

From Principle to Policy: Tracing the Equal Rights Amendment's Role in Congressional Equal Pay Discourse, 1962-1982

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Bachelor of Arts with Honors in International and Public Affairs

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ABSTRACT

The Equal Rights Amendment (ERA) is the only amendment authored by one generation, adopted by another, and fully ratified by yet another. This long historical arc notwithstanding, the ERA has yet to be enshrined in the Constitution. Should the ERA be viewed as a failure? Did the fight for the ERA catalyze campaigns that called attention to women's issues and stimulated legislative action? Through an analysis of congressional speeches from 1962–1982, this thesis measures the ERA's impact along the dimension of equal pay, a key objective articulated by its original authors. My research suggests that only 10.2% of the 800 speeches about equal pay during this period mention the ERA, contradicting hypotheses suggested by political theorists. Instead, equal pay was more commonly referenced as a strategic argument to bolster support for the ERA. An examination of contemporary ERA ratification debates paradoxically reveals that the amendment's earlier inadequacy – its failure to sufficiently address how race and class shaped women's access to equal pay protections – ultimately helped facilitate its reinvention. Remarkably, this reinvention has largely been led by women of color – a group previously marginalized from the ERA movement. By using the fight for a constitutional gender equality provision as a horizon-setting intervention, contemporary ERA advocates have reclaimed the ERA as a living instrument of feminist imagination.

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This thesis is the product of a years-long interest in the Equal Rights Amendment that started in a high school history class. Writing it has been a profoundly rewarding – and at times daunting – experience. I am grateful for the support so many have given me throughout this journey.

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And most importantly, thank you, Mom, for everything.

I believe myself that women by nature, are the great force for all things that are constructive and upbuilding to a nation... the more power they have, the better world we are going to have.

– Alice Paul, 1973

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CHAPTER ONE: INTRODUCTION

THE ERA'S UNFINISHED BUSINESS – FAILURE, LEGACY, AND AGENDA-SETTING

Women continue to go unmentioned in the Constitution two hundred thirty years after its ratification. In 1923, Alice Paul and Crystal Eastman co-authored the Equal Rights Amendment (ERA) after the successful movement for women's suffrage and nearly 140 years after the Constitution's ratification. The amendment attempted to enshrine full equality for women by eliminating "legal distinctions between men and women in terms of divorce, property, employment, and other matters."¹ Its text is simple:

1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.
2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
3. This amendment shall take effect two years after the date of ratification.²

Between 1923 and 1970, the ERA was introduced in every session of Congress. In 1971-72, the House of Representatives and Senate finally adopted the ERA and sent it to the states with a seven-year deadline for ratification. Women's movements across the country fought tirelessly for the amendment's ratification. However, before its final deadline in 1982, it only reached 35 of the 38 required states for adoption.

Despite this setback, the ERA did not vanish – states continued to ratify the amendment. In fact, in 2020, Virginia became the 38th and final requisite state to ratify the ERA. While the Constitution provides that amendments take effect after three-quarters of states ratify them, the

¹ "Women's Rights: Equal Rights Amendment," in *National Archives*, <https://www.archives.gov/women/era>.

² HR 86 (Mar. 23, 1972). <https://www.govinfo.gov/content/pkg/STATUTE-86/pdf/STATUTE-86-Pg1523.pdf>.

ratification deadlines Congress set for the ERA have lapsed.³ Five states have also acted to rescind their prior votes, effectively relegating the ERA to a state of bureaucratic purgatory and necessitating Congressional action to determine its future.

Nevertheless, Virginia's recent ratification in 2020 reignited public interest in a constitutional gender equality provision. That same year, an AP-NORC poll found that roughly 3 in 4 Americans supported the gender equality amendment, although curiously, almost the same amount – 72% – believe the Constitution already has an ERA.⁴ Feminist scholar Jo Freeman aptly calls the amendment “the best-kept government secret of the century.”⁵ In 2022, the Supreme Court revealed the woeful vulnerability of women's rights with its decision in *Dobbs v. Jackson Women's Health Organization*, which overturned *Roe v. Wade* and *Planned Parenthood v. Casey*. These landmark rulings had long upheld a woman's fundamental right to abortion before fetal viability. In the wake of this ruling, the Equal Rights Amendment once again surged into national debates, as women renewed calls for enshrining gender equality in the law.

The Conversation

After the ERA's deadline for ratification passed in 1982 without the requisite number of states it needed to be adopted, political scientists, historians, sociologists, and legal scholars asked: What happened? Where did women go wrong? What can the ERA's failure tell us about contemporary political organizations and social movements? These scholarly postmortems

³ “The Equal Rights Amendment Explained | Brennan Center for Justice,” October 9, 2019, <https://www.brennancenter.org/our-work/research-reports/equal-rights-amendment-explained>.

⁴ “AP-NORC Poll: Most Americans Support Equal Rights Amendment | AP News,” accessed October 13, 2024, <https://apnews.com/article/42b93fd7386089110543f4e1827ded67>.

⁵ Jo Freeman, “The Politics of Women's Liberation: A Case Study of an Emerging Social Movement and Its Relation to the Policy Process.” (Ph.D , United States -- Illinois, The University of Chicago), accessed October 13, 2024, 70, <https://www.proquest.com/docview/302686646/citation/7B3B1D4604A344F1PQ/1>.

generated a significant body of literature seeking to explain why women's movements were unable to secure the amendment's passage. This thesis builds on existing literature by evaluating the ERA's potential influence, despite its failure to pass, on discussions about equal pay in Congress. In doing so, it engages with two strands of literature: analyses of the ERA's failure and agenda-setting theory.

ERA as a Failure?

Jane Mansbridge's seminal work, *Why We Lost the ERA*, offers both a scholarly and personal account of why the ERA failed (Mansbridge participated in ERA campaigns throughout the 1970s). She argues the ERA's failure was largely due to strategic errors within the movement: organizers 1) failed to look past national politics and garner the necessary support at the local and state level for ratification, and 2) underestimated the strength of grassroots opposition movements like STOP ERA, led by Phyllis Schlafly.⁶ Most importantly, she argues society was ultimately not ready for the ERA, and did not understand what it would do.⁷ In fact, Mansbridge explains, "the only way to have prevailed was to have persuaded legislators that the ERA would make little difference and have little impact."⁸

However, Mansbridge overlooks several important aspects of the ERA movement in the 1970s. Feminist scholar Catharine MacKinnon critiques *Why We Lost the ERA*, arguing the book

⁶ Jane J. Mansbridge, *Why We Lost the ERA* (Chicago, IL: University of Chicago Press, 1986), <https://press.uchicago.edu/ucp/books/book/chicago/W/bo5977742.html>.

⁷ Judith L. Hudson, "Review: Why We Lost the ERA," *Michigan Law Review* 86, no. 6 (1988), <https://repository.law.umich.edu/mlr/vol86/iss6/35>.

⁸ Joyce Gelb, "Why ERA Failed. Mary Frances Berry Rights of Passage: The Past and Future of ERA. Joan Hoff-Wilson Why We Lost the ERA. Jane J. Mansbridge," *The Journal of Politics* 50, no. 1 (February 1988): 246, <https://doi.org/10.2307/2131053>.

is “less an analysis of [the ERA’s] loss than an example of the kind of thinking that produced it.”⁹ She posits that both Mansbridge and the ERA movement assume a narrow, liberal version of women’s equality that ultimately undermined any potential for the ERA to mobilize women and enact change.¹⁰ In MacKinnon’s words, “Neither the ERA effort nor this book inquires into whether an ERA that addressed the deep realities of women’s condition might have mobilized the kind of uprising of women that only a deeply changed vision of society is able to do...when Mansbridge asks why ERA failed, she does not look at what did not happen but only at what did.”¹¹ Notably, Mansbridge evades any discussion about race, which this thesis’s findings suggest was a key moderating factor in the ERA’s impact in the 1970s. While Mansbridge acknowledges the ERA movement’s reputation as being led primarily by upper-class White women, she does not examine, or even mention, what the movement lost from marginalizing working-class and minority women. By failing to address how the exclusion of these women weakened the ERA’s mobilization potential, Mansbridge overlooks a critical dimension of the movement’s shortcomings.

Alternately, Freeman, while acknowledging many of the missteps Mansbridge points out, asserts that the ERA still somewhat succeeded by stimulating important developments in women’s political participation and encouraging other legislation related to women’s legal equality. For example, in her dissertation, Freeman explains, “The Women’s Lobby Inc. was begun by Carol Burris and Flora Carter out of mutual lobbying efforts for the Equal Rights Amendment. From their experiences, they perceived that a permanent lobby for women’s issues

⁹ Catharine A. MacKinnon, “Unthinking ERA Thinking,” ed. Jane J. Mansbridge, *The University of Chicago Law Review* 54, no. 2 (1987): 760, <https://doi.org/10.2307/1599806>.

¹⁰ Catharine A. MacKinnon, “Unthinking ERA Thinking.”

¹¹ Catharine A. MacKinnon, “Unthinking ERA Thinking,” 768.

would be a valuable addition to the movement.”¹² This group lobbied “solely on women’s legislation” and worked “from a list of 5,000 names accumulated by Burris and Crater during their ERA work” to set up state coordinators and support groups.¹³ In addition to encouraging women’s political participation that shifted legislative attention to women’s issues, Freeman argues the ERA “stimulated major strides toward the legal equality that the ERA was originally written to achieve.”¹⁴ These developments included the passage of state-wide equal rights amendments, revision of discriminatory laws, and changes in how courts evaluated gender equality litigation.¹⁵ Therefore, despite its failure to be ratified, Freeman argues that the ERA fostered political engagement among women and legal reforms that advanced the cause for women’s equality.

While Freeman emphasizes the ERA’s role in passing state-level equal rights amendments, shifting judicial interpretations of women’s legal equality, and fostering attention to women’s issues in public discourse, her argument does not offer specific examples or systematic analysis of legislative outcomes at the federal level. This thesis, however, makes a unique contribution by reconciling the ERA’s exclusionary legislative history, particularly its marginalization of women of color, with its broader impact. In doing so, it paints a more comprehensive picture of the amendment’s fraught – but enduringly hopeful – legacy. By

¹² Jo Freeman, “The Politics of Women’s Liberation: A Case Study of an Emerging Social Movement and Its Relation to the Policy Process.” (Ph.D., United States -- Illinois, The University of Chicago), 163, accessed October 13, 2024, <https://www.proquest.com/docview/302686646/citation/7B3B1D4604A344F1PQ/1>.

¹³ “New Croup in Capital: Women’s Lobby, Inc.,” *The New York Times*, November 21, 1972, sec. Archives, <https://www.nytimes.com/1972/11/21/archives/new-group-in-capital-womens-lobby-inc.html>; Freeman, “The Politics of Women’s Liberation,” 164.

¹⁴ Jo Freeman, “Social Revolution and the Equal Rights Amendment,” accessed October 10, 2024, <https://www.jofreeman.com/feminism/socrevera.htm>.

¹⁵ Jo Freeman, “Social Revolution and the Equal Rights Amendment.”

employing both qualitative archival analysis and quantitative textual analysis of Congressional records from 1962 to 1982, this thesis traces the ERA's influence on equal pay as a federal legislative priority, an approach that previous literature has not explored. Yet the ERA's legislative life did not end in 1982. The early 21st century has witnessed a striking revival of interest in a constitutional gender equality amendment – in public discourse and on Capitol Hill – marking a new chapter in the ERA's history. By situating this recent legislative resurgence alongside its earlier influence, this thesis provides an evidence-based account of the ERA's evolving agenda-setting role and its contributions to legislative progress.

Theoretical Framework

Daniel Carpenter's concept of agenda democracy provides a useful theoretical framework for this thesis. Traditional agenda-setting theory focuses on electoral and partisan dynamics that can reshape the agenda. Additionally, traditional theory is often restricted to final policy outcomes in evaluating whether something set the agenda. However, Carpenter posits that "Evaluations of the success of [advocacy] campaigns should consider not merely whether they changed policy or laws in the short run, but *whether they shifted agendas and discourse in the longer run.*"¹⁶ Carpenter's work builds on a literature that, unlike traditional agenda-setting theory, "points to the democratic necessity of local political intermediaries, protest campaigns, social organizations, advocacy campaigns, grievance mechanisms, and other agenda-democratizing processes and institutions."¹⁷ This broader framework allows for a more nuanced understanding of how the ERA, even without achieving immediate policy success,

¹⁶ Daniel Carpenter, "Agenda Democracy," *Annual Review of Political Science* 26, no. 1 (June 15, 2023): 195, <https://doi.org/10.1146/annurev-polisci-051921-102533>.

¹⁷ Carpenter, 195.

contributed to reshaping public discourse and laying the groundwork for future advancements in women's rights.

One particular institutional transformation Carpenter focuses on is the post-depression turn to social democracy (the New Deal in the U.S.). Carpenter explains that in one sense, Progressive and populist movements could be considered a failure, given that the U.S. did not adopt democratic socialist ideals the same way countries in Europe did. However, Carpenter argues, "If one sees in the movements of the populists and Progressives of the late nineteenth and early twentieth centuries merely a *failure*, then one is misreading the way they changed the conversation – agenda of the possible and considerable – in Congress and national politics."¹⁸ However, the particular movements Carpenter studies are historically bounded with definitive endpoints. Contrastingly, the ERA movement is an *ongoing*, century-long movement. This thesis thus uniquely applies Carpenter's framework to a different type of movement than those examined in previous scholarship.

Considering Carpenter's expanded definition of the agenda enables us to understand what both a successful and a failed agenda-setting tool might look like. Under Carpenter's framework, a successful agenda mechanism, regardless of whether it achieved its immediate goal, broadens citizens' and legislators' ideas of "the possible and considerable."¹⁹ In contrast, a failed agenda mechanism, while failing to achieve its immediate goals, also fails to challenge or disrupt the political order in the longer term. Ultimately, this framework enables us to see the potential ways the ERA, and the advocacy campaigns it stimulated, could still constitute a success. However,

¹⁸ Carpenter, 198.

¹⁹ Carpenter, 198.

the results in this thesis also reveal new dimensions that Carpenter's framework does not fully account for.

Carpenter also lays out several mechanisms for agenda democratization, including "external public demonstration and organization" and "liminal claims-making."²⁰ Although Carpenter does not specifically mention it, the ERA played a crucial role in catalyzing ratification campaigns at both the state and national levels, functioning as an example of what he describes as an external organization mechanism. In other words, the ERA provided a structure outside formal institutions that enabled women to organize politically: "the movement raised feminist consciousness, [and] helped women to organize politically first at the national level, and later in the states and communities."²¹ These campaigns not only mobilized women but also shaped ideas about gender equity and fostered grassroots activism.

Carpenter does not focus in depth on feminist campaigns. For a perspective on feminist campaigns, I look instead to Katrina Forrester. Forrester expands on Carpenter's idea, arguing that feminist campaigns "can reveal hidden dimensions of social reality and build constituencies while also indicating a new world to be built that exceeds agendas for immediate reform."²² This forward-looking dynamic, which Daniel Carpenter refers to as "horizon-setting," is essential to understanding the ERA's success as a tool for shaping ideas and discourse, despite its failure to pass.²³ Ultimately, by pointing to long-term goals and inspiring new forms of political

²⁰ Carpenter, *Agenda Democracy*, 204.

²¹ Joyce Gelb, review of *Why ERA Failed.*; *Rights of Passage: The Past and Future of ERA.*; *Why we Lost the ERA.*, by Mary Frances Berry, Joan Hoff-Wilson, and Jane J. Mansbridge, *The Journal of Politics* 50, no. 1 (1988): 244–46, <https://doi.org/10.2307/2131053>.

²² Katrina Forrester, "Feminist Demands and the Problem of Housework," *American Political Science Review* 116, no. 4 (November 2022): 1278, <https://doi.org/10.1017/S0003055422000053>.

²³ Carpenter, *Agenda Democracy*.

engagement, the ERA helped women imagine and strive for a more equitable future. However, Forrester's analysis does not engage specifically with the ERA or its role in setting legislative priorities. This thesis will focus on the ERA's horizon-setting function, exploring whether it shaped tangible legislative priorities.

In addition to shaping activism outside formal institutions, the ERA also influenced them from within, actively inducing Congressional action through debates, testimony, and votes. This allowed women to bring their grievances into government and make their voices heard within the political system itself – a dynamic Carpenter characterizes as “liminal claims-making.”²⁴ Liminal claims-making, as Carpenter describes in his study of women's abolitionist petitioning, refers to actions that bridge the gap between grassroots advocacy and formal political institutions. He notes that for women in the late 19th century, “petition canvassing – with its patterns of persuasion and networking – shaped legacies in political argument, network formation, and organizing.”²⁵ While these authors offer important theoretical insights, they stop short of specifically analyzing the fallout of ERA ratification campaigns at the national level.

Addressing the Gap in ERA and Agenda-Setting Literature

Mansbridge's arguably most intriguing, but rather unsatisfying, chapter is her final one, “Requiescat in Pace,” where she poses but only vaguely answers the questions: Was the struggle worth it? Should feminists continue the struggle for the ERA?²⁶ While the chapter promises a reflective evaluation of the ERA's legacy, it ultimately falls short of providing substantive

²⁴ Daniel Carpenter and Colin D. Moore, “When Canvassers Became Activists: Antislavery Petitioning and the Political Mobilization of American Women,” *American Political Science Review* 108, no. 3 (August 2014): 479–98, <https://doi.org/10.1017/S000305541400029X>.

²⁵ Daniel Carpenter and Colin D. Moore, “When Canvassers Became Activists: Antislavery Petitioning and the Political Mobilization of American Women,” 479.

²⁶ Judith L. Hudson, “Review: Why We Lost the ERA,” *Michigan Law Review* 86, no. 6 (1988), <https://repository.law.umich.edu/mlr/vol86/iss6/35>.

conclusions or actionable insights. Moreover, Mansbridge never revisits the ERA in any of her subsequent works with the same level of focus or depth, leaving her engagement with these pivotal questions feeling somewhat incomplete. Though scholars such as Freeman have argued that the fight for the ERA catalyzed campaigns that drew attention to women's issues and stimulated legislative action, a notable gap remains in the literature: little evidence is provided to pinpoint which specific issues gained attention or to clarify how the ERA facilitated such legislative efforts.

This thesis seeks to address several gaps in the literature by examining an overlooked aspect of the ERA's potential success: its role as both an agenda-setting and horizon-setting mechanism. Drawing on Carpenter's agenda democracy framework, a novel approach to agenda-setting not yet applied to the ERA, I assess the amendment's impact as an agenda-setting tool, using one of the amendment's historic goals – equal economic opportunity – as the standard for evaluation. In other words, this thesis builds on a body of agenda-setting and feminist literature to measure the extent to which the ERA influenced equal pay discussions, particularly in the legislature, while critically assessing the limits of this legacy in light of the ERA's exclusionary legislative history.

By analyzing both its successes and shortcomings, this thesis will contribute to a deeper understanding of advocacy campaigns and their role in shaping policy priorities by offering a systematic, large-scale analysis of ERA-related equal pay discussions at the federal level. Additionally, I seek to critically assess how the ERA's principles might address contemporary gender equity challenges, providing insight into its practical implications today.

Research Questions

This thesis has three specific and related questions:

1. Is the ERA a policy failure?
2. Did the ERA set the agenda for federal equal pay legislation from 1962 to 1982?
 - a. Do discussions and political arguments for equal pay during this period reference the Equal Rights Amendment?

Cases and Justification: The ERA and the Agenda of the Possible

Given that Carpenter's expanded framework for agenda-setting focuses on how a mechanism shapes ideas and discourse, rather than merely policy changes, analyzing the evolution of how women's rights are raised and discussed in the legislature through congressional speeches is appropriate. In addition to the aforementioned dual mechanisms (external public demonstration and organization and liminal claims-making) the ERA seemed to serve in the 1960s-1980s, I chose to focus this thesis around the ERA, rather than broader second-wave feminist movements, because the ERA was "the main focus of feminist politics during this period."²⁷ Moreover, that Carpenter's agenda democracy framework locates activities like petitioning, complaint-making vis-à-vis the state, collective judicial action, marches, and protests as agenda democratizing mechanisms would suggest that the ERA's potential influence on the agenda might occur when the movement and these sorts of activities were most active: the 1960s to early 1980s. Despite its failure to be adopted as an amendment, the ERA still could have led to fundamental changes in how our legislature – and the law – acknowledges women and their rights. Freeman suggests that the long fight for the Equal Rights Amendment created a

²⁷ Joan Huber, review of *Review of Controversy and Coalition: The New Feminist Movement; Why ERA Failed; Why We Lost the ERA*, by Myra Marx Ferree et al., *Gender and Society* 1, no. 3 (1987): 345.

new “policy system,” involving lobbyists, volunteers, members of Congress and their staff, and policymakers in the administrative branch.²⁸ However, the findings detailed in Chapter 4 suggest that when studying movements with longer historical trajectories, it is important to expand the scope of analysis. Accordingly, Chapter 5 extends the study to include 21st-century developments in the ERA movement.

Additionally, studying discourse in Congressional hearings enables me to consider Carpenter’s notion of “the agenda of the possible and considerable,” rather than only final legislative decisions.²⁹ While a skeptic might argue that any observed changes could instead be due to other confounding variables, previous research has demonstrated that feminist activism, not a liberal administration or more women in government, for example, is responsible for certain policy developments.³⁰ However, these studies’ data, which focus on broad cross-national patterns from 1975 to 2005, are not suited to analyze the particular dynamics of Congressional discourse and agenda-setting within the United States’ legislative context. While these conclusions lend support to my hypotheses, their emphasis on global trends and aggregate measures of policy adoption overlooks the role of nuanced deliberative processes and rhetorical shifts that shape domestic legislative agendas. For this thesis’s purposes, it is essential to examine how feminist ideas are translated into specific arguments and priorities in Congress, which previous datasets do not capture.

²⁸ Joyce Gelb and Marian Lief Palley, “Women and Interest Group Politics: A Comparative Analysis of Federal Decision-Making,” *The Journal of Politics* 41, no. 2 (1979): 367, <https://doi.org/10.2307/2129770>.

²⁹ Carpenter, “Agenda Democracy,” 198.

³⁰ Mala Htun and S. Laurel Weldon, “The Civic Origins of Progressive Policy Change: Combating Violence against Women in Global Perspective, 1975–2005,” *American Political Science Review* 106, no. 3 (August 2012): 548–69, <https://doi.org/10.1017/S0003055412000226>.

The ERA's Political Momentum: Historical Peaks (1962-1982) and Contemporary Revival

This thesis focuses on two important eras in the ERA's legislative history: the period of intense political advocacy from 1962 to 1982, and the resurgence of interest and advocacy in the 21st century. The former time frame is critical not only for capturing the ERA's peak influence in Congress but also for contextualizing the amendment's legacy in shaping subsequent advocacy and legislative approaches to gender equality in the 21st century. Contemporary debates around the ERA reflect the enduring imprint of its late 20th-century momentum, underscoring the need to evaluate the amendment's immediate impact and its sustained relevance in the decades that followed.

The period from 1962 to 1982 captures the era when the ERA reached the height of its political momentum, with its introduction gaining traction in Congress and culminating in its adoption by the House and Senate in the early 1970s. The subsequent decade of intense ratification campaigns, grassroots organizing, and eventual opposition highlights not just the amendment's legislative journey but also the socio-political landscape it shaped and was shaped by. While beginning in 1962 offers a prelude to the conditions that galvanized the ERA's resurgence, ending in 1982 allows for an analysis of the immediate aftermath of the ERA's failure to meet ratification thresholds. Moreover, President Reagan's election in 1980 marked the beginning of a socially conservative political era that defined the political landscape for the next eight years. Given this shift, it is unsurprising that the ERA made little progress during this period, further justifying 1982 as an appropriate endpoint for evaluating the amendment's legislative impact.³¹

³¹ John Wilkerson et al., "Policy Agendas Project: Congressional Bills Codebook,," 2023.

Moreover, this twenty-year span provides a “before and after” lens to evaluate the amendment’s influence beyond its failure to be enshrined in the Constitution. By examining legislative records and policy debates during this time, this study assesses whether the ERA and its advocacy catalyzed shifts in congressional discourse and legal reforms related to women’s rights. These two decades are particularly significant for tracing how the ERA intersected with broader second-wave feminist movements and identifying specific legislative topics that aligned with its goals. Thus, this timeframe is both historically significant and methodologically essential for analyzing the ERA’s complex legacy as both a legislative initiative and a transformative agenda-setting mechanism. Moreover, there is evidence of a correlation between ERA campaigns and increased legislative attention paid to women’s issues from 1962-1982, the period of interest in this thesis.

