

## **OPEN LETTER TO THE GREEN PARTY ACCREDITATION COMMITTEE**

Since my name was included in the Complaint by the National Lavender Green Caucus seeking dis-accreditation of the Georgia Green Party along with false, misleading, and defamatory statements about my feminist political work and by implication, against me personally, I am exercising my right to submit a response.

First, for Greens that don't know me, I have been a Green since the 1990's. I helped with the petition drive to get the Green Party on the California ballot. I ran for Secretary of State in California in 2010, receiving 3% of the vote, and spent several years (until this year) as a member of the State Coordinating Committee. My politics are far to the Left, having been a socialist and grassroots activist for most of my adult life. I have had a long career as a civil rights lawyer, most recently working on behalf of people experiencing homelessness. I am a feminist, having been active in the fight for women's liberation for decades and am a founding member of Feminists in Struggle. <https://feministstruggle.org/> I am a co-author with two other feminist lawyers of the Feminist Amendments to the Equality Act. <https://feministstruggle.org/faea/>

I am also a gender non-conforming lesbian with a long history of involvement in what was referred to during that period as the Lesbian and Gay Rights movement going all the way back to the time of Harvey Milk (I lived in San Francisco for many decades and heard him speak multiple times before he was assassinated). More recently, I was a leader in the Marriage Equality Movement in San Diego. It's ludicrous to accuse a feminist and Left wing person like myself of bigotry or being "right wing." I have spent my entire life fighting for everyone's human rights.

Having reviewed the Complaint filed against the Georgia Green Party it is quite apparent to me that Margaret Elisabeth has likely read neither the U.S. Supreme Court decision in *Bostock vs. Clayton County, Georgia* 140 S. Ct. 1731 (2020) nor the Feminist Amendments to the Equality Act. If these documents were indeed read, Margaret Elisabeth completely misunderstands or else has consciously misrepresented what *Bostock* and the Feminist Amendments stand for. Whether

Margaret Elizabeth acted purposefully or was merely misinformed, the *Bostock* decision as it actually reads and the Feminist Amendments as actually drafted provide no basis for criticizing not to speak of suspending the Georgia State Party.<sup>1</sup>

In fact, *Bostock* relied for its ruling on the exact same definition of “sex” that I and other feminists use: “status as either male or female as determined by reproductive biology...biological distinctions between male and female.” If feminists’ refusal to conflate “sex” and “gender” (or to allow gender identity to override sex) and our recognition of the distinction between the two terms make us “transphobic” and guilty of “violence” against transgender people, then the *Bostock* Court must be condemned in a similar fashion.

*Bostock* did not create a new protected class based on “gender identity” or “transgender status.” Only Congress can do that by amending federal statutes. Rather, the Supreme Court issued a narrow ruling under Title VII involving employment discrimination based on the argument that “but for” sex, as above defined, Aimee Stephens would not have been fired. Therefore, the Supreme Court concluded that Stephens’ firing violated the sex discrimination provisions of Title VII. The same reasoning was utilized to hold that sex is a factor when an employer fires a lesbian or gay man because they are gay. The Supreme Court *did not* hold that “gender identity” or “sexual orientation” is the *same* as sex; rather that sex was a *factor* in discrimination against lesbian and gay and transgender people. The Supreme Court ruled that since the same behavior would have been acceptable if the person’s biological sex had been different than it was, such discrimination is covered by the sex discrimination provisions of Title VII.

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<sup>1</sup> Even if ME’s interpretation of *Bostock* were correct, since when is Green Party membership contingent on agreeing with a particular Supreme Court decision? Nor should state parties be suspended or dis-affiliated because they disagree with certain wording or a specific interpretation of sections of the platform. Who among us agrees with every word of the platform? ME seems to be confusing the democratically run Green Party that has a living platform subject to change with a fundamentalist church that persecutes heretics who disagree with its dogma. Suspending a Party on this basis would set a dangerous precedent that would have a chilling effect on our democratic functioning and lead to future witch-hunts against other holders of minority views.

Moreover, the Supreme Court *did not decide* whether bathrooms, locker rooms and other spaces where people are in a state of undress should be separated by sex, or by gender identity, or at all. Judge Gorsuch made that very clear: “The employers worry that our decision will sweep beyond Title VII to other federal or state laws that prohibit sex discrimination. And under Title VII itself, they say sex-segregated bathrooms, locker rooms, and dress codes will prove unsustainable after our decision today. But none of these other laws are before us and we do not prejudge any such questions today. Under Title VII, too, we do not purport to address bathroom, locker rooms, or anything else of the kind. The only question before us is whether an employer who fires someone simply for being homosexual or transgender has discharged or otherwise discriminated against that individual ‘because of such individual’s sex.’”

