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Eight tips for surviving (and enjoying!) academic writing†

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I remember the moment when I realised that good writing was not simply about using fancy words. I was reading a novel by Graham Greene, probably *Brighton Rock*, and I suppose I was in my late teens. Each sentence was one that I could have written myself for sure, but they combined together in ways that took you well beyond words, into a world of thoughts and feelings that transcended the means of getting there. In Greene's hands, sentences were the taxi that took you on a journey into your heart. Of course, good writing in law is not quite the same, since the journey is often towards an understanding outside rather than within yourself. But it is not the less thrilling for that.

The best legal writing – scholarly or judicial – has a musical feel to it; the writer takes you on an exhilarating ride towards a full grasp of something previously opaque to you: no wrong turnings, no cul-de-sacs, no loose-ends. The things you think might be missing suddenly appear and in the right place; every mystery is anticipated and resolved. I remember a moment exactly like that in my third year studying law at University College Dublin. Putting a fine text book down (I can't now remember which), I finally understood the equitable doctrine of tracing. I went to have a coffee to celebrate and when I returned it was gone, and I never got it back. I didn't have the energy to retrace my reading steps, and besides, the magic could probably not be repeated. (I got 52% in Equity.)

I was very slow to enjoying writing as an academic lawyer myself. Sure, I'd written lots of stuff as a kid. (*The Adventures of Simon DeSilver*, written when I was eight, unfortunately still survives – there is an uncanny resemblance to *Robinson Crusoe*.) In those early student days, I was given as a lawyer not to the vice of plagiarism (I didn't read enough to be tempted) but rather to the extravagant, the overstated. One professor said I wrote my exam as though I was giving a series of speeches to the student debating society. Since only three essays were required in all my time as a law undergraduate, and none at all during my LLB (as it then was) year

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in Cambridge, the opportunities for self-improvement were slight – and I was not the kind of student who took the initiative so far as extra work was concerned. I knew, though, that I wanted to avoid returning to Ireland where in an absent-mindedly ambitious way I had qualified as a solicitor. Academe presented itself as a potential escape route; a three-year studentship at my Cambridge college settled me into my agreeable academic asylum.

That is how I came to embark upon a 100,000 word legal writing project at the age of 23. The eventual end-product is now to be found among my mother's books, and in my home, solidly at the end of a shelf where real books can rely on it for support. It never found any publishing home in any form; none was ever sought, not even for the possibly good bits of it. I nearly failed, the corrections so vast that I could barely face them. The subject was one on which I was never to write another word. All the doctoral students around me were churning out vast numbers of words while I seemed stuck on 67,343 (this was before word count so you had to count manually, which I did almost every day, seeming to go backwards with each passing recount). I only completed it having turned myself into a medical experiment in the Old Addenbrookes which required six weeks of isolation, and the endless consumption of carbohydrate. (I lost rather than gained weight so the trial was abandoned, but it was Trappist isolation not scientific progress I was after so I didn't care.)

By then I had secured a fellowship at one of the traditional Cambridge colleges. This gave me the opportunity to get the guidance I needed. I learnt about writing from two people in particular. The first, in the late 1980s, was Conor Brady, then editor of *The Irish Times*, who was attending a British–Irish conference at my College. The late Thatcher assault on press freedom (the media ban on Sinn Fein; Sarah Tisdall's conviction under the Official Secrets Act; the *Spycatcher* cases) excited interest in Ireland, and I became a columnist of sorts, a kind of UK legal correspondent for the paper. Brady drove home how important it was to engage readers, to hook them early and keep them interested, to be mindful of them, sensitive to the pressures on their own time, to keep things short. A good place to practise these skills quickly presented itself: the *Cambridge Law Journal* ran 1000-word notes on recent cases which required concision and rigour in equal measure. My first was returned to me by the then note editor John Collier with the direction to cut as it was too long. It had come in at 1009 words.

