



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

## OPPOSITION Talking Points on the EQUAL RIGHTS AMENDMENT

These are comments that have been written and presented to our SC Legislators by opponents of the ERA. Many are right out of the '70's (indicated by an asterisk).

Responses from Equal Means ERA are presented in *italic*.

### The ERA Hurts Women

**The ERA would backfire on women.** It would throw into jeopardy a wide range of policies and programs designed to support women by making it legally questionable to recognize differences between the sexes. There are hundreds, if not thousands, of laws that distinguish between men and women or provide benefits to women that would be nullified by the ERA. \*

*This is straight out of the '70's and is meant to scare women into thinking they will lose "generic" protections they currently have, but fail to name. It also implies that it's a HUGE inconvenience to review the "hundreds, if not thousands" of laws that may be discriminatory. If there are laws that discriminate against either sex, they should be identified and eliminated.*

**Draft and combat.** The ERA could lead to women having to enroll in the military draft. \*

*The "draft" was eliminated by Richard Nixon in 1973 and since that time America has had an all-volunteer military. In February of 2019 a federal judge ruled that the [men-only registration](#) is unconstitutional. Whether or not women will ever be included in mandatory registration is up to Congress. It has nothing to do with the ERA.*

*In 2012 [servicewomen sued](#) the military to serve in combat so that they can be promoted and paid equal to men. In 2013, then Defense Secretary Leon Panetta [rescinded the policy](#) that kept women out of combat. Turns out, many women are just as patriotic and want to serve their country as do many men.*

*The ERA would ensure that women who chose to serve ably and honorably alongside men are treated fairly regardless of their gender or obsolete stereotypes.*

**Benefits to women.** The status of dozens of programs that address women's needs, such as WIC (Women, Infants, and Children) and Social Security spousal benefits could be in doubt. \*

*[Social Security is gender-neutral](#) with regard to benefits. Women actually benefit more than men because they tend to live longer lives. Spousal benefits are available to both women and men.*

*Congress, [party ideology](#) and budget controls are the biggest threat to any government program. Legislation determines which programs get funded. The ERA would provide legal protections for programs that benefit women and children.*

**Women's private spaces and safety.** Many sex-segregated public facilities, such as public school restrooms, battered women's shelters, prisons, and hospital rooms, could be forced to become coed. \*

*[90% of all colleges](#) today have at least one co-ed dorm with shared living experiences. Many restaurants and public facilities currently share bathrooms. Women's shelters and prison populations are determined by legislators. [Hospitals](#) focus on patient care over gender. Facility use is determined by providers and has nothing to do with the ERA.*

**Eliminating women as a legal category.** There are efforts in the courts, legislature, and regulatory agencies to define the word "sex" as including gender identity. If these efforts succeed, the ERA would become an ironic cudgel against women's sports and other female-exclusive spaces, which would be forced to admit biological men.

*"Women" is not now a "legal" category. Any protections women have now are based on temporary laws. The word "sex" in the ERA was picked up directly from the 19th Amendment, which gave women the right to vote. Many gender-neutral rights have come about without having an ERA, and will continue to pass with or without an ERA.*

**Taking power away from voters:** Women make up the majority of the electorate in all recent elections. Ironically, the ERA would take decision-making power out of the hands of voters and hand it over to judges.

*The ERA has nothing to do with women's votes. But it would give judges a fundamental and universal standard on which to rule on cases of sex discrimination.*

**False promise for equal pay.** The gender wage gap—often wrongly advanced as evidence that women are treated unfairly—is not a metric of discrimination and not a measure of equal pay for equal work. Proponents of the ERA who believe it will result in closing the wage gap are misinterpreting the statistics: The wage gap is simply a comparison of averages, and it would persist even if the ERA were to be implemented.

*The [Bureau of Labor Statistics](#) uses median income to do their comparisons. The Pay Gap has been a persistent issue with women for generations, mostly due to [motherhood](#) and family care taking. Here is a local study of inequality in [Doctors pay](#) in Charleston.*

*The ERA would provide a firm legal foundation — not subject to interpretation — when challenging unfair pay. Employers would be required to pay women and men equal pay for equal work.*

## **The Ratification Process Is Illegitimate**

**Proponents want to “count” ratifications from the 1970s, but not the five states that have chosen to rescind their ratification.** Under the ratification process proponents espouse—no time limits, retroactive deadline extension, no rescission—there is no way for the American people to reject a Constitutional amendment, and an amendment can be passed without ever garnering even a bare majority of voters at any given time. \*

*The amendment process as defined in Article V of the Constitution describes only the manner in which an amendment can be ratified. There is no [procedure to rescind](#). [A precedent has been set](#) when the 14th, 15th and 19th amendments were ratified. Even though two, one and three states (respectively) rescinded their ratifications, they were still counted. The majority required to pass an amendment is 3/4th of states approval, currently 38 states. Hardly a “bare majority.”*

**This process is contrary to the spirit of Article V**, which is to ensure that a proposal has overwhelming support from the American people before adding it to the highest law in our land.

