Case No: 2200909/2019

IN THE LONDON CENTRAL EMPLOYMENT TRIBUNAL

BETWEEN:

MS MAYA FORSTATER

Claimant

-and-

CGD EUROPE

1st Respondent

CENTER FOR GLOBAL DEVELOPMENT

2nd Respondent

MR MASOOD AHMED

3rd Respondent

WITNESS STATEMENT OF CLAIR QUENTIN

I, CLAIR QUENTIN of 121 Penshurst, Queen's Crescent, London NW5 3QJ, **WILL SAY** in the case of Maya Forstater v CGD Europe & Others **AS FOLLOWS**:

Introduction

1. I am a trans non-binary person. I have transitioned from the gender that I was assigned at birth (male) but I am not a woman. Elements of my transition include: (i) asking people to refer to me by a gender-ambiguous name adopted by me as a first name, rather than my given first name which is a masculine name, (ii) asking people to use they/them pronouns for me instead of he/him, (iii) using the title Mx instead of Mr where it is available to do so, and (iv) adopting presentation not generally associated with men (for example wearing a dress). My transition makes my life more comfortable, because (to the extent that my non-binary gender identity is treated as valid) it provides relief from the gender dysphoria which I experience when I am gendered as a man.

2. My evidence in these proceedings is to do with the impact on me, as a trans person, of Maya expressing her "gender critical" beliefs on Twitter. I believe (for reasons set out from paragraphs 21 onwards below) that the initial salvo of "gender critical" tweets posted by Maya included targeted anti-trans bullying of me personally. Even if it was not her intention to bully me personally, however, my experience of her tweeting should (it is hoped) illustrate how the beliefs that underpin her tweets cannot be treated as protected beliefs under the Equality Act 2010. To treat them as such would be tantamount to legitimising

and protecting anti-trans bullying, which would manifestly affect the fundamental rights of people with the protected characteristic of gender reassignment.

"Gender critical" beliefs generally, and the "gender critical" legal reform agenda

3. In order to properly describe my experience of Maya's "gender critical" tweets, I would like to set out by way of background my experience of "gender critical" viewpoints more generally. In sum, my experience is that the label is a fig-leaf under which some people promulgate anti-trans propaganda and hate-speech online. While there are no doubt some academics among its ranks, the "gender critical" movement does not appear to be rooted in a body of theoretical literature but seems, rather, to be a self-branding exercise on the part of a community of online anti-trans activists. What theoretical literature exists under the label "gender critical" would appear to be rooted in that community rather than the community being rooted in the literature.

4. The "gender critical" community lacks internal coherence and cogency and comprises individuals with wildly diverse standpoints: religious fundamentalists, Marxists who believe that any social justice not centred on class is bourgeois identity politics, right-wingers who are opposed to all forms of social justice, those who are hostile to LGBTQ+ people, cis lesbians who fear that their identities are being subsumed under a wave of trans-masculinity, nihilistic alt-right gamers, largely apolitical people who have been swept up by the groundless moral panic around gender affirmation (Jane Clare Jones: Twitter, Trans Rights Totalitarianism and the Erasure of Sex 26 Sep 18, pages 254 – 263 of the Belief bundle) and puberty blockers for trans kids and teens (Twitter thread re gender identity and children 18 May 19, pages 749 – 754 of the Belief bundle), as well as mainstream liberals. In amongst them all there are a small number of genuine doctrinal "trans-exclusionary" radical feminists whose intellectual tradition involves characterising the oppression of women as the oppression of a "sex class" defined specifically by reference to reproductive capacity (and therefore, in contrast to other radical feminist analyses, defined to the exclusion of trans women).

5. The unifying factor amongst these disparate voices is not any formalised set of beliefs but hostility towards equality for trans people, and trans women in particular. "Gender critical" people are seemingly interested in the safety of women in prison, but generally only insofar as they can present trans women as a threat in that context. "Gender critical" people are seemingly interested in women's sport, but generally only insofar as they can present trans women as having an unfair advantage in it. "Gender critical" people are seemingly interested in equalities law, but only insofar as there exist statutory exceptions to the rights of people with the protected characteristic of gender reassignment. It is not a set of beliefs; it is a hostile obsession with a marginalised and vulnerable minority grouping.

