

Gareth

Corin I knew mostly in one particular way, I would have a succession of telephone calls which I wouldn't necessarily answer back and they would increase and they would persist and if I didn't answer I'd then get a call from Corin's son in law, who's a lawyer who might have easier access to make me reply. But Corin would persist until he'd got me pinned down for a Sunday morning education session. And he would arrive at my house and my husband who's even more reclusive than me would say 'is it someone I have to come and speak to?' and I'd say 'absolutely not, this is not social'. And he would come because as a lawyer you have occasional bits of knowledge that he would think of necessity he needed to learn, he needed to learn about incoming legislation. He needed to know about facts, about events about the ways in which the state was impacting on individuals and the ways in which there were legal mechanisms to challenge and the ways in which there were inadequate legal mechanisms and the ways in which legal mechanisms were a total failure. He needed to know all that because he was a very serious scholar, he had the humility of a true scholar, and he wanted to find out because I think he felt he had a personal obligation to do something about the world he lived in. And I'm sure that every day he woke up considering what he personally had to do to change the world. And so, absolutely dry as dust this talk is a bulletin for Corin about law about things that happen and about things that he would have needed to know.

So, we're talking about torture but maybe I thought we'd start talking about a piece of evidence of torture and the Mau Mau [Rebellion against British Rule in 1950s Kenya]. You may remember a few months ago seeing going in and out of the courts on the Strand, some elderly people, pretty elderly, men and women who would come to fight a claim that there be a recognition, fifty years late, of the ways they had been tortured in the 1950's. And they spoke about what had happened to them, the men had been tortured in the most hideous of ways, some had been castrated, the women had been raped. There had been unspeakable horrific acts. But at the time that they got into court, the Foreign Office, in contemplating the action that they [the claimants] were bringing had discovered a safe house in the country somewhere, where the files from fifty years ago had been held. They had told the claimants, the Mau Mau survivors that they had long been lost; but they were suddenly discovered and produced. And what those documents showed, they corroborated every single claim that the men and women made; every single claim and more, the descriptions of what was done. But they contained something else, and that was to say, all of this came from the top, all of it was ordered, everybody knew what was to be done and what was done, ministers, senior civil servants, the Foreign Office and the British Army soldiers who did it. But this was the 1950s, this was so soon after World War Two it was so soon after countries had agreed that they would police themselves and police each other and entered into binding declarations, the UN Declaration of Human Rights, the UN Convention on Human Rights. It was absolutely in the face of what we had forsworn and what we would never ever do again. And it wasn't only Britain. In France Jean Paul Sartre wrote about what the French were doing

to the Algerian Resistance, he wrote 'who could have thought so soon after the screams from the Nazi torture chambers had died down, so soon after that we would be doing the same to others'.

And so, here and now, to tell Corin, last year we had a new Government, a Coalition government which Cameron announced and William Hague followed saying we want to draw a line under the past, the recent past, that some incredible things have happened on the last watch, there's been torture, there's been rendition, there's been complicity in oppression in crushing regime after regime. But in particular torture, we want to do something different. Very soon after these statements Hague and Cameron said what happened under the last government has brought shame to this country and internationally, it's destroyed our good name. Cameron said we're going to set up a Public Inquiry to investigate British complicity in torture; the Guantanamo men, who have returned and who are suing MI5, MI6, the Attorney General, Foreign Office, Home Office, we want to negotiate and settle their civil claims for damages. And we could see in the replies of Labour the duplicity of power. Harriet Harman said 'we welcome this. We did everything we could to get men back from Guantanamo and we succeeded with all but one'.

But in the civil actions that those men have brought, which need disclosure, and have been for two years fighting to get the disclosure that the defendant, the government and its agencies, have to produce in defence of their actions, that grudgingly after two years we began to see emails from the Home Secretary, the Foreign Secretary in January 2002, just as Guantanamo was opening and British men and British residents were being seized, the emails say 'get them to Guantanamo'; the Home Secretary saying 'The longer they're there the better, in the interests of National Security', that's precisely where British citizens should be. And email coming back from Foreign Office officials saying 'There's a man captured in Zambia, if we give him Consular access he'll come back to the UK, if we don't, the Americans are going to take him to Guantanamo.' And the message comes back, the email says from Number 10, 'don't give him consular access'.

