



# Human Rights: a Project of Making the Invisible Visible

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**Conor Gearty** spoke at the London hearing of the Air-space Tribunal at Doughty Street Chambers on 21 September 2018. The hearing considered the case for and against a proposed new human right to protect the freedom to live without physical or psychological threat from above.

In this interview, **Gearty** discusses the importance of human rights as a living instrument and considers the development of the proposed new human right in the context of climate change, militarization and the collapse of political integrity in conversation with **Shona Illingworth**, September 2023.

## Shona Illingworth

I wanted to begin by asking if you could explain the importance of the principle of human rights as a living instrument.

## Conor Gearty

Human rights usually take shape as single documents or parts of documents and therefore are determined upon at a certain time. And inevitably and rightly, they reflect the concerns of the time, but they do so in fairly abstract terms. That is why they have this idea behind them of fundamental principles rather than addressing particular issues. If they are treated as solely connected to their moment with the meaning of their moment preserved forever, they usually lose any kind of utility because they become out of date, out of fashion. The issues that preoccupied the country or the people or the time that generated the document are no longer the issues of the moment. So inevitably, therefore, if they are to survive as a document they have to grow with the

times. How? Well, usually a human rights instrument will have some kind of interpreting body. We usually have courts, or a court, and that body will seek to give fresh meaning to, the after all, quite wide language that they have found in the document. So the language grows to meet the needs of the day. And it is a choice between death or growth because death is being consigned into the archives of legal history as the result of taking the moment from the past and making that the moment that determines meaning. Living is interpreting afresh, hence the inevitability of growth if there is an interpretive document of human rights as a living instrument. And hence, the absolute determination of those who hate the idea of human rights to turn them into documents rooted only in the past, because they know if they can do that they have killed off the subject without being honest about it.

## Shona Illingworth

Can you discuss the proposed new human right to protect the freedom to live without physical or psychological threat from above in this context? That is the need to develop the human rights dimension of airspace and outer space.

## Conor Gearty

There is a wide point against which to understand this suggested development, and the wide point is, for many people, quite challenging. That is to say, seemingly paradoxically, that the fundamental human rights are not necessarily determined for all time by this or that moment. Leaving aside how they develop over time, what I mean is the actual choice of words, the right to liberty, the right to freedom of expression, the right to freedom of assembly, they are not inevitably the last word. So if the past does not give you the last word, what does? Well some people, who might accept that, say that tremendously clever people through the exercise of extraordinary intellectual capacity, which they themselves might modestly claim to

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have, produce in themselves, if not in others, an understanding of where rights come from. And there are lots of people, usually men, who write very long books and purport to describe where rights come from, what they are, and more to the point, usually how limited they are. That is not my approach. There is a fresher approach which is that human rights, though seemingly fundamental, though seemingly above everything, are in an exciting way up for grabs. And so what culture does is it comes along and says, look, what really matters is 'A', and people say, 'no, it doesn't, we've never thought of that'. And you say, 'no, it does matter'. How do you articulate the importance of 'A'? You describe people as having a human right to whatever it is that you desire 'A' to produce. And people say, 'don't be ridiculous'. And then other people say, 'No, you do'. And so you end up with a framework of understanding which is fresh. Now, what does that mean? I have thought for a long time of human rights as a project of making the invisible visible. Often this has been people, for example women, people of colour, people with disabilities and indigenous peoples, and we articulate the desire to make them visible through our articulation of them as owners of rights. And it has been fantastic, and the United Nations has been the place to go. It is usually the case that in the very early days, there is resistance and then through intellectual, political and moral work and the energetic work of communities, the ambition gets transcribed into some kind of soft law and then it hardens and before you know it, we have a convention on the rights of people with disabilities, for example. What applies there applies also to the air.

