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Feminine Style and Ruth Bader Ginsburg’s Rhetoric

Women’s rights are a struggle that have existed in the United States since the early 1800’s. The Women’s Rights Movement began during this time and has resurfaced various times since then as more questions arise regarding women’s rights and women demand more freedom. Countless women have dedicated their lives to this movement and made great improvements in the lives of American women. Throughout this analysis, I will discuss how the Women’s Rights Movement came about in the United states, and the rhetorical style known as feminine style that has been used by women in the movement to allow their voices to be heard. I will then explore the role of Supreme Court Justice Ruth Bader Ginsburg in the more recent wave of the Women’s Rights Movement and how she has applied the feminine style to her arguments. Ginsburg’s unique rhetorical tactics in her writing and delivery as well as her use of the feminine style have allowed Ginsburg to become such a well-known and key figure to this movement.

Americans have been fighting for women’s rights for well over a century now. This movement began in the early 1800’s as a result of the Abolitionist Movement; American women were fighting against slavery but realized that they were not free themselves. While slavery and women’s rights are certainly extremely different issues, they were almost intertwined in parts of the nineteenth century.

The Beginning of a Movement
Women across the States were trying to speak out against slavery but were unable to make real changes without the freedom to speak and be heard. Women wanted to make strides for the entire country but were stifled by their own limitations. In Karlyn Campbell’s article, *Man Cannot Speak for Her: A Critical Study of Early Feminist Rhetoric*, she explains that early Women’s Rights Activists “were a group virtually unique in rhetorical history because a central element in the oppression of a woman was the denial of her right to speak” (294). Because women were not permitted to speak publicly, Campbell describes the creative ways in which activist women broke through boundaries.

During this time period, thousands more women were deciding that slavery was morally wrong and wanted to do something to help; however, “women who formed moral reform and abolitionist societies, and who made speeches, held conventions, and published newspapers, entered the public sphere and thereby lost their claims to purity and piety” (Campbell 295). Because women that spoke out in public were seen as tainted, it was virtually impossible for them to gain any rights in the current social system. Women saw a need to change this mindset and prove their worth in society, so they began to implement new rhetorical strategies when speaking to persuade audiences and appear intelligent, while also maintaining and proving her femininity. This new rhetorical move is called, Feminine style. Women needed to be heard, but they would not be taken seriously if they followed the models of men speaking. This style, as explained by Campbell, “will invite audience participation, including the process of testing generalizations or principles against the experiences of the audience. Audience members will be addressed as peers, with recognition of authority based on experience” (297). With this new style, women were able to begin to speak out with the goal of empowering other women without losing their ‘womanhood’.
Angelina Grimké, a popular abolitionist and women’s rights activist of the nineteenth century, rose to popularity within these movements by writing and speaking publicly using this feminine style. Much of Grimké’s arguments were defended with Biblical rhetoric—a useful tactic for women, because this was a subject they were permitted to speak about. Angelina Grimké goes all the way back to the creation of humankind to explain women’s inherent rights. She stated, “I affirm that woman was never given to man. She was created like him, in the image of God, and crowned with glory and honor; created only a little lower than the angels, — not, as it is too generally presumed, a little lower than man” (Sklar 36). She relied on scripture to defend her arguments because it gave her credibility that women did not have through their own merit and experiences.

With her feminine style and Christian ethos, Angelina Grimké was able to empower women across the nation and facilitate the conversation of women’s rights in America. In her final public speech at Pennsylvania Hall, Grimké applies these powerful rhetorical strategies to make a lasting statement on the nation despite her speech being bombarded by an angry mob. As mentioned previously, the feminine style relies on speaking from experience and addressing the audience as peers. This style also often includes audience participation. Grimké does this through the use of rhetorical questions. She opens her speech with the questions, “Men, brethren, and fathers-mothers, daughters and sisters, what came ye to see? A reed shaken with the wind? Is it curiosity merely, or a deep sympathy for the perishing slave, that has brought this large audience together?” (Grimké). Through these questions, she makes the audience reflect on why they are present at this very moment. This form of audience participation causes the audience to realize that they are part of something larger than themselves; this rhetorical strategy that Grimké opens with allows the audience to change their mindset. Grimké’s goal is to show the audience that
they are more than passive listeners during her speech; rather, they are participants in a movement—something brought them here, and her questions force the audience to recognize that they have to power to become active within the movement.

