Randy Evan Barnett of Georgetown University was invested as a member of the American Academy of Sciences and Letters in 2025. In this video, Academy Executive Director Greg Forster interviews Prof. Barnett about the danger of echo chambers, the obstacles to cultivating real viewpoint diversity, and why society needs the university's truth-seeking mission.

Greg Forster, American Academy of Sciences and Letters

Hello, I'm Greg Forster with the American Academy of Sciences and Letters, and I'm interviewing our member Randy Barnett of Georgetown University. Randy, thank you so much for being with us.

Randy Evan Barnett, Georgetown University

It's great to see you, Greg.

Forster

Let me ask you, what is a recent example in your field of someone who has shown intellectual courage?

Barnett

Let me just talk about what my field is. I'm a constitutional law professor at Georgetown Law. I direct the Georgetown Center for the Constitution. I've written something like 13 or 14 books, I lose count, and over 100 articles. I started as a contracts professor and then segued gradually into constitutional law against my better judgment, but that's where I am these days. So, you're asking me if there's anybody in the field of constitutional law, I suppose any other area of law, but the one I would know best is constitutional law, who acted courageously.

This was a very difficult question when you posed it to me because I couldn't think of anybody off the top of my head. It's as though my colleagues in constitutional law are not all that courageous or do not have to be all that courageous. That's generally true of academics as I've known them; they tend to lack courage. However, one person eventually came to mind, and that is a man named Lawrence Solum, a law professor at the University of Virginia Law School and a lifelong friend of mine whom I met as a law professor. Larry Solum is a political progressive, a liberal, a John Rawlsian liberal. In fact, he knew Rawls, and Rawls cited him for his help on the idea of public reason for Rawls's last book. Larry is cited and discussed in Rawls's last book.

I became an originalist in 1999 having previously not been one. An originalist, just for your audience, is somebody who thinks that the meaning of the Constitution should remain the same until it's properly changed by amendment. That's the one-sentence version of what originalism is. Around 2004, I published a book, *Restoring the Lost Constitution*. In it, I explain my approach to originalism. My very close friend, Larry Solum, read that book. At first, he was not persuaded, but there was an argument in there that at first he dismissed, and the longer he thought about it, the more he thought, wait a second, I think maybe that argument makes some sense. After that, it took him a couple of years to get there, he

not only became an originalist, but I would say he is the foremost theorist of originalism. He immersed himself in the philosophy of language, became an expert on Gricean linguistic theory and applied that to the concept of original public meaning, which is the predominant form of originalism. He is now internationally recognized for his theoretical explanation of originalism.

I can tell you, this took some courage on his part, because he lost friends as a result of this, and people have changed their minds about him. They think, well, he's a conservative, which he's not. His politics haven't changed. His desire to have a Constitution that would be enforceable, regardless of the politics of the Supreme Court, also didn't change, but it was originalism, finally, that led him to that position. So he's no shrinking violet. This is what he's most known for, and he has given to the originalism movement an intellectual depth that it did not have before he entered the fray, and it's one of the reasons why originalism today is the theory to beat in law schools, and even on the bench. He deserves a lot of credit for his courage.

Forster

I appreciate, first of all, you highlighting just how easy we have it as academics in terms of our cloistering and the fact that we don't often need to show intellectual courage on a day-to-day basis. One of our other interviewees made the statement, you should not consider it courageous if your peer group agrees with you, and that's a rule that's not always observed. Another aspect of this is the tendency of the world around us to flatten everything into artificial binaries. You mentioned that this person was considered a conservative because he changed his mind on this issue, but he's not because the world is complex, and people are complex, and ideas interact in complex ways, but we operate in an environment where often it's just all or nothing.

Barnett

I'll tell you where he really manifested his courage. It just occurred to me, and that is when he testified as a Republican witness at Justice Gorsuch's confirmation hearing on behalf of Justice Gorsuch. That was extremely high profile and drew an awful lot of criticism from people on the left. It took a lot of guts to go on TV and on C-SPAN and stand up for a Republican nominee like Neil Gorsuch as a political progressive.

Forster

I can only imagine. I also appreciate you highlighting how our intellectual worlds get richer when people do change their minds and bring into an intellectual space ideas that had not previously been there because people move when they're really willing to say, I'm changing my mind on this issue.

Barnett

I have changed my own mind on a number of issues. None of those changes of mind are courageous, but in my book *A Life for Liberty*, which was my memoir, I fully acknowledged the various changes of heart. In fact, when I wrote my book on the 14th Amendment, which Harvard Press published, I had so many apologies or acknowledgments of a change of heart that my coauthors said, we've got to take

some of these out because there are just too many. You didn't have to acknowledge it over and over again, once or twice in the whole book is enough. I just wanted it to be clear to the readers that I *had* changed my mind, and they shouldn't try to reconcile what I said before with what I'm now saying because what I'm now saying is actually something different.

