

Conor Gearty

Professor Conor Gearty FBA is Professor of Human Rights Law at the London School of Economics. A video of extracts from this interview can be found via www.britishacademy.ac.uk/prosperingwisely/gearty



Q
What was the initial spark that made you want to work and study in human rights?

Conor Gearty

The initial spark behind the move into academe was actually not wanting to be a practising lawyer, so it was a negative spark. I also liked teaching.

I grew into the human rights bit because I'd taken a hostile position towards having a Human Rights Act in Britain, for various entrenched left-wing reasons. I felt I had to master this subject on which I was becoming somebody with a sort of heretical view. So I grew into the subject that way.

Q
What was that like as a personal transition?

Conor Gearty

I think academic life is a mix of feelings and reasons. I am from Ireland, and I came to England to study for a masters degree. In the first year I was here, there were all those hunger strikes in Northern Ireland; there were those miscarriages of justice cases a bit later on; there was the Brighton bomb. And here I was, as an Irish person in England. I felt quite a lot of this was a result of an institutionally-flawed legal system. I was a lawyer and I began to work in this field, so my passions drove my ideas. I specialised in civil liberties: my first book with a friend was called *Freedom Under Thatcher*.¹ And when it came to human rights, again passions fuelled the reason, because a lot of these people in jail in Britain were there because judges had ensured that they would be, notwithstanding, to me, the obviousness of the fact that they were not guilty beyond reasonable doubt, if guilty at all. So I became very critical of

the judiciary. And that meant that I had a position which looked very angry, and very aggressive, and that's not really my personality. It was a kind of mismatch between my personality and my ideas. I did not really want to meet any judges, because the terror I had was that I would like them. And therefore I stayed outside the world of which I was so critical.

But, times change, and certainly the system here changed, without doubt. The judges seemed to me, credibly, to refresh themselves. The various people who had been the victim of miscarriages of justice were released, and gradually – maybe you could say I grew up, maybe some people might say I sold out – I saw that life was a bit more complicated than I had earlier believed. I became an advocate for a human rights law that preserves Parliament's power, in the end, to reject human rights, but which apart from that prioritises the idea of human rights. I was sort of ambiguously recanting. I wrote a journal article with the title 'The Human Rights Act: An academic sceptic changes his mind but not his heart'.² I have quite enjoyed the tension between my emotional commitments, reason and changed circumstance. One of the hardest things for academics to do, I think, is to acknowledge changed circumstances.

Q
What affinity do you feel when you see a Muslim lawyer talking in the same way about detainees as you might have done previously?

Conor Gearty

Recently I went to a public meeting being hosted by an organisation that certainly the Prime Minister has explicitly said he wants to ban, but which he can't ban because you need to prove a connection with violent extremism, and nobody can. I was very struck at that meeting, very well attended by Muslims, by the parallels with the Irish in Britain in the early 1980s – except that their situation to my mind is rather worse, in that they are more isolated from the culture. The Irish always had quite a lot of influence abroad, a lot of Irish people in Britain. They had quite a lot of shared religious colleagues within government, a lot of Roman Catholics. And, of course, they looked like British people: I remember that in the '80s if I kept my mouth shut on the Tube nobody would know I was Irish. I thought, at that meeting, of those similarities, and what the Irish should do now – which is show solidarity to what is a new suspect community. In the 1980s a famous and well-known academic, Paddy Hillyard, called the Irish 'a suspect community', and in some ways Muslim people in Britain have replaced the Irish as the suspect community.

¹ K.D. Ewing & C.A. Gearty, *Freedom Under Thatcher: Civil Liberties in Modern Britain* (1990).

² *European Human Rights Law Review*, 6 (2010), 582-588.

An academic can bring passion and energy, but can also bring a strong sense of independence, of not being bought. We can call it as we see it.

Q

Can the humanities and social sciences provide perspectives and potential solutions?

Conor Gearty

An academic can bring passion and energy, but he or she can also bring a strong sense of independence, of not being bought. They are, after all, usually funded by the taxpayer, in order to teach and research. What an amazing social good that is. We academics can call it as we see it. Not claim some incredible truth, but call it as we see it. That is a fantastic resource for policy-makers and politicians who are interested in reason. If you are not interested in reason, of course, you have no interest in academe, because the reasons will undermine your prejudices. But if you are rationally engaged in any kind of policy pursuit, academics become a resource.