The duplicity, the hypocrisy. So, is it any different? I think that's what Corin might like to know.

There's been a year under the new regime. Is it any different? And can it be? Well, first of all the law, what is torture? Is it ever allowed? The question often asked is, surely in extreme circumstance if you could save a bomb going off etc... It's absolutely prohibited, always and for ever, there is no defence to anyone who tortures; there's no defence of obeying superior orders, there's no defence of necessity, its definition is that it's the infliction by a public authority for a public purpose upon an individual for the purpose of obtaining information which causes extreme physical or mental suffering. That's what it is and that's what's prohibited. Every state is required to eliminate it, that's our treaty obligation under the torture Convention; we can't passively stand by, we can't stand on the edge of a

crowd or in Whitehall and have a telegram go saying if the American's do it we can send information, we can get the product. Of interrogation using torture, it's all prohibited.

Once upon a time torture was legal, it was part of the judicial process in an investigation and a judge could order torture to discover the truth. Originally it was torture by ordeal and then it became other forms of discovering the truth. But by the middle of the nineteenth century it had been discontinued, absolutely discontinued in the western world, it was regarded as one of the highest achievements of that age. Victor Hugo said 'It's gone, torture has gone'. It was an achievement for two reasons, first of all hundreds of years of torture proved that all it produced was worthless, it certainly didn't produce the truth, so on pragmatic terms, it was fine for it to go, but morally it destroyed the moral fabric of the society that allowed it to be perpetrated and therefore its abolition, the discontinuance of using it was an escape from the superstition of the past. But by the end of the nineteenth century, the end of the same century, something else was happening and that was the growth of state agencies which did not see themselves or were not destined to be seen as bound by the same exact restrictions of law as others. The growth of espionage, the growth of military intelligence, the growth of police and intelligence; these agencies, and continue to this day, argue that they are exempt from many of the restrictions that apply to the individual in society. It's not peculiar to Britain. It's a universal growth of powerful agencies of the state that are somehow seen as separate to the rules. And from long before, from centuries before was another concept, which was that there is something that is an exceptional crime, a crime so heinous that it doesn't deserve the same protections of due process or freedom from coercive interrogations as others, and you can think of the very one at this time that lays claim to that. And so, much of the history of the twentieth century and this century is a tension between these concepts. The concept that there are crimes so heinous that they deserve exceptional treatment and that there are agencies so important to the state, laying claim to the title that they are our protectors, they protect our national security, that they are to be treated in a different way.

And the history, the history of the first ten years of this century is a playing out of that tension between those claims which are argued for as justifiable and the absolute knowledge that there are things that a state is prohibited from doing to individuals. The absolute prohibition of torture, an absolute prohibition of illegal detention, absolute prohibition on a lack of due process, a right to lawyers, to an accusation that you know you can fight back on, all of that. And so it isn't a question as perhaps is thought from time to time that there is a perversion of an individual personality, a distortion, a pathology, that creates a torturer. It isn't that, its much more part of the structure of the societies and the political world in which we live. And so it's not to be thought that inevitably you can work your way through it and come out of it and you're safe for all time from ever doing it. It isn't that, there is constant danger that it is an attractive tool for a power and it will use it.