[June 17, 2016 ERA Polling Results](#)

**Women already have basic legal equality**, as their rights to free speech, religious liberty, jury trial, to bear arms, and others are constitutionally protected equally with men. The 19th Amendment protects women’s right to vote. \*

*Women do have the protections afforded by the [Bill of Rights](#) (first 10 amendments). The only additional constitutional protection women have is the right to vote. All other protections are through laws, which are subject to interpretation and revocation by whichever legislative body, court or administration is currently in power. Laws are not permanent, and would not provide the same protections as the ERA.*

**Sex discrimination is illegal under federal and all state laws**, and unfair discrimination is already unconstitutional under the Equal Protection Clause of the 14th Amendment. \*

*Laws are revokable. The [14th Amendment](#) was one of 3 amendments written after the Civil War to define the status of the newly freed slaves. It does not include “sex” as a protected category, and is subject to the same interpretation as current law.*

*The late Justice Scalia made clear that nothing in the U.S. Constitution — other than the 19th Amendment — specifically pertains to women. [When “originalist” jurist](#) — like Scalia — interpret the Constitution, “intent” is important. The ERA will leave no room for interpretation that women and men have equal rights under the law.*

**When it comes to equal pay for equal work**, the law is on women’s side. Sex-based wage discrimination has been illegal since the Equal Pay Act of 1963. \*

The Equal Pay Act; Civil Rights Act of 1964; Title VII (Equal Employment Opportunities); Fair Housing Act; Title IX of the Education Amendments of 1972; Equal Credit Opportunity Act; Pregnancy Discrimination Act; and Family and Medical Leave Act ... all were passed in the 60’s to protect women from sex discrimination. Any Congress can repeal, revoke, or simply not renew any of these laws at any time.

[And yet ...](#)

### **Women and Men Are Already Equally Protected**

**The truth is: women don’t need the ERA.** Women are already equal under the law. And women’s rights are already protected by the Constitution, including the 14th and 19th Amendments, and several federal and state laws.

*The [19th Amendment](#) gave women the right to vote. Since the [14th Amendment](#) specifically does not include the word “sex,” it has provided very inconsistent rulings for women. The ERA is needed as a fundamental and universal foundation to protect against using sex as a basis for discrimination.*

**We are currently experiencing the lowest female unemployment rate since 1965** and high rates of female business ownership. Women earn the majority of higher degrees and own the majority of wealth in the U.S.

*Women are more educated but are still behind. Much of women’s new wealth has been from [inheritance](#), not their own employment. Just think how much further ahead we would be if we had ERA?*

**Women make up the majority of voters in nearly every election**—women are politically powerful and more than capable of exerting their democratic influence if they feel like their rights are threatened. This means that by turning the definition of “equality” and “women’s rights”—as the ERA does—over to unelected judges—two-thirds of whom are male—we are actually disenfranchising female voters of their right to weigh in on policy questions.

*This is similar to an earlier statement saying the ERA would effect a women’s right to vote. The ERA would not turn anything over to unelected judges, and it would not*

*interfere with women's right to vote. But it would substantially strengthen women's ability to get a fair judgement by making it illegal to discriminate on the basis of sex.*

**The idea that American women need special protections is condescending** and does not recognize the power of women in this country.

*The Constitution was written over 230 years ago by men, for men, specifically white men of property. At that time African Americans were enslaved and women and children were the property of the fathers and husbands. Women continue to have no power in this country except that given to them by men.*

*Our state and federal government is [75% men](#), ([86% in South Carolina](#)). Women hold 25% of faculty positions at [Christian seminaries](#) with only 11% in presidential positions. Women represent 30% of [college presidents](#); and 33% of [state court judges](#). In business women hold just [24 CEO positions](#) in the Fortune 500 and share the same 5% level in the [S&P's 1500](#) companies. Women are vastly underrepresented in the most powerful positions in our country, which continues to make women totally dependent upon the goodwill of men.*

*It is well past time that women are recognized as equal in the Constitution of our United States. We owe it to our daughters and sons and all generations to come to guarantee equal justice to all within the defining document of our country. The Equal Rights Amendment will get this done.*

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