I have that in my own career. In the mid-'90s I became very involved in advising the Labour Party on terrorism laws. I knew about the terrorism laws because I had written a book on terrorism,³ and Labour needed some guys because they were in Opposition and they did not have much civil service support. They were able to avail themselves of my advice, so I was able to go into the House of Commons, I was able to hear the Shadow Home Secretary debate on the basis of discussions I had had with him, and see first-hand what it is like to try and implement arguments that I had put in theory. It is that kind of interrelationship between the academic, who is thinking about what ought to happen, and the politician or the policy-maker who is saying 'Yes, you might be right, but let me tell you why that won't work.' That is a tremendously creative space, and it works to the benefit not only of the academic, obviously it works to our benefit, but it works to the benefit of the general public, because they get policies, mediated by a politician for sure, but rooted in independent thought.

Q

You talked about scholarship and education being a 'social good'. Can you expand on that?

Conor Gearty

Let us think about why it is valuable to have education in something other than how to make something, or how to fix a car. Let us take, for example, some terrible atrocity, like the Woolwich killing. You have this community running around in a semi-hysterical state, anxious, and what are they anxious about? They are anxious about trying to understand something. Politicians can get up and they can say the usual sorts of things about this and that, people being responsible, or we will clamp down on this, or clamp down on that. But what the community, what the public, want is some guide to understanding. That is where a person who has

specialised in understanding behaviour, or in understanding culture, can become relevant. Or it might be a lawyer, who can actually understand the relationship between the law and this event, and can say – because there is no constituency, and he or she doesn't care what the *Daily Mail* says – 'Maybe we don't need a law.' There is this way in which an academic, independent, informed, committed to reason, with no axe to grind, can actually communicate effectively at moments of the highest importance.

Q

Can you provide any examples of how your work has been significant to the world outside academia?

Conor Gearty

Academics nowadays have been forced by the government to prove what is called 'impact', and I approve of the idea, I have to say. I am slightly unusual in that I think we are all able to show that our work has an impact. However, you can be lucky or unlucky in your field: as one of my friends in anthropology said, 'If I prove an impact, I haven't done my job. I'm supposed to leave them alone.' It can vary, and we need to be flexible about what we understand as impact. For me, impact in the social sciences is not often going to be about being able to point to a section of an Act, in my case, or somebody who has not been arrested, and say 'That is the result of that work there.' We are not scientists, we are not sitting together in a laboratory producing a cure. But what we are doing is having impact in a cultural context, and by that I mean making ideas seem normal, from which change flows.

I will take an example from my own work. I went on and on about how we can use the criminal law instead of all these extreme counter-terrorism laws. Other people did this too, so you can't say 'Ah, that's the Gearty Test' – it's not like Crick & Watson and DNA. But you can say 'Gearty along with other guys made it kind of normal for the Attorney General or the Director of Public Prosecutions to say "We are using the criminal law", and therefore made it part of common sense that we should not intern people, for example.'

Impact in the social sciences is about the salience of the issue. That is a tremendous thing to be able to achieve as an academic. And I think most of us – give or take a few – can aspire to do that, and it is not unreasonable to ask of us that we try.

Q

What are the challenges that researchers currently face?

Conor Gearty

In the early phase of democratisation, a lot of people became influential propagators of ideas through their own self-education. We had a culture in which the idea of a public intellectual was very familiar. Then, after the war, with the expansion of the university sector and then the great impetus towards further expansion in the 1960s, into the 1970s, with further reforms, we have had this vast

³ Conor Gearty, *Terror* (1991). Also Conor Gearty & J.A. Kimbell, *Terrorism and the Rule of Law: A Report on the Laws Relating to Political Violence in Great Britain and Northern Ireland* (Civil Liberties Research Unit, 1995).

professionalisation of intellectual knowledge. That has been terrific, because it has meant there has been an expansion of the number of people who can enjoy university. And what we mean by that, of course, is enjoy reason, enjoy ideas, enjoy understanding that life is about more than work. But it has had a slight cost, which is that we have silo-ed ourselves into various disciplines. You have the guys who know all about social policy, the guys who know all about sociology, the guys who know all about law, and this is a little bit of a problem as we look ahead.

