system and hopes that the new journal will explore how women’s participation in the law might affect the way the business of law is conducted.

Ruth Bader Ginsburg, *Introduction to Women and the Law: Facing the Millennium*, 32 IND. L. REV. 1161 (1999). In an introduction to a special issue of the *Indiana Law Review*, Justice Ginsburg uses narratives of cases she litigated to provide an overview of the increasing equality of women in the legal system.

Ruth Bader Ginsburg, Henry J. Miller Lecture: Little Known Pages of Supreme Court History Address Before Georgia State University College of Law (Feb. 13, 2003), *available at* http://law.gsu.edu/news/archives_2003/NEWS_GinsTrans.pdf. Giving the Henry J. Miller lecture at Georgia State University College of Law, Ginsburg discusses Burnita Shelton Matthews, the first woman to serve on a Federal District Court and Malvina Harlan, the wife of Justice John Marshall Harlan. Highlighting her interest in historical research, Ginsburg describes her contribution to publishing Malvina Harlan’s manuscript and securing publicity for the work.

Ruth Bader Ginsburg, *The Progression of Women and the Law*, 28 VAL. U. L. REV. 1161 (1994). This article consists of reprints of two prior addresses by Ginsburg (Treatment of Women by the Law:

Awakening Consciousness in the Law Schools, Remarks at the Annual Meeting of the Association of American Law Schools (Dec. 27, 1970), in 5 VAL. U. L. REV. 480 (1971) and Women's Work: The Place of Women in Law Schools, Remarks at New York University (Nov. 3, 1981), in 32 J. LEGAL EDUC. 272 (1982)) as well as her statement upon being sworn in as a Supreme Court Justice. The article also includes a partial, non-annotated bibliography of Ginsburg's writings.

Ruth Bader Ginsburg, *Realizing the Equality Principle*, in SOCIAL JUSTICE AND PREFERENTIAL TREATMENT 135 (William T. Blackstone & Robert D. Heslep eds., 1977). Ginsburg discusses the need for some types of affirmative-action programs to help address the historical gender discrimination in society, but notes that such programs would rarely be numerically based. She urges support of comprehensive child care, stressing that until inequities in child rearing are solved, society and women will be shortchanged.

Ruth Bader Ginsburg, *Remarks at the City University of New York School of Law* (Mar. 11, 2004), in 7 N.Y. CITY L. REV. 221 (2004). In this talk at the City University of New York School of Law, celebrating the law school's twentieth anniversary, Justice Ginsburg discusses the career of Burnita Shelton Matthews, the first woman to serve on the federal bench, and Malvina Harlan, the wife of Justice John Harlan, most famous for his dissent in *Plessy v. Ferguson*. This piece also includes a transcript of the question and answer session, in which Ginsburg addresses the "balance between liberty and security," the art of oral argument, her personal challenges in becoming a lawyer and maintaining her health, her "favorite case," the death penalty, language rights, and the tiers of equal protection.

Ruth Bader Ginsburg, Remarks on Women's Progress in the Legal Profession in the United States, Address before the Oklahoma Bar Association Women in the Law Conference (Aug. 28, 1997), in 33 TULSA L.J. 13 (1997). Using her own life as an example, Ginsburg describes the strides women have made in the legal profession.

Ruth Bader Ginsburg, *Remarks on Women Becoming Part of the Constitution*, 6 LAW & INEQ. 17 (1988). In this piece, Ginsburg attempts to explain why the Court in the early 1970s became amenable to recognizing sex role discrimination. She argues that the Court's openness reflected a realization of the justices, based in part on societal changes, that legislation designed to protect women often had the opposite effect. She states that she believes that

the Court's slow but relatively steady progress in the area was one of its strengths, as it was based on the process of change in society, and thus did not lead to a backlash.

Ruth Bader Ginsburg, *Some Thoughts on the 1980s Debate Over Special Versus Equal Treatment for Women*, 4 *LAW & INEQ.* 143 (1986). Addressing the National Association of Women Judges, Ginsburg articulates the dangers of seeking special treatment for women in such areas as pregnancy and child rearing. She warns that "special treatment" merely reinforces stereotyping and will undermine the push for gender equality.

Ruth Bader Ginsburg, *American University Commencement Address* (May 10, 1981), *in* 30 *AM. U. L. REV.* 891 (1981). In this address, Ginsburg traces the path of women in the judiciary with liberal use of anecdotes from the past as well as from own personal history.

Ruth Bader Ginsburg, *The Supreme Court: A Place for Women*, Remarks at the Southwest University School of Law (Feb. 6, 2002), *in* 32 *SW. U. L. REV.* 189 (2003). In this piece, Ginsburg recounts stories and anecdotes about the wives of Supreme Court Justices and some of the first women clerks to the Court. She also provides some historical insight into the early female federal court judges.

Ruth Bader Ginsburg, *Treatment of Women by the Law: Awakening Consciousness in the Law Schools*, 5 *VAL. U. L. REV.* 480 (1971), *reprinted in The Progression of Women in the Law*, 28 *VAL. U. L. REV.* 1161, 1163 (1994). Ginsburg argues that it is not enough for law schools to offer elective courses or a seminar on "Women and the Law," but instead there must be a systematic repudiation of gender stereotyping in legal courses (and course books) and, more importantly, materials on sex discrimination and women's disparate treatment must be incorporated into standard law school courses.

Ruth Bader Ginsburg, *The Washington College of Law Founders Day Tribute*, 5 *AM. U. J. GENDER & L.* 1 (1996). In this speech to honor the two women who founded the Washington College of Law, Ginsburg presents some of the stories of the first women who clerked for the Supreme Court. She also offers some anecdotes on small, non-legal changes that she and Justice O'Connor helped to foster in the Supreme Court.

Ruth Bader Ginsburg, *Women at the Bar—A Generation of Change*, 2 *U. PUGET SOUND L. REV.* 1 (1978). Using anecdotes, many from recent litigation, statistics on women law students and attorneys, and an overview of some of the changes in the law, Gins-

burg provides a storied overview of how far women have come since she entered law school in 1956.

Ruth Bader Ginsburg & Laura W. Brill, *Women in the Federal Judiciary: Three Way Pavers and the Exhilarating Change President Carter Wrought*, Address at the Annual Conference of the National Association of Women Judges (Oct. 7, 1995), in 64 *FORDHAM L. REV.* 281 (1995-1996). Ginsburg describes the lives of three women judges whom she believes paved the way for others: Florence Ellinwood Allen, Burnita Shelton Matthews, and Shirley Mount Hufstedler. She also contends that President Carter's appointment of forty women to the federal judiciary was the turning point after which women were no longer mere tokens in the federal judiciary.

5. Jewish Justices and Jewish Identity

Ginsburg has long acknowledged that her Jewish identity has influenced her life. During her Supreme Court confirmation hearing, she stated,

Senator Kennedy, I am alert to discrimination. I grew up during World War II in a Jewish family. I have memories as a child, even before the war, of being in a car with my parents and passing a place in [Pennsylvania], a resort with a sign out in front that read: "No dogs or Jews allowed." Signs of that kind existed in this country during my childhood. One couldn't help but be sensitive to discrimination, living as a Jew in America at the time of World War II.⁸⁵

She has also been active in Jewish organizations for much of her professional life.⁸⁶ Collected here are works that discuss an aspect of Jewish identity, either her own or those of others in the legal profession.

Ruth Bader Ginsburg, *From Benjamin to Brandeis to Breyer: Is There a Jewish Seat?*, Lecture at the Brandeis Honor Society Spring Banquet (Feb. 11, 2003), in 41 *BRANDEIS L.J.* 229 (2002). In this speech, Ginsburg refers to Judah P. Benjamin, the first Jew nominated to the Supreme Court (who refused the appointment) and Louis D. Brandeis, the first Jew appointed to the Court, noting that for both their religion was an issue in their public lives. She contrasts their situation with her own appointment and the ap-

⁸⁵ *Nomination of Ruth Bader Ginsburg, to be Associate Justice of the Supreme Court of the United States: Hearings Before the Comm. on the Judiciary*, 103d Cong. 197 (1994) (testimony of Ruth Bader Ginsburg).