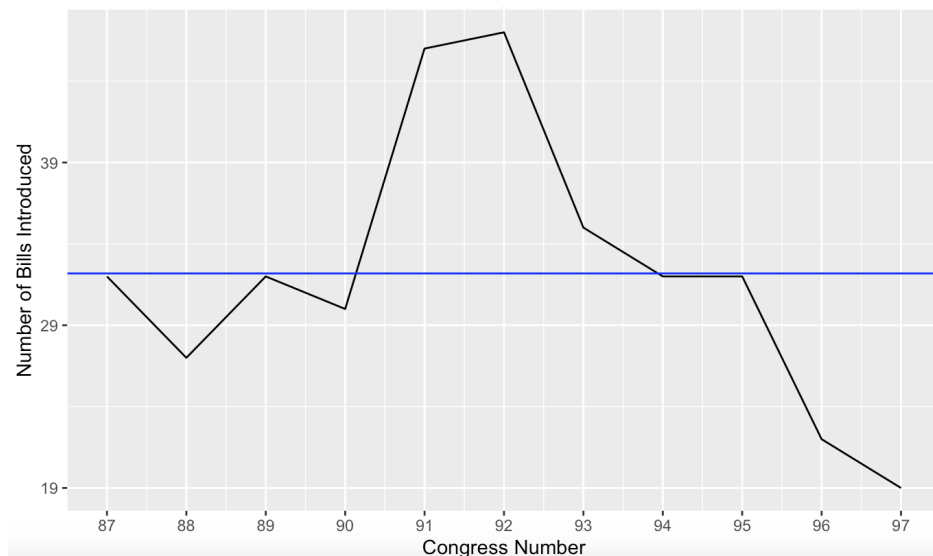
The statistics illustrated in Figure 1.1 on the page below suggest that this period was marked by heightened legislative activity concerning women’s issues, aligning with the broader societal and political momentum surrounding the ERA. For example, several Congressional sessions had higher-than-average numbers of women-related bills introduced in this period. From 1962 to 1982 (87th to 97th Congresses), an average of around 32 bills³² mentioning women or gender were introduced per Congressional session.³³ Alternately, from 1969-1975 (91st-93rd Congresses), the period when ERA ratification campaigns proliferated, 46, 47, and 35 women-related bills were introduced in each Congressional session, respectively. These descriptive statistics indicate that when the ERA was being deliberated most actively in Congress, the legislative environment was potentially more attentive to women’s issues, as

³² Rounded to nearest integer from 32.18182.

³³ Indicated by the blue line.

evidenced by the increased number of bills introduced related to gender during that time. This heightened legislative activity aligns with Carpenter’s theory of agenda democratization, indicating that even without full ratification, the ERA may have helped to elevate gender equality as a policy priority in Congress.

Figure 1.1: Number of Women-Related³⁴ Bills Introduced in Congress from 1962-1982³⁵



Author generated from *Policy Agendas Project* in R

While 1962-82 marks the height of the ERA’s legislative momentum in Congress, this thesis also situates that period within the broader continuum of the amendment’s advocacy. The 21st century resurgence of the ERA movement – through state ratification campaigns and Congressional advocacy – underscores the amendment’s enduring relevance. Accounting for this contemporary period is both helpful and necessary for evaluating the amendment’s agenda-setting function and the ways both its advocates and its meaning have evolved over time.

³⁴ Includes all bills that make mention of “women” or “gender.”

³⁵ John Wilkerson et al., “Policy Agendas Project: Congressional Bills,” 2023.

Equal Pay as an Anchoring Dimension

The intertwining history between the ERA and the fight for pay equality makes Congressional discourse on equal pay a meaningful lens through which to evaluate the ERA's legislative influence. The ERA is best understood as part of a broad body of ideas that informed and inspired feminist demands during the 20th century. Among this body of ideas was also the doctrine of equal-pay-for-equal-work. Betty Friedan's *The Feminine Mystique*, which is widely credited for catalyzing second-wave feminism, located women's domestic duties as the source of their pervasive unhappiness, and urged women to instead find fulfillment in a meaningful career.³⁶ The National Women's Organization, one of the chief advocacy organizations for the ERA, demands in its founding statement, co-authored by Friedan, the removal of all barriers to women's "equal and economic advancement."³⁷ Women's increased access to the workplace and their equal economic opportunity were thus a central focus of feminism in the sixties and seventies: as ERA ratification campaigns were gaining momentum, feminist advocacy also frequently centered on women's economic opportunities. In fact, many of the same activists championing the ERA also championed workplace equality, like Friedan. Legislative advancements like the Equal Pay Act and Title VII of the Civil Rights Act remain among the most important legal protections for women's equal pay and employment discrimination. Given that pay equity was a dominant focus of both feminist activism and legislative advancements

³⁶ Margalit Fox, "Betty Friedan, Who Ignited Cause in 'Feminine Mystique,' Dies at 85," *The New York Times*, February 5, 2006, sec. Books, <https://www.nytimes.com/2006/02/05/us/betty-friedan-who-ignited-cause-in-feminine-mystique-dies-at-85.html>; Betty Friedan, *The Feminine Mystique*, 1. publ. as a Norton paperback (New York, NY: W. W. Norton, 2001).

³⁷ "National Organization for Women, 'Statement of Purpose' (1966) | The American Yawp Reader," accessed April 16, 2025, <https://www.americanyawp.com/reader/27-the-sixties/national-organization-for-women-statement-of-purpose-1966/>.

from the 1960s to the 1980s, analyzing the potential ways deliberations over equal pay and the ERA might dovetail offers a reasonable and historically grounded way to evaluate the ERA's impact.

Moreover, the ERA was drafted with the explicit goal of achieving women's economic advancement, so it is reasonable to focus on equal pay deliberations to examine whether the ERA's core principles appeared on the legislative agenda. The principle of women's economic advancement and the ERA dates back over 150 years to the first Women's Rights Convention at Seneca Falls in July 1848. This convention was the "brainchild" of Elizabeth Cady Stanton and Lucretia Mott.³⁸ In a play on the Declaration of Independence, Stanton wrote her Declaration of Sentiments, which "presented a list of grievances about the law's exclusion of women from rights, such as the right to vote, the right to own property, the right to work, the right to be educated, and the right to raise one's own children."³⁹ Lucretia Mott was one of sixty-eight women who signed the document.⁴⁰ After signing it, Mott also offered her own amendment to the Declaration, which was subsequently adopted: "That the speedy success of our cause depends upon the zealous and untiring efforts of both men and women, for the securing to woman; an equal participation with men in the various trades, professions and commerce."⁴¹ Almost 75 years later, Alice Paul and Crystal Eastman authored the ERA, nicknamed the Lucretia Mott Amendment. Mott's Seneca Falls amendment in 1848 was ultimately "the seed that germinated

³⁸ Julie Chi-hye Suk, *We the Women: The Unstoppable Mothers of the Equal Rights Amendment* (New York, NY: Skyhorse Publishing, 2020), 16.

³⁹ Suk, 17.

⁴⁰ "Declaration of Sentiments - Women's Rights National Historical Park (U.S. National Park Service)," accessed March 31, 2025, <https://www.nps.gov/wori/learn/historyculture/declaration-of-sentiments.htm>.

⁴¹ "Report of the Seneca Falls Convention with the 'Declaration of Sentiments,' July 1848" (Seneca Falls, N.Y., July 19, 1848), https://www.virginiamemory.com/docs/SenecaConvention_trans.pdf.

into the Equal Rights Amendment to the US Constitution.”⁴² With Lucretia Mott’s imprint on the ERA, women’s economic equality in the workplace was absolutely central to the amendment’s goals.

Chapter Roadmap and Potential Implications

In Chapter Two, I summarize scholarly literature on agenda setting, the power of feminist movements to achieve policy change, and the particular influence of the ERA at the legislative level. I explain that traditional agenda-setting theory often focuses on electoral and partisan dynamics and evaluates success solely through measurable policy outcomes or legislative victories. Thus, the ERA movement serves as a novel case study for Carpenter’s agenda democracy framework. I also explore the expectations feminist movement literature sets up for the ERA’s potential influence on Congressional equal pay discourse. In Chapter Three, I briefly detail my methodology, which consists of qualitative archival analysis of Congressional speeches, supplemented by quantitative text analysis, as well as limitations to such methods. Chapter Four details the long, often fraught history of the ERA, from its drafting to the first Congressional hearings in the early 1970s. I find that Alice Paul, the ERA’s co-author, had a rather narrow vision of the ERA’s impact and was largely focused on the needs of educated, upper-class White women, complicating the ERA’s legislative history. In Chapter Five, I detail the results of my speech analysis from the 1962-1982 period in Congress. I find that only a minority of speeches about equal pay reference the ERA, and that race and class functioned as moderating factors in the ERA’s minimal influence on Congressional equal pay discourse. Chapter Six looks to contemporary ERA ratification debates in both state legislatures and Congress, finding that the ERA’s earlier failure to adequately address the needs of working-class

⁴² Suk, *We the Women*, 17.

women of color has paradoxically catalyzed its 21st-century reinvention. Chapter Seven revisits the literature discussed in Chapter Two in light of these results. I conclude with Chapter Eight, which is dedicated to drawing implications for scholars and lawyers about the future of the ERA.

This thesis critically examines the implications of the ERA's legacy on equal pay and intersectional advocacy. It excavates a legislative history that was oftentimes characterized by exclusion, particularly when considering Alice Paul's personal ideology. Notably, Paul refused to allow Black women like Ida B. Wells to march with White suffragists.⁴³ Frustrated by Black women's determination for inclusion, Alice Paul wrote, "I cannot see... that having this procession without their participation is in any way injuring them in the least."⁴⁴ Paul's exclusion of Black women from the fight for women's suffrage complicates Paul's later drafting of the ERA. Her blatant racism suggests a limited vision of women's equal rights that privileged the concerns of White women while sidelining women of color. Thus, when Paul declared that "men and women shall have equal rights," to which women was she referring? How does this ideology impact the ERA's legacy today? This historical context calls for a critical examination of how the ERA was framed and who it was designed to protect – or exclude.

In light of this context, this thesis points to a compelling and rather remarkable phenomenon among women of color. Historically marginalized from discussions about the ERA and equal pay in previous generations of the ERA movement, today, women of color in state and national legislatures are the chief advocates for the ERA. The earlier inability of ERA proponents in the 1970s to effectively connect the amendment to the needs of working-class and

⁴³ "National American Woman Suffrage Association to Alice Paul." Telegram, February 28, 1913, National Woman's Party collection, Group 1, Reel 1, Library of Congress.

⁴⁴ Paul, Alice. "Alice Paul to Marie Hardwick." January 28, 1913, National Woman's Party collection, Group 1, Reel 1, Library of Congress.

minority women – a shortcoming that, I argue, contributed to its lack of resonance at the time – has paradoxically paved the way for the ERA’s reinvention in the 21st century. Most importantly, this thesis contributes to a body of literature that explores the necessary tools and strategies in the ongoing pursuit of equality and can help ensure we are the last generation to fight for its fulfillment. As Kimberlé Crenshaw and Catharine MacKinnon put it, “We can all be framers.”⁴⁵

⁴⁵ Catherine MacKinnon and Kimberlé Crenshaw, “Reconstituting the Future: An Equality Amendment,” *Yale L. J. F.* 129 (January 1, 2019): 343.

CHAPTER TWO: THEORETICAL INSIGHTS INTO SOCIAL MOVEMENTS AND AGENDA-SETTING

Agenda-setting power is not only defined by a group's ability to bring attention to certain issues but by its ability to define what is – or is not – considered politically actionable, as Carpenter, Bachrach, and Baratz collectively demonstrate. Moreover, the particular power of feminist movements to set such agendas and achieve policy change has been studied extensively by Htun, Weldon, and Forrester. Scholars have, though less frequently, examined ERA campaigns as case studies for understanding how social movements influence different stages of the policy process. This chapter outlines these various debates.

Theoretical Foundations of Agenda-Setting

Power operates in two forms.¹ The first “face of power” takes the form of decision-making, which is observable in “concrete decisions” or “activity bearing directly upon their making.”² However, there is another often overlooked but equally important face of power: non-decision-making.³ In other words, a group's ability to confine the scope of decision-making to certain issues. Bachrach & Baratz explain:

“Of course power is exercised when A participates in the making of decisions that affect B. But power is also exercised when A devotes his energies to creating or reinforcing social and political values and institutional practices that limit the scope of the political process to public consideration of only those issues which are comparatively innocuous to A.”⁴

¹ Peter Bachrach and Morton S. Baratz, “Two Faces of Power,” *The American Political Science Review* 56, no. 4 (1962): 947–52, 948, <https://doi.org/10.2307/1952796>.

² Bachrach and Baratz.

³ Bachrach and Baratz.

⁴ Bachrach and Baratz, 948.

This second face of power is often overlooked by sociological researchers who align with a pluralist view of power. These scholars often fail to account for the ways that power can be covert, particularly through non-decision-making that prevents certain issues from reaching the agenda.⁵

However, much of this existing agenda literature fails to link agendas to democratic theory, as Carpenter argues. Therefore, his concept of *agenda democracy* attempts to expand conceptions of agendas beyond a mere list of policy considerations and lays out various mechanisms for agenda-democratizing processes. One such mechanism is agenda restriction.⁶ Carpenter offers several examples of how agenda restriction might occur. For example, “the statement that a carbon tax is not politically possible may or may not be empirically true, but it surely limits the agenda of near-term actionable items.”⁷ This limitation of the “solution stream” thus results in a “limitation of thinking about the options immediately before us.”⁸ Consequently, certain issues may be dismissed from political consideration because of “a belief (consensual or not) that society has delegated them to other actors or other spheres.”⁹

Carpenter does not offer a feminist perspective on this dynamic himself. However, a similar idea seems to underlie feminist scholar Catharine MacKinnon’s critique of sex inequality when she argues, “To suggest that the sexual might be continuous with something other than sex itself – something like politics – is seldom done, is treated as detumescent, even by feminists. It

⁵ Bachrach and Baratz.

⁶ Daniel Carpenter, “Agenda Democracy,” *Annual Review of Political Science* 26, no. 1 (June 15, 2023): 193–212, <https://doi.org/10.1146/annurev-polisci-051921-102533>.

⁷ Carpenter, 200.

⁸ Carpenter, 201.

⁹ Carpenter, 201.

is as if sexuality comes from the stork.”¹⁰ Consequently, issues of gender inequality and gender-based violence are effectively removed from the political agenda and relegated to private, personal spheres.

By analyzing ERA activists’ efforts through the framework of agenda-setting, this thesis demonstrates how the ERA movement reshaped societal and legislative priorities, redefining the “agenda of the possible and considerable.”¹¹ Bachrach & Baratz, Carpenter, and MacKinnon all explore mechanisms of agenda restriction and expansion, but they stop short of connecting these concepts to the specific case of the ERA movement. From the 1960s to the 1980s, as ERA proponents marched, lobbied, and petitioned, it is possible they broke through historical agenda restrictions and “set the horizon” for women’s rights in the legislature – a process exemplified by the feminist adage, ‘the personal is political.’¹² Just as MacKinnon challenges and reframes gender inequality’s delegations as inherently political, so too did ERA activists eventually in their ratification campaigns.

Social Movement Theory and Policy Outcomes: Feminist Perspectives on Social Movements and Agenda-Setting

Unlike Bachrach, Baratz, and Carpenter, who fail to discuss agenda-setting contributions of feminist movements, Htun, Weldon, and Forrester emphasize the potentially transformative role feminist movements can have on the political agenda. They argue that these social movements can challenge societal norms and affect political change, paralleling Carpenter’s discussion of agenda democratization.

¹⁰ Catharine A. MacKinnon, *Toward A Feminist Theory of the State* (Harvard University Press, 1989), 130.

¹¹ Carpenter, “Agenda Democracy,” 198.

¹² Carpenter, 200.

In their study, Htun & Weldon focus on autonomous feminist movements, “a form of women’s mobilization that is devoted to promoting women’s status and wellbeing independently of political parties and other associations that do not have the status of women as their main concern.”¹³ Through a statistical analysis of violence against women (VAW) laws in 70 countries over four decades, Htun & Weldon find that autonomous feminist movements are statistically significant predictors of government action to redress violence against women across all eight of their models.¹⁴ They demonstrate that these groups, in both domestic and international contexts – are the key drivers behind political change, rather than other posited predictors like liberal parties in power, more women in the government, or more national wealth.¹⁵

Interestingly, Htun & Weldon state that a traditional weakness of campaigns for feminist issues is also paradoxically one of their greatest strengths. When women’s movements are embedded within broader political campaigns, they must compete with these campaigns’ other priorities. In these contexts, women’s concerns are frequently dismissed as “tangential” or “secondary” to purportedly more universal goals like environmental protection, better wages, or voting rights.¹⁶ As a result, women’s movements must not only fight to place their issues on the broader political agenda but also argue for the relevance of their issues within the campaign they are organized – effectively battling to be heard on two fronts. Conversely, when women’s movements operate outside of these broader political campaigns as “autonomous feminist organizations,” they are free to prioritize issues like gender equality, sexual harassment, or

¹³ Mala Htun and S. Laurel Weldon, “The Civic Origins of Progressive Policy Change: Combating Violence against Women in Global Perspective, 1975–2005,” *American Political Science Review* 106, no. 3 (August 2012): 548–69, <https://doi.org/10.1017/S0003055412000226>.

¹⁴ Htun and Weldon.

¹⁵ Htun and Weldon, “The Civic Origins of Progressive Policy Change.”

¹⁶ Htun and Weldon, 553.

women's empowerment without needing to justify their significance to men or children.¹⁷ Instead, these issues can be articulated as valuable and important in their own right.¹⁸ Feminist campaigns organized within larger political parties or state governments, in contrast, must find ways to make women's issues relevant to broader institutional priorities to reach the agenda.

Moreover, women's autonomous organizing is especially powerful because these groups "articulate social group perspectives, disseminate new ideas and frames to the broader public, and demand institutional changes that recognize these meanings."¹⁹ Despite its relevance, Htun & Weldon overlook the ERA as an example of autonomous feminist organizing, neglecting to analyze how its campaigns embodied many of the dynamics they describe. After all, ERA campaigns brought women's positions in the workplace and family into focus, compelling Americans to confront and reconsider women's issues that had long been overlooked.²⁰ This thesis intends to explore how the ERA, as an autonomous feminist organization, reshaped discourse and legislative priorities and fill this gap.

Forrester builds on Htun & Weldon's feminist consciousness-raising insights by demonstrating how the International Wages for Housework (WFH) movement of the 1970s redefined the boundaries of labor and political action, offering a more radical and comprehensive perspective on agenda-setting in feminist movements. Forrester argues that WFH's demand-making functioned as an organizational tactic that illuminated women's social conditions, built solidarity, and "set the horizons of the world that social movements seek to

¹⁷ Htun and Weldon, "The Civic Origins of Progressive Policy Change," 553.

¹⁸ Htun and Weldon.

¹⁹ Htun and Weldon, 552.

²⁰ Jane J. Mansbridge, *Why We Lost the ERA* (Chicago, IL: University of Chicago Press, 1986), <https://press.uchicago.edu/ucp/books/book/chicago/W/bo5977742.html>.

build.”²¹ Additionally, part of what made the WFH movement so powerful was the ways in which they “reconceived sites of work by looking beyond the paid workplace – a move that, insofar as work was characterized as exploitative, had radical implications: the home and community were redefined as sites of labor action.”²² For the first time, WFH located women’s unwaged domestic labor as the lynchpin of their inequality, redefining traditional notions of labor in the process. By challenging existing constraints, feminist movements like WFH can redefine the set of things considered political and public and, as previously mentioned, function as “horizon-setting” devices, powerfully illustrating Carpenter’s notion of agenda expansion and democratization.²³

In the long term, these dynamics can contribute to changing what Woodly describes as “common sense,” or “the meaning that the community in common attaches to problems, issues, and the like.”²⁴ In this light, while movements like WFH or ERA campaigns may not have achieved their immediate goals (ie. domestic work compensation or constitutional ratification), Woodly points to the importance of the broader impact of movements like these on societal and legislative priorities. As Woodly argues, “The degree to which a movement is able to win policy battles in the short term may say little about its ability to win a favorable political understanding of its issue in the long term.”²⁵ This perspective underscores the importance of evaluating

²¹ Katrina Forrester, “Feminist Demands and the Problem of Housework,” *American Political Science Review* 116, no. 4 (November 2022): 1278–92, 1282, <https://doi.org/10.1017/S0003055422000053>.

²² Forrester, 1280.

²³ Carpenter, “Agenda Democracy,” 200.

²⁴ Deva R. Woodly, *The Politics of Common Sense: How Social Movements Use Public Discourse to Change Politics and Win Acceptance* (New York, NY: Oxford University Press, 2015); Carpenter, “Agenda Democracy.”

²⁵ Woodly, *The Politics of Common Sense*.

movements like the ERA not solely by their immediate outcomes but also by their capacity to shape political discourse and legislative agendas over time.

The ERA's Impact on Policy Outcomes

While existing social movement literature on the ERA focuses on the dynamics of state-level ratification processes, these analyses overlook its impact on any specific dimensions of women's lives that this thesis examines, like equal pay. For example, Soule & Olzak investigate the conditions under which social movements, particularly state ratification campaigns for the ERA, are successful by exploring the potential interactive effects of social movements, public opinion, and political climate on state ERA ratification outcomes.²⁶ However, they leave ERA campaigns' impacts on critical dimensions of women's lives unexplored.

Soule & Olzak ultimately find that, while social movement strength impacts ratification outcomes independently, their effect is amplified in the presence of elite allies – political figures who could amplify the effect movements have on policy change.²⁷ In fact, looking at the influence of pro-ERA groups, rates of ratification increased more than fourfold when both the number of the American Association of University Women chapters and the percentage of Democrats in the legislature were high compared to average levels. A similar interaction is present for anti-ERA groups as well. When the organizational strength of anti-ERA forces and Republican Party strength are one standard deviation higher than their average, the chances of ERA ratification decrease by 88%. These results help explain the waning ratification of the ERA in the late 1970s. In addition to the growing influence of anti-ERA groups like Phyllis Schlafly's STOP ERA organization, Reagan's campaign and subsequent election marked a resurgence in

²⁶Sarah A. Soule and Susan Olzak, "When Do Movements Matter? The Politics of Contingency and the Equal Rights Amendment," *American Sociological Review* 69, no. 4 (August 2004): 473–97.

²⁷ Soule and Olzak.

Republican Party strength. Regardless of which side of the ERA debate the group was on, Soule & Olzak empirically demonstrate that social movements have an observable, statistically significant impact on policy changes, like state ratification.²⁸

The interaction between ERA campaigns, political allies, and policy outcomes is central to this thesis, as it examines how the ERA movement influenced broader legislative priorities like equal pay. Building on Soule & Olzak's work, Soule & King seek to assess the varying impact of the same factors – social movements, public opinion, and political climate – across the different stages of the policy process. Soule & Olzak lay out five stages of the policy-making process:

1. Access Responsiveness: When lawmakers are willing to listen to constituents' demands. At this point, social movement members may be invited to testify in congressional hearings.
2. Agenda Responsiveness: When lawmakers are willing to place such demands on the agenda, such as introducing a bill and sending it to committee.
3. Policy Responsiveness: When lawmakers actually adopt the proposed policy
4. Output Responsiveness: The implementation of such a policy.
5. Impact Responsiveness: The extent to which the implemented policy actually assuages constituent demands.²⁹

Soule & King posit that social movements are more influential in the earlier stages of the policymaking process when the rules placed on policymakers are less stringent. For example, they explain that at the agenda responsiveness stage, it usually only takes one legislator to introduce a bill, who typically views the action as relatively costless. Moreover, it is easy for policymakers to introduce a bill symbolically to appease a constituency, like ERA activists. However, as bills progress through the proceeding stages of the policymaking process, it

²⁸ Soule and Olzak.

²⁹ Sarah A. Soule and Brayden G. King, "The Stages of the Policy Process and the Equal Rights Amendment, 1972–1982," *American Journal of Sociology* 111, no. 6 (2006): 1871–1909, <https://doi.org/10.1086/499908>.

becomes more difficult for a legislator, who may have easily introduced a bill, to impact a bill's outcome at later stages. Thus, Soule & King argue, "this increasing stringency of rules and increasing consequentiality of legislative action across stages of the policy process critically structures not only the effect of movements but also the effects of the political climate and public opinion on policy change."³⁰

Ultimately, Soule & King find that, when in the presence of elite Democratic allies (i.e. Democratic legislators), pro-ERA organizations "influenced both the introduction of bills and the moving of those bills from the legislative committees to a successful first vote, while anti-ERA organizations were only effective at keeping bills from ever getting introduced in the first place. In other words, once a bill was introduced, anti-ERA organizations had no effect on determining the fate of that bill."³¹ Additionally, they find that the effect of pro-ERA organizations in the final stage of the policymaking process – the final vote stage – decreases significantly and is not statistically significant.³² In other words, when legislators' decisions are most consequential, pro-ERA groups have the least influence.

These results support this thesis's method of looking at speeches from Congressional hearings to evaluate the ERA's impact on the agenda. Hearings constitute the first stage of the aforementioned policymaking process (Access Responsiveness). Moreover, given that Soule & King demonstrate that the ERA has a measurable impact at this stage of the policymaking process, their study's results help validate the use of Congressional speeches to measure one dimension of the ERA's agenda-setting impact. This thesis thus builds upon Soule & King's results by inquiring into the specific dimensions of women's lives that the ERA's impact

³⁰ Soule and King, 1891.

³¹ Soule and King, 1892.