Forster

We can't all publish retractations. Let me ask you my second question. What would you say are the one or two most important obstacles to maintaining high intellectual standards in your field right now?

Barnett

There's really only one, and it's obvious and kind of mundane: that is to say, the overwhelming ideological imbalance of law school faculties, particularly on the constitutional side, but maybe almost less there because of the influence of the Federalist Society. My faculty at Georgetown is 130 members. We have three faculty members who are identifiably right of center. That makes us more diverse than other peer elite law schools. You're lucky if there's one; for many years, Yale had none. They have two now, but on a faculty that's smaller than ours. That gives you an idea of the dimension of the problem. It's a complete impediment to the pursuit of truth, which is what our third question is going to be about, what the university is for, because you really need interaction of people who are of different minds. It's so overwhelming that we become tokens, like Robbie George at Princeton, for example.

You should not feel sorry for some of us tokens because we have it very good. I get paid handsomely, and I have a great teaching load in part because I'm somewhat irreplaceable because it's hard for the dean to expect the faculty to hire anybody else like me. So, I have it kind of plush. But that's not good, and it's not good for the students either. It's particularly not good for scholarships. I distinguish between liberals and the left. Modern liberals, not classical liberals, and the left are two different animals, but they both operate more or less in an echo chamber, whereas those of us who do scholarship more or less identifying on the right have to contend with left-wing views because they're all around us. We have to understand what they're saying, but they don't have to understand what we're saying.

The only thing that has changed in recent years is the fact that now that a majority of Supreme Court justices identify as originalists and six justices are conservative, law professors now feel under *some* obligation to teach that subject. I was just on another planning call this morning, and there was a professor from the University of Florida who was ardently not an originalist, although it's going to be a panel on originalism. He wanted to say, I don't know what I'm doing on this panel. But he said that he volunteered because he feels obligated to teach originalism because, to be a lawyer, you need to know it. I think that puts some pressure on law schools to hire somebody like that, and that *is* happening. But it's not happening in contract law. It's not happening in torts. It's not happening in corporations, not systematically. As a result, the quality of the intellectual discourse is just second rate. These people are very smart, but they all keep trying to come up with novel arguments for essentially the same position, and they're not pushed. Sometimes there's nobody there to push them even in the field, and that's just bad for my profession.

Forster

In some cases, high intelligence can make one more susceptible to feedback loops rather than less susceptible. First of all, it needs to be guarded against perhaps even more.

Barnett

You'll say that there's some ideas that are so dumb that only an intellectual could believe it. I think that's true of smart people as well.

Forster

Feedback loops tend to create that effect. Of course, highlighted in what you've said is that who is in the echo chamber and who is the token depends on context. Everybody is in the echo chamber somewhere and is the outlier somewhere else. The question is, how can we maintain the right environment in an academic setting so that we minimize the echo-chamber effect?

Barnett

And here's the problem. It's what the left likes to call a structural problem. The structural problem is that we have faculty governance and that means that nobody can get hired even if an administration wants to hire them without overwhelming faculty support. There are a million what we call veto gates in which individual faculty members can sabotage a candidate for political reasons but offer pretextual justifications for that. Without a concerted effort, nobody on the right gets hired. That's just not going to fix itself. I don't know how it gets fixed. I actually have some ideas about higher ed. The elite schools aren't going to be fixed. The only solution at the elite schools is to create outposts like the Georgetown Center for the Constitution, like Robbie George's James Madison program. They're now coming online at Chicago, at Stanford it's been around for a while and at Harvard. These are outposts for people to affect the intellectual climate of the school and to support students of which there are more than 3 percent who need the support of people on the right.

Forster

Intellectual diversity is a generational or perhaps multigenerational aspiration. Job security for those of us who work in the reform business.

Let me ask you one last question. How would you describe the mission of the university, and why is that important?

