

Katherine O'Byrne (Associate)



Call: 2013

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Profile

Katie is Legal Director at the Yoorrook Justice Commission, Australia's first formal truth-telling process into injustices experienced by First Peoples as a result of colonisation. Yoorrook is First Peoples-led and has the full powers of a Royal Commission. Previously Katie was Deputy Director at the human rights charity Reprieve in London. She managed Reprieve's UK litigation, international human rights advocacy and legal publications.

As a barrister, Katie specialised in international human rights law, public law and public inquiries. She is ranked in the leading legal directories in Administrative and Public Law, Civil Liberties and Human Rights, and Inquiries and Inquests. Comments include: *"A superb barrister", "her work rate is phenomenal", "intellectually brilliant and razor-sharp - a future star in the field"* (Legal 500 2020); *"She has a clear and mature drafting style", "a pleasure to work with - responsive, extremely hard-working and organised, practical and very user-friendly"* (Legal 500 2020); *"She is top-class; one of the rising stars of the junior Bar", "responsive, considered and clear in her advice", "She's brilliantly clear-sighted, very bright and on-point", "Nothing's too much for her – you just give her a task and it's done"* (Chambers 2020).

Katie acted in cases up to the Supreme Court and regularly appeared unled in the lower courts. She served as counsel to public inquiries, including the Independent Inquiry into Child

Sexual Abuse and the Undercover Policing Inquiry, and as an independent reviewer of sexual abuse and terrorism prosecutions in Northern Ireland.

Katie regularly advocated for individual clients before UN bodies, including the Human Rights Committee, the Working Group on Arbitrary Detention and Special Rapporteurs, and reported to the European Parliament on human rights issues. She appeared before the European Court of Human Rights, including in a successful challenge to the UK government's 'bedroom tax' regime on behalf of domestic violence victims in sanctuary scheme homes. For five years she represented claimants in the construction industry blacklisting litigation.

Katie was a member of the Equality and Human Rights Commission's panel of counsel and an international trial monitor with the Bar Human Rights Committee.

Prior to joining Chambers, Katie was an associate to the Hon Justice Kenneth Hayne AC of the High Court of Australia and practised as a solicitor at Herbert Smith Freehills. She has published in the areas of public law, gender, children's rights and refugee law.

Education

LLM (Class I), University of Cambridge, UK (2012)

Postgraduate Diploma in Legal Practice (Dist.), College of Law, Australia (2009)

BA/LLB (1st Class Honours), Monash University, Australia (2009)

Related practice areas

Community Care and Health

International Law

International Human Rights Law

International Criminal Law

Public International Law

International Media Law

Administrative & Public Law

Inquests and Public Inquiries

Children's Rights Group

Public Inquiries

- Second Junior Counsel, Undercover Policing Inquiry (led by David Barr QC).
- Junior Counsel, Independent Inquiry into Child Sexual Abuse, Westminster Investigation (led by Brian Altman QC and Andrew O'Connor QC) and Child Migration Programmes Case Study (led by Henrietta Hill QC).
- Panel member, Independent Review of Related Sexual Abuse and Terrorism Cases, appointed by Northern Ireland DPP Barra McGrory QC (led by Sir Keir Starmer QC). See *Independent Review of the Prosecution of Related Sexual Abuse and Terrorism Cases: Report* (6 May 2015) (with Keir Starmer QC).
- Interviewed victims and recorded testimony of post-civil war sexual violence against ethnic Tamils by state actors in Sri Lanka as part of an international inquiry.

Public and Administrative Law

- Counsel in judicial reviews for vulnerable children, including by the Official Solicitor in urgent claims under the Children Act 1989, and for vulnerable adults under the Care Act 2014.
- Intervening counsel (instructed by the AIRE Centre) in *R (Bashir) v Secretary of State for the Home Department* in the Supreme Court (led by Michael Fordham QC) and in the 'Dubs amendment' case in the Divisional Court and Court of Appeal (*R (Help Refugees) v Secretary of State for the Home Department*).
- Junior counsel for a vulnerable domestic violence victim, A, in the 'bedroom tax' case in the High Court, Court of Appeal and Supreme Court (*R (A) v Secretary of State for Work and Pensions*) (led by Karon Monaghan QC). Counsel in successful challenge representing A before the European Court of Human Rights (*A v United Kingdom*).