Later in the speech, Grimké applies the personal experience aspect of feminine style. She tells the audience her own story in realizing the cruel and inhuman nature of slavery; in fact, she uses the pronoun, I, followed by a verb over twenty times in just five short paragraphs. She does this to establish her own credibility due to her personal experience. She says, “I have seen it—I have seen it. I know it has horrors that can never be described. I was brought up under its wing: I witnessed for many years its demoralizing influences, … But I have never seen a happy slave…” (Grimké). This repetition creates a narrative with a poetic sound to draw her audience in and remain within the feminine style. Instead of the harsh, fiery rhetoric that is often effective for male speakers, she remains composed, and sounds beautiful despite the harshness of the subject she is speaking about.

Angelina Grimké ended her career as a public speaker with her fiery Pennsylvania Hall speech in 1838, but this did mark the end of her fight for women’s rights. Angelina and her sister, Sarah Grimké, left the public sphere to show that their “advocacy of women's rights had not made them unfit for family life” (Sklar 43). Angelina defended this in a letter to another activist of the movement, Anne Weston, to tell her “Now I verily believe that we are thus doing as much for the cause of woman as we did by publicly speaking. For it is absolutely necessary that we should show that we are not ruined as domestic characters, but so far from it” (Grimké 160-1). This choice to step away from the public and take on the domestic life was a strong rhetorical move made by Grimké. She was determined to prove to the nation that even the
strongest, most outspoken women can still fit the female mold. She wanted to be the example that women are versatile; there is no one position for a woman.

**Women’s Rights Gaining Momentum**

This movement quickly gained traction in America, and soon women were holding conferences and meetings to organize their ideas and make changes both in social aspects and legislation. The first national Women’s Rights Convention took place in Seneca Falls, New York in 1848. According to an actual report from the convention, its purpose was to “discuss the Social, Civil, and Religious Condition of Women” (Sklar 173). While this declaration certainly improved the situation for women in America, the fight did not end with one document. In fact, one hundred and seventy years later, we are still having arguments over women’s rights.

Extreme strides have been made for women over the last century moving closer to equality. Women now have the right to vote, they can now run for political office, and hold jobs that they once only dreamed of. These are great feats, but women across the country still experience discrimination. As times change, new problems arise. Women activists of the 1800’s achieved a great deal of success, but as society developed, so did the Women’s Rights Movement.

Whether they are being paid a smaller salary than a man doing the same work, or being denied life-saving healthcare services, women have not yet achieved the equality that we have been fighting for. The earliest days of this movement had Angelina Grimké as a leader. A new century brought about new questions and required a new leader for the movement, Ruth Bader Ginsburg.

*‘The Notorious RBG’*
Ginsburg, now a distinguished Supreme Court Justice for the United States, has dedicated her life to the fight for women’s equality. With her intelligence, undeniable writing talents, and a quick wit, Ginsburg has spent decades paving the way for women to have equal opportunity and to put an end to discrimination on the basis of sex. Justice Ginsburg grants her success in this movement to simply being in “the right place at the right time.” In a 2008 speech to Wake Forest Law School, she explained how she became a key figure in the resurgence of the Women’s Rights Movement in the 1970’s. She explained that in these years she was already “a law teacher, general counsel to the American Civil Liberties Union, and a founder of the ACLU’s Women’s Rights Project” (Ginsburg 154). These prestigious titles allowed Ginsburg to stand out within the movement as a woman that was already hard at work for the cause.

Years of working tirelessly and making a name for herself eventually led to Ginsburg’s Supreme Court nomination from President Bill Clinton. When President Clinton announced his pick for the Supreme Court, he told the press that one of the main reasons he chose Ginsburg was that “over the course of a lifetime, in her pioneering work on behalf of the women of this country, she has compiled a truly historic record of achievement in the finest traditions of American law and citizenship” (173). After a long, Senate confirmation hearing in July of 1993, Ruth Bader Ginsburg was confirmed to be the second woman to ever serve on the United States Supreme Court.