⁸⁶ Malvina Halberstam, *Ruth Bader Ginsburg: The First Jewish Woman on the United States Supreme Court*, 19 *CARDOZO L. REV.* 1441, 1442 (1998).

pointment of Justice Breyer. She argues that neither of them are seen as filling a “Jewish seat” on the Court and that their religion was not at issue during the confirmation process. *Id.* at 235.

Ruth Bader Ginsburg, *Introduction to THE JEWISH JUSTICES OF THE SUPREME COURT REVISITED: BRANDEIS TO FORTAS* (Jennifer M. Lowe ed., 1994). In this introduction, Ginsburg finds that “[l]aw as protector of the oppressed, the poor, the minority, the loner, is evident in the work of the men celebrated in this book.” *Id.* at 4.

Ruth Bader Ginsburg, *National Commemoration of the Days of Remembrance*, Address at the United States Holocaust Memorial Museum (Apr. 22, 2004), *available at* http://www.supremecourtus.gov/publicinfo/speeches/sp_04-22-04.html. Here, Ginsburg thanks the museum “for its vigilant assurance that we will never forget the victims of the Nazi madness.”

Ruth Bader Ginsburg, *Reflections on Way Paving Jewish Justices and Jewish Women*, 14 *TOURO L. REV.* 283 (1998). In this article, Ginsburg offers descriptions of the first five Jewish Supreme Court Justices as well as anecdotes about several Jewish women who rank highly on her list of “great ladies.”

Ruth Bader Ginsburg, *Remarks for Jewish Council for Public Affairs in Appreciation for the Albert D. Chernin Award* (Feb. 18, 2002), *available at* http://www.supremecourtus.gov/publicinfo/speeches/sp_02-18-02.html. This short speech, which is published on the Supreme Court’s website, is predominately a description of the life of Judah Benjamin, the first Jew nominated (although he declined the post) to the Supreme Court.

F. Tributes, Remarks and Miscellany

Included here are short pieces often initially given as speeches or other writings that do not fit into any of the larger categories above. Ginsburg, like many of the Justices, is often called on to speak at bar functions, graduations, award ceremonies, and other occasions. It should be noted that the pieces may often seem repetitive or “canned,” which is understandable given the large number of addresses Justice Ginsburg delivers to many different audiences each year.

ACLU, *LITTLE GIRLS SHOULD NOT PLAY LITTLE LEAGUE . . .* (undated, circa mid-1970s). This is a promotional pamphlet that lists many “should nots” for women (a woman should not ski, run track, play golf, etc.) and ends with Ginsburg, then General Counsel of the ACLU, explaining that the ACLU has played a significant role in almost “every major sex discrimination case” in the Supreme

Court and asking for support. It is included in this bibliography merely to clarify what the document is, as it has been listed in some non-annotated bibliographies of her work.

Ruth Bader Ginsburg, *American Bar Association Delegation Visits the People's Republic of China*, 64 A.B.A. J. 1516 (1978). This piece is based upon Ginsburg's travel to three cities in China in 1978 as part of an A.B.A. delegation for the purpose of learning about China's legal system. She describes meetings with law professors, lawyers, and judges and the civil and criminal trials she was able to view.

Ruth Bader Ginsburg, Book Review, 92 HARV. L. REV. 340 (1978) (reviewing LAURENCE H. TRIBE, *AMERICAN CONSTITUTIONAL LAW* (1978)). In this review, Ginsburg describes Tribe's book as a "work of spectacular originality, sometimes elusive and uniformly provocative." She finds that he makes the ideas and tensions that have directed constitutional development more transparent and that he offers alternatives to traditional analysis. *Id.* at 340.

Ruth Bader Ginsburg, *A Feminist Lawyer Visits the New China*, WOMEN'S AGENDA, Jan. 1979, at 5. In this short article, Ginsburg compares and contrasts women's lot in "old" and "new" China.

Ruth Bader Ginsburg, *A Study Tour of Taiwan's Legal System*, 66 A.B.A. J. 165 (1980). Ginsburg spent approximately two weeks in Taiwan in 1979 visiting law schools, watching trials and appellate reviews, and talking to lawyers, law professors, and others. This short article is a summary of her findings.

Ruth Bader Ginsburg, *Touring the Law in King Arthur's Court*, Book Review, 61 TEX. L. REV. 341 (1982) (reviewing ARTHUR R. MILLER, *MILLER'S COURT* (1982)). In this review, Ginsburg commends Professor Miller's efforts to educate the public about what the law is, how it works, what it can achieve, and finally, what it cannot accomplish.

Ruth Bader Ginsburg, *The Work of Professor Allan Delker Vestal*, 70 IOWA L. REV. 13 (1984). Ginsburg presents a short overview of the work of Professor Vestal, which highlights his writings on preclusion and prior adjudication. The piece includes appendices of his work on preclusion, a listing of his federal and state cites, and a list of his writings on other topics.

Lewis F. Powell, Jr. et al., *In Memoriam: Judge Carl McGowan*, 56 GEO. WASH. L. REV. 681, 691 (1988). In a short but glowing essay, Ginsburg describes Judge McGowan, with whom she sat on the D.C. Circuit, as a judge who had won the enduring respect of the

entire D.C. bench because of his intellectual acuity, common sense, and ability to reconcile opposing views.

John R. Brown et al., *In Memoriam: Judge J. Skelly Wright*, 57 GEO. WASH. L. REV. 1029 (1989). Ginsburg cites Judge Wright's heroism and dedication to implementing the law and the Constitution by detailing some of the outsider individuals whose positions he strove to advance in the face of society's displeasure.

Ruth Bader Ginsburg, *In Praise of Allan Axelrod*, 41 RUTGERS L. REV. 1047 (1989). Ginsburg taught with Allan Axelrod at Rutgers and praises him as a "teacher nonpareil" in this very short piece. *Id.* at 1047.

Edward J. Bloustein, Ruth Bader Ginsburg et al., *C. Willard Heckel—In Remembrance*, 41 RUTGERS L. REV. 475, 477 (1989). Counting herself fortunate to have had him as a friend, Ginsburg remembers Heckel's support of her pursuit of tenure and his flexibility with her schedule when she was the parent of a newborn baby.

Ruth Bader Ginsburg, *In Memoriam: Albert M. Sacks*, 105 HARV. L. REV. 16 (1991). This short piece focuses on the teaching skills and generous nature of Professor Sacks.

Ruth Bader Ginsburg, *McGowan, Carl (1911-1987)*, in *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION* 326 (Leonard W. Levy et al. eds., Supp. 1992). This is a very short but highly positive essay on judge Carl McGowan, who served on the D.C. Circuit Court of Appeals from 1963 to 1987. This piece was reprinted in the second edition of the *ENCYCLOPEDIA*. Ruth Bader Ginsburg, *McGowan, Carl (1911-1987)*, in *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION* 1707 (Leonard W. Levy et al. eds., 2d ed. 2000).

Ruth Bader Ginsburg, Remarks for George Mason University School of Law Graduation (May 22, 1993), in 2 GEO. MASON INDEP. L. REV. 1 (1993). This is an address very similar to the remarks for California Women Lawyers noted below.

Ruth Bader Ginsburg, Remarks for American Law Institute Annual Dinner (May 19, 1994), in 38 ST. LOUIS UNIV. L.J. 881 (1994), *reprinted in* 71st Annual Meeting: The American Law Institute Proceedings 324 (American Law Institute, 1994). After praising the usefulness of the Restatements (published by the American Law Institute), Ginsburg offers a brief overview of the Supreme Court's inner workings, from how reviews are granted to how opinions are discussed, circulated, and written.