However, it is being dealt with, and, increasingly, what you see in the social sciences is a breaking down of these slightly artificial barriers. The shift is towards solving problems, not protecting disciplines. So someone from the London School of Economics (LSE) like me has just had meetings talking with the people who are involved in managing the consequences of climate change, such as Nick Stern, who is now President of the British Academy. That is not about whether you are a geographer, a sociologist or a lawyer. That is about 'What are we going to do about climate?' I think the future of intellectual work in the social sciences is a future that will be centred on problem-solving, and that is where there is then an explosion of energy from the academics, and it shows the public that actually they can produce value. You still need to teach people how to be lawyers, how to be philosophers, of course; these are technically important areas. But academics should be *both* disciplinary specialists *and* problem-solvers.

Q

When we interviewed Lord Stern, he said there was currently 'a crisis of confidence, a crisis of understanding'. How can the humanities and social sciences help?

Conor Gearty

I have just done a short book,⁴ and it is an attempt to understand the mystery of the current uncertainty. It is my contribution, if you want, and so it is about explaining how we seem to be drifting into a state of affairs where we think we are in a democracy, we think we respect the rule of law, we think we respect human rights, but in fact people are getting poorer, people are getting discriminated against more than they were, and we have secret justice, and we have special courts, and we have Guantanamo, etc., etc. Using myself as an example, what the social sciences guy can do is take a jumble of stuff that looks very confusing, arrange it, and produce it in a readable form. This book is a short book, because I wanted people to read it. Hopefully people can then understand stuff and, because they understand it, see that they can cope. They can cope by engagement as citizens; they can cope by knowing how to contribute to a circumstance they want to bring about. The academic

renders intelligible that which is confusing, and provides an agenda for those inclined to take action.

Q

Can you talk further about that?

Conor Gearty

The academic says 'You can't go back to the past. Let me explain why.' The academic says 'Let me explain this fear you have.' The academic may link it to neoliberalism, may say, like me, that this is about capital and power taking back the concessions it made at a time when it was fearful of communism. The academic can position him or herself in a way that explains, and therefore renders less terrifying the unknown. I think that we are able both to explain and then to promote solutions.

Take reason. I think it is beyond dispute that reason does not work for an awful lot of people, and so we need to try and work out other ways of persuading ourselves how we should act, and when we should act well. Academics do that. There is fascinating work at the moment at LSE – we had a whole seminar on this a few weeks ago – on altruism, on the reality of people's outward reach, which is not reason-driven; it is something in themselves. I am doing a paper on the human rights take on altruism,⁵ and that is an effort to understand language in a way that explains something as other than rooted in reason.

Everything is always changing all the time, and the academic is trying to capture the moment and explain it. That should be, if not a balm to people, a kind of assurance that there is a capacity to understand.

Q

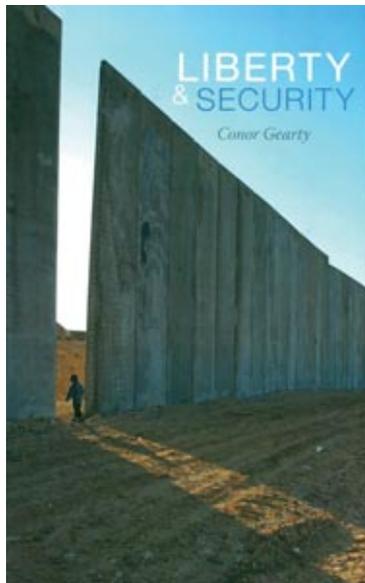
Do you find it difficult combining being an academic and a practitioner?

Conor Gearty

I am a barrister as well as an academic, and to be honest with you it is very difficult to do those two together. The reason for that is that a barrister has to be available to argue cases in court, and I decided quite early on that I would put the academic side first. If I have got a class at 10.00am, I cannot be in court. Now, that is very clear, and it means I am

not running around the Strand trying to put my wig on or take it off before I go into the court or classroom, and forgetting which I am in. But it means I have not been able to do as many cases as I would have liked.

However, that apart, the two are complementary. I will give you an example. I do an article for a learned law journal. I am in a case in the House of Lords a few years ago, before it became the Supreme Court; I am being led by a colleague of mine at Matrix Chambers, Cherie Booth. And we were able to submit my article in proofs to their



⁴ Conor Gearty, *Liberty and Security* (2013).

