

THE HUFFINGTON POST



[Barbara Hannah Grufferman](#)

Writer and speaker on women's issues, author, "The Best of Everything After 50"

Will America Kill the Equal Rights Amendment?

Posted: 7/9/11 05:05 PM ET

I [wrote](#) an article last week -- "From Hope to History: It's Time to Pass the Equal Rights Amendment" -- that generated hundreds of comments and thousands of shares. Why? Many readers were dismayed and confused to learn that this simply worded sentence is still not in the U.S. Constitution, even after 88 years:

Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

Readers who believed the Equal Rights Amendment had already passed through Congress to become the 28th Amendment to the Constitution years ago were shocked. The amendment, first written in 1923 by Alice Paul, was, in fact, approved by Congress and sent to the states in 1972 with a ten-year deadline for ratification, but by 1982, supporters had managed to sign on only 35 of the 38 states needed to add the amendment to the Constitution.

Some who are not in favor of the Equal Rights Amendment claim it is redundant and unnecessary, often citing the [14th Amendment](#), which they say already protects the rights of women. It does not. Supreme Court Justice Antonin Scalia publicly stated that the 14th Amendment was never intended to protect women. It was only intended to protect race. Federal and state law cannot protect citizens who are not protected under the Constitution. He [made](#) this remark in January 2011:

Certainly the Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. It doesn't.

Sensing that people are as confused about the issue as I am, but just as eager to turn the promise of the Equal Rights Amendment into a reality, I interviewed key thought leaders who are directly involved in efforts to get the Equal Rights Amendment passed.

Why do we need the Equal Rights Amendment?

Laws can be repealed. Judicial attitudes can shift. We continue to see demonstrable cases of systemic gender discrimination -- even in this day and age when women have come so far. Establishing the clear unambiguous language of the Equal Rights Amendment into the U.S. Constitution would have a real impact on our national consciousness. Our democracy rests on the principle of 'liberty and justice for all.' We need the ERA to ensure that this concept applies equal to women.

-- Congresswoman Carolyn Maloney (D-N.Y.), who reintroduced the Equal Rights Amendment on June 22nd, 2011.

Women in the armed services are fighting on the front lines in two wars to protect and defend a constitution that does not protect and defend them. The U.S. strongly urged Iraq and Afghanistan to include women in their new constitutions as they rebuild their societies; yet we have not led by example.

-- Carolyn A. Cook, founder and CEO of United 4 Equality, and author of the HJ Res. 47 resolution, which calls for Congress to officially remove the time limit for ratification of the ERA.

First, a movement has to move and the women's movement will only grow and thrive if it keeps on pushing for policies such as the ERA -- which is nothing more than the American value of fairness and equality under the law. Second, because even though it hasn't passed yet, every time we have made it an issue, women have advanced in myriad ways. And third, we must pass it because it is the right thing to do. No cause is lost when it is the right thing to do.

-- Gloria Feldt, activist, and author of *No Excuses: 9 Ways Women Can Change How We Think About Power*.

What are the options for getting the Equal Rights Amendment passed once and for all?

There are two strategies that are currently being pursued by those who support the Equal Rights Amendment:

Rep. Carolyn Maloney explained it this way:

I have introduced the full 'start-over' ERA in each Congress since I arrived because the rights of women deserve to be constitutional. This Congress, I introduced H.J.RES 69 with over 155 original cosponsors. This would re-set the ratification count at zero and start the ratification process over again. In addition to the 'start-over' strategy, there is the 'three-state' strategy, which would put the ERA in our Constitution when an additional three states ratify, which, when added to the original 35 states, add up to the necessary 38 ratifications. However, some Constitutional

scholars believe that this approach would violate the Constitution and would likely be subject to a challenge which would likely win in court and invalidate the entire ratification. Nevertheless, I support both strategies and believe in doing anything that will increase the chances that the ERA will be included in the Constitution.

To address the issues inherent in the "three state strategy," Carolyn A. Cook spearheaded a resolution which she authored (HJ Res. 47) urging Congress to remove the time limit for ratification in the final three states needed. According to Carolyn,

It is a far more efficient, fair and likely-to-succeed approach than hitting the reset button on ERA. I drafted the proposal, recruited some passionate ERA advocates from unratified states to help, and together we introduced this bill on March 8th to mark the 100th anniversary of Women's Equality Day. This day serves as a reminder that the U.S. cannot curb the human rights abuses of women and girls worldwide while denying them constitutional equality at home.

Mike Hersh, on staff at the Progressive Democrats of America, succinctly summed up why we need to pursue the "three state strategy" instead of starting over:

Starting over requires a 2/3 vote in favor from both the U.S. Senate and House of Representatives, which we can't expect until 2013 at the earliest. For reference, this has been tried in every Congress for many years, and has never passed, even when Nancy Pelosi was the Speaker and Democrats had huge majorities in both the House and Senate. Once we get the ERA out of Congress again, we'd have to start over from zero and get 38 states to ratify the amendment. Fewer than half that many are likely to do so in the foreseeable future. So starting over would almost definitely take several decades.

What can we do to ensure that America does not kill the Equal Rights Amendment?

Complacency will kill the Equal Rights Amendment, and we need to change the tone of the discourse. Let's stop thinking about it in terms of us against them, left vs. right, conservative vs. liberal, men vs. women. Reframe the issue of the Equal Rights Amendment and ask yourself this question:

Is it the right thing to do?

Can a country that prides itself as the leader and protector of democracy in the world, and one which implores other countries to include the word "women" in their constitutions (Afghanistan and Iraq), still not protect the rights of women in its own?

If you believe the Equal Rights Amendment should be in our U.S. Constitution, here's what you can do:

- Share this article.
- Read up on both strategies (starting over and the three-state solution) to better understand why the three-state solution is probably the stronger option, and get behind it.

- Contact your local government representative and urge them to co-sponsor "HJ Res 47: Removing the Deadline for Ratification of the Equal Rights Amendment."
- Visit United4Equality.com and "friend" them on [Facebook](https://www.facebook.com/United4Equality) to get more information on how you can help push through the HJ Res. 47.
- Contact your local [NOW](http://www.now.org) office, and start volunteering.
- Go to Facebook pages such as [ERA Now](https://www.facebook.com/ERANow), [ERA Once and For All](https://www.facebook.com/ERAOnceandForAll), and [Equal Rights Amendment](https://www.facebook.com/EqualRightsAmendment) to get up-to-date information.

If you believe in the Equal Rights Amendment, then get behind it, and get it done.

Personal message to Lady GaGa, if you're reading: My teenaged daughters, who are aghast that we have not yet been able to figure out how to pass the Equal Rights Amendment in this country, are huge fans of yours, and your message about "baby, you were born this way." Think about this, Lady GaGa: your fans were "born this way" without the protection of the Constitution. You can help. Support this. It's the right thing to do.