We see an astonishing example of this in the UK. In an absolutely scandalous way, in my opinion, both the government and the opposition are resisting controls on atmospheric pollution in London. Controls that will literally save lives. They are doing this through their solicitude for the drivers of polluting cars. It is monstrous. But the Mayor of London, Sadiq Khan, has articulated a human rights defence to his intervention in the capital, which is an inhibition on the driving of polluting cars. He has articulated his defence against both the government and his own party, the Labour Party, explicitly as a human rights issue and has located this as a right to health. This is amazing, and it is happened because the mayor, who is a lawyer with training in human rights, has been persuaded by the culture around him to reimagine a political challenge as one that can be addressed in human rights terms. Now, it is not very far away from that to say that we can articulate that right to health as a subset of a right to environmental integrity and it is not very far away from that to think about it in terms of a right to protection from pollutants from the sky. And that is exactly, in my opinion, how human rights progress and should progress. So I welcome dynamic, energetic redefinition.

## Shona Illingworth

So would you say there is an argument that the proposed new human right should be a standalone qualified right rather than seeking to carve those protections out of existing rights?

## Conor Gearty

Once we settle upon a goal and articulate a shared goal, the rest is judgement about strategic ways of achieving it. There are essentially two routes in the world we are discussing. One is to build upon so many of the pre-existing rights that it becomes obvious eventually for the right to burst out of its cocoon of alternative rights and declare itself to exist. This is a classic route within the English common law tradition. An example is the entitlement we have to privacy. The courts here never accepted that there was a right to privacy. In some odd ways, they still do not. But they found a right to confidence. They found a right to the non-misuse of personal information. They found a right to this, a right to that. And these rights are a way of saying that there is a right to privacy. We have almost reached the point now where the right to privacy leaps out of the box and exists as a thing in itself. That is not a bad route, depending on how you manage and approach it. It is, however, often better in the international sphere to seek a document which is standalone and which is of course qualified. Beware of people who declare that rights are absolute. The usual way to answer them is to say that the right to life is not absolute. There are very few absolute rights. I would say that there is an absolute right not to be tortured, but there are not many. So of course, the proposed new human right is going to be qualified.<sup>1</sup>

The reason why that works more in international arenas is because it is hard to see how you can successfully deduce a standalone right from a variety of other rights because you have not got a mechanism for narrating that story. There are international courts, but there is no relevant international court. The courts that we have, innovative courts like the European Court of Human Rights, are working with raw material and that makes it hard to find it. So, unsurprisingly, even when the European Convention on Human Rights wants to break completely new ground, it seeks a new substantive right. It does not seek, necessarily, to depend entirely on the pre-existing rights. So in this particular circumstance, and I am no expert in achievability, it strikes me as a better bet to push for a soft law heavily qualified version of the right and then once it is in,



grow it because, to use the word in a different context, it has right on its side if we care about people.

## Shona Illingworth

Another argument that Nick and I have for proposing a standalone right concerns the process of the Airspace Tribunal and the importance of not only having a wide range of knowledge, research and international human rights law experience but also, importantly people with lived experience shaping the proposed right, determining what those threats and impacts are and having a role in that process. Can you say something about that approach and the value of creativity in that process?

## Conor Gearty

The question of how you come to the right is absolutely inextricably tied up with how you imagine rights exist in the first place. If you are one of those people who are philosophically inclined to search their brain for the right, they have no interest in ordinary people. And you have a lot of academics for whom ordinary people get in the way. So they have absolutely no interest in the lived experience. And it is incredible to me that universities still think that this is a plausible way to approach philosophical study. But there you are, they do. So you need not to be like that. If you are open to public engagement, you have a really interesting opportunity because if you think about how to frame an emerging right to which you personally intuitively are committed, you realize that you have an ally in the lived experience of people on whose behalf you are seeking to argue for this right. So you have to actually trust your instinct that they are not going to all turn up and say that they love pollution or they are looking forward to the day when nuclear weapons rain upon them because really it is a price worth paying to keep the Russians out of England. So you intuit you are not going to get that and you do not get that. Then you realize something, which is that the process is part of the substance. So if you think about rights as an open, textured discussion about the best future, which is how I think about them, the fact that you are involving people is a way of achieving the outcome through the engagement. So process feeds into substance. I find that a very useful way of explaining that involvement. We do undoubtedly have a challenge in how we engage with opinion without being entirely led by it.

