The Phyllis Schlafly Report

VOL. 26, NO. 12, Section 1 | Box 618, ALTON, ILLINOIS 62002 | JULY 1993

Ruth Bader Ginsburg's Feminist World View

How does it happen that a Supreme Court nominee whose only experience in private law practice was seven years as general counsel to the ACLU came to be praised by almost everyone as a "moderate" and a "centrist"?

My theory is: This just proves how easily men are fooled by a skirt. They deduced that Ruth Bader Ginsburg is "moderate" because she isn't a loud-mouthed, frizzy-haired, bra-burning, street demonstrator.

In fact, Ginsburg's writings betray her as a radical, doctrinaire feminist, far out of the mainstream. She shares the chip-on-the-shoulder, radical feminist view that American women have endured centuries of oppression and mistreatment from men. That's why, in her legal writings, she self-identifies with feminist Sarah Grimke's statement, "All I ask of our brethren is that they take their feet off our necks," and with feminist Simone de Beauvoir's put-down of women as "the second sex." (De Beauvoir's most famous quote is, "Marriage is an obscene bourgeois institution.")

A typical feminist, Ruth Bader Ginsburg wants affirmative action quota hiring for career women but at the same time wants to wipe out the special rights that state laws traditionally gave to wives.

In a speech published by the Phi Beta Kappa *Key Reporter* in 1974, Ginsburg called for affirmative action hiring quotas for career women, using the police as an example in point. She said, "Affirmative action is called for in this situation."

On the other hand, she considered it a setback for "women's rights" when the Supreme Court, in *Kahn v. Shevin* (1974), upheld a Florida property tax exemption for widows. Ginsburg disdains what she calls "traditional sex roles" and demands strict gender neutrality (except, of course, for quota hiring of career women).

Ginsburg's real claim to her status as the premier feminist lawyer is her success in winning the 1973 Supreme Court case *Frontiero v. Richardson*, which she unabashedly praised as an "activist" decision. She obviously shares the view of Justice William Brennan's opinion that American men, "in practical effect, put women, not on a pedestal, but in a cage," and that "throughout much of the 19th century the position of women in our society was, in many respects, comparable to that of blacks under the pre-Civil War slave codes."

Anyone who thinks that American women in the 19th century were treated like slaves, and in the 20th century were kept in a "cage," has a world view that is downright dangerous to have on the U.S. Supreme Court. She's another Brennan, and no conservative should vote to confirm her.

Of course, Ginsburg passed President Clinton's self-proclaimed litmus test for appointment to the Supreme Court — she is "pro-choice." But that's not all; she wants to write taxpayer funding of abortions into the U.S. Constitution, something that 72% of Americans oppose and even the pro-abortion, pro-*Roe v. Wade* Supreme Court refused to do.

It has been considered settled law since the Supreme Court decisions in a trilogy of cases in 1977 (*Beal v. Doe*, *Maher v. Roe*, and *Poelker v. Doe*) that the Constitution does not compel states to pay for abortions. These cases were followed by the 1980 Supreme Court decision of *Harris v. McRae* upholding the Hyde Amendment's ban on spending federal taxpayers' money for abortions. The Court ruled that "it simply does not follow that a woman's freedom of choice [to have an abortion] carries with it a constitutional entitlement to the financial resources to avail herself of the full range of protected choices."

Ginsburg has planted herself firmly in opposition to this settled law. In a 1980 book entitled *Constitutional Government in America*, Judge Ginsburg wrote a chapter endorsing taxpayer funding of abortions as a constitutional right and condemning the high Court's rulings.

"This was the year the women lost," Ginsburg wrote in her analysis of the 1977 cases. "Most unsettling of the losses are the decisions on access by the poor to elective abortions." Criticizing the 6-to-3 majority in the funding cases, Ginsburg asserted that "restrictions on public funding and access to public hospitals for poor women" were a retreat from *Roe v. Wade*, as well as a "stunning curtailment" of women's rights.