³² Soule and King.

affected. In other words, whereas Soule & King ask, *Did the ERA impact the first stage of the policymaking process*, this thesis asks, *What particular dimensions of women's lives might the ERA influence within this agenda-setting process?*

The Gap

In addition to building upon Soule & King's results, this thesis draws upon Daniel Carpenter's *agenda democracy* framework to contextualize the ERA's broader impact. Traditional agenda-setting theory often focuses on electoral and partisan dynamics, evaluating success solely through measurable policy outcomes or legislative victories. However, Carpenter's framework shifts the focus toward the longer-term reshaping of agendas and discourse, even when immediate policy goals are not achieved. Carpenter posits, "Evaluations of the success of [advocacy] campaigns should consider not merely whether they changed policy or laws in the short run, but whether they shifted agendas and discourse in the longer run."³³ Thus, Carpenter's insight reframes the ERA's failure to be ratified as a constitutional amendment. While the ERA did not succeed in enshrining gender equality into the U.S. Constitution, based on the literature, it appears to have influenced public discourse, legislative priorities, and the broader social understanding of gender equity. Through this lens, the ERA can be viewed as a mechanism for agenda democratization, expanding the scope of "the possible and considerable" in legislative and public debate.³⁴ This thesis builds on this body of agenda-setting and feminist literature to measure the extent to which these changes occurred, particularly in the legislature, and how they align with specific principles articulated by the ERA movement.

³³ Carpenter, "Agenda Democracy," 195.

³⁴ Carpenter, 198.

While the existing literature offers important insights into agenda-setting dynamics and the transformative potential of feminist movements, few focus explicitly on the ERA movement as a case study for examining these frameworks. Bachrach, Baratz, and Carpenter focus on mechanisms of agenda restriction and expansion, while Forrester, Htun, and Weldon focus on the specific impact of feminist organizing on agenda-setting. However, all of these works stop short of examining how these mechanisms operated within the specific historical and political context of the ERA movement. Soule, Olzak, and King do focus on the ERA and demonstrate its impact at different stages of the policy process. However, their research centers on the differential effect of pro-ERA groups at various points in the policy process. They do not examine any particular dimensions of women's lives that the ERA's agenda-setting efforts may have impacted. This thesis seeks to advance the conversation about the ERA's impact through the theoretical lens of agenda-setting and social movement literature. Ultimately, it treats the ERA movement as a critical case study for agenda-setting, with a particular focus on how its proponents reshaped legislative priorities and transformed key dimensions of women's lives in the fight for equality.

CHAPTER THREE: METHODOLOGY

This thesis primarily employs qualitative archival analysis to examine the ERA's potential influence on equal pay discussions. It is supplemented by quantitative text analysis for descriptive statistics, providing a more comprehensive view of the ERA's impact on legislative priorities. This chapter details the methodology used in both approaches.

Archival Analysis

The first part of my methods includes an archival analysis of the historical trajectory of the ERA, with a particular focus on Alice Paul's intentions and goals at the time of its drafting. I focus my search on Paul's oral history, correspondence, speeches, and newspaper quotes – sources that might indicate Paul's personal reasoning and goals for American women when they drafted the ERA. By understanding the intentions behind the ERA, as expressed by one of its drafters, I track how these goals appear in the legislative discourse I studied from the 1960s to the 1980s in my later speech analysis. Is it possible that other legislation, in part catalyzed by ERA ratification drives, has fulfilled ERA founders' intentions, even if the ERA itself is not on the books? Investigating this question through archival research will help me answer the broader question of whether or not the ERA is a policy failure. Additionally, my archival analysis draws extensively on the bound edition of the Congressional Record for speech analysis. I use these speeches to examine how legislators framed debates around equal pay and the ERA, the reasons they have for advocating for or opposing related legislation, and the broader rhetorical strategies that shaped discourse during the period.

Textual Analysis

Given the volume of speeches in my data set, an automated approach to filtering the speeches and finding the most relevant examples was necessary. I worked primarily in R to clean the parse the speech data and create my equal pay speech data set. I also used AntConc, a corpus analysis toolkit for concordancing and text analysis, for certain visualizations in Chapter 4. As Benoit et al. explain, these methods are particularly useful for large speech data sets, because they can “turn unstructured text into structured information, using inexpensive and efficient methods for parsing, annotating and categorizing the elements of text to prepare it for analysis and then to perform this analysis.”¹ To conduct my text analysis, I followed the following process:²

1. Selected texts and defined the corpus
2. Defined documents and chose the unit of analysis
3. Filtered the dataset
4. Cleaned data
5. Analyzed data using the appropriate statistical procedure

Constructing the Equal Pay Speech Data Set

The filtering method in this thesis’s analysis is designed to systematically identify congressional speeches discussing women’s equality in the workplace through particular keywords during the period of interest, 1962 to 1982. I constructed my corpus from a parsed representation of the bound edition of the Congressional Record.³ In R, I combined all

¹ Ken Benoit, “Text as Data: An Overview,” in *The SAGE Handbook of Research Methods in Political Science and International Relations*, by Luigi Curini and Robert Franzese (1 Oliver’s Yard, 55 City Road London EC1Y 1SP: SAGE Publications Ltd, 2020), 492, <https://doi.org/10.4135/9781526486387.n29>.

² “Text as Data.”

³ Matthew Gentzkow, Jesse M. Shapiro, and Matt Taddy, “Congressional Record for the 43rd-114th Congresses: Parsed Speeches and Phrase Counts” (Palo Alto, CA: Stanford Libraries, January 16, 2018), https://data.stanford.edu/congress_text.

Congressional speeches from the 87th to 97th Congresses (1962-1982) into one corpus, or document collection. Each unit in this corpus represented one speech. Since my analysis centers on individual speeches, I designated each speech as one unit of analysis rather than an entire congressional session to allow for ease of filtering and a more focused examination of speeches about equal pay and the ERA.

Given that the initial corpus of legislative speeches contained nearly four million speeches, an approach that extracted the relevant discourse while minimizing any extemporaneous material was necessary. To create the equal pay speech dataset, I used a proximity-based keyword search to filter the speeches. This method is justified on both historical and computational grounds:

1. Linguistic precision
2. Historical and thematic relevance
3. Replicability

Linguistic Precision

To minimize false negatives or positives when creating my data set, I employed a proximity-based keyword search. This method filtered the initial corpus by speeches with the word “woman” or “women” that appeared within 10 words of the following terms: equal pay, wage gap, fair pay, pay equity, comparable worth, hiring, salary, or income. Using proximity constraints can capture speeches that specifically discuss women’s equality in economic or employment terms, rather than a broader discussion of women’s rights. For example, by filtering the data set by mentions of “women” and mentions of “equal pay” separately, the program could realistically return a speech about women in the military, or a speech about pay discrimination between races, rather than women. Instead, proximity constraints can still filter for keyword presence, while also better accounting for the context such keywords are spoken, reducing

irrelevant material in the process. This method is particularly important for congressional speeches, given that congress members often speak about multiple, different social issues within a single speech. After applying this method, an initial review of the filtered speech dataset confirmed that most of the speeches were relevant and focused on women's economic and employment equality, validating the approach as an effective way to refine the corpus for analysis. The final equal pay speech dataset consisted of 800 speeches from the 87th to 97th Congresses.

Historical and Thematic Relevance

The selected keywords in this filtering method are also grounded in a historical analysis of legislative discourse throughout the time period. Other terms that may seem topical, like “glass ceiling,” for example, are excluded because they were not coined until late in or after the period of interest and thus are likely not being referenced in most of the speeches in this data set. The period of interest in this analysis also corresponds with several legislative developments related to women's equality in the workplace, like the Equal Pay Act (1963), Title VII of the Civil Rights Act (1964), and congressional debates on the ERA. The choice of keywords for this analysis is based on an analysis of the terms used to reference women's workplace inequality within these laws and in the speeches around them, ensuring that the terms being searched for were likely referenced in the legislative discourse.

Replicability

This text-filtering approach also relies on regular expressions to systematically detect keyword co-occurrences. This method is often used in computational analyses of political texts.⁴ Additionally, this method enables the filtering criteria to be replicated or adjusted in future studies. By identifying a historically grounded list of keywords and applying word-boundary constraints, this method mitigates the risk of unwittingly eliminating relevant speeches while also minimizing the inclusion of irrelevant results.

Cleaning the Dataset

To prepare the dataset for analysis, I removed stop words (words like “the,” “and,” “or,” “I,” etc.) and converted all words to lowercase. Additionally, I developed a sort of customized stop words list of common terms like “senator” and “president” that frequently emerged in my corpus but contributed little to understanding the nuances within congressional discourse relevant to my thesis.⁵ This list included the following words: senator, president, bill, committee, time, gentleman, gentlemen, gentlewoman, gentlewomen, speaker, speakers, house, senate, congress, government, senator, senators, yield, chairman, united, federal, american, americans, national, country, countries, u.s., u.s., distinguished, remarks, america, i, mr. speaker, madame, president, and mr. By removing these words that had high occurrences but low meaning in the context of my project, I avoided skewing my analysis with frequent yet uninformative terms.

⁴ Justin Grimmer, “A Bayesian Hierarchical Topic Model for Political Texts: Measuring Expressed Agendas in Senate Press Releases,” *Political Analysis* 18, no. 1 (January 2010): 1–35, <https://doi.org/10.1093/pan/mpp034>.

⁵ Silge and Robinson’s *Text Mining with R: A Tidy Text Approach* was particularly helpful throughout this stage of my analysis.

This method ensured that the remaining vocabulary more accurately reflected the substantive themes and arguments within the congressional discourse I was studying.

AntConc is a software tool that enables easy visualization of text concordancing and analysis. I used this program to create Figure 5.2. AntConc’s functions are particularly useful for seeing what sorts of words and topics appear most frequently with a certain word or term of interest. For example, using the program’s collocate tool, users can input a particular word and generate a list of terms that appear next to their word of interest, sorted by frequency. While this function is not necessarily detailed in the results of this thesis, it was a particularly useful tool for a high-level overview of the dataset and enabled me to more efficiently find relevant speeches for analysis. For example, when I searched “equal pay” in the collocate tab, the program output the following results:⁶

Figure 3.1: Example Collocate Table in AntConc for “Equal Pay” in Equal Pay Speech Data Set

Collocate	Rank	FreqLR	FreqL	FreqR	Range	Likelihood	Effect
equal	1	367	95	272	1	942.399	3.079
act	2	250	71	179	1	607.907	2.981
women	3	349	151	198	1	313.050	1.589
pay	4	108	60	48	1	135.675	1.970
legislation	5	88	41	47	1	98.411	1.837
standards	6	40	21	19	1	88.056	2.814
fair	7	35	7	28	1	74.899	2.763
labor	8	68	39	29	1	73.563	1.803
law	9	64	20	44	1	64.693	1.731
principle	10	23	15	8	1	61.285	3.194

This table screenshot details the words that most frequently occur within a range of ten words from the term “equal pay.” In the Word Cloud tab of AntConc, I could visualize these results, with the size of the word corresponding to its frequency, as I do in Figure 5.2. Within this table, I could also click on a particular word, and the program would pull up all of the speeches where

⁶ The program gave a total of 59 collocates. I am only including the top ten for space and clarity.

the word occurs. This was a particularly helpful tool for quickly switching between my higher-level quantitative analysis and a more detailed archival analysis of particular speeches. Figure 3.2 represents this function using the collocate “women” as an example.

Figure 3.2: File View of “Women” Collocate for the Term “Equal Pay”

Left Context	Hit	Right Context
ennsylvania live honor represent philadelphia district clearcut	women	equal pay equal recognized enactment public law 1913 1959 people
1970 total expected increase 30 million granting 24 2million	women	equal pay equal progress sound growing economy vital potential

From this screen, I could expand the full speech’s text to read through it. Thus, rather than following a strictly linear progression from qualitative to quantitative analysis, this thesis was an iterative process, where insights from my archival analysis informed the development of my quantitative methods, and the patterns identified through my quantitative analysis guided further qualitative investigation. This dynamic approach allowed me to refine my understanding and ensure that both methodologies complemented one another effectively.

Additionally, this thesis does not intend to make a causal claim about the ERA’s influence or argue that it was the only contributing factor to developments in women’s rights in the period of interest. Instead, it intends to understand how the ERA has functioned as one of many mechanisms that have encouraged women’s legal equality in the U.S., to better evaluate the ERA’s place in America today.

Limitations

While this thesis offers new insights into how the ERA shaped Congressional discourse, the methods used also introduce important limitations. For example, while keyword search filtering was appropriate for the scope of this particular project, it likely does not fully capture the breadth of speeches about equal pay given during the time period. Moreover, that the

majority of equal pay speeches do not explicitly mention the ERA, which I used as the main standard in this thesis, does not necessarily mean that the ERA was not influencing those discussions. In future studies, it would be valuable to develop a more robust statistical method for developing a speech dataset.

Text classification, a supervised method of textual analysis that enables researchers to train an algorithm to categorize texts according to pre-specified topics, could be a particularly promising method to accurately filter the dataset. To train the algorithm, researchers provide training texts that serve as exemplars. From the training data, the algorithm can learn the most important characteristics of the text in each category. Then, when the algorithm is asked to classify a corpus it has not seen before, it will sort the text into the specified categories based on what it learned from the data it was trained with. This method gives researchers significantly more control over the filtering and categorization process, as they can tailor the model to recognize specific themes or nuances that are relevant to their research questions. Moreover, it also accounts for more factors when classifying text data than simply a keyword search, so it could be a particularly helpful tool for understanding how the ERA was influencing Congressional discourse on certain dimensions of women's lives, even if the ERA itself wasn't explicitly being mentioned.

Additionally, in future studies, it would be valuable to measure the ERA's impact across several different dimensions of women's lives. Women's access to education also proliferated during the height of ERA campaigns, and it would be valuable to conduct a similar analysis of the ERA's potential impact on Congressional discourse on equal access to education as well. Studying the ERA's potential influence on multiple dimensions of women's rights enables us to

better understand potential variation and selective uptake of the ERA's principles in legislative discourse.

Strategies for Data Access

To analyze the textual content of legislative speeches and floor debates, I used Gentzkow, Shapiro, and Taddy's "Congressional Record for the 43rd-114th Congresses: Parsed Speeches and Phrase Counts" dataset, which is available for free to the public for download. The dataset includes parsed text from the bound and daily editions of the United States Congressional Record, as provided by HeinOnline. Each edition includes all text spoken on the floor of each chamber of Congress.

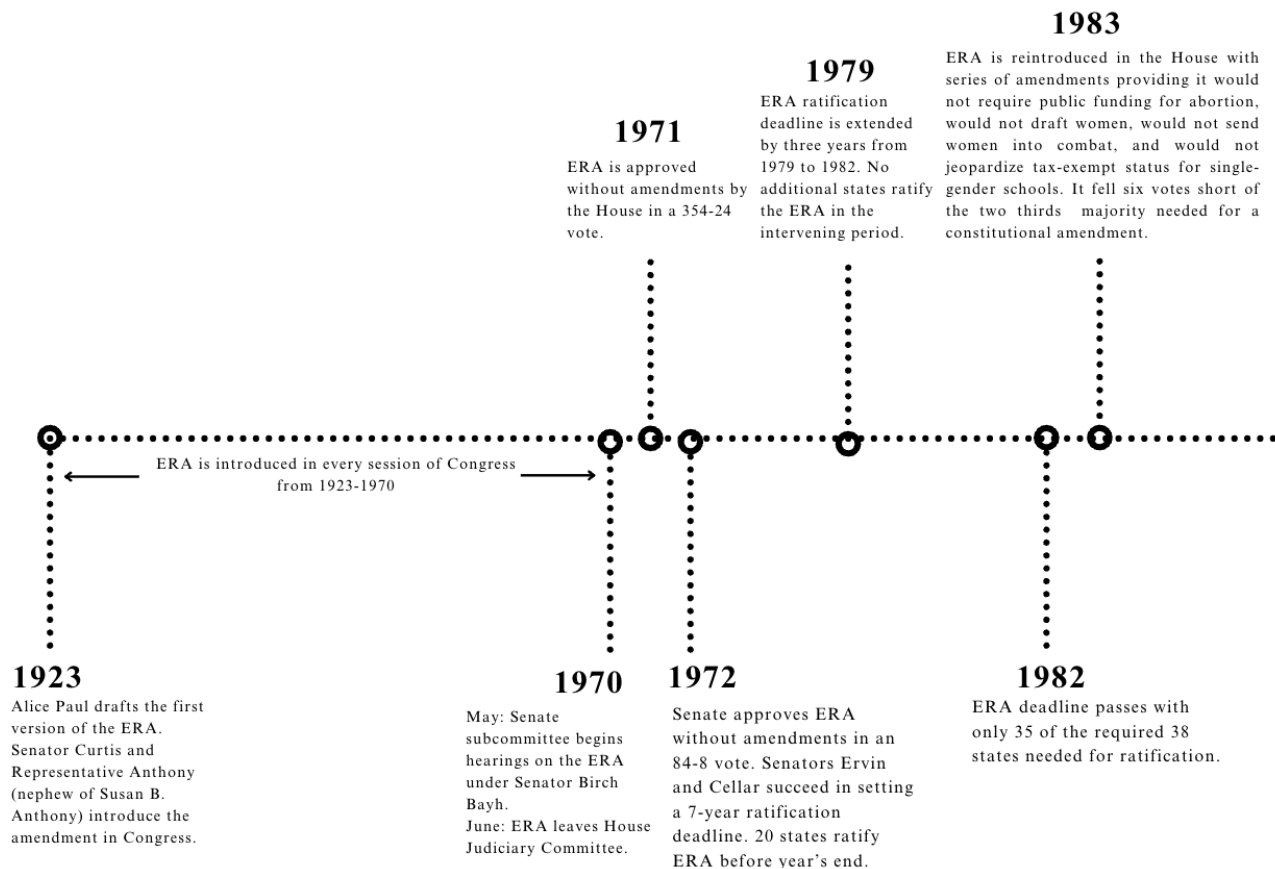
The Harvard Schlesinger Special Collections Library, a leading center for scholarship in the history of women, has a collection entitled "Alice Paul Papers," which "document[s] Paul's ongoing commitment to the Equal Rights Amendment."⁷ The Library of Congress also has digitized newspaper excerpts, speeches, and correspondence pertaining to Alice Paul. Chapter Two largely relies on these materials for evidence, in addition to some sources from the National Archives' "Remembering the Ladies" permanent exhibit in Washington, D.C.

⁷ "Alice Paul," Radcliffe Institute for Advanced Study at Harvard University, accessed October 10, 2024, <https://www.radcliffe.harvard.edu/schlesinger-library/collections/alice-paul>.

CHAPTER FOUR: THE ERA THROUGH TIME AND THEORY – ORIGINS AND EVOLUTION OF THE EQUAL RIGHTS AMENDMENT

The ERA was a pivotal, though controversial, amendment in the U.S. women's movement. A significant body of literature seeks to explain why women's movements were unable to secure its passage. This chapter traces the ERA's historical trajectory and explores scholarly debates on its failure.

Figure 4.1: Timeline of the ERA Ratification Process



Author generated

The first draft of the ERA, authored by Alice Paul and Crystal Eastman in 1923, read: “Men and women shall have equal rights throughout the United States and in every place subject to its jurisdiction.”¹ This bold statement, later amended to different wording, reflected Paul and Eastman’s vision for a constitutional guarantee of gender equality, a concept that had yet to gain widespread traction in the United States. While the ERA was revolutionary in its ambition, the decades leading up to its first Congressional hearings saw fragmented and incomplete advances in women’s rights.

While certain protections for women emerged through case law and statutory reform in the following years, these advancements lacked the comprehensive scope and permanence of a constitutional amendment. In fact, some of the first sex protections in U.S. law were essentially an accident. Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin, includes “sex” as a protected category only due to a last-minute tactical maneuver by Representative Howard Smith of Virginia. Smith, a segregationist, added “sex” in a bid to derail the bill’s passage, hoping conservatives in the North would oppose the addition and thus block the entire law.² Whitney explains legislators thought the inclusion of women’s rights would be so absurd that it would render the bill “such a joke it would fail.”³ The ERA thus stands as the first amendment with the express goal of enshrining women’s full equality in the law.

¹ “Alice Paul,” National Women’s History Museum, accessed November 13, 2024, <https://www.womenshistory.org/education-resources/biographies/alice-paul>.

² Gilbert Y. Steiner, *Constitutional Inequality: The Political Fortunes of the Equal Rights Amendment* (Washington, D.C: Brookings Institution, 1985).

³ Sharon Whitney, *The Equal Rights Amendment: The History and the Movement* (New York u.a: Franklin Watts, 1984).

Alice Paul and Early Advocacy for the ERA

While Alice Paul co-authored the first draft of the ERA in 1923, she had an established career within women's political movements long before then. In fact, it appears she considered the issue of women's equality as early as childhood. Born in 1885 to a highly respected Quaker family, Paul's religious upbringing informed much of her view on issues of women's suffrage and equality:

I never heard of the idea of anybody being *opposed* to the idea of equality... I remember my mother taking me to suffrage meetings held in the home of a Quaker family that lived not far from us. It was just – I just never thought about there being any problem about it. It was one thing that had to be *done*.⁴

It is also important to note Paul's socio-economic background, which was, arguably, one of aristocracy. Fry explains, "Her contact with other socio-economic classes was limited to the maids who worked for them... Her class consciousness is still something that one from a different generation senses now and then. While she always denied that the women's movement she has led has been made up primarily of the higher socio-economic classes, the actual proportion of upper-middle-class educated women who participated in successive phases of the campaign might be the subject of further research."⁵ These particular aspects of Paul's identity seem to have colored her political outlook and later approach to ERA campaigns. For instance, Fry explains:

When I was working for [Paul] in the ERA campaign, I would come in to report after lobbying on the Hill. Regarding a certain congressman, "What *is* he?" she would ask. Her question always baffled me. She meant, was his name Irish, Italian, or what? Alice was

⁴ Alice Paul, *Conversations with Alice Paul: Woman Suffrage and the Equal Rights Amendment*, accessed April 16, 2025, https://oac.cdlib.org/view?docId=kt6f59n89c&doc.view=entire_text.

⁵ "Conversations with Alice Paul: Woman Suffrage and the Equal Rights Amendment."

well aware of the strength of political ties between members of an ethnic group, particularly in the East.⁶

Paul attended Swarthmore College (which was co-founded by her grandfather) and graduated in 1905 with a degree in biology.⁷ Interestingly, when asked whether she ever intended to use her biology degree, Paul stated, “I never thought then about doing anything.” Fry clarifies, “You didn’t foresee a career for yourself then?” to which Paul replies, “If I did I don’t remember.”⁸ These insights contrast with other portrayals of Paul as perpetually ambitious and forward-thinking; despite her later reputation, Paul herself even recalled being directionless at one point. After graduating from college, she attended the New York School of Philanthropy (now Columbia University) and received a Master of Arts in sociology in 1907.⁹ She then went to England to study social work. During this period, Paul was heavily involved in suffrage movements abroad and later at home, where she co-founded the National Women’s Party in 1913, which campaigned for suffrage before transitioning to Equal Rights Amendment campaigns. After returning from England, Paul earned a PhD from the University of Pennsylvania in 1910.¹⁰ Her dissertation, “Towards Equality: A Study of the Legal Position of Women in the United States,” outlines some of her earliest arguments for women’s full legal equality.

⁶ “Conversations with Alice Paul: Woman Suffrage and the Equal Rights Amendment.”

⁷ “Alice Paul,” National Women’s History Museum, accessed November 13, 2024, <https://www.womenshistory.org/education-resources/biographies/alice-paul>.

⁸ “Conversations with Alice Paul: Woman Suffrage and the Equal Rights Amendment.”

⁹ “Alice Paul.”

¹⁰ “Alice Paul.”

Foundational Ideas of the ERA and Their Critiques

Paul's dissertation traces the advancement of women's legal position over time in the U.S. and ultimately concludes that "Very noticeable throughout this period has been the absence of any sweeping advances. Legislative and judicial bodies alike seem to have shrunk from expunging altogether the common law theory of the subjection of women."¹¹ Paul goes on to argue that:

Our nation started, therefore, as these pages have shown, with a system of jurisprudence in which the subjection of women was one of the cornerstones...women have arisen at last with the determination to wipe out altogether from our law the theory of sex inequality and, in place of the old theory, to write into the fundamental law of the land - into the national constitution, the principle of sex equality. *This is an attempt to remove women altogether out of the realm of abnormal legal beings for whom a special legal system must exist, and to establish one law for all adults, men and women alike.*¹²

Paul's claims, later represented in the language of her ERA, reflect a "sex-neutral" approach to anti-discrimination law. This neutrality approach essentially directs the government to "ignore sex" by prohibiting any action on account of sex.¹³ Some scholars critique this approach and believe the ERA's language would paradoxically lead to more discrimination against women. Cheng writes, "The concept of formal equality – a sex-blind or sex-neutral approach to decision-making employed by the courts – can often end up blocking efforts to improve conditions for those who need help the most."¹⁴ Forde-Mazrui explains, "Under the

¹¹ Alice Paul, "Towards Equality: A Study of the Legal Position of Women in the United States" (thesis, ProQuest, 1928), 684, <https://doi.org/10.57912/23835858.v1>.

¹² Paul, 682.

¹³ Kim Forde-Mazrui, "Why The Equal Rights Amendment Would Endanger Women's Equality: Lessons From Colorblind Constitutionalism," *Duke Journal of Constitutional Law & Public Policy* 16, no. 1 (March 22, 2021): 1.

¹⁴ "The ERA: A New Foundation for Equality in the United States," Harvard ALI Social Impact Review, accessed November 16, 2024, <https://www.sir.advancedleadership.harvard.edu/articles/era-a-new-foundation-for-equality-in-us>.

