Oral History of Justice Ruth Bader Ginsburg

This interview is being conducted on behalf of the Oral History Project of The Historical Society of the District of Columbia Circuit. The interviewer is Dr. Maeva Marcus, and the interviewee is Justice Ruth Bader Ginsburg. The interview took place in Justice Ginsburg's Supreme Court Chambers on August 15, 1995. This is the second interview.

Dr. Marcus: It's nice to be back here again, Justice Ginsburg. If you remember, after we stopped recording last time, it happened to be the day that President [Bill] Clinton announced his anti-teenage smoking initiative, and we started to talk about smoking. You said you would tell me a story about smoking.

Justice Ginsburg: Yes.

Dr. Marcus: You had smoked?

Justice Ginsburg: Yes. From the age of thirteen, when I was in the eighth grade. I had thought that smoking was a dirty, disgusting habit, and I told my friends I would have nothing to do with cigarettes. My father smoked, and I didn't particularly like the smell. My mother never did. Then my friends said to me, "You're just a sissy. You would probably choke if you tried to smoke." And I said, "No, I wouldn't. I don't smoke because I think it's a bad habit." Then I took a cigarette and did not choke. I had a sense of tremendous euphoria. That's how it began. There were no ad campaigns, there was no Surgeon General telling teenagers how risky smoking is. It wasn't until years later that sustained publicity started informing us about the danger, the health risks. So I smoked from 1946 until 1984.

Dr. Marcus: That's a very long time. Do you miss it? I'm curious.

Justice Ginsburg: I wouldn't dare take a cigarette now, because I'm afraid I'd be hooked again. Cigarettes are highly addictive, and anyone who pretends they're not is just deceiving herself.

Dr. Marcus: And did Marty approve of this?

Justice Ginsburg: He disapproved strongly. But one day, when we were living in New York, after we'd been married for more than four years, he said, "If you don't stop smoking, I'm going to start." And I said, "If you want to do something as foolish as that, go ahead." He started and became hooked even worse than I was. But he didn't smoke until after his graduation from law school.

Dr. Marcus: So you both stopped together?

Justice Ginsburg: Yes.

Dr. Marcus: You must have been fun to live with. [Laughter]

Justice Ginsburg: We stopped during the summer of 1984, when we were teaching in Salzburg. We thought, if we would ever do it, that would be the time. We were staying in a beautiful area and didn't have the pressure of our daily occupations. We were there for three weeks, and succeeded in stopping with the aid of Nicorette gum.

Dr. Marcus: That's good that you were able to do it in that short a time. I never would have suspected that you smoked, except, as I told you, I saw that picture in the book where I thought there was a cigarette in your hand. It stunned me, actually. So that's very interesting to note you started and stopped.

If you remember, last time we finished with graduation from

college, and marriage, and your trip to Europe, I believe, after graduation. Then you were on your way to Oklahoma, you told me.

Justice Ginsburg: Fort Sill, Oklahoma, where we lived for close to two years in Artillery Village.

Dr. Marcus: Artillery Village.

Justice Ginsburg: Artillery Village was a Wherry housing complex, on-post housing, mainly for married officers. I had my first job with the government in Fort Sill, Oklahoma, working for the post engineer troop supply office in a GS-2 position, as an inventory clerk.

Dr. Marcus: And I think also you had a baby there. How soon after?

Justice Ginsburg: My daughter was born in the summer of 1955, in July 1955. I left Oklahoma about a month before she was born, to stay with Marty's family in Rockville Centre, New York. Jane was born in Doctors Hospital in Freeport, Long Island. I was concerned about giving birth in Oklahoma, because the obstetrician I consulted there told me it looked like a tubal pregnancy, which should be terminated. I went back to New York to be checked by a doctor trusted by my in-laws. It was an entirely normal pregnancy. I did have an ovarian cyst, which was removed the next year. When daughter Jane was five weeks old, we returned to Oklahoma.

Dr. Marcus: Did you work up until the time you left for New York?

Justice Ginsburg: Yes. By then I was working for the local Social Security office. I had taken a government exam that qualified me to be a GS-5. But when I reported for work at the Social Security office and told the office head I

was three months pregnant, he said, "Of course we can't place you in a GS-5 post, because you can't go to Baltimore for training. So we will take you on as a GS-2." I accepted that decision and didn't ask any questions. I also agreed that I would leave when my child was about to be born. That's the way things were.

Dr. Marcus: They didn't make you leave too much earlier, then? There wasn't any rule that said you had to leave when you were five months pregnant?

Justice Ginsburg: No, but it was understood that after childbirth, you would not come back.

Dr. Marcus: Oh, really?

Justice Ginsburg: Yes.

Dr. Marcus: After you had the baby, that was it?

Justice Ginsburg: I could return only as a new applicant. I could not retain the slot I had.

Dr. Marcus: What was life like in Oklahoma? Was it a great shock to you as a New Yorker?

Justice Ginsburg: Yes, it was. We were in Oklahoma from 1954 to 1956, just after *Brown v. Board of Education* was decided. The post school was integrated. The schools in the surrounding communities were not. When we drove into the town of Lawton, Oklahoma, we passed a sign. I thought it read "Jack White's Café." In fact, it said "Jack's White Cafe." That was the first time I encountered so stark a symbol of racial segregation.

I later came to comprehend that racial discrimination in the area was less severe than discrimination against Native Americans. Oklahoma had poor Indians and it had wealthy Indians. The wealthy Indians lived

where oil was discovered. In the area around Fort Sill, the Indians were not well-to-do. They were very poor and were treated worse than any other minority group. They had their own reservation schools, and they didn't mix with the people at the base. The conditions of their life were so low.

In dealing with Social Security claims, if a Native American came to the office and said, "I'm sixty-five," and brought along a fishing license as proof, and the person looked sixty-five to me, I would put the application through. But some of the regulars in the office made these people come back, week after week, with further proof of age. They didn't have birth certificates to show how old they were. There was a very mean streak in the way they were treated.