⁵ C.A. Gearty, 'Human Rights: The Necessary Quest for Foundations', in C.

Douzinas & C.A. Gearty (eds), *The Meanings of Rights: The Philosophy and Social Theory of Human Rights* (2014).

The academic explains, and therefore renders less terrifying the unknown. We are able to explain, and then to promote solutions.

Lordships. And we were able, as it were, to jump the queue of academics trying to engage with the judges because I am there, in the room, in the court. I am able to say to the guys who are publishing the article ‘This has been before their Lordships in the case of “X”.’ That is a nice little virtuous circle, where they are both working together.

When you teach the students, you can say ‘This case – I will tell you what it was like...’, because you have been in it. You don’t need to have been in too many. You don’t need to have a prolific practice – for the reasons I have given, I do not – in order to be able through a few cases to communicate very strongly the excitement of front-line legal work.

So I have found them, given that I decided to go for academe as my main job, complementary.

Q

As a commentator and campaigner, how easy is it to compartmentalise the different roles?

Conor Gearty

I think the way to try to have an impact out of university in the social sciences nowadays is to wear lots and lots of different hats, and not to be too worried about this. I remember some great advice I got from a fantastic academic, when I was worried about how I was on the one hand opposed to this but supporting that, and he said ‘Relax, relax.’ I discovered then something called post-modernism, which apparently means you can be everything at the same time. I think that somebody who aspires to be a successful academic these days needs to be able to put on the journalistic hat and do 800 words; needs to be able to do the scholarly article and monograph; needs to be able to do the radio. Actually, I think if you have got something to say, which is the key thing, you can choose how to say it depending on what the audience is, and it’s not that difficult. The problem is where you don’t have anything to say, and if you don’t have anything to say it is very difficult to say anything at all, anywhere.

Q

Do you worry about being likeable?

Conor Gearty

I learnt quite early on that the English are a very polite culture, particularly at higher professional levels, so I have experienced very little personal antagonism. I hope that somewhere, behind my back, there are people who are angered by my work. I hope it is not all as smooth as it looks to my face, because obviously an academic wants to disrupt, wants to critique, wants to problematise things that are taken for granted. It is essential that the academic

does that, because otherwise the academic is not able to communicate.

My students sometimes get worried. They get angry, because I appear to be so critical of human rights, but my critique is a route into understanding. I did one radio programme once where I called for the repeal of all terrorism laws, you know, a crazy idea; but it was a route into understanding. Now, when you get to a position like mine on terrorism laws, which is eccentric in the culture, people are polite. You do not make headway on the key goal, but you make headway on the margins, and you put those who argue for ever-increasing laws in this field on the defensive. You can antagonise for a purpose.

I have also, from time to time, picked fights with academics who I believe are acting in bad faith. What I mean by that is an academic who forgoes that independence that they have, which is a most extraordinary part of our civilised culture, in order to emulate a politician, or to emulate a policy guy, in the search of advancement. We had this over the so-called ‘war on terror’. We had a few academics who would say ‘Well, when you look at it very carefully, President Bush is allowed to do what he wants,’ and bingo, that guy becomes a judge. Or you get some other guy who says ‘Well, it’s not really torture when you beat people up, because we have to try and defend our culture,’ and that guy gets read by President Bush. Those academics who play at being careerist, the ones who, as a result, forsake that academic quality of independence, are the ones I do not like. Paradoxically, I really admire the ones who have completely different views than mine, but they are views that are forged by their independent reasoning, not by some careerist manoeuvre on their part.

Q

Is it important for an academic to be subversive?

Conor Gearty

When I went for the best job I have had so far – Director of the Centre for the Study of Human Rights (2002-2009) – a very distinguished interviewer, who was President of the British Academy, said, ‘Let us go straight to it, Professor Gearty. Since you are an opponent of human rights, and of all that human rights stands for, why have you applied for this job?’ Remember, the job is Director of the Centre for the Study of Human Rights. I was able then to say ‘I don’t oppose human rights, I just oppose all these hateful lawyers’, etc., etc. That is a kind of lovely position, and some of the students sometimes come to me and say ‘I would love to be Director of the Centre for the Study of Human Rights’, or Professor of Human Rights Law, which is my other job. I would say ‘Start by opposing all human rights, start by this, start by that,’ and what I mean is, be yourself. Maybe for some people subversion doesn’t work for them, and it is painful if they play at subversion. Maybe their ideas are conventional. There is nothing wrong with that. The key thing is to be yourself. So I don’t think subversion for subversion’s sake, but subversion if ideas take you there.

