

# RADICAL INTRANSIGENCE

**MIKE HANNIS investigates a controversy dividing activist communities, and finds a much-needed debate being shut down.**

Last summer we published a short report on the Land Camp organised by the Land Justice Network (Issue 25, p51). We took a humorous angle, but were clearly supportive of LJN, their anti-grousemoor campaign, and the broader objectives of the camp. Raising awareness of how inequitable ownership patterns make unsustainable land uses more likely is after all what *The Land* is all about.

It may seem odd to go back to that event now, but a separate story emerged from it which also needs to be covered. For many, this story and its ramifications entirely overshadowed the intended message of the camp. This was particularly true for one person present – a woman whose activist credentials might be said to be second to none, yet who was told in no uncertain terms that she was not welcome.

So why would young activists shun a woman who has been fighting hard for causes they espouse since before many of them were born? Answering this question requires some background. The twisting tale starts thirty years ago.

## Fighting Burger Power

As a result of handing out campaign leaflets outside McDonalds, in 1990 a young woman called Helen Steel was one of five members of London Greenpeace sued for libel by the burger giant. Three apologised, but Steel and her eventual co-defendant Dave Morris chose to fight in court. The resulting ‘McLibel’ case remains the longest in English legal history, as well as perhaps its most extreme ‘David versus Goliath’ struggle.

The initial High Court trial alone involved 40,000 pages of evidence and 130 witnesses. Denied legal aid, Steel and Morris represented themselves, receiving occasional free legal assistance along the way from (among many others) Keir Starmer. McDonalds’ legal bills were estimated at over £10 million. In 1997, a High Court judge found that Steel and Morris had indeed libelled McDonald’s, and ordered them to pay the corporation £60,000. However in a PR disaster for McDonald’s, he also found that several of the claims in the leaflet were true, not least those about misleading advertising and the exploitation of children. In 1999 the Court of Appeal reduced this award to £40,000, finding that several further claims (about workers’ pay and conditions, and likely health effects of eating McDonald’s burgers) were also true.

Steel and Morris then appealed to the House of Lords, arguing that they had been unfairly denied legal aid. The Lords refused to accept the case, so they moved on to Europe. In 2005 the European Court of Human Rights finally ordered the UK government to pay Steel and Morris £57,000 in compensation, ruling that the original case had breached Article 6 (right to a fair trial) and Article 10 (right to freedom of expression) of the European Convention on Human



Helen Steel and Dave Morris outside the High Court, 1990

Rights. English law, said the Court, had failed to protect the public right to criticise the activities of corporations.

## Too Close to Home

Ironically, Steel had no part in writing the original leaflet. There was little discussion in court of who had done so, as the alleged libel consisted in its distribution. It had apparently been co-written by several members of London Greenpeace.

Many years later in 2011, it finally emerged that one of the authors of the notorious leaflet had been an undercover policeman, whose real name was Bob Lambert. Lambert was in fact one of two Special Branch spies in London Greenpeace during that period. Though married throughout with two children, he had in 1985 already fathered a child with another female activist while undercover before orchestrating the breakdown of their relationship as an exit strategy at the end of his deployment.

The other police infiltrator, John Dines, began a deceptive intimate relationship with Steel shortly before McDonalds served their libel writs. The relationship lasted almost two years and they rented a flat together, meaning Dines was able to access confidential legal advice Steel was receiving. Concerned after his abrupt departure she spent years trying to trace him, finding inconsistencies and discovering that he had been using the identity of a dead child, but confirming the full shocking truth only in 2010 (and securing official confirmation only in 2016). Alongside seven other women also tricked into relationships with undercover police officers, she then took the Metropolitan Police to court, in another marathon unfunded case. In November 2015 the women won an unprecedented public apology from the police, acknowledging responsibility for serious violations of the women’s human rights.

Steel remains a key figure in ongoing campaigns seeking justice for women similarly deceived, and broader disclosure of the names and activities of the many police officers known to have infiltrated leftwing, anti-war, environmentalist and animal rights groups since 1968. Much of this activity centres on battling for transparency and fairness in the conduct of the Public Enquiry into Undercover Policing, which was grudgingly set up by Theresa May in 2015 but is not expecting to hold its first evidence hearing until summer 2020.