The phony "concern" expressed by pro-abortion lobbyists like Kate Michelman is just a smokescreen. Ginsburg's article criticizing *Roe v. Wade*, which has received some attention since her nomination, merely complained that the Court didn't adopt the "women's equality" theory that she had personally developed in the 1970s. Ginsburg's article was not a legal criticism, but a political one: if the Court had been less categorical in its *Roe* language, she said, it would not have provoked the "well-

organized and vocal right-to-life movement." Ginsburg preferred to legalize abortion with arcane and obtuse legal gobbledegook that didn't agitate the grassroots.

Feminists Want to Change Our Laws

Ruth Bader Ginsburg is a longtime advocate of the extremist feminist notion that any differentiation whatsoever on account of gender should be unconstitutional. Her radical views are made clear in a book called *Sex Bias in the U.S. Code*, which she co-authored in 1977 with another feminist, Brenda Feigen-Fasteau, for which they were paid with federal funds under Contract No. CR3AK010.

Sex Bias in the U.S. Code, published by the U.S. Commission on Civil Rights, was the source of the claim widely made in the 1970s that 800 federal laws "discriminated" on account of sex. The 230-page book was written to identify those laws and to recommend the specific changes demanded by the feminist movement in order to conform to the "equality principle" and promote ratification of the Equal Rights Amendment, for which Ginsburg was a fervent advocate. (The ERA died in 1982.)

Sex Bias in the U.S. Code is a handbook which shows how the feminists want to change our laws, our institutions and our attitudes, and convert America into a "gender-free" society. It clearly shows that the feminists are not trying to redress any legitimate grievances women might have, but want to change human nature, social mores, and relationships between men and women — and want to do that by changing our laws. Despite the noisy complaints of the feminists about the oppression of women, a combing of federal laws by Ruth Bader Ginsburg, then a Columbia University Law School professor, and her staff under a federal grant of tax dollars, unearthed no federal laws that harm women! The feminists' complaints about "discriminatory laws" are either ridiculous or offensive.

Here are some of the extremist feminist concepts from the Ginsburg book, *Sex Bias in the U.S. Code*:

. . . in the Family

1. The traditional family concept of husband as breadwinner and wife as homemaker must be eliminated.

"Congress and the President should direct their attention to the concept that pervades the Code: that the adult world is (and should be) divided into two classes — independent men, whose primary responsibility is to win bread for a family, and dependent women, whose primary responsibility is to care for children and household. This concept must be eliminated from the code if it is to reflect the equality principle." (p. 206)

"It is a prime recommendation of this report that all legislation based on the breadwinning, husband-dependent, homemaking-wife pattern be recast using precise functional description in lieu of gross gender classification." (p. 212)

"A scheme built upon the breadwinning husband [and] dependent homemaking wife concept inevitably treats the woman's efforts or aspirations in the economic sector as less important than the man's." (p. 209)

2. The Federal Government must provide comprehensive government child-care.

"The increasingly common two-earner family pattern should impel development of a comprehensive program of government-supported child care." (p. 214)

3. The right to determine the family residence must be taken away from the husband.

"Title 43 provisions on homestead rights of married couples are premised on the assumption that a husband is authorized to determine the family's residence. This 'husband's prerogative' is obsolete." (p. 214)

4. Homestead law must give twice as much benefit to couples who live apart from each other as to a husband and wife who live together.

"Married couples who choose to live together would be able to enter upon only one tract at a time." (p. 175) "Couples willing to live apart could make entry on two tracts." (p. 176)

5. No-fault divorce must be adopted nationally.

"Consideration should be given to revision of 38 U.S.C. §101(3) to reflect the trend toward no-fault divorce." (p. 159) "Retention of a fault concept in provisions referring to separation . . . is questionable in light of the trend away from fault determinations in the dissolution of marriages." (pp. 214-215)

6. The government must provide "paternity" leave for childrearing as well as maternity leave.

"A provision of Title 20 (§904) authorizes 'maternity' leave. To the extent that leave is authorized for childrearing as distinguished from childbearing, fathers as well as mothers should be eligible." (p. 213)

7. The role of motherhood must be restricted to the very few months in which a woman is pregnant and nursing her baby, because having a baby is just a temporary disability (like breaking a leg, which requires a six-week cast). Mothers are not entitled to any special benefits or protections for motherhood responsibilities beyond those limited weeks.

