NATIONAL ORGANIZATION FOR WOMEN

Who Needs An Equal Rights Amendment? You Do!

After more than 200 years of living under the United States Constitution and despite all of the progress we have made, women continue to suffer discrimination in employment, insurance, health care, education, the criminal justice system, social security and pensions, and just about any other area you can name.

Laws to prevent sex discrimination are simply not enough. The bleak reality is that because hard-won laws against sex discrimination do not rest on a strong constitutional foundation, they are essentially ephemeral. These federal laws and regulations contain many loopholes; are inconsistently interpreted, or worse — ignored; and may be weakened by amendment or repealed outright.

Also, women seeking enforcement of these laws must not only convince the courts that discrimination has occurred, but that it matters. A constitutional guarantee of equality would absolutely shift the burden away from those fighting discrimination and place it where it belongs, on those who would discriminate. They would have to justify why discrimination should be allowed rather than women having to explain why we deserve equality.

Discrimination Exists

Women need only examine our own life experiences to know that discrimination on the basis of sex is abundant in our society. A few blatant examples that would be redressed by explicit inclusion of women in the U.S. Constitution are listed:

Employment. Women are underpaid and undervalued in the workforce. In 1994, women still were paid 74¢ for every dollar paid to men (1). Jobs traditionally held by women remain clustered at the lower end of the pay scale, while traditional men's jobs, even those having similar education requirements and time and effort on the job, are paid more. Thus, secretaries are routinely paid less than truck drivers even if both jobs are of equal importance to a company.

More startling is that even for traditional women's work, women are discriminated against — in 1995 the median income for registered nurses for women was $35,360 and for men $ 36,868 (2). A 1994-95 survey found that male elementary school teachers had a mean base salary of $33,800 as compared to $32,292 for women (3) and women computer operators made almost $7000 less annually than their male counterparts (4). There is even a large salary differential (20%) for retail store cashiers of which more than 85% are women (see fig. 1) (5).

Issues of pay equity for comparable worth are not addressed by any federal laws. A CEA could remedy these and many other concerns of women in the workforce, including the "glass ceiling" and sexual harassment.

Figure 1. Median Annual Salaries

Registered Nurse	-Men-	$36,868
	-Women-	$35,360
Elementary School Teacher	-Men-	$33,800
	-Women	$32,292
Computer Operator	-Men-	$26,000
	-Women-	$19,084
Retail Cashier	-Men-	$13,728
	-Women-	$11,440

Reproductive Rights. Stereotyping of pregnant women and mothers, interference with a woman's right

to control her own body and other forms of discrimination intrude on women's reproductive freedom.

Court cases like *California Savings and Loan v. Guerra* (6) have led to a debate as to whether pregnancy should be accorded special treatment under law since equal treatment has been insufficient protection for pregnant workers' rights. By including a specific statement (Section 3) in the proposed CEA, we make clear that women do not seek preferential, special or protected treatment because of pregnancy. What women do want is recognition that pregnancy is part of the natural human experience and should not be used to put women at a disadvantage.

Despite the provision of Title VII, the Pregnancy Discrimination Act and the Family and Medical Leave Act, pregnant women still face discrimination in the work place. Women on maternity leave, like employees who take sick leave, are not necessarily guarantee job protection and reinstatement when they return to work. Their jobs can be eliminated and the burden of proof requires evidence that the employer **intended** to discriminate (7).

Since 1973, when the Supreme Court handed down the historic *Roe v. Wade* decision which legalized abortion, a woman's right to terminate a pregnancy has been under continuous attack. These attacks come in the state legislatures, the U.S. Congress, the courts and at women's health clinics. The latest assault by the Congress has been on the late term abortion technique known as dilatation and extraction (D&X). This rarely utilized procedure is employed only when the life or health of the mother is at risk or the fetus is severely deformed. This bill, passed by both houses of Congress, would have outlawed the abortion method, with inadequate protection for life and health of the woman (8). The bill was stalled by a presidential veto.

Mandatory pregnancy has become the reality for many young and poor women and, as of 1995, for federal workers and women in the military serving abroad where safe, private facilities are not available (9). The real issue for women is the right to bodily integrity, and without this basic right women can have no true freedom.