One of the best things about spending nearly two years in Fort Sill, we had ample time to read. Marty and I read many good books aloud to each other, including some we probably would not have gotten through reading alone. Spinoza comes to mind. We also read for pure pleasure — Tolstoy novels, for example.

Dr. Marcus: What else was remarkable about Fort Sill?

Justice Ginsburg: I lived those two years in a community that resembled a socialist society in some ways, the U.S. Army. We lived in post housing, paying less than we would pay if we lived in town. Oklahoma was then a totally dry state. But at the liquor store on post, you could buy anything and everything at very low, tax-free prices. There was the commissary for food, and the

post officers' nursery. My daughter was cared for in a nursery for infants from two months to nine months. Another unit was reserved for toddlers. It was an *officers'* nursery. A sharp line was drawn between officers and enlisted personnel. The infants unit was a small, bright place with caring nurses attending to the children. You could take your child there every day, and care ran all day. The word "daycare" hadn't been coined at that time. The cost to us was one dollar a day. Fort Sill also had an Officers Club with an Olympic-size swimming pool and a decent golf course. All this was available at no or very low cost. When we moved from Oklahoma to Cambridge, Massachusetts, and shopped in a civilian supermarket for the first time, the difference in prices startled us.

Dr. Marcus: So it sounds like you did enjoy in some way being in Oklahoma those two years. You're not sorry that you had to spend that time there.

Justice Ginsburg: No. It was a good way to begin a marriage. I had some misgivings about whether I could successfully manage law school with a young child, but Marty's father was influential in assuring me I could do it. He put it to me this way. He said, "If you don't want to go to law school, you have the best excuse in the world, your daughter Jane. No one will think the less of you if you decide to take time off to devote yourself exclusively to her. But if you really want to go to law school, you will not feel sorry for yourself. You will find a way to do it." And that was the decision I had to make. Did I really want to go to law school? The answer was yes, so I found a way to do it.

Dr. Marcus: Had you applied to law school before you graduated from Cornell?

Justice Ginsburg: Yes. I had applied to Harvard and was accepted. I also had a scholarship. When Marty was called into service, I deferred my admission. Two years later, when I informed the law school I was ready to enter, I was asked to supply my father-in-law's financial statement. At first, I was extremely annoyed, but my father-in-law said he would be glad to pay my tuition, and he paid it plus other expenses all three years. Recalling that episode many years later, I think Harvard was right not to spend its resources, its limited scholarship resources, on people who had a source of funds they could call on. But you can be sure that, in 1956, they didn't ask any of the men who married to supply their father-in-law's financial statement. If they had done that, I suspect some of my male colleagues would not have received scholarship money.

Dr. Marcus: Did you decide on Harvard because Marty was there, or did you apply to other schools?

Justice Ginsburg: No, Harvard was the only law school I considered at the time. Marty was there and we were going to be married. I had thought about – I think I mentioned this last time – taking my last year of college and my first year of law school together at Cornell, then transferring to Harvard. But Harvard found that plan unacceptable.

Dr. Marcus: What was law education like at Harvard at the time that you entered?

Justice Ginsburg: We had some wonderful teachers. My first-year civil procedure professor, Benjamin Kaplan, was a stand-out, a teacher of extraordinary quality.

Some were less talented or more rigid, a bit on the Kingsfield model. We had classes in those days on Saturdays, Saturday morning. There were no exams until the very end of the year. We had practice exams at midterm, graded by teaching assistants. I found the deferred examination system stressful.

There was, I was told, a very intense competitive spirit about the place. I didn't sense that myself. For one thing, my day had a break. At four o'clock in the afternoon, the babysitter left. That was children's hour for me. I took my daughter to the park, we played, my time was devoted to her until she went to sleep. Then I resumed schoolwork with renewed interest. I recalled those days when I received a report from the University of Michigan, the results of a survey by a professor on that law faculty, David Chambers. The report concerned the satisfaction level of people. Chambers found that of all people in the law business, those most satisfied are married women with children. He reported that they are beleaguered, they are under pressure at work and at home. But they enjoy their families, they enjoy their work, and to the extent that each is taxing, each also provides respite from the other. I think that's why I did comparatively well at Harvard Law School. I was not living in the dormitories. I was not exposed to a "nothing but the books" atmosphere. I was able to maintain a more balanced approach to life and work, to retain my common sense perhaps better than some of my classmates who were consumed by their endeavors to "think like lawyers."

Dr. Marcus: Did you have any particular subjects that became your favorites, you sort of knew that you wanted to know more about?

Justice Ginsburg: Procedure, by far, the first year. In part, it was the genius of my teacher; in part, it was the subject matter; and it was also a challenge. That year Anthony Lewis was at Harvard as a Niemann Fellow, taking courses in all three law school years. He was enrolled in my first-year procedure class. I recall the first day in that class. Lewis spoke brilliantly during the hour. I came home and told Marty, "If that's what they're all like, I'll never make the grade in this place." Then I said, "Well, it's a challenge. I will try to speak in class as much as that man."

Dr. Marcus: While you were interested in this, did you do any advance research in the area? Did you do special research papers while you were at Harvard?

Justice Ginsburg: No, spent much time on law review assignments. Those were all the "extras" I could manage.

Dr. Marcus: Did you have to write a note or a comment then? I don't remember what they did.

Justice Ginsburg: In our day, we were assigned two case notes and a longer note, also many prelims and much proofreading and cite checking.

Dr. Marcus: Do you remember what the subject was for your case notes?

Justice Ginsburg: One related to pre-trial discovery. Another involved a fair trade law question. A third concerned the means of identifying whether a state court had decided a case on a federal ground rather than a state ground.

Dr. Marcus: Did you find that each of them had enough sort of intrinsic interest for you

that it didn't really matter, say, that you preferred doing a procedural case to an antitrust case, but anything that was sort of a tough intellectual problem?

