



Kati Gunkelman Hornung
Co-Founder / Director

Testimony in opposition of SCR 4010
Thursday, March 18

Thank you, Chairman Kasper and members of the committee, for including my testimony today.

My name is Kati Gunkelman Hornung and I grew up in Fargo. My late grandparents, Tod & Do Gunkelman, were very involved in North Dakota's Republican party and I am confident they would oppose SCR 4010.

After graduating from Fargo South in 1991, I moved to Virginia for the weather (college). Last year, I led Virginia's successful ratification of the Equal Rights Amendment. Afterwards our team pivoted to the national effort of congressional deadline removal and publication of the amendment. Our team represents the last three states to ratify and is comprised of Republicans, Democrats, and Independents.

I am here today because America has a gender inequality problem and fixing it starts with closing the gender gap in our Constitution. We are the only major nation in the world that does not explicitly guarantee gender equality. Over 165 constitutions worldwide include gender equality. Ours does not.

This purposeful, historical exclusion of women from our Constitution has led to generations of unintended consequences, some of which have been deadly.

In 2018, America ranked as the 10th most dangerous country in the world for women and we tied for third place with Syria for riskiest environments of sexual violence, harassment, and coercion into sex. In multiple studies published in 2020, we no longer rank in the top 1/3 of countries for gender equality.

When Justice Scalia said the Constitution does not prohibit gender equality he was speaking from an originalist framework, one that is shared by others on the Supreme Court and The Federalist Society.



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The 14th Amendment is the first place in our Constitution where the word male was used because supporters worried the amendment would not pass if it included women.

Despite the limiting language, women tried to use the 14th Amendment and were denied. If the 14th Amendment had included women, we would not have needed the 19th Amendment. It was over 100 years before a 1970s court FINALLY decided to extend the 14th Amendment to gender discrimination.

However, because this was new territory, the court did not grant the same framework the 14th Amendment provides to discrimination based on race, religion, or country of origin. Instead it came up with "intermediate scrutiny."

The impact of intermediate scrutiny is that unlike race, religion, and country of origin discrimination cases, gender discrimination cases fail more often than they succeed.

The kids in North Dakota are watching and they need leaders to lead in a way that is fair and equitable to all constituents. Boys and girls both need to see themselves and each other as worthy of equality.

In 1943 the Equal Rights Amendment was rewritten to match our 19th Amendment. The wording is gender neutral and will also apply to men experiencing gender discrimination.

Our legacy as a country is that we put a man on the moon before many state colleges and universities opened their doors to women. Please consider your legacy today and the message you send to our future, our youth.

America is making progress toward gender equality, but we are not keeping up with the rest of the world. We all deserve more. Equality is for all of us. Everyone needs to see themselves in the word equality just as we do the words freedom and liberty. Equality cannot be partisan.

For the pro-life legislators in the room, please consider that being pro-life does not have to mean being anti-equality. The Equal Rights Amendment is simply a statement of non-discrimination. No single constitutional right is absolute and all



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issues will continue to be legislated and litigated on a case-by-case basis from both directions in perpetuity.

All the scary arguments of the 1970s came to pass without the Equal Rights Amendment. Change is inevitable and our society will continue to change over time. But let us not leave women with a lower level of judicial scrutiny because of the sexism of the past 150 years.

If you are weighing the arguments today on the proverbial scales of justice, do not offset the grand totality of America's gender inequality, as experienced daily by American women, against one single medical procedure.

On the one side of the scales you would place our pay inequality, our lack of opportunity for advancement, our experiences with sexual harassment, our assaults, our rapes, our beatings and our murders. On the other side is... abortion.

How could you prioritize one medical procedure above the fact that we are the 10th most dangerous nation in the world for women?

Pendulums swing and your votes this year on gender equality will one day be viewed with an historical lens. Get on the right side of history. Walk away from this sham of a resolution that does nothing but send a terrible message of support for gender discrimination.

Ratification is a one way street or as we like to say, "No backsies." America has three other constitutional amendments (the 14th, the 15th, and the 19th) added despite purported rescissions.

Constitutional gender equality is no longer a matter of if, but a matter of when. Anyone voting against equality and justice today does nothing to stop the Equal Rights Amendment but you will leave a mark on North Dakota's history books.

I urge you to recommend a "DO NOT PASS" vote on SCR 4010 and am now happy to answer any questions.