Insurance, Pensions, and Social Security. Sex discrimination contributes significantly to the economic plight of older women. Nearly 75% of the nation's 4 million elderly poor are women (10). Older women have just over half the income of older men, and women of color have significantly less income than old white women (see table below) (11). The disproportionate poverty of older women is created by a lifetime of low wages intensified by sex discrimination in pensions, retirement insurance, and social security.

Table: 1992 Median Income for Those 65 and Older

White men	$14,548
White women	$8,579
Black women	$6,220
Hispanic women	$5,968

Insurance. State insurance regulators routinely approve the use of selective classifications by sex for premiums and payouts in five types of insurance: automobile, disability income, medical expense, life and retirement income insurance (pensions and annuities) (see bulleted list below).

Women are frequently required to pay higher insurance premiums than men for the same benefits, or to pay the same as men for less protection or benefits, thereby reducing their take home pay (12). The excuse for this discrimination is that insurance company tables show that more women than men live longer than average or have higher health costs. The Supreme Court found in *City of Los Angeles Department of Water and Power v. Manhart* (13) that the use of sex divided tables violated Title VII's prohibition against sex discrimination in employment. But this ruling applied only to employer-paid insurance policies and not to those purchased by individuals with private insurance companies. In addition, the ruling was weakened by the decision of a New York federal court which exempted certain employer plans from Title VII coverage (14).

If we won equality in insurance prices, coverages, and benefits women would gain over $2.5 billion annually (12) (see the following bulleted list).

What Women Would Gain from Insurance Equality with Men

- $150 million per year in increased ANNUITIES paid to retired women, equaling what men get with the same policies.

  $140 million per year in increased LIFE INSURANCE savings paid out to older women, equaling what men get with the same policies.
- 19 million women charged tens to hundreds of dollars less per year for MEDICAL EXPENSE insurance, with pregnancy covered as fully as any other expense.
- 7.4 million women charged tens to hundreds of dollars less per year for DISABILITY INCOME insurance, with disability due to pregnancy covered as fully as disability due to other causes.
- $2 billion per year in reduced charges for AUTO insurance. The current pricing scheme is strongly biased against women because it ignores the 2:1 ratio of men's to women's average mileage, and consequent 2:1 ratio of accident involvement. Four of five cars pay unisex "adult" premiums. *Ending sex-divided pricing for young drivers without ending the extreme price bias against below- average mileage drivers simply means continued gross overcharging of women as a class, relative to men.* Proportioning premiums to odometer miles actually driven by the insured car — cents/mile for each car in a risk class (territory, car type, etc.) — would reduce women's premiums an average of 30%. Cars driven more than average mileage by either women or men would also pay in proportion to the insurance protection they actually used — true unisex pricing.

Pensions. Women are only half as likely as men to receive a pension, and those who do receive only half as much. Just 22% of women 65 and older reported having received pension income in 1992 based on previous employment, and those that did, received an average of $5,432 per year. In contrast, nearly half (49%) of men age 65 and older reported having received pension income in 1992 based on previous employment, with an average of $10,031 per year (15).

Social Security discriminates against women. The policies on which the system was founded in 1940 are reflective of the stereotypical role that women played during those years. Only 14% of women were in t[illegible]workforce and most women spent their lives as married homemakers. Today, 58.9% of women are in [illegible]workforce and the divorce rate has risen. Despite these radical societal changes, the Social Security [illegible]em holds to the same sex-biased assumptions. Married men receive 100% of their benefits for a lifetime, and since homemakers' contributions to marriage partnerships are not valued fully, wives are considered dependents and as such, receive lower payments. Widows receive only 72% of their deceased husband's benefits, and divorced women receive only half (16).

Since Social Security is the sole income source for many older women, the retrogressive policies are often devastating to women. As of 1990, 33% of unmarried women 65 and older depended on Social Security for at least 90 percent of their income; more than one-sixth had no other income (17). Women of color in this group were at least twice as likely as white women to rely on social security for 100% of their incomes.

Lesbian and Gay Rights. Currently lesbians and gay men are discriminated against in areas as basic as employment, parenting, marriage and housing rights. Numerous court decisions demonstrate the need to establish a constitutional guarantee of rights regardless of sexual orientation.

Many cases illustrate the pervasive discrimination against lesbians and gay men. One of the most plainly egregious and unfair is the case of a lesbian mother in Pensacola, Florida.

