

**I need the
ERA because...**

**LGBTQ+ RIGHTS
ARE HUMAN
RIGHTS**

EQUALITY SHOULD BE IN THE CONSTITUTION

LGBTQ+ rights

Despite some significant gains in the last decade, LGBTQ+ rights are once again

under attack in the US. As of 2023, over 400 anti-LGBT bills have been introduced in various state legislatures, with over 70 laws passed. Twenty-two states have passed laws banning transgender youth (and even some adults) from accessing life-saving, gender-affirming medical care. States have also passed laws to prevent trans girls from participating in sports, restrict bathroom access, or limit information and open discussion about gender and sexuality in schools. **These state laws curtail some of the most fundamental human rights recognized in international law, including gender equality, access to healthcare, non-discrimination, privacy, education, and freedom of speech and expression.** The international community is taking note: After his US visit in 2022, the UN appointed Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Mr. Victor Madrigal-Borloz, stated, “I am deeply alarmed by a widespread, profoundly negative riptide created by deliberate actions to roll back the human rights of LGBT people at state level.”

In the United States, the human rights of people who identify as LGBTQ+ are routinely violated. In 2020, at least 37 cases of fatal violence against transgender and non-binary individuals were recorded. Increased harassment, hate speech, and anti-LGBTQ+ mobilization continue to plague the community. Those who identify as LGBTQ+ in the US are nearly four times more likely to experience violent crimes, including rape, sexual assault, and aggravated assault, with transgender youth and trans women of color particularly and uniquely vulnerable to violence and discrimination.

Gender discrimination and violence against LGBTQ+ people are often compounded by racial and other forms of intersectional discrimination, leading to higher poverty levels, unemployment, and lack of access to safe housing and health care.

What could the ERA do?

Like women's rights, the rights of LGBTQ+ people are central to the fight for gender equality in the US. **Indeed, there has never been a time in the century-long fight for the ERA that the LGBTQ+ community has not been an integral part of it.**

The ERA, when finally incorporated into the Constitution as the 28th Amendment, would explicitly prohibit sex discrimination at a constitutional level, therefore protecting the rights of all women and LGBTQ+ people against further roll-back of their hard-won human rights. The ERA would have the power to “insulate sex equality protections from the whims of Congress,” serve as a vehicle to help move women- and LGBTQ+-friendly bills through state and federal legislative bodies, and provide an additional basis for plaintiffs to challenge sex-based discrimination through the Courts.

The ERA would also require Courts to apply “strict scrutiny” to legal cases involving discrimination on the basis of sex, making it much harder for legislative bodies or courts to weaken or overturn established LGBTQ+ legal rights. (In the landmark case of *Bostock v. Clayton County*, the Supreme Court interpreted “sex” discrimination to include discrimination based on sexual orientation and gender identity.) This is especially critical now when some religious groups are asserting the right to discriminate against women and LGBTQ+ people based on religious belief.

The 2022 Supreme Court of the United States (SCOTUS) decision in *Dobbs v. Jackson Women's Health Organization* overturning *Roe v. Wade* has put many other important SCOTUS precedents at risk, including key rulings prohibiting sex-based discrimination against the LGBTQ+ community, such as *Lawrence v. Texas* (protecting same-sex intimacy) and *Obergefell v. Hodges* (affirming same-sex marriage equality). Like *Roe* and other privacy cases, the decisions in *Lawrence* and *Obergefell* hinged not on a constitutional right to equality based on sex, but on a weaker “right to privacy” based on the substantive due process and equal protection clauses of the Constitution.

Without the ERA, these decisions will remain vulnerable.

Learn more: equalitynow.org/ineedera