

# *The Thin End of the Wedge:* How Trans Rights Have Emerged as a Keystone in the Feminist Politics on Bodily Autonomy

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As of this writing, an Alabama law that would have made it a felony in the state to provide a teenager with gender-affirming healthcare, punishable by up to ten years in prison, is held up in the courts.<sup>1</sup> If it were allowed to go into effect, it would mean that even in consultation with medical professionals, operating on globally-accepted standards of care for transgender youth, a 17-year-old transgender girl cannot get access to puberty blockers or hormonal replacement therapy. Missouri lawmakers intend to extend this ban even to *adults*, banning care up until the age of 25. Meanwhile, Florida's Department of Health has issued non-binding guidance that would prohibit even 'social transition' for youths (i.e., a child referring to themselves by new pronouns, wearing clothes associated with a different gender, but with no medical interventions) which, if it were ever enforced, would amount to the state policing children's gender expression at an astonishing degree of invasiveness and detail.<sup>2</sup> But even non-binding guidance can grant authority and permission for laypeople to execute private acts of bigotry.

- 1 The Associated Press, 'A judge blocks part of an Alabama law that criminalizes gender-affirming medication' (*NPR*, Montgomery USA, 14 May 2022) <<https://www.npr.org/2022/05/14/1098947193/a-judge-blocks-part-of-an-alabama-law-that-criminalizes-gender-affirming-medication>> accessed 19 May 2022; Zoe Richards, 'Justice Department challenges Alabama law criminalizing transgender health care for minors' (*NBC News*, 30 April 2022) <<https://www.npr.org/2022/05/14/1098947193/a-judge-blocks-part-of-an-alabama-law-that-criminalizes-gender-affirming-medication>> accessed 19 May 2022.
- 2 Romy Ellenbogen and Christopher O'Donnell, 'Florida advises no social, hormonal treatment of transgender children' *Tampa Bay Times* (St. Petersburg, Florida, 20 April 2022) <<https://www.tampabay.com/news/florida-politics/2022/04/20/florida-advises-no-social-hormone-treatment-of-transgender-children-in-new-guidance/>> accessed 19 May 2022.

These are merely the marquee episodes of a nationwide assault on transgender children in the US; it is a striking culmination of years of building moral panic on both sides of the Atlantic that has finally burst into full-blown authoritarianism, entirely of a piece with the renewed assault against abortion rights and other reproductive freedoms from a far-right determined to exert ever tighter control over the bodily autonomy of the many, many groups it despises.<sup>3</sup>

The trans rights debate has become the thin end of a wedge being used by social conservatives to reverse decades of progress on a whole range of issues—from abortion, to contraception, to sexual liberation more broadly, to the rights of queer couples and families to marry, adopt, or even exist in public. At the heart of these issues are questions of bodily autonomy, gender politics, and civil liberties. They are also a front in the ongoing attack against democracy that has gripped many countries over the last two decades, from India to Turkey to Hungary to the United States. 'Democratic backsliding' often buries trans and gender-variant people first; the gender anxiety at the heart of fascism brings no tolerance for difference.<sup>4</sup>

- 3 Schuyler Mitchell, 'The Right's Creeping Pro-Natalist Rhetoric on Abortion and Trans Health Care' (*The Intercept*, 17 May 2022) <<https://theintercept.com/2022/05/17/abortion-trans-health-care-pro-natalism-authoritarianism/>> accessed 19 May 2022; Josh Gerstein and Alexander Ward, 'Supreme Court has voted to overturn abortion rights, draft opinion shows' (*Politico*, 5 February 2022) <<https://www.politico.com/news/2022/05/02/supreme-court-abortion-draft-opinion-00029473>> accessed 19 May 2022.
- 4 Sarah Repucci and Amy Slipowitz, 'The Global Expansion of Authoritarian Rule' (*Freedom House*, February 2022) <<https://freedomhouse.org/report/freedom-world/2022/global-expansion-authoritarian-rule>> accessed 19 May 2022. Of note is the United States, which has slipped in Freedom House's Democracy Index from a score of

Especially anything that might hint that the sex castes of male and female—with the patriarchal hierarchy between them taken for granted—are not, in fact, immutable.