Mary Ward lost custody of her daughter to John Ward, her ex-husband and a convicted murderer. In awarding custody to John Ward, Judge Joseph Tarbuck said, "This child should be given the opportunity and the option to live in a non-lesbian world." The judge made the custody award to John Ward despite his conviction in a brutal murder.

In 1974, John Ward shot and killed his first wife in the parking lot of a Pensacola restaurant. Witnesses sa[illegible] he had been talking with his wife when he shot her six times. He then reloaded the gun and shot the v[illegible]an six more times. John Ward pleaded guilty to second-degree murder and served his sentence in a [illegible]da prison.

Fully aware of the father's past, the judge said John Ward would provide "decent living accommodations" for his daughter. The judge also stated that the child needed a "stricter environment, more discipline."

Currently, there is no federal protection against discrimination based on sexual orientation. Clearly, passage of the CEA would give lesbians and gay men the constitutional standing necessary to challenge unjust laws.

Education. While Title IX has been effectively used to reduce discrimination based on sex in educational programs and activities receiving financial assistance, women and girls are still daily disadvantaged in educational programs. These disadvantages run a wide spectrum from a girls' high school track team (Gulliver Academy, Miami, Florida) being disqualified because of the shorts they wore, to the state supported Virgina Military Institute (VMI) and South Carolina's Citadel refusing to admit women.

The shorts the high school students wore were the same type used by Olympic runners and not against the state athletic rules. Nevertheless the men of the Florida High School Athletic Association found them too revealing. This decision is blatant sex discrimination — not one male team in history, beginning with the ancient Greeks who ran naked to modern day boys' competitive swimwear, has been similarly disqualified.

VMI has as its stated purpose to develop "citizen soldiers" who would serve the state. VMI graduates are not required to enter the military and only 18 percent choose it as a career (18). Instead the majority of graduates of VMI, and those at the Citadel, fill the halls of power in government and industry of their respective states. The very real harm to women denied access to these prestigious institutions is the deprivation of a life-long influential network. Or as Liza Mundy put it, "Affection, connection, humor, sexism: That to me, is VMI. And when you get down to it, what women are being denied is membership in a powerful, publicly funded men's club. Virginia Women's Institute for Leadership may be a terrific program, but it isn't the club. It is, with all due respect to the women who go there, a ladies' auxiliary, camouflaged in faddish clothing." (18).

References

1. The U.S. Bureau of Labor Statistics (BLS), 1994.

2. Hospital and Healthcare Compensation Service, BLS, 1994.

3. Educational Research Services, BLS, 1994-95.

4. Working Women Magazine's Salary Survey, February 1996.

5. Roth Young Personnel Services, Minneapolis, BLS.

6. *California Federal Savings and Loan Association v. Guerra*, 479 U.S. 272 (1987).

7. Williams, "Equality's Riddle: Pregnancy and the Equal Treatment / Special Treatment Debate", N.Y.U. Review Of Law and Social Change, Vol. XIII, No, 2, 325 (1084-85).

8. Reproductive Freedom News, Vol.V, No. 7, April 1996.

9. United States Congress, FY 1996 Defense Authorization Bill and FY 1996 Treasury and Postal Appropriations Bill.

10. U.S. Bureau of the Census, Current Population Reports, Poverty in the United States, 1992, Table 5, p. 10, September 1993.

11. U.S. Bureau of the Census, Current Population Reports, Series P-60-184, Money, Income of Households, Families and Persons in the United States: 1992, Table 26, p. 101, September 1993.

12. Butler, Patrick. Insurance Sex Discrimination in the United States , Fact Sheet National Organization for Women, updated 1993.

13. *City of Los Angeles Department of Water and Power v. Manhart*, 435 U.S. 702, 710-711(1978).

14. *Spirt v. Teachers Insurance and Annuity Association*, 475 F. Supp. 1298 (S.D.N.Y. 1980).

15. American Association of Retired Persons, Women's Initiative Fact Sheet, 1994.

Home
Overview
History
FAQ
Why
Strategy
Legislation
Political Status
Supporters
Video
Links
Search
Site Map

Why We Need the Equal Rights Amendment

by Roberta W. Francis
Co-Chair, ERA Task Force
National Council of Women's Organizations

The 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.*

After more than a generation of significant advances for women, do we still need the Equal Rights Amendment? The answer is an unqualified yes! Legal sex discrimination is not yet a thing of the past, and the progress of the past 50 years is not irreversible. Some remaining inequities result more from individual behavior and social practices than from legal discrimination, but they can all be influenced by a strong message that the Constitution has zero tolerance for any form of sex discrimination. Thus, the reasons why we need the ERA are at one level philosophical and symbolic, and at another level very specific and practical.

