

## Summer 2014

**To:** Interns and new staff members – NOW 101 Agenda

**From:** Twiss Butler, [reference@now.org](mailto:reference@now.org) and [www.equality4women.org](http://www.equality4women.org)

**Subject:** Briefing on Constitutional non-status of women and girls\* & ERA\*\*

This unofficial reference packet is to provide a basis for thinking about why NOW is necessary. Feminism is the logical response to sexism—the social and legal systems that advantage *all* men at women’s expense.

### I. Basics (#s refer to items in pockets)

- 18<sup>th</sup> Century writing: “Our Masculine Systems” & “abuse of brute strength” (#5)
- Notes for National Forensics League Debaters (#565 & now website)
- NNT article: Denial of equal protection promotes violence against women. (#541)
- Green sheet: Progress Toward Constitutional Equality for Women and Men. (#10)
- Primary, secondary, & tertiary discrimination against women and girls (#764)

### II. How difference is used to “justify” legal sex discrimination (LSD)

- LSD and Pregnancy: Essay “Stop Abortion? Fix Men” (#622) & *Yale J. of Law and Feminism* reprint: “Abortion Law: ‘Unique Problem for Women’ or Sex Discrimination?” (#417) [Justified by women’s reproductive organs = Primary LSD]
- Social and Legal Sanctioning of Prostitution and Pornography [Primary LSD]
- Sex Discrimination (SD) and Sexual Orientation [Secondary LSD?]
- “Benign” SD: Insurance (#809 “Group Defamation,” #15 “Insurance versus the ERA in Illinois, 1978”) (Visit [www.centspermilenow.org](http://www.centspermilenow.org) for reprints #342, #570) [Justified by differences in group averages = Secondary LSD]
- “Benign” SD: Single Sex Schools (#576+554G+554PC) [Secondary LSD]
- “Benign” SD: Combat Exemption and The Draft (#761) [Secondary LSD]

### III Remedy

- Who’s Defining Feminism? (Liberals as well as conservatives are gatekeepers.)
- “Unthinking ERA Thinking” by Prof. C. MacKinnon (see copy in folder)
- How to pass an ERA worth passing (#760)
- Unite ERA and Abortion (#766)

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\* “Resolved, That the women of this country ought to be enlightened in regard to the laws under which they live, that they may no longer publish their degradation by declaring themselves satisfied with their present position, nor their ignorance, by asserting that they have all the rights they want.” Seneca Falls Meeting July 19, 1848.

\*\* “Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.” Approved by Congress, March 22, 1972.

(See over for a briefing Addendum)

## Addendum to ERA Intern Briefing Memorandum (#762)

Useful explanatory principles to keep in mind

- Women are the only class that does not include men.
- Sex discrimination against women is *not* unconstitutional. Supreme Court Justice Scalia is correct about this legal fact. (Sex discrimination against men is a different matter. See Sp. Ct. cases in #10, the green sheet.)
- In making legal or commercial distinctions on the basis of sex, men are unlikely to disadvantage themselves for women's benefit. (This is the basic principle of representative government and explains what happens to groups that are under-represented in making government and business decisions, or "If you're not at the table you'll be on the menu.")
- Sex discrimination is decreed *selectively* by those in charge of laws, social customs, religious edicts, and business arrangements.
- Sex discrimination is not irrational. Instead it is rational anti-competitive behavior that benefits men and boys by cutting women and girls out of occupational and educational competition.

Conclusion: What now?

- The ERA is a *sine qua non* for equality under the law for American women.
- The ERA as defined in 1972 was defeated. Current initiatives for passing it have changed the name but not the issues that were the pretext for its previous defeat.

Where do we go from here?

- Recognize that politicians cannot act without public approval. This reality is the reason for the call to enlighten women by the Seneca Falls resolution quoted in the 1<sup>st</sup> footnote on side 1 of this sheet.
- (Don't get hung up at the start by arguing over title and language; the 1972 version is fine – it is sex-neutral and as broad as a constitutional amendment should be.)
- See #760 — How to pass an ERA worth passing.

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NOTE WELL—The defining difference between men and women is their reproductive organs. Laws or violence targeting women's reproductive organs are invasive practices that de-dignify, subordinate, and harm ALL women. Such attacks by SOME men pay off in dominance for ALL men without hurting ANY men whether the means of attack are pornography and prostitution, or debating regulation of pregnancy and abortion. Men have refused women's right to bodily integrity while claiming it as a constitutional birthright for themselves.