International and Human Rights Law

Katie has expertise in various areas of international law and human rights law.

- Advised MEPs on the human rights consequences of Brexit and the potential effect of repealing the Human Rights Act in 1998 for Northern Ireland. Presentation of reports and evidence to plenary sessions of the European Parliament. See:
 - *Report on Human Rights Implications of UK Withdrawal from the EU: An Independent Legal Opinion* (European Parliament, 2 March 2018) (with Caoilfhionn Gallagher QC and Angela Patrick).
 - *Report on How Designated Special Status for Northern Ireland within the EU Can Be Delivered: An Independent Legal Opinion* (European Parliament, 30 September 2017) (with Caoilfhionn Gallagher QC).
 - *Report on the Potential Effects of Repeal of the Human Rights Act 1998: An Independent Study* (European Parliament, 15 February 2016) (with Caoilfhionn Gallagher and Keina Yoshida).
- Expertise in international human rights law, particularly in bringing applications before UN bodies and Special Rapporteurs on behalf of overseas detainees in sensitive high-profile cases, including *Maria Ressa v Philippines*; *Ibrahim Halawa v Egypt*; *Andargachew Tsege v Ethiopia*; *Gloria Arroyo v Philippines*.
- Applications in the European Court of Human Rights, including representing a vulnerable domestic violence victim, A, in her successful challenge to the UK's 'bedroom tax' policy (*A v United Kingdom*).
- Counsel for Guantanamo Bay detainee, Abd-Al-Rahim Al-Nashiri, before the Investigatory Powers Tribunal in a claim against UK government agencies (led by Hugh Southey QC and Blinne Ni Ghraiaigh).
- Acted in cases before various international fora including International Court of Justice (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia)*) (led by James Crawford SC, Philippe Sands QC and Sir Keir Starmer QC); Residual Special Court for Sierra Leone (*Prosecutor v Taylor*) (led by John Jones QC); UN Human Rights Committee (with Amal Clooney).
- International trial monitor with the Bar Human Rights Committee and EuroMed, regularly undertaking missions to Turkey

Civil claims

- Junior counsel in the successful Construction Industry Vetting Information Group Litigation (aka Blacklisting Litigation) (Various Claimants v Sir Robert McAlpine Ltd & Ors) against 37 construction companies for use of workers' personal data. Acted for former construction workers in conspiracy, defamation and data protection claims (led by Dinah Rose QC and Guy Vassall-Adams QC). The case was recognised in The Lawyer's Top 20 Cases of 2016.
- Junior counsel in successful second tranche of blacklisting claims against construction companies (led by Anthony Hudson QC).
- Counsel advising in ongoing blacklisting-related claims (unled).
- Junior counsel in successful claims for unlawful detention of civilians during the Iraq War.
- Junior counsel in claims for unlawful detention and torture of 33 Greek Cypriot civilians during the Cyprus Emergency. Initially instructed for expertise in international law relating to torture, and retained as part of the counsel team (led by Marie Demetriou QC).

Community Care and Health

- Regularly instructed in cases under ss. 17 and 20 Children Act 1989, including urgent judicial reviews.
- Expertise in advising clients on the requirements for proper needs assessment under the Care Act 2014. Instructed by the Official Solicitor acting as litigation friend to vulnerable adults in judicial review cases.

Extradition

- Successful appeals in the Administrative Court, including *Krusinina v Latvia*, *Fabczak v Poland* and *Sejka v Poland* (all unled).