1. The Equal Rights Amendment is needed to affirm constitutionally that the bedrock principles of our democracy – "all men are created equal," "liberty and justice for all," "equal justice under law," "government of the people, by the people, and for the people" – apply equally to women.

In principle:

It is necessary to have specific language in the Constitution affirming the principle of equal rights on the basis of sex because for more than two centuries, women have had to fight long and hard political battles to win rights that men (at first certain white men, eventually all men) possessed automatically because they were male. The first – and still the only – right that the Constitution specifically affirms equally for women and men is the right to vote. Alice Paul introduced the ERA in 1923 to expand that affirmation to all the rights guaranteed by the Constitution.

It was not until as recently as 1971 that the 14th Amendment's equal protection clause was first applied to sex discrimination. Even today, a major distinction between the sexes is present from the moment of birth – the different legal

standing of males and females with respect to how their constitutional rights are obtained. As demonstrated in 1996 by the last major Supreme Court decision on sex discrimination, regarding admission of women to Virginia Military Institute (VMI), we have not moved beyond the traditional assumption that males h[illegible] rights and females must prove that they hold them. The Equal Rights Amendm[illegible] would remove that differential assumption and shift the burden of proof to the alleged discriminator.

In practice:

The practical effect of this amendment would be seen most clearly in court deliberations on cases of sex discrimination. For the first time, "sex" would be a suspect classification requiring the same high level of "strict scrutiny" and having to meet the same high level of justification – a "necessary" relation to a "compelling" state interest – that the classification of race currently requires.

The VMI decision now tells courts to exercise "skeptical scrutiny" requiring "exceedingly persuasive" justification of differential treatment on the basis of sex, but prohibition of sex discrimination is still not as strongly enforceable as prohibition of race discrimination. Ironically, under current court decisions about sex and race discrimination, a white male claiming race discrimination by a program or action is protected by strict scrutiny, but a black female claiming sex discrimination by the same program or action is protected by only skeptical, not strict, scrutiny.

We need the ERA to clarify the law for the lower courts, whose decisions s[illegible] reflect confusion and inconsistency about how to deal with sex discrimina[illegible] claims. If the ERA were in the Constitution, it would in many cases influence the tone of legal reasoning and decisions regarding women's equal rights, producing over time a cumulative positive effect.

2. The Equal Rights Amendment is needed in order to prevent a rollback of women's rights by conservative/reactionary political votes, and to promote laws and court decisions that fairly take into account women's as well as men's experiences.

In principle:

Aren't there already enough legal prohibitions of sex discrimination – the Equal Pay Act, Title VII and Title IX of the 1964 Civil Rights Act, the Pregnancy Discrimination Act, Supreme Court decisions based on the 14th Amendment's equal protection clause, and more? Why are there still people saying, as Alice Paul did in 1923, "We shall not be safe until the principle of equal rights is written into the framework of our government"?

The need for the ERA can be expressed simply as a warning. Unless we put into the Constitution the bedrock principle that equality of rights cannot be denied c[illegible] abridged on account of sex, the political and judicial victories women h[illegible] achieved with their blood, sweat, and tears for the past two centuries are vulnerable to erosion or reversal at any time – now or in the future.

Congress has the power to make laws that replace existing laws – and to do so by a simple majority. Therefore, many of the current legal protections against sex discrimination can be removed by the margin of a single vote. While courts in the near term would still apply skeptical scrutiny to laws that differentiate on the basis of sex, that precedent could be undermined or eventually ignored by future conservative or reactionary courts. With a specific constitutional guarantee of equal rights through the Equal Rights Amendment, it would be much harder for legislators and courts to reverse our progress in eliminating sex discrimination.

In practice:

Would anyone really want to turn back the clock on women's advancement? Ask the members of Congress who have tried to cripple Title IX, which requires equal opportunity in education – who have opposed the Violence Against Women Act, the Fair Pensions Act, and the Paycheck Fairness Act – who voted to pay for Viagra for servicemen but oppose funding for family planning and contraception – who for decades have blocked U.S. ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Most laws that discriminated explicitly against women have been removed from the books – in many cases, as a result of the political power and expertise developed by women in the course of the ERA ratification campaign. The current legal and judicial systems, however, still often have an impact on women that works to their disadvantage, because those systems have traditionally used the male experience as the norm.

