

## TEACHING AMERICAN HISTORY PROJECT

### *Lesson Title - AN Equal Rights Amendment for the 21st Century*

**From: Cynthia Petrie**

**Grade – 11**

**Length of class period – 50 minutes**

#### **Inquiry**

1. What did the originally proposed Equal Rights Amendment (ERA) say?
2. Why did the supporters of the ERA believe it was necessary?
3. Why were some Americans opposed to the ERA?
4. Do we still need an equal rights amendment to the Constitution today?

#### **Objectives**

Content:

1. Students will learn the meaning of the Equal Rights Amendment.
2. Students will learn why Americans were divided on whether or not to pass the ERA and what has happened to the Amendment since it failed to be ratified.
3. Students will learn why some Americans still believe an Equal Rights Amendment to the Constitution is necessary today.

Skills:

1. Students will improve their ability to analyze primary source documents to form an opinion.
2. Students will improve their ability to see cause/effect relationships.
3. Students will improve their ability to see the historical impact of social/cultural attitudes during a given time period.
4. Students will improve their ability to present a persuasive argument

#### **Materials**

1. A copy of the Equal Rights Amendment
2. Documents on various opinions for and against the ERA.

#### **Activities**

1. I use this lesson in conjunction with my Civil Rights unit. It is a follow up to an activity on minorities in 21st century America and whether or not the Civil Rights legislation of the 1960s has created equality in American society. What I would do to begin this lesson is to review with the students the 14th Amendment, 19th Amendment and the Civil Rights Act of 1964. We would discuss how each of these things helps to protect and provide rights to women. I would also ask students if there is anything that they think is left out or not provided by these amendments and legislation.

2. Either hand out or project a copy of the Equal Rights Amendment for the class to read. Ask students to interpret what they believe it means. Discuss that it was written by Alice Paul (my students are familiar with her from viewing the film "Iron Jawed Angels.") and introduced into Congress in 1923 and every year since. Ask students to brainstorm why they believe Alice Paul believed the ERA was needed even though women had receive the right to vote in 1920. Then discuss the fact that it was not until 1972 that the ERA was finally approved by both houses of Congress and went to the state legislatures for ratification with a seven year time limit on ratification which was later extended until 1982. Note that it died because only 35 out of the needed 38 states ratified the amendment by the time deadline.
3. Hand out copies of the 1970s ERA documents. Have the students read the documents and then work either with a partner or in small groups to make lists for and against the ERA at the time that it was first passed by Congress. When the students have completed this task discuss their lists as a whole class. Be sure they discuss the fears of Americans about the passage of the ERA as well as why many believed we needed it. (**All documents are provided at the end of this lesson**)
4. Hand out copies of the 21st century ERA documents. Have students read these documents and complete the same activity that they did in #3. Be sure to discuss the things that have changed for women over the past forty years as well as those things that have not. Discuss similarities and differences between the arguments in the earlier documents and the 21st century documents. Ask them to determine whether or not they believe we still need and equal rights amendment to the Constitution and discuss their reasons why it is or is not necessary.
5. Assign homework. See assessment below.

**Assessment** - Students will be assigned to write a political speech, create a TV advertisement, or a propaganda poster either supporting or opposing an equal rights amendment for the 21st century.

**Connecticut Framework Performance Standards** – Students will be able to:

- 1.1-2 – Trace the evolution of citizens' rights.
- 1.9-43 – Give examples of how individuals or groups have worked to expand or limit citizens' rights in the United States.
- 2.1-1 – Find relevant and accurate information from a variety of sources to answer a history/social studies question.
- 3.3-10 – Evaluate a proposed solution to a contemporary political, economic, geographic/environmental, or social problem.

## 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.

<http://equalrightsamendment.org/era.htm>

### 1970s ERA Documents

#### STATEMENT OF GLORIA STEINEM

My name is Gloria Steinem. I am a writer and editor, and I am currently a member of the policy council of the Democratic committee. And I work regularly with the lowest-paid workers in the country, the migrant workers, men, women, and children both in California and in my own State of New York. . . .

During 12 years of working for a living, I have experienced much of the legal and social discrimination reserved for women in this country. I have been refused service in public restaurants, ordered out of public gathering places, and turned away from apartment rentals; all for the clearly-stated, sole reason that I am a woman. And all without the legal remedies available to blacks and other minorities. I have been excluded from professional groups, writing assignments on so-called “unfeminine” subjects such as politics, full participation in the Democratic Party, jury duty, and even from such small male privileges as discounts on airline fares. Most important to me, I have been denied a society in which women are encouraged, or even allowed to think of themselves as first-class citizens and responsible human beings.