That fact alone explains the otherwise strange alliance between the far-right, religious social conservatives, and trans-exclusionary radical feminists, united in fear of what trans people represent to them. To them, we seem a hydra of threats: an affront to nature, to God, to the social order, a threat to women and girls. We are all things to all people except ourselves.

Thus, I shall strive to be myself in these pages: a feminist scholar, first and foremost. It is worth taking a broad survey of what this assault on our human dignity has wrought, where it came from, and what the role of a renewed trans politics might be in the face of ongoing attacks against democracy itself. Along the way, I'll even answer the most popular question of the silly season: 'What is a woman?'

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What had been, for years, a toy thought-experiment for many commentators in the British and American media—treating transgender people or 'gender ideology' as some kind of threat in an unending cavalcade of editorials, features, and online discourse—has now become a political programme.<sup>5</sup> Some centrist commentators who indulged in building this moral panic now appear surprised at how it has come to fruition, but it was always going to be impossible for discourse about the supposed 'threat' to children from the 'transgender lobby' to not, at some point, manifest as policy in a political climate so thoroughly despoiled by the so-called culture wars.<sup>6</sup> Florida's 'Don't Say Gay' bill, which bans primary school teachers from mentioning LGBT people in any positive context, has already led to the firing of queer teachers and started a nationwide slander campaign that casts all transgender people as 'groomers' of young children.<sup>7</sup> Indeed, the very *act* of suggesting it's okay to be trans is now being cast as 'grooming' by conservatives, an incredibly incendiary allegation that is bound to lead to violence and has already led to abuse in the streets—the harassment of Saoirse Gowan, a

89 in 2017 to a score of 83 in 2022.

- 5 The UK's *Telegraph* has a particular obsession with the spectre of 'gender ideology'. Cf. amongst many others Camilla Tominey, 'Niche' transgender ideology 'corrosive' to society, says report' *The Telegraph* (London, 30 June 2020) <<https://www.telegraph.co.uk/news/2020/06/30/niche-transgender-ideology-corrosive-society-says-report/>> accessed 24 June 2022; Debbie Hayton, 'Why the Government must exempt gender-critical views from hate crime laws' *The Telegraph* (London, 7 December 2021) <<https://www.telegraph.co.uk/news/2021/12/07/government-must-now-exempt-gender-critical-views-hate-crime/>> accessed 24 June 2022; Telegraph View, 'Reason should guide the gender identity debate' *The Telegraph* (London, 2 April 2022) <<https://www.telegraph.co.uk/opinion/2022/04/02/reason-should-guide-gender-identity-debate/>> accessed 24 June 2022.
- 6 See, for example, Anglo-American writer Andrew Sullivan, who expressed dismay that the moral panic he had helped to foment was spilling over to antagonise cisgender gay people like himself. Cf. Andrew Sullivan, 'This is a perfectly sane teacher responding to kids' questions. It seems increasingly clear that this campaign is now driven by vicious homophobia. Moderates take note', (*Twitter*, 4 April 2022) <<https://twitter.com/sullydish/status/1511008960446410754>> accessed 19 May 2022.
- 7 Ian Millhiser, 'The constitutional problem with Florida's 'Don't Say Gay' bill' (*Vox*, 15 March 2022) <<https://www.vox.com/2022/3/15/22976868/dont-say-gay-florida-unconstitutional-ron-desantis-supreme-court-first-amendment-schools-parents>> accessed 19 May 2022.

transgender woman living in Washington D.C., on the city's metro by a man filming her and calling her a groomer and paedophile is but one such incident.<sup>8</sup>

Transgender people were bound to become the next distracting target in an age of overlapping crises that demand concerted action. Instead of blocking climate change, they would come for puberty blockers; instead of building resilience against the next pandemic, they seek to create an epidemic of terror among trans children; instead of addressing ever-widening inequality and poverty, they seek to create conditions that make the trans minority's immiseration that much likelier.

We make an appealing target because pointless cultural debates are able to flood the media with unresolvable controversies that make for barbed, duelling editorials, stinging vox pops, and a blizzard of screaming social media posts that drown out other, less welcome discourse. Particularly for conservative politicians, we provide a welcome distraction from any serious questions about material issues.