"The references are to 'maternal' health or welfare and 'mothers.' Those terms would be appropriately descriptive only if the programs involved were confined to care for pregnant women and lactating mothers." (p. 212)

8. The law must not assume that a woman takes her husband's name upon remarriage.

"38 U.S.C. §3020 prohibits delivery of benefit checks to 'widows' [of veterans] whom the postal employee believes to have remarried, 'unless the mail is addressed to such widow in the name she has acquired by her remarriage.' As written, the provision implies that women automatically acquire a new name upon remarriage, an implication inconsistent with current law and the equality principle." (p. 156)

. . . in the Military

1. Women must be drafted when men are drafted.

"Supporters of the equal rights principle firmly reject draft or combat exemption for women, as Congress did when it refused to qualify the Equal Rights Amendment by incorporating any military service exemption. The equal rights principle implies that women must be subject to the draft if men are, that military assignments must be made on the basis of individual capacity rather than sex." (p. 218)

"Equal rights and responsibilities for men and women implies that women must be subject to draft registration . . ." (p. 202)

2. Women must be assigned to military combat duty.

"Until the combat exclusion for women is eliminated, women who choose to pursue a career in the military will continue to be held back by restrictions unrelated to their individual abilities. Implementation of the equal rights principle requires a unitary system of appointment, assignment, promotion, discharge, and retirement, a system that cannot be founded on a combat exclusion for women." (p. 26)

3. Affirmative action must be applied to equalize the number of men and women in the armed services.

"The need for affirmative action and for transition measures is particularly strong in the uniformed services." (p. 218)

. . . *in Moral Standards*

1. The age of consent for sexual acts must be lowered to 12 years old.

"Eliminate the phrase 'carnal knowledge of any female, not his wife, who has not attained the age of 16 years' and substitute a federal, sex-neutral definition of the offense. . . . A person is guilty of an offense if he engages in a sexual act with another person, . . . [and] the other person is, in fact, less than 12 years old." (p. 102)

2. Bigamists must have special privileges that other felons don't have.

"This section restricts certain rights, including the right to vote or hold office, of bigamists, persons 'cohabiting with more than one woman,' and women cohabiting with a bigamist. Apart from the male/female differentials, the provision is of questionable constitutionality since it appears to encroach impermissibly upon private relationships." (pp. 195-196)

3. Prostitution must be legalized; it is not sufficient to change the law to sex-neutral language.

"Prostitution proscriptions are subject to several constitutional and policy objections. Prostitution, as a consensual act between adults, is arguably within the zone of privacy protected by recent constitutional decisions." (p. 97)

"Retaining prostitution business as a crime in a criminal code is open to debate. Reliable studies indicate that prostitution is not a major factor in the spread of venereal disease, and that prostitution plays a small and declining role in organized crime operations." (p. 99)

"Current provisions dealing with statutory rape, rape, and prostitution are discriminatory on their face. . . . There is a growing national movement recommending unqualified decriminalization [of prostitution] as sound policy, implementing equal rights and individual privacy principles." (pp. 215-216)

4. The Mann Act must be repealed; women should not be protected from "bad" men.

"The Mann Act . . . prohibits the transportation of women and girls for prostitution, debauchery, or any other immoral purpose. The act poses the invasion of privacy issue in an acute form. The Mann Act also is offensive because of the image of women it perpetuates. . . . It was meant to protect from 'the villainous interstate and international traffic in women and girls,' 'those women and girls who, if given a fair chance, would, in all human probability, have been good wives and mothers and useful citizens. . . . The act was meant to protect weak women from bad men." (pp. 98-99)