Justice Ginsburg: I liked everything I did on the law review, including revision of the Blue Book. The Blue Book has been through many editions since then, but I was on the team of revisers for the new one that came out in 1958. I was brainwashed for life by the *Harvard Law Review*. I was, until I got this good job, a better proofreader than any law clerk I ever had. But, also, the Supreme Court does not follow the Blue Book. So I am no longer a match for my clerks in that respect.

Dr. Marcus: That must be difficult after a lifetime of doing that. Was it hard for you to become a member of the law review? Did any other women belong?

Justice Ginsburg: There was one woman a year ahead of me. There was no other woman in my class, although another woman was invited. Places on the *Harvard Law Review* in those days were determined strictly on the basis of grades. Two women out of the nine in my first year class had qualifying grades. We were both married. She was uncomfortable about maintaining a good relationship with her husband, if she accepted the law review. So she turned down the Review's invitation. That same woman made the law review again at the end of her second year. She tried it out for two weeks, then dropped it. It was unfortunate. The contrast between her fear about her husband's reaction — he was also a year ahead of her — and Marty, who told people during my first year that his wife would be on the law

review the next year. The woman who was then on the law review, Nancy Boxley was her name, said to me, "This husband of yours went around saying you were going to be on the law review, and I looked at you, you looked like a little twerp, but he was right." And that's the difference. Marty always made me feel I had the ability to do whatever I wanted to do.

Dr. Marcus: You were really lucky.

Justice Ginsburg: Yes. When I started on the *Harvard Law Review*, I came back from the summer recess early. We started work two weeks before classes began. Marty kept Jane at his parents' house in Long Island while I went off to the law review alone. I had the first week entirely to myself and became familiar with the regime before coping with classes and family at the same time.

Dr. Marcus: I know it's also a great commitment of time during the school year.

Justice Ginsburg: Yes.

Dr. Marcus: I mean, over and above your course work. How did you find the time to do all that?

Justice Ginsburg: Managing the law review in the fall semester was nothing compared to the biggest challenge I ever had in my life, Marty's bout with cancer. He was diagnosed at the end of the first semester and had two operations in the spring term of his last year, the spring semester of my second year. The operations were followed by massive radiation therapy. Chemotherapy was unheard of in those days. He ended up attending classes for only two

weeks that semester, at the very end of the term. He did better that semester than he had ever done. He graduated Magna, and he would not have achieved that distinction on the basis of his first two years' grades.

I had grand cooperation from his classmates. Harvard is a school reputed to be fiercely competitive. I picked a person in each of his classes to take notes. Most of the note takers did it with carbon paper. One had his girlfriend type the notes. People visited Marty in the hospital and later at home to fill him in on the classes he was missing. And I tried to do everything in school and at home. I wanted no time to think, what if he doesn't survive. We took each day and lived it as best we could. I grew confident in my ability to juggle things that semester.

Dr. Marcus: Did you ever get any sleep?

Justice Ginsburg: About two hours a night.

Dr. Marcus: Really?

Justice Ginsburg: Through the long weeks of radiation therapy, he was not able to eat during the day. He spent the afternoons being sick. Then he'd finally fall asleep; and get up around midnight. Any food he was going to have that day would have to be served between midnight and two in the morning. We went on day after day like that.

Dr. Marcus: That must have been terrible. When did you finally know that he would survive?

Justice Ginsburg: He had a second-look operation about two years later, and everything was clean. He had a testicular tumor, and they found, when they did the

second operation — the first operation was to remove the tumor, the second, to take out a long line of lymph nodes — they found four positive nodes, so things were not looking bright. But the second-look operation showed that the cancer had been arrested. After five years passed, we knew his chances were the same as anyone else's to be a cancer victim. And there has been no recurrence.

One of the things we were told turned out to be inaccurate. Because of the massive radiation therapy, the doctors predicted we would never be able to have a second child. So ten years after the birth of my daughter, when I became pregnant again, the doctors were surprised.

One way Marty's illness affected my life, there was never any doubt I would be working, because I had a child who might need my financial support. We could not even think about another course. I had to be in a position to support myself and Jane.

Dr. Marcus: That must have been very difficult to deal with all of that and all of your law review responsibilities, all of your classes, taking care of Jane.

Justice Ginsburg: His parents, as in everything, were entirely supportive and understanding. It was a tremendous shock to them. We didn't tell them until after the first operation, but they were with me for the second operation, and then Marty's mother stayed with me for a week or so. I think she sensed it wasn't good for either of us to continue that way, so she returned home and visited now and again in that time.

Dr. Marcus: Did you have any time to spend with friends, for example, during these

law school years?

Justice Ginsburg: We had great friends, both in my class and in his. They regularly visited Marty at the hospital. One of my classmates was a Christian Scientist, and it was hard for her to set foot inside Mass General. But she overcame her discomfort and visited him a few times.

Dr. Marcus: Did these people remain your friends after law school?

Justice Ginsburg: Some of them, yes.

Dr. Marcus: What was it like to be a woman at Harvard then? How many women were there in your class?

Justice Ginsburg: There were nine.

Dr. Marcus: Out of how many?

Justice Ginsburg: Out of 500-some-odd. One left after the first year. She didn't drop out of school; she decided she'd rather be an engineer and she enrolled in MIT [Massachusetts Institute of Technology]. One was killed tragically. She was riding on the back of a motorcycle operated by a classmate. There was an accident near Harvard Square. From that original class, at least five of the nine graduated. At Columbia, the class into which I transferred had twelve women. That class was perhaps just over half the size of the Harvard class. Columbia had been taking women since the middle twenties. There was a greater acceptance of women, a higher comfort level with them.

Dr. Marcus: Were there any female professors at Harvard?

Justice Ginsburg: Oh, goodness, no. There weren't too many bathrooms for women, either.

There was one in the basement of Ames, inconvenient and overheated. No, those were the days when hardly anyone thought about women on faculties.

One incident indicates the climate of the time. In winter my second year, I was sent to the old periodical room at Lamont Library to check a citation. To my chagrin, the room was closed to women, a symbol of the way things once were in all of Harvard. I got there between 10:30 and 11:00 at night. They wouldn't let me in. I had to call back to Gannett House, where the law review is housed, to report, "You must send a man for this job. They won't let me in."

