

From: LSU Law Building Announcements <LAWCTR-ALRT-L> on behalf of Lee A Lockridge <lockridge@LSU.EDU>
Sent: Monday, September 21, 2020 5:26 PM
To: LAWCTR-ALRT-L
Subject: [LAWCTR-ALRT-L] Equal Rights: May her memory be a blessing

Dear Students, Faculty, and Staff,

This past Friday, September 18, 2020, the United States lost a leader in equal rights, or as she put it, “full citizenship stature” or “equal citizenship stature” regardless of sex or gender—a role Justice Ruth Bader Ginsburg played first and perhaps even foremost as an advocate, while she was a professor of law, in the years before she was a jurist. She was also the 1996 Tucker Lecturer here at the LSU Paul M. Hebert Law Center, three years after taking her seat on the Supreme Court.

<https://www.law.lsu.edu/ccls/lecture/195/>

Although at this time the news is and will remain ablaze with prognostications about the appointments process and the politics of it all, I would like to take a moment of personal privilege to encourage everyone in the Law Center community to think about the trailblazing full-and-equal-citizenship work of then-Professor Ginsburg and the countless others working with her, as well as before her and after her. She and others worked tirelessly to challenge and change laws that treated us differently without just cause to do so.

Every one of us is the beneficiary of her legacy of equal rights. I know that I am, embodying as I do now a comment of hers often quoted: “Women belong in all places where decisions are being made. It shouldn't be that women are the exception.” (2009 interview) My spouse is also a beneficiary: he can be a primary breadwinner or primary caregiver in our family—or both or neither—without legal presumptions or absolute bars popping up later, based on roles assigned to us on the basis of sex. Our family has been a beneficiary: it was not legal either to fire me or to deny me insurance benefits when I became pregnant with our twins. (And by the way, that might otherwise be tempting for an employer—a twin pregnancy can be expensive.) You may not have realized it, but you, too, are a likely past or future beneficiary of this line of collective work for equal rights and against gender discrimination.

Ginsburg's strategy in fighting what she chose to call “gender discrimination” in most instances, as opposed to “sex discrimination” (after listening to the advice of her Columbia Law secretary), was not simply to fight for *women* suffering from gender discrimination, but also to champion the causes of *men* faced with discrimination under the law. In fact, in the first three cases she argued before the Supreme Court, *Frontiero v. Richardson* (1973), *Kahn v. Shevin* (1974), and *Weinberger v. Wiesenfeld* (1975), she urged the Court to strike down laws barring men from accessing a legal benefit provided to women but denied to similarly situated men. In two, she was successful. An earlier case Ginsburg had taken for a member of the Air Force who became pregnant (and who wanted to remain pregnant and did, but who could not at the time keep her job and the pregnancy) “went away” when the Air Force changed its policy—fairly evidently to avoid having the issue decided by the Supreme Court. (*Struck v. Secretary of Defense*, 1972) A few years later, Ginsburg assisted in drafting the Pregnancy Discrimination Act of 1978.

Later, Ginsburg wrote for the majority in *United States v. Virginia* (1996):

[T]he Court has repeatedly recognized that neither federal nor state government acts compatibly with the equal protection principle when a law or official policy denies to women, simply because they are women, full citizenship stature—equal opportunity to aspire, achieve, participate in and contribute to society based on their individual talents and capacities.

I will not attempt to recount the entirety of Justice Ginsburg’s career, whether as a professor and advocate, or her time on the D.C. Circuit or Supreme Court bench. There is not time, nor space. In the words of Justice Antonin Scalia in 2015, supporting her listing as an “Icon” in Time Magazine’s “TIME 100” Most Influential People: “Ruth Bader Ginsburg has had two distinguished legal careers, either one of which would alone entitle her to be one of TIME’s 100.” In his brief essay, Scalia went on to say: “[H]er suggestions improve the opinions the rest of us write, and ... she is a source of collegiality and good judgment in all our work.”

It is this element of Justice Scalia’s comments—collegiality and interacting for benefit of all, even when we disagree—that I wish to highlight as I close this message, using words from both Justices, who by account of them both were genuine, dear friends:

You can disagree without being disagreeable. (Ginsburg)

If you can’t disagree ardently with your colleagues about some issues of law and yet personally still be friends, get another job, for Pete’s sake! (Scalia)

We disagreed now and then. But when I wrote for the court and received a Scalia dissent, the opinion ultimately released was notably better than my initial circulation. (Ginsburg)

In this fractured moment in our collective life, let’s continue to learn with and from one another, disagree without being disagreeable, and work to improve the LSU Law Center community and remain in community together, despite all the stress and strife surrounding and influencing us. And regardless of what issues you individually care about, I hope you will take and hold this wisdom from Justice Ginsburg:

Fight for the things that you care about, but do it in a way that will lead others to join you.

All my best,
Dean Lockridge

Lee Ann Wheelis Lockridge
Interim Dean
David Weston Robinson Professor of Law
McGlinchey Stafford Professor of Law
Louisiana State University Law Center
East Campus Drive
Baton Rouge, Louisiana 70803
law.lsu.edu