

# SHAKESPEARE *and* RBG

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William Shakespeare's insights into the human condition cannot be surpassed. He develops plots and themes and creates characters in his plays whose psychological and social interplays have fascinated readers for centuries. In this he is the quintessential master, and his perceptions are so keen as to make his dramatic works timeless and memorable. In *Henry VI*, Part II, act IV, Scene II, line 73, he famously announces through his character, Dick the Butcher, "The first thing we do, let's kill all the lawyers." Unfortunately for all of us, this line has been much misinterpreted and misconstrued through the years. Dick the Butcher was a follower of the rebel and rogue agitator, Jack Cade, who had designs on becoming king by any means necessary. Jack Cade's thinking was that if he disrupted and upended the social system of law and order (i.e., rid the land of all the lawyers), his pathway to the crown would be assured. Shakespeare's point was to recognize and laud the bar and bench, the lawyers and judges, for their roles in upholding the legal framework of the land and instilling justice in society.

Ruth Bader Ginsburg's life mission was to instill justice equitably in our society by galvanizing a strategy to right the wrongs that prevented her and so many others from enjoying the "equal" protections of the Fourteenth Amendment

regarding the issue of gender equality. Her motivation was driven by an unabating continuum of adverse personal experiences in the workplace. Yet, she had the wisdom, vision, and intelligence to set her sights high and fight for all gender equity, not just her own.

Ruth Bader was born in Brooklyn, New York in 1933. Her mother died the day before she graduated from public high school. She attended Cornell University on a full scholarship, and it was there that she met, and after graduation married, her husband of 56 years, Marty Ginsburg. They moved to Fort Sill, Oklahoma, so that he could fulfill his two-year military service obligation. RBG took a civil service examination and tested highly but was only offered the position of typist (a job she lost as soon as she became visibly pregnant).

After two years, RBG and her husband and infant child settled near Cambridge, Massachusetts where Marty had been accepted at Harvard Law School. RBG then applied to Harvard Law and was admitted a year later, in 1956. RBG was one of nine women in a class of more than 500 first-year law students. Even though she soon proved her academic star power, becoming the first woman ever to earn a place on the Harvard Law Review, the dean of the law school still felt compelled to ask her why she was taking a place that "should go to a man." During his

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third year of law school, Marty Ginsburg was diagnosed with testicular cancer which required surgeries and radiation. At the time RBG had a three-year-old toddler, her own class schedule, law review, and now also attended classes for her husband. RBG typed up the notes, along with Marty's senior thesis which he dictated to her late in the evenings, so that he could keep up with his classes and study from home while undergoing treatment. Marty recovered and graduated from Harvard Law School on time in 1958. Through it all, RBG never faltered or flailed, either academically or at home.

Because Marty Ginsburg received an attractive job offer from a Wall Street law firm, the Ginsburgs moved to New York City. RBG transferred to Columbia Law School, entering as one of 12 women in her 3L year. She graduated at the top of her class, tying for first place. Notwithstanding her outstanding academic credentials, not a single law firm to which RBG applied would hire her. And although she was highly recommended for a Supreme Court clerkship, she was not offered even the courtesy of an interview. Commensurate with the late 1950's-1960's attitudes regarding women in the law, and especially mothers in the law, pretenses were neither *de rigeur* nor considered facially necessary.

It took some serious intervention by a Columbia Law School professor and mentor, Gerald Gunther, to secure RBG a federal judicial clerkship with Judge Edmund Palmieri in the

Southern District of New York in 1959. Professor Gunther put it to Judge Palmieri this way: if you don't take RBG as your law clerk, I will never again send you another student of mine to fill your clerkship openings. And if she doesn't work out, I promise I will immediately send a student to fill her place. Apparently RBG "worked out" just fine; Judge Palmieri extended her clerkship an extra year, doubling the normal clerkship period of service in his chambers.

