

# The Church and the Equal Rights Amendment

**The ERA poses no threat whatever to the American family. Indeed, by outlawing discrimination on the job and in divorce courts, it may found marriage anew on shared responsibility**

As we move through 1975, International Women's Year, the Holy Year with its theme of reconciliation and the year of preparation for the U. S. Bicentennial, ratification of the Equal Rights Amendment is an obviously appropriate concern. For passage of the ERA will give a legal guarantee of practical equality, full citizenship and true justice for half of our population—women.

The prospects seem favorable for passage. There are, however, some real obstacles to be overcome. The position of Catholics is a major consideration. Some are downright hostile, convinced that the ERA is dangerous to church values. The majority seem ambivalent, not at all sure that they should not support the ERA but still afraid of the changes they fear that the amendment will bring. The question is when: How long must women wait for justice?

One thing is clear, however. The importance of the right of equality for women has been publicly acknowledged by the church and its leaders: "With respect to the fundamental rights of the person, every type of discrimination, whether social or cultural, whether based on sex, race, color, social condition, language or religion, is to be overcome and eradicated as contrary to God's intent. For, in truth, it must still be regretted that fundamental personal rights are not yet being universally honored. Such is the case of women who are denied the right of freedom . . . to embrace a state of life; or to acquire an education

or cultural benefits equal to those recognized for men" (Pastoral Constitution on the Church in the Modern World, No. 29).

In view of this straightforward acknowledgment of the importance of equality for women and in light of the call for reconciliation during this Holy Year, the striking absence of the American bishops from the growing coalition of those who recognize the justice of the women's cause and urge the ratification of the ERA is disconcerting. The bishops' stand is regrettable, as well, for its impact on the Catholic community, especially on those women within that community who look to the bishops for moral leadership. The absence of a statement from the annual meetings of the National Council of Catholic Bishops and the apprehensive statement by the late Archbishop Leo Byrne, who chaired the bishops' Ad Hoc Committee on Women in Society and in the Church, have been taken to heart by many Catholic women.

Some Catholic women have become active opponents of the ERA. The National Council of Catholic Women, for example, has repeatedly opposed ERA adoption through votes taken at its national conventions. Others have simply removed themselves from the public discussion. The presence of these women, however, is desperately needed. Their insights, wisdom and judgments are essential if the ERA is to pass and if ERA implementation is to be sensitive and just. The social

forces behind the ERA are already stimulating changes that will continue. These presently uninvolved women and the values they hold should have a part in directing the change and in shaping the new society.

The importance of the stands taken by church leadership on public issues is a basic assumption of American politics. Events in Utah are a powerful indication that this assumption is correct in the case of the ERA. Proponents of the ERA were optimistic—polls showed 65 percent of the citizens supporting the amendment, and it had the support of the governor. In mid-January, an editorial opposing the amendment appeared in the regular Mormon supplement of the statewide Desert News. Although there is still debate over whether or not the editorial represents official church policy, there is no question of its impact in the state. Popular support, in a state 70 percent Mormon, fell to 49 percent. Legislators favoring ratification indicated they would not support it because of constituency opposition. The Utah House of Representatives defeated the ERA on February 18. The next day the Nevada Senate defeated the amendment. Proponents of the ERA attribute the defeat to Mormon opposition. Any questioning of the importance of the Catholic bishops' presently ambivalent stand must be judged in the light of these recent events.

The reason for the bishops' stand seems to be a fear that the ERA will

damage that most basic institution of social life—the family. This fear was voiced in 1972 by Archbishop Leo Byrne: “The amendment may very well destroy the unity essential to the stable family relationships.” Archbishop Byrne’s concern for the family is well justified. An increasing body of evidence suggests, however, that the course to be adopted for strengthening the family is not one of opposition to the ERA, but rather one of full support for ratification and active participation in its implementation. This course accepts the reality that ratification is but an essential first step. The more important process, one that can only limp along until ratification, is a just and wise restructuring of our legal system. The ERA allots two years after ratification for bringing about the necessary changes. The Catholic community can mobilize its resources and use these two years for the study of, discussion about and serious reflection on how to implement the amendment for the benefit of women and society as a whole. Or, the Catholic community can sit on the sidelines, ignoring the real situation, and bemoan the breakdown of society.