Ruth Bader Ginsburg, Remarks at the Dedication of the Byron White United States Courthouse (Aug. 10, 1994) in 66 U. COLO. L.

REV. 1 (1995). Here, Ginsburg sketches Justice White's early years prior to his appointment to the Court.

Ruth Bader Ginsburg, Remarks for California Women Lawyers (Sept. 22, 1994), in 22 PEPP. L. REV. 1 (1994). In this short speech, Ginsburg presents an overview, complete with personal anecdotes, of how far women have advanced in the legal system.

Ruth Bader Ginsburg, *A Tribute to Justice Harry A. Blackmun*, 43 AM. U. L. REV. 692 (1994) (reprinted in *A Tribute to Justice Harry A. Blackmun*, 108 HARV. L. REV. 1, 4 (1994)). This short piece highlights how Justice Blackmun's sense of justice included gender equality.

Ruth Bader Ginsburg, *In Celebration of the Life of Vincent L. Broderick*, 16 PACE L. REV. 191 (1995). In this homage, Ginsburg states that Judge Broderick was a "grand and brave colleague," and she specifically notes his work as head of the U.S. Judicial Conference Committee on Criminal Law in educating appellate judges about the Sentencing Reform Act of 1984. She also discusses his ability to "coax the best from counsel, by creating an atmosphere that fostered cooperation and interaction—the will to solve problems rather than to compound them." *Id.* at 192.

Ruth Bader Ginsburg, Remarks for the Second Circuit Judicial Conference (June 15, 1996), in 170 F.R.D. 26 (1996). As Justice for the Second Circuit, Ginsburg delivers a short speech outlining the year's Supreme Court docket for the assembled judges.

Ruth Bader Ginsburg, Remarks (Apr. 29, 1997), in 1997 ANN. SURV. AM. L. XI. This was a speech given for the dedication of the 1997 Annual Survey of American Law to Justice Ginsburg. After receiving glowing tributes from other speakers, Ginsburg playfully presents some of the unfavorable opinions that academics, political reviewers, and the general public have expressed about her work.

Ruth Bader Ginsburg, *Tribute to Robert A. Lefflar*, 50 ARK. L. REV. 407 (1997). Highlighting Professor Lefflar's contributions to the subject area of conflict of laws as well as his commitment to legal education, Ginsburg offers tribute by presenting a short biography of his achievements.

Ruth Bader Ginsburg, *In Memoriam: William J. Brennan, Jr.*, 111 HARV. L. REV. 3 (1997). Citing a series of civil rights and civil liberties cases that Justice Brennan authored, Ginsburg describes him as a "hero of the Constitution," quoting Robert McKay. *Id.* at 5.

Ruth Bader Ginsburg, Welcoming Remarks to the Judicial Fellows (Jan. 22, 1998), in 5 SW. J.L. & TRADE AM. 3 (1998). In these remarks, Ginsburg shares a story about the actions Malvina Harlan

(Justice Harlan's wife) took to help her husband finish writing his dissent in *Dred Scott*, which he was having difficulty completing. She describes this story as one she found while working on a project to collect stories of Justices' wives who stood solidly (but not always silently) behind their husbands.

Ruth Bader Ginsburg, *In Celebration of Charles Alan Wright*, 76 TEX. L. REV. 1581 (1998). Ginsburg begins this article with a glowing recitation of Professor Wright's life and work and then provides a short synopsis of the articles in the symposium issue "Federal Practice and Procedure" on the work of Professor Wright.

Ruth Bader Ginsburg, Remarks for Second Circuit Judicial Conference (May 29, 1998), in 180 F.R.D. 687 (1998). As Justice for the Second Circuit, Ginsburg delivers a short speech outlining the year's Supreme Court docket for the assembled judges.

Ruth Bader Ginsburg, Remarks at the New York Law School Law Review Dinner (Feb. 12, 1999), in 44 N.Y.L. SCH. L. REV. 7 (2000). Here, Ginsburg offers advice and encouragement to the Law Review staff.

Ruth Bader Ginsburg, *Tributes to the William S. Richardson School of Law on Its 25th Anniversary*, 21 U. HAW. L. REV. 12, 13 (1999). As one of many offering tributes to the School of Law, Ginsburg, who was the school's Jurist-in-Residence, offers her congratulations and wishes for the next 25 years in this very short piece.

Harold Edgar et al., *In Memory of Herbert Wechsler*, 100 COLUM. L. REV. 1347, 1359 (2000). In this tribute, Ginsburg describes Wechsler's seminar on Federal Courts and the Federal System, his work on the Model Penal Code, his work at Nuremberg, and his brief in *New York Times v. Sullivan*⁸⁷ as indicative of his contributions to the law and the legal system.

Ruth Bader Ginsburg, *In Celebration of Kenneth L. Karst*, 47 UCLA L. REV. 1179 (2000). Calling Karst's knowledge of constitutional law "encyclopedic," Ginsburg recounts his accomplishments and outlines some of the articles in the law journal's tribute issue to him.

Ruth Bader Ginsburg, *Charlie's Letters*, 79 TEX. L. REV. 3 (2000). This is the revised version of a tribute to Charles Alan Wright delivered at the American Law Institute Reception in London, July 17, 2000. Ginsburg details correspondence with Professor Wright to illustrate that beyond his "extraordinary scholar-

⁸⁷ 376 U.S. 254 (1964).

ship and magnetic advocacy," he was the "quintessential friend." *Id.* at 4.

Ruth Bader Ginsburg, Remarks for Women's Health Research Dinner (May 7, 2001), *available at* http://www.supremecourtus.gov/publicinfo/speeches/sp_05-07-01.html. In these remarks, Ginsburg discusses her bout with colorectal cancer.

Ruth Bader Ginsburg, *Foreword* to SUPREME COURT DECISIONS AND WOMEN'S RIGHTS: MILESTONES TO EQUALITY (Clare Cushman ed., 2001). While agreeing that equality for minorities and women was not established by this nation's founders, Ginsburg nevertheless argues that the Declaration of Independence and the Bill of Rights indicate a commitment to equality and individual liberty. This commitment to individual liberty along with the Equal Protection Clause and women's suffrage combine to extend constitutional rights and protections to women. This book, she says, recounts the "gradual realization" of equal justice for women. *Id.* at xi.

Ruth Bader Ginsburg, Four Louisiana Giants in the Law, Judge Robert A. Ainsworth, Jr. Memorial Lecture at Loyola University New Orleans School of Law (Feb. 4, 2002), *in* 48 LOY. L. REV. 253 (2002), *available at* http://www.supremecourtus.gov/publicinfo/speeches/sp_02-04-02.html. Justice Ginsburg provides a brief biography of one lawyer, Judah Benjamin, and three judges, John Minor Wisdom, J. Skelly Wright, and Alvin Rubin, all Louisiana natives whom, she argues, would have appeared on Judge Ainsworth's list of the "best among lawyers and judges." *Id.* at 254.

Ruth Bader Ginsburg, Dinner Remarks at Southwestern University School of Law (Feb. 6, 2002), *in* 9 SW. J.L. & TRADE AM. 1 (2002-2003). This is a short speech that highlights how the Justices spend their days, illustrating the lighter side of the Court.

Ruth Bader Ginsburg, *Remarks for the Celebration of 75 Years of Women's Enrollment at Columbia Law School* (Oct. 19, 2002), *in* 102 COLUM. L. REV. 1441 (2002). Ginsburg describes the sex discrimination litigation she undertook while at Columbia in conjunction with the ACLU and provides a short overview of the cases with personal anecdotes about the plaintiffs.

Ruth Bader Ginsburg, *Statement on the Death of Justice Byron R. White*, 55 STAN. L. REV. 3 (2002). In this statement, Ginsburg describes Justice White "as both Clark Kent and Superman" (quoting Justice Stewart). *Id.* at 4.

