

■ Equal Rights Amendment

Date: March 22, 1972 (passage by Congress)

Author: Ninety-Second U.S. Congress

Genre: legislation

Summary Overview

The Equal Rights Amendment (ERA) is a proposed constitutional amendment aimed at guaranteeing equal legal rights for all Americans regardless of sex. First drafted in the 1920s, the ERA was introduced to Congress repeatedly before finally being passed and sent to the states for ratification in 1972. The power of the era's feminist movement helped generate quick ratification by thirty states. However, the opposition of conservative women and others who feared that the amendment would weaken U.S. social traditions and existing legal protections for women generated national controversy and brought adoption of the amendment essentially to a halt. By the time of the established deadline for ratification, the ERA lacked adequate support for addition to the Constitution. Its failure to achieve ratification was reflective of a new tide of conservative sentiment after a long period of liberalism. Nevertheless, supporters of the ERA continued to fight for another chance for the amendment, and women's rights organizations worked to achieve some of its goals through other legal means.

Defining Moment

Historians generally agree that the women's rights movement in the United States got its organizational start at the Seneca Falls Convention of 1848. At this meeting, early women's rights leaders announced their intention to achieve full political, social, and economic equality for women in a Declaration of Sentiments that drew on the ideals of the Declaration of Independence. Women, early feminists argued, had natural rights equal with those of men, and it was the duty of the United States as a bastion of liberty and equality to protect those natural rights.

In practice, however, American women spent decades campaigning for limited gains. Social reformers of the mid-1800s generally saw slavery as a greater evil than the depressed status of women, and even women's rights activists sometimes turned away from the cause in order to focus on achieving abolition. Contemporary sentiment saw women as inferior to men politically and intellectually, but, at the same time, morally superior as well as central figures of the American way.



Alice Paul toasting (with grape juice) the passage of the Nineteenth Amendment, August 26, 1920. Paul first drafted the original text of the Equal Rights Amendment in 1923. Photo via Wikimedia Commons. [Public domain.]

The abolition of slavery after the Civil War allowed for the revival of focus on national suffrage as the stepping stone to greater women's rights in all areas. The women's suffrage movement gained in strength and momentum during the late 1800s, and by the early 1900s was bolstered by the granting of the vote to women in a handful of U.S. states. World War I further heightened attention on the contributions of women to society, and public opinion had sufficiently come behind the notion to see ratification of the Nineteenth Amendment, granting women the vote, in 1920.

Industrialization, World War I, and World War II also contributed to a dramatic change in the role of American women. The emergence of a thriving middle class during the industrial era had allowed educated women the freedom to pursue reform and other social causes. Wartime needs later spurred more and more women to enter the work-force. Even after World War II, women's participation in the labor force continued to grow. Although a formal women's rights movement had declined in the national consciousness after the passage of suffrage, the successes of the civil rights movement of the 1950s and 1960s encouraged a new culture of social and political reform. Educated women who found that middle-class suburban life stymied their personal happiness turned to new ideals of feminism, as did young women who sought to challenge the social traditions of earlier generations. This "second wave" of feminism called women to advocate for increased equality in all parts of U.S. society, culminating

in the passage in 1972 of a constitutional amendment penned decades earlier, asserting and protecting women's right to equal treatment.

Author Biography and Document Information

Feminist Alice Paul first drafted the original text of the Equal Rights Amendment in 1923, just a few years after the ratification of the Nineteenth Amendment extended a constitutional guarantee of voting rights to women. As a young woman, Paul was active in social reform movements in both the United States and England. During the 1910s, she became well known as a leader of the militant feminist wing of the U.S. women's suffrage movement. Paul was unafraid to use strong tactics in support of the cause, and authorities arrested and imprisoned her on several occasions as a result of suffrage marches and protests.

After women's suffrage became a reality, Paul became a powerful voice for women's full legal equality. She spent decades promoting the ERA both at home and abroad, and won some recognition of women's equality in documents such as the Civil Rights Act of 1964. Paul died in 1977, as the push to ratify the ERA continued.