### THE ERA—A LEGAL STATEMENT

What does the Equal Rights Amendment say? Its language is simple and straightforward.

“Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex;

“Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article;

“Section 3. This amendment shall take effect two years after the date of ratification.”

What is the reality the ERA can influence? First, it is essential to realize that the ERA is a law affecting other laws. It applies to laws and situations specifically covered by laws. The ERA cannot directly affect areas not controlled or regulated by law. It cannot and will not have any legal impact on the workings of an ongoing marriage relationship. It can, however, have a profound and positive impact on marriage and the security of the

family by its effects on other areas of women’s lives.

By establishing equal education and employment opportunities for women, the ERA will provide real alternatives to marriage, thus fostering mature judgments about marriage as a vocation. When married women choose to work outside the home, they will have the opportunity to make decisions about work and work time that are best for them and their situation. If a marriage does break down, child custody decisions will be based on the well-being of the children. Support, in the form of both money and child care, will be the responsibility of both parents. The women who have devoted their lives to caring for their husbands and children will be treated more justly than they are now.

### ERA—WOMEN ON THE JOB

The statistics about women who work outside the home keep growing, but the situation portrayed by the statistics remains relatively static. Few dispute the principle that equal work requires equal pay. Agreement with the principle does not, however, guarantee equal pay. No matter what the bases for categorizing people, women receive less pay (the median wage for women, working full-time, year-round in 1972 was \$5,593, compared to \$10,202 for men). Forty-five percent of all women over 16, about 34 million women, are part of the job force. Almost 13 million of that number work to support their families, either because they are the sole money-earners or because their husbands’ incomes are inadequate (less than \$7,000) to meet the basic needs of families in this society. An additional 7.8 million single women work to support themselves. Women usually work in low-paying jobs. Even if they have education and training, their opportunities are limited—70 percent of professional women are teachers or

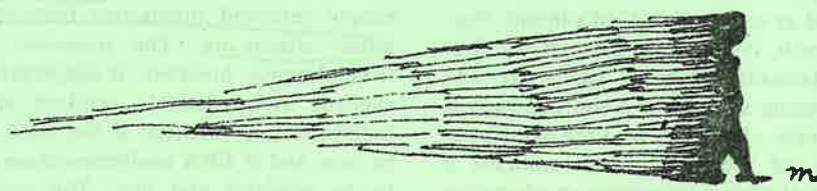
nurses, among the lowest paid professional workers. The situation of minority women, particularly black women, is even more precarious. The median income for black women, working year-round, full-time in 1972 was \$5,320, compared with \$6,131 for white women.

Women who must work outside the home face discrimination masked in a variety of ways. Protective legislation is just one example. Legislation may state how long or when women may work, restricting overtime or shifts they may work. Whether she wants to or not, or even if it is best for her, her husband and their family, a woman may be forbidden from working nights in industrial jobs that pay more to the night shift—under the guise of protection. It seems to be considered safe and appropriate, on the other hand, for cleaning women, among the lowest-paid workers, and nurses, low-paid professionals, to work at night.

There are protections needed. There is a need for a careful examination of laws and regulations. Those laws that discriminate should be eliminated. Those that protect should protect all workers, women and men. UX

Other practices that influence hiring and advancement in the work force also demand attention. Women are often excluded from training programs, even some that are federally funded. When there is no stipulated barrier, whole sets of attitudes serve as major hurdles: women are not notified of opportunities; they are discouraged from applying; if they do gain admittance to the program, they are ignored or given “special” attention. Most women, facing enough hassle in their lives and not at all sure they will gain in the end, do not fight the system.