Source: Congress, Senate, Committee on the Judiciary, *The “Equal Rights” Amendment: Hearings before the Subcommittee on Constitutional Amendments of the Committee on the Judiciary*, 91st Cong., 2d sess., May 5, 6, and 7, 1970.

Full transcript of testimony can be found at: <http://historymatters.gmu.edu/d/7025>

THE ERA: WHAT IT MEANS TO MEN AND WOMEN

from publications by the League of Women Voters of the United States,  
and the National Federation of Business and Professional Women's Clubs, Inc.

1. What is ERA? The Equal Rights Amendment is the proposed 27th amendment to the U.S. Constitution. It says that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of Sex."
2. What will the ERA do? It will remove sex as a factor in determining the legal rights of men and women. It will primarily affect government action. It will not interfere in private relationships, such as who should work to support the family, or open the door, or wash the dishes. It will give new dignity to the role of career homemaker and mother as a demanding job utilizing enormous amounts of time and talent, chosen by a woman. No law requires anyone to take a job outside the home, and this would not be changed by ERA.
3. Will passage of ERA eliminate some protections which cover women now? No. The general principle is: if a law restricts rights, it will no longer be valid; if it protects rights, it will be extended to both men and women. Most of the 50 Arkansas statutes which would be affected by ERA need only have the word "women" or "wife" changed to "person" or "spouse."
4. Will passage of ERA require men and women to use the same bathrooms? No. The ERA will not affect the constitutionally guaranteed right of privacy, which permits the separation of sexes in such places as public toilets and military barracks, and in public institutions such as coeducational schools, prisons, dormitories or mental care facilities.
5. Will ERA invade States' Rights? No. Section 2 of the ERA reads: Congress shall have the power to enforce, by appropriate legislation, the provisions of this article." This wording appears in almost identical form in the 13th, 14th, 15th, 19th, 23rd, 24th, and 25th constitutional amendments. What this means is that following ratification, Congress will legislate any changes needed in Federal laws. Revisions of state laws will be controlled by state legislatures. All that is required is that both state and Federal laws be consistent with the principle of equality of rights under the law for men and women.
6. What about women and the military? ERA will permit men and women to volunteer for military service on an equal basis, and to have equal access to the training and benefits provided by the military. Congress has always had the power to draft women, and it almost did in World War II. Congress can provide exemptions from the draft to protect children from having both parents drafted.
7. What will happen to women's rights in marriage and divorce under ERA? Since courts seldom intervene in such private relationships as an Ongoing Marriage, in reality a married woman living with her husband gets only what he chooses to give her. Under ERA, support in Separation cases would be settled, as it is now, on an individual basis. In a Divorce, the same principles of need and ability to pay will apply to alimony and child support as they do now. (At present, only 36% of fathers are making full child support payments one year after the decree.) Child custody will be based on which parent can better care for the child.
8. Why do we need ERA? Even though there are some laws on the books forbidding discrimination against women, there is no clear constitutional protection. The 14th amendment to the Constitution guarantees "equal protection of the laws," but it was not until 1971 that the Supreme Court struck down any law which discriminated against women. The Court still has never held that sex discrimination is prohibited.

Today, 52 years after the ERA was first introduced, women in some states are still not recognized as mature, responsible adults. They cannot serve on juries, start a business, get a mortgage, control their own property, their own paychecks or the property and money of their children on the same basis as men.

Men need the ERA to assure equality of protection for widowers as well as widows, and so that families in which both the husband and wife work receive full benefits of their labors. Fathers need the ERA to assure equal educational and job opportunities for their daughters as well as their sons.

ERA!

Women's ERA! Who wants it?  
Not I.  
I have no desire to be liberated!

It's much simpler to depend upon a man for strength and protection!  
I like to look up into a man's face and feel that he is smarter and more important than I am and that I can dump all my troubles off on him and go off happily and play bridge.

If we had ERA, I guess we'd have to assume men's responsibilities too. Then, if we got into a war I might have to go in the trenches or jungles -- and I hate mud and I'm scared to death of guns.

If I had a flat tire on a busy highway, I'd be expected to fix it myself -- and I don't know how.