So in that sense torture has a history and maybe that helps us to understand somewhat where we are now. But if we're going to address it in this country we have a problem. Now the methodology for the removal of torture is understood, thoroughly understood and it has two strands; one is that it has to be investigated and the data has to be unarguable, you have to know what was done, how it was done, to whom it was done, by whom it was done, when, in what context, in what circumstances. You need to know that. It isn't something vague; it's something exact that is done by human beings to other human beings. That's part of the methodology to eliminate torture, you have to know what's been done and the second part, to remove it, is to ensure that anyone involved, on whose watch it happened is brought to account and without those two aspects it will never happen. And to avoid that, states adopt every kind of tactic. They use what's called stealth methods of torture, that means that leave no marks, and we should know we developed many under British mandate in Palestine, hooding, stress positions, standing, extreme noise, extreme use of cold and heat; and we developed them in the North of Ireland where we used them again and the European court prohibited them. Ireland brought a case against the United Kingdom to the European Court of Human Rights and we promised we'd never ever use them or be party to their use again. And as well as developing torture that leaves no marks, states encourage their public to tolerate, to accept then, to think it necessary in whatever is being argued for, like the War on Terror. One saw it revived a few weeks ago, Bin Laden was captured and the first word out, untrue, but the first word out anyway, this was gotten from Khaled Sheikh Mohammed's water-boarding, water-boarding works. Soon to be contradicted by other agencies, the FBI, who said no, no, no that's complete rubbish. But that's the constant theme, there are extreme circumstances in which you need to have it and it works. And the US redefined torture because there is no defence for anyone who carries it out, it's a crime, an international crime. The Attorney General redefined torture and said that water-boarding is not torture, stress positions are not torture, was giving an indemnity, in law, to whoever carried it out, undertaking the US would never prosecute the perpetrator. And [then there's] the use of euphemisms, laden with euphemisms - 'intensive interrogation', 'collateral damage'; when innocent men women and children are killed - collateral damage. It doesn't have the same meaning, drone attacks, we've become desensitised. The first drone attacks, we were shocked, this is a missile, aimed at a human being or a community, extra judicial killing, deliberate extra judicial killing, unlawful, but now its simply a report of a drone attack killed someone or someone else. And the UK to its eternal shame has marched in step with the US, side by side.

Now, is it possible for Cameron and Hague to do something different? Is it possible? Because they have said this is what they are determined to do. But although they've forsworn torture, and the past, although they've done that, they haven't forsworn secrecy. And so here in this country in some ways the government has no need to adopt avoidance tactics like America, we have no need to redefine torture to give indemnity, to desensitise the

public, we don't have any need because we don't admit to anything, and we don't allow anybody to know. We have the most crippling use of secrecy of certainly any parallel parliamentary democracy. More than anyone we say and we justify - the state's your protector, state protection and national security, there are things that we can't tell you, National Security would be imperilled if we told you, and therefore you have to trust us and take it on trust. And so the problem areas are all there. It's easier to go to the United States and knock on the door of an interrogator in Bagram Airbase in January 2002 and ask him what the British were doing, who were there, than it ever will be to find out from here. We know nothing, absolutely nothing. And the inquiry that Cameron announced a year ago is intended to sit in secret. No MI5 officer, no MI6 officer who was there, in Bagram, is going to give evidence that is heard by any member of the public, by any victim of the torture, by anyone who was there or their lawyers.

And appointed to chair the inquiry is a retired judge who was head of the intelligence oversight committee [Intelligence Services Commissioner] in the last four years and has signed off that everything was satisfactory; so he is a witness but yet he's the jury, he's a tribunal of fact sitting in secret. So when Cameron said that we intend to get to the bottom of what happened, those were his words, to clear a stain from our reputation as a country in one fell swoop he immediately shrouded the process in total secrecy, he left the inquiry panel to appoint its own procedures, it's a non statutory inquiry, it can't compel witnesses to attend. That's one example of the problem, but then, when Hague speaks as he did, being candid about our engagement with countries that don't fully share our values, torturing regimes for one, what of the history of the last nine years and still continuing? What of it?

There are huge questions and there are battles going on in the courts, absolutely pitched battles with the government lawyers arguing for secrecy, and arguing for ways in which torture continues to reign. Can the UK extradite to countries that torture, our government says yes and it does it in two ways. It denies that torture awaits, and it redefines torture so there are a number of men now who have been due to be extradited to the United States from here and if they are extradited they will be confined in cells before trial from which they don't emerge. And they see nobody for up to three years awaiting trial, they see nobody. A small concrete block is the bed, it's called special administrative measures, that's what it's called, and if you are convicted of many offences, of all the offences that these men face, its acknowledged by our government, and by the American government that they will go to a supermax prison, where they will be in a steel cell, of similar proportions, in which they will be in complete solitary confinement, possibly for ever. And the sentence they face will be life without parole, they will never emerge.