Dr. Marcus: And that's how it ended? That was it?

Justice Ginsburg: Yes. They would not —

Dr. Marcus: You never got in there?

Justice Ginsburg: Right. I was reminded of the story in Virginia Woolf's lecture at and about Cambridge, England, *A Room of One's Own*. Women in her day were not permitted to walk on the grass. Things hadn't changed all that much. The Faculty Club was the men's faculty club with a separate ladies' dining room. Women couldn't eat in *the* dining room.

Constitutional law books included the Michigan bartender's case, the case of a woman who owned a bar. Under the law of Michigan, her daughter was not allowed to tend the bar. A woman could not bartend in Michigan unless her husband or father owned the place. So the mother and daughter were put out of business by Michigan's law. The Supreme

Court upheld that law, and the case was put in law books as an illustration of the Court's retreat from the activism of the days when the Justices were routinely striking down social and economic legislation. The case was thought to show how the Supreme Court had turned the corner and had stopped blocking the legislature's moves in social and economic legislation. No one questioned whether this was genuine social legislation of the kind one would want to foster. In reality, the Bartenders Union was endeavoring to preserve men's jobs from women's competition. No law professor in the fifties viewed the case from that vantage point. In his opinion for the Court, Justice [Felix] Frankfurter painted an amusing picture of the spritely ale wife. Scarcely a thought was given to the devastating impact of the law on the tavern owner and her daughter.

I transferred to Columbia because Marty tried to get a suitable job in Boston but was unsuccessful. He got a good job with a New York firm, and we were not willing to be separated for a year at that stage of our life. I inquired at Harvard about two things. Concerning Marty, I asked, "If this man successfully passes his examinations, will you give him the rank he would have based on years one and two?" Class rank in those days was numbered precisely one to five hundred. The grading system was compressed with 60 a bare pass, 75, an A. So people were bunched together. You might have thirty people numbered twenty-seven. The next one in line, with an average a small fraction of a point lower, would be number 58. Class standing was very important. I was told that Harvard

would put a note in Marty's file verifying that he had been very sick. There would be no other dispensation.

I came home and told him, "Marty, it doesn't matter what you do, as long as you pass, you'll get your class standing based on years one and two." He was not nervous for those exams. He learned what his classmates taught him, and did extremely well. As I recall, he ended up sixth in the class that year.

For myself, I asked, "If I successfully complete the third year at Columbia, will I get a Harvard degree?" And I was told no. So I said, "I have the perfect rebuttal argument. Here's Mrs. Isslebacker, she was my classmate at Cornell. She took her first year at Penn. She transferred into our second year. She will be here years two and three. You will give her a degree when she graduates. She has years two and three. I have years one and two. You say the first year is by far the most important of the three years of law school. So my case is *a fortiori*." And I was told a rule was a rule, that was that. So I didn't get a Harvard Law School degree.

I went off to Columbia, never asking would I get a Columbia degree, because I might have gotten the answer "no," three years of law school, no degree from anyplace. Columbia did give me a degree and they treated me very well. Columbia transferred me to its law review. More precisely, someone I encounter often in this building, Larry Wallace, was then editor-in-chief of Columbia's law review. Larry was good enough to welcome me to the *Columbia Law Review.* And that's how I became

perhaps the only person in history to serve on both the *Harvard Law Review* and *Columbia Law Review*.

Dr. Marcus: While you were at Harvard, did you ever think to challenge your professors about their interpretation of cases like the Michigan one you were just talking about?

Justice Ginsburg: No. One Saturday morning, a friend attended class with me, a friend from Fort Sill. The professor, to add spark to the hour, called on her. I responded, informing him she wasn't a member of the class. The professor said, "No matter, any fool can answer that question." I objected, "She's my guest, you have been rude to her, I will answer the question." He said something about Mrs. Ginsburg being a killjoy. I remember that incident and how annoyed I was at the time. But in retrospect, the guys were treated just as badly.

One of the many ironies. Harvard had no dormitory space for women. It was a stark change from Cornell, where one of the excuses they gave for having four guys to every gal was that gals had to live in the dormitory, guys could live in College Town. Harvard Law School ordered things just the other way – dormitory space for the men, no dormitory space for the women.

Dr. Marcus: Did you know Dean Griswold?

Justice Ginsburg: As a distant figure, yes. Marty had him for tax. I saw him occasionally in the stacks when I was working on the law review. And I asked him about Marty getting his class standing, and a Harvard degree for me.

Dr. Marcus: So you actually approached him personally?

Justice Ginsburg: Yes.

Dr. Marcus: He turned you down.

Dr. Marcus: I just want to ask you a few more questions about Columbia, because it must have been somewhat different from Harvard. You talked about the fact that their attitude toward women seemed to be somewhat more progressive, and they had admitted women earlier. What about in terms of the education you received? Do you think it was very much the same kind of thing?

Justice Ginsburg: The law school was. But Columbia in those days had less of a university spirit than Harvard did. That was one of the great things about Harvard. You felt you were part of the university life. That was less true at Columbia. One reason may have been the distractions of the island of Manhattan, where so much goes on. Another was that at Harvard Law School, almost everyone was living temporarily as a resident of the Harvard community. But at Columbia, many people were commuting from rather distant homes. There was less cohesion, less of a sense of a university community. More tugs pulled one away from Columbia, more attractions downtown. At Harvard, more of life centered on the university.

Dr. Marcus: When you went to Columbia, did your father-in-law pay your tuition there, too?

Justice Ginsburg: Yes.

Dr. Marcus: Was there ever any discussion of a scholarship there?

Justice Ginsburg: No, I didn't ask.

Dr. Marcus: Did Columbia have any women on the faculty?

Justice Ginsburg: No.

Dr. Marcus: Amazing. What was your academic standing at the time that you left Harvard and then when you finished Columbia?

