



# RUTH BADER GINSBURG +

## THE LEGACY OF THE LADY LAWYERS BEFORE HER

by Shreya Gulamali

### INSPIRING.

Whether it's her workout sessions, her masterfully chosen words in her dissents, or even her enduring love story with Marty, Ruth Bader Ginsburg inspires even those who disagree with her politics. Her unabashed, relentless defense of women's rights in American history, however, is something that all people (male and female) should applaud. History tells us the path paved by RBG started with so many other women who happened to be from a different era.

It wasn't long ago that a woman couldn't do much of anything outside her home less we forget. For decades, American women were denied the most basic civil rights. Women could not work without her husband's consent, and if allowed the privilege of working, she surely could not control the money she earned from her work. Women could not enter into contracts. Now let me be clear – it wasn't technically all women who were denied these rights. A single woman could enjoy these basic civil liberties, but once a woman was married, those rights belonged to her husband. So, the natural question arose – how could a woman become a lawyer if certain classes of women (married) couldn't even enter into a simple contract by themselves?

### LET'S START WITH TEXAS ON THAT ISSUE.

The Texas Congress adopted the common law practice of prohibiting married women from entering into contracts back in 1840.<sup>i</sup> In fact, all states held that view, or at least until women came in to challenge those laws. In 1870, Ada Kepley, the first woman to graduate from law school in America, was denied a law license. She summed up her frustration by saying, "America, which boasted to the rest of the world to be 'the land of the free and the home of the brave'.... gave no freedom to women. I work as hard as a man, I earn money like a man, and am robbed as a woman! I have no voice in anything or in saying how my money, which I have earned, shall be spent. The men ... run their hands in my pockets, take my hard-earned money, and say impertinently, 'What are you going to do about it?'"<sup>ii</sup> In 1873, the United States Supreme Court in *Bradwell* answered that question by, well frankly, doing nothing and declaring to all that the right for women to practice law was left up to each individual state.<sup>iii</sup>

### SLOWLY, STATE BY STATE, WOMEN FOUGHT BACK IN THE LATE 1800'S.

## THESE INITIAL LADY LAWYERS DIDN'T HAVE IT EASY THOUGH.

Trailblazers like Charlotte Fraim (the first African American Woman Lawyer in 1872) had to enroll at Howard University's Law School under a disguised name of C.E. Fraim to hide her gender.<sup>iv</sup> Despite her success, her law degree and D.C. bar admission meant little. Like so many other women of that time, lady lawyers had had difficulty attracting clients, and surely being a minority lawyer didn't help either. So, she took her hustle elsewhere and in 1879 became a teacher at Brooklyn public schools.

Clara Foltz was another relentless leader for lady lawyers. Clara's husband left her during a financial depression in 1876 with 5 kids to support.<sup>v</sup> She evaluated the deck that life had dealt her and did what most women do best – hustle. She authored a bill so she could become the first female lawyer on the west coast in 1878. As a female criminal defense trial attorney at one of her first trials, the DA argued to the jury that her sex rendered her “incapable of reason.”<sup>vi</sup> Despite her hurdles, Clara birthed the idea of a public defender which she presented at the 1893 Chicago World's Fair, 80 years before *Gideon v. Wainwright* in 1963.

In 1911, the Texas legislature moved a tiny inch by allowing married women who work to enter into contracts, but only if her husband allowed it.<sup>vii</sup> This small gain paved the way for female Texans like Hortense Sparks, who in 1910 became the first female lawyer in Texas<sup>viii</sup> after working as a Harris County court reporter.<sup>ix</sup> Hortense went on to help women gain control over their own bank accounts in 1913 and then became the first woman in Harris County to register to vote in 1918 (two years before the U.S. Constitution's 19th Amendment).<sup>x</sup>

## BY 1940, HOUSTON HAD A WHOPPING TWENTY-ONE LADY LAWYERS IN THE CITY!<sup>xi</sup>

While women could not even serve on juries until 1954,<sup>xii</sup> the 1950's was the stirring of a female revolution. In the climate of Rosa Parks in 1955, Ruth Bader Ginsburg enrolled in Harvard Law in 1956 as one of only 9 women in her class of 500 men. She later transferred to Columbia Law when her husband took a job in New York City, and she was the first woman to be on two major law reviews. She graduated tied for first in her class in 1959.

At this same time, our Texas Bar welcomed Jo Keegans in 1957 after she graduated from South Texas Law.

