

# REPORTING ON THE ERA: A TOOLKIT FOR JOURNALISTS

Your comprehensive guide to understanding and reporting on the Equal Rights Amendment (ERA) in the United States and beyond.



Learn more: [equalitynow.org/INeedERA](https://equalitynow.org/INeedERA)

 **Equality Now**  
A just world for women and girls.

# Just 52 words could end sex discrimination in the US.

The Constitution of the United States still does not explicitly prohibit discrimination on the basis of sex or gender. By signing off on a crucial amendment containing just 52 words, the US Government could put an end to legal sex discrimination today.

Activists in the US have been arguing for more than a century for constitutional protections around sex and gender to be elevated to the same level as those afforded to race, religion, and national origin, through the rightful enactment of the Equal Rights Amendment (ERA).

Signing off on the 52 words of the ERA would strengthen women's access to reproductive healthcare (including legal abortion), tackle sexual and gender-based violence, and protect against harmful practices such as child marriage. It would also prevent many more hard-won rights and freedoms from being undermined by opportunistic administrations and politicians.

Despite the ERA being presented to Congress over 100 years ago – and having since been passed by the House of Representatives and the Senate and ratified by the required number of States – it has yet to be incorporated into the Constitution as the 28th Amendment.

Without the crucial legal protections afforded by the ERA, women and gender minorities in the US will continue to have less freedom, fewer opportunities, and poorer outcomes than men – in everything from education to employment and from healthcare to happiness. The ongoing failure of the US Government to recognize and incorporate the ERA is therefore an urgent issue that has so far been massively overlooked and under-reported in the media.

## Now, you can change that.

This toolkit has been produced to facilitate accurate reporting on the ERA and the progress being made toward its enshrinement into the US Constitution as the 28th Amendment.

On the following pages, you will:

- Learn more about the current significance of the ERA in the United States
- Find inspiration for new angles to help you reach and engage your audiences
- Source engaging, accessible quotes from leaders and campaigners on the ERA

We hope this toolkit will be explored, adopted, and shared widely by all those interested in achieving global gender justice. Together, we can pledge and uphold a shared commitment to informed and conscientious reporting on constitutional equality in the US and beyond.



## PART 1: WHERE ARE WE NOW?

**To understand exactly where we are today, we must first look at how we got here.**

The first version of the ERA was drafted by pioneering feminists Alice Paul and Crystal Eastman and presented to Congress in 1923. It contained three key sections, as follows:

- **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.

The ERA was finally passed by the House of Representatives in 1971, followed by the Senate in 1972, before being sent to the states for ratification. However, an arbitrary time limit placed by Congress in the preamble meant that states had only a few years to ratify—a highly unusual situation given that ratification deadlines are not constitutionally required. By the time the deadline passed, the ERA had fallen short of the 38 state ratifications required.

Following decades of campaigning by human rights activists, the 38th state ratification was achieved in 2020; and in 2023 the US Senate debated a resolution that would finally recognize the ERA as being “valid to all intents and purposes as part of the Constitution.”

**But despite a majority vote by the Senate in its favor, the resolution was not passed.**

The impact of this resolution being passed would have been profound, given its potential for strengthening women’s access to sexual and reproductive rights, preventing child marriage, preventing sexual and gender-based violence, and protecting bodily integrity and autonomy.

With 2023 representing 100 years since the introduction of the ERA, this was a crucial year and a significant milestone in the fight for gender equality. The failure by the US Government to recognize and incorporate the ERA during 2023 was therefore a devastating blow.

However, while those who seek to undermine the fight for gender equality in the US may hope that the ERA campaign will lose momentum beyond 2023, this is not the case. As we pass the 100-year anniversary of the introduction of the ERA, the case for its rightful incorporation as the 28th Amendment to the Constitution becomes ever more pressing.

**The ERA has already been ratified by the required number of states. The priority now is for Congress to formally enshrine it in the US Constitution as the 28th Amendment.**