Ruth Bader Ginsburg et al., *Memories of Gerald Gunther*, 55 STAN. L. REV. 639 (2002). Ginsburg tells the story of how Gunther

assisted her in obtaining a clerkship at a time when federal judges did not hire women. She credits Gunther's law review article on *Reed* with helping to influence the path of sex discrimination litigation and praises him for his early belief in the Court's ability to extend statutes to cover those unconstitutionally excluded instead of nullifying the offending legislation entirely in equal protection cases.

Ruth Bader Ginsburg, *Remembering Justice White*, 74 U. COLO. L. REV. 1283 (2003). In this tribute to Justice White, Ginsburg describes his belief in judicial restraint, his commitment to stare decisis, his intelligence, and above all, his compassion.

III. BOOKS, BOOK CHAPTERS AND LAW REVIEW ARTICLES ON OR ABOUT RUTH BADER GINSBURG

A. *Books and Book Chapters on or About Ginsburg*

While there are a number of book chapters about Ruth Bader Ginsburg and her work, there are no books for the adult reader, although a partial biography is forthcoming.⁸⁸ There are, however, a number of children's books or books written for young adults that deal with her life. This Bibliography includes these works in order to assist scholars in identifying the intended audience for these works, which often appear in bibliographies. Additionally, the children's books are studded with Ginsburg family pictures and anecdotes that provide more personal information about Ruth Bader Ginsburg's childhood and personal life than do academic works targeted to an adult audience.

1. Books Written for the Child or Young Adult Audience

ELEANOR AYER, *RUTH BADER GINSBURG: FIRE AND STEEL ON THE SUPREME COURT* (1994). This fairly detailed biography is written for a young adult audience. It contains a brief time line as well as a short bibliography. The book also includes photographs as well as many family anecdotes that provide a familial and personable aspect to Ginsburg often lacking in academic pieces.

LINDA BAYER, *RUTH BADER GINSBURG (Women of Achievement)*, 1993). This book introduces Ginsburg to a young adult audience. The rather short biography has many of the same photographs found in Eleanor Ayer's work cited previously.

CARMEN BREDSON, *RUTH BADER GINSBURG, SUPREME COURT JUSTICE (People to Know)*, 1995). This is the longest book for young

⁸⁸ JANE DEHART, *RUTH BADER GINSBURG BEFORE THE BENCH* (forthcoming 2006).

adults. It is directed toward a middle school, or even high school, audience. It includes a short history of the Court as well as bibliographic information on Ginsburg and a discussion of some of the more prominent sex discrimination cases.

CHRISTOPHER HENRY, *RUTH BADER GINSBURG* (1994). Similar to other books aimed at a young audience, this book emphasizes Ginsburg's early life, including information about her grandparents and parents. There is also some background on her husband, Martin, including how they met and his life and interests.

ROBERT ITALIA, *RUTH BADER GINSBURG* (Supreme Court Justices, 1994). While this work is directed at the very early school age child, it contains some information about the judicial confirmation process.

BRENN JONES, *LEARNING ABOUT EQUAL RIGHTS FROM THE LIFE OF RUTH BADER GINSBURG* (2002). Targeting a very young audience (the book includes a glossary for terms such as "lawyer" and "graduated"), it is interesting to note that this book also includes websites for children to visit to find out additional information on both Ginsburg and equal rights.

JACK L. ROBERTS, *RUTH BADER GINSBURG: SUPREME COURT JUSTICE* (1994). This brief biography is written for younger children and discusses the life and career of Ginsburg generally.

2. Books or Book Chapters on Ginsburg for the Academic or Scholar

Judith Baer, *Advocate on the Court: Ruth Bader Ginsburg and the Limits of Formal Equality*, in REHNQUIST JUSTICE: UNDERSTANDING THE COURT DYNAMIC 216 (Earl M. Maltz ed., 2003). Looking at Ginsburg both as a litigator as well as a judge, Baer finds that she is far more the pragmatic workhorse than the visionary innovator. Baer worries that Ginsburg's reliance on formal equality may ultimately limit women's achievement of equality. The author also provides an extensive analysis of Ginsburg's positions on other constitutional issues, including the Fourth Amendment, the Establishment Clause, civil liberties, and federalism in an attempt to position Ginsburg on the liberal-conservative continuum.

Joyce A. Baugh, *Ruth Bader Ginsburg: "A Judge's Judge and a Lawyer's Lawyer,"* in SUPREME COURT JUSTICES IN THE POST-BORK ERA: CONFIRMATION POLITICS AND JUDICIAL PERFORMANCE 61-80 (Teaching Texts in Law and Politics Vol. 21, 2002). Baugh considers Ginsburg's nomination and confirmation process, complete with an explanation of the media coverage and interest group participa-

tion. She then examines Ginsburg's voting record on issues addressed in the nomination and confirmation process. While Baugh labels Ginsburg a liberal, she concedes that it is not the liberalism of Brennan and Marshall and concludes that Ginsburg is less prone to use the Court to promote social reform than other liberal justices.

DAWN BRADLEY BERRY, *THE 50 MOST INFLUENTIAL WOMEN IN AMERICAN LAW* 215, 215-222 (1996). This book includes a short biographic profile of Ginsburg. This profile is detailed but not footnoted.

JANE DEHART, *RUTH BADER GINSBURG, BEFORE THE BENCH* (forthcoming 2006). DeHart is currently finishing a book that focuses on Ginsburg's early life and career until 1980. DeHart extensively interviewed Ginsburg and her family, as well as others who knew her, especially those who worked with her at the ACLU. DeHart uses Ginsburg's personal papers, which are now archived, and the papers of retired Justices before whom Ginsburg argued her many Supreme Court cases.

LYNN GILBERT & GAYLEN MOORE, *PARTICULAR PASSIONS: TALKS WITH WOMEN WHO HAVE SHAPED OUR TIMES* 153-59 (1981). Based on taped and edited interviews with Ginsburg, the piece is written in the first person. Ginsburg describes her reasons for going into the law, what galvanized her to begin working on equal rights issues, and relates a few personal anecdotes about life in law school as one of the very few women law students.

Stephanie B. Goldberg, *The Second Woman Justice: Ruth Bader Ginsburg*, in *THE SUPREME COURT AND ITS JUSTICES* 304 (Jesse H. Choper ed., 2001). This short sketch first appeared in the ABA Journal and is written as a magazine article about Ginsburg soon after she was confirmed as a Supreme Court Justice. There are many direct quotes that provide a glimpse into Ginsburg's personal and political views on topics such as abortion, diversity on the court, and how far women have progressed.

Christopher Henry, *Ruth Bader Ginsburg*, in *THE JUSTICES OF THE UNITED STATES SUPREME COURT: THEIR LIVES AND MAJOR OPINIONS* 1859 (Leon Friedman & Fred L. Israel eds., 1997). While the piece begins with the usual general overview of Ginsburg's life, it carefully examines her litigation strategies and skills as reflected in her sex discrimination victories during the 1970s. Henry scrutinizes several of Ginsburg's opinions from her time on the D.C. Circuit. He is one of the few authors to claim that she is a judicial activist, although he tempers that position with an acknowledgment of her

many alliances with conservative judges and her belief in the importance of judicial independence.

LINDA K. KERBER, *NO CONSTITUTIONAL RIGHT TO BE LADIES: WOMEN AND THE OBLIGATIONS OF CITIZENSHIP* 199-210 (1998). Ginsburg is mentioned often in this general work devoted to the status of women in constitutional law. The pages indicated are those in which Kerber discusses Ginsburg's litigation strategies during her tenure at the Women's Rights Project.