Rachel D. Fischer BSN, RN, SANE-A, SANE-P

## Legal Nurse Consultant

*I make your job as an attorney easier by taking the reigns on the medical aspect of your cases; Including but not limited to:*

- Sexual Assault
- Strangulation
- Domestic Violence
- Human Trafficking
- Abuse
- Expert Forensic Medical Review
- Consulting and Testimony
- Mitigation Reports

[www.legalRNconsult.org](http://www.legalRNconsult.org)

F4ischer@gmail.com

586.255.8029





Jo later became the first woman to serve as a criminal district court judge in Texas in 1977 in a field of all male judges!<sup>xiii</sup> Meanwhile, Ruby Sondock laid the groundwork for women at The University of Houston Law Center by graduating as Valedictorian of her 1962 Class and later garnering many firsts, such as the first female appointed as a state District Judge in Harris County and the first female to serve on the Texas Supreme Court.<sup>xiv</sup> Every step these ladies took was unlike their male counterparts, but these icons paved the way with class and ridiculous talent.

**IMAGINE TAKING THE BAR EXAM IN THE 1950'S AUSTIN HEAT WITH YOUR TYPEWRITER IN HAND WEARING A GIRDLE, PANTY HOSE, AND HIGH HEELS.<sup>xv</sup>**

It took until 1967 for Texas to recognize women's equal legal rights through the Texas Marital Property Bill.<sup>xvi</sup> 1967. Let that settle in. Before then, women could enjoy civil liberties with an asterisk of "if her husband allows it" or "only if her husband controls her money." After 1967, Texas women could freely and independently work as lawyers, just like men had been doing for nearly 200 years. All the while during this time of new independent female lawyers, RBG was fighting for women's rights as general counsel for the ACLU in 1973 and arguing six gender discrimination cases before the Supreme Court. She won five out of those six cases.

**SINCE THEN, WOMEN STEPPED UP AND HAVE HELPED EACH OTHER CHIP AWAY AT THE BLOCK OF GENDER DISCRIMINATION.**

RBG once gave credit by saying, "I would not hold the good job I have today if it were not for Barbara [Babcock]",



who was a criminal law professor at Stanford Law and helped appoint more women and minorities to benches as head of the U.S. Department of Justice's Civil Division in the late 1970s. Ruth Bader Ginsburg was appointed to the U.S. Supreme Court by President Bill Clinton in 1993, and between 1994 – 2020, RBG has interpreted the Equal Protection Clause of the Constitution to fight laws relying on the outdated ideas of the legal, social, and economic inferiority of women. During RBG's tenure as Justice from 1994 – 2020, lady lawyers who used to represent only 20% of the Texas Bar have grown to represent 37% of the Texas legal field in 2020.<sup>xvii</sup>

RBG used her voice on the Court to fight for women's right to access safe and legal abortions<sup>xviii</sup>, for voting rights<sup>xix</sup>, and for a strict separation of church and state<sup>xx</sup>, but perhaps her strongest advocacy for women's right to excel was in 1996 as she struck down an all-male admission school policy for being "presumptively invalid ... a law or official policy that denies to women, simply because they are women, equal opportunity to aspire, achieve, participate in, and contribute to society, based upon what they can do."<sup>xxi</sup> In 2007, she went on to fight for women's rights to equal pay by crafting a brilliant dissent in Ledbetter v. Goodyear, but sadly as late as 2018, lady lawyers only earn 80% of their male attorney counterparts in America.<sup>xxii</sup>

**RBG AND THE LADY LAWYERS BEFORE HER AREN'T MERE NOTATIONS IN A HISTORY BOOK; THEIR LEGACY IS BEING CREATED EVERY DAY NOW IN OUR COURTS.**

The stories evolution of strong, brilliant lady lawyers, and dare I say – of female criminal defense attorneys, are no brighter anywhere else than in Harris County, Texas. I still remember interning for Justice Tim Taft

**RON** DEMOCRAT  
**CAMPANA**  
**FOR JUSTICE OF THE PEACE**  
PRECINCT 1 - PLACE 2

of the First Court of Appeals in the summer of 2004 during law school and walking past Judge Elsa Alcalá's office, not realizing that she would soon become the first Latina Texan to serve on our Texas Criminal Court of Appeals in 2011. And once upon a time when I started my criminal career as a prosecutor, I thought the notion of a female Harris County District Attorney was quite unlikely, but then came Pat Lykos in 2009. Whether you agree or disagree with the political views held by these women, they are undeniably part of the history we are living. Every time we walk through the CJC, there are women creating history, pushing boundaries, and questioning the norms.