ERA, the Court would likely apply ‘strict scrutiny,’ which essentially amounts to a constitutional rule of ‘sex-blindness,’ prohibiting state-sponsored decisions that take account of sex even when designed to advance women’s equality and even when pursued through laws that employ sex-neutral means. Furthermore, the ERA would endanger single-sex settings, especially educational and extracurricular programs.”¹⁵

Similarly, MacKinnon explains, “On my analysis, even if sex was granted strict scrutiny – long the Holy Grail of constitutional sex equality litigation – this approach is not, has not been, and will not provide what women need.”¹⁶ In fact, MacKinnon takes a somewhat sociological perspective, arguing that “Rationality review with this content, at whatever level of scrutiny, inherently reflects the status quo because the operative meaning of ‘rational’ is ‘reflects sex as it is’ ...this approach does not grasp that reality may be systemically and systematically sex-biased. The ‘sex’ this method finds is sex inequality, but it is legally considered the sex difference, essentializing sex discrimination. On this logic, the more sex-unequal social reality is, the more sex-unequal law can be, and be considered equal, because the law reflects the reality.”¹⁷ Ford-Mazrui and MacKinnon’s critiques point to the possibility that frameworks like the ERA, intended to address sex inequality, may instead codify and reify existing biases under the guise of neutrality.

Moreover, in her critique of the neutrality approach in the context of Title VII, Yuracko argues:

¹⁵ Forde-Mazrui, “Why The Equal Rights Amendment Would Endanger Women’s Equality,” 1.

¹⁶ Catharine A. MacKinnon, “Toward a Renewed Equal Rights Amendment: Now More Than Ever,” in *Butterfly Politics* (Harvard University Press, 2017), 296, <https://doi.org/10.4159/9780674977761-028>.

¹⁷ MacKinnon, 296.

Discrimination rarely these days takes the form of a *per se* refusal to hire women (or men) because of their sex... The discrimination that remains is more subtle, nuanced, and often far less categorical. An employer may be perfectly willing to hire women or men but may simply refuse to hire women or men with particular traits... What is much less clear is how to treat discrimination by employers that affects only particular women (or men) rather than women (or men) as a group.¹⁸

Legal scholar Kimberlé Crenshaw makes a similar argument to Yuracko's in her article proposing a new wording of the ERA. She argues, "Sex discrimination is more often accomplished by omission of socially gendered experiences such as pregnancy or sexual assault than explicitly expressed in law."¹⁹ Thus, the ERA's focus on sex neutrality potentially ignores how race, class, and other intersecting identities can compound discrimination. For example, policies rooted in the ERA's framework might overlook how women of color, especially those in low-income communities, experience disparities in ways not captured by a purely sex-based analysis.

Underlying these critiques is the idea that discrimination is not always unidirectional, and the ERA's current language lacks the intersectional nuance needed to address this complexity. Without such an approach, anti-discrimination frameworks risk reinforcing the very systems of oppression they aim to dismantle. Originally coined by Crenshaw in 1989, intersectionality is "a metaphor for understanding the ways that multiple forms of inequality or disadvantage sometimes compound themselves and create obstacles that often are not understood among conventional ways of thinking."²⁰ Without accounting for intersectionality, then,

¹⁸ Kimberly A Yuracko, "Trait Discrimination as Sex Discrimination: An Argument Against Neutrality," 2004, 4.

¹⁹ Catherine MacKinnon and Kimberlé Crenshaw, "Reconstituting the Future: An Equality Amendment," *Yale L. J. F.* 129 (January 1, 2019): 349.

²⁰ Kimberle Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," 1989, 149.

anti-discrimination law can perpetuate juridical illegibility – how certain aspects of identity along which people experience oppression are made invisible with the law. “This focus on the most privileged group members marginalizes those who are multiply-burdened and obscures claims that cannot be understood as resulting from discrete sources of discrimination.”²¹

Considering these critiques, it is possible that the sex-neutral approach to women’s equality that Paul posits could perpetuate this same juridical illegibility. This thesis does not intend to evaluate the ERA’s legal impacts on women; however, these critiques are nonetheless important as enduring forces that animate the ERA movement. Using Carpenter’s framework, this thesis seeks to understand the productive aspects of the ERA movements that facilitated legislative advancements for women’s rights. Still, it is also important to critically assess how the legal developments these movements advocated for may have simultaneously reified certain systemic inequalities.

The ERA’s Goals

Interestingly, Paul seemed to have been less than methodical when she authored the ERA: “[on the original wording of the amendment] I said, ‘we will ask a good many lawyers to work on the form and so on, and the wording doesn’t make much difference if we agree on what we want.’”²² Paul’s approach is particularly ironic given that much of the subsequent legal debate surrounding the ERA has focused precisely on how its wording would be interpreted to help – or potentially hinder – women.²³ Whether Paul was concerned with the legal fine print remains unclear, leaving future scholars to grapple with the details she deemed secondary.

²¹ Crenshaw, 140.

²² “Conversations with Alice Paul: Woman Suffrage and the Equal Rights Amendment.”

²³ Catherine MacKinnon and Kimberlé Crenshaw, “Reconstituting the Future: An Equality Amendment,” *Yale L. J. F.* 129 (January 1, 2019): 343.

Moreover, Paul seemed to have a relatively limited view of the ERA's scope: "It is only a prohibition on the government of the country. An individual family, such as you and your husband, can have inequality... It is not interfering with any private business or anything except where the government has some regulation on the subject, *which I think is the right thing myself.*"²⁴ This perspective is particularly striking given that modern proponents of the ERA often highlight its potential to address issues beyond government action, including combating gender-based violence such as rape, sexual assault, and domestic violence. Additionally, Paul's interpretation is notable because it seems at odds with the more ambitious, transformative goals of the ERA outlined by her organization, the NWP, in their inaugural issue of the *Equal Rights* magazine.

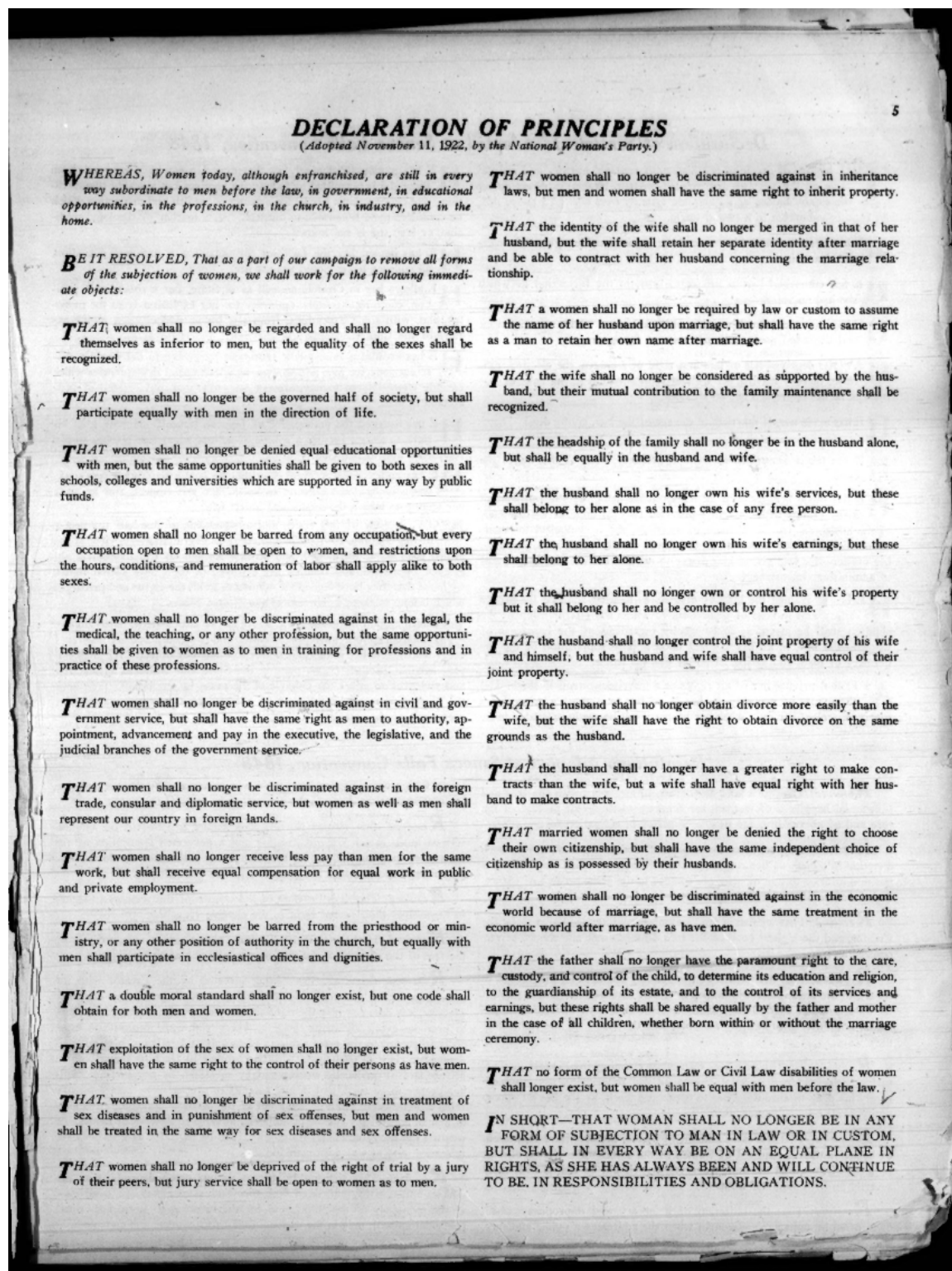
The NWP, which Alice Paul co-founded in the final years of the suffrage movement and ran for half a century, renamed this publication – originally titled *The Suffragist* – after their successful suffrage campaign when they shifted to championing broader equality through the ERA.²⁵ The rebranding to *Equal Rights* symbolized a pivotal shift in focus – from securing the vote to pursuing comprehensive gender equality through the ERA. The "Declaration of Principles" within the inaugural issue serves as a manifesto for this expanded vision, delineating the specific social and legal transformations an ERA would effect in women's lives. At a glance, these principles, spanning issues from inequality in the home to disparities in education, employment, and governance, outline a broad vision for dismantling entrenched inequities and achieving systemic gender equality across both private and public spheres.²⁶

²⁴ "Conversations with Alice Paul: Woman Suffrage and the Equal Rights Amendment."

²⁵ "Conversations with Alice Paul: Woman Suffrage and the Equal Rights Amendment."

²⁶ See principles like "the identity of the wife shall no longer be merged in that of her husband...", "exploitation of the sex of women shall no longer exist," and "a double moral standard shall no longer exist."

Figure 4.2: "Declaration of Principles" in *Equal Rights Magazine*²⁷



²⁷ *Equal Rights* 1923-02-17: Vol 1 Iss 1 (National Woman's Party, 1923), http://archive.org/details/per_equal-rights-magazine_equal-rights_1923-02-17_1_1.

Now We Can Begin: Crystal Eastman's Underappreciated Advocacy for the ERA

Crystal Eastman, a curiously overlooked but nonetheless invaluable figure in the ERA's history, was an American lawyer, socialist feminist, and preeminent advocate for many social movements in the early 20th century. She graduated from NYU Law School at the top of her class in 1907 and went on to become the “founding mother” of the ACLU.²⁸ As the co-founder and director of the American Union Against Militarism, Eastman proposed the idea to create the National Civil Liberties Bureau within the organization, which eventually became the ACLU. Eastman spent much of her early career dedicated to reforming workers' compensation laws. In fact, in 1909, the New York Governor Charles Evans Hughes appointed Eastman to New York's Employers' Liabilities Commission, where she served as the only woman out of fourteen members.²⁹ Eventually, she went on to draft the first New York workers' compensation law.³⁰

After moving to Wisconsin with her first husband, Eastman worked as a campaign manager for a state referendum on women's suffrage in 1912.³¹ When the men in the legislature ultimately voted the referendum down, Eastman was only more emboldened to continue the fight for suffrage and joined forces with Alice Paul, whom she met through a college classmate, to co-found the Congressional Union for Woman Suffrage.³² After the suffrage victory in 1920, Eastman and Paul co-authored the ERA.

²⁸ Susan N. Herman, “Crystal Eastman, the ACLU's Underappreciated Founding Mother | ACLU,” *American Civil Liberties Union* (blog), July 12, 2019, <https://www.aclu.org/news/free-speech/crystal-eastman-the-aclus-underappreciated-founding-mother>.

²⁹ Herman, “Crystal Eastman, the ACLU's Underappreciated Founding Mother | ACLU.”

³⁰ Herman.

³¹ Herman.

³² Herman.

Like Paul, after the Nineteenth Amendment's passage in 1920, Eastman viewed the suffrage victory as only the beginning of women's much longer fight for equal rights. However, Eastman contrasted (or perhaps complemented) Alice Paul's fierce, almost militant advocacy for the ERA. Unlike Paul, Eastman had the experience of balancing marriage, motherhood, and her career, realities that seem to have shaped her unique conception of the ERA. Eastman's vision for the ERA's scope and impact diverged from that of other suffragists and even Alice Paul. For example, many suffragists feared that demanding any more equality beyond women's suffrage would endanger hard-won protective labor laws. However, Eastman disagreed, positing "Genuinely protective legislation would probably be extended to include men and thus all elements of tyranny removed from it."³³ Moreover, as a socialist, she took a distinctly economic perspective on women's equality. In her speech after the Nineteenth Amendment's passage, entitled "Now We Can Begin," she asserted that fostering women's economic freedom is the first step to achieving their full equality:

Freedom of choice in occupation and individual economic independence for women: How shall we approach this next feminist objective? First, by breaking down all remaining barriers, actual as well as legal, which make it difficult for women to enter or succeed in the various professions, to go into and get on in business, to learn trades and practice them, to join trades unions. Chief among these remaining barriers is inequality in pay.³⁴

In addition to foregrounding equal pay as a central part of achieving women's equality, Eastman designates three additional components as vital to achieving gender equality: equal education,

³³ Julie C. Suk, "Working Mothers and the Postponement of Women's Rights from the Nineteenth Amendment to the Equal Rights Amendment," SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, November 13, 2020), 809, <https://doi.org/10.2139/ssrn.3730321>.

³⁴ Crystal Eastman, "'Now We Can Begin': What's Next?: Beyond Woman Suffrage," <http://womenshistory.info/now-can-begin-whats-next-beyond-woman-suffrage/>.<http://womenshistory.info/now-can-begin-whats-next-beyond-woman-suffrage/Eastman>.

voluntary motherhood, and most interestingly, a “motherhood endowment” to compensate women who choose to raise children as their primary occupation.³⁵

These goals that Eastman outlines stand in contrast to the comparatively narrower vision of the ERA that Alice Paul articulated – she believed the amendment would only function to prohibit discriminatory government action. Moreover, Paul’s oral historian, Amelia Fry, notes that Alice Paul deplored the welfare system – she almost certainly would have opposed Eastman’s motherhood endowment.³⁶ Although the literature offers little insight into the true nature of Paul and Eastman’s working relationship, their divergent visions for the ERA’s impact may help explain why Eastman fades from prominence in the amendment’s later history. Additionally, by the time the ERA was first introduced in Congress in 1923, Eastman was living in London with her English husband.³⁷ At the time, under the Citizenship and Nationality Law, women were legally required to renounce their citizenship if they married a foreigner.³⁸ With Eastman living overseas, she was most certainly physically – and potentially politically – distanced from the core ERA activists at the time. Her more progressive vision of the ERA, which was largely rooted in socialist ideals, may have diverged too sharply from the more formalist legal approach that Paul championed along with her NWP. Still, one wonders how the ERA’s legacy might have shifted had Eastman remained a central figure in the ERA’s advocacy. As the legal architect of the amendment, Eastman brought a level of legal precision and social

³⁵ Eastman’s arguments for a motherhood endowment prefigured the arguments that the Wages for Housework organization would eventually make in the 1970s when they located women’s unwaged domestic labor as the lynchpin of women’s inequality and called for their compensation.

³⁶ Alice Paul, *Conversations with Alice Paul: Woman Suffrage and the Equal Rights Amendment.*, accessed April 16, 2025, https://oac.cdlib.org/view?docId=kt6f59n89c&doc.view=entire_text.

³⁷ Julie Chi-hye Suk, *We the Women: The Unstoppable Mothers of the Equal Rights Amendment* (New York, NY: Skyhorse Publishing, 2020), 31.

³⁸ Suk, 31.

breadth that Paul evidently did not prioritize, and her continued involvement may have steered the ERA in a different, perhaps more expansive direction in its early legislative years.

Social Opposition to the ERA: Labor Unions and Phyllis Schlafly

Unlike opposition to the ERA in later years, early opposition to the ERA was not divided along party lines. In fact, the ERA faced the most opposition from labor movements on the political left, driven by concerns that the amendment would undermine protective labor laws for women. Many of these protections, such as limits on working hours and regulations on working conditions, were hard-won victories for working-class women – they viewed them as essential safeguards against exploitation in industrial and factory settings. For instance, labor organizer Melinda Scott of the United Textile Workers Union expressed skepticism toward the National Women’s Party, criticizing their detachment from working-class struggles. She remarked, “The middle- and upper-class National Women’s Party does not know what it is to work 10 or 12 hours a day in a factory; so they do not know what it means to lose an eight-hour-day or a nine-hour-day law. The working women do know.”³⁹

This tension reflected a class divide within the broader women’s movement. While feminists like Alice Paul championed the ERA as a pathway to universal equality, working-class women justifiably feared that its passage would erase the gender-specific protections they depended on. This opposition reflects a class-based tension within the women’s movement that persisted for the next fifty years and, arguably, continues to endure. The ERA continued to be

³⁹ Gilbert Y. Steiner, *Constitutional Inequality: The Political Fortunes of the Equal Rights Amendment* (Washington, D.C: Brookings Institution, 1985).

introduced in every session of Congress after its introduction; however, without working-class support, it lingered in procedural purgatory.⁴⁰

The most prominent figure in the opposition movement to the ERA was Phyllis Schlafly, a lawyer, author, and political activist whose anti-feminist rhetoric became a defining feature of the movement against the amendment. In a debate at Illinois State University in 1972 between Schlafly and Betty Friedan, a prominent feminist activist in the ERA movement, Friedan told Schlafly she was “a traitor of [her] sex.”⁴¹ Schlafly replied that Friedan and her colleagues were “intemperate” and “agitating.”⁴² This exchange is one of many that signify the relative animosity that animated both sides of the ERA debate. Ironically, the two women were not that different from one another. Schlafly’s professional achievements and public prominence sharply contrasted with the domestic ideals she championed. She even ran for Congress at one point, although she lost.⁴³ While advocating for traditional gender roles and the primacy of women’s responsibilities within the home, Schlafly simultaneously demonstrated the capacity for women to lead and succeed in professional and political arenas. In many ways, Schlafly’s life exemplified the very freedoms feminists sought to enshrine in the ERA.

Interestingly, Schlafly initially seemed rather indifferent to the ERA. She told her biographer, Carol Fesenthal, as of 1971, “I figured ERA was something between innocuous and

⁴⁰ This concern became largely moot when the government passed Title VII of the Civil Rights Act. Rather than eliminating labor protections for women, judges extended them to men. After this development, labor union support for the ERA mounted, though never entirely dissipated.

⁴¹ “Phyllis Schlafly’s Opposition to Equal Rights Amendment Feminism,” Bill of Rights Institute, accessed November 17, 2024, <https://billofrightsinstitute.org/essays/phyllis-schlafly-and-the-debate-over-the-equal-rights-amendment/>.

⁴² “Phyllis Schlafly’s Opposition to Equal Rights Amendment Feminism.”

⁴³ “Phyllis Schlafly’s Opposition to Equal Rights Amendment Feminism.”

mildly helpful.”⁴⁴ However, two years after the ERA’s first Senate hearing in 1970, Schlafly founded the STOP ERA campaign, a coalition of conservative and religious groups that mobilized grassroots opposition to the amendment. “STOP” stood for “Stop Taking Our Privileges.”⁴⁵ Her rhetoric painted the ERA as a threat to traditional family structures and gender roles, arguing that it would erase distinctions between men and women, force women into the workforce, and even undermine the sanctity of the home. These purported implications contrast with Alice Paul’s limited view of the amendment’s scope. As mentioned, Paul, too, did not think the ERA should (or would) encroach into the private sphere. Nevertheless, rather than a path to equality, Schlafly effectively positioned the ERA as a dangerous disruption to societal norms that had long provided stability and security for families. Miller explains, “Through letter-writing campaigns, phone calls, and media-savvy public activism, Schlafly’s supporters successfully slowed, stopped, and, in several cases, *reversed* the ERA’s momentum.”⁴⁶ By the time the ERA’s ratification deadline approached, only 35 of the required 38 states had ratified it, and the amendment failed to be adopted into the Constitution.⁴⁷

It is also important to note that the STOP ERA campaign was not necessarily opposed to women’s freedom. In fact, Miller argues that “the central tension in the ERA debate may not have arisen between feminists who favored freedom and antifeminists who did not. It may rather

⁴⁴ Carol Felsenthal, *Phyllis Schlafly; the Sweetheart of the Silent Majority*, English Language edition (Chicago: Regnery Gateway, 1982).

⁴⁵ “Phyllis Schlafly,” National Women’s History Museum, accessed November 17, 2024, <https://www.womenshistory.org/education-resources/biographies/phyllis-schlafly>.

⁴⁶ Eric C. Miller, “Phyllis Schlafly’s ‘Positive’ Freedom: Liberty, Liberation, and the Equal Rights Amendment,” *Rhetoric & Public Affairs* 18, no. 2 (2015): 277–300, 278.

⁴⁷ In 2017, 2018, and 2020, Nevada, Illinois, and Virginia all ratified the ERA, finally reaching the 38-state threshold. However, given that these states ratified decades after the deadline, it is unclear whether the amendment will actually be added to the Constitution.

have constituted a disagreement about what freedom means, or *which* freedom is most congruent with American identity.”⁴⁸ Using Isaiah Berlin’s positive-negative freedom formulation, Miller posits that Schlafly and STOP ERA advanced a positive conception of freedom, while ERA proponents advanced a negative conception.⁴⁹ While many of Schlafly’s arguments were based in self-mastery and the overcoming of desire, ERA proponents advanced arguments intent on removing restraints and opening new opportunities for women. Miller’s argument is one of several scholarly postmortems that attempt to determine precisely why the ERA failed.

The ERA’s Failure: Scholarly Perspectives

While some scholars posit the ERA as a failure, others argue the amendment still stimulated important strides in women’s equality despite its failure to pass. To examine this debate, I turn to the accounts of Jane Mansbridge, Mary Francis Berry, and Jo Freeman, three feminist scholars who provide distinct perspectives on the ERA’s success.

Mansbridge’s case study of Illinois’ ratification drive – the sole account of its kind – offers a compelling microcosm of the broader challenges the ERA movement faced. Illinois, a politically diverse state with both liberal urban centers and conservative rural areas, became a key battleground for ERA proponents and opponents alike. Despite its reputation as a progressive state, Illinois failed to ratify the amendment, largely due to effective grassroots opposition led by Phyllis Schlafly’s STOP ERA campaign. Mansbridge attributes the ERA’s failure to a combination of factors, including effective grassroots opposition led by Phyllis Schlafly, public misunderstanding of the amendment’s implications, and fragmented support

⁴⁸ Eric C. Miller, “Phyllis Schlafly’s ‘Positive’ Freedom: Liberty, Liberation, and the Equal Rights Amendment,” *Rhetoric & Public Affairs* 18, no. 2 (2015): 277–300, 280.

⁴⁹ A positive concept of freedom can be thought of as “freedom to,” whereas a negative concept of freedom may be understood as “freedom from.”

among feminist groups. She also highlights the challenges posed by insufficient grassroots mobilization, the rise of conservative political forces, and strategic framing that failed to resonate with broader audiences.

ERA supporters, by contrast, struggled to counter Schlafly's narrative. Grassroots mobilization was inconsistent, and feminist groups often lacked the resources to compete with Schlafly's media-savvy campaigns. Furthermore, ERA proponents' messaging sometimes alienated potential allies by focusing on middle-class, professional women's issues while neglecting the concerns of working-class communities.

Additionally, similar to aforementioned scholars like MacKinnon, Mansbridge also prefaces the book with skepticism of any sweeping changes an ERA would make: "If the ERA had been ratified, the Supreme Court would have been unlikely to use it to bring about major changes in the relations between American men and women, at least in the foreseeable future. Nor did the American public want any significant change in gender roles, whether at work, at home, or in society at large."⁵⁰ This skepticism about the ERA's potential impact, combined with structural barriers to constitutional change, underscores the broader challenges faced by its proponents – challenges that lawyer and historian Mary Frances Berry further explores in her account.

Berry posits that the Framers made the Constitutional amendment process so difficult that passing an amendment without national consensus is virtually impossible. The ERA did not have this consensus. By studying the behavior of ERA proponents and comparing it to that of participants in earlier ratification campaigns for controversial constitutional amendments,⁵¹ Berry

⁵⁰ Jane J. Mansbridge, *Why We Lost the ERA* (Chicago, IL: University of Chicago Press, 1986), 1, <https://press.uchicago.edu/ucp/books/book/chicago/W/bo5977742.html>.

