



Center for Intersectionality
and Social Policy Studies



New ERA Prefatory Note

It is now, and always has been, the responsibility of “We, the People...” to adapt the Constitution to a changing world. Its strength is its ability to enlarge democracy. We can all be framers.

The U. S. Constitution does not yet effectively guarantee equality. The original Constitution and its Bill of Rights, written by white property-owning men, did not recognize equality as a right. After many years of protest, organizing, and even armed struggle, amendments guaranteed equality rights to some degree. While at times extended to women and people of color by judicial interpretation and legislation, these guarantees have been undermined by courts so that they have not and cannot produce real equality on the basis of race and/or sex. Most Americans believe that the Constitution guarantees equal rights, but it does not, unlike most constitutions in the world.

This new Equal Rights Amendment has been needed all along, but we need it now more than ever. Our democracy is at stake: the voting power to break through the glass ceiling, the guaranteed rights that raise the floor for all citizens, and recognition of the reality that inequalities intersect, interconnect, and overlap, making it impossible to rectify one alone. All Americans deserve equality guarantees that cannot be taken away or disregarded. And in a true democracy, each citizen should have an equal right to vote and have one's vote count equally. Only the Constitution can provide this power and protection.

Proposed Language for the New Expanded ERA

Whereas all women, and men of color, were historically excluded as equals from the Constitution of the United States, subordinating these groups structurally and systemically; and

Whereas prior constitutional amendments have allowed extreme inequalities of race and/or sex and/or like grounds of subordination to continue without effective legal remedy, and have even been used to entrench such inequalities; and

Whereas this country aspires to be a democracy of, by, and for all of its people, and to treat all people of the world in accordance with human rights principles;

Therefore be it enacted that--

I. Women in all their diversity shall have equal rights in the United States and every place subject to its jurisdiction.

II. Equality of rights shall not be denied or abridged by the United States or by any State on account of sex (including pregnancy, gender, sexual orientation, or gender identity), and/or race (including ethnicity, national origin, or color), and/or like grounds of subordination (such as disability or faith). Neither the United States nor any State shall give force by law to disadvantages suffered by those whose equality rights are denied or abridged.

III. To fully realize the rights guaranteed under this Article, Congress and the several States shall take legislative and other measures to prevent or redress any disadvantage suffered by individuals or groups because of past and/or present discrimination, and shall take all steps requisite and effective to abolish institutions that infringe the right to vote and to have that vote count equally.

IV. Nothing in Subsection II shall invalidate a law, program, or activity that is protected or required under Subsections I or III.