

WOMEN'S FIGHT FOR EQUALITY IN THE UNITED STATES

Lucila Solari-Casalini
College of Arts and Letters
Florida Atlantic University

Introduction

Women's rights is a topic that often faces controversy when it should not have any discussion. Women's rights are human rights. Equal rights are human rights. A constant battle between the rights of girls and women has been ongoing since the beginning of time. Court cases ranging from conception, abortions, earning a minimum wage, and the right to vote in our democracy have been significant issues in the fight for women's rights. However, when is it enough? When will the war for women to have equal rights reach the victory line? As a society, we need to move forwards, not backward, for each year we are in this world together. The movement for women's rights involved many women who have used passion, inspiration and change for all women. One woman that has demonstrated this is Ruth Bader Ginsburg, a woman who led a tremendous battle for gender equality in the Supreme Court as the second woman justice to serve in the court. Ginsburg once said, "I do not say women's rights—I say the constitutional principle of the equal citizenship status of men and women."¹ Further emphasizing that women, like anyone else, deserves equality as it is a constitutional right. To further explain, during her years on the Supreme Court, she advocated for gay rights, women's rights, low-income people, and many other marginalized groups. Another woman who has demonstrated this is Sonia Sotomayer, who serves as an associate justice of the United States

¹ Justice Ruth Bader Ginsburg, *On Integrity* (2020), *Academy of Achievement.*, [https://achievement.org/video/ruth-bader-ginsburg-20/#:~:text=So%20it%20was%20that%20ten,in%20that%20movement%20for%20change,\(last visited March 2, 2023\).](https://achievement.org/video/ruth-bader-ginsburg-20/#:~:text=So%20it%20was%20that%20ten,in%20that%20movement%20for%20change,(last%20visited%20March%202,%202023).)

Supreme Court. She has advocated for criminal justice reform and has passionate dissents on various issues regarding gender inequality and race. To emphasize her dynamic force, Sotomayer once said, “I firmly believe in the rule of law as the foundation for all of our basic rights”²

The Supreme Court is the highest court in the United States court system and it has the power to decide constitutional interpretation questions and other issues on appeal including the jurisdiction of the constitution, the subject matter of which leads to pathways to change. There have been a number of court cases that paved a significant path toward establishing rights for women, and they are discussed below.

Reed v. Reed

Reed v. Reed, 404 U.S. 71 (1971), was a landmark decision of the United States Supreme Court holding that the administrators of estates cannot be named in a way that discriminates between genders. This landmark case was the first time in history that, “the Court applied the Equal Protection Clause of the Fourteenth Amendment to strike down a law that discriminated against women.”³ The case began with a woman, Sally Reed, who challenged Idaho’s discriminatory statute. She was a single mother who earned a living by caring for disabled people in her home. Her son Skip had died tragically. According to Sally, Cecil Reed, her ex-husband, was an abusive individual who left the family when the son was still young.⁴ Cecil was given partial custody after the divorce. However, in Skip’s teens, after one of the visits that Sally took, Skip was found dead in his father’s basement, having shot himself with his father’s rifle.⁵

² *Full text: Judge Sonia Sotomayor's speech*, TIME (2009), <https://content.time.com/time/politics/article/0,8599,1900940,00.html>, (last visited February 28, 2023).

³ *Reed v. Reed at 40: A landmark decision*, National Women’s Law Center, https://equity.siu.edu/_common/documents/resources/reed-vs-reed40.pdf, (last visited Feb 12, 2023).

⁴ *Id.*

⁵ *Id.*

Sally was suspicious as the death was considered suicide, but Cecil had taken out a life insurance policy on Skip. As Skip had died without a will, Sally filed a petition to be appointed administrator of his estate consisting of only \$495 and a few of his personal belongings.⁶ In contrast, Cecil Reed put in a malicious application; an Idaho law during this time required males to be preferred to women. Sally immediately asked her lawyer to help, but he refused, and so did the sixteen other lawyers whom she asked for help to battle this case. Eventually, an attorney named Allen Derr agreed to take her case, warning that the case could potentially lose. The case posed a significant constitutional question.⁷

Sally fought the case through every level of the courts, eventually asking the Supreme Court to do something it had never done before. This was to declare a law that discriminates based on sex unconstitutional. On this occasion, Derr and Reed were joined by the American Civil Liberties Union. The principal author of the brief, Ruth Bader Ginsburg, shortly thereafter became director of the ACLU Women's Rights Project.