So I and other feminists in *Feminists in Struggle* do not seek to overturn *Bostock*. And by supporting the Feminist Amendments and the Declaration on Women’s Sex Based Rights, neither does the Georgia Green Party. On the contrary, *we agree that Stephens should not have been fired* and that there should be federal protection against such discrimination for transgender people and all gender non-conforming people as well as for gays, lesbians, and bisexuals. Feminists and our allies believe that people should be free to dress and express themselves as they wish without discrimination, stigma or violence. Transgender people would in fact be fully protected under our draft Feminist Amendments to the Equality Act through the new statutory category we propose that would prohibit discrimination based on “sex stereotyping.” This is much stronger and more specific than placing discrimination against transgender individuals under “sex.” The Feminist Amendments also provide broader protections than *Bostock* so that all gender non-conforming persons would be covered, regardless of gender identify. For example, under the Feminist Amendments all sex based dress and grooming codes in workplaces or schools would be illegal. Please read the Feminist Amendments before making a judgment about them.

<https://feministstruggle.org/faea/>.

At the same time, we feminists believe that women as a sex have certain rights including the right to privacy, safety and dignity apart from people born and

socialized male. In other words, people with female biology as the oppressed sex under patriarchy are justified in utilizing, should they wish, spaces and facilities for females only.<sup>2</sup> Feminists also assert a right to proactive programs for females alone (sex-based set-asides or affirmative action, for example) to address ongoing societal discrimination and inferior status conferred on us based on our sex.<sup>3</sup> We believe that the form of “sex blindness” currently being promoted in the name of transgender rights is no better for rooting out sexism than “race blindness” is for rooting out racism. Rather, they both reinforce hierarchical systems of oppression based on sex and race respectively.

In my view, it is important that Greens and other progressives grapple honestly with the reality that we face: that a conflict of rights has arisen between women and girls as a sex and what many feminists believe to be an overbroad definition of transgender rights that would purport to erase sex in its entirety, including by removing sex as a meaningful category of protection under civil rights laws. Greens have an opportunity to utilize our skills of grass roots democracy and our commitment to all oppressed and marginalized people to facilitate discussions and debate on these complex issues and attempt to reach resolution of this conflict that would be a “win-win” for all parties involved. Instead, the NLGC and other Greens that signed on in support of its complaint are seeking to silence feminist voices and threatening to expel those with whom they disagree. This is a

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<sup>2</sup> For example, persons born female escaping from male violence or rape into shelters should not be forced to share intimate spaces and shower facilities with people with penises, regardless of those individuals’ gender identity, even if the transgender individuals involved are completely non-violent. Females have a right to set boundaries away from biological males and have a safe place to heal from male violence.

<sup>3</sup> This has nothing to do with the politics of the Christian Right who are the enemies of feminism. For one, the Right opposes civil rights laws prohibiting discrimination against lesbians and gay men and those who do not conform to sex stereotypes, and opposes marriage equality for same sex couples while feminists champion these rights. Second, the Right is generally opposed to affirmative action programs. Because on a few occasion feminists’ positions may narrowly coincide with the Right for completely opposite reasons from theirs does not make us “right wing” any more than the Green Party’s opposition to the Patriot Act and U.S. imperialist wars means that our Party is right wing because far right libertarian Rand Paul also holds these positions.

shameful act by a Party that claims to be feminist and prides itself on its respect for diversity and its tolerance of dissenting points of view.

To be clear, feminists do not believe that transgender people and other gender non-conforming persons born with a male reproductive system are any more violent or a threat to those of us born female than any other group of biological males. At the same time biological males that identify as transgender are not necessarily less so.<sup>4</sup> And of course most males are not violent rapists, regardless of their gender identity. *We are not demonizing anyone.* But it is long past time for Green Party to take the existence of an epidemic of male violence (violence perpetrated by people born male against people born female) and ongoing sexism (discrimination against women and girls as a sex), as well as the feelings and concerns of the female half of the population *seriously*.<sup>5</sup>

The Declaration on Women's Sex Based Rights

<https://www.womensdeclaration.com/en/> which I and other feminists support, as well as the Feminist Amendments to the Equality Act, have nothing to do with "hate" or right wing politics. Rather, these documents reflect the fact that women as a sex are refusing to be erased as a protected class under the law. (Erasing sex by substituting gender identity also makes sexual orientation a meaningless concept and is fundamentally homophobic in its practical effect.) These documents assert that women as the oppressed sex through many millennia of

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<sup>4</sup>See, e.g., <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0016885>. This long-term study of transgender individuals concluded that males who identify as transgender maintained male patterns of criminality and violence post-transition: "...regarding any crime, male-to-females had a significantly increased risk for crime compared to female controls (aHR 6.6; 95% CI 4.1–10.8) but not compared to males (aHR 0.8; 95% CI 0.5–1.2). This indicates that they retained a male pattern regarding criminality. The same was true regarding violent crime." Thus, biological males who identify as transgender may be both victims and perpetrators of male violence.

<sup>5</sup>A staggering one in three females experience physical and sexual assault by males. <https://news.un.org/en/story/2019/11/1052041>. Approximately 2,000 females per year are murdered by males. <https://countercurrents.org/2017/04/what-if-i-told-you-2000-women-per-year-are-murdered-by-men-they-know-interview-with-dawn-wilcox/>

patriarchy deserve that our rights and needs be given due weight and consideration in crafting public policy.

The Georgia Green Party should be commended and not condemned for supporting women's sex-based rights. At the very least, the Georgia Party should not be subject to dis-accreditation for taking good faith action consistent with the Green Party's long-standing commitment to feminism and opposition to sexism that permeate multiple points in our platform.

In solidarity,

Ann Menasche