Now, extreme solitary confinement, there has been a mass of research on it, its completely unambiguous, it drives the person mad. It drives them mad before their trial and it certainly will drive them mad after their trial. And the European Court at this moment has asked the United Kingdom - which as a European Convention Treaty country is bound by the rulings of

the Court - the Court has asked the UK, does the American constitution eighth amendment give the same protection as Article 3 of the European Convention of Human Rights? That's the article that prohibits torture and cruel and inhuman and degrading punishment; and the answer is very clear, it doesn't because the eighth amendment as it's played out in the courts in America has been held by the courts to require for a prisoner, shelter and food but not human association. Human association is not regarded as a human necessity; this is what the courts in America have held. Now it would be fine if our government was saying, of its own volition to America, I'm afraid we will not extradite anybody as long as that is what is going to happen to them, but they won't, they have fought a pitched battle year after year after year to send people to those conditions, and its arguing, in the European court, 'This is not torture'. And so, fine for Hague to say be candid about our engagement with countries that don't fully share our values. The US fully shares our values, but where are we in that assessment?

Can the UK deport to countries that torture? Yes, we've introduced a new mechanism - assurances. Tony Blair wanted to deport Libyan dissidents, why did he want it? Because BP wanted an oil deal with Gaddafi and Gaddafi wanted his dissidents back. So Tony Blair, shortly after the bombings in London, on 7th July 2005, by British men, young men born and raised in Yorkshire and he knew full well it was British born men; ten days later he said that the rules of the game have changed, and we're now going to deport people to countries that torture, provided we have an assurance that they will not be tortured. So its doing absolutely nothing to fulfil our obligation to eliminate torture everywhere, its shoring up the regime, saying fine, you don't have to bulldoze your torture chambers, we just want a promise about Mr Komoko, or whoever or whoever, that you won't torture him. And so he shook the hand of Gaddafi and the courts were reassured that there was a monitoring foundation, the Gaddafi Foundation headed by Saif Gaddafi that would completely protect Mr Komoko.

Now times change, and that's laughable, and it always was laughable, it always was outrageous and ridiculous and obscene but that's what our government argued for. And that's what its arguing for men to go to Algeria, and Jordan, right now, and it's fighting another battle all the way through the courts here and on and on all the way to the European Courts to say this is the way to go. Its lobbying other countries, it's intervening in cases that we have no business intervening in, in the European Court, cases brought against the Netherlands, against Italy, in comes the UK saying we would like to intervene here, because it concerns diplomatic assurances and we want to urge upon the court that this is acceptable. The case of Saadi against Italy, where they were trying to send a man to Tunisia, we intervened and we got a bloody nose, the court said just butt out UK and didn't let Saadi go.

And we impose control orders on people here on secret evidence in which people are subjected to house arrest, internal exile, without knowing why, they're not told why; we've erected secret courts to hear secret evidence, again on the same grounds, it's the same words in all of these cases -

deportation, control orders - National Security, it's national security and therefore you can't know why you're being sent to Libya or Algeria. You do know, or at least you have a pretty good idea, its something come from the torture chambers of those countries from someone else's implicating you, that's the likelihood. And recent Wiki leaks have shown a triangulation, a young man tortured in Kenya is bounced off - what he says - someone in Guantanamo and then bounces back to someone under a control order here. It isn't accidental all of this is going strong.

So this is where we are, there's a daily frustration of trying to get consular intervention and access for a British citizen held in a Syrian jail, held in an Egyptian jail, held in a Saudi jail. Now Egypt has changed, Tunisia has changed, Syria hasn't changed, Saudi Arabia certainly hasn't changed, but you try, if you're a defence lawyer in this country, with a family here saying this is a British citizen surely the Foreign Office will do something, I'm sorry we can't. And when you report that the person's finally acquired a lawyer and you want a consular officer to make contact with the lawyer and then you find the lawyer has suddenly been imprisoned himself, you're told, well that's pretty normal over there.

Where is the energy, where is the commitment to fulfilling our obligation to our citizens and to eliminate torture? We don't do it. That's the truth of the matter, we don't face up to it and every revelation that there has been has come about, in fact, by chance. And when there is a legal victory the goal posts are moved and a new piece of legislation comes in. As a substitution for internment for three and a half years - control orders come in; control orders are challenged, deportation with assurances. And its not at an end.