If I got dissatisfied with my husband and wanted to divorce him, I'd have to pay him alimony and support the children if they went with him.

If I were an Ms. in a big corporation with position and salary equal with the top officials, it probably would give those around me an inferiority complex and after work, I'd see a dowdy, tousle-haired little clerk in blue jeans eating hamburgers happily at a lunch counter with a man---while I dined in my expensive apartment alone.

As a Woman's Libber, I could invite a man to have dinner and a show with me, I suppose, but then wouldn't I be expected to pay for the dinner, the tip and the show and return him home afterward?

I don't need to be too smart now. It's much more fun to see the look of pure joy that comes over a man's face when he comes home after work and finds me putting the finishing touches on a big, three-layered chocolate cake and grabs me around the waist yelling, "Honey, you're wonderful!"

I have no desire to be a lawyer, minister, naval cadet or to gain admission to the Kiwanis Club or any other Men's clubs or professions. There are enough Women's clubs where we can get our culture, show off our clothes and antiques to each other -- and laugh good-naturedly together over how easily we can twist those important, influential men around our little finger when we want a new car or the bathroom done over in tones of pink and silver.

No ERA for me! I can't forget that equal rights bring equal responsibilities!

---Leta DeWitt Smith.

## 21<sup>st</sup> Century ERA Documents

### **William & Mary Journal of Women and the Law**

Volume 3 | Issue 1 Article 5

#### **The Equal Rights Amendment: Why the Era Remains Legally Viable and Properly Before the States**

Allison L. Held, Sheryl L. Herndon, Danielle M. Stager

Thomas Jefferson wrote, "All men are created equal." With regard to women, however, he qualified this statement, "Were our state a pure democracy, there would still be excluded from our deliberations . . . women, who, to prevent depravation of morals and ambiguity of issues, should not mix promiscuously in gatherings of men." In the 219 years since Jefferson described women as second-class citizens, the United States Constitution has not specifically recognized the rights of women. History suggests that laws lagging behind social change will remain on the legislative back burner until an Equal Rights Amendment (ERA) establishes a constitutional demand for equality between the sexes.

The ERA was first introduced nearly seventy-five years ago. Although some supporters have abandoned hope during the long struggle for ratification, many supporters have continued the fight for equality...

..."When the ERA was proposed, Congress had no fine crystal ball to forecast the political, social, and economic conditions prevailing in the ensuing years." While women enjoy more rights today than they did in 1923, the need for a federal ERA remains apparent.

Despite a guarantee of equal protection under certain state constitutions, gender discrimination remains quasi-suspect without a federal ERA. In *Regents of the University of California v. Bakke*, Justice Powell wrote that "the Court has never viewed gender-based classification as inherently suspect or as comparable to racial or ethnic classifications for the purpose of equal-protection analysis." Therefore, without an ERA women are not afforded full federal protection against gender discrimination...

...As established by history, one cannot rely on our national and state legislatures to do a thorough clean-up job without the prod of a federal ERA. Because the Supreme Court uses the Constitution in its interpretation of discriminatory law, women will remain disadvantaged without an Equal Rights Amendment. Historically "the Supreme Court has firmly resisted the invitation to compensate for legislative foot-dragging." While the Court has taken "significant steps in a new direction" since 1971, it has generally done so "insecurely, with divided opinions, and without crisp doctrinal development." For women to receive equal treatment under the law, the law must provide for equal rights and the Supreme Court must give lower courts firmer guidance.

The ERA remains a necessary and important tool for achieving sexual equality. Justice Ginsburg has said:

With the Equal Rights Amendment, we may expect Congress and the state legislatures to undertake in earnest, systematically and pervasively, the law revision so long deferred. And in the event of legislative default, the

courts will have an unassailable basis for applying the bedrock principle: All men and all women are created equal."

Full text of article with notes can be found at:

<http://equalrightsamendment.org/misc/W&M%20law%20article.pdf>

## **'Equal rights' for women: wrong then, wrong now**

***Just like last time, when Americans see the cynicism of a revived Equal Rights Amendment, they'll reject it.***

By Phyllis Schlafly

*April 8, 2007*

NEARLY 25 years after the defeat of the Equal Rights Amendment, feminists and their political supporters, who now control Congress, are back at it. Last month, the constitutional measure, now dubbed the Women's Equality Amendment, was reintroduced in the Senate and House, and its prospects, according to one advocate, "are better now than they have been in a very, very long time."