Faced with this array of barriers, many young women see only one place for themselves—a home of their own. This view is reinforced in many communities by attitudes that identify the role of housewife and mother as



the only one suitable for women and the only one for which women are suitable. The consequences are disastrous. Young women, unready for marriage, rush into it, at best facing an avoidable amount of problems and pain. Increasingly, as indicated by the divorce rate of people who marry young, they face failure. The children they bear suffer. Society, in most instances, must financially support them. A woman has been denied the opportunity to become the full person she has the potential for being. Society has been denied the contribution she could have made, if only she had some time.

The ERA, by removing employment barriers through reform of laws, will open more jobs to women. Marriage will be more carefully considered when it is not the only option available and when the possibility of an interesting job with the potential for a good future also exists. Most women will still choose marriage, but they will make that choice more freely and maturely after the experience of managing their own lives and of assuming and living with responsibility. The possibility that the marriage will be more stable and happier, enhanced when a woman chooses marriage under these conditions.

As the statistics cited above indicate, many women work because they must. Other data indicate that a major cause of marriage failure is money—how much there is, how it is managed and what it means for people involved. The ERA and the reforms it will begin cannot relieve all the tensions caused by money concerns within a marriage, but it can help with some. Women will have more freedom to pick the job and the time-shift that best suits them and their situation. They will have the right to all the benefits attached to the job, if these rights are protected by law.

The ERA cannot directly affect employment practices not covered by law. Thus, there is a vast area outside direct ERA influence. The employment practices of government, however—federal, state and local—which will be under ERA, have a powerful influence on the employment practices of the private sector. The health coverage, maternity and "child care" leave

policies that government units adopt will find their way first into union contracts, then into other employment agreements. When these changes are coupled with the ERA-mandated changes in laws governing employment, a restructuring of work is inevitable. If family-protection values are to play a role in such restructuring, and they will if people who hold those values join in the dialogue, social support for families will result.

#### ERA—THE BROKEN FAMILY

Divorce and separation are increasing in our society. Despite the church's opposition to divorce, it cannot in charity or justice ignore what happens to a family when a marriage does in fact fail and is legally ended. On the basis of all the evidence, the ERA will not, as some fear, further erode the protections available to women and children. This evidence needs careful attention.

The immediate focus of change will be the language of laws. No longer will women, per se, be entitled to child custody, alimony or financial support of children. A parent will be awarded custody of children on the basis of what is best of all. Both parents will be responsible for the support of children, as they are now. The parent who does not take care of the children on a day-to-day basis—one form of support—will be asked to provide financial support. For the foreseeable future, more women than men will have custody of children, although increasingly, even without the ERA, fathers are asking for and receiving custody of their children. The ultimate criteria in each individual case should be the children and what is best for them. The advantage of the ERA in this instance is twofold. It will require changes in those laws that specify child placement with one parent, usually the mother, ignoring the fact that in some cases the father may be the better parent. Also, it will encourage all concerned, parents and court officials, to examine each case rather than to follow custom blindly.

When talking of child support, it is well to give attention to reality. Child support payments are usually inadequate, partly because those meeting

the payments cannot support two households—even if one of them is a single-person household. Information is scarce, but it seems as if the average may be as low as \$60 to \$100 per month for one child. This average per child drops as the number of children grows. Equally important is the fact that the number of men fully complying with the award drops as the years pass. Again, information is poor, but what exists indicates that little over 10 percent of all fathers support their children 10 years after a divorce. Within one year, the figures indicate that 55-80 percent of the court-ordered support payments are not met. The parent with the children, almost inevitably the woman, has two alternatives: work outside the home or welfare.

It is interesting to note that the limited data presently available on the support of children after divorce results not from society's concern for children, but rather from the states', and now the federal government's, concern over the increased cost of supporting children of welfare families.