Justice Ginsburg: It was quite high at Harvard. I don't know exactly, I never checked, someplace in the top ten, I would guess. At Columbia, I ended up tying for first place.

Dr. Marcus: Sounds like it was good enough. At the end of law school, had you developed any general philosophy with regard to political issues or social issues, legal issues, or did you sort of just take course by course?

Justice Ginsburg: I would say I had not developed any philosophy. My third year, the concentration was on getting a job, which was not so easy. It was a surprise to me, because the summer before, I had worked at the Paul, Weiss firm (Paul, Weiss, Rifkind, Wharton & Garrison), and had been interviewed at Harvard by Garrison himself. He asked me barely two questions and gave me an offer. I realized what was happening. That firm, slightly ahead of the pack, wanted to have a woman in the summer associate group. I had the highest grades of any woman signed up for an interview, so Garrison offered me a summer job. The firm did not give me an offer of permanent employment. No firm in New York offered me a job the next year, and most judges didn't want to see me.

In retrospect, I understand the Paul, Weiss situation. The firm

already had a two-fer. They had Pauli Murray. She was a woman and an African American. They didn't need me to prove their liberality. For years, members of the firm said they made me an offer, which I turned down, and instead sought a clerkship. It wasn't true. They checked and found that, indeed, they had not given me an offer.

When I encountered employment problems, Gerry Gunther, my federal courts teacher, then in charge of clerkships for Columbia students, went heavily to bat. I think he called every judge in the Southern District in his endeavor to place me in a clerkship. He was successful with Judge Edmund L. Palmieri. I spent the next two years in the Southern District as Judge Palmieri's law clerk.

Dr. Marcus: Before we turn to your clerkship, I was curious, did either law school have any kind of clinical training?

Justice Ginsburg: Harvard had a Legal Aid Society. Marty was a member. It was an honorary society. He represented tenants in landlord-tenant cases, for example. But there was nothing in the fifties like the clinics that burgeoned at the end of the sixties.

Dr. Marcus: Did you make any friends at Harvard or Columbia who became important to you in your career?

Justice Ginsburg: Gerry Gunther. He was my teacher, my friend. He is today. In the years I was litigating sex discrimination cases, though I doubt Gerry was 100 percent ideologically in tune with me, whenever I had a tough legal question to talk out, I called him. He was always sympathetic, and often

came up with just the right case to nail down an argument I was trying to develop.

Dr. Marcus: That's certainly nice. It was worth going to Columbia to meet him. At the time that you got your clerkship, did the clerk selection process work the same way as it does today?

Justice Ginsburg: I didn't apply to – at least I don't remember applying to individual judges. I gave my name to the Columbia committee in charge of clerkships, and then was told who was willing to see me. It certainly didn't work the way it does now. There was no Title VII. There were many judges like Learned Hand, truly great federal judges, who simply said, "I would feel uncomfortable working with a woman. I don't want you to send me any women law clerk applicants," and that was that. The only Second Circuit court of appeals judge willing to interview me was Leonard Moore, a Republican conservative."

Dr. Marcus: Did you go to an interview with him?

Justice Ginsburg: I had an interview with him. I didn't get an offer, but I did have an interview.

Dr. Marcus: Did your experience in getting the clerkship for yourself affect the way that you chose law clerks when you became a court of appeals judge, or now on the Supreme Court?

Justice Ginsburg: Probably not. I pick clerks that I think will be compatible with me, compatible with each other. We live together very much as a family, in close quarters. We should like each other and be comfortable with each

other's work ways.

Dr. Marcus: And is that difficult to determine?

Justice Ginsburg: Yes. Sometimes you miss. A person's writing sample is very important to me. Recommendations from persons I trust, whose judgment I trust, are very important. Currently, I have an in-house recommender Marty. Also daughter Jane at Columbia; Gerry Gunther at Stanford; Martha Minow at Harvard. These are people who know me and when they tell me an applicant is right for me, I am seldom disappointed.

Dr. Marcus: Did you hit it off with Judge Palmieri?

Justice Ginsburg: Very well, yes. Judge Palmieri was as fluent in Italian and French as he was in English. He was a very fine European-style gentleman. He loved the opera, he loved good food and wine. We would more often than not end the day walking across the Brooklyn Bridge and back, talking about anything and everything, perhaps testimony given at trial that day or who was singing at the Met that evening. We had a very good relationship.

Dr. Marcus: Did his enlightened attitude in choosing a woman for a law clerk extend to his jurisprudence as well?

Justice Ginsburg: I thought he was a good and a fair judge. We didn't have too many political issues. He did have the first criminal antitrust case in which a federal judge gave prison terms to the defendants. That was an example of his fairness. These were white-collar criminals, and he treated them just the same as he would treat any other criminal defendant in his court. Many procedural issues came up. He was a good judge, not ruled by

anything other than a will to do justice without respect to persons.

Dr. Marcus: What were your duties as a law clerk?

Justice Ginsburg: In those days, many judges had one clerk and one bailiff. I was Palmieri's only clerk, and I did everything. As time went on, he came to trust me, so when he knew what position he wanted to take on a motion or whatever, he'd say, "This is what I want to do and these, basically, are my reasons. You write it." On many questions, he would say, "What is the law?" My job was to uncover what the law was and to compose an opinion or memorandum in accord with the law. I had read all of his published decisions before I started the clerkship, so I knew his writing style, and I copied it, which made him feel comfortable with me. I tried to write drafts in words he would like.

Dr. Marcus: Did you have to keep long hours?

Justice Ginsburg: Yes. I probably kept longer hours than necessary, because I didn't want it said that this woman, wife, mother, doesn't show up for work as long as a man would. I overreacted, by spending more time than the job required. I clerked for two years. The second year, I stayed at Foley Square less, brought work home more often. Marty and I had decided that both of us, despite the busyness of life, would try to have dinner at home — with Jane, and later James and Jane. For the most part, we adhered to that decision.