It is very much worth noting that in a week where UK Prime Minister Boris Johnson struggled to respond to a journalist's question about a pensioner whose skyrocketing energy bills meant she had to cut back on food and ride a public bus all day to save on her heating bill,<sup>9</sup> we had been treated to Johnson's Health Secretary Sajid Javid promising to put trans women in government healthcare wards with men. While one woman literally starved herself to make ends meet, we were told imposing needless suffering on critically ill trans women was a great boon for feminism.

In the UK, it has been depressing to watch newspapers put anti-trans attacks on their front pages on days with other, considerably more pressing major news stories, whether in Ukraine, about climate change, or even local elections.<sup>10</sup> It crowds out both the reality of trans existence and the many other urgent issues of our time in a way that, even leaving aside its animating prejudice, verges on journalistic malpractice.

- 8 Amanda Michelle Gomez, 'Trans Woman's Harassment on Metro Is Latest in Growing Number of Incidents Targeting LGBTQ+ People' (*DCist*, 14 April 2022) <<https://dcist.com/story/22/04/14/trans-womans-harassment-on-dc-metro-reflects-growing-number-of-incidents/>> accessed 19 May 2022.
- 9 Jon Stone, 'Boris Johnson takes credit for free bus pass after being told cash-strapped pensioners make trips to keep warm' *The Independent* (3 May 2022) <<https://www.independent.co.uk/news/uk/politics/boris-johnson-bus-pass-pensioners-warm-b2070395.html>> accessed 19 May 2022.
- 10 Ella Braidwood, 'Daily Telegraph criticised for anti-trans NHS women's wards article' (*Pink News*, 11 January 2019) <<https://www.pinknews.co.uk/2019/01/11/daily-telegraph-transphobic-headline/>> accessed 19 May 2022; Emily Craig, 'NHS accused of prioritising trans people for breast surgery over women with medical needs' *Daily Mail* (London, 2 May 2022) <<https://www.dailymail.co.uk/news/article-10774277/NHS-accused-prioritising-male-female-trans-people-breast-surgery-women.html>> accessed 19 May 2022; Katie Feehan, 'NHS equality chiefs mutiny AGAINST 'transphobic' watchdog ruling that allows trans patients to be barred from single-sex wards if there is a legitimate reason' *Daily Mail* (London, 6 April 2022) <<https://www.dailymail.co.uk/news/article-10690199/NHS-mutiny-AGAINST-watchdog-ruling-allows-trans-patients-barred-single-sex-wards.html>> accessed 19 May 2022. Indeed, the *Daily Mail* has an entire subsection devoted to coverage of trans people, nearly all of it negative and sensationalist (see <<https://www.dailymail.co.uk/news/transgender-issues/index.html>>). Other newspapers in the UK are not far behind.

As a simple heuristic, one can assume any attack on trans people from a member of the political class is an attempt to avoid spending time on an issue of material substance.

But we are not simply an abstract culture; we, too, are real people harmed by the climate that is being created by unending headlines questioning our very right to exist in public space. When it comes to the new laws in the US, the risk to some of our most vulnerable is immense. Families are considering whether and how to leave states where they'd built their lives, to flee somewhere their children are not literally being criminalised. Youth suicides are at risk of rising again, as they did when the state of Arkansas mooted a similar bill in 2019 that was later blocked by a federal court.<sup>11</sup> The litigation is ongoing.<sup>12</sup> Meanwhile, an already dangerous climate for trans sex workers threatens to become deadlier still.

The harms of such legislation in the US are myriad and material. Texas' own bills literally make it a crime to raise a trans child, seeking to investigate parents of trans children as 'abusers'. Such realities make the anti-trans screeds of the British press—replete with silly tirades masquerading as thought exercises, like Rod Liddle's infamous *Times* column where he announced he was 'identifying as a young, black, trans chihuahua, and the truth can go whistle'—seem even crueller than they already are, kicking a much-maligned group while they're down.<sup>13</sup> As Jules Gill-Peterson put it in her recent essay about the legislative assault on trans people in the US, these are not simply cute word games to be played by the privileged: 'Collectively, these bills are not just attacks on what you can or can't say in school. They are an existential threat to your life.'<sup>14</sup>

Gill-Peterson's perspective is useful to us for another reason, however. Throughout this essay I've listed a litany of recent attacks, recent harms, and implicitly engaged in a plea to recognise our humanity. Gill-Peterson demands we go further than simple moral appeals, however, as she draws on a tradition of trans activism dating back to the women of colour-led movements of the late 60s and early 70s:

Allyship doesn't rely on evaluating trans people as morally deserving, but rather on recognizing everyone's right to the resources and public goods that raise our quality of life. Being an ally is about the common struggle for better living conditions. The trans politics of Black and brown women have been about mutual aid and abolition since the 1970s for a reason. They have proven to be the only people unafraid to consistently care for and love trans kids without using them as moral props.