Ginsburg’s path to the Supreme Court marks big moves for the Women’s Rights Movements. Where Angelina Grimké had to search for places that would allow her to speak and had to center her arguments around Christianity just to be heard, Ginsburg took a different approach. She placed herself in spheres typical of men and made a name for herself. She was one of only nine women to attend Harvard Law school, and she graduated at the top of her class. This
is a rhetorical move because she proved that women were just as capable, if not more, than men. Before becoming a justice, she appeared in the Supreme Court, where women were almost never seen, and convinced the Justices to revisit an old case and rule discrimination based on sex to be unconstitutional. In her opening statement to the court, she argued, “Sex, like race, is a visible, immutable characteristic bearing no necessary relationship to ability” (Carmon 44). Ginsburg had an ability to calmly speak just a few words and leave an entire room of outspoken and opinionated people speechless. Angelina Grimké used her voice and rhetorical tactics to enlighten fellow citizens on the need for Women’s Rights; Ruth Bader Ginsburg took this a step further and began to shape the policy and laws that opened and protected women’s rights.

**On the Bench**

Ruth Bader Ginsburg was already a force to be reckoned with, but her new place on the bench of the United States Supreme Court provided her with the power and the platform to continue her fight for equality, change legislation, and right many wrongs that women had been facing for centuries because the Constitution did provide protection or equal treatment for the rights of women.

Justice Ginsburg has become well-known in recent years for her powerful dissents. In the Supreme Court, a dissenting opinion is the opportunity for justices that were part of the minority opinion to explain why they disagree with the majority on a verdict. These dissents are verbal and written statements from the minority that serve a crucial role in the American government. Erin Rand explains the role of dissents in saying, “Judicial dissents do more than refute the conclusions reached in the majority opinion; they also denaturalize the very rhetorical strategies used to convey that opinion, displaying a different set of generic characteristics” (76). Ginsburg adds to this explanation in a speech to Tulane Law School that is included in her book, *My Own*
Words. Here, she explains why she feels the dissent is a powerful tool for a Supreme Court Justice to put to use. Justices in the minority are not required to dissent. Even if they disagree with the majority, they may just accept defeat and move on. This is because, as Ginsburg states, “dissenting too often will weaken the force of a dissent when it becomes important to write” (Ginsburg 281). She explains that the dissent is meant to make a powerful statement, it should be saved for special occasions, so when they do happen, they remain important. She believes that if she dissented on every court opinion that she disagreed with, then it would just become standard procedure, and no one would listen.

When Ginsburg dissents, she wants to be heard. She believes that dissents should be made with the goal of changing the court’s mind. She explains, “On occasion, a dissent will be so persuasive that it attracts the votes necessary to become the opinion of the Court,” so the goal is not to just make it known that she disagrees with the rest of the Court; instead, it is to explain why she believes the Court made the wrong decision. She continues to say, “Whenever I write in dissent, I aim for a repeat of that experience. Much more often than not, the conference vote holds, but hope springs eternal!” (Ginsburg 283). Most of the time, dissents do not change the vote of the other justices, but it can happen, and that is the goal that Ginsburg keeps in mind each time she writes one.

While convincing her fellow judges is the main goal of Ginsburg’s dissents, she believes there are also a few benefits that go beyond the court. In her speech, she quotes former Chief Justice Hughes, who said, “A dissent in a court of last resort is an appeal to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting court to have been betrayed” (282-3). Ginsburg firmly agrees with this statement, especially in cases that deal with Constitutional language or an amendment. She believes that speaking to “the
intelligence of a future day” is the best she can do in hopes that a future case regarding similar topics will learn from their ruling and her dissent and make change for the better. So, in a way, these dissents are Ginsburg’s legacy to the United States—her way of fighting for change even when she no longer sits on the court.

