

## March 2019 Unit Topic ~ The Equal Rights Amendment: Where Are We Now?

### **The Equal Rights Amendment:**

Section 1: Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

Section 2: The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3: This amendment shall take effect two years after the date of ratification.

### **A Brief History**

In the 1970s, as Congress and the states debated passage of the Equal Rights Amendment, its supporters lobbied, marched, rallied, petitioned, picketed, went on hunger strikes, and committed acts of civil disobedience in the 1970s. Many of them probably were not aware of their place in the long historical continuum of women's struggle for gender equality in the United States.

From the very beginning, the inequality of men and women under the Constitution has been an issue for advocacy, and the fight for equal rights in the United States has a rich history of advocacy and activism by both women and men. As an outgrowth of their anti-slavery advocacy, Elizabeth Cady Stanton and Lucretia Mott made the first visible public demand for women's suffrage in 1848 at the first Woman's Rights Convention in Seneca Falls, New York. In 1923, in Seneca Falls for the 75th anniversary celebration of the Woman's Rights Convention, Alice Paul first introduced the first version of the Equal Rights Amendment, which was called the "Lucretia Mott Amendment" at the time. The proposed amendment stated: "Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction."

In her remarks as she introduced her amendment, Alice Paul sounded a call that has great poignancy and significance more than 80 years later:

If we keep on this way they will be celebrating the 150th anniversary of the 1848 Convention without being much further advanced in equal rights than we are...If we had not concentrated on the Federal Amendment we should be working today for suffrage... We shall not be safe until the principle of equal rights is written into the framework of our government.

The amendment was introduced in Congress the same year. The National Woman's Party and professional women such as Amelia Earhart supported it, and in the early 1940s, both the Republican and Democratic parties added support of the Equal Rights Amendment to their political platforms.

However, reformers who had worked for protective labor laws that treated women differently from men were afraid that the ERA would wipe out the progress they had made, and social conservatives considered equal rights for women a threat to existing power structures. Twenty years after she first introduced it, Alice Paul rewrote the ERA in 1943. It was given a new title — the "Alice Paul Amendment" — to better reflect the language in both the 15th and the 19th Amendments. The new version stated: "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 amendment languished in Congress, however.

In the 1960s, more than a century after the fight to end slavery fostered the first wave of the women's rights movement, the civil rights battles of the time provided an impetus for a second wave of support for gender equality. Women organized to demand their birthright as citizens and persons, and the Equal Rights Amendment rather than the right to vote became the central symbol of the struggle. Finally, organized labor and an increasingly large number of mainstream groups joined the call for the Equal Rights Amendment, and politicians reacted to the power of organized women's voices in a way they had not done since women gained the right to vote.

The Equal Rights Amendment passed the U.S. Senate and then the House of Representatives, and on March 22, 1972, the proposed 27th Amendment to the Constitution was sent to the states for ratification. But as it had done for every amendment since the 18th (Prohibition), with the exception of the 19th Amendment, Congress placed a seven-year deadline on the ratification process. This time limit was placed not in the words of the ERA itself, but in the proposing clause.

Like the 19th Amendment before it, the ERA barreled out of Congress, gaining 22 of the necessary 38 state ratifications in the first year. But the pace slowed as opposition began to organize: there were only eight ratifications in 1973, three in 1974, one in 1975, and none in 1976.

Throughout the mid-1970s, arguments by ERA opponents such as Phyllis Schlafly, right-wing leader of the Eagle Forum/STOP ERA, played on the same fears that had generated female opposition to woman suffrage. Anti-ERA organizers claimed that the ERA would deny woman's right to be supported by her husband, privacy rights would be overturned, women would be sent into combat, and abortion rights and homosexual marriages would be upheld. Opponents surfaced from other traditional sectors as well. States-rights advocates said the ERA was a federal power grab, and business interests such as the insurance industry opposed a measure they believed would cost them money. Opposition to the ERA was also organized by fundamentalist religious groups.

Pro-ERA advocacy was led by the National Organization for Women (NOW) and ERAmerica, a coalition of nearly 80 other mainstream organizations. In 1977, Indiana became the 35th state to ratify the ERA. That same year, Alice Paul died at a nursing home in Mt. Laurel, New Jersey, near her childhood home — now a National Historic Landmark and nonprofit organization dedicated to working for gender equality. Like Elizabeth Cady Stanton and Susan B. Anthony before her, she never saw the Constitution amended to include the women's rights she had worked for all her life.

As the 1970s came to a close, hopes for victory continued to dim as other states postponed consideration or defeated ratification bills. Illinois changed its rules to require a three-fifths majority to ratify an amendment, thereby ensuring that their repeated simple majority votes in favor of the ERA did not count. Other states proposed or passed rescission bills, despite legal precedent that states do not have the power to retract a ratification.

As the original 1979 deadline approached, some pro-ERA groups, like the League of Women Voters, wanted to retain the eleventh-hour pressure as a political strategy. But many ERA advocates appealed to Congress for an indefinite extension of the time limit, and in July 1978, the National Organization of Women coordinated a successful march of 100,000 supporters in Washington, DC. Bowing to public pressure, Congress granted an extension until June 30, 1982.

