

THE EQUAL RIGHTS AMENDMENT

Full Text: Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

The Equal Rights Amendment would enshrine in the United States Constitution the concept of women's equality and create a national legal standard for the elimination of sex discrimination. It's about equality and respect.

I would like my granddaughters, when they pick up the Constitution, to see that notion – that women and men are persons of equal stature – I'd like them to see that is a basic principle of our society.

– Justice Ruth Bader Ginsburg

REALLY? I THOUGHT WE HAD AN ERA

After it passed by the required two-thirds vote of both the U.S. House and Senate in 1972, the Equal Rights Amendment (ERA) was sent to the states for ratification. 38 state legislatures must vote to ratify an amendment before it can become part of the U.S. Constitution. Congress, however, imposed a seven-year deadline on the ratification process; by 1978, with 35 states having voted to ratify, the amendment was still 3 states short.

With the seven-year deadline approaching, women's rights activists led by NOW organized a massive campaign to demand that Congress *remove* the timeline. Tens of thousands marched in Washington, DC in 1978 and thousands more sent telegrams to Congress, literally shutting down the Western Union system for several hours. Congress eventually acted to *extend* the deadline until June 30, 1982.

The opposition to the ERA, however – led by the US Chamber of Commerce, the National Association of Manufacturers and the insurance industry – managed to hold back ratification in the remaining states, especially in the South. When the deadline expired, no new states had ratified. The ERA was still 3 states short. The 15 states that failed to ratify the ERA are: Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Louisiana, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, Utah, and Virginia.

DO WE STILL NEED THE ERA?

With all the progress women have made since the ERA was first passed out of Congress in 1972, why do we still need the ERA? The late Supreme Court Justice Antonin Scalia put it this way: "Certainly the Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. *It doesn't.*"

Without a constitutional standard for protection, laws prohibiting discrimination against women are subject to the whims of Congress, and can be changed, gutted, or even eliminated with a simple majority vote and the signature of the President. And although the Supreme Court has struck down some gender discrimination laws, it has allowed others to stand.

For example, in the past few years, conservatives in Congress have attempted to weaken Title IX (which prohibits sex discrimination in education), have blocked passage of strong equal pay laws, and voted to ban abortion and eliminate family planning funding. The ERA would give women a stronger legal basis to fight sex discrimination in education, pay and benefits, in insurance pricing and in Social Security, Medicaid and Medicare programs that disproportionately serve poor and elderly women.

Attacks from Congress, however, are only one way in which women can lose protection from discrimination. The conservative majority of the Supreme Court has limited or gutted federal statutes prohibiting sex discrimination.

For example, in 2014, the Supreme Court, in *Burwell v. Hobby Lobby*, ruled that closely-held, for-profit corporations *could discriminate against women* by refusing to provide health insurance coverage for FDA-approved contraceptives. That means that men, no matter where they work, will have access to comprehensive preventive health insurance coverage, but women do not enjoy this same right.

The ERA would not only protect against rollbacks of the gains we have won, but also provide a basis for legislation that would secure women's equality going forward.

For example, when it was passed in 1994, the Violence Against Women Act (VAWA) made ending gender-based violence a national priority and empowered survivors to hold their batterers and rapists liable for damages – even if their attackers were not criminally prosecuted.

But when a college survivor attempted to use VAWA to sue her rapists and university for mishandling her sexual assault claim, the Supreme Court ruled that Congress had no constitutional authority to enact the provision that authorized her lawsuit. The ERA would give Congress the power to enact this kind of provision, and others, to help prevent systemic violence against women and give survivors better access to justice.

RENEWING THE DRIVE FOR THE ERA

The ERA has been reintroduced in both houses of Congress in every session since 1982, and is expected to be reintroduced in 2017. Subsequent introductions have contained no time limit on ratification. To avoid having to pass the ERA again and then re-start the ratification process, members of the House and Senate also have introduced “three-state strategy” resolutions to rescind or nullify the original time limit. The time limit placed on ERA ratification was included in the *preamble* of the ERA, which states do not vote on in order to ratify the amendment. If successful, this strategy would mean that only 3 additional states would have to ratify the ERA for the amendment to take effect. As part of the three-state strategy, ERA activists in un-ratified states are working to clear a path for the ERA. These efforts have had growing success.

The outcome of the 2016 elections underscores the urgent need to finally ratify the ERA.

It's about equality and respect.

Join us in working to finally add women to the Constitution!