⁵¹ Berry chose amendments "concerned with the status of blacks after the Civil War, the income tax, Prohibition, child labor and woman suffrage" as her points of reference.

argues ERA proponents “failed to convince a majority of women in enough states that ERA [was] essential to the implementation of their concerns about equal rights and to dispel their fears that ERA would make other changes in their lives that they did not desire.”⁵² In other words, voters were unconvinced there was an urgent problem that only the ERA could solve, and ERA proponents did not effectively counter the arguments advanced by Schlafly and STOP ERA. Berry writes, “ERA supporters need an effective public relations approach which can build a sense of necessity that the Constitution be perfected by including the principle of equality of rights for women as an essential component of republican government in a democratic society.”⁵³ Berry also identifies poor timing as another factor leading to the ERA’s failure. “Successful amendment-making on controversial issues took place during periods of reform and not during periods of reaction.”⁵⁴

Similarly, Jo Freeman states: “The timing couldn’t have been worse.”⁵⁵ Moreover, “The sixties saw a major transformation in American society, and like previous social reform movements, it stimulated a backlash. The initial focus of that backlash was on busing, but it quickly spread to encompass the new issues of feminism, abortion, and gay rights, all of which were interpreted as an attack on the family and the American way of life.”⁵⁶ Berry’s and Freeman’s analyses highlight the ERA’s failure as a convergence of structural challenges, strategic missteps, and sociopolitical backlash. Together, their arguments suggest that the ERA’s

⁵² Mary F. Berry, *Why Era Failed: Politics, Women’s Rights, and the Amending Process of the Constitution* (Bloomington: Indiana University Press, 1986).

⁵³ Berry.

⁵⁴ Berry.

⁵⁵ Jo Freeman, “Social Revolution and the Equal Rights Amendment,” accessed October 10, 2024, <https://www.jofreeman.com/feminism/socrevera.htm>.

⁵⁶ Freeman.

defeat was not merely a reflection of insufficient public support but a product of broader cultural and political dynamics that amplified resistance to feminist reform. This context underscores the importance of situating the ERA's failure within its historical moment, where shifting societal values and reactionary forces collided.

While much of the literature characterizes the ERA as a policy failure due to its inability to achieve ratification, this framing overlooks the broader impact of the movement on societal and legislative priorities. As Woody argues, "While political challengers do not have the influence to directly rework the systems, institutions, and social practices that result in outcomes that they deem unjust, they can impact the public meanings that govern common interpretations of the way things are and, most importantly, the way they might be changed for the better."⁵⁷ Viewed through this lens, the ERA's legacy may include significant, albeit less tangible, contributions to advancing women's equality.

Building on Woody's argument that movements can reshape public meanings and influence long-term political agendas despite short-term policy failures, both Freeman and Mansbridge highlight how the ERA campaign catalyzed women's political engagement and advanced legislative and legal reforms for gender equality. Mansbridge explains:

Although the ERA provoked little informed or subtle debate regarding its own impact, it did foster discussion of women's issues more generally. For ten years the ERA focused public attention on women's disadvantage in the workplace, the home, and the streets...When the ERA was in the newspaper, when a co-worker went to an ERA demonstration, or when advocates debated the ERA in the school gym, women who normally thought little about these issues seem to have begun to ask themselves about the amount of housework they were doing, about their pay, and about what kind of person they wanted to be.⁵⁸

⁵⁷ Woody.

⁵⁸ Mansbridge, *Why We Lost the ERA*, 188.

Despite its failure to pass, the ERA seems to have reframed societal understandings of gender equality and inspired ongoing advocacy for women's rights.

In a similar vein, Freeman argues that the ERA stimulated important developments in women's political participation and encouraged other legislation related to women's legal equality. For example, in her dissertation, Freeman explains that many women who participated in ERA advocacy campaigns went on to found other political organizations dedicated to lobbying specifically for women's legislation.⁵⁹ Moreover, to form national chapters of these organizations, women pulled from constituent lists accumulated during ERA campaigns to set up coordinators and support groups.⁶⁰ In addition to encouraging women's political participation that shifted legislative attention to women's issues, Freeman argues the ERA "stimulated major strides toward the legal equality that the ERA was originally written to achieve. Many state equal rights amendments were passed, discriminatory laws were changed, and the Supreme Court reinterpreted the basic premise against which laws affecting women were to be judged from one of protection to one of equal opportunity."⁶¹ Therefore, despite its failure to be ratified, Freeman posits that the ERA fostered political engagement among women and legal reforms that advanced the cause for women's equality.

⁵⁹ Jo Freeman, "The Politics of Women's Liberation: A Case Study of an Emerging Social Movement and Its Relation to the Policy Process." (Ph.D., United States -- Illinois, The University of Chicago), accessed October 13, 2024, <https://www.proquest.com/docview/302686646/citation/7B3B1D4604A344F1PQ/1>.

⁶⁰ "New Croup in Capital: Women's Lobby, Inc.," *The New York Times*, November 21, 1972, sec. Archives, <https://www.nytimes.com/1972/11/21/archives/new-group-in-capital-womens-lobby-inc.html>; FREEMAN, "The Politics of Women's Liberation."

⁶¹ Freeman, "Social Revolution and the Equal Rights Amendment."

Conclusion

While feminist legal scholars like Mansbridge, Freeman, and Berry each posit their own explanations for why the ERA failed to garner enough state support, all of their accounts overlook race and class. This absence is notable, given how the ERA has been critiqued by legal scholars for primarily reflecting the priorities of white, middle, and upper-class women at the expense of working-class, minority women. By failing to account for how the amendment resonated – or failed to resonate – across lines of race and socioeconomic status, these scholars paint an incomplete picture of the amendment’s legacy. The following chapter seeks to expand upon this scholarly conversation by examining how race and class shaped both arguments for and against the ERA, in an effort to better understand the amendment’s limited influence in shaping equal pay debates.

CHAPTER FIVE: RACE, CLASS, THE ERA, AND EQUAL PAY

As discussed in Chapter Two, Htun & Weldon's study demonstrates that the mobilization of feminist groups has a statistically significant influence on the passage of laws in international contexts. Moreover, they find that these groups are necessary conduits for translating global norms into actual legal and policy change at the domestic level. These results would suggest that ERA movements would have a similar effect on gender equality legislation in the U.S., like equal pay laws. However, an examination of speeches about equal pay in Congress reveals that the ERA was curiously absent from most equal pay conversations from 1962 to 1982. Out of 800 equal pay speeches, only 87 speeches (10.2%) mention the ERA. Of these 87 speeches, the vast majority only reference equal pay when a Congress member is pushing for the ERA. In other words, rather than the ERA influencing equal pay legislation, equal pay was more commonly referenced as a strategic argument to bolster support for the ERA. These results contradict the expectations put forth by scholars like Htun and Forrester, whose arguments would suggest that the ERA movement should have had a much larger influence on policy making. They also underscore an omission in ERA post-mortems and agenda-setting scholarship: the extent to which race and class function as moderating factors in the amendment's minimal influence.

The ERA's presence in legislative debates, even if largely confined to ERA advocacy, contributed to a broader rhetorical and ideological framework that reinforced pay equity and economic justice as an important dimension of gender equality. While its direct influence on policy making may have been limited, the ERA helped sustain and legitimize conversations about pay equality. However, the demands that these ERA groups were making when it came to pay equality mirror the less-than-class-conscious approach Alice Paul took in her drafting of the amendment. Just as her conception of an equality amendment was focused on middle-class and

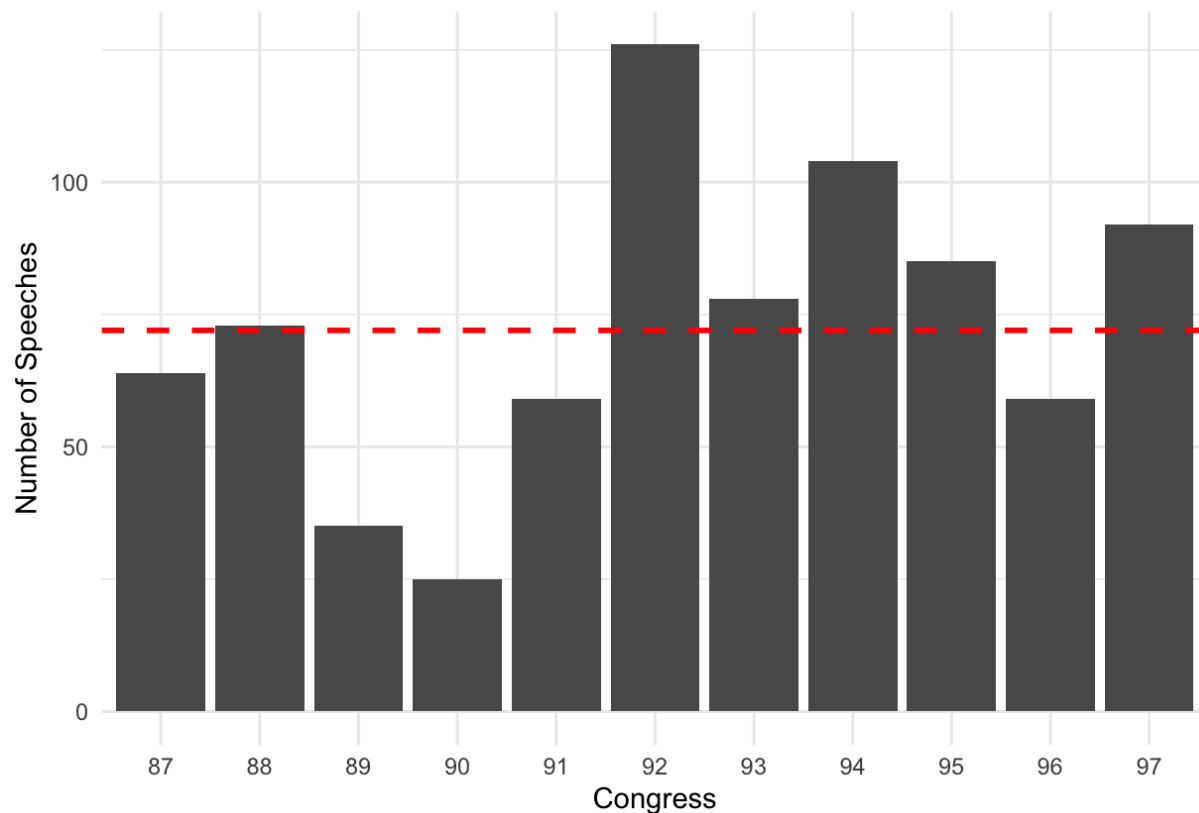
white women's concerns, so too were many of the conversations about the ERA and its potential impact on women's lives. Thus, these conversations, and the eventual legislation that followed, like the Lily Ledbetter Act, still reflect a vision of equality that is largely concerned with educated, upper-class White women. This chapter details the results of this thesis's analysis and attempts to answer the question: If feminist mobilization influences policy, why didn't the ERA movement significantly shape equal pay legislation?

The ERA's Limited Impact on Equal Pay

From 1962 to 1982, an average of 72 speeches talking about equal pay were made per session of Congress (Figure 5.1). The 92nd Congress (1971-1972) saw the most speeches (126) relating to workplace equality (Figure 5.1). This Congressional session was the same session in which the ERA's first hearings took place. However, out of the 800 speeches that were made talking about equal pay from 1962 to 1982, only 10.2%, or 87 speeches, mentioned the ERA.¹ If the ERA were to have had a dominant influence on equal pay legislation, as the literature might suggest, we would expect to see a much larger portion – or at the very least, a majority – of the equal pay speeches to be referencing the ERA. Moreover, a closer look at the 87 speeches that *do* mention the ERA reveals that the vast majority of them only reference equal pay when a Congress member is speaking in support of the ERA. In other words, rather than the ERA influencing equal pay legislation, equal pay was more commonly referenced as a strategic argument to bolster arguments for the ERA.

¹ “Congressional Record for the 43rd-114th Congresses: Parsed Speeches and Phrase Counts | Stanford Libraries Social Science Data Collection,” accessed March 30, 2025, https://data.stanford.edu/congress_text.

Figure 5.1: Number of Equal Pay Speeches by Congressional Session, 1962-1982²



Author generated in R

Despite the minority of ERA references in equal pay speeches, as ERA campaigns proliferated in Congress, it is clear that the continued issue of equal pay was a central justification in Congress members' speeches advocating for the passage of the ERA. In a corpus of all speeches in Congress about the ERA from 1962-1982, "equal pay" is the third most frequent two-word bigram that starts with "equal," occurring 157 times across 105 different speeches throughout the ERA corpus (Figure 5.2).

² "Congressional Record for the 43rd-114th Congresses." https://data.stanford.edu/congress_text.

Figure 5.2: Most Common Two-Word Bigrams in Congressional ERA Speeches from 1962-1982³



Author generated in AntConc

Therefore, even though the ERA may not have had a demonstrably dominant influence in equal pay debates, equal pay functioned as a key rhetorical tool in arguments for the amendment. These results signify an interesting tension between the ERA movement and equal pay conversations in Congress – on the one hand, equal pay seemed to be a central argument proponents used to justify the ERA’s necessity. And yet, equal pay discussions in Congress overall are largely independent of the ERA. It’s clear the ERA movement was talking about equal pay – so why didn’t the ERA movement shape equal pay legislation more significantly during that time? One potential hypothesis, which this chapter seeks to explain, is that ERA proponents focused on arguing that the amendment would help poor and minority women, despite its legislative history indicating it was not designed with them in mind in the first place. As a result, these arguments failed to resonate, and proponents struggled to counter opponents’

³ “Congressional Record for the 43rd-114th Congresses,” https://data.stanford.edu/congress_text

critiques that the ERA was primarily by and for professional White women, ultimately limiting the ERA movement's influence on equal pay legislation in Congress.

Speeches on Equal Pay Beyond the ERA

While this chapter's findings indicate that most equal pay speeches did not reference the ERA, it is important to first examine what arguments legislators were making instead. This section examines speeches about equal pay that do not mention the ERA, and highlights the rhetorical and ideological differences in how legislators justified equal pay and expanding equality in the workplace.

On May 23, 1963, Representative Matsunaga from Hawaii (who eventually became one of the state's Senators) urged his colleagues to vote in favor of the Equal Pay for Equal Work Bill:

I rise to urge a favorable vote on H.R. 6060 which has become known as the Equal Pay for Equal Work bill. There was a time when women were considered as mere chattels...The great economic advancement which our Nation enjoys today is partly due to the contributions made by women both in industry and research...one of our Nation's greatest resources is womanpower. If we are to maintain our leadership among the nations of the world in economics, science, industry, and social welfare, we must continue to utilize the talents and contributions of our female population...Women today are frequently pursuing professional and occupational careers as men are and are not infrequently breadwinners for their families. Women have long proven the importance of their role in our economy. They deserve equal pay for equal work.⁴

Interestingly, Matsunaga does not argue for equal pay on any symbolic grounds that women are inherently equal to men and deserve to be treated with dignity. Instead, he frames his argument in rather capitalist terms, asserting that women deserve equal pay because their contributions (particularly their participation in the workforce during WWI) have proven that they can make a valuable contribution to the U.S. economy. The stakes of denying women equal pay, according to

⁴ Representative Matsunaga, speaking on H.Res 6060, on May 23, 1963, 87th Cong., 2nd sess.

Matsunaga, are not centered on the fact that the U.S. risks further neglecting the economic security of half the population, but rather on the potential loss of the nation's industrial dominance. While it recognizes women's economic value, this approach effectively frames women's worth in terms of their economic utility. Moreover, Matsunaga exemplifies a rather common practice of making slavery the go-to metaphor for unfreedom in political thought in his comparison of women to "chattels." As Meyeri observes, "The African American quest for civil rights has become so deeply ingrained in American consciousness that it is the yardstick against which all other reform movements are measured."⁵ By invoking slavery without addressing the racial dimensions of women's economic inequality (his "chattel" metaphor is the only reference to race in his speech), Matsunaga seems to reinforce a broader pattern – evidenced in ERA speeches too – in which gender equality advocacy is often shaped around the experiences of white women.

Contrastingly, in a speech from June 9, 1971, Senator Harrison Williams (D) from New Jersey urged his colleagues to support S. 1861, a bill that would raise the minimum wage, extend the minimum wage and overtime protective provisions of the Fair Labor Standards Act to millions of workers, and amend the Fair Labor Standards Act to make its equal pay protections applicable to executive, administrative, and professional employees. His speech explicitly centers his arguments for equal pay legislation around race and class, while also calling attention to the inadequacy of current legislation on the books:

Job discrimination comes in many forms, and is directed against many different groups of Americans...There can be no question that there is widespread discrimination against women in hiring, promotion, and pay practices throughout this country... Under the existing legislation, the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964, one would hope that things were getting better for the woman worker.

⁵ Serena Meyeri, *Reasoning from Race Feminism, Law, and the Civil Rights Revolution* (Cambridge, Mass: Harvard University Press, 2011), 2.

However...the situation remains bleak for the working woman. Poverty increased in our Nation last year for the first time in a decade, by about 1.2 million persons, and the most heavily affected were families headed by women. Over half of these 1.2 million persons were members of families headed by women. About one-third of the total 432,000 were members of black families headed by the mother...It is time that we stopped thinking of males as the only breadwinners in this country. We must assure that women receive the same employment and promotional opportunities, and the same compensation, as men. As a matter of basic justice, equal pay protections must be extended.⁶

Unlike Matsunaga, Senator Williams highlights how the consequences of pay discrimination can impact multiple marginalized groups: women of color and poor women. Moreover, the express purpose of the legislation Williams is introducing is to *expand* protections to groups previously excluded from laws on the books. By acknowledging that certain categories of workers continue to be left out of previous workplace protections, Williams' legislation is necessarily critical. Unlike Matsunaga, who frames the need for equal pay in terms of women's economic utility, Williams seems to be making a more symbolic argument, urging his colleagues to realize that women can be "breadwinners," too.

Attempts to Link the ERA to Poor and Minority Women

Both proponents and opponents of the ERA often tailored their arguments to – or even largely focused them on – the ERA's potential impact on poor and working-class women. Proponents often cited statistics about the number of women living in poverty, the women's role in helping families get out of poverty, and wage gaps between men and women in service jobs. Such data often formed the basis of the arguments Congress members would use to make a case for why an ERA was so necessary to women.

For example, when the ERA was reintroduced in 1981 after its first deadline passed, Representative William J. Coyne, a Democrat from Pennsylvania's 14th District from

⁶ Senator Williams, speaking on S.Res 1861, on June 9, 1971, 92nd Cong., 1st sess.

1981-2003, explicitly described an economic impetus for its passage, and really only described the ERA's potential impacts on the lives of poor, working-class, and Black women:

Madam Speaker...In this round of the debate, I hope that proponents and opponents alike will concentrate on the real issue ERA addresses: economic discrimination on the basis of sex... We need a strong ERA to protect the rights of the millions of women in the workplace...It is frequently the wife's earnings which raise a family out of poverty. In husband-wife families in 1979, 14.8% lived in poverty when the wife did not work, compared to 3.8% when she participated in the labor force. Moreover, of all wives who worked in 1979, their median contribution was more than one-fourth of the total family's income. Among black families, the wife's contribution accounted for nearly a third of the family's total income.⁷

In fact, Coyne's speech does not simply provide an economic impetus for the ERA's passage – it frames it as a solution to poverty.

This argument seems like a far cry from the vision Alice Paul had for the amendment when she drafted it, whose contact with other socio-economic statuses was, according to her oral history, limited to the maids who worked for her. Given that Paul was primarily focused on formal legal parity, rather than economic justice, her legal approach seems largely indifferent to the material conditions that shaped women's lives – particularly for poor and working-class women. Coyne's framing of the ERA as a tool for women's economic justice, then, is a fundamental departure from Paul's original intent for the amendment. Moreover, his argument seems to graft the language of economic necessity onto an amendment that was never really designed to address such dimensions substantively. This perspective raises the critical question: Were ERA proponents like Coyne trying to fit a square peg into a round hole? If the ERA's historical trajectory never really seemed all that concerned with poor and working women's economic equality, it is perhaps unsurprising that attempts to link the amendment to women's class struggles never quite caught fire. That is not to say that proponents like Coyne were being

⁷ Representative Coyne, speaking on H.J.Res 208, on July 14, 1982, 97th Cong., 2nd sess.

disingenuous and didn't actually believe that the amendment could address such issues. However, even as proponents made impassioned arguments about the ERA's necessity for poor women, it seems unclear that the amendment had the specific language to actually deliver on those promises.

It is also important to note the context of *when* Coyne was making this speech, which is notably for the ERA's reintroduction after it fell three states short of the necessary ratification votes. This dynamic perhaps signals a strategic shift in ERA proponents' messaging. After all, in their first campaign, ERA proponents seemed to emphasize the amendment's social impact to a fault, allowing opponents like Phyllis Schlafly to capitalize on widespread anxieties about the ERA's potential effects on traditional gender roles, family structures, and women's obligations in the home. In their second attempt, legislators appear to have been more careful to avoid the amendment's purported social impact that Schlafly's counter-movement propagated, instead reframing it as a necessary response to the realities of working women in the 1980s. In doing so, Coyne and his colleagues align the ERA with a broader legislative agenda focused on economic security, and make the case that without a constitutional provision, women's financial vulnerability – and their consequent inequality – will remain entrenched. However, it is clear that senators were making the case for an ERA economic necessity for poor and Black women before the ERA's reintroduction as well. On March 22, 1972, Senator (and former Vice President) Hubert Humphrey proclaimed:

This afternoon, after 48 long years, we have the opportunity to guarantee their equal protection under the law by voting on final passage of the equal rights amendment. The case for the amendment has been made clear...The great problem of women in America is a problem of access, alternatives, and opportunity. Women must receive equal pay for equal work. Women must have equal access to leadership positions in business and government. And millions of women particularly minority women must be provided with adequate job training so that their opportunities range far beyond domestic employment

which often means dead end jobs at the poverty level. It is not enough that we talk of the Nations “manpower” needs, we need womanpower as well.⁸

Like Coyne, Humphrey partly frames his argument in terms of the ERA’s benefit on minority women and its potential to afford them opportunities that could lift them out of poverty. Humphrey was a champion of civil rights throughout his career. In his well-known 1948 address to the Democratic National Convention, he urged Democrats to “get out of the shadow of states’ rights and walk forthrightly into the bright sunshine of human rights.”⁹ He was also the primary author of the Civil Rights Act of 1964. Thus, his inclusion of minority women in his argument was perhaps an attempt to connect the ERA to civil rights and the particular impact an equality amendment would have on Black women. Yet, even as ERA supporters invoked the struggles of poor and minority women, their arguments seem to lack a clear explanation of *how* the ERA would provide solutions. Humphrey’s suggestion of job training to open up higher-paying jobs for minority women almost aligns more with Great Society-era policies than the ERA’s own language.

While these arguments were almost certainly sincere, they underscore a tension between the ERA’s intended purpose as Paul conceived it and the 1970s to early 1980s framings proponents used. Just as the Nineteenth Amendment removed legal barriers to voting but did little to address the systemic disenfranchisement of Black women, it is possible that the ERA’s promise of legal equality may not address the structural economic inequalities that senators point to that disproportionately impact poor and minority women. After all, when women won the vote in 1920, Black women didn’t truly gain any substantive enfranchisement until the 1960s. Humphrey’s rhetoric, like Coyne’s nearly a decade later, perhaps reflects an attempt to retrofit

⁸ Senator Humphrey, speaking on S.J.Res 150, on March 22, 1972, 92nd Cong., 2nd sess.

⁹ Hubert Humphrey, *Hubert Humphrey’s Speech on Civil Rights at the Democratic National Convention*, 1948, <http://www2.mnhs.org/library/findaids/00442/pdfa/00442-00187.pdf>.

the ERA to concerns – and particular groups of women – that it was never really intended to address. Opponents of the amendment articulated this issue and ultimately argued the ERA was an amendment by and for professional White women.

Race and Class in ERA Opposition

ERA proponents were not the only ones who invoked the particular plight of poor, working-class, and minority women in their arguments for the ERA. Opponents strategically invoked Black and poor women to argue against the amendment, framing it as irrelevant or potentially harmful to their interests. In 1972, Myra Wolfgang testified before the Senate in strong opposition to the ERA. Wolfgang, a Canadian-born American labor leader who grew up in Detroit, was forced to drop out of college when the Great Depression hit to work to help her family.¹⁰ She started as the office manager of the Detroit office of the Hotel, Motel, and Restaurant Employees Union, which was the beginning of a long career in labor unions.¹¹ Wolfgang went on to organize strikes and sit-ins for minimum wage laws, particularly for jobs that disproportionately employed women.

Among her notable career accomplishments is her organization of the 1937 Woolworth's pink collar sit-in strike when she was only 23 years old.¹² Over 180 women walked into a Woolworth's five-and-dime store and declared an eight-day sit-in strike, demanding union

¹⁰ “Myra Wolfgang,” Jewish Women’s Archive, accessed March 15, 2025, <https://jwa.org/encyclopedia/article/wolfgang-myra>

¹¹ “Myra Wolfgang.”

¹² “Labor Activist Myra Wolfgang Organizes Detroit Woolworth’s Sit-down Strike,” Jewish Women’s Archive, accessed March 15, 2025, <https://jwa.org/thisweek/feb/27/1937/labor-activist-myra-wolfgang-organizes-detroit-woolworths-sit-down-strike>.

recognition, a 10-cent per hour raise to their 25-cent rate, an eight-hour work day, and more.¹³ The Woolworths strike women won their entire list of demands, and their protest inspired several copycat strikes across the country.¹⁴ Additionally, in 1964, Wolfgang sent her 17-year-old daughter undercover to work at the Playboy club in Detroit and eventually negotiated with Hugh Hefner for fairer working conditions for Bunnies at the club.¹⁵ Wolfgang was also instrumental in passing Michigan's 1966 minimum wage law, which raised the minimum wage to \$1 an hour.¹⁶ Finally, following her testimony in Congress, Wolfgang went on to co-found the Coalition of Labor Union Women, whose first meeting was attended by over 3,000 women from over 80 different unions. The coalition's goal was to "train and empower women to take leadership roles in their unions."¹⁷ Thus, Wolfgang was far from the archetypical ERA opponent who sought to confine women to the domestic sphere à la Phyllis Schlafly.

