

America. A country founded on the ideals of equality, justice, and freedom for all who desire it. From kindergarten, we're taught that America is a "republic...with liberty and justice for all" in the daily Pledge of Allegiance. Our Constitution, a document that has become a template for other constitutions, states that its goal is "to form a more perfect Union, establish justice...and secure the Blessings of Liberty for ourselves and our Posterity." Clearly, America believes in equality for all. Not equality for only rich landowners, not equality for only white people, not equality for only men. And yet, while we have amendments guaranteeing racial equality and voting rights for all, we don't have an amendment that guarantees equal rights for both sexes. The closest we've gotten to this is the 14th amendment, which states that "No State shall...deny to any person within its jurisdiction the equal protection of the laws." If that's not specific enough, we also have Title IX, which "prohibits institutions that receive federal funding from excluding students...on the basis of sex." However, neither of these really seem to fully prohibit sex-based discrimination.

In order to understand this issue, we first need to take a look into how other countries have treated the topic of sex-based discrimination. Firstly, it's important to note that 85% of constitutions today explicitly guarantee the right against sex-based discrimination (World Policy Center). However, for the sake of simplicity, I'll cover the history of Germany's equal rights provision in their constitution. Germany's constitution was enacted on May 23rd, 1949, a little under four years after the end of WWII. During the Nazi regime, women were relegated to a second-class role in society. Teenage girls were put in the Hitler Youth and taught to be "good mothers," a fate that frequently ended in teenage pregnancy. Women's rights as a whole were limited during this era, but things started to change once the war ended. Article 3, Clause 2 in the German constitution, which has been in place since the implementation of the constitution, states that "[m]en and women shall have equal rights. The state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist." This amendment, combined with the numerous other laws that Germany has put in place, have made it one of the most equal countries in the world across genders.

However, why does America need this amendment? If we want to understand this question, we need to take a look at how the lack of an equal rights amendment has affected America. One important thing to note, however, is that

the lack of an equal rights amendment affects both genders. In the SCOTUS case *Kahn v. Shevin* (1974), widower Mel Kahn was prohibited from accessing caregiver tax benefits even though he was the primary caregiver for his elderly mother, as those benefits were only for widowers. He sued, and the case was eventually taken to the Supreme Court, which ruled that he wasn't entitled to those benefits, and those were meant only for women. In this case, the 14th amendment didn't work at all. However, in other cases, the 14th amendment has worked, and in *Weinberger v. Wiesenfeld* (1975), an almost identical case involving a widower who sued the government for denying him social security benefits as the primary caregiver for his son, the Supreme Court ruled in his favor and struck down the widow's pension. So why is the 14th amendment not enough? Well, according to *CULA Review*, the contradiction was due to SCOTUS's adoption of the intermediate scrutiny test, a test that "required the state to prove there was a "substantial relationship" between the goals of a statute and its 'means.'" To put it simply, the Court required the defendant (the state) to prove that there was a necessary reason for their exclusion of a specific sex.

In conclusion, the lack of a fundamental equal rights amendment regarding sex, an amendment that most countries already have, is a grave oversight by American policymakers. It adds confusion to legal issues regarding this topic and, quite frankly, is archaic given that even developing countries have this basic right. In my opinion, the United States should take inspiration from Germany and implement an equal rights amendment that has been in the works for over 70 years, finishing the work of women's rights activists such as Alice Paul. With an equal rights amendment, scenarios such as *Kahn v. Shevin* would be much easier and clearer to manage, especially in this time of political tension and polarization.

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