Dissents can also be used to call on the other branches of government to create new legislation. In Ginsburg’s words, “Another genre of dissent looks not to a distant future day but seeks immediate action from the political branches of government—Congress and the president” (Ginsburg 284). This type of dissent is meant to encourage the other branches to “prompt legislative overruling of the Court’s decision” (284). This has happened to Ginsburg in the 2007 Supreme Court case, Ledbetter v. Goodyear Tire and Rubber Co.. This case involved a woman who worked for Goodyear Tire and Rubber Company for many years; she eventually filed to sue the company because she was being paid substantially less than the men doing the same work as her. The court ruled against her on the basis that she took too long to make the claim, and they believed that her chance to speak up about the issue had passed. Angered by this decision that blatantly allowed a company to get away with sex discrimination, Ginsburg delivered a dissent urging Congress to do something. She said, “the ball is Congress” court to correct the Court’s parsimonious reading of Title VII” (Ginsburg 285). This call to congress proved successful, and not long after, a fair pay act was passed in Congress and signed by President Obama to prevent this from happening again.

Ginsburg may have been successful in her dissent in Ledbetter v. Goodyear Tire and Rubber Co.; however, not just any statement made by a Justice can launch immediate action in legislation to reverse a decision made by the majority of the Supreme Court. In fact, there are many legal scholars in the United States that believe dissenting opinions are a waste of time.
Rand’s article about the Judicial dissent describes many of the reasons that people over the years have been against dissents. She explains, that there were “turn of the century judges who “doubt whether a dissenting opinion is justified” and assert that dissents are “useless and undesirable”” as well as the belief that “dissents were said to weaken authority of the law and make the Court appear to be divided and therefore less trustworthy” (77). While I am sure that there have been dissents in the Supreme Court’s history that were useless or a waste of time, I believe that Justice Ruth Bader Ginsburg’s tactful choice in when she provides a dissenting opinion along with her careful word choice, specific emphasis, and extreme attention to detail have allowed each one of her dissenting opinions to hold great value in our justice system as well as the Women’s Rights Movement. Her rhetorical tactics are direct, and historically effective, and she makes these statements not with the intention of undermining the Court, but to improve the quality of our nation and its laws.

Her success in sparking legislative change from these dissents is primarily due to her creative use of language. “Dissents are also likely, as several scholars and justices have noted, to be “looser,” “more flamboyant,” and more idiosyncratic than majority opinions, which tend to take a “bare-boned” approach” (Rand 76). Ginsburg’s ability to play with language and rhetorical strategies within her dissents allow the arguments to stand out next to the rigid or plain language of the majority opinion. The dissent is more than a disagreement; it is a performance.

The rhetorical performances of Justice Ginsburg’s dissents have contributed to her popularity among women’s rights supporters. One women’s rights activist, Katie Gibson, says that these performances should be celebrated for undermining the “expectations of the language of the law by explicitly calling out its neglect of and outright hostility to the lived experiences of women” (Rand 76). Ginsburg moves away from legal language and instead focuses on the actual
experiences of women in America. This rhetorical performance has also been referred to as “an act of theater that justices use to convey their view that the majority is not only mistaken, but profoundly wrong. It happens just a handful of times a year” (Gibson 124). Here, we are reminded of the complexity and creativity that each of Ginsburg’s dissents possess. These performances do not happen often—only when she knows they are necessary to highlight, in a bold manner, the missteps of the Court’s majority.

**Dissenting Rhetoric**

In Justice Ginsburg’s dissenting opinions from, *Ledbetter v. Goodyear Tire and Rubber Co.*, and *Burwell v. Hobby Lobby*, as well as a few speeches she had made over the years, it becomes clear that Ginsburg’s rhetoric is a powerful tool in her fight for Women’s Rights. The following examples of her writing have played a crucial role in Ginsburg’s recent popularity, as well as show her style, and beliefs in a clear and concise manner.

In her article discussing Ginsburg’s use of rhetoric in the *Burwell v. Hobby Lobby* dissent, Erin Rand argues that “the rhetorical and political excess of Ginsburg’s dissent became especially evident immediately after the Hobby Lobby decision, when her text circulated widely among the general public and taken up in the protests of reproductive rights activists, and Ginsburg herself became an internet celebrity and feminist icon” (73). According to Rand, it is the rhetoric of this opinion that launched Ginsburg into popularity and earned the title, ‘The Notorious RBG’.

