



Ruth Bader Ginsberg: Her Legacy—A Life Well-Lived

The Right Honourable Beverley McLachlin

ABOUT THE AUTHOR

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The Right Honourable Beverley McLachlin served as Chief Justice of Canada from 2000 to mid-December 2017. In the summer of 2018, Ms. McLachlin became a Member Arbitrator at Arbitration Place. Ms. McLachlin works as an arbitrator and mediator in Canada and internationally. She brings to those forms of dispute resolution her broad and deep experience for over 35 years in deciding a wide range of business law and public law disputes, in both common law and civil law; her ability to work in both English and French; and her experience and skill in leading and consensus-building for many years as the head of a diverse nine-member court.

Ms. McLachlin also sits as a Justice of Singapore's International Commercial Court and the Hong Kong Final Court of Appeal. Her judicial career began in 1981 in the province of British Columbia, Canada. She was appointed to the Supreme Court of British Columbia (a court of first instance) later that year and was elevated to the British Columbia Court of Appeal in 1985. She was appointed Chief Justice of the Supreme Court of British Columbia in 1988 and seven months later, she was sworn in as a Justice of the Supreme Court of Canada. Ms. McLachlin is the first and only woman to be Chief Justice of Canada and she is Canada's longest serving Chief Justice. The former Chief Justice chaired the Canadian Judicial Council, the Advisory Council of the Order of Canada and the Board of Governors of the National Judicial Institute.

In June 2018 she was appointed to the Order of Canada as a recipient of its highest accolade, Companion of the Order of Canada. She has received over 35 honorary degrees from universities in Canada and abroad, and numerous other honours and awards.



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Ms. McLachlin is an Honorary Bencher of The Hon. Society of Gray's Inn, The Hon. Society of Lincoln's Inn and The Middle Temple; Vice-President of The Law Society, University College Dublin; and an Honorary Fellow of the American College of Trial Lawyers, the American College of Construction Lawyers, and the International Academy of Construction Lawyers.

Throughout her judicial career, Ms. McLachlin has been involved with countless areas of the Canadian legal system, both common law and civil law, and both private and public law, in English and French. In addition to working in those languages, she has limited fluency in German.

Ms. McLachlin is the author of numerous legal articles and publications, as well as a mystery novel, *Full Disclosure*, published in 2018.

The 2,094 Supreme Court of Canada judgments in which she participated - of which she wrote 442 - and her legal writings and speaking, include a wide range of subjects in corporate, construction, financial services, taxation, contract, tort, other areas of business law, as well as arbitration and mediation. Her legal texts include, as lead co-author, the first and second editions (1987 and 1994) of *The Canadian Law of Architecture and Engineering*. It is generally recognized that the judgments of the Supreme Court of Canada during her tenure have affirmed Canada as a jurisdiction that is very supportive of arbitration.

The former Chief Justice received a B.A. (Honours) in Philosophy in 1965 and both an M.A. in Philosophy and an LL.B in 1968 from the University of Alberta. She was called to the Alberta Bar in 1969 and to the British Columbia Bar in 1971. She practised law in Alberta and British Columbia. Commencing in 1974, she taught for seven years in the Faculty of Law at the University of British Columbia as a tenured Associate Professor.

INTRODUCTION

Justice Ruth Bader Ginsberg is known first and foremost for her legal legacy. As an attorney, she fought and won seminal cases and thereby helped define a new equality jurisprudence for the United States and blaze new paths for American women. As a Justice of the Supreme Court of the United States, she wrote seminal decisions that took the trail she had blazed as a lawyer to new places. While many of her most important decisions were dissenting, their force and persuasive value ensures they will live into the future.

But Justice Ginsberg's legacy goes beyond her work as a lawyer, a law teacher, and a judge. Her broader legacy lies in who she was and how she met the challenges she faced. Because of the way she lived her life, she became a symbol of excellence to young women (and men) and an exemplar of how to face the challenges that the world presents.

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I first came to know Justice Ginsberg some years ago, at a conference at Cambridge University, in England. We were both Justices on our country's respective Supreme Courts. So it was natural that we should take time to meet privately; Ruth, every inch the lady in dark dress and white lace gloves, presided over tea in the gardens of one of the colleges, where we chatted about women's rights. Later, when I became Chief Justice of the Supreme Court of Canada, I instituted an exchange between justices of SCOTUS and the SCC. This meant that every three years we visited each other, alternating between Ottawa and Washington. Over those years, I was privileged to get to deepen my acquaintance with this fragile woman with a backbone of steel.

LESSONS FROM RUTH BADER GINSBERG

Why will Justice Ruth Bader Ginsberg go down as a “great” in the annals of legal history? For her jurisprudence, certainly, but also for how she lived her life. In doing so, she set an example for those who came after her. Here are some lessons we can learn from Ruth Bader Ginsberg's life.

Lesson One: Reject Society's Artificial Limitations

Ruth refused to accept the artificial limitations that society imposed on women of her day. Most people do what society dictates. When Ruth was growing up, society dictated that women should center their lives on home and children, and not pursue careers outside the home. From an early age, Ruth rejected these strictures. In her own quiet way, without a lot of fuss, she got a law degree and set about building a legal career. This allowed her to live an authentic life – her life, not the life others told her she should live.

