

When State Laws Fall Short, a Constitutional Amendment Could Secure Women's Rights

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NEW YORK, NY, UNITED STATES, January 15, 2025 /EINPresswire.com/ -- In the November 2024 U.S. presidential election, marked by debates over gender equality and human rights, voters in seven states delivered a powerful message of resistance by passing ballot measures enshrining abortion rights into their state constitutions. These new provisions offer glimmers of hope in an otherwise sobering political landscape.



ERA rally DC capitol

Yet these state-level victories, while significant, are no substitute for the permanence of federal constitutional protections. Without a national guarantee of equality, abortion rights, access to contraception, in-vitro fertilization, and LGBTQI+ rights remain increasingly vulnerable to political tides. This fragility demands urgent federal action; to truly secure gender equality in the United States, President Biden must publish the Equal Rights Amendment (ERA) to the Constitution—and his legacy.

WHAT IS THE ERA AND WHY AREN'T EXISTING PROTECTIONS ENOUGH?

The federal ERA is a straightforward constitutional amendment that would enshrine protection against discrimination for women and other marginalized genders. Its promise is as simple as it is transformative: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

Most people in the U.S. mistakenly believe such a guarantee already exists; polls show that [80% of U.S. residents](#) think men and women are already equal under the Constitution. However, existing federal laws like Title VII and Title IX, only address discrimination in specific contexts, and the 14th Amendment, historically interpreted to cover sex discrimination, hangs by a legal

thread. In *Dobbs v. Jackson Women's Health Organization* in 2022, the Supreme Court held that the 14th Amendment does not confer a right to abortion, casting a myriad of rights into legal uncertainty.

STATE PROGRESS IS IMPORTANT, BUT INSUFFICIENT

In the wake of *Dobbs*, states across the country have stepped up to protect abortion rights. In November 2024, seven states, from Maryland to Nevada, voted for constitutional abortion protections. These measures will shield millions from legislative attacks and protect vital care.

However, relying on state action alone creates a fragmented patchwork of rights. Like abortion, other freedoms including IVF, contraceptives, and gender-affirming care remain increasingly vulnerable. For example, in Alabama, a 2024 law protecting IVF programs was hastily passed following the state Supreme Court ruling to ban the practice just months prior.

By contrast, a federal ERA would serve as a unifying force, preempting the need to play a game of legal whack-a-mole to protect rights individually.

WHAT CAN STATE ERAs TEACH US ABOUT THE FIGHT FOR EQUALITY?

In the absence of a federal ERA, [24 states](#) have enacted their own state-level ERAs, with New York's amendment leading the charge this election cycle as the most expansive in the country. New York's ERA explicitly protects rights related to sexual orientation, gender identity, pregnancy, and reproductive healthcare, offering a model of what broader protections against sex discrimination could look like.

Recent ERA victories in Nevada and Pennsylvania, where courts interpreted their state-ERAs to protect public funding for abortion, demonstrate how such amendments can serve as a clear mandate for courts to protect gender equality. But state ERAs, no matter how robust, cannot ensure equality for all, and only protect those within the state's borders. For example, people in states without ERAs to protect their right to abortion may be required to travel hundreds of miles to access care, increasing economic and physical risks and leaving those who cannot afford to travel out of options.

THE FEDERAL ERA: A FOUNDATION FOR EQUALITY

A federal ERA would ensure equality for all, across the country, while reinforcing state-level efforts. It would ground rights in something firmer; the principle of equality. By changing the way the Supreme Court decides sex discrimination cases and raising the level of review to strict scrutiny, the ERA could prevent further rights erosion while also encouraging the legislature to pass positive laws.

A federal ERA would not only solidify protections against sex-based discrimination but also promote economic equity. Women in the United States face persistent wage gaps, earning approximately [84% of what men earn](#), and are overrepresented in low-paid, insecure jobs. The ERA could provide a constitutional basis for stronger workplace protections, equal pay

enforcement, and challenges to systemic inequities. Additionally, it could bolster legislative advancements in the promotion of paid family leave and additional protections for care workers.

The U.S. must catch up to global standards and fulfill its obligations under international law. Beyond our borders, the United States stands apart from the 85% of United Nations member states that already prohibit discrimination on the basis of sex and/or gender in their constitutions.

Just last year, the United Nations Human Rights Committee issued a landmark call to action, urging the United States to “redouble its efforts to guarantee protection against sex and gender-based discrimination in its Constitution, including through initiatives such as the Equal Rights Amendment.” This marked the first time a UN treaty body explicitly recommended the U.S. to adopt the ERA, underscoring the global expectation that the U.S. live up to its professed values. The world recognizes the importance of constitutional equality, and now the U.S. must step up to meet this standard.

THIS IS THE MOMENT FOR ACTION

With the ERA already ratified by the requisite number of states, the only remaining hurdle is publication—a purely ministerial act. President Biden has the power to ensure the ERA becomes the 28th Amendment, securing equality under the law for generations to come.

As January 20th fast approaches, President Biden can act to cement his legacy as a champion for gender justice. By ensuring that the ERA is published to the Constitution, he would place the United States firmly on the side of equality, ensuring a more just future for all.

The fight for gender equality is far from over, but with the ERA it can be won.

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