

AN INTERSECTIONAL APPROACH TO THE ERA



The Equal Rights Amendment (ERA) would ensure that gender equity is codified in the United States Constitution. Equality in pay, job opportunities, political structure, education, and health care (including reproductive health care)—in particular for women of color, women with disabilities and the LGBTQIA community—will remain an elusive dream without a guarantee in the U.S. Constitution. Some have asked whether the ERA explicitly includes intersectional and inclusive language. The National Organization for Women affirms that the broad language of the 1972 text (“Equality of rights under the law shall not be abridged ... on account of sex”) lends itself to an inclusive interpretation that centers marginalized communities. Below are examples of how the ERA can be interpreted or used to best support these communities.



THE ERA WOULD PROVIDE LEGAL PRECEDENT FOR GENDER EQUITY

The ERA provides constitutional precedent for legal action that benefits women. For example, if the ERA had been in place, employers like Hobby Lobby would not be able to single out women's health care and exclude birth control coverage from their employer-based plans. Interpreted through an intersectional lens, the Supreme Court decision disproportionately impacts low-income women. The ERA would codify reproductive rights in the Constitution and greatly support low-income women who are the first to lose access to affordable birth control when family planning services are reduced.





THE ERA WOULD LIMIT GENDER BIAS IN THE IMMIGRATION PROCESS

Women who apply for work visas are frequently denied because they are systematically excluded from what our immigration system deems as 'desirable' fields. The merit based system of visa allocation negatively affects women as they are less likely to have 'high demand' jobs in STEM fields. In addition, immigrant women are more likely to experience sexual assault and violence in the immigration process. With the ERA in place, there would be constitutional precedent to provide resources for women during the immigration process and shift the merit based system of visa allocation to be more inclusive of women.

THE ERA WOULD NARROW THE GENDER-RACE WAGE GAP

As we push for gender equity, the Gender-Race Pay Gap remains one of the most glaring and measurable examples of inequality. Not only do women make less than men overall but when disaggregated by race, the gap grows even further. Current wage equality legislation -such as the Lilly Ledbetter Fair Pay Act- are not enough to narrow the Gender-Race Pay Gap. The ERA would create a precedent for enduring and enforceable legislation that addresses the intersections of pay discrimination. Without constitutional protections, women will continue to face lifelong consequences of gender discrimination in the workplace.