In 1963, RBG successfully applied for and accepted a teaching appointment at Rutgers Law School. In the interest of job security, she hid her second pregnancy by wearing oversized clothing. Her contract was renewed, but more importantly, it was at Rutgers that she embarked on her quest to champion gender equality and women's rights. Fueled by her own appalling discriminatory workplace experiences, she proved to be a most brilliant visionary and strategist. Her razor-sharp focus was on the language in the 14th Amendment which reads: "...nor shall any state deny to any person the equal protection of the laws." When RBG argued equal protection cases in the Supreme Court of the United States, she had the foresight to understand that the deciders were a group of educated men who truly did not understand that "any person" includes women as well as men, and that inequities existed both in the application of laws and/or within the scope of the laws themselves. She took it upon herself to calmly, rationally, logically, and articulately



Justice Ginsburg at the National Archives in 1993.

demonstrate the intrinsic problems brought about by disparate treatment of either gender in a manner in which the Justices were neither offended nor able to disagree. She argued successfully for the striking down of state laws which favored one gender over another, irrespective of whether the disfavored gender was a man or a woman. For example, RBG argued on behalf of men who were denied tax deductions women received for the care of their elderly parents, and on behalf of men who were denied widower Social Security benefits available to widows. "I ask no favor for my sex. All I ask of our brethren is that they take their feet off of our necks" (quoting abolitionist Sarah Moore Grimke). The reputation of this diminutive giant



Ruth Bader Ginsburg at her confirmation hearing

as a brilliant legal strategist and constitutional legal analyst, who won five of her six cases in the Supreme Court, was unparalleled.

In 1969, RBG became a tenured professor at Rutgers Law School. On January 1, 1972, Columbia Law School announced that RBG had accepted a faculty appointment as a tenured professor, making history again as the first woman ever to receive a tenured position at Columbia University. RBG became the Director of The Women’s Rights Project for the ACLU and worked relentlessly throughout the 1970’s to develop strategies and deliver results that would help correct targeted inequities caused by gender inequality.

In 1980, President Jimmy Carter appointed RBG to the United States Court of Appeals for the District of Columbia Circuit, where she forged her deep and lifelong friendship with then Judge Antonin Scalia, demonstrating her personal philosophy of respect for those with whom one may not always agree. Thirteen years later, President Bill Clinton nominated her to the United States Supreme Court as the second woman ever to hold that honor. Known over the years for her clear and precise opinions and dissents, her jabots and judicial lace collars, her practice of standing to announce her dissents, her love of opera, her touching fireside dialogues with Justice Antonin Scalia, her insistence on a personal regimen of physical fitness, her preference for Armani suits, and the fun she had with her “Notorious RBG” fame, there is no modern judicial officer who remotely comes close to having the personal and professional impact that this incredible woman has had on our nation’s citizenry.

Justice Ruth Bader Ginsburg spent her entire legal career advocating for equal protection and gender equality, not just for some, but for all. She is exactly the lawyer William Shakespeare, more than 400 years ago, praised as an esteemed member of a noble profession—one who undertakes to uphold the legal framework of the land and works to ensure justice for all citizens. And she is precisely whom Dick the Butcher and Jack Cade would have targeted for annihilation. Although Shakespeare in his day did not live to see women filling this prestigious role, there is no doubt that he would smile upon Justice Ruth Bader Ginsburg with great satisfaction and pride, appreciating her for all of her trailblazing legal endeavors and hard fought successes, for taking on and repairing pieces of the fractured fabric of our social structure, and for working tirelessly to instill social justice through our system of laws. William Shakespeare would have loved RBG, and if given the chance, would have immortalized her in his incomparable dramatic works as a heroine for the ages. Fortunately for us, she has done an excellent job of that all by herself.



**MONA K. MAJZOUB** retired from the federal bench after serving 16 years as a United States Magistrate Judge for the Eastern District of Michigan. Judge Majzoub returned to private practice, launching Mona K. Majzoub Dispute Resolutions PLLC, where she offers facilitative and evaluative mediation services. You may learn more about her professional background and practice at [www.mkmpllc.com](http://www.mkmpllc.com).