6. Feminists are of course generally critical of gender, in the sense that they are critical of the mechanisms through which the structural oppression of women is effected, but "gender critical" does not refer to this broad tenet of feminism. Indeed to the extent the "gender critical" position may be said to have propositional content it runs counter to that tenet. What "gender critical" people are critical of is the deployment of the concept of gender insofar as it serves as the analytical framework within which equal

rights for trans people are to be realised.

7. To elaborate. Trans people are people whose lived gender differs from the gender they were assigned at birth, and for trans people to be treated equally with cis people it is necessary for trans people's lived genders to be treated as valid, just as cis people's lived genders are treated as valid. "Gender critical" people believe, however, that birth-assigned genders are immutable and that trans people's genders are therefore not valid. As I understand their positioning "gender critical" people are therefore not so much critical of gender as enthusiastic about its enforcement against trans people.

8. Those holding these "gender critical" views generally characterise their position as being to do with "biological sex", but the biology of sex is far too complex for non-scientists to properly understand whereas the birth-assigned gender to which "gender critical" people attach such importance is a simple and wholly socially constructed binary which people learn as toddlers. In other words the concept of "biological sex" to which they appeal is gender by another name; the only difference being that it is a version of gender which harms trans people by misgendering us and exposing us to hostile mischaracterisation.

9. For example a "gender critical" person might claim that I am that key focal figure of tabloid-level anti-trans moral panic the "bearded bloke in a dress", and that I present as I do either (i) as a publicly paraded sexual fetish in which onlookers are non-consensual participants, or (ii) as a means to access women's sex-segregated spaces in order to commit sex offences, or (iii) both. These characterisations of assigned-male-at-birth trans people, insofar as they might be applied to me, are false. Further, I believe them to be false in respect of assigned-male-at-birth trans people generally.

10. What these false characterisations have in common is that they mischaracterise assigned-male-at-birth trans people in specifically sexualised ways, and this sexualisation no doubt resonates with the visceral disgust which people may feel when they see deeply ingrained masculinity norms being violated. I therefore believe that the promulgation of mischaracterisations like these has contributed to the recent growth in reported transphobic violence in the UK, and has therefore contributed to the risk of violence that I face when I go out in public.

11. It may be noted that trans men and assigned-female-at-birth non-binary trans people face a completely different but equally false set of mischaracterisations; for example it may be said that they are sufferers of an anorexia-like mental illness, such that they should be denied bodily autonomy in respect of gender affirming surgeries. The binary gendered nature of these contrasting sets of mischaracterisations in relation to assigned-male-at-birth and assigned-female-at-birth trans people is itself telling. Being "gender critical" involves the adoption of very basic gendered presuppositions (men are sexual predators; women should be denied bodily autonomy) and instrumentalising them to attack trans people through their birth-assigned genders.

12. One aspect of it that I find particularly offensive is the obsession with genital morphology that comes with a "gender critical" viewpoint. An element of my non-binary experience is that my own genital

configuration is wholly irrelevant to my sense of who I am. Indeed the dawning realisation that most people treat their genital configuration as a major component of their identity is one of the things that led me to understand that I am different. So when people insist that my birth-assigned gender is my true gender, it seems to me that they have an interest in my genitals that I do not share. I find this to be pretty creepy.

13. That creepiness is perhaps forgivable if one recalls that, as noted above, the "biological sex" to which "gender critical" people cleave as an analytical touchstone is the construction of gender that they were taught as toddlers. And perhaps that is the most generous that it is possible to be towards "gender critical" people without sharing their perspective: that they are people who mistake for a philosophical belief a conception of gender so simplistic that they were able to grasp it while they were still in nappies.

14. The "gender critical" movement has a street violence wing, such as the activists who distributed anti-trans propaganda to men in Manchester city centre of an evening, thereby increasing the risk of male violence towards any trans women who might be on a night out. Notably, Maya defended the actions of these activists, although the tweet in which she did so has been deleted. I remember her tweet well though because it referenced a tweet of mine condemning the action and, in referring to me, her tweet used my correct pronoun (which was surprising to me). And also the "gender critical" movement has a wing which seeks to act through the mechanisms of policy change within liberal democratic structures. It is that wing of which Maya is a notably active member. What her views amount to, in effect, and what this present litigation is a component of, is a deliberate campaign to roll back protection for trans people under the Equality Act 2010.