After passing both houses of Congress, a three-quarters majority of the states—or thirty-eight out of fifty—must ratify a proposed amendment for it to be added to the Constitution. However, only thirty-five states ever ratified the ERA.



Historical Document

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.



Document Analysis

The proposed Equal Rights Amendment contains three sections, each briefly defining an essential idea of the proposed constitutional change. The first of these offers a constitutional guarantee of equality between men and women, and it was the possible interpretations of this section that generated the controversy that ultimately stymied ratification. The ERA's second section grants Congress the power to pass laws to enforce the guarantees made by the first section. The third section provides a time window after the moment of ratification until full compliance is required under the Constitution.

Coming in an era of great strides for African Americans and other racial and ethnic minorities, the women's rights movement sought to secure equally significant advances for women as a class, and thus drew on the broad promises made in other, similar documents. The language of the amendment's first section, for example, is purposely reminiscent of that of the Fifteenth Amendment, Nineteenth Amendment, and Twenty-Sixth Amendment, which asserted that voting rights could not be denied to certain classes of individuals on account of race, sex, or age. The Civil Rights Act of 1964 had also echoed this wording in providing expansive protections against certain legal discrimination on the basis of race, ethnicity, or sex.

The balance of the proposed amendment contains language dealing with purely administrative matters. Most notably, the second section permits the ERA to be truly implemented after the time period granted for implementation in the third section. Because the Constitution gives Congress clearly defined legislative powers, amendments lack power without a section permitting the legislature to act in order to enforce them. This lack of enforcement ability had posed a problem in securing the rights guaranteed to African Americans under the Fourteenth and Fifteenth Amendments, and thus also hearkens back to the lessons of earlier rights movements.

Essential Themes

Supporters of the ERA saw the amendment as an enshrinement of feminist ideals in the national govern-

ment system. Just as the Fourteenth Amendment had a goal of guaranteeing equal treatment under the law on the basis of race, the ERA would assert women's full constitutional, social, economic, and legal equality. Yet that promise of equality worried those who relied on the legal protections then in place for women.

Objections to the ERA stemmed largely from concerns that it undermined traditional U.S. social practices and mores, and forced women into positions that offered them fewer legal protections than they enjoyed under the existing system. Where the ERA promised full equality for women, conservative groups such as Phyllis Schlafly's STOP ERA movement saw the threat of women being conscripted into active military duty, losing the right to claim financial support in divorce proceedings, and being denied the ability to organize single-sex educational institutions (STOP stood for "stop taking our privileges"). Conservative opponents further argued that the ERA could be used to provide a constitutional guarantee of abortion rights—the constitutionality of which was not affirmed by the U.S. Supreme Court until 1973—and to support the right to same-sex marriage. Coming at a time of growing public support for conservatism as an alternative to the sweeping social and political changes of the 1960s and early 1970s, this message resonated with many Americans.

Although not contained within the text of the proposed amendment, a seven-year time limit for ratification by the states was established at the time when Congress approved the ERA. This time limit proved the undoing of the amendment. By 1977, thirty-five states had ratified the ERA; however, public objections to the amendment led by conservative groups created a great deal of controversy over the amendment's possible applications. State support for the ERA weakened, and ratifications slowed. The 1979 deadline for ratification was even extended to 1982, but no additional states signed on. The fifteen states that declined to ratify the ERA were mostly spread across more conservative regions of the country, such as the South.

Thus, the goal of constitutional equality on the basis of sex was not fulfilled, but the hope remained alive. Supporters of the amendment reintroduced it to Congress during each new session for decades to come. As of 2016, however, despite the concerted effort of groups such as the ERA Coalition, the amendment has not again undergone a second true attempt at ratification.

—Vanessa E. Vaughn, MA

Bibliography and Additional Reading

- Francis, Roberta W. "The History of the Equal Rights Amendment." *Alice Paul Institute*. Alice Paul Inst., n.d.
- "March 22, 1972: Equal Rights Amendment for Women Passed by Congress." *New York Times*. New York Times, 22 Mar. 2012.
- Neuwirth, Jessica. *Equal Means Equal: Why the Time for an Equal Rights Amendment Is Now*. New York: New, 2015.