Wolfgang had a long, proven track record of advocating for women in the workplace. She was also an active member of the NAACP and "insisted on a racially integrated workforce within her union, refusing requests for 'black waiters only, white gloves required.'"¹⁸ That someone with such a deep commitment to women's economic advancement and racial equality was skeptical of the ERA speaks to the complexity of this debate and the real anxieties labor leaders felt about its potential consequences on particular groups of women. In her testimony to

¹³ "Labor Activist Myra Wolfgang Organizes Detroit Woolworth's Sit-down Strike."

¹⁴ "Labor Activist Myra Wolfgang Organizes Detroit Woolworth's Sit-down Strike."

¹⁵ "Myra Wolfgang."

¹⁶ "Labor Activist Myra Wolfgang Organizes Detroit Woolworth's Sit-down Strike."

¹⁷ "Myra Wolfgang."

¹⁸ "Myra Wolfgang."

the Senate, Wolfgang argued that the ERA was an amendment made for and by professional upper-class White women. She explained:

Feminists, assuredly, do not represent the majority of women and do not correctly relate their needs and feelings. For the most part, women who join “liberation groups” are white, middle class and college-oriented... Working women, like the mothers of young children, are too busy to be liberated. The National Organization of Women (N.O.W.) one of the most vocal supporters of the Equal Rights Amendment, claim to have about 3,000 members. They speak of the discontent of wives and mothers. They speak for a small minority when they urge passage of the Equal Rights Amendment. They do not speak for Mary Dennison of the Congress of Racial Equality who is quoted as saying “The Women’s Liberation Movement is a luxury that only bored white women can afford”...The plight of the black woman forced to leave her children untended as she goes off to clean the home of the rich women is unbridgeable. Both, may be wives and mothers, both are women, but they have little in common to cause them to be of one opinion.¹⁹

Wolfgang powerfully highlights the class (and racial) divide that characterizes the ERA debate. Her testimony is all the more powerful knowing that Wolfgang dedicated her career to helping women in the workplace. In a New York Times article, the author noted how Wolfgang’s opposition testimony contrasted with that of Senator Ervin, the presiding chairman of the Judiciary Committee at the time.

In the packed committee hearing room, it is almost possible to hear the amendment’s advocates grind their teeth in anger and frustration as [Senator Ervin] takes off on one of his oratorical flights concerning the ‘good Lord’s plan’ that men and women should be different...However, not everyone who opposes the amendment holds to the Senator’s view that, even today, the place of most women is in the home... perhaps the most forceful of the opposition week’s witnesses – Myra Wolfgang...is no ‘pussycat’ embracing the idea that domination by males is her natural and happy fate.”²⁰

In addition to disrupting the prevailing narrative that ERA opposition was largely the domain of conservatives like Senator Ervin, who believed women’s sole role was to be a homemaker,

¹⁹ Myra Wolfgang, speaking on S.J. Res 150, March 21, 1972, 92nd Cong., 2nd sess.

²⁰ “Equal Rights: Who Is Against It And Why,” *The New York Times*, September 13, 1970.

Wolfgang opposes the ERA precisely because it fails to address, and perhaps even jeopardizes, the material conditions of working-class women. Her stark depiction of the “black woman forced to leave her children untended as she goes off to clean the home of the rich women” problematizes ERA proponents’ arguments, like those of Coyne and Humphrey, that attempt to link the ERA to poor and minority women without fully explaining the substantive justice the amendment would provide for those groups. Wolfgang thus aptly pointed to a tension that perhaps proponents were never quite able to reconcile. As much as Congress members like Coyne and Humphrey tried to argue the ERA would help working women, questions remained unanswered. In his 1970 speech, Senator Samuel Ervin, a Southern Democrat from North Carolina, expressed particular skepticism as to how the ERA would help these groups of women:

Does the Equal Rights Amendment create new rights for women? Here is the answer: No. it does not. In fact, the Amendment does not require equal pay for equal work. Does not require the promotion of women to better or “decisionmaking” jobs. Does not provide free 24-hour community-controlled children’s daycare centers for working mothers...Does not convince men they should help with the housework. And, furthermore, does not put a woman astronaut into space!²¹

Admittedly, Senator Ervin was a lifelong opponent of civil rights and a contributing author to the Southern Manifesto of 1956, which “called for grassroots resistance to court-ordered school desegregation.”²² Given his political ideology, it is unlikely his concerns are actually in the best interest of Black women. His opposition, however, though deeply rooted in racism, does not necessarily mean the constitutional challenges he raises should be outright dismissed. After all, Senator Ervin was “considered by his colleagues to be one of the Senate’s foremost

²¹ Senator Ervin, speaking on S.J. Res 61, October 8, 1970, 91st Cong., 2nd sess.

²² “U.S. Senate: Sam Ervin: A Featured Biography,” accessed March 16, 2025, https://www.senate.gov/senators/FeaturedBios/Featured_Bio_ErvinSam.htm.

constitutional experts,” and his questions are nonetheless questions proponents needed to address in defense of the ERA.²³

However, it seems that most ERA proponents were never fully able to clarify how the amendment would practically help working-class women and guarantee claims like Humphrey’s that argued it would provide better job training, open up leadership positions, or even guarantee equal pay. In her post-mortem, Mansbridge acknowledges this failure as one of many explanations for why the ERA ultimately did not pass:

Anyone who read the Amendment carefully could see what the problem was with regard to women’s job prospects or pay. The ERA would have kept the United States or any state from legally denying or abridging “equality of rights *under the law*” (my emphasis). The *law* however, was already almost gender blind in its treatment of workers in 1972. In order to help women workers, the ERA would have had to do more than just make the law gender blind. It would have had to forbid discrimination by *private organizations* and individuals. This it did not do.²⁴

Thus, it is apparent that ERA proponents struggled to answer Wolfgang’s concerns and overcome the dominant conception that the ERA was primarily an amendment for professional White women.²⁵ That is not to say that their arguments for the ERA’s impact on poor minority women were disingenuous – it is very plausible that ERA proponents wanted to make a case for the amendment’s potential impact on underprivileged groups of women who likely needed robust legal protection the most. However, the difficulty of making these arguments seems to stem from

²³ “U.S. Senate: Sam Ervin: A Featured Biography,” accessed March 16, 2025, https://www.senate.gov/senators/FeaturedBios/Featured_Bio_ErvinSam.htm.

²⁴ Jane J. Mansbridge, *Why We Lost the ERA* (Chicago, IL: University of Chicago Press, 1986), 36, <https://press.uchicago.edu/ucp/books/book/chicago/W/bo5977742.html>.

²⁵ In reality, as Mansbridge also explains in *Why We Lost the ERA*, many of the protective labor laws Wolfgang was concerned that the ERA would invalidate were already invalidated by the 1963 Equal Pay Act and Title VII of the Civil Rights Act. This legislation invalidated laws that instituted higher minimum wages for women and limited the number of hours they could work. The U.S. Department of Labor and Equal Employment Opportunity Commission ruled that if states continued to enforce these laws their privileges would need to be extended to men, too.

the fact that the amendment was decidedly not authored to address such concerns. As a result, proponents' arguments never quite resonated, which helps to explain why the ERA did not have a larger influence in discussions about equal pay in Congress. The challenge was not a lack of sincerity but rather a fundamental incongruity between the amendment's original intent and the concerns of poor and minority women that proponents focused on.

Consequently, arguments for the ERA's economic necessity to working-class women remained largely unconvincing in legislative debates of the time, while arguments against the amendment that pointed out this discrepancy helped mount an ultimately successful counterattack. In a 1982 *Washington Post* article titled "Schlafly's Gala Goodbye to ERA," which reported on the celebration gala Schlafly threw when the ERA's ratification deadline passed, Richard Viguerie, a conservative political figure, proclaimed, "We've just witnessed a classic confrontation between the power elite and the people – and the people have won," reinforcing the narrative that the ERA was an elitist amendment.²⁶

Pauli Murray's Equal Rights Amendment

While many ERA proponents invoked the particular needs of working-class non-white women, few could articulate how the amendment could practically help them. However, Pauli Murray, a somewhat underappreciated and unknown advocate for the ERA, stood apart.²⁷ As a Black woman and legal scholar who coined the term "Jane Crow," Murray was uniquely situated to understand how the ERA could help these groups of women. Murray attended Howard

²⁶ Elisabeth Bumiller, "Schlafly's Gala Goodbye to ERA," *The Washington Post*, July 1, 1982, <https://www.washingtonpost.com/archive/lifestyle/1982/07/01/schlaflys-gala-goodbye-to-era/511e3e69-fe30-475e-b133-97ad78a9a008/>.

²⁷ Kathryn Schulz, "The Civil-Rights Luminary You've Never Heard Of," *The New Yorker*, April 10, 2017, <https://www.newyorker.com/magazine/2017/04/17/the-many-lives-of-pauli-murray>.

University, where she graduated cum laude and received a fellowship to study law at Harvard Law School.²⁸ However, when she applied, Professor T.R. Powell, the Chairman of the Committee of Graduate Studies at the time, wrote back denying her admission.²⁹ He stated: “The picture and the salutation on your college transcript indicate that you are not of the sex entitled to be admitted to Harvard.”³⁰ Instead, Murray had to travel across the country to attend UC Berkeley law school, where travel costs, out-of-state tuition fees, and unanticipated expenses depleted her fellowship, forcing her to work part-time as a waitress while in school.³¹ These extra costs ultimately delayed her legal education by over 20 years, when she was finally able to complete her doctorate requirements at Yale, becoming the first Black person in the university’s history to earn a J.S.D.³²

Murray went on to become a civil rights lawyer, legal scholar, and co-founder of the National Organization for Women (along with Betty Friedan).³³ President John F. Kennedy also appointed her to the Committee on Civil and Political Rights as a part of his Presidential Commission on the Status of Women.³⁴ Her final law school paper, which argued segregation

²⁸ “Equal Rights 1970: Hearings on S.J. Res. 61 and S.J. Res. 231,” 1970, [https://congressional-proquest-com.revproxy.brown.edu/congressional/result/congressional/pdfViewer?pvId=/congressional/result/pqpresultpage.gispdfhitspanel.pdflink/\\$2fapp-bin\\$2fgis-hearing\\$2fc\\$2f8\\$2f8\\$2f1\\$2fhr-1970-sjs-0046_0009_from_401_to_435.pdf/entitlementkeys=1234%7Capp-gis%7Chearing%7Chrg-1970-sjs-0046](https://congressional-proquest-com.revproxy.brown.edu/congressional/result/congressional/pdfViewer?pvId=/congressional/result/pqpresultpage.gispdfhitspanel.pdflink/$2fapp-bin$2fgis-hearing$2fc$2f8$2f8$2f1$2fhr-1970-sjs-0046_0009_from_401_to_435.pdf/entitlementkeys=1234%7Capp-gis%7Chearing%7Chrg-1970-sjs-0046).

²⁹ “Equal Rights 1970: Hearings on S.J. Res. 61 and S.J. Res. 231.”

³⁰ “Equal Rights 1970: Hearings on S.J. Res. 61 and S.J. Res. 231.”

³¹ “Equal Rights 1970: Hearings on S.J. Res. 61 and S.J. Res. 231.”

³² “Equal Rights 1970: Hearings on S.J. Res. 61 and S.J. Res. 231.”

³³ “Who Is Pauli Murray?,” Pauli Murray Center, accessed April 1, 2025, <https://www.paulimurraycenter.com/who-is-pauli>

³⁴ “Who Is Pauli Murray?”

violated the Thirteenth and Fourteenth Amendments, inspired some of the legal arguments of the team that won *Brown v. Board of Education*.³⁵ Moreover, Justice Ruth Bader Ginsburg cited Murray's law review article in her arguments to the Supreme Court, which detailed why the Equal Protection Clause of the Fourteenth Amendment should apply to women.³⁶ Thus, when Murray testified before the Senate Judiciary Committee in support of the ERA in 1970, it was not the first time she used constitutional arguments to advance civil rights and gender equality. She asserted:

As a constitutional lawyer, a woman, and a Negro I can say with conviction that Negro women as a group have the most to gain from the adoption of the Equal Rights Amendment...the Negro woman has suffered more than the mere addition of sex discrimination to race discrimination. She has suffered the *conjunction* of these twin immoralities which produced an aggravated condition of degraded status from which she has not yet recovered...I have experienced numerous delays in my career, not for the traditional reasons given for the failure of women to develop on par with men in our society (marriage, childrearing, etc.), but by a combination of individual and institutional racism and sexism – Jim Crow and Jane Crow.³⁷

Murray is unique among ERA proponents who directly connect the ERA with the particular experiences of non-white, lower-class women, because she *is* one of those women. Unlike White legislators like Coyne or Humphrey, Murray explains:

The road over which I have travelled is the experience of most Negro women in America. Born in genteel poverty, I have shared the experience of domestic workers, service workers, lower paid clerical workers, social investigators in the Department of Welfare in New York City and, as a former Consultant to the Equal Employment Opportunity

³⁵ Kathryn Schulz, "The Civil-Rights Luminary You've Never Heard Of," *The New Yorker*, April 10, 2017, <https://www.newyorker.com/magazine/2017/04/17/the-many-lives-of-pauli-murray>.

³⁶ Schulz, "The Civil-Rights Luminary You've Never Heard Of."

³⁷ "Equal Rights 1970: Hearings on S.J. Res. 61 and S.J. Res. 231," 1970, [https://congressional-proquest-com.revproxy.brown.edu/congressional/result/congressional/pdfViewer?pv id=/congressional/result/pqpresultpage.gispdfhitspanel.pdflink/\\$2fapp-bin\\$2fgis-hearing\\$2fc\\$2f8\\$2f8\\$2f1\\$2fhr-1970-sjs-0046_0009_from_401_to_435.pdf/entitlementkeys=1234%7Capp-gis%7Chearing%7Chrg-1970-sjs-0046](https://congressional-proquest-com.revproxy.brown.edu/congressional/result/congressional/pdfViewer?pv id=/congressional/result/pqpresultpage.gispdfhitspanel.pdflink/$2fapp-bin$2fgis-hearing$2fc$2f8$2f8$2f1$2fhr-1970-sjs-0046_0009_from_401_to_435.pdf/entitlementkeys=1234%7Capp-gis%7Chearing%7Chrg-1970-sjs-0046).

Commission, have intimate knowledge of the problems of race and sex discrimination, particularly in employment opportunity.³⁸

By centering her pro-ERA arguments around her own lived experience, Murray imbued her advocacy with a depth and urgency that many of her contemporaries lacked. Moreover, Murray's testimony complicates the critiques of labor leaders like Myra Wolfgang. The economic data on non-white women's labor participation that she cites indicates ERA opponents' arguments were somewhat disingenuous:

In June 1969, 44 percent of working nonwhite women (93 percent of whom are Negroes) were private household workers or service workers outside of the home. In 1967, the median wage of female year-round full-time private household workers, about half (47%) of whom were nonwhite, was \$1,298. These workers are wholly excluded from the state "protective" labor laws as well as from the Federal Labor Standard Act. So the controversy over the state protective labor legislation applicable to women only has little meaning for a large sector of the Negro female working population.³⁹

Murray was referencing the arguments of ERA opponents like Myra Wolfgang, who were concerned that the amendment would repeal important labor protections like minimum wage laws and limits on working hours. While it is likely not reasonable to say these opponents did not care at *all* for working-class concerns, it is clear that they were not considering a large portion of non-white women in their arguments.

In the final portion of her speech, Murray reminds her colleagues that it is up to them to make meaning of the ERA and decide the type of world they want to inhabit:

Finally, I appeal to this Committee and to the United States Senate to use the uniquely human gift of vision and imagination in a creative approach to the Equal Rights Amendment...Women may well hold the key to the reconciliation of the races, the generations and the social and economic classes. The adoption of the Equal Rights Amendment and its ratification by the several States could well usher in an

³⁸ "Equal Rights 1970: Hearings on S.J. Res. 61 and S.J. Res. 231."

³⁹ "Equal Rights 1970: Hearings on S.J. Res. 61 and S.J. Res. 231."

unprecedented Golden Age of human relations in our national life and help our country to become an example of the practical ideal that the sole purpose of governments is to create the conditions under which the uniqueness of each individual is cherished and is encouraged to fulfill his or her highest creative potential.⁴⁰

Murray's closing statement prefigures many of the 21st-century arguments ERA proponents make today. Her arguments are a reminder that the law is, ultimately, what legislators make of it and how the courts choose to enforce it. For example, Crystal Eastman believed that instead of invalidating any important labor protections for women, the ERA would simply empower the courts to extend those same protections to men.⁴¹ Murray's testimony is proof that, while the ERA movement was largely dominated by the concerns of professional white women, there were still Black women in the seventies making a case for the ERA and trying to link it to the experiences of working-class and minority women. Had Murray been more than one of just a few Black women trying to make these arguments, perhaps the ERA might have found wider support.

A Professional-Class Vision of Equality

Despite its largely absent role in equal pay discussions from 1962 to 1982, it is still possible that these discussions about the ERA's potential impact on women's economic advancement contributed to a broader rhetorical and ideological framework that reinforced pay equity and economic justice as an important dimension of gender equality. However, given that the economic issues the ERA would address largely pertained to and benefited middle and upper-class professional White women, its broader legacy in terms of ensuring that equal pay remained a salient issue in the evolving landscape of gender rights legislation was largely confined to the concerns of professional women, too.

⁴⁰ "Equal Rights 1970: Hearings on S.J. Res. 61 and S.J. Res. 231."

⁴¹ Julie Chi-hye Suk, *We the Women: The Unstoppable Mothers of the Equal Rights Amendment* (New York, NY: Skyhorse Publishing, 2020), 29.

Interestingly, several speeches that discuss equal pay and the ERA call attention to the inadequacy of current equal pay and equal employment legislation, like the Equal Pay Act and Title VII, in their arguments justifying the ERA. This dynamic perhaps created a sort of feedback loop that consequently reinforced the urgency of addressing pay inequality and solidified its importance as a legislative priority. However, it seems this feedback loop largely remained within the realm of professional women's concerns, highlighting the limitations of existing legislation in white-collar fields. In the same speech given by Senator Coyne, he argues:

We cannot rely on a hodgepodge of various State ERAs.. to remedy the economic injustice that is truly national in scope...Those state amendments would not address the federal problems I outlined earlier. Nor does federal legislation such as the Equal Pay Act and Title VII of the Civil Rights Act of 1964, and Executive Order No. 11246, which deals with federal contract compliance, cover employees of the U.S. Congress or of elected officials employees which certainly deserve the full protection of civil rights guarantees. We need ERA. It is a basic economic issue that relates to women's jobs, pensions, wages, social security, education, and many other areas.⁴²

On the one hand, as quotes from speeches like Coyne's were printed in newspapers, discussed in legislative hearings, cited in advocacy materials, and echoed in public debates, the content of these speeches could have helped shape a political and social milieu that legitimized and reinforced the equal-pay-for-equal-work doctrine. As future generations of policymakers were raised, educated, and built their careers in such an environment, many may have internalized these priorities to the point where this dynamic ultimately paved the way for modern equal pay legislation. On the other hand, while Coyne is right to highlight the limitations of the United States' two most landmark pieces of equal pay legislation, the particular inadequacy he is highlighting – that employees of Congress or elected officials are not covered under these laws – is likely not a concern for most poor and minority women. In 1981, when Senator Coyne gave

⁴² Representative Coyne, speaking on H.J.Res 208, on July 14, 1982, 97th Cong., 2nd sess.

his speech, only 23 women served in Congress.⁴³ Moreover, Congress had only had three Black women serve at that point: Shirley Chisholm (1968), Yvonne Brathwaite Burke (1972), and Cardiss Collins (1973).⁴⁴ Coyne's argument is tailored to the experiences of professional White women. Thus, while conversations about the ERA and equal pay in Congress may have contributed to a legislative environment that legitimized equal pay as a necessary part of achieving gender equality, its advocacy reflects the same professional-class priorities of the women it was designed to serve in the first place.

As Forrester argues, feminist movements' demand-making functions as an organizational tactic that illuminates women's social conditions, builds solidarity, and "set[s] the horizons of the world that social movements seek to build."⁴⁵ However, if ERA advocacy like Coyne's is largely centered on legal mechanisms that would primarily benefit women already navigating professional and bureaucratic workplaces, the 'horizons' such advocacy sets will also largely be focused on those priorities. In fact, the premise of using the law to combat gender discrimination in the workplace is a somewhat privileged approach. While laws may encourage compliance, if a woman discovers her employer is not paying her fairly – a discovery that likely involves discussions about compensation within professional circles, a practice more common among middle- and upper-class colleagues – it is ultimately her responsibility to litigate. In other words, she must hire a lawyer and spend the necessary time and money to sue her employer for discrimination. That is a costly process that many working-class women likely do not have the

⁴³ "History of Women in the U.S. Congress," accessed March 16, 2025, <https://cawp.rutgers.edu/facts/levels-office/congress/history-women-us-congress>.

⁴⁴ "History of Women in the U.S. Congress."

⁴⁵ Katrina Forrester, "Feminist Demands and the Problem of Housework," *American Political Science Review* 116, no. 4 (November 2022): 1278–92, <https://doi.org/10.1017/S0003055422000053>.

time or money to sustain. The 2009 Lilly Ledbetter Act exemplifies the limited legacy of this sort of advocacy and approach to gender equality.

Three years before the Lilly Ledbetter Act's passage, the 2006 Supreme Court Case *Ledbetter v. Goodyear Tire and Rubber Co.* held that employees could not challenge pay discrimination if the initial pay discrimination occurred more than 180 days earlier. When Lily Ledbetter, an overnight supervisor at Goodyear Tire & Rubber Company, found out shortly before her retirement that all of the men working in her same position were earning considerably more than her, she filed a formal complaint with the Equal Employment Opportunity Commission and sued the company for pay discrimination under Title VII of the Civil Rights Act and the Equal Pay Act.⁴⁶ The case was appealed to the Supreme Court, which ruled in a 5-4 decision that an employee could not sue their employer for discrimination if the alleged discrimination occurred more than 180 days ago.⁴⁷ Since Ledbetter's claim occurred outside of that time frame, she was not entitled to any monetary compensation.

The decision upset Title VII's long-standing precedent that encouraged voluntary compliance by employers, and instead encouraged deceptive pay practices – employers could effectively still practice wage discrimination, they just had to conceal their discriminatory pay practices until the 180 period had passed. In her dissent, which she read from the bench, Justice Ginsburg posited, “The Court’s approbation of these consequences is totally at odds with the robust protection against workplace discrimination Congress intended Title VII to secure.”⁴⁸ Moreover, she urged, “Once again, the ball is in Congress’s court. As in 1991, the Legislature

⁴⁶ *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007), accessed March 1, 2025.

⁴⁷ *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007).

⁴⁸ *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007).

may act to correct this Court's parsimonious reading of Title VII."⁴⁹ Thus, the Lilly Ledbetter Fair Pay Act was a direct response to the *Ledbetter* decision.

In President Obama's address to the nation after signing the Lilly Ledbetter Act into law (the first law he authorized as President), Obama echoes many of the same economic arguments ERA proponents like Senator Coyne made for the ERA:

[This bill] is the story of women across this country still earning just 78 cents for every dollar men earn... women of color even less which means that today, in the year 2009, countless women are still losing thousands of dollars in salary, income and retirement savings over the course of a lifetime. Equal pay is by no means just a women's issue – it's a family issue.⁵⁰

Obama's assertion that "equal pay is by no means just a women's issue – it's a family issue," echoes Senator Coyne's argument that gender wage gaps place an undue burden on families, given that women are often the ones who help lift their families out of poverty. Moreover, President Obama continues by situating the bill's passage as a moment in a much larger historical trajectory that includes past generations: "Today, I sign this bill... in the honor of those who came before – women like my grandmother, who worked in a bank all her life, and even after she hit that glass ceiling, kept getting up and giving her best every day, without complaint, because she wanted something better for me and my sister."⁵¹ Obama's speech underscores the historical and intellectual roots of equal pay legislation like the Lilly Ledbetter Act. These foundations stretch back decades to an ongoing legal effort to secure equal pay for women – an effort that was evidently intertwined with the fight for the ERA. However, while the

⁴⁹ *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007).

⁵⁰ *President Obama Signs the Lilly Ledbetter Fair Pay Act*, 2009, <https://www.youtube.com/watch?v=UtKAKlurRAY>.

⁵¹ *President Obama Signs the Lilly Ledbetter Fair Pay Act*.

Ledbetter Act was undoubtedly an important legislative victory, it primarily addresses procedural barriers to make it easier for women to bring legal claims. However, it does not address the structural challenges that make litigation an unrealistic option for many working-class and minority women, and thus reflects a similarly limited vision of women's equality in the workplace that is focused on professional women. Even Obama's personal example reinforces this focus: his grandmother was a white woman who held a white-collar job as a banker, a contrast to the "black woman forced to leave her children untended as she goes off to clean the home of the rich women" that Wolfgang describes in her ERA critique.