Therefore, lawmakers and judges must be encouraged to include equitable consideration of female experiences as they deal with issues of Social Security, taxes, wages, pensions, domestic relations, insurance, violence, and more. Without an Equal Rights Amendment providing motivation, the status quo will change much more slowly.

IN SUMMARY:

We need the ERA because we do not have it yet. Even in the 21st century, the U.S. Constitution still does not explicitly guarantee that all of the rights it protects are held equally by all citizens without regard to sex. The first – and still the only – right that the Constitution specifically affirms as equal for women and men is the right to vote.

We need the ERA because the 14th Amendment's equal protection clause has never been interpreted to grant equal rights on the basis of sex in the same way that the Equal Rights Amendment would. The 14th Amendment has been applied to sex discrimination only since 1971, and the Supreme Court's latest decision on that issue in 1996 does not move us beyond the traditional assumption that males hold rights and females must prove that they hold them.

We need the ERA because until we have it, women will have to continue to fight long, expensive, and difficult political and judicial battles to ensure that their rights are constitutionally equal to the rights automatically granted to males on the basis of sex. And in a few cases, men will have to do the same to ensure that they have

equal rights with females (usually in areas of family law).

We need the ERA because we need its protection against a rollback of the significant advances in women's rights over the past 50 years. Congress has the power to replace existing laws by a majority vote, and even judicial precedents be eroded or ignored by reactionary courts responding to a conservative political agenda. With an ERA in place, progress already made in eliminating sex discrimination would be much harder to reverse.

We need the ERA because we need a clearer and stricter federal judicial standard for deciding cases of sex discrimination. Lower-court decisions in the various circuits and states (some with state ERA's and some without) still reflect confusion and inconsistency about how to deal with sex discrimination claims. Sex discrimination should get the same judicial scrutiny as race discrimination.

We need the ERA because we need to improve the standing of the United States globally with respect to equal justice under law. The governing documents of many other countries specifically affirm legal equality of the sexes (however less than perfect that ideal may be implemented). Ironically, some of those constitutions – for example, in Japan and Iraq – were written under the direction of the United States. Our image is also tarnished by the fact that the Senate has still not ratified CEDAW (UN Convention on the Elimination of All Forms of Discrimination Against Women).

We need the ERA because we need to move beyond the struggle for it. We need to free the energies of the women and men who have spent countless hours, yea and even lifetimes working for this basic human right of equal constitutional protection. When we can redirect that energy and those resources to work on the many other challenges we face in common, we will truly have fulfilled the vision of suffragist leader and ERA author Alice Paul.

Women's Less Than Full Equality Under The U.S. Constitution

by Patricia Ireland, NOW President

At a time when women are astronauts and truck drivers, it is hard to believe that the U.S. Constitution does not guarantee women the same rights as men. For most women, equality is a bread-and-butter issue. Women are still paid less on the job and charged more for everything from dry cleaning to insurance. The value of a woman's unpaid work in the home is often not taken into account in determining divorce settlements and pension benefits. When women turn to the courts to right these wrongs, they are at a distinct disadvantage because of what has and hasn't happened to the Constitution.

In 1776 Abigail Adams urged her husband, John, that he and other framers of our founding documents should, "Remember the ladies." John, who went on to become our second president, responded, "Depend upon it. We know better than to repeal our masculine systems," and women were left out of the Constitution.

Nearly a hundred years later, Congress adopted amendments to the Constitution to end slavery and provide justice to former slaves. The 14th Amendment, passed in 1868, guaranteed all "persons" the right to "equal protection under the law." However, the second section of the amendment used the words "male citizens," in describing who would be counted in determining how many representatives each state gets in Congress. This was the first time the Constitution said point blank that women were excluded. Similarly, the 15th Amendment in 1870 extended voting rights to all men -- but not to any women.

It wasn't all doom and gloom for women in the 19th and early 20th centuries, though. Two women active in world anti-slavery efforts, Lucretia Mott and Elizabeth Cady Stanton, were leaders at the first-ever "Women's Rights Convention" in Seneca Falls, N. Y., in 1848. Their "Declaration of Sentiments" included this play on the Declaration of Independence, "We hold these truths to be self-evident: that all men and women are created equal."