Justice Ginsburg’s ability to reshape America’s idea of a woman is greatly due to her unique and impactful rhetorical style. As explained in the book, *My Own Words*, “Her voice, in public and on paper, is modest and measured, yet her style is distinctive and her point is often captured in a memorable quotation from someone else or a notable and quotable pithy quip of
her own” (193). This stylistic choice of Ginsburg’s to often include quotations from others or something memorable she once said, is a tactic to appeal to ethos. Because she is a woman, and she began her career in a time when women were often not taken seriously, Ginsburg had to find a way to prove her credibility. She quoted others in the field, often men, to give her argument the credibility that she did not inherently have as a woman. This is the same tactic used by Angelina Grimké in the early years of the Women’s Rights Movement; Grimké applied Biblical examples, just as Ginsburg backs her arguments with quotations from others with credibility.

One example of Ginsburg using someone else’s words to add to the credibility of her own argument can be found in her 2006 speech titled, Women’s Progress at the Bar and on the Bench. In this speech, Ginsburg describes the difficulties women experienced when trying to join the legal profession across most of the 1900’s. Instead of relying only on her personal experience, Ginsburg speaks about Judge Florence Ellinwood Allen and her unique experience as a woman trying to make her way in the legal profession.

Allen served on federal court for many years and was rumored to be President Truman’s nomination to the Supreme Court—the Supreme Court would have made Allen the first female Supreme Court Justice. However, Truman’s political strategist, India Edwards convinced the President that “[a] woman as a justice…would make it difficult for [the other Justices] to meet informally with robes, and perhaps shoes, off, shirt collars unbuttoned and discuss their problems and come to decisions” (Ginsburg 75). Instead of only speaking on her own difficulties over the years, Ginsburg tells the story of another woman that could have changed history for women in politics as early as 1949. This specific example included by Ginsburg allows her audience to see the greater depths of issues with discrimination against women. Including this other experience and the words of a political strategist provides Ginsburg’s argument with more credibility. She
expands the argument from her own personal experience to show that this is a widespread issue—proof that people really did believe women should not hold high positions typically held by men.

Ginsburg uses this tactic again in 2014 when making her dissenting opinion to the court in the case, *Burwell v. Hobby Lobby*. Ginsburg wrote, “A wise legal scholar famously said of the First Amendment’s free speech guarantee: Your right to swing your arms ends just where the other [person’s] nose begins.” (309). This example is interesting because without telling the who said this ‘famous’ quote, we believe her and accept it as credible because she states that this person was “a wise legal scholar.”. In this example, Ginsburg made the decision that the fact that this person was a legal scholar was more rhetorically effective than just listing a name.

As we can see, Justice Ginsburg relies heavily on this tactic of quoting others to add to her arguments. She also follows many of the other characteristics of the feminine style of rhetoric. For example, Ginsburg often addresses her audience as peers, just as Grimké commonly did in her arguments. This tactic allows the audience to feel better connected to their speaker. The hierarchy that is often seen between audience and speaker is dissolved, leaving everyone on the same level. This allows the audience to feel more like they are part of the conversation than simply being spoken to.

In the concluding paragraph of Justice Ginsburg’s *Burwell v. Hobby Lobby* dissent, she unites her audience by reminding them that they are all connected. She states, “our cosmopolitan nation is made up of almost every conceivable religious preference. In passing RFRA, Congress did not alter a tradition in which a person’s right to free exercise of her religion must be kept in harmony with her fellow citizens, and with the common good” (Ginsburg 312). Closing her argument with a phrase that begins with “Our cosmopolitan nation” is a powerful rhetorical
move that brings the audience together; they are no longer a group of different people with different opinions and histories. Instead, they are all members of this nation that they share—this is highlighted by the use of the pronoun, our. This word is small, but it means a lot rhetorically. Referring to the nation as “ours” rather than any other word removes the disconnect between speaker and audience. They are now a part of the same group, fighting for the same things. Carefully chosen words like this one allow Ginsburg to truly connect with her audience and deliver a more persuasive argument.