Barnett

It's the reason I became a professor, and that is, the mission is the pursuit of truth. When I was 10 years old, I decided to become a lawyer because of a television show called *The Defenders* starring E. G. Marshall as the father and Robert Reed as the son. It was a father-son criminal defense team. It was very gritty. It was black and white. It was filmed on location in New York City, quite advanced. Unlike *Perry*

Mason, which was a lawyer show every Sunday that was about solving murders, this was a show about being a lawyer, and it captured my imagination. Years later I realized why it had, and that is because it was a pursuit. It was an occupation in which one could pursue truth, justice in part of the American way. When I went to be an undergraduate, I discovered there was a field called philosophy that I had never heard of in high school. In philosophy, they actually study what truth is, what justice is as well. So I briefly flirted with the idea of getting a PhD in philosophy and going that route. But, for reasons I won't go into, I decided to stick with plan A. I became a lawyer, a criminal prosecutor in Chicago in fact. My most recent book, *Felony Review*, which is out in a few weeks, is about my time as a criminal prosecutor in the Cook County State's Attorney's Office. I liked that because I was pursuing justice, but I was pursuing justice case by case, and I was not affecting the justice of the system as a whole.

The reason I ultimately decided I wanted to be an academic, to meld my interest in philosophy with my interest in the practice of law, was to make our system of justice more fair, more just, to figure out what justice is, and that's something that academics are in a good position to do. It's our job to figure that out. With tenure protections, we're able to speak our minds. I value tenure a lot. I need to value tenure a lot in being able to speak my mind, although I did do it before I had tenure. So, my goal as a law professor, as a scholar, is to figure out what's true about a good legal system, a good society, how law relates and to tell the truth, which is why we talked about confessing error because if you make a mistake, you want to publicly acknowledge it so people know it.

Here's one last thing I will say. We need to publish our ideas, not just talk about them with our students, even though that's important, because as professors, we need to contribute to the sum of human knowledge, and the way to contribute to the sum of human knowledge is to publish your ideas. If those ideas die with you and they're not out there, you have not contributed to the sum of human knowledge. That's the reason I tell people this is a career they should think about because they can make the world a better place. First of all, you should make the world a better place by having a family and raising kids. In addition to that, you can make the world a better place professionally by contributing to the sum of human knowledge, which is within your power to do, even if nobody agrees with you.

The last example I will give of this is Lysander Spooner. He was a 19th-century antislavery constitutionalist who wrote a book in 1845 called *The Unconstitutionality of Slavery*. He went on to become an anarchistic libertarian. He's a hero of libertarians. But before he did that or before he was public about that, he wrote this book about the Constitution, and in that book, he argued for a form of original public meaning of the Constitution. When I read the book, I was a professor at Boston University and not an originalist. I was a moral readings guy. I won't go into what that is, but I believed in making the Constitution the best it can be. I read Lysander Spooner's description of originalism, and I thought, now this is a theory. I've never heard this theory before. It's different than what originalists have been arguing that I'm aware of, and I think I can do something with this theory.

That became the original public meaning theory that I published in 2004 in *Restoring the Lost Constitution*. So, look what happened. Lysander Spooner died penniless near the end of the 19th century. (I actually raised $10,000 to put a monument on his grave at Forest Hill Cemetery in Boston because it just had a plaque on the ground. You couldn't find it.) He died obscure, and yet that book he wrote could reach a Randy Barnett 150 years later and 150 years later affect my ability to adjust the

theory of originalism to the point where there are now five justices who call themselves originalists. That's what he did, and that's what all of us can do as academics in the university.

Forster

A few years ago, when the Academy gave the Robert J. Zimmer Medal to Sir Salman Rushdie, in the interview, he said, ideas are powerful, writers are fragile and so people can come after him. He knows that more than anybody. People can come after him, but his point was that the ideas cannot be killed. He gave several examples of people who were persecuted or killed for their ideas, but the ideas lived on and in many cases gained influence from the fact that they were persecuted. Whereas nobody remembers most of the persecutors. A few of them are infamous enough to be remembered, but most of them are now obscure. In many ways, the university exists because we as human beings care about what is true and false. There's something irreducible about that. It can't be pragmatized.

Barnett

But the university is going to cease to exist as we know it if the faculties cease to care about what is true and false and only are interested in what they already believe to be an uncontestable truth. That's the other thing that we should mention. Both of us have alluded to it. Yes, we're in pursuit of truth, but we always understand that any ideas we may have at any given time are subject to correction. That's how you pursue truth. Most of my colleagues view the pursuit of truth as they have the truth, and now it's a matter of promulgating it. To some extent, the truth does need to be promulgated, but it also needs to be challenged. That is what the universities are losing sight of until recently. There have been green shoots of pushback now in various states, in state legislatures and also with new institutions coming online. It's still only getting going, but it's the hope for the future.

Forster

There's an element of humility in recognizing that our grasp of any truth is always provisional even though truth itself is unchanging.

Barnett

That's super important.

Forster

Thank you so much for being with us.

Barnett

Thanks for having me, and thanks for the honor of making me a part of this Academy.