11 Trudy Ring, 'Rash of Teen Suicide Attempts After Arkansas Adopts Trans Care Ban' (*The Advocate*, 19 April 2021) <<https://www.advocate.com/transgender/2021/4/19/rash-teen-suicide-attempts-after-arkansas-adopts-trans-care-ban>> accessed 19 May 2022.

12 Sabrina Imbler, 'In Arkansas, Trans Teens Await an Uncertain Future' *The New York Times* (New York, 18 January 2022) <<https://www.nytimes.com/2022/01/18/health/transgender-adolescents-arkansas.html>> accessed 19 May 2022.

13 Rod Liddle, 'I'm identifying as a young, black, trans chihuahua, and the truth can go whistle' *The Times* (London, 11 November 2018) <<https://www.thetimes.co.uk/article/i-m-identifying-as-a-young-black-trans-chihuahua-and-the-truth-can-go-whistle-tq550nx5f>> accessed 19 May 2022.

14 Jules Gill-Peterson, 'Anti-Trans Laws Aren't Symbolic. They Seek to Erase Us from Public Life' (*Them*, 18 April 2022) <<https://www.them.us/story/anti-trans-laws-public-erasure-dont-say-gay>> accessed 19 May 2022.

This is the foundation of an intersectional perspective that understands 'trans issues' as intimately connected to a broader politics of equality and justice, from equal access to public education, to the availability and affordability of healthcare, to the reproductive rights required to have and raise your own children, access to social welfare and services, to equal access to public accommodations and public space. These issues implicate *all* of our democratic rights, resting as they do on our shared vulnerability to their erosion. What starts with trans people will not end there.

To better understand why, we need to turn to the concern-trolling question that has come to dominate recent debates about trans people's right to exist: 'What is a woman?'

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From the recent nomination hearings of Justice Ketanji Brown Jackson in America to an Australian leaders' debate amid the country's general election, the seemingly simple question of 'what is a woman?' has been used in bad faith to antagonise or belittle trans rights, or to cast any ally of trans people as delusional. Jackson's response was certainly effective: 'I know I am one', while the Australian Labor Party's leader Anthony Albanese simply said 'an adult female', a bland dictionary definition that was meant to avoid the trap set by the debate moderator's question.

The question should be treated with scepticism, if not outright contempt, because it is almost always asked in bad faith and never arises except in discussions about trans people's rights. This is partly because the category is coherent only through classic Wittgensteinian 'family resemblances', where no particular definition can meaningfully exhaust the concept—try to define a 'game', for instance. No single feature is common or essential to the whole. Republican politicians, when reporters turned the question around on them, stumbled; Senator Josh Hawley said he 'didn't know' if a woman who'd had a hysterectomy was still a woman, for instance<sup>15</sup>—an answer that is either silly or chilling depending on his intent.

But there is a way of answering the question honestly and accurately that also reminds us of the vast political and philosophical space offered by both the linguistic idea of family resemblances and the legal-political concept of intersectionality. Historian Susan Stryker, in an explanation of the relationship of performativity to gender, offered this summation:

A woman, performatively speaking, is one who says she is—and who then does what woman means<sup>16</sup>.

Some will find this answer circular. 'Woman means what woman means', is what she's seemingly saying. But this is necessary in order for the definition to be both accurate and brief: it is meant to cover a wide range of possible gender expressions in every culture and subculture where 'woman' is a meaningful concept. Gender is 'an attempt to communicate...and is accomplished by 'doing' something rather than 'being' something'.<sup>17</sup> In other words, gender is the sum

15 Monica Hesse, 'Republicans thought defining a 'woman' is easy. Then they tried' *The Washington Post* (6 April 2022) <<https://www.washingtonpost.com/lifestyle/2022/04/06/republican-woman-definitions/>> accessed 19 May 2022

16 Susan Stryker, '(De)Subjugated knowledges: An introduction to transgender studies' in Susan Stryker and Stephen Whittle (eds) *The Transgender Studies Reader* (Routledge, 2013) 10.