# THE 28TH AMENDMENT: A TIMELINE

	<b>1923</b>	The ERA is drafted by feminists Alice Paul and Crystal Eastman and is introduced in Congress by two Republican senators.
<b>March 1972</b>		The ERA passes both the House and the Senate with bipartisan support. A deadline of 1979 is set by Congress for the ratification of the ERA by at least three-quarters of US states (38 in total). This is an arbitrary deadline that is not required by the Constitution.
	<b>1978</b>	The deadline for ratification by 38 states is extended from 1979 to 1982.
<b>1973-1979</b>		State legislatures from Idaho, Kentucky, Nebraska, Tennessee, and South Dakota vote to rescind their ratification of the ERA. However, because Article V of the Constitution speaks only to the states' power to ratify an amendment but not to the power to rescind ratification, Congress determined that both attempted withdrawals of ratifications and previous rejections prior to ratification had no legal validity. Therefore, it is most likely that the actions of the five states — Idaho, Kentucky, Nebraska, South Dakota, and Tennessee — that voted to rescind their ratification of the ERA between 1972 and 1982 are a legal nullity.
	<b>1982</b>	The new deadline passes with only 35 of the 38 required states having ratified.
	<b>1982</b>	Members of Congress begin presenting annual bills to eliminate the deadline for ratification of the ERA. However, these bills do not pass both houses of Congress.
	<b>2017</b>	Nevada votes to ratify the ERA.
	<b>2018</b>	Illinois votes to ratify the ERA.
	<b>2020</b>	Virginia votes to ratify the ERA, bringing the total number of ratifications to 38.
	<b>2020</b>	The United States Archivist, acting upon a guidance memo from the Department of Justice, fails to update and republish an amended version of the US Constitution to incorporate the ERA, following its ratification by the final three of the required 38 US states.
	<b>2020</b>	With the support of the ERA Coalition, Equality Now, and many others, the Attorneys General of the three most recent states to ratify the ERA – Virginia, Nevada, and Illinois – file legal action against the United States Archivist.
	<b>2021</b>	their case is dismissed for lack of standing, without discussion of the merits of the ERA, but they appeal.
	<b>2022</b>	Equality Now launches its #WeNeedTheERA campaign, highlighting the reasons people in the US need the ERA. These include access to sexual and reproductive rights, preventing child marriage, preventing sexual and gender-based violence, and protecting bodily integrity and autonomy from harmful practices such as female genital mutilation.
<b>February 2023</b>		The appeal filed by the <u>Attorneys General</u> in the case against the United States Archivist is decided by the US Court of Appeals for the District of Columbia Circuit, which held that "... the States have not clearly and indisputably shown that the [Federal] Archivist had a duty to certify and publish the ERA or that Congress lacked the authority to place a time limit in the proposing clause of the ERA," but leaving room for Congress to take action.
<b>April 2023</b>		Despite a majority vote in favor of recognizing the ERA as "valid to all intents and purposes as part of the Constitution," the US Senate fails to pass a resolution that would have declared the ERA already in effect. A motion to reconsider is subsequently introduced.
<b>July 2023</b>		Centennial celebrations are held to mark 100 years of the ERA.
<b>August 2023</b>		To mark the centenary anniversary of the ERA, President Biden releases a statement urging Congress to act swiftly to recognize ratification of the ERA.
<b>September 2023</b>		Equality Now, with the ERA Coalition, Unchained at Last, the US End FGM/C Network, and the Alliance for Universal Digital Rights (AUDRi), presented a submission ahead of the 139th session of the United Nations Human Rights Committee, highlighting the United States' failure to comply with international human rights law - specifically the International Covenant on Civil and Political Rights - by not ensuring constitutional equality.
<b>October 2023</b>		During the 139th session of the United Nations Human Rights Committee, a delegate from the United States presents progress made by the US on addressing the ongoing human rights issues as outlined in the International Covenant on Civil and Political Rights (ICCPR) which the US has ratified. The ERA Coalition makes statements during briefings with the Committee on the status of the ERA. Shortly after the US went before the Committee, The United Nations Human Rights Committee issues <u>recommendations to the United States</u> urging the country "to guarantee protections against sex and gender-based discrimination in its Constitution," including through incorporation of the Equal Rights Amendment ("ERA"), and that the US should ratify the Convention on the Elimination of All Forms of Discrimination against Women, the most comprehensive international treaty on women's rights.

# PART 2: WHY DO WE NEED THE ERA?

**Constitutional equality in the US is not just a “women’s issue” – it affects people of all demographics at every level of society. The ERA therefore has ongoing and urgent political, cultural, and personal relevance in the US and across the modern world.**

Although Section 1 of the 14th Amendment theoretically provides every person in the United States “equal protection of the laws,” the US Constitution does not explicitly prohibit discrimination on the basis of sex and/or gender. Incorporation of the ERA would result in sex being categorized as a “protected class,” elevating constitutional protections around sex and gender to the same level as those afforded to race, religion, and national origin.

This means that cases involving sex/gender discrimination would be required to undergo “strict scrutiny” – the highest level of justification in the US legal system – making it more difficult for companies, employers, and other entities that discriminate to get away with it.

Legislatively, the ERA would empower and embolden Congress to pass federal laws and inspire action at state level to address systemic gender discrimination and inequality. This would level the playing field for women and girls – especially women of color and other historically marginalized groups – and make it easier for the courts to strike down sex-discriminatory laws based on stereotypes.

## Reporting on the ERA through an intersectional lens

The issue of constitutional equality in the US intersects with some of today’s most pressing issues – from abortion, equal pay, and LGBTQ+ rights; to preventing gender-based violence and eliminating harmful practices such as female genital mutilation and child marriage.