The second influence I met in Cambridge was when we were both appointed examiners in the first-year constitutional law course. This was Keith Ewing, still going strong as a professor of public law

at King's College London. My first book was with Keith, *Freedom under Thatcher: Civil Liberties in Modern Britain* (Oxford University Press 1990). He showed me how much structure mattered, how the way ideas were organised was in many ways as vital as the words that were used to communicate them. He also brought a perspective to his work, not a bias (a word he hated) but a judgement as to what was right, which was based on principle and which informed whatever was being written. In our case this was the damaging impact of the 1980s' Thatcher government on civil liberties, a subject that led us to condemn not only the actions of the authorities (predictable) but also (shocking at the time) the liberal effort to counter them by enacting a British bill of rights. This was like 'treating a heart attack with a used Band-aid' in our (okay Keith's) memorable words. We knew our line would be unpopular with readers, then reeling from the Thatcher years and desperate for the salvation that they were convinced the courts would deliver if given the chance. But we ploughed on regardless.

These four early writing tips – **concision**; **sensitivity to audience**; **structure**; and **the importance of having something to say, however unpopular** – have stayed with me all my working life. I had no mentoring or any writing plan that I could share with anyone, nor any scholarly benchmarks to strive towards. No REF threatened, no conference obligation cast a shadow over the long vacation. This *laissez-faire* approach worked for me very well. My second book is one of the ones I am proudest off, and it would not have been written in a law school with sensible mentoring and external hoops to negotiate. *Terror* (1991) was published by Faber & Faber and so reached a wider audience than was usual for a scholarly book. There was no law in it at all. I did my research in those pre- search engine days by browsing the bookshelves in Cambridge's glorious university library. Forsaking the dull shelves of my own discipline (all arid analyses of the precise operation of this or that terrorist convention or anti-terrorist provision), I ended up doing a book which, as it turned out, was to anticipate a shift in the international relations literature some years later towards what is now called *critical terrorism studies*. It had been my (embedded and legalistic?) concern for facts which had led me to the view – one I still hold – that the idea of global terrorism is a contrivance designed to legitimise state violence against political opponents. This was the volume that set me on the terrorism scholarly road which I am still travelling along. My latest book, published last year, finally got to grips with the law in the field, but by telling the story of the development not of 'terrorism'

(meaningless) but of anti-terrorism law (all too real).[1]

These two fields – civil liberties and terrorism – have been very productive for me, with each bringing an historical dimension, an attention to what is happening on the ground, that is probably the style that recurs most often in what I do. (Later this year the *Cambridge Law Journal* will be publishing my 'Suffragettes and the law', an article that has been in my head and on bits of paper for years, bringing together both civil liberties and 'terrorism' in a single piece.) But what about human rights? I am a professor of human rights law after all. Where does my supposed central specialism fit in the story I am telling?

To answer that I need here to suggest a fifth factor in my career: **grabbing chances that present themselves**. How did I come to get a book published by a commercial house like Faber & Faber so early in my career and without an agent? Answer: my best friend from school and university in Ireland worked for Channel Four and through him I got an idea for a documentary on terrorism (with a book deal thrown in) adopted by a famous independent producer (Peter Montagnon, creator of Kenneth Clarke's *Civilisation*) and then commissioned by the Channel. I've been writing on and off for the *London Review of Books* for 30 years – my first piece only happened because I was spotted by a friend of the editor doing a talk in Cambridge on a wintry wet night to a small audience and having travelled up from London to do it: in other words, an irrational career move that nevertheless produced an opportunity to write for a wonderful paper. In my thirties I did many programmes for the BBC on both Radios 3 and 4, including a series in the weekly 9:05 am slot ('Common Ground'), bringing two people together of wildly different views and seeing on what, if anything, they could agree. This only happened because an academic had pulled out of an interval talk on Radio 3 and I willingly agreed to take their place. So, when a new post as Rausing Director of the Centre for the Study of Human Rights came up, naturally I thought I was well suited – despite my then position on the idea, neatly encapsulated in the first question at interview: 'Given your well-known objection to the whole idea of human rights, Professor Gearty, why have you applied for this post?'