These women and others went on to form what became known as the suffrage movement. We now consider the suffragists the "first wave" of the U.S. feminist movement. During their long campaign to win women the right to vote, they used strategies including marches, pickets, arrests and hunger strikes. They triumphed in 1920 when the states ratified the 19th Amendment to the Constitution, which corrected the long-time injustice the 15th Amendment had put into writing.

Suffragist leader Alice Paul authored the Equal Rights Amendment (ERA) to remedy women's exclusion from the 14th Amendment. Introduced in 1923, the ERA was buried in Congress for nearly 50 years. In the late 1960s, the "second wave" of feminist activists took up Alice Paul's cause. After getting the ERA voted out of Congress, we held marches, organized boycotts, lobbied and worked on election campaigns to try get it passed by the necessary three-fourths of the states. When an arbitrary time limit expired in 1982, the ERA was just three states short of the 38 required for ratification.

The history of Supreme Court rulings on women's rights makes clear why a constitutional guarantee of women's equality is needed. During the first 200 years of our country's history, the Supreme Court justices never saw a discriminatory law against women they didn't like. Illinois wanted to keep women from practicing law? The court in 1873 cited "the law of the Creator" as good enough reason to protect these delicate creatures -- grown women -- from being sullied by the corruption of legal and business practices.

Time and again, women were really being protected from making too much money. Oregon wanted to limit the number of hours women could work? The court in 1908 ruled that women must "rest upon and look to (men) for protection" and also -- in a contradictory view of men -- that the law was needed "to protect (women) from the greed as well as the passion of man." Michigan wanted to allow women to work as waitresses but keep them out of higher-paid bartender jobs? The court in 1948 did not see this as a violation of the Constitution's guarantee of "equal protection."

In modern times, Supreme Court rulings on women's rights have zigged and zagged, backward and forward. In a 1961 case, the justices upheld Florida's virtual exclusion of women from juries because "women are the center of home and family life." The defendant had bludgeoned her husband to death and wanted jurors who might understand how she could be driven to such a deed.

Finally, in 1971, pioneering feminist attorney Ruth Bader Ginsburg made the first breakthrough in the court's "anything goes" attitude toward sex discrimination. She convinced the court to throw out an Idaho law that automatically gave preference to a man over an equally qualified woman when appointing the person responsible for disposing of the property of someone who has died. Ginsburg went on to become the second woman appointed to serve on the Supreme Court. In 1973, the Court struck down a U.S. Air Force policy that automatically gave a married man family housing and medical allowances, while a married woman had to prove she was the "head of household," ie, that she provided all of her own expenses plus at least half of her families in order to qualify for the family benefits.

But in 1977 the justices were back to an old-fashioned view, a more narrow reading of women's equality. A bright eighth-grade girl, named Susan, who'd won science award wanted to attend Philadelphia's all-boys Central High. It was an academically superi public school; even the school board admitted Girls High had inferior science facilities. But the Supreme Court upheld Central High's exclusion of Susan solely because she was a girl.

More recently, in a 1987 decision that is the only Supreme Court case dealing with affirmative action for women, the justices upheld a county's voluntary plan. The justices allowed the promotion to stand, and the women became the first ever promoted to one of the country's 238 skilled craft jobs. A qualified woman was promoted over a man who had a slightly higher score based on interviews with a team of three men. One of them had called the woman a "rabble rousing skirt" and another had refused to issue her the required coveralls for a previous job.

A case that was before the court in its 1996-1997 term drove home the inequities that still exist at the dawn of the 21st century. A jury had convicted a judge of violating the civil rights of five women by raping, sexually assaulting and harassing the women. An appeals court overruled the jury. Even though courts have ruled repeatedly that it is a violation a person's civil rights to be beaten by a police officer, the appeals court could not see anything in the Constitution that would put this judge on notice that it is just as wrong to rape a woman.

Without a constitutional guarantee of women's equality, even favorable rulings and good laws on women's rights can be ignored, revoked or overruled. Feminist activists have not given up on a women's equality amendment. We know that to get women into the Constitution we will have to elect a lot more people who support that idea. We look to the young women and men who are addressing issues of equality and justice in high schools across the country. We are confident that this "third wave" will soon be ready to accept the baton.