The recently enacted (January, 1975) amendment to the Social Services Amendment Act is an example of this. This legislation provides for federal government cooperation in the search for missing fathers and the garnishment of federal salaries and retirement benefits for support payments. Whether or not this law will be enforced is an open question. Enforcement mechanisms have been ignored to date. President Gerald R. Ford, while signing the bill, indicated plans to sponsor ameliorating legislation.

Closely related to the issue of child support is that of alimony. Contrary to popular belief, a woman is no longer assured of alimony if her marriage ends. In many instances, if alimony is awarded, it is granted until the divorce is final or long enough to allow the woman to obtain the training and skills that she needs to work outside the home. Although an increasing number of observers, including many divorced women, see much benefit in the long run for women to become self-supporting, this approach does not take into consideration women who cannot work because of child care responsibility. This approach also

ignores the fact that many assets of the marriage, such as social security, pension benefits, insurance, etc., are in the husband's name. The wife contributes to the building of these assets, however. At the very least, she has managed the family income to allow for these expenses. More often, as the family was considering alternative ways of spending its money, her personal wants were sacrificed to build security for the future in the form of these family assets. Thus, however desirable outside-the-home employment may be, it does not end the necessity for alimony—alimony that, in almost every case, is taxable.

In all but two states, Texas and Washington, the property of the marriage is effectively in the hands of the husband. If a marriage breaks up, the woman must fight in court for some share of the family assets. In effect, her years of service and care for husband and children are written off as valueless. From a legal perspective, she is entitled to what financial returns her husband wishes to give her while married, and if the marriage ends, she is left without any resources or benefits. The injustices of such an approach are particularly hurtful to the older wife who is being discarded. She is left with few marketable skills, no financial resources and a very reasonable feeling of uselessness and failure.

The new no-fault divorce laws were drawn up to meet real needs. Unfortunately, the new situation is not always good. Elizabeth Spalding, coordinator of the National Organization for Women (NOW) Task Force on Marriage and Divorce, has pointed out: "The 45 no-fault divorce bills, all modeled on the uniform divorce act, have been discriminatory bills. With

the single exception of Colorado, none of the states has adopted all the protective property provisions of the uniform divorce act at the time when they adopted the quick, mandated, unilateral petition divorce recommended by the act..." (speech given at Manchester Community College, Manchester, Conn. Aug. 24, 1974).

This, then, is an indication of the present situation, with no ERA in operation. How will the ERA help? First and foremost, it will mandate recognition of the woman as a legal person eligible for equal protection under the law. Thus, the bases of divorce settlements will be equal protection for women and children, not simply the judgment of one person, usually a male, drawing upon unjust traditions. Children will have a greater chance of receiving proper nurturing and financial support. Women will not be unduly penalized when a marriage fails, if they choose homemaking and child care as their career.

A whole series of other ERA-mandated changes, not immediately identified as having an impact on marriage, will also contribute to marriage stability, or (if the marriage should fail) personal and family well-being. The impact of the ERA on women's education is one such instance. Better-educated women will be able to make more realistic judgments about marriage. Equally important, women with the confidence and power education brings will be able to move issues that are presently of interest primarily to women from the fringe of social concern to the center. At present, for example, women cannot even command the research and program funds necessary to determine current child support or alimony practices.

The facts cited above are drawn from three small surveys, two of which are 10 years old; it is all that is available. This is just one more indication that women's concerns cannot command significant attention in a male-structured and male-dominated society. NOW has been trying to collect comprehensive, current data on alimony and child support, but NOW cannot gain the funds for the work needed.