So we have to work out where we stand in relation to the community whose energies we unleash so that we are not merely reliant on whatever emerges. They do not want us

to be reliant on whatever emerges, they want a connection between our own intellectual and other lived experiences, and theirs. I did a People's Constitution in LSE some years ago, and we had money from the government for imaginative thinking. Thousands of people submitted suggestions for the written constitution. We had what we called a constitutional carnival and a workshop. In the end, we produced a written constitution. I put together the thoughts that had emerged from various working groups of ordinary people and what was interesting, and it is directly relevant to the question you asked, was that there was very little interest in the outcome but they were all disappointed the process had stopped. So ownership was not about the outcome, ownership was about the process, and respect was for the process not the outcome. So the monarchists or the republicans or the people who wanted animals in and so on, they were not that interested hugely in winning. There were no protests, but they loved being involved in the creative process. I discovered at the time, and I do not think it is wrong, that almost nobody looked at the final constitution but they took part. You do not need a certain outcome to justify the process. The process becomes a thing with a life of its own feeding into the substance.

## Shona Illingworth

In airspace and outer space, technological developments are moving very quickly. We have a complex intersection between climate change, which is now getting out of control, global warming and pollution, which you mentioned already. We have the increased weaponization of airspace, which is expanding into outer space; we have technological developments that are now moving towards greater autonomy, and we have AI. All of these things are happening simultaneously, and yet, for the most part, how they all intersect is mainly invisible. Developments in technology are often discussed in entirely abstract terms. You have a politics of scale. For example, you have what are presented in abstract terms as hugely sophisticated complex weapons systems, such as drones, pitted against a person on the ground, who is considered insignificant because they are marginalized economically, socially and culturally. The enormous complexity of human beings and the environments they live in is rendered invisible. You also have a politics of scale there. The Airspace Tribunal hearings were trying to make lived experiences visible. The hearings brought a wide range of academics and experts together with people with lived experience, who also considered human, cultural, social and environmental complexity. We want to make this complexity visible in the way we shape this proposed new right.



## Conor Gearty

There is a real difficulty in getting that far into the complexity you are alluding to, because how do we maintain the human spirit in the face of a deeper understanding of that complexity? Let me have a go at showing why I think it is very difficult. The key challenges to our field lie in climate burning, which the Secretary-General of the United Nations referred to correctly as climate boiling<sup>2</sup> which we have now reached, and the collapse of solidarity, which is a direct result of the failure of political systems. These are two huge challenges for the idea of human rights, which was in place well before climate change and was also in place during a period of relative political optimism. So human rights have grown out of optimism both in the dignity of the individual and the importance of participatory government. What we in the non-hackneyed and non-tired way called democratic government. Human rights stand for those two and with that, something else that is very significant; human rights stand for the notion that each individual has a dignity independent of themselves, which is an extraordinary idea, always was an extraordinary idea, and hugely mocked by hypocritical governments and so on. But it was there in 1948 with the Universal Declaration of Human Rights. And that is a huge thing. Secondly, it stands for participation in government, which I mentioned already. And thirdly, it stands for the idea of law. The idea of law is incredible, it is that if the police turn up and kill you, somebody will catch them. It is an extraordinary idea.

Now, under pressure of the collapse of solidarity, by which I mean the collapse of political integrity that is a result, in my opinion, of the rampant success of capitalism directly after the end of the Cold War, there is now no equivalent hope on the part of people that life will get better. There is a British provincial example. When Mr Blair was running against eighteen Tory years in '97, he could plausibly have 'Things Can Only Get Better'<sup>3</sup> as his election tune. Mr Starmer, who is the Blair equivalent, could not have that next year. It would be regarded as ridiculous. So there is a kind of glumness about life opportunities out there and that is one of the huge reasons why human rights are being challenged. And the second is to do with climate change, because not only have we lost confidence in our political capacity to resolve problems, but we also have rightly lost confidence because capital has taken over. Capital was tamed by the fear of socialism until 1989, and then in 1989 it took back all the concessions that it had made to people. And it is a horrific creature because it creates interests on the part of the few in the preservation of their own privilege while they themselves pretend they are not doing that.