17 *ibid.*

of one's actions, an achievement—it contains both the assertion of the identity *and* the enactment of a socially legible instance of that identity. When you bear in mind that there are lots of ways to be a woman, or a man, or any other gender, across numerous cultures and communities, it encompasses a wide range of possibilities—rather than the stifling stereotypes that 'gender critical' activists accuse transgender people of perpetuating.

But that issue of 'social legibility' is the key here. It's part of what makes declarations of 'I identify as an attack helicopter'—one of approximately three jokes known to transphobes—so tedious and ridiculous. There is no collectively acknowledged and constructed social role or identity of 'attack helicopter', nor any meaningful attempt by the speaker to enact it. It's little more than an empty attempt at satire.

Still, it's not simply a matter of what clothes one wears, say. It's how you're treated by others as well. For all the cruel debates about whether or not I should be allowed to exist, or whether my existence is some kind of parodic affront to all other women, patriarchy has made very few mistakes about me—from street harassment to online harassment, my experiences have much more in common with my cisgender woman friends than with my male friends. It is that shared social location, and a shared experience of abuse and oppression, that creates a site for political action; a standard around which to rally. Women are divided by many vastly different experiences, shaped by geography, social class, race, religion, culture, and more; but we can come together on some shared terrain—the familial resemblance of our common gender—to address discrimination, inequality, and oppression.

Understanding womanhood with an expansive, contingent definition affords us liberatory possibilities. It's worth remembering that in all the recent debates about whether trans people should be able to use the bathrooms of their choice, many of these arguments are recycled versions of those that justified racially segregated bathrooms in the American South, where the options were 'Men', 'Women', and 'Colored'. Black women and other women of colour were excluded from the category of 'woman' when it suited the imperatives of the state. An inclusive definition of any gender category would refuse these imperial edicts, dissolving the use of such categories as weapons with which to oppress particular groups of people. An inclusive definition recognises that attacks on any minority's right to claim membership in a gender, therefore, has stark implications for other rights as well: rights to public accommodation, to public space, to public education, to voting (particularly if voter ID laws are implemented), to be gainfully employed. Fixation on trans people's genders makes such public participation difficult if not impossible for them.

When one sees the reactionary consequences of transphobia and how it connects to other forms of oppression—the similarity to the logics of racial segregation, for instance—it becomes clearer why this position is feminist in name only. This is why the 'gender critical' position makes so little sense: its adherents claim to seek gender's abolition on the grounds that it is a harmful idea, but they depend on gender for the very existence and intelligibility of their philosophy. Its arbitrary lines of identity make no sense *without* the thing they claim to be abolishing. Their certainty about who is and isn't 'really' a man or a woman depends on the very patriarchal norms and gender stereotypes they claim to oppose. In particular, they take for granted the idea that sex is an unchanging caste that you may never leave,

an idea that is profoundly patriarchal as it undergirds the stability of men as a privileged class with a birthright to that very privilege. 'Gender critical' means little beyond *transgender* critical.

Equally, 'sex-based rights' are meaningless as a concept except as a way of drawing segregationist lines around trans people's access to public space. Gender equity, as it has been advanced by legislation<sup>18</sup>, and interpreted by courts in the US,<sup>19</sup> actually depends on a broad understanding of gender, rather than a narrow parcelling out of rights on that basis. Indeed, the term 'sex-based' was historically used to classify discriminatory practises, a nod to the obvious reality that prejudice is the thing 'based' on one's sex (or perceived sex) and our rights are meant to secure freedom *from* such discrimination.<sup>20</sup>

Liberty from rape or sexual harassment is not a 'sex-based right', but something people of all genders would share in, just as the right to vote is not 'sex based', but a shared human right to which women were denied access. It is profoundly reactionary to think of equity legislation as granting 'race-based rights', say, or 'sexuality-based rights'. Indeed, such wilful misunderstanding is at the heart of the common conservative charge that minorities seek 'special rights'—a deliberately inflammatory allegation—when in truth they seek access to the same liberty enjoyed by all their neighbours. So too is it the case with transgender people. The entire concept of a 'sex-based right' only emerged in opposition to trans people's claims to human rights, and represents an attempt at drawing a narrow and limiting definition of womanhood that has much more in common with regimes of the pre-democratic past.<sup>21</sup> It demands we imagine the continued existence of a women's restroom as the limited horizon of feminist politics, an ideological surrender to the myriad horrors that confront the democratic world.