Another way Ginsburg follows this feminine style and mimics the rhetoric of Angelina Grimké is through her consistent use of rhetorical questions. These questions do not require a vocalized answer from the audience, but they still invite audience participation. As explained in the description of Grimké’s use of rhetorical questions, this forces the audience to become active participants in the argument. These questions ask audience members to consider their own experience in relation to the argument being made. This is a great way to draw the audience in and appeal to their emotions. In her dissent of *Burwell v. Hobby Lobby*, Ginsburg asks a series of questions, one after the other, to encourage audience participation. She asks, “What of the employer whose religious faith teaches that it is sinful to employ a single woman without her father’s consent, or a married woman without her husband’s consent? Can those employers opt out of Title VII’s ban on gender discrimination in employment? These examples, by the way, are not hypothetical” (Ginsburg 309). This example illustrates how Ginsburg applies questions to her arguments to explain the possible outcomes of the Court’s decision that she disagrees against. She asks her audience to consider all of these possibilities to look at the argument from another angle and see why she disagrees. These questions are particularly effective because they allow
the audience to come to their own conclusions without thinking they are simply being told they are wrong; it forces them to reconsider or look at other possibilities.

When discussing how she has made such an impact on women’s rights, Ginsburg explained that “we sought to spark judges’ and lawmakers’ understanding that their own daughters and granddaughters could be disadvantaged by the way things were” (Ginsburg 158). Here, Ginsburg is referring to the fact that she had to make the argument personal so lawmakers would understand; they were primarily men, so she had to ask them to think of the women in their lives so they could grasp the importance of the issues.

The Women’s Rights Movement has existed in American society for over a century now, but we have yet to achieve absolute equality. Feminine style and Supreme Court Justice Ruth Bader Ginsburg’s clever use of rhetoric and performance have allowed us to get to where we are today. Unfortunately, despite all these victories, women are still being denied crucial rights such as access to life-saving health care. In her dissenting opinion to the case, *Gonzales v. Carhart*, Ginsburg argues that the Court’s decision to criminalize any doctor or medical professional who performs certain methods abortion, is in direct contradiction to the previous ruling of *Roe v. Wade* which legalized abortion because of privacy issues. Gibson explains that Ginsburg’s dissent in *Gonzales v. Carhart* “attempts, for the first time in the court’s history, to justify the right to abortion squarely in terms of women’s equality rather than privacy” (131). This decision to defend abortion for the sake of women’s rights, and no other legal issues, is monumental in the fight to women’s rights. This issue is still being argued in Congress today, and legislators are analyzing Supreme Court decisions in abortion cases as well as this powerful dissent written and delivered by Ruth Bader Ginsburg. We have not achieved the equality and the sole control over
our bodies yet, but with the help of Ginsburg’s careful and persuasive rhetorical style, the Women’s Rights Movement can continue to make strides towards equality.

A Work in Progress

The Women’s Rights Movement has been at work since the early 1800’s. Since the movement began, women have had to produce clever tactics to get their voices heard—especially in the earliest days of the movement when women were not legally allowed to speak in public. The development of feminine style allowed women across the centuries to speak up and create progress in the women’s movement. Many years later, with conditions improving, but still far from equality, Ruth Bader Ginsburg joined the movement. She wrote and she spoke tirelessly in the fight to end discrimination on the basis of sex, and eventually earned her spot on the highest court in our nation. Since her confirmation as a Supreme Court Justice, Ginsburg has used her voice and position to continue pushing for women’s rights. Even when her opinion does not fit with the court’s majority, she speaks up. She does not let wrongs against women simply pass by because of one defeat. She makes her opinion known through the powerful performances of her rhetorically brilliant dissents. Whether her dissent causes the court to change its opinion, encourages change in legislation, or even sits in the archives for future readers and leaders, she is constantly promoting change. We may not get to see the progress immediately, but Ruth Bader Ginsburg’s ability to craft an argument has and will continue to pave the way toward women’s equality.
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