

**House Committee on Oversight
October 21 ,2021**

Carol Jenkins - written statement

Thank you, Chairwoman Maloney, for the invitation to speak here today, and to Ranking Member James Comer and the Committee for holding a hearing on this important issue. It's well past time to talk about the Equal Rights Amendment, and the first full committee hearing since the 1970s - 50 years—is long overdue. This is an important step for sex equality and for democracy and we are grateful to be here.

My name is Carol Jenkins, and I am the President and CEO of the ERA Coalition and its sister organization, the Fund for Women's Equality. I've been fighting for simple and pure equality, the concept of the Equal Rights Amendment, for almost my entire life. This agitation for democracy and equality runs through my veins. I was born in one of the poorest counties in America both then and now — Lowndes County, Alabama. It was farm country just outside of the capital city of Montgomery. They used to call it Bloody Lowndes, where they lynched people for wanting to vote—and much less.

My cousins sat-in at segregated lunch counters and got arrested and brutally beaten for the right to a cup of coffee; my successful businessman uncle bailed Martin Luther King Jr., out of the Birmingham jail as he was writing his famous letter; our family farm, that Lowndes County farm, was the third stop-over in the historic march from Selma to Montgomery.

I spent nearly a quarter of a century as a reporter, documenting the failure of our democracy and its incremental improvement —and in South Africa, covering one of the most spectacular victories of persistence as Nelson Mandela emerged, alive from 27 years of imprisonment, breaking the back of apartheid and releasing millions of black-skinned people from a hellish, state-sanctioned way of life.

This fight for the ERA has lasted a century. The women and men who have waged this war against discrimination are every bit as determined as MLK and Nelson Mandela. And the rights we are fighting for are equally important.

Fifty years ago, in 1970, our board member Gloria Steinem spoke right here in Congress, in a hearing on the Equal Rights Amendment before the Senate and talked about a perpetual falsehood: "Another myth, that women are already treated equally in this society. I am sure there has been ample testimony to prove that equal pay for equal work, equal chance for advancement, and equal training or encouragement is obscenely scarce in every field."

Despite stating the case for the ERA in Congress 50 years ago, Gloria Steinem and many, many others still fight for these same rights today in 2021!

Women of color and Black women in particular have always been at the forefront of this movement. Shirley Chisholm gave a fiery speech on the House floor in 1970 in support of the Equal Rights Amendment. Her support for the amendment, too, led the way for passage of the ERA in the House of Representatives the following year - 50 years ago as of last week.

And it was a queer, Black, Episcopal priest, lawyer and author named Pauli Murray who was the architect of the litigation strategy used by Ruth Bader Ginsburg while arguing in support of a 14th Amendment to the Constitution. This led to Pauli being recognized as one of the mothers of the modern sex equality movement, and her arguments for equality for women included the intersectional take on her own

identity as well, calling the meeting of racism and sexism “Jane Crow.” Pauli spoke about these overlapping identities in her powerful and persuasive testimony on the ERA.

Black women have also led the ratification efforts of the last three states needed to reach the 38-state threshold required by the Constitution for all amendments. This revived the current fight for the Equal Rights Amendment across states and in Congress.

State Senator Pat Spearman, a queer Black woman, led the successful charge for ratification in Nevada in 2017. The next to last state to ratify, Illinois, saw Black lawmakers including state Sen. Kimberly Lightford, then-state Rep. Litesa Wallace and then-state Rep. Juliana Stratton lead the fight in 2018. And in January of 2020 in Virginia, a multigenerational group of Black women lawmakers led the ratification of the ERA, including state Sen. Jennifer McClellan, state Sen. Mamie Locke and then-state Delegate Jennifer Carroll Foy. Other key lawmakers in Virginia during ratification were Delegate Hala Ayala, an Afro-Latina woman, and Delegate Danica Roem, the first out transgender woman to serve in a state legislature.

This movement continues to move forward with Black women in places of leadership throughout the advocacy space as well. Many of the organizations that are part of the ERA Coalition are in fact led by Black women, including Supermajority, NOW, League of Women Voters, and others. And the Coalition itself is presided over by a Black woman, me - Carol Jenkins, with two women of color leading our Board of directors - Kimberly Peeler-Allen and S. Mona Sinha.

We are a broad coalition of movements: nearly 200 organizations representing women’s rights, civil and voting rights, LGBTQ and trans rights, disability rights, faith groups, and workers rights including unions representing airline workers; 80,000 miners; and 350,000 teachers. We are united in this effort to eliminate discrimination based on sex.