However, the political tide continued to turn more conservative as the 1970s ended. In 1980 — the year Ronald Reagan was elected president — the Republican Party removed their support for the Equal Rights Amendment from its platform. Although pro-ERA activities increased with massive lobbying, petitioning, countdown rallies, walkathons, fundraisers, and even the radical suffragist tactics of hunger strikes, White House picketing, and civil disobedience, the Equal Rights Amendment did not succeed in getting three more state ratifications before the new deadline. The country was still unwilling to guarantee women constitutional rights equal to those of men. It was a significant defeat for all those who has fought so hard for so decades.

The Equal Rights Amendment was reintroduced in Congress on July 14, 1982, and has been introduced before every session of Congress since then as the movement to ratify the ERA continues. Several strategies are in motion to achieve full ratification of the Equal Rights Amendment. As the fight for women's rights, specifically equal pay for equal work and freedom from sexual harassment, gained momentum in the 2000s, work for the ratification of the Equal Rights Amendment has been renewed across the nation. In March of 2017, thanks to the efforts of state Senator Pat Spearman, the state of Nevada became the 36th state — the first state since 1977, and 35 years after the original deadline passed

**States that have ratified the federal ERA and have a state ERA or equal rights guarantee (21):**

Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, Texas, Washington, Wyoming

**States that have ratified the federal ERA but do not a state ERA or equal rights guarantee (16):**

Idaho, Indiana, Kansas, Kentucky, Maine, Michigan, Minnesota, Nevada, New York, North Dakota, Ohio, South Dakota, Tennessee, Vermont, West Virginia, Wisconsin

**States that have not ratified the federal ERA but do have a state ERA or equal rights guarantee (4):**

Florida, Louisiana, Utah, Virginia

**States that have not ratified the federal ERA and do not have a state ERA or equal rights guarantee (9):**

Alabama, Arizona, Arkansas, Georgia, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina

in 1982 — to ratify the Equal Rights Amendment. This surge in support was quickly followed by the state of Illinois, which became the 36th state to ratify the ERA in April 2018. State Senator Heather Steans stated that, “By ratifying the Equal Rights Amendment we can provide a strong legal protection for women’s rights and prevent rollbacks from Congress or presidential administrations. This amendment is still relevant and necessary.”

There are current efforts in several states, specifically Virginia, North Carolina, Tennessee, and Florida, to ratify the Equal Rights Amendment. To learn more about current efforts and the legal challenges to ratifying the ERA, visit [www.EqualRightsAmendment.org](http://www.EqualRightsAmendment.org). For more information about Alice Paul, visit [www.AlicePaul.org](http://www.AlicePaul.org).

### Arguments to Support the Equal Rights Amendment

The Fourteenth Amendment of the U.S. Constitution guarantees equal protection of the laws to all U.S. citizens. However, when legal cases involving women who are discriminated against based on gender come up before the courts across the country, the judgments are often contradictory and not uniform.

The ERA offers a legal standard by which complaints based on gender discrimination may be judged in the same way.

The ERA would clarify the legal status of sex discrimination for the courts, where decisions still deal inconsistently with such claims. For the first time, sex would be considered a suspect classification, as race currently is.

Without the ERA, the Constitution does not directly state that the rights it protects are held equally by all citizens without regard to sex. The first – and still the only – right specifically affirmed as equal for women and men is the right to vote.

The ERA would provide a strong legal defense against a decision that would violate significant advances made in women’s rights made in the past 50 years. Without it, Congress can weaken or replace existing laws on women’s rights.

Without the ERA, women regularly and men occasionally have to fight long, expensive, and difficult legal battles in an effort to prove that their rights are equal to those of the other sex.

The ERA would improve the United States’ human rights standing in the world community. The governing documents of many other countries state the legal gender equality including countries constitutions have been written under the direction of the U.S. government.

### Arguments Against the Equal Rights Amendment

U.S. Supreme Court has itself interpreted the federal constitution as prohibiting sex discrimination, without needing the ERA.

The ERA will invalidate all state laws, designed to protect the family and will be replaced by laws making women equally liable for financial responsibilities. The stability of families will be undermined by this drastic change in wives’ legal status.

The ERA would mean that women would also be treated the same as men in a military draft and forced into combat.

The ERA will lower the social security benefits for wives, mothers, and widows. When a husband and wife reach retirement age, the husband receives his social security check based on his earnings, and his wife additionally receives a social security check that is 50% of the benefits paid to her husband. If her husband passes away and she becomes a widow then she will receive the full amount previously paid to her husband. If the ERA was added to the Constitution social security benefits would only go to individuals with paying jobs, not stay at home mothers or wives.

The ERA will eliminate privacy between the sexes in hospitals, prisons, schools, or other public accommodations.

The ERA will wipe out state labor laws and guidelines which benefit women in industry who do heavy, manual work.

### Discussion Questions:

1. *What are the main goals of the Equal Rights Amendment?*
2. *Do you think we still need the ERA if the 14th Amendment guarantees all citizens equal protection of the laws?*
3. *Do you think it would significantly impact women’s current or future role in the military?*
4. *What would be the two most significant reasons to pass the ERA?*
5. *What would be the two most significant reasons not to pass the ERA?*
6. *Why have Americans disagreed about granting equal rights to women?*
7. *How can you be an ERA Advocate?*