It is extraordinary. It is awful. They do not admit they are doing it, they pretend they are not. And that allied to climate

boiling means that the idea that everybody has a particular dignity, which was once believed and was then treated as an object of critique by hypocritical governments, has become basically quaint and has become odd. So the human rights idea in the world that you have asked me to reflect on is an idea that looks out of date, jaded. It is not quite gone. So, for example, take the climate refugees who seek to leave impossible worlds either because climate has destroyed their chances of life experiences being anything other than awful, or because war, which is in itself often driven by collapsed resources, has driven them out. They are not being shot by countries such as the UK, France, Greece and so on. They are not being shot because we are not yet ready to kill them directly, but we kill them indirectly. We put them in boats offshore with deadly diseases and we put them in flimsy boats by denying them any other opportunity to come to the country and then if they are drowned or if they die, we send condolences to their relations. So there is some residual lie which says that we care about them, but we do not really. And the 'we' there regrettably, is the Global North and we are all complicit.

So what I think is happening is that human rights language is being battered by growing overt dismissiveness of its central idea, which is that people, individuals matter. And the law designed in another era, which says they do matter, is increasingly being flouted or is being regarded as out of date or is in a way something that is interfering with current demands for strong action. So it is a very bleak world into which the language of human rights of the type you describe is seeking to insert itself. But we have not got at the moment any other language, and bravo to the Mayor of London for using the language of human rights. What other language does he have? He does not have solidarity. He does not have social justice. Religion is not allowed, you know, for example 'love thy neighbour as thyself'. So the Mayor has used the last residual language and good on him for using it. I think what we need to do is plough into the complexities, decide to go down fighting if we have to go down and not relent and not become advocates of a more gentle way of killing people. And so when in a defensive mode, attack. What I particularly like about this idea of reaching for this new human right to do with the air is that it is trying to make the weather, to use an appropriate metaphor, instead of being constantly on the defensive it is trying to make the weather.

## Shona Illingworth

Absolutely. I think that it is trying to make the weather. It is also important that as a people's tribunal, the Airspace Tribunal hears evidence from people from across the world. But there is also an argument raised against human rights that the West misuses them to project an assumed moral authority over other parts of the world.



## Conor Gearty

There is what you might call the anti-universalist critique. And in some ways it is right. I mean, when you see some of the Global North versions of human rights, it does feel very provincial, masquerading as general. But if I am right, human rights stand for three propositions which are straightforward. One is that you respect the dignity of the individual. The second is that you believe in participatory decision making. And the third is that you believe in accountability. In any Global South country, I would say, 'what have you got against respect for the individual, accountability for your police and representative government?' I am not now suggesting you should have a bicameral legislature with a House of Lords. I am not suggesting you should have precisely defined human rights that happen to be borrowed from the North. I am just saying, 'what's wrong with all of that?' And of course, there is nothing wrong with it. And so when somebody shows up and says, 'I'm a community leader, we want nothing to do with human rights', I say 'well, sorry, how do you become leader of your community? Why are you always coincidentally a man? Why is everybody around you always a man?' So there are very easy ways of exposing quite a lot of this critique as being the preservation of power relations within a Global South culture.

## Shona Illingworth

I wanted to ask you how the human right that we are proposing should, or even if it could, extend beyond the individual?

## Conor Gearty

It is always challenging to work out the extent to which human rights can be more than about individuals. You often think, what is an individual? There was a wonderful humanitarian critique deconstructing the whole idea of the individual. What am I? I am not a thing in itself. I am a creature of my past. I am a creature of my environment. I am shaped by multiple externalities. So even the idea of an individual seems a little out of date, *recherché*, intellectual. But then there is, of course, the temptation to push for a collective right. I do not mean the right of an individual acting with other individuals to secure a collective good that works within the remit of the individual right. If you can get over your problems about what an individual is, the right to health, for example, fits with that. But what happens when the right is a right being held by a community rather than by an individual? That is something we are very familiar with because very early on, the United Nations

confronted this and their solution was to think about a right of self-determination. It is in both of their big showpiece rights instruments from the 1960s. The self there is not an individual self, the self is a nation. So at the core of Common Article 1 in the two International Covenants from 1966, showing its importance, is the notion of a collective right of self-determination. Now, what is it? It is a creature of past colonial battles and a determination that countries could not be left behind in an emerging human rights vernacular and fair form to them for putting it in.

