

Equality Now highlights how the Equal Rights Amendment can help safeguard LGBTQ+ rights and same-sex marriage

The historic legal victory that recognized love and equal access to marriage under the law in the US is under threat. A federal ERA could help protect it.

NEW YORK, NY, UNITED STATES, August 4, 2025 /EINPresswire.com/ -- Ten years after the U.S. Supreme Court ruled in *Obergefell v. Hodges**, affirming the constitutional right for same-sex couples to marry, that right is under threat.



LGBTQ+ individuals across the United States are facing an alarming resurgence of rights violations, and there is an urgent need for robust legal protections. Equality Now highlights how full universal recognition of the Equal Rights Amendment (ERA) as the 28th Amendment to the US Constitution would help safeguard LGBTQ+ rights and marriage equality.

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Equality Now

THE SUPREME COURT RULING IN OBERGEFELL V. HODGES WAS A MILESTONE, NOT A FINISH LINE

The *Obergefell* decision was viewed as a triumph for LGBTQ+ families. It validated the right for same-sex couples to marry and access marriage rights in the eyes of the law.

But as we’ve seen in the recent rollbacks of hard-won rights, including the loss of the right to an abortion in the *Dobbs* decision, legal wins can be fragile. And in recent years, a rising anti-rights movement has worked systematically to dismantle the structures supporting the rights of marginalized groups in the U.S..

Since 2021, ACLU has mapped [588 anti-LGBTQ+ bills](#) that have been introduced in state legislatures, including those criminalizing gender-affirming care, banning trans-youth from sports, and allowing broad religious exemptions that enable discrimination in employment, education, and healthcare.

These efforts are not isolated. They are part of a broader backlash against equality. LGBTQ+ rights, bodily autonomy, and even access to inclusive education are all under coordinated attack. And despite what many assume, the U.S. Constitution still lacks explicit protections guaranteeing equality for all regardless of sex or gender.



THE ERA IS A NECESSARY SAFEGUARD TO PROTECT LGBTQ+ RIGHTS

This is where the ERA comes in. First introduced in 1923, it is rooted in a simple yet profound principle that states, "equality of rights under the law shall not be denied or abridged on account of sex."

Once universally recognized and implemented, the ERA could provide a strong legal foundation to challenge discrimination, including that faced by LGBTQ+ people.

Legal experts and the U.S. Supreme Court in the case of *Bostock v. Clayton County*** (2020) have interpreted "sex discrimination" to include sexual orientation and gender identity. Enshrining the ERA into the Constitution could strengthen legal protections for LGBTQ+ people in employment, healthcare, education, and housing.

As anti-LGBTQ+ legislation claims to protect children or preserve religious beliefs, the ERA offers a crucial constitutional tool to counteract policies that exclude or limit the rights of trans, non-binary, and queer individuals.

THE RISE OF THE ANTI-RIGHTS MOVEMENT

The anti-rights movement is not only targeting LGBTQ+ people, it is erasing the realities of and rolling back protections for all marginalized communities, restricting reproductive freedoms, and emboldening authoritarian approaches to law and governance.

In recent years, we have seen:

- Trans bans in sports: Lawmakers in the U.S. have passed or introduced legislation banning transgender youth from participating in sports consistent with their gender identity.
- Book bans and curriculum restrictions: Efforts to erase LGBTQ+ people from educational materials are proliferating, with entire identities labelled as “inappropriate” or “controversial.”
- Conflations of FGM with gender-affirming care: Anti-rights actors are deliberately equating gender-affirming care with female genital mutilation (FGM) in public discourse to erode support for trans healthcare. This strategic conflation co-opts protections meant for FGM survivors, distorts the legal and medical realities, and lays the groundwork to deny care to trans people and criminalize medical providers.

These targeted efforts to undermine basic human rights are often framed as protecting “parental rights” or “freedom,” and seek to expunge entire groups of people and their communities from society.

RELIGIOUS EXEMPTION LAWS USED TO JUSTIFY LGBTQ+ DISCRIMINATION

In June 2025, over 10,000 church representatives from the U.S.’s largest Protestant denomination gathered to call for the “overturning of laws and court rulings, including *Obergefell v. Hodges*, that defy God’s design for marriage and family.”***

The targeting does not stop there; some employers have claimed religious exemptions to refuse to hire or retain LGBTQ+ employees, particularly in faith-based organizations or institutions with religious affiliations.