The second year, I had an additional incentive not to linger in chambers in the evenings. Judge Palmieri drove Judge Hand home most

evenings. If I could be ready to leave when the judge left, I could sit in the back of his car while this great man, Learned Hand, held forth about anything that came into his head.

Dr. Marcus: And do you remember anything special from the trips home?

Justice Ginsburg: I remember he would sing Gilbert and Sullivan. He would use curse words I never heard. He would say things like, "If you could be born anytime in history, what time would you pick?" Things like that.

Dr. Marcus: That's an unusual opportunity to get to know him. What did you do about baby care in those years, or childcare? I don't know how old Jane was by this time.

Justice Ginsburg: At Columbia, she went to the Greenhouse Nursery School. It was right next door to where we lived. Unfortunately, the Greenhouse provided only half-day care. The rest of the day, we relied on a housekeeper plus Barnard babysitters, who were not quite as good as Radcliffe babysitters. I don't know why there was that difference, but there was. Barnard's babysitting service was not as dependable as Radcliffe's. And then when we were both working, we had a full-time sleep-in housekeeper for many years.

Dr. Marcus: Where were you living at this time?

Justice Ginsburg: We lived originally across the street from the law school, on 116th Street, 404 West 116th Street. When Jane reached school age, we moved to 79th and York. We moved to a place within walking distance of her school, because the added cost of school bus service was more than we could

handle comfortably in those days.

Originally, I wanted Jane to attend Hunter College Elementary School. It was free, and a fine school. But I received a letter from Toni Chayes, who had recommended Jane to The Brearley School, where Toni had attended school pre-college. Toni served as a "big sister" to the women of Harvard Law School. Her husband was on the faculty. She is a Yale Law School graduate, a very bright, vivacious person. Toni told me that the place for my daughter was The Brearley School. I wrote a note thanking Toni for recommending Jane to The Brearley School, but saying Jane had been accepted at Hunter, and that's where she would go. Toni wrote back. Her letter made me feel that I would be a bad mother were I to pass up the opportunity to send my child to The Brearley. And if she didn't start in kindergarten, she might never again gain entrance.

In fact, something else reinforced Toni's letter. I went to the opening meeting for parents of children about to enter Hunter Elementary School. Many were boasting, "My Johnny can do this or that." There was an overzealousness one could feel. Jane would fare better at The Brearley, I decided. It turned out to be a most fortunate decision. The Brearley was then, perhaps it still is, the best school in Manhattan, judged by curriculum and caring teachers. It was rigorous but supportive of the students. Jane was exposed to an extraordinary education there and made many friends, some of them her friends to this day.

Dr. Marcus: I don't know the school. Did it go up through high school?

Justice Ginsburg: Went all the way through twelfth grade.

Dr. Marcus: So she stayed there from kindergarten to twelfth grade.

Justice Ginsburg: From kindergarten all the way.

Dr. Marcus: That must have made it a little easier.

Justice Ginsburg: We lived on 79th and York. The Brearley was a few blocks away, in the 80s off East End Avenue.

Dr. Marcus: Did you stay there throughout her whole school?

Justice Ginsburg: We lived at 79th and York until son James was about to be born. Jane was then ten. The summer before James's birth, we moved ten blocks down, to 69th Street, because we needed another bedroom.

Dr. Marcus: And did he, too, go to the same school?

Justice Ginsburg: No, it's a girls' school.

Dr. Marcus: See, I don't know private schools. I went to public schools. So he had to go to a different school.

Justice Ginsburg: Yes, to my great regret.

Dr. Marcus: What school did he attend?

Justice Ginsburg: He went to the Dalton School, a school attractive to us because it had an all-day kindergarten. Most schools at that time had only half-day kindergartens. Dalton was exceptional in keeping children from age five for a full day.

Dr. Marcus: To get back to your clerkship, did you have anything to do with the other judges on the court when you clerked for Judge Palmieri, or were you really sort of in a self-contained office?

Justice Ginsburg: I had connections with other clerks. There were occasionally three-judge courts, with a circuit judge and two district judges. Many clerks in the Southern District at that time – some serving the Second Circuit, others, the district court – had been my classmates at Harvard or Columbia. I remember particularly Arthur Leff, who, sadly, died some years ago. Arthur was my Harvard classmate. He clerked for Judge Irving Kaufman, a judge known, deservedly for being demanding of law clerks. I commiserated with Arthur from time to time and sought to buoy up his spirit.

Dr. Marcus: Other than your car rides with Judge Hand, did you have much contact with the Second Circuit?

Justice Ginsburg: We sat with Judge Friendly in a couple of Interstate Commerce Commission cases, railroad cases, and, of course, the Hand connection. Both courts were in the same building, so I went up a few times to watch arguments in the Second Circuit, just as I went to other courts, other district judges, to watch trials. I watched a good part of the Adam Clayton Powell tax evasion trial. Edward Bennett Williams was the lawyer. I also observed parts of a multi-defendant mafia trial in Judge Kaufman's courtroom, stemming from a meeting in Appalachia. Judge Palmieri said I could observe anything I wanted to see in the courthouse, as long as I did what was expected of me.

Dr. Marcus: Did you form an impression of the federal judicial system when you were a law clerk?

Justice Ginsburg: I was impressed with the quality of justice, not just the judges in the court, but the attitude of the people who worked in the clerk's office. They felt they were serving a fine institution. I didn't have that same sense again until I came here. People who work for the Supreme Court have a certain esprit that's lacking in many other government workplaces.

Dr. Marcus: Are you saying that it was lacking on the court of appeals?

Justice Ginsburg: No. It wasn't present to the same extent. The court of appeals staff, during my years on that court, certainly didn't resemble the people one finds in some government offices. But the spirit of the employees was less strong than it is here, or than it seemed to me to have been in the Southern District 1959-1961.

Dr. Marcus: Has your being a litigator and a judge changed your opinion, your impression of what the federal judicial system is like?

Justice Ginsburg: The federal judicial system is probably the best judicial system of any I've been exposed to anyplace in the world. I am concerned about its retention of that high quality as the number of cases dumped into the system swells, and as the number of judges thrown at the swelling docket problem increase. The difference, in general, between a federal court and a state court may not be as apparent in the next generation as it has been until now.