In a unanimous decision, with justices Douglas, Brennan, Stewart, White, Marshall, Blackmun, and Chief Justice Burger, the court held that the law's different treatment of men and women was unconstitutional. The Court opined that "[t]o give a mandatory preference to members of either sex over members of the other, merely to accomplish the elimination of hearings on the merits, is to make the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause of the Fourteenth Amendment... [T]he choice in this context may not lawfully be mandated solely based on sex."⁸

Ultimately, this case had a vast impact on women's rights by leading to a pathway of justice and opening doors for further changes in women's

⁶ *Id.*

⁷ *Id.*

⁸ Reed v. Reed, 404 U.S. 71 (1971), OYEZ, <https://www.oyez.org/cases/1971/70-4>, (last visited Feb 12, 2023).

rights. For example, five years later, in *Craig v. Boren*, 429 U.S. 190 (1976), the Court established a new standard for sex discrimination.⁹ With this new standard, discriminatory laws and policies must be supported by an exceedingly persuasive justification substantially related to a government objective and cannot be based on gender roles. Luckily, “thanks to Sally Reed, the door was opened for other women and men to challenge discriminatory laws under the Equal Protection Clause successfully, and government laws and practices such as providing widows, but not widowers, survivor’s benefits based on their spouse’s contributions to Social Security; granting men control over marital property; providing welfare benefits to a family when a father, but not a mother, was unemployed; and excluding women from public military colleges were struck down”¹⁰

Griswold v. Connecticut

In *Griswold v. Connecticut*,¹¹ the Supreme Court ruled that a state's ban on the use of contraceptives violated the right to marital privacy. This began in 1879; Connecticut passed a law banning any drug, medical device, or instrument to be used in controlling conception. “The 1879 law provided that “any person who uses any drug, medicinal article or instrument to prevent conception shall be fined not less than forty dollars or imprisoned not less than sixty days.”¹² This prompted a gynecologist C. Lee Buxton, at the Yale School of Medicine, to open a birth control clinic in New Haven, Connecticut, in conjunction with Estelle Griswold, who was the head of Planned Parenthood in Connecticut. The ultimate

⁹ *Craig v. Boren*, 429 U.S.190 (1976), JUSTIA LAW, <https://supreme.justia.com/cases/federal/us/429/190/>, (last visited Feb 11, 2023).

¹⁰ *Reed v. Reed at 40: A Landmark Decision*, Blog Post, (Nov. 16, 2011), National Women’s Law Center, <https://nwlc.org/reed-v-reed-40-landmark-decision/>, (last visited Mar 1, 2023).

¹¹ *Griswold v. Connecticut*, 381 U.S. 479 (1965), JUSTIA LAW, <https://supreme.justia.com/cases/federal/us/381/479/>, (last visited April 3, 2023).

¹² Alex McBride, *Griswold v. Griswold*, The Supreme Court, (Dec. 2006), https://www.thirteen.org/wnet/supremecourt/rights/landmark_griswold.html, (last visited Jan 29, 2023).

plan was to use the clinic in order to engage the Supreme Court in a challenge to the constitutionality of the statute under the Fourteenth Amendment.¹³ They were both arrested and convicted of violating the law and this decision was affirmed by higher state courts. Then, they were each fined \$100. Griswold and Buxton appealed to the Supreme Court of Errors of Connecticut, claiming that the law violated the U.S. Constitution. The Connecticut court upheld the conviction, and Griswold and Buxton appealed to the U.S. Supreme Court, which reviewed the case in 1965.¹⁴

