

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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### Opening Statement of Chairwoman Carolyn B. Maloney Hearing on “The Equal Rights Amendment: Achieving Constitutional Equality for All” October 21, 2021

Welcome everyone. **As the first woman to chair this Committee, I am particularly proud to convene this hearing on what I believe is the most important thing we can do to ensure gender equality in this country—finally putting the Equal Rights Amendment in the Constitution.**

**Gender discrimination is a persistent problem, yet our country’s foundational document does not guarantee equality regardless of gender. That is why I have introduced ERA resolutions 13 times during my career in Congress, and why I am so committed to seeing this Amendment adopted as part of our Constitution now.**

The Equal Rights Amendment was written more than 100 years ago by the legendary suffragist, Alice Paul, who I am proud to say was a relative of my late husband. After decades of effort, the ERA finally passed the House in October 1971—50 years ago this month—in a strong bipartisan vote. It passed the Senate overwhelmingly the following year.

The preamble to the Amendment included a seven-year time limit, and in 1979, Congress voted to extend the time limit by another three years. By 1982, the ERA had been ratified by 35 of the necessary 38 states.

Then, momentum behind the Amendment stalled. But that all changed in 2017, when the Women’s Marches and the #MeToo movement reminded us all that we are still a very long way from gender equality.

In 2017, Nevada voted to ratify the ERA. Illinois followed in 2018, and Virginia in 2020. 38 state legislatures have now voted to ratify the ERA, meeting the constitutional requirement. But the ERA still doesn’t appear in the Constitution. This has to change.

**Federal law directs the Archivist of the United States to certify and publish amendments that have met the requirements laid out in Article V of the Constitution.** This is a purely ministerial duty, which should be done automatically.

**But under President Trump, the Department of Justice issued an opinion advising the Archivist not to certify the ERA. Today, I am releasing a letter from preeminent legal scholars stating that this Trump-era legal opinion is legally erroneous and should be withdrawn.**

**These scholars also make clear that the time limit in the preamble to the ERA resolution is not an obstacle to ratifying the Amendment.** This time limit was not included in the Amendment itself, and there is no time limit on equality, or in the Constitution.

I strongly agree with the scholars’ assessment that the time limit is likely non-binding—and that Congress clearly has the authority to extend or eliminate time limits if necessary.

**So today, I call on President Biden—who is a true champion of women—to withdraw this flawed legal opinion and allow the Archivist to certify the ERA without delay.**

**I also strongly support the legislation led by our colleague, Congresswoman Speier, that the House passed to eliminate the time limit from the ERA. This would remove even the shadow of a doubt about the ERA's validity. I urge the Senate to take up this bill without further delay.**

**After 100 years, women cannot wait any longer for full constitutional equality. The ERA is not merely a symbol. It will make a real difference in the lives of women and people of all genders who face discrimination, sexual violence, and unequal pay.**

**The pay gap between men and women has persisted for decades, with the average woman being paid 84 cents for every dollar paid to a man. For women of color, the gap is even wider. In order to make the same income as a man earned last year, a Latina woman in this country has to work an extra ten months—until today, October 21. That is shameful, and it shows that the current legal standards are not adequate.**

**In 1994, Congress passed the historic Violence Against Women Act—authored by then-Senator Joe Biden—which included a right for victims of sexual violence to sue their attackers. But when a young woman named Christy Brzonkala tried to sue her rapist, the Supreme Court struck down that part of the law as unconstitutional.**

**More recently, a federal court in Michigan overturned a law banning female genital mutilation, which is an internationally recognized human rights violation. The judge found it was unconstitutional to ban female genital mutilation. What a disgrace. With the ERA, Americans who go to court to challenge gender discrimination will have a fighting chance.**

**Today, equal rights can be too easily rolled back depending on the ideological leanings of Supreme Court justices. But Constitutional amendments are permanent. We can't always control who's on the Bench, but we can change the document they are tasked with interpreting, so that it better reflects the equality that all Americans deserve.**

**This Committee will continue to work to put the ERA in the Constitution. We will settle for nothing less than full constitutional equality.**

**I'm now pleased to recognize Congresswoman Jackie Speier, the sponsor of H.J. Res. 17 and ERA champion, for an opening statement.**

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