DIANA KLEBANOW & FRANKLIN L. JONAS, *PEOPLE'S LAWYERS: CRUSADERS FOR JUSTICE IN AMERICAN HISTORY* 349 (2003). This is a very detailed chapter on Ginsburg that provides information on her early life and education not available in other sources. The chapter is extensively footnoted and includes a time line of Ginsburg's life and a short annotated bibliography. The authors delve into her work with the ACLU Women's Rights Project and provide a description and analysis of the major sex discrimination cases handled by Ginsburg during the 1970s. The piece also includes a description of her work as a justice, including her opinions in *VMI* and *Bush v. Gore*.⁸⁹

ROY M. MERSKY ET AL., *RUTH BADER GINSBURG* (The Supreme Court of the United States: Hearings and Reports of Successful and Unsuccessful Nominations of Supreme Court Justices by the Senate Judiciary Committee 1916-1993, Vols. 18-18A, 1995). These volumes focus on the nomination of Ruth Bader Ginsburg. They include reprints of Presidential statements on the nomination, reprints from the Congressional Record statements on the nomination by legislators, and the Senate Judiciary Committee Hearing transcripts. Also included are selected reprints of Ginsburg's writings and a selection of her opinions from the D.C. Circuit Court of Appeals. There is also a bibliography of newspaper and magazine articles on the nomination.

Barbara A. Perry, *Ruth Bader Ginsburg*, in "THE SUPREMES": *ESSAYS ON THE CURRENT JUSTICES OF THE SUPREME COURT OF THE UNITED STATES* 115-125 (Teaching Texts in Law and Politics Vol. 6 1999). Perry provides a short biography that focuses on Ginsburg's years as a litigator and several of her Supreme Court opinions. She finds that while Ginsburg's opinions may garner headlines at other times, her reasoning is much less sweeping than those of other justices. Perry concludes that Ginsburg is wedded to incrementalism in the rule of law.

⁸⁹ 518 U.S. 515 (1996); 531 U.S. 98 (2000).

Edith Lampson Roberts, *Ruth Bader Ginsburg*, in *THE SUPREME COURT JUSTICES: ILLUSTRATED BIOGRAPHIES 1789–1995*, 531 (Clare Cushman ed., 2d ed. 1995). This five-page biography provides a synopsis of Ginsburg's early life and time in law school. It then focuses on her sex discrimination litigation and judicial career, including a discussion of her appointment to the Supreme Court.

ELINOR PORTER SWIGER, *WOMEN LAWYERS AT WORK* 50-66 (1978). Published prior to Ginsburg's appointment to the federal bench, this piece focuses on her work at the Women's Right's Project as well as her law school career. There is more detail about Ginsburg's children and family life than in other works. In particular, Ginsburg's daughter, Jane Ginsburg, is extensively quoted and discussed.

ELIZABETH VRATO, *THE COUNSELORS: CONVERSATIONS WITH 18 COURAGEOUS WOMEN WHO HAVE CHANGED THE WORLD* 175-185 (2002). This book includes a brief overview of Ginsburg's life that focuses on her legal career. It is supplemented by numerous quotes from the author's conversations with Ginsburg that provide some interesting personal anecdotes.

Natalie Wexler & Diedre von Dornum, *Ruth Bader Ginsburg: From Litigator to Justice*, in *SUPREME COURT DECISIONS AND WOMEN'S RIGHTS: MILESTONES TO EQUALITY* 252 (Clare Cushman ed., 2001). This is a short biographical sketch that provides a basic overview of Ginsburg's life, including references to cases she handled at the Women's Rights Project as well as some of her Supreme Court opinions. The piece does not include footnotes and provides limited bibliographic materials.

B. *Law Review Articles on or About Ginsburg*

This section lists law review articles that focus on Ginsburg specifically, including her various roles in sex discrimination cases, her judicial philosophy, her approach to particular constitutional or doctrinal issues, and her impact on the Court and the legal profession. Excluded are pieces in which, although she might be mentioned frequently, the article's analysis does not venture beyond her function as the author of a particular opinion. In addition, this section is limited to law review scholarship and does not include articles from the popular press.⁹⁰

Eric I. Abraham, Comment, *Justice Ginsburg and the Injury in*

⁹⁰ For a significant selection of articles from the popular media, see ROY M. MERSKY ET AL., *RUTH BADER GINSBURG* (The Supreme Court of the United States: Hearings and Reports of Successful and Unsuccessful Nominations of Supreme Court Justices

Fact Element of Standing, 25 SETON HALL L. REV. 267 (1994). Prior to Ginsburg's appointment, the Court issued two rulings that made it difficult for plaintiffs seeking to redress environmental harms to satisfy standing requirements. The author discusses those two cases, and then examines several of Ginsburg's Circuit decisions on environmental standing. Finally, the author argues that these decisions reflect a willingness on Ginsburg's part to embrace less stringent standing guidelines, allowing such cases to be decided on the merits.

Samuel R. Bagenstos, *Justice Ginsburg and the Judicial Role in Expanding "We the People": The Disability Rights Cases*, 104 COLUM. L. REV. 49 (2004). Examining recent Supreme Court cases, the author focuses on Ginsburg's opinions, including concurrences, and her majority opinion in *Olmsted v. L.C.*,⁹¹ regarding disability rights. He argues that Ginsburg, more than any other justice, understands that the disabled have to be protected from society's attitudes and practices, and not that they have to be given special assistance. Claiming that *Olmstead* is the disability rights movement's *Brown v. Board of Education*, Bagenstos contends that Ginsburg continues to expand the notion of "We the People."

Rebecca Barnhart & Deborah Zalesne, *Twin Pillars of Judicial Philosophy: The Impact of the Ginsburg Collegiality and Gender Discrimination Principles on Her Separate Opinions Involving Gender Discrimination*, 7 N.Y. CITY L. REV. 275 (2004). The authors juxtapose two of Ginsburg's commitments: her judicial philosophy on collegiality and her deep loyalty to advancing women's legal rights. After an examination of gender discrimination cases decided by the Court in the last decade, the article concludes that Ginsburg has deftly managed to navigate the fine line between her twin passions, even as she has been assertive in writing separate opinions, because with only one exception, her opinions have been temperate and emphasized agreements.

Joyce Ann Baugh et al., *Justice Ruth Bader Ginsburg: A Preliminary Assessment*, 26 U. TOL. L. REV. 1 (1994). The article examines whether in her first term, Ginsburg had lived up to the predictions that she would help re-energize the liberal base of the Court. The authors analyze the business, criminal justice, and civil rights opinions issued by the Court during this period. Using both statistical as well as analytic evidence, they find that Ginsburg is a judicial mod-

by the Senate Judiciary Committee 1916-1993, Vols. 18-18A, 1995), at 1557-1613 (1995).

⁹¹ 527 U.S. 581 (1999).

erate, voting most often with the center of the Court, that her opinions are narrowly drawn, and that she is unlikely to move the Court in bold new directions.

David Cowan Bayne, S.J., *Insider Trading: The Misappropriation Theory Ignored: Ginsburg's O'Hagan*, 53 U. MIAMI L. REV. 1 (1998). This piece is the first of a two-part examination of *United States v. O'Hagan*,⁹² a case arguably involving the "misappropriation theory" of insider trading. Relying on tables and graphs, Bayne argues that Ginsburg did not adequately address "misappropriation theory," but developed a new theory which contributed to doctrinal confusion.

David Cowan Bayne, S.J., *Insider Trading: Ginsburg's O'Hagan: Insider Trading Ignored*, 53 U. MIAMI L. REV. 423 (1999). This piece is the second of a two-part examination of *United States v. O'Hagan*, a case arguably involving the "misappropriation theory" of insider trading. See prior entry. In this article, Bayne argues that Ginsburg's opinion replaced the tort of insider trading with the crime of theft. He attempts to find four of the substantive essentials of insider trading in Ginsburg's opinion and claims to find none of them.

Amy Leigh Campbell, *Raising the Bar: Ruth Bader Ginsburg and the ACLU Women's Rights Project*, 11 TEX. J. WOMEN & L. 157 (2002). Drawing on archival research of Ginsburg's private papers in the Library of Congress, this article examines Ginsburg's role in developing, articulating, and implementing the complex strategy that the Women's Rights Project undertook to combat sex role discrimination. It discusses strategies such as Ginsburg's use of extra-legal materials in *Reed* and her targeting arguments to particular justices. It also provides details of the justices' discussions of the cases. This is a very detailed and extensively footnoted article.