There is also an unacknowledged bonus for homemakers if the ERA is passed. The ERA, in promoting opportunities for women to work outside the home, will provide women with a choice, especially if ratification is followed by thoughtful, comprehensive implementation. The ERA—and this is very important to note—does not force women to work outside the home. The element of choice is, however, vital. Since the role of homemaker is no longer the inevitable role of women, those who choose it will bring to this crucial position the sustaining attitudes that one brings to any difficult, but chosen, vocation. In turn, as society and particularly the men in it come to grips with the fact that women are choosing other careers, appreciation for the role of homemaker will grow. And, as the appreciation grows, women who choose this position will find themselves accorded the respect and status that is rightfully theirs. They will be listened to when they speak out about family needs, children's education, neighborhood and community concerns. They will be recognized as the experts they are.

#### WHERE DO WE GO FROM HERE?

ERA ratification is a first step. It is important to be explicit about that. It will end an essential but preliminary phase of the struggle. It will end the legal discriminations against women. Women need not spend any further energies or time in bringing up before the courts those many cases in which the law itself supports discrimination. It will bring justice to the many women who suffer because they lack financial and other resources to obtain a hearing, and then pursue the case through the courts. Equally important, immediate passage of the ERA will



both give support to, and benefit from, the growing women's movement. It will bring a psychological lift to the many women who have been engaged in the struggle for equality. The hopeful, positive climate that will be confirmed by ERA passage will encourage women who have been outside the debate to reconsider their positions. The involvement of more and more women can only lead to a more just, comprehensive implementation of the amendment.

When ratification comes, two tasks will be before us in order for implementation to be fair. First, we need information. We need to know the actual situation of women. We need to know about the laws governing employment of women, about the child support system, about divorce and alimony laws and practices, about educational opportunities for women. The list goes on. A major contribution to the struggle for women's rights by the Catholic hierarchy and the church's formal organizations might be the funding for such essential research. Some women may control vast amounts of money, but the women struggling for equality do not. To date, they have not been able to get the resources from foundations to assist in pursuing their research interests. A contribution for this purpose from the church establishment would be significant and welcomed.

The second task is to build coalitions, wide coalitions cutting across the many social and economic barriers existing in our society. They must include black, hispanic, native American, and white Americans, members of major religious groups, minor groups and women and men who belong to no group at all. Despite differences on some issues, even important issues, women should and can work together on those where they share values and goals. They have done so in the past. Part of that working together will be listening to women with different experiences, a different set of priorities and different hopes. Part of the working together will be sharing, and finding from that sharing, the goals and dreams women hold in common despite their many differences. Certain structures for coalition-building exist, others need to be organized. Interested

women who take on this task will find their efforts well-received. If the hard information is at hand and if the coalitions are broad-based, then the chances are that ERA implementation will be just and will benefit the whole society, both men and women, women working outside the home and those working at home, rich and poor.

#### SOME FINAL WORDS

This article has focused primarily on the impact of the ERA on marriage and family because concern for family well-being seems to be the source of the misgivings about the ERA on the part of many Catholics. The ERA will have an impact in other areas as well. Increasingly, we are becoming aware that women and girls are treated quite differently from men and boys in the judicial system. Under the guise of protection, women are penalized for "crimes" men are not—prostitution, for example—and sentences for the same crime, even in the same case, are harsher. Most of the women caught up in these cases lack the financial resources to battle through the courts for justice. One can only ask why they should have to battle for justice because they are women. Should not the system be changed now that we recognize the injustices?

It is worth calling attention to the costs of the injustice of discrimination because of sex. Women are denied the right to develop the potential with which they were created. Society, in turn, is denied a valuable, essential resource. Half the population is excluded from public life, from decision-making. Women must live in a world structured by men who, more often than not, overlook their needs, their values, their dreams. Women alone do not suffer—all of us do. We suffer unjustly and needlessly. Support for the ERA this year, Holy Year, International Women's Year, will do much to bring about the just society that will benefit all of us.

[Mary Burke is on the staff of the Center of Concern in Washington, D. C. She presented an earlier version of this article at the bicentennial "hearings" sponsored by the National Conference of Catholic Bishops on February 4 in Washington.]

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