## Equal Rights

Steel is also involved in a number of other campaigns, one of which is the Land Justice Network. She was a founder member of the LJN action group, and also part of the wider LJN network after attending the founding ‘Land for What?’ conference in November 2016. Another focuses on the potential erosion of women’s sex-based rights by proposed changes to the 2004 Gender Recognition Act, and relatedly, protection of the right to express opinions on this issue. Curiously, it was her involvement in this latter campaign that some considered incompatible with her presence at the Land Camp.

The 2010 Equality Act (EA) lists nine ‘protected characteristics’ on the basis of which it is illegal to discriminate against people, or to harass or victimise them. One is sex: men and women must be treated as social equals. Importantly though, being treated as equals does not always mean being treated identically. The Act contains a number of exemptions and exceptions – contexts in which discrimination on grounds of sex is legitimate, usually because it is in fact required in order to ensure that one sex (usually women) are not unfairly disadvantaged or endangered.<sup>1</sup>

Many instances of such legally permissible discrimination involve reserving certain spaces, services and roles only for women. This allows for instance the continued existence of women’s prisons, refuges, and toilets, and the exclusion of men from competing in women’s sport. It also ensures that certain jobs are reserved for women, and that political parties can run all-women candidate shortlists in order to address existing imbalances.<sup>2</sup>

‘Man’ and ‘woman’ are understood in the Act as categories to which people belong on the basis of sex – that is, according to whether their physical bodies are male or female. So far, so apparently simple ... but this is where the complexity begins.

## Self-Identification

‘Gender reassignment’ is also a protected characteristic under the EA, meaning that it is illegal to discriminate against a person because they are undergoing (or even ‘proposing to undergo’) a process of gender reassignment. This does not mean that, for instance, a man in the process of becoming a trans woman must be treated for the purposes of the Act as a woman. He remains legally a man, but one with the protected characteristic of gender reassignment.

If however such a person obtains a Gender Reassignment Certificate (GRC) under the 2004 Gender Recognition Act (GRA), then they do legally become their newly ‘acquired gender’. Confusingly, their GRC entitles them to a new birth



*Helen Steel (left) on a panel discussing police undercover activities*

certificate, on which they are shown as a new *sex* – in this case, female. (Birth certificates record sex, not gender.) This change is officially termed a ‘legal fiction’, because medically speaking it is not possible to actually change the sex of a human body, even with surgery and hormones. Contrary to widespread assumption, most trans people do not elect to undergo surgery, and this is not required to obtain a GRC.

A trans woman with a GRC and a new birth certificate may therefore become entitled to most of the legal protections afforded to biological women by the EA, including access to many (though not all) spaces and occupations reserved for women. For this and other reasons, a GRC becomes a desirable thing to have as a trans person. But trans rights campaigners say the process of getting a GRC is too onerous, because it requires a long wait and a specific medical diagnosis of ‘gender dysphoria’. In their view a person describing themselves as having been ‘born in the wrong body’ should be believed, rather than being told they are suffering from a psychological disorder. They therefore argue that applying for a GRC should just involve a simple process of ‘self-ID’, through which the applicant formally identifies as their new gender and thereby enshrines this as their new status for all legal and official purposes.<sup>3</sup>

Following determined lobbying, the Government was in 2018 persuaded to open a consultation on reform of the GRA, including the possibility of moving to a system of self-ID. This was highly controversial, and matters escalated rapidly into acrimonious disagreement between trans rights campaigners and those who argued that self-ID effectively meant redefining the word woman, and would create or exacerbate threats to women’s rights to single sex services, facilities and roles.

This latter group – which includes Helen Steel – seek to preserve as far as possible the principle that the test for admission to reserved roles or spaces should be a person’s physical sex, not their ‘gender identity’. They argue that under a self-ID system there would be no defined criteria to determine whether a person is a woman, and hence no effective way of preserving women-only spaces (including prisons and refuges), with serious consequences for safety and privacy in such spaces. Concerns also arise regarding political and workplace representation for women, and fairness and safety in women’s sport.<sup>4</sup>

## Innate Gender?

Due in part to current political turmoil, self-ID appears to have been kicked into the long grass for now. But the highly-charged debate sparked by the GRA consultation continues.