By highlighting the crucial role of the ERA in securing constitutional equality for all people in the US, you can add depth and context to your reporting on a diverse range of topics.

### Abortion and the ERA

Access to abortion is a matter of equality. Forcing a person to carry a pregnancy and/or give birth denies them equal participation in society and equal enjoyment of fundamental rights. The overturning of *Roe v. Wade* in 2022 by the conservative Supreme Court of the United States (SCOTUS) was made possible because the right to abortion was not implicitly protected or conferred by any constitutional provision. The ERA is that missing provision.

The ERA would enable and encourage the legislative and judicial branches to both defend against restrictive abortion bans as well as proactively extend protections to safeguard access to reproductive rights and health care. Section 1 of the ERA requires that SCOTUS scrutinize sex-discriminatory laws, therefore increasing the likelihood that they would rule against anti-abortion laws.

*More information and analysis of the intersection between abortion and the ERA can be found in our factsheet: [I Need The ERA Because...Reproductive Rights Are Human Rights](#).*

### LGBTQ+ rights and the ERA

LGBTQ+ rights are under attack in the US. In 2023 over 400 anti-LGBTQ+ bills were introduced in various state legislatures and more than 70 new laws were passed at state level – including several laws banning access to life-saving, gender-affirming medical care.

The rights of all LGBTQ+ people are central to the fight for gender equality in the US, and the LGBTQ+ community has always been integral to the campaign to recognize the ERA. By insulating sex equality protections from the whims of Congress, the ERA would serve as a vehicle to help move bills that protect LGBTQ+ communities through state and federal legislative bodies, and provide an additional basis upon which to challenge discrimination.

*More information and analysis of the intersection between LGBTQ+ rights and the ERA can be found in our factsheet: [I Need The ERA Because...LGBTQ+ Rights Are Human Rights](#).*



Photo: Malu Laker / Unsplash

### Child marriage and the ERA

It is estimated that 300,000 children were married in the United States between 2000 and 2018, the majority of whom were young girls married to adult men. Hundreds of thousands of children were entered into matrimony because even in 2024, 40 states don't have laws that prohibit marriage under the age of 18, without exception, and there is no federal law prohibiting it.

Due to the sex-discriminatory nature of child marriage, the ERA would be a critical tool in prohibiting the practice at the federal level, which would bring the US into compliance with international law. Laws permitting children to be married would likely be struck down as unconstitutional because such laws have a disproportionately negative impact on girls, preventing them from equally enjoying their rights and participating fully in society.

*More information and analysis of the intersection between child marriage and the ERA can be found in our factsheet: [I Need The ERA Because...A Girl Is Not A Wife.](#)*

### The next generation of the ERA

As we pass the 100-year anniversary of the introduction of the ERA, a new generation of activists is taking the baton and reinvigorating its relevance for our shared future.



**The Feminist Front** is mobilizing young people around the fight for the ERA through its #ERANow campaign. By building a grassroots, community-driven movement with youth and the most impacted at the front, they are bringing a decades-long fight to the next generation.



**Young Feminist Party** uses legislative, judicial, and community-based advocacy to advance feminist policies, encourage voting by young people for progressive, pro-ERA candidates, and empower young women and queer people to claim their power in all spaces.



**Gen-Z for Change** is a collective of Gen-Z activists that leverage the power of social media to drive progressive change through a coalition of hundreds of social media influencers on TikTok, Twitter, Instagram, and YouTube. The focus of their work is to safeguard and bolster gender equality on all fronts, especially where it intersects with health and economic justice.



**The Homegirl Project** provides girls of color with accessible political resources to disrupt harmful narratives, foster intergenerational solidarity, and develop capacity for long-term leadership. To date, they have published over 90 teen writers, featured 100 WOC leaders, established 50 mentorship connections, and built a community of over 3000 members.

# PART 3: WHY DOES THE ERA MATTER GLOBALLY?

**While 85% of UN Member States have constitutions that prohibit discrimination on the basis of sex and/or gender, the US remains one of the few that does not.**

As a major world power, the US has a great deal of political influence, so its failure to lead the way on constitutional equality has profound and far-reaching implications – including by affording governments elsewhere an implicit license to uphold structural gender inequality.

By continuing to treat women, girls, and gender minorities as second-class citizens under constitutional law, the US is being left behind by the rest of the modern world and remains on par with nations such as [Iran](#) when it comes to not ratifying international human rights law.

## ***International human rights law and the ERA***

**Constitutional equality is required under international human rights treaties. The US Government has a legal responsibility to enshrine the ERA as the 28th Amendment.**

All signatories to international human rights treaties are obliged to ensure the protection of basic human rights, including the right to equality. So when a country fails to explicitly prohibit discrimination on the basis of sex and/or gender, it not only leaves huge numbers of its own citizens vulnerable – it also puts itself in violation of international human rights law.

