

Legal Role Models

We salute the 'Notorious RBG' and Canadian women legal trailblazers

By Jasmine Daya



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(March 8, 2019, 12:28 PM EST) -- "Why are you crying, mummy?" asked my 9-year-old daughter out of immense concern for me. I don't recall the last time she saw me cry.

I pointed to the television. I was sobbing because of that woman on the TV screen. My daughter turned her gaze to see a tiny woman with huge glasses sitting in a chair who looks like the character model for the sassy Edna Mode on *The Incredibles*. My daughter then looked back at me, puzzled.

I tried to explain that women in the United States are able to do things today that only men could do because of *that* woman. Obviously, my simplistic explanation wasn't justifying the tears to my daughter as she stared at me, waiting for more. It is difficult to impart the struggles of women globally for more than 50 years through the prism of one woman lovingly known as "Notorious RBG" to a 9-year-old. At 85, RBG is entitled to take pride in that moniker, having served on the U.S. Supreme Court for 25 years and counting.

Meanwhile, I continued watching *RBG*, a CNN documentary about U.S. Supreme Court Justice Ruth Bader Ginsburg and her life's work in gender equality and women's rights, including abortion. It is all her accomplishments that paved the way for future generations of women in the United States and around the world. Just 5 feet tall, she only looks frail.

RBG's favourite phrase: "I ask no favour for my sex. All I ask of our brethren is that they take their feet off our necks."

"I became a lawyer when women were not wanted by the legal profession," she told *Rolling Stone* in March 2018. She seems genuinely surprised and pleased that everyone wants to take a selfie with her.

She has become a pop culture icon, being parodied by *Saturday Night Live* and trying to get Stephen Colbert to keep up with her workout routine. She will even have a cameo in the upcoming *The LEGO Movie 2: The Second Part*.

As I listened to the challenges she overcame, I felt guilty for not doing more to help women advance in Canada. While women and women in the legal profession have come a long way, our work is far from done.

In 1928, the Supreme Court of Canada declared that "persons" under the *British North America Act* did not include women. On Oct. 18, 1929, on appeal to the Privy Council, women were finally declared "persons" under Canadian law.

Women's rights are written into the *Canadian Charter of Rights and Freedoms* (1982):

Section 15 ensures the equal protection and benefit of the law "without discrimination ... based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

Court decisions have expanded this list to prohibit discrimination on other grounds, such as citizenship, marital status and sexual orientation; decisions have also recognized that multiple grounds of discrimination may intersect in particular cases.

Section 28 guarantees that all rights covered in the Charter apply equally to men and women.

The *Canadian Human Rights Act* of 1977 states that all Canadians have the right to equality, equal opportunity, fair treatment and an environment free of discrimination on the basis of sex, sexual orientation, marital status and family status.

We celebrate milestones achieved by women in the legal profession in Canada:

- Clara Brett Martin becomes first woman lawyer in British Commonwealth, admitted in 1897.
- Ontario lawyer Helen Kinnear is appointed King's Counsel in 1934. She is the first woman in the British Commonwealth to be awarded the honour of either King's (KC) or Queen's Counsel (QC).
- Kinnear is appointed judge of the Haldimand County Court in 1943, making her the first federally appointed woman judge in Canada (and also the first woman to hold such an appointment in the British Commonwealth)
- Mabel Van Camp becomes a justice of the Ontario Supreme Court's High Court of Justice — the first woman to be appointed to an Ontario superior court in 1971.
- Laura Legge is elected the first woman law society bencher in 1975.
- Legge is elected the first woman treasurer of the law society in 1983.

While women are equal to men in the eyes of the law in Canada, the statistics of women in law do not add up. Statistics demonstrate that while there are now more women graduating from law school, the retention rate of women is still a problem, the salaries of women are lower than men's salaries, and there are fewer women than men who achieve partnership. There are fewer sole practitioners who are women, as well.

I feel blessed to have been born in Canada where legally, I am equal to men and where there are opportunities to seize. I recognize that this is not the case in many other countries in the world however there is more work to be done. I am equally thankful that my two daughters will not have to fight the same battles as women of RBG's generation; they can enjoy the fruit of those hard-fought battles.

I challenge all lawyers, men and women alike, to do more, to #BalanceForBetter, to get us to where we know we can be. Happy International Women's Day!

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