Dr. Marcus: You decided to stay as a law clerk for two years.

Justice Ginsburg: Judge Palmieri wanted me to stay for two years, so I signed up for that period.

Dr. Marcus: So you knew that at the beginning, that you would be staying there for two years. Did your clerkship improve your job prospects?

Justice Ginsburg: Enormously. I had no problem getting a job after my clerkship, and, in fact, I was to go to a law firm. It was then called Strasser Spiegelberg. It's now the Fried Frank firm, the firm Marty now counsels. Judge Palmieri was able to tell the lawyers there, including Colonel Spiegelberg, that I showed up for work every day, Saturdays, even Sundays if necessary, that I was reliable, that my then – how old was Jane? Six years old. Judge Palmieri found Jane a delightful child who did not cause her mother to leave work in the middle of the day.

But I never got to the Strasser Spiegelberg firm, because Hans Smit, a professor at Columbia, asked me to have lunch with him one day in the spring of my second year with Judge Palmieri. Hans asked, "Would you like to write a book about the judicial system in Sweden?" [Laughter] Book? Sweden? And then he explained the project. Columbia had an international procedure project. It had picked three systems to study: France, Italy, and Sweden. The idea was to have a lawyer from inside the system and a lawyer from outside the system work together, describing the system to an English-speaking audience. The project was well under way on a book about France and a book about Italy, but they hadn't yet started the Swedish book.

My sense then was they probably couldn't find someone willing to give up two years of his life to study Swedish procedure. Studying French

law or Italian law might have a payoff afterward. I suspected they went down the list of women graduates and came to me. Be that as it may, this was an opportunity to write a book, something of mine that would be between hard covers, to learn a language, and to learn about people then strangers to me, also to spend time abroad, even alone abroad. Those incentives were so powerful I couldn't say no. So I never got to the law firm. I spent the next two years on Columbia's international procedure project.

Dr. Marcus: You weren't frightened by the prospect of trying to learn Swedish well enough to work with the law, which is probably fairly esoteric?

Justice Ginsburg: Learning Swedish was one of the most delightful experiences I've had. My teacher was a young man who was enrolled as an undergraduate at Columbia. He had, as a teenager, left home in the midwest to join the American Ballet Theater. He was with the American Ballet Theater when it was performing in Stockholm. He joined the Stockholm Ballet and was a leading dancer there for some years. He eventually realized that his days as a first dancer were numbered. He returned to school, this time in Sweden, and received the equivalent of a high school degree, a little more than a high school degree. He passed what they call the student exam in Sweden, and then returned to the United States to attend college. To make extra money, he tutored people in Swedish. He came to my house about every other night to help me learn Swedish. In the meantime, I was reading the law books. I never learned to speak Swedish particularly well,

but I can read the old-fashioned writing in the law books. My teacher, Kenneth Petersen, was a delightful young man, and I learned perhaps as much about ballet from him as I did about Sweden and the Swedish language.

I studied the language for close to a year before I went to Sweden. I left for my first visit in May 1962, and I traveled to Sweden alone. It was the first time I lived alone. Marty took care of Jane until she finished — what was she in? First grade. Then he sent her to me after I had been on my own for a month. I was very happy to see her. By then I had had the taste I wanted of living alone. I'd gone from a college dormitory to being married. I worried about such things as would I be able to handle a taxicab — to figure out the right tip. Little things like that. I was pleased to discover I could take care of myself. It was fun to be fancy free for that period of time.

Dr. Marcus: And you didn't worry about leaving Jane at home?

Justice Ginsburg: No.

Dr. Marcus: At the time, did many Swedes speak English?

Justice Ginsburg: Oh, yes, that was a disappointing thing about Sweden for me. [Laughter] I'd speak my terrible Swedish, and they would answer in English probably learned at Oxford or in Cambridge. The people who understood my Swedish best were the Norwegians. I would speak my bad Swedish in Norway, and they would be so pleased I was trying to speak their language. Danish, I couldn't manage at all. Although the three written

languages are close, the Danish pronunciation is murderous. I never even tried to speak words in Danish. But the Norwegians, they contrasted with the Swedes, who were proud of their own ability to speak English, and weren't very tolerant of foreigners who mispronounced Swedish words. The Norwegians, on the other hand, were encouraging and appreciative if you tried to speak in their language.

Dr. Marcus: What time of year were you there?

Justice Ginsburg: Never in winter. I was there two successive periods. The first time I came in May, and left at the very end of September. The next year I came with Jane, I waited until she finished school in June. We went to Sweden in June, returned home in September.

Dr. Marcus: At least you had beautiful long days and cool summers.

Justice Ginsburg: Yes.

Dr. Marcus: That's really nice. So what did you do while you were there?

Justice Ginsburg: I observed court proceedings, I talked to people in various government offices relating to courts or the administration of justice, and I worked with my co-author, Anders Bruzelius, who lived in Lund. Before I left for Sweden, we had the initial three chapters. I had sent the drafts to a number of teachers at Lund, at Stockholm, and at Uppsala, to get their criticisms, and I met with several of them, with academics who had reviewed the draft chapters. I spent many hours observing courts in southern Sweden, Stockholm, and Göteborg. I tried to get a sense of the proceedings, and talked to the people involved, the clerks, the clerical

people in the court, and members of Sweden's counterpart to a jury, a group called the nämnd. It evolved into a different institution, although it began the same way our jury did. I was also enjoying one of the most beautiful cities in the world. I liked Lund, which is in southern Sweden, but I loved Stockholm.

Dr. Marcus: How long did this project take you?

Justice Ginsburg: It took two years, and in between, I wrote chapters for another book, one on international judicial assistance. That book included a chapter on each of the Scandinavian countries. The chapters were written together with lawyers from each system. I spent several days in Denmark, Norway, and Finland, writing those chapters.