I think it is hard to fit because you are asking the human rights story to bear the burden of a collective personality seeking to assert the human right, at the same time making it work as a series of individual rights. I am fairly relaxed about how you come up with rights, as is evident from what I have been saying. But I have always found that a hard one because it seems to me it is hard to characterize entities that are not even animals as having rights. I have no difficulty at all with and strongly support animal rights and I am very open to rights for plants and the organic world, and I am even not totally uninterested in machine rights, which is an interesting one. You know, up to a point. We are all terrified of them taking over the world, but have we ever thought about them? HAL in 2001: A Space Odyssey<sup>4</sup>, 'don't turn me off'. But I am really finding it quite hard to think about an entity such as a country or some construct having a right. I am not great at working out how to accommodate that, to be honest with you.

## Shona Illingworth

Could the language of human rights and in particular, the proposed new human right, extend some protections or align itself in the defence of ecologies and environments.

## Conor Gearty

It is really interesting the extent to which it works to use the language of human rights to do that important work. I am pragmatic. I think that habitats protections have succeeded where they have been presented as habitats protections, so they have not needed the language of human rights to secure them, at least at the European level. The British are now dismantling them. It seems like a terrible thing that we do not appear to have the language to describe the destruction of a river or the destruction of a lake. I grew up near the finest trout fishing lake in Europe until it was destroyed by raw pig slurry. Now, how do you fight back against this sort of thing? How do you fight back against the destruction of the rainforest? The temptation is to piggyback on ancillary human rights, to secure the outcomes that we want for the



habitat. So we do not talk about the pained destruction of the river, we talk about how awful it is to have to swim in it. Or we talk about, in my case of the lake, the disastrous decline in fishing. So the killing of fish is inhibited by the pollution, and that is what makes the pollution bad. But we do talk and rightly, for example, in the context of the Brazilian rainforest, of the rights of indigenous peoples. I absolutely get that. But can we make the next step like out of the Hollywood movies to talk about the weeping trees or the desperate sadness of a destroyed river? Do we want to talk human rights there? I am more comfortable with rights that are linked to our indelible mark on our ecology, our need to respect the world around us, and also our absolute imperative now to de-escalate our sense of mastery.

I would prefer to have conversations about rights, but not have them artificially linked to human rights to be able to make that point. So a disastrous river is an enormously sad thing in itself. And once we choose to see that in rights language, we can make great progress. For example, years ago I did a PhD on this. One chapter I wrote was about how rivers should have special advocates to sue where they are polluted. And so instead of a £1000 fine for destroying a river, the relevant polluter should have to treat the river as though it was a human on life support for the rest of its life. And some tweak like that would be absolutely brilliant. It would internalize, in economist terms, the costs of pollution and it would take it out of the criminal and put in the civil sphere. And it does not need the language of human rights to do that. It could do good work as rights in itself. It is our obsession with generating constant profit by the destruction of our world that has inured us to it, that is people in the Global North, in a way that we need to deconstruct.

## Shona Illingworth

So in terms of the proposed new human right that we are talking about here, what value do you think it could add to the defence of the environment?

## Conor Gearty

It becomes a focal point for the articulation of a wide range of currently fragmented anxieties that until this point has not had a way of expressing themselves in a singular fashion. So it becomes, in the very best sense, an umbrella term for a variety of concerns. And they are human centric. But so what? They are explicitly human centric, and the beneficiaries would be the world and therefore the human. So I see it as bringing value added through a fresh language.

## Shona Illingworth

Can you describe how the proposed human right might connect with other movements to address the interconnections between expanding militarism, climate change, pollution and forced mass migration?

## Conor Gearty

Well, in some ways, we have already discussed that because there are so many things going on which are truly awful and people know they are awful. Youngsters know they are awful. Even grown-up people, people with stakes in the capitalist system know they are awful. Even senior figures in the world of fossil fuels know they are awful. And if they do not know they are awful, their children tell them. So we are not at the stage where we were in the 1950s with cigarettes, where we have to try and persuade. There are not that many people left who pretend that climate boiling is normal. There are a few of them, but they are not winning because people experience what is going on. So we have got, up to a point, an open door. And so what are the manifestations of the current concern? As I was saying, the proposed new human right is a way of explaining much of what is going on around us.