Q
Should a scholar try to appear uncommitted, disinterested?

Conor Gearty

It is very difficult, in my opinion, for a scholar credibly to say that they are aloof from, outside of, that on which they comment. I am not an academic who has ever successfully been able to separate myself from my ideas. So my ethnicity as an Irish person informed my critical engagement with my subject. I am nervous about any claim that I would ever make to say of my ideas that they are separate from what constitutes me, except in this important sense: that they are tested by reason, and that they are subject to exposure as either unduly influenced by *my* persona, or plain wrong. I see my persona as informing my ideas; but my ideas, informed as they are like that, and qualified in the way I have suggested, have a life that can reach beyond me.

Q
Are you saying that, although some research might, for example, suggest that internment laws were actually a good idea, your personality would always make you look for arguments against?

Conor Gearty

What I am demonstrating is that my personality and background may lead me to a set of positions, but I do not just declare their truth on the basis of those accidents. I develop an argument.

It is often quite tricky for people to argue for things like internment or torture, because their arguments flush out their disregard of fundamental values, and they often don't have the courage to admit that they don't care about those values. So they end up implicitly condemning the values – the dignity of the human person, non-discrimination, equality of esteem – implicitly disregarding them, but are not able to do it honestly, with the result that their arguments are a mishmash of confusion.

Q
Why should people study the humanities and social sciences, rather than learn how to produce nuts and bolts or build things?

Conor Gearty

The saddest thing about trends in contemporary culture is how everything is being monetised or commoditised. It's sad not only because people lead drearier lives as a result, without what one famous politician, Denis Healey, used to call a 'hinterland', because they have not learned how to have a hinterland. But it's sadder for another reason. Nuts and bolts don't get made, cars don't run, computers don't work, without intellectual activity. People who seem to think everything has a price, and that someone studying English or studying classics is not delivering some product that they can use tomorrow, don't understand that that product was probably delivered by a team of people who learned how to think at university, not in some special garage where they were taught how to fiddle with nuts and bolts.

There is both a moral and a practical reason why we should support universities. The moral reason is that we want to make our community a happy, successful community. And the way the human is wired, the human needs thinking, needs engagement. It's not all about food and sex.

The practical reason is because society will not function effectively. I was at a seminar in a country that will not be named. It is a country that invests heavily in education. But all the students want to leave, and they come in particular to places like the LSE. The Prime Minister spoke directly before me, and he said 'Why not come and do your degrees here? We have great engineering, we have great this, we have great that.' What they do not have is respect for freedom of expression, tolerance and diversity. I got up afterwards – I was the human rights guy, you know, the Trojan horse – and I said 'Look, if you allow your guys to protest, if you allow your guys to have some kind of cultural life independent of the state, maybe they will stay.' But, of course, they did not.

You cannot separate out stuff like building from stuff like thinking. The two are interconnected.

Q
Are British universities a success story?

Conor Gearty

If you take a place like my university – but many, many universities – education proves itself to be one of the biggest earners of foreign currency, because we are so good at it. So, even in a crude financial calculation, the funding of British universities in order to create spaces for the successful education of persons who come here for it makes an awful lot of sense. But we can't be just a service industry for foreigners. We have to have a programme which covers ourselves. One of the great glories of the last decades has been the availability of that tremendous university experience to more and more people in this society, which has meant that it is a much less elite thing to have secured this university education.

Q
What are your aspirations for the future?

Conor Gearty

In academe you go through a kind of trajectory of research to secure promotion, let's face it, to move up, and I did all that. Then, when I got professorship, I got a nice couple of notes. One guy said 'I hope you are one of those people who uses the Chair to stand on, not sit on.' When you get to the point where you are whatever it is that you wanted to be, you have to ask the question 'What are you for?' That can happen at different ages to different people, if they are lucky enough to become professors. For me, that is about developing a portfolio of activities, and I succeed to some extent and do not succeed to other extents.