Note: This article was included in the 1997 edition of Perspectives, a high school text book on government prepared by Close Up Publishing.

Published on Thursday, March 9, 2000 in the Los Angeles Times

Activists Seek To Bring the Equal Rights Amendment Back To Life

by Stephanie Simon

JEFFERSON CITY, Mo.--Time warp?

Listen in on the rhetoric buzzing through Missouri's capital these days, and you might begin to think so.

Here's a state senator earnestly proclaiming that we must add the Equal Rights Amendment to the U.S. Constitution "if this country is to be great and stand tall."

There's Phyllis Schlafly, the ERA's arch-foe, warning that the amendment would legalize same-sex marriages and promote "abortion on demand."

Here's praise for righteous symbolism. There's scorn of constitutional clutter. Coed bathrooms. Women in combat. Wasn't this all settled two decades ago?

Well, yes.

But then again, maybe not.

Most activists--most everyone, really--thought the ERA died in 1983. It had been ratified by 35 states but needed 38 to make it into the Constitution. The original ratification deadline had come and gone. So had a three-year extension. And Congress was not inclined to give ERA backers any more time. Even the Supreme Court pronounced the amendment dead.

Now, a few stubborn dreamers are attempting to revive it.

They consider the original 35 ratifications still valid. By that logic, all the ERA needs to win a spot in the Constitution is approval from three more states. Focusing on Missouri--but targeting Illinois and Virginia as well--ERA activists are pushing hard to get those three additional ratifications.

They take courage from precedent: In 1992, Congress revived an amendment that had languished for more than 200 years by ordering that the ratification tally pick up where it had stalled back in George Washington's day. In other words, Congress decided that states' 18th century votes still counted. New states then jumped to ratify. And the amendment--which requires a roll-call vote before Congress can grant itself a pay raise--is now part of the Constitution.

That episode gave ERA activists hope.

After all, they reasoned, if an amendment can be resurrected after two centuries, why not after two decades?

"It takes a long time to win the big ones, and this is a big one," said Roberta Francis, who leads a national effort to ratify the ERA. She then quoted women's suffrage champion Susan B. Anthony: "Failure is not an option."

It is, however, a distinct possibility.

For the three-state strategy has several potential flaws.

For one, Congress set a time limit--long since expired--on ERA ratification. (The pay raise amendment had no such deadline.) Congress could, presumably, pass new legislation reopening the ERA for debate. But then it might be hard to make the case that the original 35 ratifications should count.

Another hitch: Five states that ratified the ERA in the '70s later passed resolutions taking it back. ERA boosters insist it's illegal for a state to cancel its ratification. But that position, again, would be open to legal challenge.

Then there's the issue of public support.

In the 1970s, the ERA stirred strong passions. However, it has since dropped out of view.

Kelly Anthony, a Missouri college senior trying to rev up student support for the ERA, acknowledges that "even some of

my feminist friends don't know what it is." And while Francis says she's sure most Americans are behind her, she couches her conviction this way: "They absolutely would care--as soon as they knew about it."

One group in the know is the Missouri Legislature, where ERA sponsors in both the House and the Senate are co ınt they can bring ratification to a vote this spring. The ERA has some powerful backers in both chambers. But it a as detractors who see the whole debate as a dispiriting waste of time.

"Maybe I'm from a different generation, but I feel that women have all the opportunities in the world," said state Rep. Vicky Hartzler, 39, a Republican. "Instead of sending women the message that we need to support [the ERA] because we're still victims, we should be telling them that the past is behind us, we have a bright future and it's time to move forward with confidence."

ERA advocates counter that women can't stride ahead with confidence until their rights are guaranteed.

Sure, there are federal laws granting women equal access to education or equal pay for equal work. But those are laws, not constitutional guarantees. A future Congress could repeal them. Or gut the funding that supports them.

"Only by including [women's equality] in the Constitution can we grind it into the bedrock of our national policy," said Missouri House Speaker Steve Gaw, a Democrat.

Beyond that symbolism, however, even the ERA's most ardent backers find it tough to articulate just what the amendment would accomplish.

"It isn't concrete, not something you can see will immediately help me in my lifetime," said Mary Mosley, who heads Missouri's ERA lobby. "It's more the principle of the thing."

###