The ERA Coalition began providing a collective place for ERA action in 2014. In these 8 years we have gathered nearly 200 organizations as equality partners. We worked in the states: we were present in the gallery when Virginia became the 38th and final state needed for ratification. We were in Congress with Congresswoman Maloney to mount a shadow ERA hearing in Congress to demonstrate why the time limit needed to be removed. Congressman Jerry Nadler told us that day that if he became chair of Judiciary he would give us a real hearing--and he delivered on his promise in 2020. We were there with Speaker Pelosi and Congresswoman Speier when the House passed the time limit removal bill the first time, and bill sponsor Jackie Speier declared "Women want in the Constitution." We were with the Attorneys General of Nevada, Illinois, and Virginia as they sued the Archivist to compel him to publish the 28th Amendment in the Constitution. And we are here today, with our partners, insisting that the time to remove the time limit in the Senate is now.

Adding the ERA to the Constitution would enshrine equal rights as a core value in our nation’s founding documents, finally providing an explicit guarantee of protection against discrimination on the basis of sex, something currently not guaranteed even in the 14th Amendment.

The ERA would be a Constitutional support for many issues that often affect women more than men, including intimate partner violence, sexual assault, paid leave, and equal pay. Women would benefit from these types of legislative proposals, and Black women and women of color would stand to benefit from them most of all; tilting the scales of justice a little more toward equality.

When it comes to intimate partner or gender-based violence and sexual assault, women need more comprehensive legal recourse to ensure fair enforcement of protection orders, or federal right of action for civil damages against an abuser. This right, if the ERA is enacted, could change the lives of all who are abused or assaulted.

Look at our United States gymnasts for example. Young girls in this program were abused for decades by team doctor Larry Nasser, and when confronted with this reality the powers that be initially deemed the girls' stories not credible. Or at least not credible enough to warrant a full investigation from the outset. Dozens of additional young athletes were abused in a system that didn't immediately take their need for protection seriously, including the Federal Bureau of Investigation.

While the ERA would initially provide protections and recourse to those in federal and state employ—we believe the cultural impact on equal pay would be monumental. As we have worked for adoption of the ERA we have seen corporate America move in the direction of fairness. A fully recognized ERA would complete that shift.

According to the Bureau of Labor Statistics, women make 82 cents for every dollar a non-Hispanic white man makes. This is outrageous, but what is even more outrageous is that Black women make only 63 cents compared to white men, and for Native American women it's about 60 cents on the dollar. And today, on October 21 - Latina Equal Pay Day, we recognize that Latinas make only 58 cents for every dollar a non-Hispanic white man makes. Women of color rank perpetually in the bottom ranks of progress- the 63 cents that a Black woman makes compared to a white man has only improved 3 pennies in over 30 years.

According to the Department of Labor, the COVID-19 pandemic stalled any prior gains we've made toward closing the pay gap. And women of color have been the most affected. Approximately 5 million women left the workforce during the COVID-19 pandemic. A majority of these job losses in 2020 were women of color, who tended to work service sector and caregiving jobs in the pre-COVID economy and suddenly found themselves either not able to care for their own families while working, or unemployed due to job cuts.

Enacting the Equal Rights Amendment would give women, and particularly women of color, a tool to fight for what they have earned: full pay equity.

Paid leave is an essential way to build racial and gender equality and support families, and the ERA can help us get there. Lack of paid leave drives down Black women's income and economic stability, their ability to keep their job and advance, get out of and stay out of poverty, and build wealth.

Our nation was built upon the forced, unpaid labor of enslaved Black women and men. Low-paid domestic work was the only job open to many Black women after the Civil War and into the 1960s. When the Fair Labor Standards legislation was passed, guaranteeing minimum pay, hours and other protections, an agreement with southern segregationists excluded domestic and agricultural workers. Not surprisingly, Black women and other people of color today are the least likely to have access to paid family and medical leave.

Only 54% of Black workers have access even to unpaid leave under the FMLA - and many women who do have access can't afford to use it because 84% of them are the primary or co-breadwinners for their families.

We need comprehensive paid family and medical leave to combat these and other disparities.

The Department of Labor has already confirmed that women of color are the ones most negatively impacted by the COVID-19 pandemic. "Layoffs and a lack of child care have forced many women out of the workforce entirely. In February 2021, women's labor force participation rate was 55.8% – the same rate as April 1987. And women of color and those working in low-wage occupations have been the most impacted."

Closing

It was Justice Scalia who said, "Certainly the Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. It doesn't. Nobody ever thought that that's what it meant. Nobody ever voted for that."

If we want to truly protect Americans from discrimination on the basis of sex, it is up to us to add this language to the Constitution, so future generations can have a more equal future. Women, and especially women of color, require it in order to survive and thrive.

The ERA would go a long way toward starting the process of remedying the historic discrimination perpetrated based on sex since the founding of the United States.

As the grandmother of biracial children in a family with two mothers, I insist on their right to opportunity, health, and the ability to live in their own country without fear. I want the Constitution to reflect their existence, and their rights and protections. I want the Constitution to say one cannot be discriminated against based on one's sex. It doesn't say that now. It must.