The military concerns have been problematized by Ukraine because nobody really thought I think that we'd be back to an old school, vicious, disgusting war and Mr Putin, obviously would not stop at Ukraine. So that is a really big problem. We also have to confront the fact that Putin probably would not have invaded Ukraine if it had been in NATO. He probably would have invaded somewhere else. So there is something in what I have just said, which is important, it is very hard for many of us to recognize the possibility of exceptionality. There is something going on there we need to take on board. We can see that militarization has got out of control. There is vast expenditure, nuclear weapons are horrific. So we need to link the atmosphere and the environment to weapons reduction in a huge way, while absolutely saying you are not allowed to invade other countries. We cannot just say, there will be no Putins. There is a Putin.

The case of climate change is easier in some ways because climate change is a result of the destruction of the environment, including the atmospheric environment by humans, and the plea for an environmental transformation is a wide plea of which you are a significant part, which has immediate impacts for the climate. The refugee crisis, in my opinion, flows from the combination of capitalist excess, the failure of solidarity and climate boiling. So they are all interrelated. But you have to remain targeted.



So the effort at inter-linkage cannot come at a cost of lack of focus. So you do not just disappear into a generalized observation about the world you have, not an answer, but you have a way of looking at the world that gives our view of the world a fresh perspective and gives you a moment for moral action, a thing to do, as I said earlier on, in the face of all this.

## Shona Illingworth

We held a defence round table, to engage military perspectives on the proposed new human right. A consistent response has been that militaries do not want to lose advantage by having to adhere to a new human right, particularly one that would, in their view, inhibit the use of air power when other states would not uphold that right. There has also been argument that public awareness of the civilian experience of violence from the air, for example in the context of Ukraine, would support governments in taking defensive military action against this.

## Conor Gearty

The problem of advantage is a reflection of the collapse of any international mechanism for engagement, and that is both the United Nations and also American leadership and the lack of what used to be called, for want of a better word, detente. So there seems to be no way in which Russia, China and the US can come to an agreement on anything either within or without the United Nations, except, paradoxically and sadly, the fight against terrorism. So I can get that. Britain does not really matter in the broader global perspective.

Do not underestimate how unsuccessful authoritarian rule is and how this moment may not last forever. It is all very fine to be an authoritarian, controlling all forms of communication within your country, until the life and lived experiences of your population directly suffer and they know it is due to governance. You cannot bottle that forever, and it will blow up. So we cannot be sure. China clearly is not as self-confident as it was pre-COVID, and Russia has its appalling, disastrous war, which its population knows about. So it is not impossible that the world will reshape and not impossible that it will reshape in favour of openness, because openness is by far the best way to organize yourself. So I would not rule that out.

We have to be practical and pragmatic, but we also have to be slightly careful that the proposed new human right is not deployed as part of a propaganda war. We do not want necessarily to be successful because powerful entities see us as a useful way of explaining how terrible the life for the people of Kyiv is, but not for the various islands in the

Indian Ocean which they have emptied because of their own past performances. So we need to manage it a little bit. But of course part of the success of the language of human rights is it is very hard to pin down. So you can have right, left and centre sharing a commitment to it because it means different things at different times. And instead of thinking, that is terrible I celebrate it. No idea of any value has survived any length of time without being chameleon.

## Shona Illingworth

Can you discuss how the forces and processes of colonialism now drive military and corporate exploitation of airspace and outer space?