Lesson Two: Equip Yourself to Succeed

Ruth understood that dreams don't realize themselves—you have to equip yourself so you can make them a reality. So she embarked on long years of study, graduating at the top of her law school class. Without this investment, nothing else in her extraordinary life would have happened.

The other capacity with which she equipped herself was a finally honed sense of right and wrong – perhaps the most important asset a legal scholar and judge can possess. The same applies to other callings – without integrity nothing worthwhile can be achieved.

Lesson Three: Persevere

Ruth understood that life isn't always fair, but when obstacles confronted her, she didn't give up – she dug in and persevered. Although she graduated at the top of her law school class, she couldn't find a position with a law firm. So, she took a secretarial position in a law firm. The same thing had happened to the first woman appointed to the Supreme Court of the United States, Sandra Day O'Connor. Too often we give up when we face roadblocks; Ruth and Sandra showed us that it pays to persevere.

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Lesson Four: Find your Passion and Pursue it

The central passion that shaped Ruth's life arose from the roadblocks people put in her way – a passion for equal treatment in general and the advancement of women in particular. She asked the big questions. Why can't women have the careers they choose? Why can't women earn equal pay for equal work? Why do women not have the right to control their bodies? And the big, overarching question—if the world belongs to all of us, why do only some of us get a rightful share? Finding the answers to these questions became her life's work.

Lesson Five: Work Hard

A comment Ruth made in a speech sticks in my mind. She reminisced about how she and her husband, Marty, would spend their evenings early in their marriage. They each had a home office. Marty was a tax specialist, and Ruth was teaching law and preparing briefs for court appearances. After dinner, Ruth would go to her office and Marty would go to his. They would spend the remainder of evening in their offices. Ruth was a perfectionist, going over her briefs again and again to perfect them. Having children didn't change that. She remained diligent to the end of her life, crafting her opinions with exquisite care.

Lesson Six: Always be Prepared

It's a pop-culture myth that if you're gifted enough, you can get by without much preparation. But it isn't true. As an attorney, Ruth was always prepared for the tough questions, answering them in precise, considered terms that showed she had anticipated they might be asked and prepared herself. As a judge she was the same, asking questions from the bench that cut right to the heart of the issue under consideration.

Lesson Seven: Be Civil

Ruth always practiced civility. While she could be direct, even hard-hitting, in her condemnation of positions with which she disagreed, she never put people down or attached negative epithets to them. She understood the importance of listening to those with whom you might disagree and responding in a calm and reasoned manner. As a result, even those who disagreed with her respected her and liked her. And not infrequently, her quiet persuasion won people over.

Our current modes of discourse, fueled by tropes of social media, have become increasingly uncivil. People hurl insults at each other and scream instead of paying compliments and quietly stating their position. We are losing the art of the civil exchange of differing opinions that is essential to democracy, and too often manners and politesse seem quaint gestures from a different era. Ruth's example shows a different way of engaging in civil discourse civilly.

Lesson Eight: Be Collegial

Collegiality is related to civility, but different. It means the ability to work with people within your profession or institution in a positive, productive way, even though you may disagree

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with them. People often marveled that Justice Antonin Scalia and Justice Ginsberg were friends, even though they often took radically different views on the issues before them. As a judge, these comments made me smile.

Being collegial has nothing to do with how you come out on a case. It has everything to do with respecting your colleague's position and his or her right to hold it. It is quite possible – and indeed frequently happens – that judges who often differ in their opinions are good friends on the private level. Justice Ginsberg and Justice Scalia shared much – a love of opera chief among them. Justice Ginsberg's husband Marty and Justice Scalia also shared a love of good food and cooking, which led to many convivial evenings. And despite Justice Ginsberg's and Justice Scalia's different legal orientations, they were smart, engaged and cared deeply about the Court and justice. It should be no surprise that they were friends.

Lesson Nine: Engage with the World

When I was appointed to the Supreme Court of Canada, I asked the Justice I was replacing what he would tell me about my new job if he could give me only one piece of advice. “Find some outside interests,” he told me, “otherwise this job will consume you.” It was excellent advice. I have watched judges become so consumed by their work that it took a toll in health, objectivity and collegiality.

Ruth Bader Ginsberg understood that to be a good judge you must understand the world that you are judging. Connecting with real people through opera, conferences, and dinners undercuts the negative perception the public sometimes has that judges live in ivory towers, remote from the people who have to live with their decisions. Judges may have a different sort of job, but they are first and foremost human beings. And there's a golden lining to engaging with the world—it makes life more fun and helps you to cope with the pressures of work.

Lesson Ten: Cherish Family

Ruth cherished her husband, Marty, and her children. They grounded her and helped her carry on through difficult circumstances. Her family was a traditional family. But she understood that families come in many forms. Whatever kind of family you have, cherish it. The close ties between family members who love each other and are committed to each other are essential to a happy, healthy, and productive life.

CONCLUSION

Ruth Bader Ginsberg was a great advocate and a great jurist, who changed the way we think about equality and the place of women and disadvantaged groups in society. But she was also a great human being. We should read her opinions and speeches, to be sure. But we should also consider how she lived her life—with grace, dignity, and absolute integrity.