Despite the heavy sadness that weighed on me after RBG passed, I look back at her legacy and am left with one last thought. I simply cannot wait to see the inspirational women who will pick up her torch and shake up our legal world next! So, to all the lady lawyers out there who have been called "honey" or "assistant" in court, just remember RBG's words "women belong in all places where decisions are being made."

**IN CLASSIC RBG STYLE, SHAKE IT OFF AND BRING IT ON! HELL HATH NO FURY LIKE A WOMAN FIGHTING FOR JUSTICE IN THE TRENCHES OF A COURTROOM!**

- i <https://www.tshaonline.org/handbook/entries/women-and-the-law>
- ii See <https://www.womenhistoryblog.com/2014/07/ada-kepley.html> for excerpt of Ada Kepley's statement when she resigned from the Prohibition Party because the women's suffrage plank was eliminated.
- iii *Bradwell v. State of Illinois*, 83 U.S. 130 (1873). Please note in 1879: A law was enacted allowing qualified female attorneys to practice in any federal court in the United States, and Belva Lockwood became the first woman to argue before the United States Supreme Court.
- iv <https://www.attorneys-advantage.com/Risk-Management/Americas-First-Women-in-Law>
- v Barbara Allen Babcock, *Inventing the Public Defender*, 43 *American Criminal Law Review* 1267 (2006).
- vi Clara Shortridge Foltz, *Struggles and Triumphs of a Woman*
- vii <https://www.tshaonline.org/handbook/entries/women-and-the-law>
- viii There is some evidence that Joyce M. Burg was the first female lawyer in Houston after graduating from the University of Texas Law School in 1926. But history revealed Mrs. Burg couldn't find work in Texas so left for New York, only to return in 1933. See <https://www.endowments.giving.utexas.edu/joyce-m-burg-class-of-1926-endowed-presidential-scholarship-in-law/>
- ix <https://www.houstonchronicle.com/local/gray-matters/article/hortense-sparks-ward-first-woman-vote-houston-13027766.php>
- x <https://www.houstonchronicle.com/local/gray-matters/article/hortense-sparks-ward-first-woman-vote-houston-13027766.php>
- xi *Rough Road to Justice: The Journey of Women Lawyers in Texas*. By: Betty Trapp Chapman. 2008.

- xii "Women Were Kept Off Texas Juries Until 1954" By: Chris Daniels in *Houston Chronicle* August 11, 2014.
- xiii <http://www.stcl.edu/library/archive-images/state-district-court-judge-nettie-joe-kegans/>
- xiv <https://legacy.lib.utexas.edu/taro/uhsc/00160/00160-P.html>
- xv *Rough Road to Justice: The Journey of Women Lawyers in Texas*. By: Betty Trapp Chapman. 2008.
- xvi 1967 Marital Property Act
- xvii [https://www.texasbar.com/AM/Template.cfm?Section=Demographic\\_and\\_Economic\\_Trends](https://www.texasbar.com/AM/Template.cfm?Section=Demographic_and_Economic_Trends)
- xviii See *Hellerstedt*. 136 S. Ct. 2292. 2016.
- xix See *Holder*, 557 U. S. 193. 2013.
- xx See *Humanist Society*, 139 S. Ct. 2067. 2019. See dissent.
- xxi RBG struck down the all-male admission system of Virginia Military Institute in *U.S. v. Virginia* see <https://www.usatoday.com/story/news/politics/2020/09/18/i-dissent-justice-ruth-bader-ginsburgs-most-memorable-opinions/2661426002/>
- xxii A Current Glance at the Women in the Law, April 2019, American Bar Association. <https://www.americanbar.org/groups/diversity/women/resources/statistics/>



*Shreya Gulamali is criminal defense attorney in Harris County, Texas. She has actively been involved in criminal law in Harris County since graduating from the University of Houston Law Center in 2006. Mrs. Gulamali served as an Assistant District Attorney for Harris County from 2007 through 2011. Since 2011, Mrs. Gulamali has zealously been advocating for her clients, with an emphasis on indigent defense in Harris County, Texas. Mrs. Gulamali is also a wife and mother of twin seven year old daughters.*

**KEEP JUDGE**  
**AMY MARTIN**  
263<sup>RD</sup> DISTRICT COURT

**GRACE**

a charity for the  
defense of the indigent  
NEVER ANOTHER SLEEPING LAWYER  
[gracelaw.org](http://gracelaw.org)