15. By way of background, the "gender critical" movement, at least in the UK, has a legal mythology, which is rooted in the recent backlash against proposed reform of the Gender Recognition Act 2004. That mythology is to the effect that to introduce self-identification under the Gender Recognition Act would impact so-called "women's sex-based rights". What these so-called "women's sex-based rights" appear to boil down to, upon examination, are nothing other than the statutory exceptions in the Equality Act 2010 permitting discrimination on the grounds of gender reassignment. As I understand the "gender critical" legal mythology, those who promulgate it believe that those exceptions entitle organisations to exclude trans women from women's sex-segregated spaces, and this possibility of excluding trans women is understood as a hard-won "women's" (i.e. cis women's) right. The mythology involves more than merely suggesting that these purported "rights" would be affected by Gender Recognition Act reform, however; it involves characterising any apparent distinction between sex and gender that may be discerned in UK equalities law as a foundational principle. And it is by reference to that purported foundational principle that trans women are (so the mythology goes) to be treated as male in the eyes of the law. For instance, someone promulgating this legal mythology might refer to EHRC guidance explaining that trans people without a gender recognition certificate are their birth-assigned gender for the purposes of protection from sex discrimination, and seek to suggest by reference to that guidance that trans people are their birth-assigned gender for legal purposes more generally.

16. Maya often retweets an account called @2010equality which promulgates the legal mythology to which I refer, and I believe that the account is operated by her. This is because its first tweets in December 2018 expressed views tweeted shortly beforehand by Maya herself. Maya retweeted the @2010equality account's tweets on that same topic, and there followed a hiatus in her anti-trans tweeting from her main account. In addition, as I recall, she temporarily removed some of the "gender critical" iconography from her main account. I concluded that she had set the @2010equality account up in order to provide herself with platform for her views which was separate from her public identity, perhaps in connection with the developments at issue in these proceedings. The "gender critical" thrust of her main account resumed thereafter, perhaps also in connection with further such developments.

17. In any event the purpose of the @2010equality account seems to be to bring about a culture whereby cis women are treated as a privileged statutory category of individuals benefiting from a legal status that trans women do not share. For example the account repeatedly claims that service providers are already entitled under the Equality Act 2010 to bar trans women from women's toilets, women's changing rooms &c. It expresses approval of activist sticker campaigns purporting to bar trans women from women's toilets in public places under the provisions of the Equality Act 2010, and it claims that instances of unlawful discrimination on the grounds of gender reassignment that make their way into the news are in fact lawful. Indeed these kinds of events, such as the recent incident involving a trans woman being required to show a gender recognition certificate in order to use women's facilities at a David Lloyd gym, are something that the account seems to want to encourage.

18. One key plank of the account's legal reform platform is to constrain protection from discrimination on the grounds of gender reassignment to instances where trans people are discriminated against as such (e.g. the express barring of trans people from access to services), to the exclusion of instances of discrimination by dint of trans people's lived genders being treated as invalid. In other words, the aim is not formal legislative abolition of gender reassignment as a protected characteristic, but to establish an interpretation of the Equality Act 2010 which radically narrows its application insofar as concerns the protection of trans people. Maya espouses this as a policy objective on her main account; the anonymous @2010equality account which she occasionally retweets (and which as I say I believe she operates) differs insofar as it seeks to make life harder for trans people in the present by claiming that this is already the correct interpretation of the Act.

19. The @2010equality account is very far from being a neutral account tweeting about the law. For example it tweets about penises quite a lot more than one would expect of an account promulgating information about the Equality Act 2010 (Thread on @2010Equality account re the law on single sex spaces 29 Dec 18) pages 669 - 675 of the Belief bundle. It also mocked, for its use of trans-inclusive language, a charity which provides menstrual products to refugees. The person who operates that account (and as I say I believe it to be Maya) would want a trans man *in a refugee camp* to have to misgender himself in order to have access to sanitary towels. This is not any kind of feminism that I recognise, and it is not a manifestation of beliefs of a kind that the Equality Act should protect because it would (so it seems to me) violate the dignity of trans men and create a hostile environment for them.

