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# *Patricia Wald, First Woman to Preside Over D.C. Appeals Court, Dies at 90*

By **Neil A. Lewis**

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Patricia M. Wald, who was the first woman to serve as chief judge of the federal appeals court in Washington and who later wrote seminal rulings while serving in The Hague on the international court for war crimes in the former Yugoslavia, died on Saturday at her home in Washington. She was 90.

Her daughter Johanna Wald said the cause was pancreatic cancer.

Judge Wald was a pioneer for women in law, rising from a working-class family to enter the legal profession at a time when women were a rare presence. She eventually became the first woman to serve on — and preside over — the United States Court of Appeals for the District of Columbia Circuit, widely regarded as the second most influential court in the country.

Her career spanned a generational change that propelled women into visible and prominent roles, including on the Supreme Court, a job for which she was once in consideration.

Judge Wald's path to becoming an important progressive voice in American jurisprudence showed the obstacles women faced in the mid-20th century. She graduated from Yale Law School in 1951; when she began her studies, three years earlier, Harvard Law School did not even entertain applications from women. She became a law clerk for Jerome Frank, a prominent appeals court judge in New York, and worked briefly for some of Washington's most prominent lawyers before leaving the workplace for 10 years to be at home with her family. She raised five children with her husband, Robert Wald, a Yale Law School classmate, who established a thriving Washington law practice. He died in 2010.

Judge Wald described her choice to leave the workplace without complaint or regret. "I didn't feel any terrible sense of isolation or loss," she said. "I just assumed I would go back."

In a 2006 interview, she described the question of whether motherhood is a real or fulfilling job as a false debate. "In my view, how you pursue your life as a parent and careerist is a question of individual personality," she said.

"I did not want to go back to work until my kids were in regular school," she said, though she added, "I respect other women's choices to go back earlier."

Judge Wald first became pregnant in the early 1950s while working at Arnold & Porter, then a small firm formed by a few of Washington's top lawyers. She hid her condition for a time because she feared that it would reinforce a negative view of hiring women. "I was afraid they might say, 'You take your first woman associate and in three months, she's pregnant,' " she said.



Judge Wald testifying before the House Armed Services Committee in 2006.

David Scull/The New York Times

For several weeks she did her legal research across the street from the firm at a private library because, she said, she often collapsed in exhaustion over her books and just napped.

After her decade at home, she went back to work, initially part time. She jointly wrote a book about bail in the United States and served on several commissions to improve legal services and juvenile justice. In the beginning of that period, her youngest child was not yet in school, and she worked during his nap times and late at night. On weekends, she recalled, her husband took full responsibility for the children so that she could work without interruption.

She became a trial lawyer for the Legal Services Corporation and, after holding several other posts, was named assistant attorney general for legislative affairs by President Jimmy Carter, who later nominated her to the appeals court.

Harold Hongju Koh, a professor and former dean of Yale Law School, described Judge Wald as a vital figure in American law. “It’s hard to think of a more exuberant pioneer in this arena,” he said. She excelled as a judge both in the United States and abroad, he said, and “fought for human rights and civil liberties everywhere long after many activists would have laid down their pens.”

Patricia Ann McGowan was born on Sept. 16, 1928, in Torrington, Conn., the only child of Margaret O’Keefe and Joseph McGowan. In describing her childhood for oral history projects, she said she grew up in a crowded Irish-American household with an extended family of mostly women after her father left home when she was 2. While her mother and an aunt often worked as secretaries, the rest of the household revolved around episodic factory work at the Torrington Company, which manufactured sewing machine needles, among other things.

Her family, she said, took great pride in her academic success and made it clear that they did not expect her to end up on the factory floor. She went away to Connecticut College — it had offered her the greatest financial aid — but spent her summers on the assembly line back in Torrington greasing ball bearings and fabricating sewing needles. The workers were on strike during her last summer there, so she worked for the union.

Everyone at home would chip in, she said, to see that she had decent clothes for school. “At one point we had eight people in the house and only two were working, my grandfather and an aunt, and they were carrying the rest of us, as a family does,” Judge Wald said.

She recalled that some of her girlfriends from wealthier families were not encouraged to become professionals because their parents well understood the obstacles. But she benefited from her family’s lack of sophistication about the odds against her success. “They were like, ‘Go for it,’ ” she said.

Judge Wald joined the Court of Appeals in Washington in 1979. She was its first female member, but was soon joined by Ruth Bader Ginsburg, who would go on to become the second woman to serve on the Supreme Court.

The appeals court was known as a liberal bench, but after Ronald Reagan’s election to the presidency, it became notably more conservative with new appointees, including Robert H. Bork, Kenneth Starr and Antonin Scalia.

Judge Wald, third from right in top row, wrote seminal rulings while serving in The Hague on the international court for war crimes in the former Yugoslavia. via Reuters

After that, much of her tenure on the Court of Appeals for the District of Columbia Circuit coincided with a contentious period in which conservative and liberal judges squared off against each other regularly. Although the court's docket is heavy with cases involving the important but typically dry area of federal regulation, its judges often deal in the nation's most controversial issues. Throughout her career, Judge Wald was considered liberal and held a view of the Constitution as an engine of social progress.

She participated in more than 800 cases. One opinion she wrote struck down the so-called gag rule, a federal regulation that barred doctors who accepted federal payments from discussing abortion with their patients. Her decision was overturned in 1991 by a 5-to-4 vote of the Supreme Court in a related case, *Rust v. Sullivan*. President Bill Clinton settled the issue by eliminating the rule shortly after taking office in 1993.

Judge Wald also ruled that the State Department had systematically discriminated against women, thus setting in motion major changes in federal employment. She also dissented from the majority in a three-judge ruling that resulted in the dismissal of all criminal charges against the former Reagan national security official Oliver L. North stemming from the Iran-contra scandal.

Judge Wald once clashed with Judge Bork over the constitutionality of a Washington statute that prohibited protesters from being within 500 feet of an embassy but that allowed favorable demonstrators to gather inside that perimeter. Judge Bork wrote for the majority upholding the law, but her dissenting argument, that it violated the principle that any restrictions on political speech had to be content-neutral, was later upheld by the Supreme Court in *Finzer v. Barr*.

In 1986, she became the appeals court's chief judge, a largely administrative post that depends on seniority. She would have been the first female chief judge of any federal appeals court but for a brief stint by Florence E. Allen, who was named a chief judge of the Sixth District, based in Cincinnati, as a ceremonial tribute in 1958 just before she retired.

Judge Wald's name was among those mentioned when a spot opened up on the Supreme Court during the Clinton administration. She had also been in consideration for attorney general.

Within days of her retirement from the appeals court, she arrived in The Hague as a judge on the Yugoslav tribunal. After nearly a year of graphic testimony, she wrote the landmark judgment in the Krstic case, which found for the first time that the massacre of about 8,000 men and boys at Srebrenica constituted genocide.

In her second major trial, Judge Wald ruled that the numerous rapes at the Omarska detention camp were part of the war crimes that women there had suffered. Sitting as an appeals court judge in another case, she overturned the conviction of three military officials. While many thought the defendants guilty, she ruled that the evidence and eyewitness accounts were insufficient. Her decision dismayed some, but the ruling was generally regarded as an enhancement of the court's legitimacy.

In 2013, President Barack Obama awarded her the Presidential Medal of Freedom, the nation's highest civilian honor.

In addition to her daughter Johanna, she is survived by two other daughters, Frederica and Sarah; two sons, Douglas and Thomas; and 10 grandchildren.

Sarah Mervosh contributed reporting.

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