Good academic work is about working with raw materials to produce credible versions of the truth within your discipline. But also it is about journalism aimed at distilling

your deep knowledge into a language that is understood with a view to impact. And journalism now means TV and radio, but it also means Twitter, getting your ideas to people through social media.

As well, the more you get caught up in the establishment, the more you become somebody who is a well-established professor, it is about setting examples. It is about returning articles that people send to you to read, with comments. It is about engaging in editing on behalf of colleagues in journals. It is about saying yes to invitations, and not just not replying. It is actually giving back. In the early stages of my career, senior academics who had never heard of me returned articles with comments, invited me to things, and I was a beneficiary of the generosity of others. That is an important part of what I aspire to do at this stage in my career as well.

Q
What would you like to be remembered for?

Conor Gearty

This is a counterintuitive, I think. I would like to be remembered by my students as somebody who showed them a new way of thinking. Not that they would remember a particular class, or ‘Yes, his view on Section 6 of the Human Rights Act was really exceptional’; more a mood, an energy, about constructive critical thought. I would really like that. I don’t know if I will have that, but I would really like that.

Then the books and so on. There is always an issue about whether anybody reads books, and what impact they have. But at their best, when somebody comes up to you and says

‘That book really affected how I engage in the world,’ that is a special thing. That’s like the classroom reaching out of the classroom, reaching into the living rooms of these people and engaging them directly, through the book rather than in person. That happens now and again, and that’s also terrific.

I don’t get a big kick out of solving some technical problem where I am the only guy who knows that I have solved it.

Q
What did election to the Fellowship of the British Academy mean to you?

Conor Gearty

Being elected to this Academy, elected by these people – who are by the votes that elected them earlier the ‘top’ people in your discipline – was a big deal for me. It was a big deal for me because I am a lawyer, but I do a bit of telly, I do some journalism, I am on the radio a bit, I am a barrister. And this election said to me ‘We respect your work. Not because you are on the telly, not because you are this, not because you are that, but we respect your work as a scholar.’ That was a tremendous thing for me, especially as some of my stuff crosses over into other disciplines.

And I am also aware, though relatively new in this, that the British Academy might be trying to do something very important about connecting the social sciences to culture in a way which is not just about a community of self-regarding scholars from a narrow community of universities.

‘Somebody who aspires to be a successful academic these days needs to be able to put on the journalistic hat.’ Here Conor Gearty comments on the summer 2011 riots in the ‘Tablet’.

Summer riots

CONOR GEARTY

Back to basics

The courts have dealt robustly with the violent disorder and looting of last month's riots, and the Government has promised swift action to prevent a recurrence of them. But one leading human-rights lawyer is sceptical about proposed changes and offers an alternative approach

I was once booked by Australian TV to be their legal expert live on air during the funeral of Princess Diana. “So what are the constitutional implications of the death of Her Royal Highness?” I was asked. “There are none,” I replied, and – immediately hoisted off stage – spent the rest of the six-hour marathon reading *The Economist* in a back room. It is the same with the riots that ravaged England last month: despite the protestations of some newspapers and politicians they reveal no gap in the law or need for any legal initiative. Yet they do raise serious issues about the political, ethical and legal responses to the troubles of this summer.

Riot has long been a serious crime in Britain. The Thatcher Government’s 1986 Public Order Act put it (and the lesser crime of violent disorder) on a statutory basis, with those convicted being liable to terms of imprisonment of up to 10 and five years respectively,

and generally praiseworthy feature of the prosecutorial and judicial response has been its speed, narrowing the temporal gap between flying in “to take charge” and harassed officers on the front line was evident for all to see. This was also surely not the time to talk up the suitability of an American super-cop to solve all London’s woes: even the most ardent of British voters know in their bones that the capital is nowhere like New York and Los Angeles – and does not want its policing to follow these models.

The effort to recover lost political ground made David Cameron sound even more like Tony Blair than usual – all busy talk of legal changes that in truth signified nothing. His plan to tackle social networks has already fallen away. The proposed police power to remove face masks “under any circumstances where there is reasonable suspicion that they are related to criminal activity” would hardly have stopped the riots and may simply become another vehicle for police harassment. “Gang injunctions” – new Abo-style civil court orders