But ERA Retro is doomed.

The amendment, which was born around the time that women were given the right to vote, was first introduced in Congress in 1923. For nearly 50 years, all subsequent Congresses had the good judgment to leave it buried in committee.

In 1971, the women's liberation movement burst on the scene and became the darling of the media. Its leaders demanded a gender-neutral society in which men and women would be treated exactly the same, no matter how reasonable it might be to respect differences between them. The amendment, which states that "equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex," was the chosen vehicle to achieve this goal.

A radical feminist organization called the National Organization for Women stormed the halls of Congress and forced a vote on the Equal Rights Amendment. Only 24 members in the House, and eight in the Senate, voted against it. On March 22, 1972, Congress sent the amendment to the states, which had seven years to ratify it.

The Equal Rights Amendment had a righteous name and incredible momentum. Who would oppose equal rights for women and men? Support was bipartisan, with Sen. Edward M. Kennedy (D-Mass.) and then-Alabama Gov. George Wallace among its endorsers. Three presidents — Richard Nixon, Gerald Ford and Jimmy Carter — signed on. Within the first year, 30 of the 38 states needed for ratification passed it, many

without holding a hearing on the legislation. The Equal Rights Amendment was actively supported by most of the pushy women's organizations, a consortium of 33 women's magazines, numerous Hollywood celebrities and virtually all the media.

The opposition was totally outmanned. We had no Rush Limbaughs, no Fox News, no "no-spin zone" to challenge the need for the amendment. We had no Internet, no e-mail, no fax machines to help rally an opposition.

But the Equal Rights Amendment was rejected. We kicked off our Stop ERA campaign, launched in February 1972, with an article I wrote: "What's Wrong with Equal Rights for Women?" Over the next 10 years, nearly 100 issues of my Phyllis Schlafly Report were devoted to exposing the bad effects of the amendment.

While claiming to benefit women, the ERA would actually have taken away some of women's rights. We based our arguments on the writings of pro-ERA law professors, among them current Supreme Court Justice Ruth Bader Ginsburg. The amendment would require women to be drafted into military combat any time men were conscripted, abolish the presumption that the husband should support his wife and take away Social Security benefits for wives and widows. It would also give federal courts and the federal government enormous new powers to reinterpret every law that makes a distinction based on gender, such as those related to marriage, divorce and alimony.

Throughout the 1970s, we presented legislators with our arguments. I testified at 41 state hearings. Meanwhile, the pro-amendment crowd could not show how the ERA would confer any benefit on women, not even in employment, because employment laws were already gender-neutral.

In 1977, ERA advocates realized that they were approaching the seven-year time limit three states short of the 38 needed for ratification, so they persuaded Congress to give them \$5 million to stage a conference, called International Women's Year, in Houston. The conference featured virtually every known feminist leader and received massive media coverage. But it backfired. When conference delegates voted for taxpayer funding of abortions and the entire gay rights agenda, Americans discovered the ERA's hidden agenda.

A couple of months later, a reporter asked the governor of Missouri if he was for the ERA. "Do you mean the old ERA or the new ERA?" he replied. "I was for equal pay for equal work, but after those women went down to Houston and got tangled up with the abortionists and the lesbians, I can tell you ERA will never pass in the Show-Me State."

With the expiration clock ticking — March 22, 1979 — and ratification uncertain, feminists appealed to Carter and Congress for a time extension and won. The ratification deadline was extended to June 30, 1982.

The American people were so turned off by the extension that no additional state ever passed the ERA. In Idaho vs. Freeman, a federal court ruled that the time extension was

unconstitutional and that states could constitutionally withdraw their previous support. Five did.

The Supreme Court subsequently ruled that the lawsuit was "moot" because the ERA had not been ratified by either the original deadline or the extension.

ERA supporters repeatedly tried to revive the amendment, reintroducing it in Congress in 1983. But the House rejected it. They then tried to persuade individual states to pass the ERA as state constitutional amendments. They got nowhere.

The current plan to revive the amendment is so outrageously dishonest — for instance, backers say both previous time limits can be ignored, that prior court rulings are irrelevant and that the previous state ratifications are still valid — that it's a wonder anybody could argue it with a straight face. No matter its new name, the same text that has been voted down, again and again, will again be rejected by the American people.

<http://www.latimes.com/news/opinion/commentary/la-op-schafly8apr08,0,915647.story>