

Women's Suffrage and the Equal Rights Amendment

Speech on Women's Equality Day, August 26, 2023

By Laura Carter Callow, former Michigan ERAmerica Chair, AAUW of Michigan member

Good Afternoon.

We have gathered together to celebrate Women's Equality Day—the day that American women gained universal suffrage, or the right to vote, on August 26, 1920. And, well we should!

The right to vote is the only constitutionally protected right that we women have.

This means that all other rights that women enjoy are subject to the whim of legislatures or the caprice of the courts. And it is easy to understand why.

When this country was founded women were considered property. In the beginning, most of our laws were based on English Common Law that the colonists brought with them from England.

According to English Common Law, “When two people marry, the two become one and the one is the man.” Women had no rights at all. Thus women's history or herstory is one long struggle seeking legal equality. Women initially sought property rights and the right to their own wages.

In those days women worked as maids, dressmakers, washerwomen, etc. But they were required to turn their wages over to their fathers, husbands or guardians.

On July 22, 1848, the first Women's Rights Convention was held in Seneca Falls, NY. There was a list of demands, among them the right to vote. It took 72 years before the right of women to vote became part of the Constitution.

The right to vote has proven to be a powerful tool in gaining additional legal rights for women.

Great strides were made in the last half of the 20th Century. Quotas were abolished, allowing women to enter such fields as medicine, science and the law—professions that had been predominantly closed to women. Everyone discovered how talented girls and women were at sports when they were finally given a chance to play. And last but not least, women ran for public office and got elected.

These rights and many more were granted either through legislation, such as 1964 Civil Rights Act and Title IX of the 1972 Education Act, or by court decisions that struck down discriminatory laws.

These changes represented a seismic societal shift. And with all major change there is a backlash. Our country is once again in the midst of a backlash against minorities and women. Armies of the status quo have reasserted themselves in recent years to resist this change and insist that things were better in the past or that society has gone too far.

The Southern Poverty Law Center or (SPLC) is an organization that monitors extremist-groups. They report that hate campaigns waged against blacks and the LGBTQ community also target women.

Last April an SPLC poll found that 37% of people believe “feminism has done more harm than good,” including 46% of Democratic men under the age of 50 and 62% of Republican men in the same age range.

This is why the Equal Rights Amendment is so important. Except for the right to vote, all other rights for women were established by laws or favorable court decisions.

However, existing laws can be weakened or abolished. Court decisions can be reversed, as we’ve seen with the Supreme Court’s decision to overturn Roe v Wade.

The Equal Rights Amendment would provide constitutional protection for the rights we already have and serve as a bulwark against new discriminatory practices being enacted. In this regard, I would observe that it was never unconstitutional to deny women credit, pay them less or charge them more than men. It was never unconstitutional for public schools to provide sports for boys but not girls.

Alice Paul, the suffragist who led the 1913 Women’s Suffrage Parade in Washington, DC was well aware of how vulnerable women’s rights were. On July 22, 1923, the 75th anniversary of the first Women’s Right Convention, she proposed the Equal Rights Amendment. It was introduced into every Congress for the next 49 years where it was buried in committee.

The rise of the women’s movement in the 60s and 70s brought new awareness and support. Michigan’s own Representative Martha Griffiths was able to blast the ERA out of committee with a discharge petition. Congress overwhelmingly approved the ERA and it was sent to the states for ratification in 1972. At the last minute, opponents in Congress tacked on a seven year time-limit. This was later extended three more years. In 10 years ERA supporters secured ratification in 35 states—three states short of the required 38. This setback caused many supporters to give up because they believed we would have to start over.

Then, in 1992, came a surprising development. The 27th Amendment concerning congressional pay raises was ratified—203 years after Congress approved it in 1789. ERA supporters were furious. They decided to ignore the time limit by ratifying three more states and then argue the issue in court.

Numerous constitutional scholars supported this idea. There is no time limit in the Constitution for ratifying amendments. The Constitution divides the power to amend equally between the states and Congress. Time limits upset this balance of power. Moreover, allowing one amendment more than two centuries to be ratified while limiting the ERA to a mere ten years makes the whole process arbitrary and capricious.

In 2017, Nevada became the 36th state to ratify and Illinois ratified the following year. Virginia ratified in 2020.

The National Archivist published the first two ratifications. However, he refused to publish Virginia's ratification because a legal opinion issued by President Trump's Office of Legal Counsel claimed that the time-limit was still in effect.

Subsequently, Attorneys General of the newly ratified states of Nevada, Illinois and Virginia sued the Archivist. The District of Columbia Court ruled that the states were not harmed and had no standing. The Court of Appeals affirmed the lower court's ruling this past March.

So, here we are: The ERA is fully ratified according to the Constitution, but it remains in legal limbo because of this opinion.

This ruling leaves ERA supporters no choice but to press Congress to repeal the time limit. Two such bills passed the House with bi-partisan support in the last session. This legislation was also supported by a bi-partisan majority in the Senate. But that support was not enough to overcome a Senate filibuster rule requiring 60 Senate votes.

The good news is that there is still strong support for the ERA in Congress. An ERA Caucus has recently been formed and bills to declare the ERA ratified have been introduced.

If the past can help us predict the future, then it will take another massive popular push to get the ERA into the Constitution. You will recall that the ERA was bottled up in committee for 49 years, until the Second Wave of Feminism brought awareness and popular support.

Another twenty-five years passed, between 1992 and 2017, as activists pressed for ratification in non-ratified states. Sometimes they succeeded in getting a ratification bill approved in one state house but not the other. Most times, they could not get an ERA bill out of committee.

Then came the "Me Too" movement. Once again there was new awareness and massive public support, and three more states ratified. Contrary to reporting by some pundits The "Me Too" movement did not, in and of itself, secure these state ratifications. Rather, the movement gave momentum to long, ongoing efforts by ERA activists.

Even the right to vote needed such a push from the public. It was a combination of public appreciation for women's contributions to winning World War I and public outrage over the jailing of women who peacefully picketed the White House, then were force-fed when they went on a hunger strike.

I do not have a crystal ball so cannot tell you what will trigger that push. Possibly it will be outrage over stripping women of their bodily autonomy.

Meanwhile, what can we do to help further this great cause? Most importantly: VOTE!

Whenever there is an election, make sure you know the positions of all candidates, and be sure to let them know that you want the ERA in the Constitution.

Don't limit your research and advocacy just to candidates running for Congress or State legislatures. Those elected to school boards, city councils and other local offices often use such positions as steppingstones to higher office.

Also, continue to remind your elected officials in Congress and State legislatures of your support for ERA ratification.

Moreover, be sure to educate the young people in your life. They are the ones who will carry the torch over the finish line.

Finally, remember the words of Susan B. Anthony who said, "Failure is impossible!" But I will add, "As long as we are vigilant."

Thank you.

Laura Carter Callow