

The trespass trap: this new law could make us strangers in our own land

George Monbiot

A government consultation being framed as a crackdown on travelling people is an assault on all citizens' freedoms

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Exmoor national park, Devon. 'The offense of trespass informs us that we are strangers in our own nation, unwelcome on the great majority of its acres. Photograph: James Osmond/Alamy Stock Photo

Every government of the past 30 years has promised freedom, and every government has taken it away. The general “freedom” they proclaim turns out to mean freedom for billionaires, the City of London, and the tax-avoiding, labour-exploiting, planet-poisoning chancers whose liberty is our captivity. Meanwhile, through further restrictions on housing, benefits, immigration, protest and dissent, they have snatched freedom from those who need it most.

Boris Johnson’s government intends to sustain this ignoble tradition. Its consultation document on unauthorised encampments proposes to criminalise the lives of some of Britain’s most vulnerable and persecuted groups. By enabling the police to confiscate the homes of “anyone whom they suspect to be trespassing on land with the purpose of residing on it”, Gypsies, Roma and Travellers will be left with nowhere to stop.

Even the police oppose this legislative cleansing: 75% of police forces and police commissioners believe that existing powers are sufficient to address any harmful behaviour by members of these groups. The government's sweeping proposals would amount to collective punishment. This is Conservatism at its cruellest and meanest.

But when you examine the proposals more closely, you begin to realise that they don't stop at the persecution of travelling peoples. The way the questions are framed could enable the government to go much further than the official purpose of the consultation, potentially launching one of the most severe restrictions on general freedom in the modern era.

The consultation is everything such exercises are not supposed to be. It is confusing and heavily slanted. It is pitched in such a way that, however you might answer the questions, you are forced to agree with a profoundly illiberal idea.

For example, the first question asks: "To what extent do you agree or disagree that knowingly entering land without the landowner's permission should only be made a criminal offence if it is for the purpose of residing on it?" It's a perfect trap. If you agree, you consent to the curtailment of the traditional rights and lives of Roma and Travellers. If you disagree, you consent to the criminalisation of something much wider, which, throughout English history has been a civil matter: trespass on land.

Is this the intention? To sneak in, under the cloak of a populist attack on a small minority, the criminalisation of walking on the great majority of England's land? We have a parliament in which, in both houses, landowners are massively over-represented. We have a wider political and economic system in which ancient, landed power still carries immense weight. There is nothing some landowners would like more than to set the police on those who dare to venture into their vast estates. And there is nothing that tells us more clearly that freedom for one is captivity for another.

Even while it remains a civil matter, the offence of trespass informs us that we are strangers in our own nation, unwelcome on the great majority of its acres. This is why Scotland introduced its comprehensive right to roam, enabling people to venture on to almost all uncultivated land except gardens, sports grounds and the land immediately surrounding houses, schools and other buildings. Despite dire predictions, it works well, with scarcely any conflict. The Scottish government, and the campaigners who pressed for this reform, see access as an essential component of citizenship. When you are treated as a trespasser across most of your nation, the message you receive is that you don't belong.

To criminalise trespass would be to make strangers of us all. The police become internal border guards, defending the fabric of the nation from us, the alien horde. In most parts of the country, this will leave us fenced into tiny areas. The right to roam in England extends to just 10% of the nation, generally far from where most people live. Some counties have only pocket handkerchiefs of land where we may freely venture.

To be adventurous in many parts of Britain, to explore more than a few glorified dog toilets, is to trespass. To stick to the footpaths and the pockets of access land is, for many of us, to feel unbearably trapped. Already we must tiptoe across our nation, trying to remain unseen. Does the government now seek to criminalise us? As the same confusing framing applies to several of the questions in the consultation, it seems unlikely to be accidental. The Conservative manifesto stated, without qualification, "we will make intentional trespass a criminal offence".

The harder you look, the more disguised powers appear to be lodged in this consultation. Even if new trespass laws are aimed only at those residing on land, they will affect not only Gypsies, Roma and Travellers, but also rough sleepers. David Cameron's government criminalised squatting in empty homes. This too was previously a civil matter. Thousands of homeless people found themselves on the wrong side of the law. Some have been imprisoned for using property abandoned

by its owners. Johnson's government would do the same to people living in tents or bivvy bags. There will be nowhere to turn.

Any new laws are also likely to be used against protesters. We've seen how previous legislation - such as the 1994 Criminal Justice and Public Order Act, the 1997 Protection from Harassment Act, the 2000 Terrorism Act and the 2005 Serious Organised Crime and Police Act - has been immediately deployed against peaceful protest, in some cases after the government promised that it would not be used for this purpose. In view of the statements this week by the home secretary, Priti Patel, attempting to justify Extinction Rebellion's temporary inclusion on a list of extremist ideologies, we cannot trust her to protect our rights to dissent. People seeking to reside on land for the purposes of protest, as anti-fracking and anti-roads campaigners have done to great effect, are likely to be criminalised from the outset.

But in casting the illiberal net so wide, the government might accidentally have created a coalition. Rather than allowing Roma, Travellers and homeless people to be picked off, all those of us who fear the criminalisation of trespass should join forces with them, protecting their rights while we defend our own. In responding to the consultation, which closes on 4 March, we should refuse to be trapped in the government's framing. Instead of agreeing or disagreeing with its proposals, we should state under every confusing question that we reject all attempts to criminalise trespass.

History shows that attacks on general freedoms often begin with an attack on the freedom of a minority. It teaches us that we should never allow a government to divide and rule. An attack on one is an attack on all.

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