18 Title VII of the Civil Rights Act of 1964 (USA). Note that the legislation does not attempt to define sex, only to include pregnancy and pregnancy-related discrimination (and, notably, to exclude most protection for abortion).

19 *Price Waterhouse v. Hopkins* (1989) 490 U.S. 228, US Supreme Court. Among other things, this landmark U.S. Supreme Court case held that discrimination on the basis of gender presentation (i.e., a woman wearing masculine clothing and refusing to wear makeup) was indistinguishable from discrimination on the basis of sex because it required the discriminating party to make judgments based on their perception of the target's sex. You cannot antagonise a trans woman for wearing high heels, say, without taking into account your belief that she is 'really' a man. The reality of this belief is irrelevant to the motivation for discrimination, and the Hopkins case has, therefore, been essential in providing a legal basis for transgender rights in the U.S.

20 U.S. Equal Employment Opportunities Commission, 'Sex-Based Discrimination' <<https://www.eeoc.gov/sex-based-discrimination>> accessed 19 May 2022.

21 Kath Murray, Lucy Hunter Blackburn, and Lisa Mackenzie, 'Reform 'under the radar'? Lessons for Scotland from the Development of Gender Self-Declaration Laws in Europe' (2020) 24(2) *The Edinburgh Law Review* 281–289; Callie H. Burt, 'Scrutinizing the U.S. Equality Act 2019: A Feminist Examination of Definitional Changes and Sociolegal Ramifications' (2020) 15(4) *Feminist Criminology* 363–409. These papers are among the first to turn up in academic database searches for 'sex-based rights'. Each of them offers an intervention against laws that would specifically protect trans people. Both pit the idea of 'sex-based rights' against transgender rights and represent novel constructions of women's rights that would have been unthinkable a generation ago. As I note in the main body of this essay, the awkwardness and counterproductive nature of 'sex-based rights' as a phrase is easy to see when one attempts to use a similar phrase about race or any other protected category.

To acknowledge that womanhood ‘means’ something broader, in the sense of Stryker’s definition, is to acknowledge greater political possibility that can rejoin feminist politics to the material politics of equity in *all* areas. As a rallying standard, it can provide a united front on issues like reproductive justice, healthcare access, and the meeting of basic needs: food, shelter, and the dignity of work, combined with ample leisure in which to enjoy its fruits.

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As the United States confronts a gathering storm on reproductive healthcare, it is very much worth concluding by drawing what should be the obvious connection between abortion rights and everything discussed hitherto: bodily autonomy. What many generations of feminists have fought for is control over our own bodies, liberty from the dictates of powerful men about what our bodies are for, or what they mean. It’s a cruel irony that a minority of people now calling themselves ‘feminists’ are insisting that the only way to define ‘woman’ is as a reproductive instrument—a perspective that is a neat fit with the far-right pro-lifers now on the march in America. Those same reactionaries *also* seek to erase transgender people from public life. The reasons are the same: emancipated women, cis and trans, as well as the mere existence of trans and nonbinary people, are an affront to their deeply conservative ideology of gender. We prove that alternatives to their sex castes are possible.

To ban abortion and to ban contraception—as some Republican politicians are continuing to do—is to seek to control women, to chain us to biology; similar goals are at work in their anti-trans crusade, to exile queer and trans people from public life and positions of public trust, to break up our families, and criminalise us. Beyond providing reproductive care, it’s not a coincidence that many Planned Parenthood clinics are also places where trans people receive gender-affirming care, and where trans men and nonbinary people can go for sensitive treatment of their own pregnancies or uterine health. It is precisely that dignity and equality that is the target of so many right-wing extremists at this delicate moment in time. Bodily autonomy is a core capability that is at the foundation of so many other rights, all of which are under threat.

These shared threats are fertile ground on which to build movements, and expand on existing ones. If hope lies anywhere, it is there, in the blessedly vast country of the meaning of ‘woman’.