5. Prisons and reformatories must be sex-integrated.

"If the grand design of such institutions is to prepare inmates for return to the community as persons equipped to benefit from and contribute to civil society, then perpetuation of single-sex institutions should be rejected. . . . 18 U.S.C. §4082, ordering the Attorney General to commit convicted offenders to 'available suitable, and appropriate' institutions, is not sex discriminatory on its face. It should not be applied . . . to permit consideration of a person's gender as a factor making a particular institution appropriate or suitable for that person." (p. 101)

6. In the merchant marine, provisions for passenger accommodations must be sex-neutralized, and women may not have more bathrooms than men.

"46 U.S.C. §152 establishes different regulations for male and female occupancy of double berths, confines male passengers without wives to the 'forepart' of the vessel, and segregates unmarried females in a separate and closed compartment. 46 U.S.C. §153 requires provision of a bathroom for every 100 male passengers for their exclusive use and one for every 50 female passengers for the exclusive use of females and young children." (p. 190)

"46 U.S.C. §152 might be changed to allow double occupancy by two 'consenting adults.' . . . Requirements for separate bathroom facilities stipulated in Section 153 should be retained but equalized so that the ratio of persons to facility is not sex-determined." (p. 192)

. . . *in Education*

1. Single-sex schools and colleges, and single-sex school and college activities must be sex-integrated.

"The equal rights principle looks toward a world in which men and women function as full and equal partners, with artificial barriers removed and opportunity unaffected by a person's gender. Preparation for such a world requires elimination of sex separation in all public institutions where education and training occur." (p. 101)

2. All-boys' and all-girls' organizations must be sex-integrated because separate-but-equal organizations perpetuate stereotyped sex roles.

"Societies established by Congress to aid and educate young people on their way to adulthood should be geared toward a world in which equal opportunity for men and women is a fundamental principle. The educational purpose would be served best by immediately extending membership to both sexes in a single organization." (pp. 219-220)

3. Fraternities and sororities must be sex-integrated.

"Replace college fraternity and sorority chapters with college 'social societies.'" (p. 169)

4. The Boy Scouts, the Girl Scouts, and other Congressionally-chartered youth organizations, must change their names and their purposes and become sex-integrated.

"Six organizations, which restrict membership to one sex, furnish educational, financial, social and other assistance to their young members. These include the Boy Scouts, the Girl Scouts, Future Farmers of America . . . , Boys' Clubs of America . . ., Big Brothers of America . . . , and the Naval Sea Cadets Corps. . . . The Boy Scouts and Girl Scouts, while ostensibly providing

'separate but equal' benefits to both sexes, perpetuate stereotyped sex roles to the extent that they carry out congressionally-mandated purposes. 36 U.S.C. §23 defines the purpose of the Boy Scouts as the promotion of '. . . the ability of boys to do things for themselves and others, to train them in scoutcraft, and to teach them patriotism, courage, self-reliance, and kindred virtues. . . .' The purpose of the Girl Scouts, on the other hand, is '. . . to promote the qualities of truth, loyalty, helpfulness, friendliness, courtesy, purity, kindness, obedience, cheerfulness, thriftiness, and kindred virtues among girls, as a preparation for their responsibilities in the home and for service to the community. . . ' (36 U.S.C. §33.)" (pp. 145-146)

"Organizations that bestow material benefits on their members should consider a name change to reflect extension of membership to both sexes . . . [and] should be revised to conform to these changes. Review of the purposes and activities of all these clubs should be undertaken to determine whether they perpetuate sex-role stereotypes." (pp. 147-148)

5. The 4-H Boys and Girls Clubs must be sex-integrated into 4-H Youth Clubs.

"Change in the proper name '4-H Boys and Girls Clubs' should reflect consolidation of the clubs to eliminate sex segregation, *e.g.*, '4-H-Youth Clubs.'" (p. 138)

6. Men and women should be required to salute the flag in the same way.

"Differences [between men and women] in the authorized method of saluting the flag should be eliminated in 36 U.S.C. §177." (p. 148)

. . . *in Language*

1. About 750 of the 800 federal laws that allegedly "discriminate" on account of sex merely involve the use of so-called "sexist" words which the ERAers wanted to censor out of the English language. "The following is a list of specific recommended word changes" which the feminists want censored out of Federal laws (pp. 15-16, 52-53).