David Cole, *Strategies of Difference: Litigating for Women's Rights in a Man's World*, 2 L. & INEQ. 33 (1984). Using the briefs as well as the decisions of the sex discrimination cases that Ginsburg and the Women's Rights Project litigated in the Supreme Court in the 1970s, the author examines the effects of gender, and specifically the male gender of the judges, opposing counsel, and most of the plaintiffs on the Court's sex discrimination cases. He posits that Ginsburg's theoretical perspective was assimilationist and thus the litigation sought to demonstrate that men and women were similar. The article concludes that while such a strategy can be successful, it

⁹² 521 U.S. 642 (1997).

falters when addressing reproductive rights issues where difference is evident.

Michael James Confusione, Note, *Justice Ruth Bader Ginsburg and Justice Thurgood Marshall: A Misleading Comparison*, 26 RUTGERS L.J. 887 (1995). Pointing to Marshall's willingness to accept remedial racial legislation and Ginsburg's fear that even preferential legislation based on gender risks reinforces outmoded stereotypes and undermines equality arguments, the author argues that any claim that Ginsburg is the Thurgood Marshall of gender equality law is misleading.

Ruth B. Cowan, *Women's Rights Through Litigation: An Examination of the American Civil Liberties Union Women's Rights Project, 1971-1976*, 8 COLUM. HUM. RTS. L. REV. 373 (1976). While not explicitly focused on Ginsburg, the article details the ACLU's Women's Rights Project during the time Ginsburg was its co-director and was litigating the early sex discrimination cases. The article examines the litigation strategies and publicity campaigns of which Ginsburg was a part, and the Project's coordination with other groups.

Jerome McCristal Culp, Jr., *An Open Letter From One Black Scholar to Justice Ruth Bader Ginsburg: Or, How Not to Become Justice Sandra Day O'Connor*, 1 DUKE J. GENDER L. & POL'Y 21 (1994). In this piece, composed as an "open letter," Culp articulates his fear that Ginsburg's belief in gradualism, expressed in part by her critiques of *Roe v. Wade*, will mean she will succumb to a belief in the racial status quo.

W. Kent Davis, *Answering Justice Ginsburg's Charge That the Constitution Is "Skimpy" in Comparison to Our International Neighbors: A Comparison of Fundamental Rights in American and Foreign Law*, 39 S. TEX. L. REV. 951 (1998). The author argues that while social and economic rights may be enshrined in other constitutions, they are often merely aspirational with little real enforcement. The piece describes several ways that foreign constitutions differ from the U.S. Constitution in how they approach and embrace individual rights, and it faults Ginsburg for not realizing the limits of attempting comparative law.

R. Darcy & Jenny Sanbrano, *Oklahoma in the Development of Equal Rights: The ERA, 3.2% Beer, Juvenile Justice and Craig v. Boren*, 22 OKLA. CITY U. L. REV. 1009, 1037-49 (1997). The article follows *Craig* from its inception and includes litigation strategy discussions between Ginsburg and local counsel. While only a portion of the article concerns Ginsburg (footnotes 99-136 and accompanying text), the authors had access to letters between Ginsburg and the

other attorneys handling the case and they use them to elaborate the strategy involved in litigating *Craig*. The piece also provides a historical context to the case as it discusses how Oklahoma was the first state to defeat the E.R.A. during the time when *Craig* was being litigated.

Toni J. Ellington et al., Comment, *Justice Ruth Bader Ginsburg and Gender Discrimination*, 20 U. HAW. L. REV. 699 (1998). This extensive article traces Ginsburg's impact on sex discrimination law as an attorney, law professor, judge, and Supreme Court Justice. It also examines *VMJ*⁹³ and the potential impact that Ginsburg's re-writing of the gender discrimination standard of review may have on a variety of future discrimination cases, including sexual orientation discrimination cases.

Toni J. Ellington, Comment, *Ruth Bader Ginsburg and John Marshall Harlan: A Justice and Her Hero*, 20 U. HAW. L. REV. 797 (1998). Ginsburg called Justice Harlan one of her heroes during her confirmation hearing. *Id.* at 797. This article finds that though Harlan and Ginsburg have differing political views, their judicial style is extremely similar with respect to an abiding belief in stare decisis and judicial restraint. The author also points to both Justices' careful use of concurring and dissenting opinions to lay the groundwork for future decisions.

Edward A. Fallone, *Neither Liberal Nor Laissez Faire: A Prediction of Justice Ginsburg's Approach to Business Law Issues*, 1993 COLUM. BUS. L. REV. 279. Analyzing Ginsburg's past opinions on business and regulatory issues, the author posits that she will tend to avoid expansive application of regulations restricting business, that she will generally respect business activity geared toward efficiency, and will tend to defer to agency decision-making.

Shira Galinsky, Comment, *Returning the Language of Fairness to Equal Protection: Justice Ruth Bader Ginsburg's Affirmative Action Jurisprudence in Grutter and Gratz and Beyond*, 7 N.Y. CITY L. REV. 357 (2004). In this student piece, the author analyzes Justice Ginsburg's separate opinions in *Grutter v. Bollinger*⁹⁴ and *Gratz v. Bollinger*,⁹⁵ the Michigan affirmative action cases decided by the Court in 2003, and concludes that Ginsburg's "anti-formalism position" lays a foundation for a less rigid notion of human rights.

Elizabeth E. Gillman & Joseph M. Micheletti, *Justice Ruth Bader*

⁹³ *U.S. v. Virginia*, 518 U.S. 515 (1996).

⁹⁴ *Grutter v. Bollinger*, 539 U.S. 306 (2003).

⁹⁵ *Gratz v. Bollinger*, 539 U.S. 244 (2003).

Ginsburg, 3 SETON HALL CONST. L.J. 657 (1993). This essay is a brief biography of Ginsburg's life and career.

Daniel R. Gordon, *Revisiting Erie, Guaranty Trust, and Gasperini: The Role of Jewish Social History in Fashioning Modern American Federalism*, 26 SEATTLE U. L. REV. 213 (2002). Using the 1996 case *Gasperini v. Ctr. for Humanities, Inc.*⁹⁶ as an illustration, the author argues that Ginsburg, in applying state law when there was federal law on point, was, like Justices Frankfurter and Brandeis before her, "reflect[ing] a long Jewish commitment to localism." *Id.* at 240.

Linda Greenhouse, *Learning to Listen to Ruth Bader Ginsburg*, 7 N.Y. CITY L. REV. 213 (2004). Noted *New York Times* Supreme Court reporter, Greenhouse focuses on the effect Ginsburg's litigation had on Justice Harry Blackmun, whose voluminous papers became available to the public in 2004.

Gerald Gunther, *Ruth Bader Ginsburg: A Personal, Very Fond Tribute*, 20 U. HAW. L. REV. 583 (1998). The Stanford Law School professor, who was instrumental in helping Ginsburg obtain her first clerkship, offers a short, affectionate tribute based on several decades of friendship.

Malvina Halberstam, *Ruth Bader Ginsburg: The First Jewish Woman on the United States Supreme Court*, 19 CARDOZO L. REV. 1441 (1998), originally in 1 JEWISH WOMEN IN AMERICA: AN HISTORICAL ENCYCLOPEDIA 515 (Paula E. Hyman & Deborah Dash Moore eds., 1997). This article provides details concerning Ginsburg's childhood, college years, and family life that rarely appear in other law review articles.

Sidney Haring & Jeffrey L. Kirchmeier, *Scrupulous in Applying the Law: Justice Ruth Bader Ginsburg and Capital Punishment*, 7 N.Y. CITY L. REV. 241 (2004). The authors reflect upon the limited published work relating to Ginsburg's death penalty jurisprudence, including the role that capital punishment played in her confirmation process, her votes and opinions upholding or not upholding death sentences, and the three capital punishment cases in which she authored the majority opinion for the Court. The article concludes that while Ginsburg has not articulated an unequivocal position, she remains concerned that capital punishment judgments be highly reliable and the process unquestionably fair.