At one level the disagreement centres on whether there can be such a thing as an *innate* gender identity that human beings are born with, independent of both physiology and social conditioning. If there can, then it could make sense to speak of a person's 'true' gender identity not matching their 'gender assigned at birth'. A person could literally be a woman trapped in a male body, or vice versa. It would then be plausible to claim that since only I have access to my inner reality, only I can say what my true gender identity is, and that I should therefore be able to 'self-identify' as whatever gender I consider myself to be.<sup>5</sup>

This claim that gender is innate has led to the phrase "trans women are women" being held up as an article of faith, denial of which supposedly reveals one to be 'phobic' about trans people, or to 'deny their right to exist'. It is not enough to accept trans women's right to live and self-describe as women. In order not to be accused of transphobia, everyone must sign up to the idea that trans women literally *are* women, and that being a woman (or a man) is a matter of gender identity, not a matter of biology. Campaigners publicly questioning this idea (some of whom adopted the dictionary definition 'woman = adult human female' as a slogan) are accused of bigotry.

The 'gender-critical' position taken by (often older) feminists like Steel is that far from being innate, 'gender' is no more – and no less – than a set of pernicious social constructs dictating how female and male people 'should' behave, which serve to impose a hierarchy of male domination and female submission. To accurately describe a person as a woman (or a man) is to identify them by sex, not by gender. Nobody has an innate gender identity, because gender is something imposed on them by society after birth. Sex on the other hand is a matter of biology, and it is not possible to change the biological maleness or femaleness of a human body.

Gender-critical (GC) feminists argue that women are structurally and personally oppressed by men, and by male-centred structures of power, not because of their felt 'gender identity', but because of their sex – because of physical facts about their (child-bearing and statistically smaller) female bodies. It is a person's sex that determines which set of socially-determined gender roles gets imposed on them.

On this view, the idea that gender is innate and independent of sex *reinforces* sexist stereotypes of how men and women should behave, rather than challenging them. For instance, well-meaning and supposedly emancipatory activities encouraging children to locate their own gender identity somewhere along a 'Barbie to GI Joe' spectrum are in fact likely to strengthen the damaging idea that 'real women' are like Barbie and 'real men' are like GI Joe.

GC thinkers argue that the idea of innate gender is particularly bad for 'gender-nonconforming' people, of all kinds and all ages, who should be allowed to live (and love) however they please, rejecting gender roles imposed on them. This includes not being pressured or encouraged to change their bodies to align with their so-called gender identities. It also includes not being accused of bigotry for preferring partners of a specific sex (as opposed to gender). One key group of gender-nonconforming people is of course same-sex-attracted

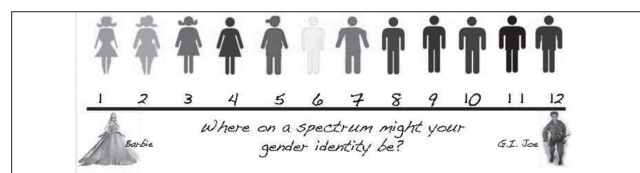


Image from material used by the Mermaids charity

people, and significant controversies have arisen over recent reorientations of some gay rights organisations and events to focus on trans issues.<sup>6</sup>

Sexual orientation is a protected characteristic in the EA – it's illegal to discriminate against someone for being gay, just as it is to discriminate against them for being female, or indeed for being in the process of gender reassignment. But 'gender identity' is not a protected characteristic. Some trans rights activists argue that it should be, and organisations including Stonewall have lobbied for the EA to be revised along these lines. Stonewall lost this fight, but nonetheless tell organisations seeking their advice that "going above and beyond the law, the most inclusive services consider gender identity to be a protected characteristic."<sup>7</sup>

## No Debate

Aggravated by the immediacy and virulence of social media, the situation has become extremely volatile. Activists and campaigners who have in some cases been allies for decades find themselves on opposing sides of this highly polarised 'debate'.