During this time, the Supreme Court had justices Warren, Douglas, Clark, Harlan, Brennan, White, and Goldberg as part of the majority. Then justices Stewart and Black were a part of the dissent. In a 7-2 decision, the Supreme Court decided that the Connecticut law violated the right of marital privacy and could not be enforced against married people. Justice William O. Douglas in his opinion emphasized that the Bill of Rights specifically ensures that the "penumbras"¹⁵ created by ". . . emanations from these guarantees . . . help give them life and opinion."¹⁶ Furthermore, the right to privacy is seen as fundamental to the court when concerning the actions of married couples, as well as justifiable. A married couple's use of contraception is a fundamental right to do what they wish. Connecticut must prove to the court that its law is compelling and necessary if the purpose of the law is to withhold married couples from using forms of contraception. Connecticut could not provide this rationale and so, the law was struck down.

The decision in *Griswold v. Connecticut* highlighted the beginning of an era of change for sexual and reproductive rights. "In 1965, at the time of the *Griswold* decision, 32 women died for every 100,000 live births in America. Today, the rate is less than half that. Infant mortality has fallen

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

even faster: from 25 deaths to six deaths per 1,000 live births”.¹⁷ Additionally, the ruling of *Griswold v. Connecticut* has allowed women to live in a healthier manner such as preventing cramps and skin difficulties, and more.

Roe V. Wade

In *Roe. v Wade*¹⁸ is considered a landmark decision where the Supreme Court of the United States ruled that under the Constitution, the right to an abortion was upheld. The case began in 1970, with the identity of the plaintiff being changed to “Jane Roe ”¹⁹, which was a fictional name created to protect the plaintiff’s identity. In reality, the plaintiff’s identity was Norma McCorvey. McCorvey sought to terminate an unwanted pregnancy, as she had grown up in difficult, impoverished circumstances and had given birth twice, both of which births resulted in the babies being given up for adoption. At the time of McCorvey’s pregnancy in 1969, abortion was legal in Texas—but only to save a woman’s life. In contrast, a woman could get an abortion in other countries or pay a large fee for an American doctor to perform the procedure legally. Many women, who were underprivileged or like McCorvey, could not afford it and had to resort to illegal abortions or self-induced abortions. “In the 1950s and 1960s, the estimated number of illegal abortions in the United States ranged from 200,000 to 1.2 million per year, according to the Guttmacher Institute.”²⁰ After unsuccessfully trying to get an illegal abortion McCorvey was referred to Texas attorneys Linda Coffee and

¹⁷ *Griswold v. Connecticut* , Planned Parenthood, <https://www.plannedparenthoodaction.org/issues/birth-control/griswold-v-connecticut>, (last visited Feb 11, 2023).

¹⁸ *Roe v. Wade*, 410 U.S. 113 (1973), OYEZ, [https://www.oyez.org/cases/1971/70-18#:~:text=In%201970%2C%20Jane%20Roe%20\(a,to%20save%20a%20woman's%20life,\(last%20visited%20Feb%2014%202023\).](https://www.oyez.org/cases/1971/70-18#:~:text=In%201970%2C%20Jane%20Roe%20(a,to%20save%20a%20woman's%20life,(last%20visited%20Feb%2014%202023).)

¹⁹ *Id.*

²⁰ Rachel Benson Gold, *Lessons from before Roe: Will Past be Prologue?* , (March 2003), The Guttmacher Report on Public Policy, https://www.guttmacher.org/sites/default/files/article_files/gr060108.pdf, (last visited Feb 14, 2023).

Sarah Weddington who were interested in taking on anti-abortion laws. From the beginning of the case, McCorvey was known as Jane Doe on all court documents. In 1970, the attorneys filed a lawsuit, “. . . regarding McCorvey and all the other women who were or might become pregnant and want to consider all options, [and the suit was filed] against Henry Wade, the district attorney of Dallas County, where McCorvey lived.”²¹

In 1970, a Texas District court ruled that the state’s abortion ban was illegal, as it violated the constitutional right to privacy. With this, Wade declared he would continue prosecuting doctors who performed abortions. Eventually, this case was appealed to the U.S. Supreme Court, while McCorvey gave birth and put the child up for adoption.²²

