



Maya Forstater v CGD Europe and others

Landmark case set precedent for protection of gender-critical beliefs

Jurisdiction: Employment Tribunal

Sectors: Non-profit

Causes of action: Belief Discrimination, Victimisation

Legal representation: Peter Daly of Doyle Clayton (solicitor), Ben Cooper KC (counsel), Anya Palmer (counsel)

Decisions: M Forstater v CGD Europe and others: 2200909/2019

(Employment Tribunal); Maya Forstater v CGD Europe and Others: UKEAT/0105/20/JOJ (Employment Appeal Tribunal, 2021); M Forstater v CGD Europe and others: 2200909/2019 (Remedy)

Summary of events

Maya Forstater was a freelance consultant employed as a visiting fellow by the Center for Global Development (CGD), a non-profit think-tank headquartered in Washington DC, with a European branch in London. Forstater holds gender-critical beliefs, asserting that biological sex is real, important, immutable and not to be conflated with gender identity.

In September 2018, during the UK government's consultation on reforms to the Gender Recognition Act (GRA), Forstater posted tweets on the topic, including asking a question about the inclusion of Pips Bunce, a "gender fluid" man, on a list of top businesswomen. This led to complaints from CGD staff in Washington DC, who described her views as transphobic and exclusionary.

Initially, CGD's European leadership found Forstater's tweets nuanced and her actions unremarkable but asked her to include a disclaimer clarifying that her views were personal and did not reflect CGD policies.

However, after consulting with diversity and inclusion trainers Quantum Impact, CGD leadership reassessed the situation and concluded that Forstater's gender-critical views posed a reputational risk to the organisation. In March 2019, CGD decided not to offer her a permanent position and declined to renew her visiting fellowship, citing concerns over alignment with the organisation's values of inclusivity and diversity.

After Forstater filed a claim with the employment tribunal, CGD removed her profile from the alumni area of its website.

Protected belief

A preliminary hearing was held to determine whether gender-critical beliefs qualify as a protected philosophical belief. The Employment Tribunal initially ruled against Forstater, stating that her views were "not worthy of respect in a democratic society". Forstater appealed, and in June 2021 the Employment

Appeal Tribunal overturned this decision and set an important legal precedent by confirming that gender-critical beliefs are protected under the Equality Act 2010.

Findings by the tribunal

The Employment Tribunal found that CGD unlawfully discriminated against and victimised Forstater based on her gender-critical beliefs in respect of:

- deciding not to offer her an employment contract despite discussions and her qualifications
- declining to renew her visiting fellowship at the organisation
- removing her profile from its website.

Remedy

CGD was ordered to pay £106,404 in compensation for injury to feelings, lost earnings, aggravated damages and interest. The award reflected CGD's conduct, including inflammatory public statements that misrepresented Forstater's beliefs and exacerbated the harm to her reputation.