Unfortunately though, actual debate on the issue is rare. A strongly-policed orthodoxy has arisen under which GC arguments are portrayed as 'transphobic', and any expression of them as 'hate speech'. Trans rights activists denounce GC writers as 'bigots', and refuse to discuss the issues they raise. Even iconic feminists such as Linda Bellos and Germaine Greer are denounced and 'de-platformed'.

Meetings of women to discuss potential erosion of their legal rights have been aggressively picketed. Public figures have been intimidated into keeping silent on the issue. Co-ordinated campaigns are mounted to remove people expressing GC views (usually women and often lesbians) from their jobs, especially in universities but also in businesses, charities, and NGOs. Several likely test cases are working their way through the legal system.<sup>8</sup> Within 'progressive' political parties, widespread dissent over equalities policies and over who should be eligible for posts representing women is suppressed, remaining largely unseen from the outside.<sup>9</sup>

There has also been tension and division at the more radical end of the activist community. An early example in the US was the implosion of the previously flourishing Deep Green Resistance movement (see *The Land* 15, p54 and 16, p52) over an argument about whether a trans woman should be allowed into a women-only space. Veteran radical author Derrick Jensen, a founder of DGR, is still vilified and now struggles to get his work published.

In the UK, similar rifts emerged after an incident at the London Anarchist Bookfair in 2017, when Helen Steel sought to defend the right of two other women to distribute leaflets critical of the proposed GRA reforms. In the words of the event organisers:





Maya Forstater (centre) a tax expert, was a visiting fellow at the Centre for Global Development, an international think tank that campaigns against poverty and inequality. She lost her job after tweeting that transgender women cannot change their biological sex, and recently defended her right to express her 'philosophical beliefs' on the matter before a London employment tribunal. As we go to press no judgement has yet been given.<sup>8</sup>

"For expressing this view, she was mobbed by a crowd of people some of whom, had we not stepped in, appeared bent on physically attacking her. We and other stall holders stepped in to prevent this from happening."<sup>10</sup>

To the disappointment of many, the ensuing controversy led to the cancellation of the 2018 London Bookfair. It also led to a much higher profile on the issue for Steel, who began speaking out more publicly on GRA reform and associated issues. In so doing she has attracted constant attention from trans rights activists, who have even attempted to 'de-platform' her from events where she was booked to speak about her experiences of abusive undercover policing.

In the absence of a London event, a large 2018 Anarchist Bookfair was held in Manchester. This time, in Steel's own words, she was

"physically carried out while trying to persuade them that it was incompatible with anarchist principles to exclude women from participating in discussions about what the word woman means and whether males should be allowed into women-only spaces."<sup>11</sup>

### On the Moor – and After

This then is the background to what happened at the Land Camp in May 2019. Despite her having been at the camp from the beginning, organisers told Steel only during a protest walk across the moors that they wanted her to leave immediately, as her presence posed "a risk to the safety of trans people". She challenged this assertion, stating:

"I have now been physically threatened and assaulted by trans activists several times, and yet I have not hit back or threatened anyone — if anyone's safety is at risk, it's mine."<sup>11</sup>

However, some of the organisers told her that she was no longer welcome, and that they were not willing to discuss this further. In a subsequent interview she observed that

"I hadn't even said anything relating to trans issues at the point I was told to leave, but when I pointed this out I was told that they had made a prior decision that I wasn't welcome at the camp because of things I had posted on social media."<sup>11</sup>

What then ensued on social media and elsewhere was by now all too familiar. The small UK land activist community was suddenly riven by bitter disputes about transgender politics. A letter supporting Steel was swiftly issued. Alongside over 400 other people, three editors of *The Land* signed this statement and continue to endorse it. Here is an extract:

"This was the third time that Helen has been threatened or evicted from political events in this way and others have received similar treatment. The idea that questioning gender identity theory amounts to bigotry and 'hatred' of trans people is justifying the exclusion of people from the movement. The effect of this is that many are afraid to express an opinion on the issue or even to ask any questions about it, and the end result is that most do not understand different perspectives on the issue. Progressive movements are supposed to work on the basis of mass participation; it is only through the honest exchange of views and varied life experiences that we are able to understand the implications of power dynamics, policies and laws and able to ensure that everyone's rights are protected. It is out of order to single out one individual to be excommunicated, hounded, physically assaulted and humiliated for views which many other progressive people in our radical networks share."<sup>12</sup>

Organisers of the camp appeared unrepentant. A short statement headed 'Landcamp safer spaces failure' was eventually posted on the LJN website saying:

"Landcamp organisers are an autonomous working group that do not speak for the wider Land Justice Network as a whole or any other working group. Landcamp organisers acknowledge that our safer spaces policy was not clear enough in process or content to be fit for purpose. We

regret the confusion and agitation caused to all as a result of this. Landcamp organisers look forward to feeding into a wider Land Justice Network safer spaces process which we hope will make clear that people involved in actively campaigning against trans rights will not be welcome at our future events.”<sup>13</sup>

### Like Pie?

Far from accepting the possibility that any mistake might have been made, this statement clearly implies that the only ‘failure’ was to have allowed Steel onto the protest site in the first place. This perfectly illustrates the difficulty of attempting to debate these issues with those determined to shut down all dissenting opinion. Efforts to elicit further public comment for this article, from LJN or from key individuals involved, were unsuccessful.

As in other contexts where this issue is dividing people, open debate is certainly needed, because the present situation is not only polarised but also confused. It is for instance sometimes claimed that anyone expressing a gender critical perspective is buying into a narrative promoted by rightwing and religious interest groups who believe in upholding rigid traditional gender roles, and see transgender people as a threat to these. Such conservative interest groups certainly exist, and are indeed often prejudiced against transgender people (among others). But gender critical feminists, most of whom are solidly on the left, do not want to uphold traditional gender roles – broadly speaking, they want precisely the opposite. They are not prejudiced against transgender people, and do not seek to ‘deny their existence’.

A simplistic meme often mobilised in these discussions claims that “more rights for one group doesn’t mean less for someone else – it’s not like pie”. This sounds good, but is often entirely mistaken. In real life there are many instances in which giving additional rights and entitlements to one group *does* entail reducing those previously given to another. The debate currently being shut down focuses on the extent to which this applies in cases like women’s sport, women’s political representation, and protected single-sex spaces. It seems clear that the pie is finite: posts, medals or spaces taken by male-bodied trans women tend to be taken *from* biological women. This raises legitimate concerns which deserve to be properly heard, not suppressed.

### Women and Land

Finally it’s worth remembering that land politics is an area in which inequality between men and women is extremely prevalent. Worldwide, women do the bulk of land-based work, but own less than 20 percent of privately-owned land – and as the world’s remaining commons pass into private ownership, the hands they pass into are disproportionately male.<sup>14</sup>

In many countries laws and customs on inheritance of land still discriminate against women. Such discrimination can often be a matter of life and death, and affects many of the world’s most disadvantaged people. But a version of it operates even within the British aristocracy, which as we now know still owns over a third of England. Aristocratic titles and land estates traditionally follow the rule of primogeniture and pass from father to oldest son, preserving the power and prestige



of dominant males. Helen Steel points out that although the principle of the Gender Recognition Act is that a person with a GRC legally becomes their acquired gender ‘for all purposes’, a specific exclusion was inserted to prevent older female offspring who obtain a GRC (making them legally male) from inheriting an aristocratic title and estate ahead of a younger brother. An Explanatory Note makes clear that

The descent of any peerage or dignity or title of honour will take place as if a person recognised in the acquired gender were still of the birth gender. The same rule applies to any property that passes with it.<sup>15</sup>

This curious exclusion, says Steel, shows once more how current changes in the legal framework around sex and gender tend at every turn to preserve and extend male privilege while eroding women’s rights.

Women all over the world are discriminated against not because of their gender identity, but because of their sex. Excluding those who recognise this makes it less likely that this important dimension of global (and local) land politics will be properly considered.

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