

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

14th Amendment does not give women full equality.

If women had equality from the 14th Amendment, why did we need the 19th Amendment to be able to vote?

Supreme Court Justice Scalia, a Republican stalwart, said in 2011 that the 14th Amendment does not cover women. “Certainly, the Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. It doesn't.”

Corporations were covered by the equal protection and due process clauses of the Fourteenth Amendment in 1889. Not until 1971, did the Supreme Court rule that women were covered under that amendment.

From 1869 to 2000, a period of 131 years, women brought ten cases under the Fourteenth Amendment and men brought nine. Of the ten that women brought, they won six and lost four; thus women have a 60% chance of winning. Of the nine that men brought, they won seven and lost two; thus men have a 78% chance of winning. Even the fight for women’s rights benefits men more than women.

Sex is already a protected class so you don’t need the ERA.

The Supreme Court Justice Ruth Bader Ginsberg said in *U.S. v. Virginia* in 1996 that, “The heightened review standard our precedent establishes does not make sex a proscribed classification.” Very clearly, women are not protected under the Constitution.

The Supreme Court in the *Morrison* case in 2000 rejected a federal civil rights remedy for women similar to that for “protected classes” under the 14th Amendment because there was no basis in the Constitution for women’s equality.

Sex is a “protected class” under some statutes but a statute is not a constitutional guarantee; a statute can be changed; a statute can be overturned.

The U.S. Supreme court has made it clear that only three “protected classes,” color, race, and national origin, exist under the 14th Amendment. Religion is protected under the 5th Amendment due process clause and the 1st Amendment.

So if you want to protect women, make them a “protected class” under the Constitution to guarantee women equal rights.

States that passed the ERA have been forced to fund abortions.

Since the ERA goes into effect on January 27, 2022, the states that ratified it have not implemented anything.

Abortion is already a constitutional right under *Roe v. Wade* that was decided on privacy grounds not equality of rights. The Supreme Court has ruled over and over that placing an undue burden on women in accessing their constitutionally protected right of abortion or restricting abortion access is unconstitutional. Since the ERA was not in place for any of those decisions, it obviously had no impact on those decisions.

States that have state ERAs have fewer abortions per capita than those that don't.

Only two states have relied on their state ERAs to strike down restrictions on public funding for abortion. **This question was ruled on in Arizona under our constitution on privacy rights and equal protection - not an ERA.** (*Simit Corp v. AHCCCS*) The rulings have all been essentially the same – you cannot provide funding for some services and limit others that are equally as necessary.

State ERA's – of 12 published opinions, 6 ruled for funding under equal protection or privacy grounds, 4 denied funding though they had an ERA, 2 ruled for funding partially on state ERA but also on other grounds, and ONLY ONE (NM) ruled completely on state ERA. Thus the ERA has NOT resulted in states having to fund abortions.

State ERAs have also upheld men's rights in paternity cases in three states.

Countries that have a higher equality index also have the least divorce and violence in the family. So if you oppose abortion, you should support the ERA. If you support healthy families, you should support the ERA.

The 28th Amendment (ERA) will give women “strict scrutiny.”

Prior to 1976, sex-discrimination cases were analyzed under the “rational relation” test. In 1976, an “intermediate test” for sex cases only (disability has now been added) was created. Legal scholars have argued that this intermediate standard is confusing and inconsistent. In 1973, the Supreme Court rejected the view that discrimination against women should receive strict scrutiny.

In a 2019 letter from the American Bar Association to the Virginia Senate, the ABA supported the ERA because it would make equality under the law a fundamental right and would require strict scrutiny from all judges.

Without the ERA, women do not have constitutional equality and are not protected at the highest level with strict scrutiny. If you want to protect women, give them fundamental rights and make them a “protected class.”

Article V of the Constitution determines how an amendment is ratified.

It is 28th amendment now according to Article V that two-third of both houses of Congress pass it and send to the states and three-fourths of the states ratify it. That occurred on January 27, 2020. If you honor the Constitution, you honor the 28th amendment.

Timeline Issue

27th amendment regarding Congressional salaries took 202 years to be ratified so obviously the timeline is inconsequential. The timeline in the ERA was a relatively new adoption since the 18th amendment but was not in the 19th. It was in the preface and not the body so it is not what states ratified.

Publication

Publication by the archivist is a ministerial act not a legal act. The constitution defines when an amendment is ratified not the archivist. Not publishing it gives states cover to refuse to revise their state laws that are no longer in compliance with the constitution. But the 28th amendment still stands.

Rescission

Rescission has been attempted on several previous amendments – those that expanded equality to people who were formerly enslaved and to women who could not vote. The supreme court has held they are invalid. Legal scholars agree rescission is not valid and has no effect. Cases from the Supreme Court about the 14th Amendment (Ohio & NJ), the 18th Amendment and a proposed child labor law amendment. (Dillon v. Gloss, 1921 (prohibition), Coleman v. Miller 1939 (child labor)), Idaho v. Freeman – Supreme Ct vacated, legal issue moot not ERA and a vacated case is not precedent.

Almost every amendment has had a flurry of lawsuits filed against it to try and stop the expansion of human rights and good government. None of those lawsuits succeeded. The suits against the ERA won't either.

Other

The 12 states who have not ratified cannot dictate the rights of the 38 states that have.

The 28th amendment does not put “women” in the constitution – it says discrimination shall not occur on account of sex thus protecting both women and men.

Women were not intended to be in the Constitution, nor were Americans of African descent. Those were mistakes made at the time and in the culture – we cannot allow those mistakes to

prevent us from moving forward to the promise of the Constitution – liberty and equality and government by the people and for the people.

The ERA has enjoyed massive public support for decades, 88%-96%. The U.S. is one of the few countries absent a guarantee of women's equality in its Constitution, remaining an outlier.

Arizona women lose more than \$7,000 a year from the gender wage gap, totaling nearly \$6 billion a year.

Do it for the future; Do it to honor all the struggles of women in the past; Do it for the girls who look to us to give them a better world.

When the history books are written, what side of the equality divide do you want to be standing on?