

It's time to finally pass the Equal Rights Amendment

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Equal Rights Amendment (ERA) supporters stand under a portrait of Thomas Jefferson as Sen. Glen H. Sturtevant (R-Richmond) presents his Equal Rights Amendment bill to the Senate Privileges and Elections committee at the Pocahontas Building in Richmond, Va., Jan. 9. (Bob Brown/AP)

By Lisa Murkowski and

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Lisa Murkowski, a Republican, represents Alaska in the Senate. Ben Cardin, a Democrat, represents Maryland in the Senate.

Men and women should be treated equally under the law. It seems pretty basic, right?

As we approach the 100th anniversary of women's suffrage, it comes as a shock to so many that the U.S. Constitution does not guarantee women the same rights and protections as men.

We come from different ends of the political spectrum, but we agree that this needs to change. Women compose a majority of the American population but continue to be underrepresented in government, elected office, the courts and business world. A level playing field should not be a euphemism but rather a reality for women (and men) from Anchorage to Annapolis and everywhere in between.

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

This is the full substance of the Equal Rights Amendment. It's a little less than a tweet, but it will make a positive difference in the lives of millions of women.

Why is this still necessary? During a 2011 interview, Justice Antonin Scalia summed up the need for an Equal Rights Amendment. He said: "Certainly the Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. It doesn't."

On the other side of the spectrum, Justice Ruth Bader Ginsburg laid out the rationale for the ERA in simple terms: "Every constitution written since the end of World War II includes a provision that men and women are citizens of equal stature. Ours does not."

Why has it taken this long? Per the Constitution, an amendment must be ratified by three-fourths of the states to be enacted. While most amendments are put forward without a time limit, this one came with a seven-year deadline. The original was extended to 10 years, but still, only 35 states had ratified the ERA by 1982.

While the clock stood frozen at the federal level, today, nearly half of the states — including Maryland and Alaska — have a version of the ERA written into their constitutions. Gender-based equality represents the present-day views of the vast majority of people across the United States, and is the spirit that underpins our bipartisan legislation.

The deadline passed in 1982, so isn't this effort futile? Not at all.

Nationally, momentum began to shift about two years ago, as women across the country began to raise their voices again in calls for solidarity and equality. The ERA had never gone away, but the #MeToo movement gave it a jolt of energy and a new spotlight for inequalities in U.S. law.

In March 2017, 45 years to the day after Congress overwhelmingly approved the ERA, Nevada became the 36th state to ratify the amendment. And then, in May 2018, Illinois became the 37th.

What had for years been referred to as a three-state plan — working to have Congress remove the ratification deadline so that three more states could ratify the ERA, and it would become enshrined in our constitution — had suddenly become a one-state plan.

Earlier this month, Virginia started the ratification process in their state legislature. Alabama, Arizona, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina and Utah could also become state No. 38. Congress can do its part by explicitly removing the deadline it once set.

Article V of the Constitution contains no time limits for ratification of amendments. The states finally ratified the 27th Amendment in 1992 regarding congressional pay raises more than 200 years after Congress proposed it in 1789 as part of the Bill of Rights.

The original deadline for ERA ratification was not in the amendment itself but only in the text of the joint resolution proposing the amendment. This is to say the amendment itself has no arbitrary deadline attached.

Whether on purpose or not, Congress handcuffed itself at the time it passed the ERA. But this Congress can and should easily amend that language to remove the deadline for ratification.

We are proud to work together on a bipartisan basis to move this essential legislation over the finish line and finally make the ERA part of the Constitution — guaranteeing equality under the law for women.

Women should not be held back or provided less opportunity, respect or protections under the law because of their gender. This is not a partisan issue but one of universal human rights. Gender equality should be an explicit, basic principle of our society.

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