

What Ruth Bader Ginsburg Learned From Swedish Social Democracy

The seeds for Ruth Bader Ginsburg's pioneering sex-discrimination Supreme Court briefs were planted in the early years of her legal career of the 1960s, from an unlikely source: Sweden, under the prime ministership of social democrat Olof Palme.



In 1969, the Faculty of Law in Lund conferred an honorary doctorate upon Ruth Bader Ginsburg. (Lund University)

The pioneering [sex-discrimination law casebook](#) that Ruth Bader Ginsburg published with two of her colleagues in 1974 closes, after nine-hundred and

twenty-seven pages, with a brief chapter of “Comparative Side-Glances.” Ginsburg and her colleagues avowed a “modest purpose” for the pages that followed. They sought merely “to suggest the breadth of the movement toward equal rights for men and women” that went well beyond the borders of the United States. The side-glances, however, had a rather surprising focus: Sweden.

In text that must have been written by Ginsburg, the authors acknowledged the unexpectedness of their interest in the Scandinavian country. They admitted that it was “based on the experience of one of the authors of this text, who was awakened to the sex-role debate during visits to Sweden in the early 1960s.” Ginsburg had taken two extended visits to Sweden in 1962 and 1963 to work on a book about comparative legal procedure. While she was there, a set of high-profile debates about the unfairness of women carrying two jobs, going to work and caring for their families, when men only had one had unfolded in the Swedish press.

Ginsburg followed them avidly. The seed for arguments that reappeared later in her pioneering sex-discrimination Supreme Court briefs had been planted.

“The Emancipation of Man”

Ginsburg found a kind of single parent’s nirvana in her first Swedish stay. Her devoted husband Martin remained in New York, his travel limited by his pursuit of a partnership in his law firm, while she and her young daughter, Jane, navigated the new terrain. Ginsburg had spent the year before learning Swedish. A former Royal Swedish Ballet dancer turned Columbia University student had been her tutor and livened up her dry study of Swedish legal procedure. In contrast to Manhattan, where Ginsburg had found only two nursery schools for Jane, childcare was high quality and readily available at Lund University where she was researching and writing. She observed a heavily pregnant judge ruling from the bench, a startling eye-opener at a time when pregnant women routinely lost their jobs in the United States as soon as their pregnancies showed. Most significantly, a provocative article by Swedish feminist Eva Moberg that attacked sociologists for their narrow fixation on *women’s* two roles had sparked the controversy about sex roles that fascinated Ginsburg. “We ought,” Moberg had argued, “to stop harping on the concept of ‘women’s two roles.’” Men and women had “*one* principal role, that of being people.” Ginsburg found the idea being discussed [everywhere she went](#).

The 1974 casebook’s Swedish “side-glances” reveal much about the influence both this stimulating debate and the relatively elevated status of women had on

Ginsburg's thinking. The chapter reprinted sections of the United Nations Charter and provided a few pages of discussion on East Germany, the Soviet Union, and Israel. But it gave the most space to an address by Swedish prime minister Olof Palme.

Ginsburg reprinted in its entirety a June 1970 speech Palme had given to the Women's National Democratic Club in Washington, DC on "The Emancipation of Man." In the speech, Palme announced his Social Democratic Party's commitment to women's equality but declared that it was time to shift the focus to men. It was not sufficient that women be "emancipated from their antiquated role" — so, too, must men be freed from their historic sex-typed duties.

Palme cited studies showing the disadvantages of "the male sex-role," from higher stress-related illness and suicide rates to difficulties adapting to divorce and the impossibility of playing a significant role in their children's upbringing. He concluded that men's emancipation was as good for men and children as for women's equality. Emancipation meant that men could — and would — spend less time at work (and perhaps in politics as well) in order to devote more time to their families. In turn, women could dedicate more energies to employment and public life.

A Model to Emulate

Many besides Ginsburg looked expectantly to Sweden. Palme's speech became a touchstone for American feminists.

Along with a 1968 special report on the status of women in Sweden for the United Nations, it was widely available and routinely referenced. *Voices of the New Feminism*, a 1970 edited collection of new feminist thought, featured an extended excerpt from the UN report. The *Journal of Social Issues* reprinted Palme's speech in its special 1972 issue on the status of women.

In 1976, James Levine, the feminist author of *Who Will Raise the Children? New Options for Fathers (and Mothers)*, quoted Palme's speech approvingly. Like other American feminists, Levine found a model to emulate in Sweden. It was a society where men were meant to have "just as much contact with their children as the women." He was thrilled that its leaders wanted both men and women to work ["as child nurses, kindergarten teachers and infant-school teachers."](#)

Palme's focus on altering men's roles guided Ruth Bader Ginsburg's attention to male plaintiffs when she took on her first sex-discrimination suits in the early 1970s. She regularly argued cases that featured fathers who were victims of discrimination for failing to uphold a norm of male breadwinning in their families.

Ginsburg considered 1975's *Weinberger v. Wiesenfeld* the "most spectacular" gender-discrimination case decided by the court. Stephen Wiesenfeld's wife Paula had been the family's primary breadwinner. After his wife died in childbirth, Wiesenfeld was denied Social Security benefits so that he could look after his infant son — benefits that would have come to a widow as a matter of course.

Ginsburg and her colleagues at the ACLU's Women's Rights Project, where she formulated many of her landmark sex-discrimination cases, argued that withholding Social Security "widow's" payments from Stephen Wiesenfeld was unfair to both women and men. It was unfair to women because it excluded them from benefits that they had earned by paying into the system. It was unfair to men because it enforced sex-role stereotypes that kept men from taking a significant role in their families.

Ginsburg savored this victory. With it, she said, the court began "to strike classifications based on the notion that social roles are preordained by sex." As many legal scholars have observed, Ginsburg made eradicating sex-role stereotyping a centerpiece of her strategy to enshrine sex discrimination as a violation of the US Constitution. Her "side-glances" at Sweden had been formative. A series of fortuitous accidents had landed her in the country at a crucial juncture when the whole sex-role edifice received the penetrating criticism that would resurface in her key 1970s briefs and arguments before the court.

The Law and Political Will Were Not Enough

Ginsburg also learned a more painful lesson from Sweden. Watching the country from afar, she saw that law and the best political will were not enough to change deep-seated cultural mores.

Her 1974 casebook ends with an equivocal "Concluding Note on the Sex-Role Debate: A Single System of Equality or Protection Sometimes." Wistful regret overlaid crisp analytical prose as she turned again to Olof Palme. He had observed that "transitional regulations" would be necessary to protect women because, in reality, they still carried what Ginsburg and her coauthors termed "the home burden."

After nine-hundred and fifty-four pages, the book ended not with a ringing declaration of women's equality but with a question mark. Taking on the belief that women *should* be wives and mothers, and that men *should* be breadwinners, had been revolutionary. But for the most part, it remained women who actually did the dishes and bathed the children. How could law best remedy that inequity? It would be a question that chased Ruth Bader Ginsburg over

forty extraordinary years, at home and abroad in Sweden — and one we still are struggling to answer.