Benjamin Kaplan, *Ruth Bader Ginsburg and Anders Bruzelius's Civil Procedure in Sweden*, 79 HARV. L. REV. 460 (1965) (book re-

⁹⁶ 518 U.S. 415 (1996).

view). Written by the then-Royal Professor of Law at Harvard, the review finds *Civil Procedure in Sweden* to be a work that can take “its place in that small library of English-language writings about foreign procedure that can claim intellectual distinction.” *Id.* at 461.

Kenneth L. Karst, *The Revival of Forward-Looking Affirmative Action*, 104 COLUM. L. REV. 60 (2004). This article reviews the Supreme Court’s recent affirmative-action decisions, and focuses on Ginsburg’s position throughout the line of cases.

Kenneth L. Karst, “*The Way Women Are*”: *Some Notes in the Margin for Ruth Bader Ginsburg*, 20 U. HAW. L. REV. 619 (1998). The author describes the effect of the VMI decision⁹⁷ on the institute itself, describing the steps the school has taken in preparation for admitting women and the likely positive effect integration will have on the academy.

Herma Hill Kay, *Ruth Bader Ginsburg, Professor of Law*, 104 COLUM. L. REV. 1 (2004). This article provides a detailed biography of Ginsburg’s years in the academy, from her early years as a student, her interest in federal jurisdiction and civil procedure, her entry into comparative law with its focus on Sweden, through her sex discrimination litigation undertaken while she was a professor at Columbia.

Mei-Fei Kuo & Kai Wang, Comment, *When Is an Innovation in Order?: Justice Bader Ruth Ginsburg and Stare Decisis*, 20 U. HAW. L. REV. 835 (1998). Analyzing several major opinions that have been issued since Ginsburg joined the Court, this article focuses on the doctrine of stare decisis and the influence it has on Ginsburg’s judicial decision-making process. Arguing that Ginsburg is indeed a judicial moderate, the authors claim that she is a thoughtful jurist who balances her high regard for precedent with a practical realization that such a practice is not absolute.

James A. Kushner, *Introducing Ruth Bader Ginsburg and Predicting the Performance of a Ginsburg Court*, 32 SW. U. L. REV. 181 (2003). After a glowing biographical sketch of Justice Ginsburg, the author examines her dissents to speculate on the state of the law under a “Ginsburg Court.”

Lenora M. Lapidus, 30 Years of Women’s Rights Litigation: An Evolving Constitutional Standard of Review, Remarks Before the 30th Anniversary of the Women’s Rights Law Reporter (no date available), in 23 WOMEN’S RTS. L. REP. 237 (2002). This is a short speech given on a panel entitled “Legal Struggles for Women’s

⁹⁷ *U.S. v. Virginia*, 518 U.S. 515 (1996).

Rights: Past, Present, and Future” by Lapidus, the director of the ACLU Women’s Rights Project in 2002. In her remarks, Lapidus credits Ginsburg with starting the Project in 1971 and guiding it through its first ten years. She also provides an overview of Ginsburg’s earlier cases and an analysis of how Ginsburg described these cases in her own writings during the 1970s.

Deborah L. Markowitz, *In Pursuit of Equality: One Woman’s Work to Change the Law*, 14 WOMEN’S RTS. L. REP. 335 (1992). Drawing on extensive interviews with then-Judge Ginsburg, as well as notes and letters from Ginsburg’s private files, this article traces Ginsburg’s participation in equal protection challenges to sex discrimination between 1971 and 1977. Focusing on individual cases, the author describes how the cases were chosen, why specific legal strategies were implemented, and how the cases attempted to build on one another.

M. Isabel Medina, *Real Difference and Stereotypes—Two Visions of Gender, Citizenship, and International Law*, 7 N.Y. CITY L. REV. 315 (2004). In this article, the author analyzes the continuing problem of gender discrimination in the context of citizenship in American law. The article focuses on two of the most recent decisions exploring the constitutionality of explicit sex discrimination in immigration law, one of which was authored by Justice Ginsburg. The author also discusses Ginsburg’s use of international law in the development of domestic constitutional law as an appropriate model to examine gender discrimination and citizenship.

Deborah Jones Merritt, *Hearing the Voices of Individual Women and Men: Justice Ruth Bader Ginsburg*, 20 U. HAW. L. REV. 635 (1998). The author uses five opinions issued by Ginsburg (majority, dissent and concurrences) to illustrate Ginsburg’s refusal to accept stereotyping, her commitment to equality, and her belief in the importance of focusing on the individual claimant.

Deborah Jones Merritt & David M. Lieberman, *Ruth Bader Ginsburg’s Jurisprudence of Opportunity and Equality*, 104 COLUM. L. REV. 39 (2004). This article focuses on Ginsburg’s Supreme Court opinions, primarily in the area of gender equality. The authors find that concerns about equality, opportunity, and individual liberty are predominant, even when those factors create an outcome where “women do not always win.” *Id.* at 43.

Henry Paul Monaghan, *Doing Originalism*, 104 COLUM. L. REV. 32 (2004). In this short piece, Monaghan uses a recent ERISA case,

Great-West,⁹⁸ to discuss the differences between the approaches of Justices Ginsburg and Scalia to originalism. He argues that Ginsburg's process of historically constrained evolution, looks for the "central purposes of the relevant constitutional provision and tries to apply it in a vastly different world." *Id.* at 35.

Melanie K. Morris, *Ruth Bader Ginsburg and Gender Equality: A Reassessment of Her Contribution*, 9 CARDOZO WOMEN'S L.J. 1 (2002). This piece credits Ginsburg with making incremental steps toward the advancement of gender equality in *VMI*⁹⁹ by finding that "substantive comparability" in schools was not adequate. The author claims this is yet another example of Ginsburg's effective use of an incremental approach to achieving equality and suggests that this has been Ginsburg's philosophy throughout her career.

Karen O'Conner & Barbara Palmer, *The Clinton Clones: Ginsburg, Breyer and the Clinton Legacy*, 84 JUDICATURE 262 (2001). Examining the Clinton legacy on the Supreme Court, the authors outline extensive similarities between Ginsburg and Breyer. Both are described as noncontroversial individuals with extensive judicial experience whose prior judicial records reflect judicial moderation. The article effectively highlights the political background of the Ginsburg nomination and provides a contemporary legal history. The piece also describes five opinions Ginsburg has authored that the authors argue are "well on their way to being described as 'landmark.'" *Id.* at 267-68.

Carey Olney, *Better Bitch than Mouse: Ruth Bader Ginsburg, Feminism, and VMI*, 9 BUFF. WOMEN'S L.J. 97 (2000-2001). In a wide-ranging article, Olney defines Ginsburg as an egalitarian feminist whose litigation and judicial philosophy indicate a preference for slow change in the law. Olney focuses on *VMI* and its "intermediate scrutiny plus" test and presents a survey of federal cases involving gender discrimination to show how lower courts are interpreting and applying *VMI*. She concludes that the decision has sown more confusion than clarity but predicts that *VMI*'s legacy will provide future leverage for gender discrimination claims.

Barbara A. Perry & Henry J. Abraham, *A 'Representative' Supreme Court? The Thomas, Ginsburg and Breyer Appointments*, 81 JUDICATURE 158 (1998). The authors examine the Thomas, Ginsburg, and Breyer appointments to try and determine what, if any, impact their minority status (race, gender, religion) had on their appointments. In focusing on Ginsburg, they argue that while she was not

⁹⁸ *Great-West Life & Annuity Ins. Co. v. Knudson*, 534 U.S. 204 (2002).