## Conor Gearty

The direct, relatively limited answer on colonialism is that when the British forces, as the primary colonial entity starting earlier, lasting longer and covering more ground than anybody else, began to run out of the capacity to run the world, they resorted to air attacks as a way of keeping people under control on the cheap. This particularly happened in the 1920s, in what we would now think of as Iraq. And so air surveillance and air attack is as old as the latter parts of colonial control and resembles in many ways the horrific and terrifying drone projects of the recent past, which, therefore, draw on, to some extent, a colonial past when they are deployed. So the question arises as to how our society is so inured to the militarization that you describe, and one of its offshoots, drone killings. And the answer lies in colonial heritage. The Americans inherited the colonial authority, and they behaved in a different but nevertheless neocolonial way. And what was the trick? The trick was to be able to maintain the illusion of first liberalism and then democracy at home, while justifying the destruction of communities abroad both directly through military force on the ground and in the air through bombardment. But all the time maintaining that it was sometimes in their best interests, often in Britain's best interests as an educative and Christian force, and managing to be able to be liberal and democratic while being horrific, and that is a heck of a thing to have pulled off.

And the Cold War, in which we also persuaded ourselves that you could be democratic by attacking the enemy within, the communist enemy within, in fact, that you needed to attack the enemy within in order to protect democracy, also prepared the way for the militarization of the post-Cold War era, which got its super lift from the attacks on 11 September 2001. And that unleashed the forces of finance and capital to avail of the endless requirements to produce more and more weapons. But we have been ready for it for some time.



And now the colonial instinct, which is the deployment of economic power from a position of advantage to impoverish countries without that power to the advantage of your own, takes effect as a part of the war on terror. Countries now have to show that they are expanding their military and aerial power in order not to be treated as friendly to terrorists. And the only way in which properly to expand your military capacity and show you are on side is to employ American materials to build up your military arsenal in order to show that you are actually not a bandit state. So there is a direct connection, all now mediated through a chastened United Nations whose resolutions now from the Security Council mimic those of hegemonic capitalist power.

## Shona Illingworth

Can you say something about colonial activities in outer space and the interconnections there between corporate power, state dependency and the military?

## Conor Gearty

What we had very early on in colonialism was corporate banditry. And then Victorian reforms took full responsibility for corporate banditry. So we need something a bit like that with Mr Musk and others. We have got the privatization of militarization, both generally and in particular in outer space. Those controls could be put in place, but once again, we are up against the failure of our political class. It is obvious that Mr Musk should not have the power to determine the strategic engagement of the Ukrainian forces in regard to Russia, but he can because he can turn Starlink on and off and has according to the new biography. And that is because he has all these systems orbiting the world. He has most of them, but he is not alone. So we need a new solidarity reflective in an agreed political culture which says this is not on. But we are a million miles from that. We are far further from that than we were when Edmund Burke launched his attacks on the East India Company for corruption at the end of the eighteenth and early nineteenth century. We are a million miles away from the potential accountability of the late Georgian and early Victorian period. It is incredible how it is decayed.

## Shona Illingworth

Finally, do you think that the proposed right will have more traction by developing the human rights dimension of outer space?

## Conor Gearty

Yes, I do, absolutely. I am a great believer in changing the conversation and the human right that you are proposing is a mechanism to change that conversation. And then we are back to the why do we want to protect outer space? Is it because we might want to fish there to mix a metaphor from the past? Is it because we do not want it to suffer? No, it is because we are nothing. So for goodness sake respect the world, respect outer space like we should respect the Arctic and Antarctica. But it is a way of getting into that conversation. What you also need is some way to visualize what you are after. You have got your work, *Topologies of Air*<sup>5</sup>, I have seen that. That is what I am also describing actually.

## Notes

1. See Nick Grief, *The Airspace Tribunal: Developing the Human Rights Dimension of Airspace and Outer Space*. 2022. In Shona Illingworth – *Topologies of Air*, Anthony Downey, ed. London: Sternberg Press and The Power Plant, pp.233–238.
2. <https://www.un.org/sg/en/content/sg/speeches/2023-07-27/secretary-generals-opening-remarks-press-conference-climate> Accessed on 19–11-23.
3. *Things Can Only Get Better*, 1997, D:Ream, New Labour's 1997 election song.
4. *2001: A Space Odyssey*, Stanley Kubrick, 1968.
5. Caterina Albano, *Topologies of Air: Shona Illingworth's Art Practice and the Ethics of Air*. *Journal of Digital War*, 2022. <https://doi.org/10.1057/s42984-022-00053-6>.

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