- Advised on the full spectrum of extradition issues including dual criminality, double jeopardy, forum, passage of time and ss 21A and 21B of the Extradition Act.
- Expertise in challenges to extradition requests on grounds of family life under Article 8 ECHR, including cases involving children in need.
- Provided separate representation to children both on appeal under the Extradition Act and on subsequent judicial review.

Publications

Selected Publications

Books and chapters:

- 'Judicial Review', in *Halsbury's Laws*, Volume 61A (2018) (with Martin Westgate QC, Caoilfhionn Gallagher QC, Alasdair Mackenzie and Keina Yoshida).
- 'Discretion and Duty – The Limits of Legality', in *Supperstone, Goudie and Walker on Judicial Review* (LexisNexis, 5th ed, 2014; 6th ed, 2017) (with Azeem Suterwalla).
- 'The Nuremberg Trial, 1945-46', in *Landmark Cases in International Law* (Hart Publishing, 2018) (with Philippe Sands QC).
- *Surrogacy, Law and Human Rights* (Ashgate Press, 2015) (ed. with Paula Gerber).
- 'Souls in the House of Tomorrow: The Rights of Children Born via Surrogacy', in *Surrogacy, Law and Human Rights* (Ashgate Press, 2015).

Articles:

- 'Liability of International Banks for Financing Terror: Current Cases and Risk Management', (2014) 29 *Journal of International Banking and Finance Law* 701 (with John Jones QC).
- 'Case analysis: Kennedy v Charity Commission – Freedom of information under art.10 and the common law' (2014) 3 *EHRLR* 284.

- 'Is there a need for better supervision of the Refugee Convention?', (2013) 26(3) *Journal of Refugee Studies* 330 (Special Feature on Supervising the Refugee Convention).
- 'Should gay men still be labeled criminals?', (2013) 38(2) *Alternative Law Journal* 82 (with Paula Gerber).
- 'General Comment 16 on State Obligations Regarding the Impact of the Business Sector on Children's Rights: What is its Standing, Meaning and Effect?', (2013) 14(1) *Melbourne Journal of International Law* 93 (with Paula Gerber and Joanna Kyriakakis).
- 'Children and the Family', (2012) 1(2) *Cambridge Journal of International and Comparative Law* 55 (with Sahib Singh).
- 'Beyond Consent: Conceptualising Sexual Assault in International Criminal Law', (2011) 11 *International Criminal Law Review* 495. Presented at the American Society of International Law Roundtable on Women and International Criminal Law.
- 'The Dialogue of Difference: Gender Perspectives on International Humanitarian Law', (2010) 92(877) *International Review of the Red Cross* 31 (with Helen Durham).

Reports, submissions and presentations:

- *Report on Human Rights Implications of UK Withdrawal from the EU: An Independent Legal Opinion* (European Parliament, 2 March 2018) (with Caoilfhionn Gallagher QC and Angela Patrick).
- *Report on How Designated Special Status for Northern Ireland within the EU Can Be Delivered: An Independent Legal Opinion* (European Parliament, 30 September 2017) (with Caoilfhionn Gallagher QC).
- *Report on the Potential Effects of Repeal of the Human Rights Act 1998: An Independent Study* (European Parliament, 15 February 2016) (with Caoilfhionn Gallagher and Keina Yoshida).
- *Independent Review of the Prosecution of Related Sexual Abuse and Terrorism Cases: Report* (6 May 2015) (with Keir Starmer QC).
- *Victims' Taskforce, Recommendations on a Victims' Law: Report for the Labour Party by the Victims' Taskforce* (February 2015) (contributing author).

- *The UN Human Rights System*, Omnia Strategy (March 2015) (with Mark Wassouf).
- Yasmin Sooka, Bar Human Rights Committee and International Truth and Justice Project, *An Unfinished War: Torture and Sexual Violence in Sri Lanka, 2009-2014* (2014) (contributing author).
- PILCH, *Indigenous Labour Denied – Stolen Wages in Victoria: A Response to the Victorian Government ‘Indigenous Stolen Wages Investigation’: Stage One and Two Reports* (2010).