On January 22, 1973, the Supreme Court decided in a 7-2 decision, to strike down the Texas law banning abortion. In a majority opinion, written by Justice Harry Blackmun, it was decided that a woman’s right to abortion was protected by privacy in the Fourteenth Amendment. The court further said that there are three trimesters to a pregnancy. The choice to end the pregnancy with this in the first trimester was entirely up to the lady. Following the first trimester, state law would govern protocol. To protect the mother’s health, state law prefers to restrict rather than ban abortions beyond the second trimester. After the second trimester, when the fetus can become viable, the state can control or forbid abortions to protect the potential new life, unless it is imperative to protect the mother’s life or health.²³

The impact of *Roe v. Wade* was intensive and one of the most influential landmark cases to ever come to the Supreme Court of the United States.

²¹ *Roe v. Wade*, History, (Mar. 27, 2018), <https://www.history.com/topics/womens-history/roe-v-wade>, (last visited Feb 14, 2023).

²² *Roe v. Wade*, 410 U.S. 113 (1973), OYEZ, [https://www.oyez.org/cases/1971/70-18#:~:text=In%201970%2C%20Jane%20Roe%20\(a,to%20save%20a%20woman's%20life.](https://www.oyez.org/cases/1971/70-18#:~:text=In%201970%2C%20Jane%20Roe%20(a,to%20save%20a%20woman's%20life.) (last visited Feb 14, 2023).

²³ *Roe v. Wade*, 410 U.S. 113 , (1973), Legal Information Institute, https://www.law.cornell.edu/wex/roe_v_wade_, (last visited Feb 15, 2023).

This Supreme Court decision paved the way for decriminalizing abortion in the United States. This legal protection is one that every woman, no matter her race, sexuality, ethnicity, or background, deserves. “Abortion access is an economic and racial justice issue and a crucial part of civil rights.”²⁴

Meritor Savings Bank v. Vinson

*Meritor Savings Bank v. Vinson*²⁵ was a case regarding sexual harassment in a work environment. The case began in 1974 when Mechelle Vinson started working for Meritor Savings Bank as a teller trainee. Her immediate supervisor was Sidney Taylor—a vice president of the bank. Over the years, Vinson had received several promotions. However, in 1978 her employment was terminated due to excessive use of sick leave. Following this, she filed suit under Title VII against Taylor and the bank, alleging that she was a victim of sexual harassment during her employment. “Vinson claimed that she had sexual intercourse with Taylor on multiple occasions, for fear of losing her job.”²⁶ Further claiming that she was raped by Taylor several times and that he had fondled and touched other female workers as well. Due to fear of reprisal, Vinson never reported the alleged harassment. Taylor denied the allegations, arguing that these claims were from a business-related dispute.

Additionally, the allegations were dismissed by the bank. Officials were unaware of Taylor’s behavior, and if he had acted as Vinson alleged, he did so with his own free will and accord. The federal district court held

²⁴ *Abortion and Reproductive Health Care Are Civil Rights*, Lawyers’ Committee for Civil Rights Under Law, <https://www.lawyerscommittee.org/abortion-and-reproductive-health-care-are-civil-rights/>, (last visited Feb 14, 2023).

²⁵ *Meritor Savings Bank v. Vinson*, 447 U.S. 57 (1986), JUSTIA, <https://supreme.justia.com/cases/federal/us/477/57/>, (last visited April 3, 2023).

²⁶ David Dagley, *Meritor Savings Bank v. Vinson*, Encyclopedia Britannica, <https://www.britannica.com/topic/Meritor-Savings-Bank-v-Vinson>, (last visited Feb 14, 2023).

that the sexual harassment was nonexistent. As the “relationship”²⁷ was voluntary. Further, the bank was not liable as Mechelle had never notified officials of this behavior. However, The Court of Appeals for the District of Columbia Circuit reversed the court’s decision in favor of Vinson. Ruling that if Taylor made Vinson’s “toleration of sexual harassment a condition of her employment,”²⁸ the voluntary nature of the sexual relationship was irrelevant if it existed. The court also recognized that there were two categories of actionable sexual harassment under Title VII, one being “quid pro quo,”²⁹ harassment that employment benefits are conditioned on sexual favors and “non-quid pro quo,”³⁰ harassment that, while not affecting economic benefits, still creates a hostile or offensive working environment. Further, the court ruled that the Meritor Savings Bank was “absolutely liable”³¹ for sexual harassment that arose from the actions of a supervisor, regardless of whether officials knew about the harassment or not.