Dr. Marcus: Finland must have been extraordinarily difficult, because their language is totally different. I would think they didn't speak much English.

Justice Ginsburg: They had Swedish as a second language.

Dr. Marcus: That's right. Everything is in the double language. So you explained that this was really a rewarding experience personally, because you'd learned to live on your own while you were over there and enjoyed being in Sweden and visiting the other countries. Do you think that this was worthwhile professionally?

Justice Ginsburg: Oh, enormously worthwhile. When you learn only about your own system, you assume that's the way it has to be. And when you see how another system works, sometimes very differently, trying to accomplish the same end — to administer justice fairly — you then reflect back on

your own system. You see it from a different perspective. I don't think I ever appreciated or understood my own system as fully as I did once I could see it in comparative perspective. And even to this day, I use Swedish terms. This summer, I was writing something for a conference at Hofstra on legal ethics. One of the people who commented on my draft said, "Why do you use the term 'good behavior' in relation to lawyers' ethics?" It's really not from Article III — judges hold their office during "good behavior" — it comes from the Swedes' description of the ethical obligations of a lawyer. The Swedish expression, literally translated, is "good lawyer ways," or "good lawyer mores," "good lawyer behavior."

I might mention something else about those two summers in Sweden, '62 and '63. My consciousness of women's situation awoke at that time. The Swedes were already at the stage where it was accepted that families should include two earners. Prices were very high, inflation was high, so if you wanted to do right by your children, both of you had to work. That was accepted. But there was a debate about whether the woman should try to do everything else. Some of the women were very proud they could manage dinner, the children's visits to doctors and dentists, the new shoes, and never ask or expect the husband to help with the homework. Others were thinking, "That's wrong. If we're out working, he should help in caring for the children and house."

There was a column in the Stockholm newspaper written by a woman named Eva Moberg. Her theme was, why should the woman have

two jobs and the man only one?

I don't remember whether it was during my first or second summer, I think it was in the second summer that Sherry Finkbine came to Stockholm from Arizona. She had taken thalidomide; she wanted to have an abortion. She couldn't at home, so she came to Sweden for an abortion, and much discussion centered on that.

I had never really thought about being treated differently. I accepted it as something you had to contend with. That's the way it was. Not until I was in Sweden did I start to think, "It doesn't have to be that way. It can be changed." So the summers there were very important to me for that reason, too.

Dr. Marcus: Did you know, while you were working on this project, that you would go into law teaching, rather than returning to practice law?

Justice Ginsburg: No, I thought I would go to Strasser Spiegelberg. But then, in the second year on the Columbia project, Walter Gellhorn, a distinguished teacher at Columbia, who was then a one-man placement bureau for academics, called me into his office and said, "Ruth, what are you doing on a Harvard list when you are a Columbia graduate?" What Harvard list? "A Harvard list for teaching jobs." Then I remembered that I had received a mailing from Harvard saying, "If you are interested in teaching, fill out this form." Well, I was interested in teaching, down the road, but not immediately. I was thrilled when Walter asked me that question. I asked, hopefully, "Oh, is Columbia interested in me as a teacher?" And he said, "No, dear, not

Columbia. Rutgers." And why was Rutgers interested in me? Because Clyde Ferguson, an African American who had been teaching procedure at Rutgers, had left that faculty to become dean of the Howard Law School. Although this was never confirmed to me, I believe Rutgers tried to get a black man to replace Clyde. When that attempt failed, the next best thing was a woman, so I got a bid.

Then I had to think. You asked earlier about women law teachers. How many women are teaching in law schools? Maybe a dozen across the country, not more at that time. If I didn't take this opportunity, would there ever be another? The chances seemed large that there would not be another opportunity five or six years later when I had expected I might end up in teaching. So I said yes, and joined the Rutgers faculty. For the next nine years, I remained a member of that faculty.

Dr. Marcus: Before we turn to your experience as a professor, I just wanted to ask if you have had contact with Sweden ever since you finished this project. Has it remained an important country in your life, or have you maintained the contacts with people you knew there?

Justice Ginsburg: If you step outside this room, you'll see on the wall on the right, three diplomas. Two are my commissions, one from Jimmy Carter and one from Clinton. In the middle, I think it's in the middle, is my honorary degree from the University of Lund, which I received in 1969. This is my doctor's ring from Lund. I still wear it. It’s the only ring I wear. People think it's a wedding ring. Most recently, I was helping Anders Bruzelius,

my friend since 1962, translate the Swedish Code of Judicial Procedure into English. It was the third time Anders had endeavored a translation of the Code. We were up to chapter thirty-something of some forty-eight or forty-nine chapters, when I was nominated to the Court by President Clinton, so I was not able to continue that project. I returned to the University of Lund to give the graduation speech at the law faculty in 1990. I still correspond with Anders Bruzelius regularly, and we have other friends in Sweden with whom we have stayed in touch over the years. So, yes, the Swedish connection has been a very important part of my life.

Dr. Marcus: Now I can ask you the other obvious question. Why don't you wear a wedding ring, now that I know it's a ring from Lund? [Laughter]

Justice Ginsburg: I guess I just like this one. It was made by a man named Wiwen Nilsson, a well-known craftsman in gold and silver. My silverware is also his.

Dr. Marcus: So it's not out of a commitment not to wear a wedding ring.

Justice Ginsburg: No.

Dr. Marcus: It's just that you like the ring.

Justice Ginsburg: Right.

Dr. Marcus: I thought maybe you had not worn a wedding ring.

Justice Ginsburg: I received the ring the day Anders and I got honorary degrees at the place shown in the Bergman film "Wild Strawberries." It was the graduation ceremony, the doctors' promotion, at Lund. The leading figure in "Wild Strawberries" was returning to Lund, to the great cathedral where the

ceremony took place.

Dr. Marcus: I just saw the movie again a few weeks ago. I've been to Lund. It is very beautiful. I think actually that this tape is running out, so it's a perfect time to stop, and when we begin again, we can talk about your years as a law professor.

END OF SESSION TWO