In September 2023, Equality Now, the ERA Coalition, Unchained at Last, the US End FGM/C Network, and the Alliance for Universal Digital Rights (AUDRi) presented a joint submission for consideration during the 139th session of the UN Human Rights Committee.

This submission highlighted the longstanding failure by the US Government to enshrine an explicit right to equality on the basis of sex in the Constitution, which results in its subsequent violation of the International Covenant on Civil and Political Rights (ICCPR):

“ Without a specific provision guaranteeing equality on the basis of sex in the country's constitution, the US is in direct violation of the ICCPR. A lack of constitutional equality contravenes one of the most fundamental international human rights principles of equality and non-discrimination, which signatory States have an obligation and duty to respect, protect and fulfill, including through formal protection in their constitutions. ”

The submission reiterated calls for the Committee to implement a recommendation to the United States Government, urging it to *“take every step necessary, including publication by the Federal Archivist, to recognize and incorporate the Equal Rights Amendment as the 28th amendment to the US Constitution guaranteeing equality on the basis of sex.”*

**In response, in November 2023, the UN recommended that the US: “should redouble its efforts to guarantee protection against sex and gender-based discrimination in its Constitution, including through initiatives such as the Equal Rights Amendment.”**

# RESOURCES

## Further reading

[Why we need the Equal Rights Amendment](#)

[100 years later, Why we still need the ERA](#)

[The New Intersectional era of the ERA](#)

[The US lags behind the rest of the world on Constitutional Equality](#)

[84 Organizations Demand Urgent Action from US Government to end Sex Discrimination](#)

[Virginia Votes to Ratify the ERA](#)

[Senate Vote on the ERA Fails](#)

[ERA Explainer](#)

[Submission on US to UNHRC outlining sex discrimination as a human rights violation](#)

[UNHRC adopts recommendations, urges US to end sex discrimination](#)

[Amicus brief in Commonwealth of Virginia, et al v. Ferriero](#)

# QUOTE BANK

## Sharing what's been said about the ERA

“ The ERA is not dead and should be recognized as the 28th amendment as it has met all the requirements of Article 5 of the Constitution. This will not be the last word on the ERA. ”

**Antonia Kirkland**, Global Lead for Legal Equality & Access to Justice at Equality Now, speaking in February 2023 about the failure by the US Senate to validate the ERA.

“ Even though landmark decisions culminating in the current case law on equality for women were achieved by brilliant advocacy and had momentous importance in helping to dislodge entrenched sex discrimination from our Nation's state and federal laws, they lack the strength, endurance, and efficacy of an express constitutional amendment. ”

**Kathleen M. Sullivan**, Senior Counsel, Quinn Emanuel Urquhart & Sullivan, LLP

“ Without ERA protections, even basic rights like reproduction are on the chopping block: protection against discrimination in the workplace, in the classroom, and even in the courtroom – unless women's rights are explicitly protected under the Constitution there's nothing stopping [people] or the court from ripping them away. ”

**Senator Dick Durbin of Illinois**, during his address to the US Senate in February 2023.

“ If we continue to hold back more than half of our people from accessing equal opportunities, what does that say about us as a country? How can we be the beacon of freedom and democracy we claim to be if we do not declare that sex discrimination contradicts the American dream? ”

**Thursday Williams**, College Student and ERA Coalition Board Member

# GLOSSARY

<b>28th Amendment</b>	With the 38th and final state ratification needed in 2020, the ERA has been the 28th amendment to the US Constitution. It is the duty of the federal government of the US to recognize it as such.
<b>Protection under the Constitution</b>	Women in the United States do not have guaranteed protection of their rights under the Constitution. The Equal Protection Clause of the 14th Amendment, which is often argued as a protection clause for women, does protect women to an extent but offers far less legal protection than other protected categories like race, religion, or national origin.
<b>Ratification</b>	To 'ratify' means to approve or enact a legally binding act that would not otherwise be binding in the absence of such approval. In the context of US constitutional law, any proposed amendment must be ratified by three-quarters of the states (at least 38 out of 50) before being formally adopted. The ERA has already been ratified – it has officially met all requirements for becoming the 28th Amendment to the US Constitution.
<b>Sex discrimination</b>	Any type of discrimination against a person on the <u>basis of their sex</u> , including the person's sexual orientation, gender identity, or pregnancy status.

# REPORTING ON THE ERA: A TOOLKIT FOR JOURNALISTS

## Contact the Press Team:



[press@equalitynow.org](mailto:press@equalitynow.org)



[equalitynow.org/pressroom](https://equalitynow.org/pressroom)

Learn more: [equalitynow.org/INeedERA](https://equalitynow.org/INeedERA)