In *Our Lady of Guadalupe School v. Morrissey-Berru*****, the Supreme Court expanded the “ministerial exception,” allowing religious schools to bypass anti-discrimination laws in employment.

States, including Arkansas and Tennessee, have passed “conscience clauses”***** allowing healthcare providers to deny services to LGBTQ+ patients, including gender-affirming care, fertility treatment, and HIV prevention medications.

The ERA would provide a counterweight to these exemptions by reinforcing the principle that personal religious beliefs cannot be used to justify sex-based discrimination in public life.

TRANS AND NON-BINARY PEOPLE FACE GAPS IN LEGAL PROTECTIONS

Transgender individuals have been increasingly and disproportionately affected by healthcare

bans, identification document (ID) restrictions, and instances of discriminatory policing.

Since 2021, [25 US states have passed laws](#) banning or restricting gender-affirming medical care for transgender youth, and, in select states, care restrictions are set to impact adults. These bans criminalize doctors, punish parents, and block medically necessary care endorsed by medical associations.

If grappling with medical care wasn't enough, some states continue to enforce policies that make it extremely difficult or impossible for transgender individuals to update government-issued IDs to reflect their gender identity.

Without accurate IDs, trans people, especially Black and Brown trans women, are disproportionately targeted by law enforcement, face higher rates of arrest, and are more likely to be denied safety while in custody. The US Transgender Survey found that [58% of respondents](#) who interacted with police experienced some form of mistreatment, including misgendering or verbal harassment.

The ERA would strengthen equal legal standing, regardless of sex, by embedding protections related to sex-based and gender-based discrimination directly into the U.S. Constitution, reducing reliance on a patchwork of state protections or court interpretations.

WHAT'S NEXT FOR LGBTQ+ RIGHTS IN THE U.S.?

A decade after Obergefell, the effort and need to solidify LGBTQ+ rights are escalating. The United States cannot rely on shifting court majorities or temporary political wins. We need durable, constitutional protections that affirm everyone's right to equality under the law, regardless of sex, gender identity, or sexual orientation.

Encouraging the universal recognition of the ERA is a tangible step toward ensuring that all people, especially those most targeted by discrimination, have access to justice and equal treatment under the law. It sends the message that LGBTQ+ rights are human rights. And sex discrimination in any form has no place in a country that claims to value freedom and equality for all.

Notes to editors:

Equality Now is a worldwide human rights organization dedicated to securing the legal and systemic change needed to end discrimination against all women and girls, everywhere in the world. Since its inception in 1992, it has played a role in reforming 120 discriminatory laws globally, positively impacting the lives of hundreds of millions of women and girls, their communities and nations, both now and for generations to come.

Working with partners at national, regional, and global levels, Equality Now draws on deep legal expertise and a diverse range of social, political, and cultural perspectives to continue to lead the way in steering, shaping, and driving the change needed to achieve enduring gender equality, to the benefit of all.

For more information on the Equal Rights Amendment, please go to <https://equalitynow.org/resource/i-need-the-era-because-lgbtq-rights-are-human-rights/>

And for information on the following points mentioned above, check out:

* Obergefell v. Hodges, <https://supreme.justia.com/cases/federal/us/576/644/>

** Bostock v. Clayton County, https://en.wikipedia.org/wiki/Bostock_v._Clayton_County

*** Associated Press, 'Southern Baptist delegates at national meeting overwhelmingly call for banning same-sex marriage,' <https://apnews.com/article/southern-baptists-meeting-sexual-abuse-jennifer-lyell-8ebb5246978918f46d243d6ce2d9f4a5>

**** Our Lady of Guadalupe School v. Morrissey-Berru, https://www.supremecourt.gov/opinions/19pdf/19-267_1an2.pdf

***** For more information on "conscience clauses," please see the American Bar Association article, 'The Role of Religious Objections to Transgender and Nonbinary Inclusion and Equality and/or Gender Identity Protection' <https://www.americanbar.org/groups/crsj/resources/human-rights/archive/role-religious-objections-gender-identity-protection/>

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