In facing up to the past, how can we speak of what we know? And what we did? How can we sharpen our understanding of history so we can apply it to understanding the present, how can we do it? We can only do it by knowledge, by data, by acquiring the unarguable data and by knowing that those on whose watch it happened are going to be brought to book. Now, if you debrief any of the men who were in, who came back from Guantanamo eventually, but were in Bagram airbase, in January 2002, this is what you hear. These are young men. If you ask them how they are; their shoulders are torn from torture, their backs have gone from being compressed into stress positions they're not the same people who came back, who went. They're affected, their minds are affected, their families are affected, and their relationships are affected. Because one of the things about torture that is different from other kinds of physical injury is if you survive a physical car crash you will be traumatised, but if you survive torture there has been the most sophisticated use of the psychology of harming an individual used by another human being with the whole experience of hundreds of years of how to do, how to effect somebody, and so those people who come back from torture have their ability to relate to other human beings permanently damaged, you can trust nobody, you can believe nothing, you have always to keep your guard and your reserve and your strength so you can endure. So you are affected. But if you ask those same young men who are so damaged about British complicity with the knowledge

that our government has said no British agent was involved in torture, nobody, nobody did it, what you find is this: that in the cold of an arctic Afghan winter, in the brutal freezing cold in January 2002, there were young men in thin clothes, just tee shirts made to sit on a concrete floor with razor wire around between them, made to sit for a month. Sit, couldn't stand, in a frozen position as if you were frozen, couldn't speak to anybody. Taken to interrogation, you could hear everything in this disused air hanger, you could hear the screams of others, occasionally a door would open, and you'd see someone hanging from their wrists. And you'd say, were there any British agents there and did they know? And they'd say that you could always tell them walking along by the razor wire because they'd come in twos, you could tell them in their North Face jackets, the Brits. And then they'd interview us in the interrogation rooms, but they could see and hear everything, and so when Jack Straw and David Blunkett and Tony Blair said get them to Guantanamo, get them all to Guantanamo and let them rot there, we don't want them back, they also said, but keep them there in Bagram first, for a few weeks so our agents can see them. You couldn't be in that circumstance without seeing and hearing and knowing, and in law, that's complicity. That's complicity, if you're feeding information in and you're taking out information and you're turning a blind eye that's complicity. And will there be a day of reckoning for anybody? Will there? There's going to be an inquiry in complete secret, and it isn't actually the individual agents one has the most concern of, it's systemic, there's a structure here that goes all the way to the top.

I think what one should bear in mind here is the Mau Mau, because if those army officers who raped or castrated or tortured in unspeakable ways had been brought to book - and importantly because the file showed it was ordered from the top, from the government - if the senior foreign officers and civil servants were brought to book, if they had been tried and named and shamed and convicted and maybe served life sentences for what they did, there would never ever have been the use of torture in the North of Ireland there would never ever, ever have been complicity in Guantanamo or Bagram, it wouldn't happen, no one would risk getting their true deserts, nobody.

Now everyone is in the world for a short time, everyone's lives are short but some, most people in the world, have no choices how they live their lives. Some people have choices and Corin had choices. He was born into a family that had privilege and choice. He had immense personal attributes, skills, intelligence, talents. He had every single choice in the world but he took it on himself as his personal responsibility to try and do something, not for himself, not to live a good life, and be seen to live a good life, but to play his part in finding out what it was all about, what went on, how to stop things, how to start things, looking back at what we've lost in terms of our awareness of rights that we should have and to understand how we lost them, how and why we lost them.

Now, this kind of thing, I've been saying for however many minutes is the kind of thing that Corin would want to know and he would come on a Sunday

morning for a lecture and for a range of reasons I always dreaded it, but one reason was, he was so perceptive, so intelligent, politically and in every other way, that he would cut right to the quick. He'd want to know exactly the most difficult answer to the most difficult question. And a lawyer giving an answer about the law is always the most hopeless and inadequate of answers because it is a litany, such a disgraceful litany of failure, and avoidance. But because we are here to think about Corin that's my knowledge of him and when I went to his funeral service and heard extraordinary testimony from an enormous number of people about his humour, his love, his extraordinary stature and career as an actor, his family, I never knew any of that, I didn't know it. I didn't have to know all that to know when I met him or saw him that here was a wonderful human being, an extraordinary human being, which was just.... and when in his life it became more difficult, was hard physically for him to do the things he continued to do, it was hard to go to meetings and be there, it was hard to be out in the rain on a demonstration, it was hard to keep going, he just kept doing it and he was absolutely extraordinary and I'm extraordinarily indebted that I had the privilege of knowing him, so thank you.