20. Clearly if “gender critical” views are deemed to have the status of a protected belief under the Act, the effect of that would be to serve to advance the anti-trans legal reform agenda described above. This is because the implication would be that to assert a person’s birth-assigned gender in preference to their lived gender does not impact on the rights of people with the protected characteristic of gender reassignment, whereas manifestly it does.

Maya’s transphobic bullying of me personally in the tweets in question

21. Until her tweets became focused on trans people, Maya was primarily on Twitter in her capacity as a researcher and commentator on development economics, which includes the issues of global corporate tax avoidance and global fiscal justice. These are issues that I too address on Twitter in my capacity as a former corporate tax lawyer, tax justice advocate and tax policy researcher. We are therefore, broadly, both participants in what is sometimes referred to as “Tax Twitter”.

22. To my knowledge I am the only out trans person on Tax Twitter, and more specifically I am to my knowledge the only non-binary assigned-male-at-birth person on Tax Twitter and within UK tax policy debates. If Maya tweets about non-binary assigned-male-at-birth people she is not necessarily tweeting about me, but if she engages in discussion with mutual acquaintances on Tax Twitter about non-binary assigned-male-at-birth people within the tax policy community, there is clearly an extent to which she can be characterised as talking specifically about me.

23. Tax twitter is (quite rightly) a space where male domination of policy debate is deprecated, and this deprecation is formalised in a widely shared objection to all-male panels at conferences. A panel with a non-binary person on it by definition is not an all-male panel, and to suggest that it is would be to misgender the non-binary person. This is not to say that a panel of several men and one non-binary person on it necessarily displays adequate substantive gender diversity; the point is only that the formal test of whether the panel is “all-male” is not satisfied.

24. A man can usefully give effect to his objection to an all-male panel by declining to participate in it, and at one point in her initial salvo of tweets on the topic of trans people Maya encouraged male mutual acquaintances on Tax Twitter to decline to participate in any panel which was all-male aside from an assigned-male-at-birth non-binary person (Tweet by Claimant re Philip / Pippa Bunce and various Twitter discussions following on from that 25 Sep 18 to 2 Oct 18) pages 494 -554 of the Belief bundle. Since I am a regular participant on panels at conferences, and so are other members of Tax Twitter, it felt to me as if Maya was asking mutual acquaintances to misgender me personally by characterising a hypothetical panel that I could realistically expect to be invited to appear on as “all-male”.

25. Further, she was asking them to pressurise the organisations organising such panels to also misgender me by recognising the objection. In other words she was trying to make the entire environment of tax policy debate an endemically unsafe one for me personally, as someone who experiences dysphoria when gendered as a man.

26. I do not identify as a woman and I was not seeking to enter a segregated “women’s space”; I just want to be able to appear on conference panels and make a contribution to a topic on which I possess a certain amount of expertise without being categorised, against my will and to my great personal discomfort, by reference to people’s assumptions about my genital configuration.

27. It could be argued that Maya was substantively seeking better gender representation on the basis that a panel with only me and some men on it would have too few women, but the effect of her actions is that trans people are specifically harmed because their gender identity is called into question. If diversity is the objective, why attack that very rare thing in public policy debates: a panel with a trans person on it? As I understand Maya’s position, she says that everyone should be free to believe what they want to believe about gender, and the views of some should not be imposed on others. But as I hope this example illustrates, all I was trying to do is go about my existence as a non-binary person, hoping to have my gender respected as cis people’s genders are respected. It is “gender critical” beliefs which, in practice, involved Maya seeking to impose her views about gender on me, to my possible exclusion from public debate.
28. I do not believe that a responsible and inclusive NGO could possibly associate itself with such conduct, and I was shocked and appalled that it was going on while the Center for Global Development was there in Maya’s Twitter bio for all to see. I was not at all surprised to learn that they subsequently declined to renew her relationship with them. Indeed it seems to me that it would create a legal risk for them to continue to tolerate such conduct, because as well as causing serious offence, it would make trans people within the organisation feel unsafe, and therefore potentially give them grounds for discrimination claims of their own; discrimination claims which (unlike Maya’s) would be founded on a genuine protected characteristic.

Statement of truth

The content of this Statement is true to the best of my knowledge, information and belief.

Signed…….

Clair Quentin

Dated…….