⁹⁹ *U.S. v. Virginia*, 518 U.S. 515 (1996).

appointed solely based on gender, as Clinton's first choices (Mario Cuomo and Richard Riley who took themselves out of consideration) were male, but was appointed in part because of her gender discrimination litigation and feminism.

Carol Pressman, *The House That Ruth Built: Justice Ruth Bader Ginsburg, Gender and Justice*, 14 N.Y.L. SCH. J. HUM. RTS. 311 (1997). The article traces Ginsburg's legal career through the lens of her fight for gender equality.

Laura Krugman Ray, *Justice Ginsburg and the Middle Way*, 68 BROOK. L. REV. 629 (2003). Examining Ginsburg's majority opinions, dissents, and concurrences during her tenure on the Supreme Court, the author seeks to determine how her stated judicial philosophy of moderation, collegiality, and respect for precedent infuse her writings. The author concludes that Ginsburg's writings precisely reflect her judicial philosophy and that she can be accurately labeled a judicial moderate.

Edith Lampson Roberts, *Tribute to Justice Ruth Bader Ginsburg*, 20 U. HAW. L. REV. 595 (1998). Written by a former clerk of Justice Ginsburg, this short piece praises the Justice's attention to detail, respect for the views of her colleagues, and clarity of expression.

William G. Ross, *The Supreme Court Appointment Process: A Search for Synthesis*, 57 ALB. L. REV. 993 (1994). This piece is not directly about Justice Ginsburg, but it frequently uses Justice Ginsburg's confirmation process as an example. It thus proves to be very informative about Ginsburg's appointment to the Supreme Court.

David L. Shapiro, *Justice Ginsburg's First Decade: Some Thoughts About Her Contributions in the Fields of Procedure and Jurisdiction*, 104 COLUM. L. REV. 21 (2004). Examining a number of Ginsburg's opinions, some of which address procedure and jurisdiction, the author finds that they evince a high level of subject-specific knowledge, a pragmatic approach that tailors the decision to the facts, and shows an admirable amount of judicial restraint.

J. Stratton Shartel, *Ginsburg's Opinions Reveal Willingness to Grant Access to Litigants*, 7 NO. 8 INSIDE LITIG. 1 (1993). Examining several of Ginsburg's Circuit Court opinions on justiciability and standing, the author concludes that Ginsburg is willing to elevate substance over form in granting access to litigants.

Christopher M. Shields, Note, *Carlisle v. Consolidated Rail Corp. and Justice Ginsburg's Dissent: Striking an Equitable Compromise Between the Interests of Labor and Management Regarding FELA Liability for Work-Related Stress*, 39 VILL. L. REV. 197 (1994). This piece char-

acterizes Ginsburg's dissent in *Consolidated Rail Corp. v. Gottshall*¹⁰⁰ as compelling, and discusses her reliance on the Third Circuit companion case, *Carlisle v. Consolidated Rail Corp.*¹⁰¹

Scott M. Smiler, Note, *Justice Ruth Bader Ginsburg and the Virginia Military Institute: A Culmination of Strategic Success*, 4 CARDOZO WOMEN'S L.J. 541 (1998). This note argues that Ginsburg's legal career prior to becoming a judge revolved around seeking the highest level of scrutiny for gender-based classifications. The piece then tracks Ginsburg's decisions once on the bench, specifically focusing on *VMI*,¹⁰² and concludes that she is still attempting to move the Court toward embracing the strict scrutiny standard for sex classifications.

Christopher E. Smith et al., *The First-Term Performance of Justice Ruth Bader Ginsburg*, 78 JUDICATURE 74 (1994). Analyzing voting patterns, judicial alignments, five-to-four decisions, opinion authorship, authorship of "important" decisions, and her positions on the several women's rights cases before the Court in her first year, the authors find that Ginsburg, "did not require any period of adjustment" on the court, "is not intent on advancing a broad women's rights agenda," and can be firmly fixed in the middle of the Court. *Id.* at 80.

Sheila M. Smith, Comment, *Justice Ruth Bader Ginsburg and Sexual Harassment Law: Will the Second Female Supreme Court Justice Become the Court's Women's Rights Champion?*, 63 U. CIN. L. REV. 1893 (1995). This Comment posits that Justice Ginsburg's judicial philosophy, which prioritizes stare decisis, judicial economy, and collegiality will prevent her from advocating major doctrinal changes in the area of sexual harassment law. However, it also argues that Ginsburg's belief in gender equality will positively affect the development of law in this area.

Michael E. Solimine & Susan E. Wheatley, *Rethinking Feminist Judging*, 70 IND. L.J. 891 (1995). This article seeks to evaluate the claim that female judges approach cases and make decisions in a distinctly different way from male judges. Part II of the article specifically examines the opinions of O'Connor and Ginsburg during the 1993 Term, finding that the amount of divergence in their positions during the term calls into question any claim of a uniquely female style of judging.

¹⁰⁰ 512 U.S. 532 (1994).

¹⁰¹ 990 F.2d 90 (3d Cir. 1993), *rev'd sub nom. Consol. Rail Corp. v. Gottshall*, 512 U.S. 532 (1994).

¹⁰² *U.S. v. Virginia*, 518 U.S. 515 (1996).

Fred Strebeigh, *Standard Bearer*, LEGAL AFF., Oct. 2003, at 37. While giving a brief overview of Ginsburg's life, this piece focuses on the litigation of *Frontiero*.¹⁰³ It concentrates on Ginsburg's advocacy of the application of strict scrutiny for sex classifications and considers the divergent arguments in the briefs, Ginsburg's performance at oral argument, and the Court's drafting of the opinions and the standard selected.

Nadine Strossen, Remarks, *Introduction of Justice Ruth Bader Ginsburg*, 44 N.Y.L. SCH. L. REV. 1 (2000). Introducing the justice during a New York Law School law review dinner, Strossen shares personal anecdotes to describe Ginsburg as a warm, caring, approachable woman who goes out of her way to encourage young lawyers.

Mary-Christine Sungaila, *Nguyen v. INS and Sex Stereotyping in Citizenship Laws: Building on the Equal Protection Legacy of Ruth Bader Ginsburg*, 10 S. CAL. REV. L. & WOMEN'S STUD. 293 (2001). The author provides a short overview of sex discrimination in the context of the equal protection doctrine, highlighting Ginsburg's participation in the doctrinal development. The article then examines *Nguyen*: the arguments, briefs, Ginsburg's participation at oral argument, the decision, and the dissent.

Joan R. Tarpley, *An Open Thank-you Note to Justice Ruth Bader Ginsburg for Her Spirit of Belonging*, 24 WOMEN'S RTS. L. REP. 1 (2002). This is a short piece describing how Ginsburg's sense of gender equality and trust in the judicial process have guided her legal career.

Amy Walsh, Comment, *Ruth Bader Ginsburg: Extending the Constitution*, 32 J. MARSHALL L. REV. 197 (1998). This student work traces Ginsburg's impact on gender discrimination cases from those she litigated in the 1970s to her opinion in *VMI*. The author concludes that Ginsburg's work has fostered extraordinary change in the area of sex discrimination.

Susan H. Williams & David C. Williams, *Sense and Sensibility: Justice Ruth Bader Ginsburg's Mentoring Style as a Blend of Rigor and Compassion*, 20 U. HAW. L. REV. 589 (1998). The authors, former clerks to then-Judge Ginsburg, describe her as an active and caring mentor who balances analytic rigor and emotional warmth. They also describe an intellectual discipline which contributed to the high esteem in which Ginsburg was held by both judges and lawyers.

¹⁰³ *Frontiero v. Richardson*, 411 U.S. 71 (1971).

Elijah Yip & Eric K. Yamamoto, *Justice Ruth Bader Ginsburg's Jurisprudence of Process and Procedure*, 20 U. HAW. L. REV. 647 (1998). Finding that the themes of litigant access, court efficiency, and judicial integrity infuse Ginsburg's jurisprudence and scholarship, the authors examine these themes in procedurally complex class action cases.