Conclusion

The results detailed in this chapter do not entirely disconfirm the expectations set up by the literature described in Chapter Two. Forrester argues that feminist groups' demand-making functions as an organizational tactic that can help illuminate women's social conditions, build solidarity, and set the horizon for the particular issues they are discussing. While this data does not provide a systematic example of the ERA's agenda-setting power, that does not mean it had no impact. Taken together, congressional deliberations on the ERA and equal pay policies suggest that the fight for gender equality in the workplace has often been tied to the particular experiences of professional White women. But as recent research suggests, the gender pay gap has largely closed, at least for this group of women.⁵² Meanwhile, for working-class women concentrated in low-wage and domestic service industries, economic inequality remains a reality that equal pay laws have not entirely addressed. If the ERA's vision of equality is closely tied to visions of gender equality in the workplace for professional women, where does the amendment

⁵² Claudia Dale Goldin, *Career and Family: Women's Century-Long Journey toward Equity* (Princeton, New Jersey: Princeton University Press, 2021).

leave us now? Is the ERA a damaged brand? In a contemporary political climate where women's rights, and arguably the entire rule of law, are volatile, what's next for the ERA?

CHAPTER SIX: A NEW ERA FOR THE E.R.A.

The 2024 election was upsetting for many reasons. It disconfirmed that the American public stood against authoritarianism, believed in women's reproductive rights, was overcoming gender biases, and, most importantly, might finally be confident that a woman could serve as our president. VP Harris's defeat felt like a definite blow to women's and democratic interests. *Ms. Magazine* even identified in a 2024 poll that the ERA, along with reproductive rights, was a leading issue for voters in the 2024 election.¹ And yet, Donald Trump was reelected in spite of (or potentially because of) his deeply patriarchal and misogynistic views. In the wake of this defeat (and Donald Trump's political career at large), feminist organizers have turned to the ERA not only as a legislative goal, but as a symbol of resistance – to reassert their dignity, autonomy, and equal place in American democracy. The ERA's contemporary resurgence is particularly remarkable because today, the amendment is largely being championed by women of color, a demographic that, as Chapter Five demonstrated, was previously marginalized from ERA campaigns. Rather than discarding the ERA for its exclusionary legislative history, the ERA's contemporary advocates have reclaimed the amendment and reshaped its meaning to reflect their intersecting forms of inequality. This chapter explores how the ERA's meaning and function as an agenda-setting mechanism have transformed in the hands of those it once marginalized.

Contemporary Opposition to the ERA

Given the legislative history of the ERA that this thesis has detailed thus far, it seems probable that minority women today would not want to take up the ERA in their campaigns. And for some minority women, that is certainly the case. During Illinois' ratification of the ERA in

¹ Roxanne Szal, "The 2024 Election Will Be a Referendum on Abortion and Women's Equality, According to New Ms. Poll," *Ms. Magazine*, October 9, 2023, <https://msmagazine.com/2023/10/09/2024-election-women-voters-equal-rights-amendment-abortion/>.

2018, Representatives Mary Flowers and Rita Mayfield, both Black women, questioned whether the ERA could truly help poor, working women of color.² Their reasons echoed many of the same arguments Wolfgang made against the ERA in the 1970s. In a speech to the Illinois House on May 30, 2018, Representative Flowers asked incredulously: “You want to tell me that something that was written back in 1923 is going to apply to me today?”³ Flowers, the longest-serving Black legislator in the history of Illinois, has introduced legislation combating Black maternal mortality, sponsored Illinois’ successful Pregnant Worker Accommodation Act, and participated in the Task Force on Sexual Discrimination and Harassment.⁴ Despite her skepticism of the ERA, many of these legislative advancements have been in collaboration with ERA proponents in the Illinois legislature.

In her opposition to the ERA, Flowers also emphasizes the fact that “Alice Paul was a very proud racist woman. So, what is it that she’s written that I would like to have my daughter to live up to?”⁵ She condemns many of the ERA’s foremothers like Alice Paul and Elizabeth Cady Stanton: “each and every last one of these women that pushed this beyond the Nineteenth Amendment, they purposely said this is really not for the negros. They really did not want us to be a part of it by no means. And they basically said that this is to make the white women superior.”⁶ Ultimately, Flowers ties her main concern with the ERA back to poor and minority women, explaining:

² Julie Chi-hye Suk, *We the Women: The Unstoppable Mothers of the Equal Rights Amendment* (New York, NY: Skyhorse Publishing, 2020).

³ Illinois House of Representatives, Transcription Debate, 100th General Assembly, May 30, 2018, <https://www.ilga.gov/House/transcripts/Htrans100/10000141.pdf>.

⁴ Suk, *We the Women*, 207.

⁵ Illinois House, May 30, 2018.

⁶ Illinois House, May 30, 2018.

If you pass this Resolution, you are going to put wealthy women against poor working women. Because, see, the wealthy women they don't have to worry about lifting heavy bags and heavy boxes. They don't have to worry about having babysitters. They don't have to worry about their rights being violated...What we need to be discussing today while we're talking about this Bill... the equal rights would be that people will have equal rights to jobs, opportunity, education. People who are dying today because they don't have equal rights to be able to afford their prescription drugs. They don't have the same opportunity to have equal rights, to have decent housing, or decent health care or a place for their children to sleep at night. Those would be equal rights. Those should be the type of rights, Sir, that we should be taking up our time on this floor today to be discussing.⁷

Representative Flowers bravely acknowledges the ERA's less-than-inclusive past – an admission many ERA proponents do not always make. Most importantly, she draws a direct historical line to how passing an amendment with such a history could create an even greater chasm between poor minority women and upper-class white women. Representative Rita Mayfield, a Black woman and lifelong resident of North Chicago, echoes these concerns:

We all know that this Bill does not affect women that are black, brown or any other color. This Bill actually takes us four steps backwards. It does not in any way, shape or form benefit a woman of color...We are pushing language that was written in 1923. We have come a long way since then.⁸

That Alice Paul actively excluded Black women from ERA movements in the 1920s is not simply a blotch in an otherwise clean ERA legacy. As Flowers and Mayfield's testimony demonstrates, it is a deep-seated and, as they believe, irreconcilable stain whose effects could continue to ripple should the amendment be passed.

⁷ Illinois House, May 30, 2018.

⁸ Illinois House, May 30, 2018.

Contemporary Support for the ERA

However, minority women have championed the ERA in the past decade, too. Flowers and Mayfield's fierce opposition to the ERA in the Illinois legislature challenged ERA proponents to better craft their arguments to explain how the ERA would actually help working-class and minority women. In fact, Suk notes that opponents like Flowers and Mayfield "helped shape the pro-ERA positions taken by Litesa Wallace and Juliana Stratton. With political ambition and a strong sense of history, Wallace and Stratton turned intersectionality and the needs of working-class mothers into reasons to support the ERA rather than to oppose it."⁹ What resulted was an ERA "better suited for the twenty-first century than it had ever been."¹⁰

Representative Wallace, who was nearing the end of her term when she spoke on the issue of ERA ratification, did not disagree with the arguments Flowers and Mayfield made. In fact, echoing the picture Myra Wolfgang painted half a century ago of the Black woman forced to leave her own children behind to work in the home of a White woman, Wallace began her speech explaining, "My grandmother worked on the north side of Chicago to take care of white women's children and had to leave her own children at home to raise themselves."¹¹ By invoking her grandmother's experience as a domestic worker, Wallace draws a direct line between historic racial and economic injustices and the contemporary fight for the ERA. Her speech – along with ERA proponents' speeches in Nevada and Virginia – is rooted in the lived realities of Black and working-class women. Unlike Flowers and Mayfield, Wallace believes that her background is precisely why legislators today need to reclaim the ERA and pass it:

⁹ Suk, *We the Women*, 207.

¹⁰ Suk, 208.

¹¹ Illinois House, May 30, 2018.

While we stand and we debate an issue that we've had a lot of historic questions and discussion about...we refuse to recognize intersectionality, not just in this debate but in damn near every debate that occurs in this Body...Today is extremely important and extremely historic ... women who present to the world like me have been asking for centuries, ain't I a woman? And we continue to hear a resounding 'no' to that question almost every day.¹²

Wallace does not dismiss the concerns of women like Representative Flowers and Mayfield – she in fact acknowledges the importance of preserving such concerns in the legislative record. Moreover, Wallace urges her colleagues to “think about these things...and do some serious soul searching about the types of privilege that comes along with us being here and how our own privileges often allow us to ignore the realities of people in our state, particularly the things that were outlined by Leader Flowers.”¹³ The value of centering ERA debates around Black women who both oppose and support the ERA lies in the fact that such a dynamic challenges proponents to articulate precisely how the ERA will serve their fellow women. In the 20th century, these arguments were largely being made by White women for White women. Today, however, these arguments for the ERA are being made by women of color, for women of color. Consequently, minority women are leading the charge as the primary legislators driving the ERA's revitalization, transforming it into an amendment that speaks to the realities and challenges of the most vulnerable women in the 21st century. They are reclaiming the amendment.

Similarly, in Nevada, the first state to ratify the ERA in the 21st century, “Pat Spearman gave new life to the Equal Rights Amendment by leading the legislature to ratify it in 2017.”¹⁴

¹² Illinois House, May 30, 2018.

¹³ Illinois House, May 30, 2018.

¹⁴ Suk, *We the Women*, 177.

Prior to her election to the Nevada legislature, Spearman served in the military for 30 years, was the president of San Marcos Independent School District, and a pastor.¹⁵ Not only did Representative Spearman and her colleagues, who included a prosecutor, regional Girl Scouts CEO, labor organizer, and university administrator, resurrect the ERA in Nevada, but they “updated its meaning for the 21st century.”¹⁶ In her testimony, Spearman centers the powerful role Congress would have in enforcing the ERA to justify its relevance to contemporary inequality, invoking the arguments of women like Ruth Bader Ginsburg, Martha Griffiths, Patsy Mink, and Shirley Chisholm in her rationale for the ERA’s necessity today:

In the words of Supreme Court Justice Ruth Bader Ginsburg, who wrote in the Harvard Women’s Law Journal, ‘With the Equal Rights Amendment, we may expect Congress and the state legislatures to undertake in earnest, systematically and pervasively, the law revision so long deferred. In the event of legislative default, the courts will have an unassailable basis for applying the bedrock principle “all men and women are created equal.”’¹⁷

Thus, according to RBG’s formulation, the ERA would empower Congress to pass additional laws to fulfill its enforcement of the ERA’s core principles. Spearman invokes such arguments in her own justification for the ERA to ultimately address the connection between the ERA and equal pay, which, as demonstrated, has been a source of confusion throughout the ERA’s legislative history. In doing so, Spearman’s arguments for the ERA directly respond to both historical critiques like Wolfgang’s, as well as contemporary critiques made by Illinois Representatives Flowers and Mayfield:

¹⁵ “Senator Pat Spearman,” accessed March 29, 2025, <https://www.leg.state.nv.us/App/Legislator/A/Senate/79th2017/1>.

¹⁶ Suk, *We the Women*, 178.

¹⁷ Nevada Legislature, Senate Floor Session, March 1, 2017, https://nvleg.granicus.com/MediaPlayer.php?view_id=29&clip_id=6871.

The ERA was not intended to make the fact of women's eighty-two cents to the man's dollar unconstitutional instantly in the way that the Thirteenth Amendment made slavery unconstitutional. The ERA was intended to move lawmakers to do something about pay inequity.¹⁸

Suk explains, "In Spearman's formulation, the ERA is needed when pay inequity persists and the legislature is considering legislation on paycheck fairness, because the ERA provides a strong political boost to the legislative agenda for women's equality."¹⁹ In other words, the ERA can empower legislators with the legitimacy to boldly address existing inequities through additional legislation.

Just as Spearman and colleagues in Nevada reframed the ERA for the 21st century, "a multigenerational group of Black women lawmakers" played a similarly transformative role in Virginia's ratification efforts.²⁰ In January 2020, Virginia became the thirty-eighth and final state to meet the ERA's threshold for ratification, marking a watershed moment in the ERA's legislative history, driven largely by women of color. At the time of Virginia's ratification, the state House had its first female speaker, Eileen Filler-Corn (D), and a Black House Majority leader, Charniele Herring (D). Jennifer McClellan, who went on to become the first Black woman from Virginia elected to Congress, was one of the chief patrons of the ERA ratification bill in Virginia's Senate. And when Virginia ratified the ERA, a New York Times article described Daphne Portis, an ERA activist, clutching a photo of Shirley Chisholm as she watched lawmakers debate in Richmond.²¹ As Suk puts it, "It is fair to say that the thirty-sixth,

¹⁸ Nevada Legislature, Senate Floor Session, March 1, 2017.

¹⁹ Suk, *We the Women*, 183.

²⁰ Barbara Rodriguez, "The ERA's Revival Was Led by Black Women, Women of Color and LGBTQ+ People," *The 19th*, March 15, 2021, <https://19thnews.org/2021/03/black-women-era-revival/>.

²¹ Timothy Williams, "Virginia Approves the E.R.A., Becoming the 38th State to Back It," *The New York Times*, January 15, 2020, sec. U.S., <https://www.nytimes.com/2020/01/15/us/era-virginia-vote.html>.

thirty-seventh, and thirty-eighth ratifications of the ERA in 2017–2020 would not have occurred without the political efforts of Black women.”²²

White Legislators and the ERA Today

Black women’s leadership in ERA ratification efforts is a stark contrast to the ERA ratification campaigns in the 1970s, which became synonymous with elite, White, professional women. This historical dynamic might explain why many white legislators are so curiously quiet about the ERA in recent revival discussions. Unlike the passionate ERA advocacy of white legislators in the second half of the twentieth century, while today’s white women legislators have not abandoned the issue of gender equality, they seem to have moved on to other causes, leaving the fight for the ERA increasingly in the hands of women of color. A clear example of this shift can be seen in the changing focus of former California Senator Barbara Boxer, who was once an outspoken supporter of the ERA but has notably refrained from championing the amendment in recent public discussions.

Barbara Boxer served in Congress for 34 years (1983-2017), with her first ten in the House and her next twenty in the Senate. Early in her career, she gained a reputation as a “liberal firebrand.”²³ During her time in the House, she served in a bipartisan group of women that marched on the Senate to demand extended hearings for Anita Hill’s sexual harassment charges against SCOTUS Justice Clarence Thomas in 1991.²⁴ Throughout her tenure, she championed

²² “A Dangerous Imbalance: Pauli Murray’s Equal Rights Amendment and the Path to Equal Power - Virginia Law Review,” January 29, 2021, <https://virginialawreview.org/articles/a-dangerous-imbalance-pauli-murrays-equal-rights-amendment-and-the-path-to-equal-power/>.

²³ “BOXER, Barbara | US House of Representatives: History, Art & Archives,” accessed March 29, 2025, [https://history.house.gov/People/Listing/B/BOXER,-Barbara-\(B000711\)/](https://history.house.gov/People/Listing/B/BOXER,-Barbara-(B000711)/).

²⁴ “BOXER, Barbara | US House of Representatives: History, Art & Archives.”

women's issues, proposing the authorization of federal funds for abortion for victims of rape, creating a subcommittee on women's global issues in the Foreign Relations committee, and advocating for the ERA.²⁵ When she announced her retirement in 2017, Stephanie Schriok, the president of EMILY's List, proclaimed, "Barbara Boxer has been one of the most steadfast champions for women and families in the United States Senate."²⁶ At the time of her retirement, she was the third-most senior woman in the Senate. Boxer's earlier speeches underscore her commitment to constitutional equality early in her career. In a speech to the House on March 6th, 1984, commemorating Women's History Week, Boxer stated:

In 1984, we saw the Equal Rights Amendment come to this Congress and we saw that it lost by just six votes...Women's History Week is not enough. We must dedicate ourselves, not just this week, but every day, to see that equality and justice for women are put into the Constitution. We need the Equal Rights Amendment...Appointments are important, but they are not enough. We have to reach out to all the women of this country, not just to a select few, and the ERA is fairness and justice and it will do it.²⁷

In a speech seven months later, Boxer reflected on the ERA's failure to be ratified and criticized the Reagan administration's attempts to block the amendment's passage:

In my heart I will always feel the sadness that I felt when this House failed to pass the Equal Rights Amendment. It is something that, as I look back on the record of this Congress, I will always regret...I think we women of America have to know the truth, that the White House was working full time, full time and overtime to make sure that the Equal Rights Amendment did not become the law of this great, great land...We had phone calls coming in from the White House. They were calling Members off the floor to stop the passage of the Equal Rights Amendment. What are they afraid of? What are they

²⁵ "U.S. Senate: Barbara Boxer," accessed March 29, 2025, <https://www.senate.gov/about/oral-history/boxer-barbara-oral-history.htm>.

²⁶ Lucia Graves and National Journal, "Barbara Boxer's Legacy for Women," *The Atlantic* (blog), January 8, 2015, <https://www.theatlantic.com/politics/archive/2015/01/barbara-boxers-legacy-for-women/439752/>.

²⁷ Representative Boxer on March 6, 1984, 98th Cong., 2nd sess.

afraid of? The most direct and simple words that we must have in our Constitution...It has been a prelude for too long.²⁸

Boxer mourns the amendment's failure while insisting that the fight is not over. Yet, as the ERA's momentum waned in the late 20th and early 21st centuries, so too did Boxer's public advocacy for the amendment. In the inaugural Jackie Speier Lecture on Women in the Law & the Rights of Women Under Law at UC SF Law School in August 2024, Boxer sat down with Spier to reflect on her fight for gender equality. In a lecture series with the express purpose of "bring[ing] influential women leaders to campus to inspire future legal professionals," it would be reasonable to expect Boxer to discuss, or at the very least mention, the ERA in her reflections.²⁹ However, amidst her discussion about organizing female lawmakers to push for Congress to allow women in the men's-only gym as a young legislator, advocating for sexual harassment hearings against politicians, and reforming how sexual harassment complaints are handled in the House, any mention of the ERA was notably absent.³⁰ When reflecting on her proudest achievements as a lawmaker, she largely focused on environmental and public health initiatives – adding dolphin-safe labels to tuna cans, enforcing rules for safe drinking water, and funding cancer research – while making little mention of women's rights.³¹ That is not to say that Boxer no longer cares about women's issues or the ERA, but its absence in her reflections later in her career is notable. Why might White politicians today be hesitant to focus on the ERA?

²⁸ Representative Boxer on October 4, 1984, 98th Cong., 2nd sess.

²⁹ Nicholas Iovino, "Barbara Boxer Reflects on Fighting for Gender Equality and Problem Solving in Inaugural Jackie Speier Lecture," *UC Law San Francisco (Formerly UC Hastings)* (blog), August 30, 2024, <https://www.uclawsf.edu/2024/08/30/barbara-boxer-jackie-speier-lecture/>.

³⁰ Iovino, "Barbara Boxer Reflects on Fighting for Gender Equality and Problem Solving in Inaugural Jackie Speier Lecture."

³¹ Iovino.

Today's most prominent white female legislators, albeit not in office during the fight for the ERA in the 1970s, also do not seem to be very outspoken on the issue. For example, Senator Elizabeth Warren does not mention the ERA in the "Plans" section of her website.³² This omission is notable given that Warren made narrowing the wage gap, particularly among women of color, a campaign issue in her 2016 Presidential run. Additionally, Michigan Governor Gretchen Whitmer, a staunch reproductive rights advocate, does not appear to have taken a prominent public stance on the ERA either. Even Nancy Pelosi, a titan among women's rights advocates, has remained somewhat silent on the ERA in the past two years. White legislators seem hesitant to touch the ERA, which ironically seems to have offered a remarkable opportunity for women of color to reclaim the issue of the ERA's ratification in state legislatures, and, now, its certification.

Women of Color and the ERA in Congress Today

In addition to women of color in state legislatures reviving the ERA, women of color in the House and Senate have discussed the amendment on a national scale, too. Representative Ayanna Pressley from Massachusetts, the co-chair of the ERA Caucus with Cori Bush, has been a leader in the fight for the ERA's certification.³³ In a press conference, Pressley explained:

Especially now, it's important to reintroduce this ... in the midst of draconian, very dangerous and targeted attacks against women and the LGBTQ community...it's always time to uplift and to center the humanity and dignity of all people and we need that to be enshrined in the Constitution. I want to vote on this now.³⁴

³² "Plans | Elizabeth Warren," accessed March 29, 2025, <https://elizabethwarren.com/plans>.

³³ Ricardo Sanchez, "Pressley Commends President Biden for Declaring Equal Rights Amendment Law of the Land," *Ayanna Pressley* (blog), January 17, 2025, <https://admin-pressley.house.gov/2025/01/17/pressley-commends-president-biden-for-declaring-equal-rights-amendment-law-of-the-land/>.

³⁴ A. B. C. News, "Lawmakers Renew Push to Ratify Equal Rights Amendment 100 Years Later," ABC News, accessed March 27, 2025,

Moreover, in a different statement to the National Women’s History Museum, Pressley said that while the ERA has yet to be added to the Constitution, that is not a reflection of any lack of trying on behalf of the ERA’s foremothers. “The fact that it hasn’t happened isn’t in any way a reflection of a lack of stamina, or innovation, on their part. They’ve given us a great blueprint: to organize, to mobilize, to legislate, to resist, as if lives depend on it — because they do.”³⁵

Figure 6.1: Ayanna Pressley Speaks Outside Capitol with the ERA Caucus³⁶



At the same time, Pressley acknowledges women of color’s historic exclusion in the fight for the ERA, reminding her audience that “Even though women of color, Black women, our LGBTQ siblings, bear the brunt of this intersectional marginalization and oppression, and stood to benefit the most from the passage of the ERA, we were not reflected in the movements. It did

<https://abcnews.go.com/Politics/lawmakers-renew-push-ratify-equal-rights-amendment-100/story?id=97633672>.

³⁵ “ERA Now,” National Women’s History Museum, April 23, 2024, <https://www.womenshistory.org/articles/era-now-inside-intersectional-movement-womens-constitutional-equality>.

³⁶ “ERA Now,” National Women’s History Museum.

not seem that there was space for us. And that is changing.”³⁷ Her statement reflects a persisting reality in feminist history: despite standing to gain the most from gender equality measures, women of color, and particularly Black women, have often been marginalized from mainstream feminist movements. When Shirley Chisholm, the first black woman elected to Congress, observed “one of the things that we are not really doing in our Nation is really meeting the needs of the working-women of this country,” she was pointing to the same issue that Pressley highlights half a century later.³⁸ The difference, however, is that Chisholm spoke as somewhat of an outsider – while she was a member of Congress, in 1970, she was one of eleven women in Congress and the only Black woman. Now, when Pressley echoes Chisholm’s arguments in her ERA advocacy, she speaks as one of the movement’s primary leaders. Pressley’s ERA leadership signifies that women of color have gone from being sidelined in ERA discussions to driving them.

Additionally, Representative Rashida Tlaib from Michigan has been outspoken in her push for the ERA’s certification, particularly on social media. In an Instagram post from December 10, 2024, Representative Tlaib captioned her post: “@POTUS has the power to publish the Equal Rights Amendment before he leaves the White House. The ERA would help eliminate the gender pay gap, protect access to abortion and LGBTQ+ rights. It’s passed time for all of us to be written directly into the U.S. Constitution.”³⁹ In another post, she wrote, “We are just one signature away from making the Equal Rights Amendment the 28th amendment and

³⁷ “ERA Now,” National Women’s History Museum.

³⁸ Comprehensive Preschool Education and Child Day-Care Act of 1969, Hearings on H. R. 13520 Before the Select Subcommittee on Education, of the House Committee on Education and Labor, 91st Cong. 792 (1970) (“1970 Comprehensive Preschool Hearings”) (Statement of Shirley Chisholm).

³⁹ “Congresswoman Rashida Tlaib on Instagram,” Instagram, December 10, 2024, <https://www.instagram.com/p/DDarKt3PQ5y/>.

enshrining gender equality in our Constitution. President Joe Biden has five days left to do what's right and publish the Equal Rights Amendment.”⁴⁰

That women of color like Ayanna Pressley and Rashida Tlaib are taking up the ERA themselves marks a transformation in *who* is defining the ERA's purpose and priorities. Today, unlike in the 1970s, women of color are at the forefront of the ERA's revival and making it relevant to minority and working-class women. While Black legislators like Patsy Mink and Shirley Chisholm demonstrated in the 1970s that the ERA has always been a potential tool for safeguarding the rights of working-class women of color, today's advocacy – largely led by women of color – signifies a long-overdue shift toward realizing that potential. The voices that were once largely sidelined in ERA debates are now making the amendment relevant to all women in the 21st century. Chisholm's once marginal call to better serve the working women of America has now multiplied – today, there are not just one, but many Shirley Chisholms leading the charge. Moreover, the fact that these particular women, who are among some of the most vulnerable communities, are still championing the ERA signifies that, despite its long, fraught history, the ERA is not yet damaged goods.

Conclusion

The ERA is a multigenerational amendment with a long and complex history. Therefore, it is understandable that some women believe it is time for a fresh start. In 2020, at an event honoring the centennial of the Nineteenth Amendment at Georgetown Law, even Justice Ruth

⁴⁰ “Congresswoman Rashida Tlaib | Facebook,” accessed April 16, 2025, <https://www.facebook.com/RepRashida/posts/we-are-just-one-signature-away-from-making-the-era-the-28th-amendment-and-enshri/1164937441657385/>.