On March 26, 1986, the Supreme Court, for the first time, ruled that sexual harassment violated Title VII of the Civil Rights Act of 1964. With a unanimous decision, in a majority opinion written by Justice William Rehnquist and affirmed by Justices Burger, Brennan, White, Marshall, Blackmun, Powell, Stevens, and O’Connor, the Court stated, “The Court held that the language of Title VII was not limited to 'economic' or 'tangible' discrimination, finding that Congress intended to strike at the entire spectrum of disparate treatment of men and women in employment. . . .”³² However, regarding the degree of employment liability, the court decided not to conclude and left that without a ruling.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Meritor Savings Bank v. Vinson*, 447 U.S. 57 (1986), JUSTIA, <https://supreme.justia.com/cases/federal/us/477/57/>, (last visited April 3, 2023).

In its entirety, the ruling of *Meritor Savings v. Vinson* created an impact and a legacy for women's safety in the workplace. It was a step in reaching and advocating for women's rights, furthermore restricting sex discrimination in a hostile work environment. Without this landmark case, more victims like Vinson could be affected in their workplace.

Conclusion of women's fight for equality in the United States

Women's rights is a topic close to many women's hearts, including issues like sexuality, race, ethnicity, and background. One important and common legal attribute is that women deserve the right to be equal—including having rights to make conscious decisions over their bodies concerning body anatomy, purchasing real estate, having access to use contraceptives, as well as the right not to be sexually harassed in the workplace and countless other rights that every human deserves.

Women's rights are human rights.

Over the years, women have fought for their rights, for gender equality, and to be treated as they deserved. There are areas that still need to be evaluated and revised in order to achieve equality.. Consider these statistics: as noted by the Pew Research Center, “Growth has stagnated recently; however, currently, women make up 47% of the U.S. labor force, up from 30% in 1950.”³³ Women have made vast increases in educational attainment which probably affect the progress women are making in the workforce, “Among adults ages 25 to 64, women are now more likely than men to have a four-year college degree. In 2017, 38% of women and 33% of men had a bachelor's degree.”³⁴ Yet, despite these numbers, women still lack representation in leadership positions in government and business,. “. . .women only account for about 20% of

³³ A.W. Geiger & Kim Parker, *For Women's History Month, a look at gender gains – and-gaps – in the U.S.*, (2018), <https://www.pewresearch.org/fact-tank/2018/03/15/for-womens-history-month-a-look-at-gender-gains-and-gaps-in-the-u-s/>, (last visited Feb 15, 2023).

³⁴ *Id.*

members of Congress and about a quarter of state legislature members. Women comprised roughly 5% of Fortune 500 company CEOs in the first quarter of 2017 and about 20% of Fortune 500 board members in 2016. As of March 2018, there are six female governors and five females in executive branch cabinet-level positions.³⁵ Currently there is a division in the United States concerning whether the progress these numbers indicate is sufficient. People are divided on this issue: 50% believe the nation has not advanced far enough, 39% believe efforts have been about right, and 10% believe the government has progressed too far. Men are split between believing there needs to be more work done (42%) and believing things are about right (44%), but more than half of women (57%) believe the nation has not done enough to provide women equal rights with men.³⁶ With a wide array of data, it is clear that the genders see things differently in every category. Through the years, there has been progress. However, when will there be true equality?

Prominent women figures such as Susan B. Anthony, Elizabeth Cady Stanton, and Lucretia Mott fought tirelessly. They founded the women's suffrage movement and would look at the progress made and be proud. The fight did not end with getting the right to vote, and it will not end until each woman is given the opportunity of full equality.

³⁵ *Id.*

³⁶ *Id.*