Luckily, I got the job. Human rights has been a fantastic third creative wheel to my scholarly personality, forcing me to go more deeply into an eclectic range of subject areas and to see how, in a world of diminishing social democratic values, this idea of rights can have an important role to play. I glanced through my Hamlyn

1 Conor Gearty, *Homeland Insecurity: The Rise and Rise of Global Anti-Terrorism Law* (Polity 2024).

lectures recently (published as *Can Human Rights Survive?* in 2006 by Cambridge University Press), and they reminded me of how vibrant the field then was, and how much human rights were able to do to challenge 'the war on terror'. By now I was more a fan than a sceptic of the idea, and my fandom has increased in the years since as the most basic of our assumptions about human rights (democracy; the rule of law; universal dignity) have come under direct attack by the authoritarian change-makers in the United States and further afield. (And to think we used up all our critical language excoriating George W Bush, leaving us no words to describe today.) A sixth thought about my writing career emerges from my human rights story: **it's okay to change your mind if you feel you have to**. As Keynes famously did not say: 'When the facts change, I change my mind – what do you do, sir?'

Another major influence on my writing life has been the Bar. Once again, the story here is of grabbing a chance. After I became a professor at King's College London, the well-known human rights barrister Peter Duffy wrote to me, 'Why not come to the Bar?' he asked. I took the hint and, having deployed various means to avoid a proper training (being a solicitor in Ireland helped; so did having joined an Inn 10 years before), I showed up, duly qualified, at interview at his chambers and secured a 'door tenancy'. Within seconds Peter was gone, to the rarefied world of (then) Queen's Counsel, part of the perks of which were a prohibition on having trainees ('pupils'). Poor Hugh Mercer – a specialist in European Union law – was pressed to take the new human rights guy, which he duly did with immense care and a very generous concern for giving me some sense of the new career I was hoping to (half-) follow. (Hugh has just been elected as the British judge at the European Court of Human Rights, which news has given me great pleasure.)

When Matrix Chambers came along, I joined as a founder member and found myself actually arguing cases. I then hit a problem: I had never been in court. Literally. I didn't know which side to sit on and whether to stand when the judge came in or wait until you were called. Did you shake hands with barrister colleagues or weirdly avoid doing so? My first ever piece of advocacy involved me humiliating myself in the Court of Appeal, having taken it upon myself to lecture Lord Phillips and his colleagues on some abstruse parts of the jurisprudence of the European Court of Human Rights of near zero relevance to the case before them, on which I had recently written a long article in the *Modern Law Review*. The then Master of the Rolls put me out of my misery by pretending all that I was saying was already set out in my skeleton argument. Throat dry, panic having set in, I grabbed the straw offered with relief. The experience was on a par with having your

brilliant submission to this or that journal torn apart by anonymous (*anonymous* – cowards!) referees. I got over it after a bit, just as I have always recovered from hostile reviews. This leads to my seventh professional life lesson: **if you are not failing, you are not learning**.

Two of my cases in court – one at the start of my Matrix life, the other just last year – have connected with my academic interests in very direct ways. In the first, in the House of Lords with my being led by that wonderful advocate Cherie Booth QC, I was able to put a proof copy of a forthcoming *Law Quarterly Review* article by me before the judges and then to write a defence of their lordships' decision in the same journal. (The case went our way.) The second, in August 2024, begins with a failure. I was unable to persuade the judge hearing my judicial review case (despite his having been taught by me in Cambridge in 1985 as he reminded me as I began my submissions) that the privatised provision of care under section 117 of the Mental Health Act 1983 should be subject to the rights guarantees set out in the Human Rights Act 1998. A social policy academic in Bristol, Lucy Series, was appalled and – knowing my name from the *London Review of Books* (serendipity again) – she wrote to me and promptly went on to build a coalition of interests which looks as though it will overturn the result via a clause in legislation very likely to be passed this year. (The relevant measure has been through the Lords and is at Report stage in the Commons.)

This series invites writers to reflect not only on the content of their writing but also the practice. I am acutely aware that my age has charmed my life, that opportunities have come (early this; early that) simply because of when I was born not how good I am. That said, I hope that the points I have identified above have a general relevance. And, over the years, I have for sure developed a particular method: think hard about the project; develop a feel for its broad themes; write a set number of words every day (other than Sundays) without fail (usually 500, sometimes 1000); write those words in the super-early morning so that ordinary work and (especially) family life does not interfere. I never wait for time to write because I know that **if you wait for writing time it will never come**. This is my eighth tip. Real life is a violent intrusion of competing calls upon one's time. My early morning writing is like my Matins before the chaos. I would never have it any other way.