Bader Ginsburg proclaimed, “I would like to see a new beginning. I’d like it to start over.”⁴¹ However, women of color still see the ERA’s value – they are embodying Pressley’s mission to ensure “those closest to the pain are closest to the power.”⁴² Rather than discarding the ERA, many of its 21st-century advocates recognize its potential to address persistent structural inequalities. For women like Litesa Wallace, Juliana Stratton, Pat Spearman, Ayanna Pressley, and Rashida Tlaib, the ERA remains a powerful tool – it is not simply an outdated relic from past generations, but a foundation for future progress.

⁴¹ “Ginsburg: Equal Rights Amendment Backers Should Start over | AP News,” accessed March 29, 2025, <https://apnews.com/ginsburg-equal-rights-amendment-backers-should-start-over-3510fbca261198d9ea63c30db2aa2033>.

⁴² “About,” *Ayanna Pressley* (blog), accessed April 16, 2025, <https://pressley.house.gov/about/>.

CHAPTER SEVEN: REVISITING THE LITERATURE

This chapter revisits the core literature discussed in Chapter 2 in light of this thesis's findings and details some of its theoretical contributions. It focuses on two central themes: the evolving composition of feminist movements and the transformation of the ERA into a horizon-setting mechanism. By engaging with the frameworks of Carpenter and Forrester, this chapter argues that the ERA continues to function as a continually evolving agenda-setting mechanism, particularly for women of color. These findings ultimately assert the unique value of the ERA's long arc of activism for feminist theory and policy change.

The Endurance and Recomposition of the ERA Movement Over Time

The ERA is the only amendment authored by one generation of women, adopted by another generation, and ratified by yet another. Therefore, it serves as a unique case study of a multigenerational feminist movement that has outlasted its original coalition and been revitalized by new actors with different priorities, particularly women of color. Its revival in the 21st century reflects a dynamic process of movement recomposition. This thesis thus builds on agenda-setting and social movement literature that focuses on temporally bounded mobilizations, offering a new perspective on the evolution of the ERA movement with a longer historical trajectory.

While Carpenter accounts for a broad definition of what the “agenda” is, including Woodley’s concept of “common sense” and Forrester’s concept of “horizon-setting,” the particular movements he studies, namely abolition and suffrage, have end dates with complete historical arcs. The ERA movement, contrastingly, is an *ongoing*, century-long movement. This is not to say that Carpenter’s framework is inapplicable in ERA studies. However, that Carpenter’s agenda democracy framework locates activities like petitioning, complaint-making vis-à-vis the state, collective judicial action, marches, and protests as agenda democratizing

mechanisms would suggest that the ERA's potential influence on the agenda might occur when the movement and these sorts of activities were most active: the 1960s to early 1980s.¹ However, by only looking at the initial height of ERA movements, we limit our scope of the ERA movement to a period that does not paint the full picture. While the ERA's proponents may have been most ardent and active during this period, their actual impact is not necessarily perceptible in that period. In fact, in his agenda-restriction discussion, Carpenter acknowledges that "In American political development, for instance, neither the congressional agenda on slavery in the early nineteenth century nor the congressional agenda on civil rights in the early twentieth century reflected popular political activity at the time."² This observation indicates that studies that focus only on one portion of the ERA's political history tell an incomplete story.

By taking a broader view of the ERA's political lifespan, we can better understand the ways in which the ERA movement has mutated and reactivated over time. As Chapter 5 demonstrates, the ERA's 21st-century resurgence has introduced new priorities and groups of women that could benefit from the amendment. Studying contemporary ERA debates not only reveals this phenomenon, but it also reveals the fact that the actual advocates participating in these agenda-democratizing causes can *also* shift. This particular dynamic remains relatively underexplored in Carpenter's work, as his focus is largely on movements with more contained historical arcs. After all, Carpenter explicitly states his period of study in his abolition petitions study is only 20 years long: 1833-1845.³ While the abolition movement certainly had a long and

¹ Daniel Carpenter, "Agenda Democracy," *Annual Review of Political Science* 26, no. 1 (June 15, 2023): 193–212, <https://doi.org/10.1146/annurev-polisci-051921-102533>.

² Carpenter, "Agenda Democracy," 199.

³ Daniel Carpenter and Colin D. Moore, "When Canvassers Became Activists: Antislavery Petitioning and the Political Mobilization of American Women," *American Political Science Review* 108, no. 3 (August 2014): 479–98, <https://doi.org/10.1017/S000305541400029X>.

complex trajectory, the ERA's ongoing legislative life extends well beyond the period of its initial momentum, warranting a different sort of analytical lens. And while the women advocating for the ERA in the 1970s were most certainly performing the agenda-democratizing mechanisms Carpenter describes, when we expand the scope of the ERA movement to the 21st century, we can see how the social effervescence of this demands-making has shifted. In the ERA's case, a new generation of women of color is championing the ERA just as the older (and whiter) generation seems to be letting it go (Chapter 5).

This finding is particularly notable given that Carpenter's framework designates hierarchies of race as agenda-restricting mechanisms: "many issues never rise to consideration because cultural, ideological, and institutional forces combine to keep them from discussion."⁴ That women of color have still managed to reclaim the ERA and make it relevant to minority and working-class women today, despite its fraught legislative history and their historic marginalization, is all the more remarkable. Moreover, in a Harvard Journal of Politics article written thirteen years after *Why We Lost the ERA*, Mansbridge acknowledges, "In contexts of historical political subordination... descriptive representation helps create a social meaning of 'ability to rule' and increases the attachment to the polity of members of the group."⁵ With women of color's leadership at the forefront, this contemporary movement has the potential to be the most effective ERA effort yet. They are precisely the ones who have helped the ERA break through agenda restrictions that Carpenter's framework might suggest were occurring in the 1970s and truly democratize the agenda with the needs of women of color.

⁴ Carpenter, "Agenda Democracy," 203.

⁵ Jane Mansbridge, "Should Blacks Represent Blacks and Women Represent Women? A Contingent 'Yes,'" *The Journal of Politics* 61, no. 3 (August 1999): 628–57, <https://doi.org/10.2307/2647821>.

Additionally, what Carpenter does not focus on, and what this research has revealed, is that there is another layer of agenda restriction that operates *within* a social movement and impacts what type of issues the movement consequently places on the larger legislative agenda. Studying 21st-century ERA advocacy in the legislature has revealed that not only has the social effervescence of the ERA shifted, but so too have its most ardent advocates. Women of color who were once marginalized in ERA advocacy in the 1970s have democratized the agenda *within* ERA movements and the arguments proponents make. In 21st-century ratification campaigns, Black women challenged ERA advocates to address the needs of working-class minority women in their arguments for the amendment's necessity. At the same time, women of color's persistent advocacy for the ERA in the national legislature has helped place the ERA back onto the actual legislative agenda at a critical moment in the amendment's legislative history. This phenomenon confirms Forrester's point that feminist movements "can reveal hidden dimensions of social reality and build constituencies while also indicating a new world to be built that exceeds agendas for immediate reform."⁶ By only focusing on ERA activism in the second half of the 20th century, we neglect this longer-term, horizon-setting function of the ERA movement. In addition to revealing the horizon-setting dimension of the ERA's impact, accounting for the movement's revitalization in the 21st century not only demonstrates that the movement's primary constituents can shift, but also that the horizon itself can be reshaped by those new constituents. The ERA is thus a living demand, projecting possible futures that are continuously reimagined.

This thesis has helped to demonstrate some of those hidden dimensions that ERA movements have helped reveal. Namely, the particular needs of working-class and minority

⁶ Katrina Forrester, "Feminist Demands and the Problem of Housework," *American Political Science Review* 116, no. 4 (November 2022): 1278–92, 1278, <https://doi.org/10.1017/S0003055422000053>.

women. Moreover, it affirms the importance of taking a long historical view of ongoing social movements in evaluating their impact. Today, in retrospect, it is understandable why Mansbridge and Freeman's ERA post-mortems seem incomplete, because they were. They were studying the ERA after its immediate legislative failure, but before its long-term, horizon-setting impact could be evaluated. One of the ERA's most enduring legacies from the 20th-century movements seems to be its inability to resonate with working-class, minority women. This failure ironically gave women of color the opportunity to rectify this inadequacy by foregrounding the ERA's particular benefit to the same women the movement once marginalized. Thus, the dynamics that Carpenter locates as mechanisms of agenda-restriction in the short term might, ironically, contribute to mechanisms of agenda-democratization in the long term. In light of this evidence, we can understand the ERA as a recursive demand, returning, reshaped, and reinvigorated over time.

Making Meaning of the ERA

Forrester's conception of mimetic and disjunctive demands is a useful framework for evaluating the ERA's legacy over time. Mimetic demands, as Forrester explains, are short-term demands that mirror a movement's long-term vision of the future.⁷ They are actionable in the current political order, but signify a more profound vision of social transformation. Contrastingly, with disjunctive demands, the "future horizon is not explicitly articulated in the demand itself."⁸ These demands are thus disconnected from broader critiques of existing power structures. Studying both the ERA movement from 1962 to 1982 and its 21st-century revitalization reveals how contemporary ERA proponents have transformed the movement into a

⁷ Katrina Forrester, "Feminist Demands and the Problem of Housework," *American Political Science Review* 116, no. 4 (November 2022): 1278–92, <https://doi.org/10.1017/S0003055422000053>.<https://doi.org/10.1017/S0003055422000053>Forrester.

⁸ Forrester, "Feminist Demands and the Problem of Housework," 1282.

site of “non-reformist reform” that seeks to “transcend the current order, even while demanding change within it.”⁹

In addition to the more comprehensive understanding of the ERA’s role in agenda setting described in the previous section, studying the ERA’s broader historical trajectory reveals it has shifted from a largely disjunctive demand-making movement to a mimetic one in the 21st century. This shift has important implications for understanding the ERA’s current political utility, particularly for intersectional feminist movements advocating for non-reformist reforms.

During the 1970s (and even earlier campaigns throughout the first half of the 20th century), ERA advocacy was largely shaped by formalistic and legalistic framings of gender equality. Alice Paul firmly believed in a sex-neutral application of the amendment, and, despite its potentially visionary constitutional protections of gender equality, legislators often deployed the amendment in ways that failed to authentically resonate with working-class women of color, particularly in their discussions of how the amendment would ensure equal pay. As discussed in Chapter Four, their arguments in Congressional hearings lacked the specificity and grounding in the particular experiences of working-class women that would have made the ERA a more forceful tool in legislative deliberations about equal pay.

Yet, paradoxically, it is this earlier *inadequacy* underlying the ERA’s insignificant impact on equal pay discussions that ultimately helped facilitate its reinvention. Contemporary ERA proponents, who are largely women of color, have reclaimed the amendment and reframed it as the foundation for structural transformation by centering its potential for addressing deep-seated inequalities rooted in care labor, wage precarity, racial discrimination, and family responsibility. Consequently, the ERA’s new advocates have transformed movements for the amendment into mimetic demands that reflect a radical feminist horizon, while still being able to connect the

⁹ Forrester, 1289.

amendment's impacts to the majority of working-class American women. They have helped imagine a future where gender equality not only includes formal legal rights, but redistributive and relational justice.

This shift is political and strategic. Suk posits that the ERA's "resurrectors" are explicit in linking the amendment to goals like paid family leave, protections for caregivers, reproductive justice, and gender-based violence.¹⁰ Recognizing this phenomenon in the ERA's evolution is particularly important because the nature of the amendment's wording and what the ERA truly means has historically been a central debate. It was never entirely clear what or what not the ERA would do for women. Crystal Eastman had one idea, Alice Paul another, and legal scholars yet another. What this research reveals is that 1) the ERA's meaning has changed over time, and 2) it is up to ERA advocates to make meaning of the ERA and make it relevant to contemporary women. Legal scholars like MacKinnon and Crenshaw, as discussed in Chapter Two, are skeptical that the ERA would provide protections for the aforementioned "private" or domestic goals that contemporary ERA advocates link the amendment to. But if the demand for constitutional equality is now structuring a broader feminist imaginary centered on labor, care, and dignity, why can't the amendment address these dimensions of women's lives?¹¹ As Suk puts it, "American people and the lawmakers we elect make choices every day about who we are, and what kind of world we want to make for our children to inherit. These fundamental questions are at stake when deciding what to do about the ERA."¹² What is stopping us from conceiving the ERA as a radically transformative amendment?

¹⁰ Julie Chi-hye Suk, *We the Women: The Unstoppable Mothers of the Equal Rights Amendment* (New York, NY: Skyhorse Publishing, 2020).

¹¹ While this question likely demands an extent of legal knowledge that I do not yet have, studying the evolution of arguments for the ERA begs the broader question: who really makes meaning of our laws?

¹² Suk, *We the Women*, 226.

Conclusion

The results of this thesis thus offer a compelling example of how the ERA movement evolved from a disjunctive to mimetic demand-making mechanism, and from limited in vision to radically transformative. They are a reminder of the power of feminist movements to revisit and reshape what appear to be even the most established political symbols. By using the fight for a constitutional gender equality provision as a mimetic, horizon-setting intervention into the patriarchy, contemporary ERA advocates have ultimately reclaimed the ERA as a living, breathing instrument of feminist imagination. With this conception of the ERA, its current form bears little resemblance to the ERA from a century, or even half a century ago – not because it has been rewritten or reworded, but because its political meaning has been redefined through its own advocacy. While the results of Chapter Four might seem to disconfirm the agenda-setting expectations Carpenter lays out for social movements, the ultimate redefinition of political meaning, as observed in 21st-century revitalizations of the ERA, is actually crucial to the work of agenda democratization. New actors can claim ownership over old demands and reinvision them to reflect their own lived experiences, needs, and visions of justice.

CHAPTER EIGHT: CONCLUSION

On permanent display in the National Archives – the same institution that rejected Virginia’s recent ratification and refuses to publish the ERA in the Constitution – is the “Records of Rights” exhibit. Pillars of Western democracy sit encased at the center of the exhibit: the original Magna Carta, the Bill of Rights, and other foundational texts. Off to the side, however, is a display titled “Remembering the Ladies,” an ode to Abigail Adams’ plea to her husband to “remember the ladies” as he and the other Founding Fathers set about drafting the Constitution. There, a copy of the ERA hangs beside the Nineteenth Amendment. The final sentences of its description are strikingly subdued: “In 1972 the amendment passed both houses of Congress and was sent to the states for ratification. When the extended deadline for ratification arrived in 1982, the amendment was three states short of the requisite number of votes.” There is no mention of the amendment’s most recent ratifications in the 21st century, let alone an acknowledgment of the women of color who continue to fight for its passage.¹ Despite the exhibit’s title, some ladies were, ironically, forgotten. For an amendment that millions of women fought for, and that some states continue to ratify, the display seems less like a tribute and more like a quiet conclusion.

Outside the cases and corridors of the archives, however, the ERA remains very much alive. As this thesis has shown, a new generation of feminists is not simply continuing the fight for the amendment’s recognition – they are actively reinterpreting and reimagining it. The ERA has become a canvas for broader visions of gender justice and structural reform, and its meaning, just like its movement, is not fixed. The ERA endures as a living document – unfinished, ever-evolving, and still fiercely claimed by those who refuse to be left behind.

¹ In fact, in the entire “Remembering the Ladies” section of the exhibit, there is only one photo of a black woman – a 5x8 inch photo of Shirley Chisholm.

Feminists today stand on the shoulders of the women who marched for the ERA, lobbied their representatives, founded advocacy organizations, authored books, and challenged the legal and patriarchal order in pursuit of equality. This thesis does not intend to condemn past ERA proponents for any of their perceived failures, nor treat the ERA as a panacea. Instead, it has sought to excavate a more complete legislative history of the ERA to better understand why the ERA failed to resonate during 20th-century ratification campaigns. I posit race and class as moderating factors in the ERA's demonstrably minor influence on equal pay discourse, and, ultimately, attempt to illuminate a way forward for an amendment with one of the longest historical arcs in U.S. history. The results of this thesis demonstrate that women of color, on both sides of the ERA debate, have always, and continue to be vital to the evolution of the ERA, catalyzing its development into an agenda-democratizing mechanism.

Today, women are closer than ever to enshrining their legal equality in the Constitution. The path to this historical moment has been hard-fought, and sustaining the ERA movement might feel particularly impossible in this current political moment. In 2022, the Supreme Court's *Dobbs v. Jackson Women's Health Organization* decision found that no right to abortion is protected or conferred by the Constitution. As of 2025, women continue to make only 85% of what men earn.² Women continue to lag in their share of top leadership positions in business and government, too.³ Moreover, child marriage remains legal in 37 states – a practice that

² Richard Fry and Carolina Aragão, "Gender Pay Gap in U.S. Has Narrowed Slightly over 2 Decades" (Pew Research Center, March 4, 2025), <https://www.pewresearch.org/short-reads/2025/03/04/gender-pay-gap-in-us-has-narrowed-slightly-over-2-decades/>.

³ Katherine Schaeffer, "For Women's History Month, a Look at Gender Gains – and Gaps – in the U.S." (Pew Research Center, February 27, 2024), <https://www.pewresearch.org/short-reads/2024/02/27/for-womens-history-month-a-look-at-gender-gains-and-gaps-in-the-us/>.

overwhelmingly targets young girls, often wedding them to adult men.⁴ And most recently, the U.S. was added to the Global Human Rights Watchlist over declining civil liberties.⁵ In the U.S., the current status of women's rights – and human rights – is nothing short of dire.

In the absence of a constitutional gender equality provision, women's hard-fought legal rights are easily stripped away and subject to the whims of politicians and judges with deep coffers. Today, feminists may understandably waver between being proud to participate in a movement that has been fought over many lifetimes and being saddened by how futile the fight may seem. If this thesis has demonstrated anything, however, I hope it is that the ERA – and the law more broadly – are not fixed political symbols, but living frameworks with the potential to be reimaged, reshaped, and reinterpreted. After unsuccessful ratification in the late 1970s, even when it seemed like the ERA had stalled, feminists in the 21st century found ways to breathe new life into the amendment, drawing from its language and spirit to reclaim the ERA for women across a range of different economic classes and racial identities. The ERA's legislative journey represents far more than simply the legal progress that it helped achieve. It embodies the persistent faith in what *could* be achieved, in what remains possible. Its power lies in the vision it offers – of a nation where gender equality is not up for negotiation, subversion, or erosion, but enshrined in the highest law of the land.

⁴ “Why Women's Rights Are Vulnerable in America,” *Equality Now* (blog), March 8, 2024, https://equalitynow.org/news_and_insights/why-womens-rights-are-vulnerable-in-america/.

⁵ “U.S. Added to a Global Human Rights Watchlist | TIME,” accessed April 11, 2025, <https://time.com/7266334/us-human-rights-watchlist-civil-liberties/>.

CODA

The NY Times posits that Alexandra Ocasio-Cortez (AOC) is the new way forward for the Democratic Party, particularly because of her ability to connect with the working class.¹ Unlike many of her Ivy League-educated colleagues who have never worked a service job, AOC is a bartender from the Bronx. Her life experience lets her uniquely connect with – and perhaps even cross the political divides of – the working class. This quality is also particularly useful in ERA campaigns. If part of the reason the ERA did not fully resonate in the seventies was because of its inability to authentically connect with and serve the working class, AOC's ability to do just that could be particularly useful in contemporary ERA campaigns. If ERA proponents want to sustain any newfound momentum the ERA might have in the fight for its certification, the amendment's support has to grow in these minority communities. What was once partly responsible for the amendment's downfall can now be its saving grace. It is possible AOC could even invoke her working-class background to connect with poor Conservative white women. After all, in 2024, while AOC was easily reelected, Trump's share of the votes in the same district increased by an estimated 11 points.² While their politics may be poles apart, they both share an anti-establishment spirit that appeals to voters. After the election, AOC appealed to her constituents on Instagram, asking them to explain why they split their ballots for her and Trump. One voter notably said, "It's real simple ... Trump and you care for the working class."³ AOC's

¹ Reid J. Epstein, "Alexandria Ocasio-Cortez Puts Her Own Spin on Bernie Sanders's Pitch," *The New York Times*, March 21, 2025, sec. U.S., <https://www.nytimes.com/2025/03/20/us/politics/aoc-bernie-sanders-vegas-denver.html>.<https://www.nytimes.com/2025/03/20/us/politics/aoc-bernie-sanders-vegas-denver.html>Epstein.

² J. Oliver Conroy, "'Hell Yeah': The New Yorkers in AOC's District Excited about Trump," *The Guardian*, January 18, 2025, sec. US news, <https://www.theguardian.com/us-news/2025/jan/18/slug-new-york-trump-voters-aoc-district>.

³ Conroy.

unique ability to connect with Trump supporters, despite her progressive politics, suggests that she can play a crucial role in bridging ideological divides in the fight for the ERA. By leveraging her working-class background, AOC can reclaim the ERA and transform it into a unifying issue for all Americans.

In a joint rally with Bernie Sanders in March 2025, AOC reflected on her working-class background, proclaiming: “I don’t believe in health care, labor and human dignity because I’m a Marxist – I believe it because I was a waitress. Because I worked double shifts to keep the lights on and because on my worst day, I know what it feels like to feel left behind. And I know that we don’t have to live like this.”⁴ The rhetorical strength of AOC’s arguments for affordable healthcare and better working conditions lies in her ability to frame these progressive policies in ways that resonate with the working class – a strategy ERA proponents failed to effectively employ in their fight for the ERA in the 1970s. In the seventies, as much as proponents like Representative Coyne tried to frame the ERA as a way to raise women out of poverty and increase their access to higher-paying jobs, his arguments did not authentically resonate. A highly educated white man from New York, like Coyne, was hard pressed to convince a working-class Black woman how the amendment he was fighting for, authored by a woman who refused to even march with any non-White women, would practically help her. However, the Times posits that AOC’s unique ability to authentically connect with working-class voters “is the kind of political skill that has many progressive Democrats ready to anoint her as the next leader of the left-wing political movement.”⁵ She authentically cares about making the political issues she fights for relevant to the working class because she *is* working-class. The renewed interest in the ERA in recent years, coupled with the Democratic party’s efforts to refine its messaging after

⁴ Epstein, “Alexandria Ocasio-Cortez Puts Her Own Spin on Bernie Sanders’s Pitch.”

⁵ Epstein.

the recent election, presents a crucial opportunity for AOC to help reclaim the ERA on a national level and position it as an amendment that can help minority women and the working class.

AOC's grassroots activist experience can also be particularly helpful in a political environment where the ERA is likely to see little progress in the legislature. AOC and the ERA both stand to gain from the newfound political momentum and Democratic support for AOC. In her rallies with other leftist politicians like Bernie Sanders, which seem to be becoming increasingly more frequent, AOC can strengthen her political base for a potential future presidential bid and also galvanize support for the ERA at the local level. While this strategy may seem counterintuitive now – given that the ERA has already been ratified by the requisite three fourths of states and its current obstacles are largely procedural within Congress – the fact remains that, for the most part, while the majority of Americans support the ERA, the majority of Americans also do not know what it is. Simply informing the American public about what the ERA is and what legal protections women lack is still important. Amid a political environment that has banned words like “women” and “victims” from being used by government agencies, the ERA will realistically see little progress in the next two, and likely four, years in the legislature.⁶ Perhaps now is the right moment to focus political and policymaking efforts on fostering grassroots support for the ERA and righting a legacy that has often been exclusionary to poor and minority women. Looking ahead to the 2026 midterm elections, it is possible that the ERA could galvanize a women's voter base in the way Democrats thought abortion rights would.

Additionally, there is evidence indicating that some activists believe the fight for the ERA ended when President Biden declared it the law of the land on January 17, 2025. The ERA Coalition's front page of their website conclusively states, “Gender equality has been enshrined

⁶ Karen Yourish et al., “These Words Are Disappearing in the New Trump Administration,” *The New York Times*, March 7, 2025, sec. U.S., <https://www.nytimes.com/interactive/2025/03/07/us/trump-federal-agencies-websites-words-dei.html>.

in our nation's foundational document with the ERA... The ERA is law. We don't need further action; the People have spoken and we have the support of the legal community.”⁷ And while there is significant support from the legal community, including the American Bar Association, the ERA Coalition's website does not necessarily tell the full story. The fight is not over – for both history and policy's sake, it is important that minority women reclaim this amendment and ensure it better reflects their own experiences and needs.

There will likely still be women of color like Mary Flowers and Rita Mayfield who oppose the ERA. After all, it is partly the brainchild of an undeniably racist and exclusionary woman. However, as misguided as Paul might have been, her racism does not render the ERA useless to minority women. While the ERA's legislative history has demonstrated that Black and low-income women have historically been excluded from ERA campaigns in the legislature, contemporary ERA debates have also demonstrated that Black women have the power to make the ERA relevant to their own life experiences. There *are* arguments to be made for the ERA's benefit to minority, working-class women. They just need to be made by the right women. AOC is uniquely positioned to be that voice, bridging her own working-class background with the renewed interest of minority women in the ERA while offering the Democratic Party a unifying path forward.

⁷ “ERA Coalition,” ERA Coalition, accessed April 17, 2025, <https://eracoalition.org/>.

APPENDIX

The R code used in this thesis – including data filtering, text cleaning, and the script behind Figure 5.1 – is available in a public GitHub repository. While some exploratory analyses (such as sentiment analysis and topic modeling) were not included in the final version of the thesis, their code is provided for reference and for those interested in extending this research.

You can access the repository here: <https://github.com/miajhamilton/era-equal-pay.git>

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