Words To Be Removed	Words To Be Substituted
manmade	artificial
man, woman	person, human
mankind	humanity
manpower	human resources
husband, wife	spouse
mother, father	parent
sister, brother	sibling
paternity	parentage
widow, widower	surviving spouse
entryman	enterer
serviceman	servicemember
midshipman	midshipperson
longshoremen	stevedores
postmaster	postoffice director
plainclothesman	plainclothesperson
watchman	watchperson
lineman	line installer, line maintainer
businessman	businessperson
duties of seamanship	nautical or seafaring duties
"to man" (a vessel)	to staff
she, her (reference to ship)	it, its
he or she	he/she
her or him	her/him
hers or his	hers/his

Sex Bias even demands bad grammar to appease the feminists: "All federal statutes, regulations, and rules shall [use] plural constructions to avoid third person singular pronouns." (pp. 52-53)

2. In another piece of silliness, *Sex Bias* demands that Congress create a female anti-litter symbol to match "Johnny Horizon."

"A further unwarranted male reference . . . regulates use of the 'Johnny Horizon' anti-litter symbol. . . . This sex stereotype of the outdoorsperson and protector of the environment should be supplemented with a female figure promoting the same values. The two figures should be depicted as persons of equal strength of character, displaying equal familiarity and concern with the terrain of our country." (p. 100)

3. On the other hand, *Sex Bias* shows its hypocrisy by demanding that the "Women's Bureau" in the U.S. Department of Labor be continued. Although the authors admit that this is "inappropriate" (it is obviously sex discriminatory), they simply demand it anyway. "The Women's Bureau is . . . a necessary and proper office for service during a transition period until the equal rights principle is realized." (p. 221)

4. *Sex Bias in the U.S. Code* makes a fundamental error in stating: "The Constitution, which provides the framework for the American legal system, was drafted using the generic term 'man'." (p. 2) The word "man" does not appear in the U.S. Constitution (except in a no-longer-operative section of the 14th Amendment, which is not in effect now and was not in effect when the Constitution was "drafted"). The U.S. Constitution is a beautiful sex-neutral document. It exclusively uses sex-neutral words such as person, citizen, resident, inhabitant, President, Vice President, Senator, Representative, elector, Ambassador, and minister, so that women enjoy every constitutional right that men enjoy — and always have.

Sex Bias in the U.S. Code proves that Ruth Bader Ginsburg's "equality principle" would bring about extremist changes in our legal, political, social, and educational structures. The feminists are working hard — with our tax dollars — to bring this about by constitutional mandate (through the Equal Rights Amendment) *or* by legislative changes *or* by judicial activism. Ruth Bader Ginsburg has been their premier lawyer for two decades.

Finally, who but an embittered feminist could have said what Ruth Bader Ginsburg said when she stood beside President Clinton in the Rose Garden the day of her nomination for the Supreme Court: She wished that her mother had "lived in an age when daughters are cherished as much as sons." Where in the world has Ginsburg been living? In China? In India? Her statement was an insult to all American parents who do, indeed, cherish their daughters as much as their sons.

The Phyllis Schlafly Report
Box 618, Alton, Illinois 62002
ISSN0556-0152

Published monthly by the Eagle Trust Fund, Box 618, Alton, Illinois 62002. Second Class Postage Paid at Alton, Illinois. Postmaster: Address Corrections should be sent to the Phyllis Schlafly Report, Box 618, Alton, Illinois 62002.

Subscription Price: $20 per year. Extra copies available: 50¢ each; 3 copies $1; 30 copies $5; 100 copies $10.