

## Kate O'Raghallaigh



Call: 2011

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### Profile

Kate's practice encompasses criminal law, extradition and public law in the field of criminal justice. She is a versatile practitioner, being one of the few juniors in the country who specialises in terrorism work and who is dual ranked in Chambers & Partners in the categories of Crime and Extradition.

Within crime and related civil work, Kate has particular expertise in terrorism, national security, contempt and the rights of children. She has a strong appellate and judicial review practice and regularly appears alone and led in the Court of Appeal, Administrative Court, and Privy Council.

Kate has acted in many leading cases in recent years, including the seminal appeals in the 'Post Office' miscarriage of justice scandal: *Hamilton & Others* [2021] EWCA Crim 577, closely followed by *Ambrose* [2021] EWCA Crim 1443 and *Allen & Ors* [2021] EWCA Crim 1874. In 2021, she also acted in the 'small boats' appeal relating to migrants crossing the English Channel (*Bani & Ors* [2021] EWCA Crim 1958) and the privacy case *Griffiths v Tickle* [2021] EWCA Civ 1882, where she acted for former MP, Andrew Griffiths.

Kate acted in the leading case on the impact of Coronavirus on the operation of custody time-limits Regulations (*R (on application of DPP) v Woolwich Crown Court* [2021] 1 W.L.R. 938)

and the case of *R v. Shepherd (Jack Sebastian)* [2019] 4 W.L.R. 116, an appeal in relation to specialty protection in criminal proceedings. Kate also recently acted in an important case concerning children's remand detention in Trinidad and Tobago: *Seepersad v. Commissioner of Prisons* [2021] 1 W.L.R. 4315, in which the Privy Council held that the appellants had been unlawfully and unconstitutionally detained in an adult prison whilst they were children.

Kate's practice often has an international dimension and she has advised in criminal, extradition and death penalty cases in Botswana, Kyrgyzstan, Kazakhstan, Gibraltar, Bulgaria, Ghana, Sierra Leone, Trinidad and Tobago, Bermuda and the Bahamas. She acted for one of the five alleged genocidaires in relation to the Rwanda genocide of 1994: *Brown & others v Government of Rwanda* [2017] EWHC 1912 (Admin). She is also a member of the Ukraine Advice Project.

Kate is a member of the Foreign Office Panel of Pro Bono lawyers for British citizens detained abroad, and she has trained lawyers in the applicability of international human rights law to counter-terrorism legislation on behalf of the United Nations.

She is a contributing author to Mason's Forensic Medicine for Lawyers (Bloomsbury Professional) on the issue of deaths in custody.

Other cases of significance across Kate's practice areas include:

- **R v. Alamgir and Others** [2018] EWCA Crim 21; [2018] 4 W.L.R. 40 – defended at trial and on appeal a preacher alleged to have invited support for Islamic State.
- **R v Anjem Choudary** [2017] EWCA Crim 1606; [2017] 4 W.L.R. 204 – defended a high-profile preacher in relation to charges under s.12 Terrorism Act 2000
- **Brown & others v Government of Rwanda** [2017] EWHC 1912 (Admin); [2017] 7 WLUK 733 – defended one of five men accused of conspiracy to participate in the Rwandan genocide in 1994. One of the few examples in English law of a successful challenge to extradition on the grounds of Article 6 (right to a fair trial)
- **R (on application of Charles) v. Criminal Cases Review Commission** [2017] EWHC 1219 (Admin); [2017] 5 WLUK 574 – judicial review of the legal analysis applied by the Criminal Cases Review Commission in relation to 'oblique intent'.
- **LF v. Secretary of State for the Home Department** [2017] EWHC 2685 (Admin); [2017] 10 WLUK 702 – acted for the Respondent to an application by the Home Secretary to make a Terrorism Prevention and Investigation Measure ('TPIM') in relation to alleged membership of a proscribed organisation

- **R (on application of M) v Hammersmith Magistrates' Court** [2017] EWHC 1359 (Admin); [2017] 5 WLUK 130 – leading case in relation to natural justice and criminal procedure in age assessments in the criminal courts
- **Timothy Hunte and Shazad Khan v The State** [2015] UKPC 33; [2015] 7 WLUK 582; 40 B.H.R.C. 633; Times, July 23, 2015 – landmark case in relation to the Privy Council's jurisdiction to commute a mandatory sentence of death in Trinidad and Tobago
- **Celinski and Others** [2015] EWHC 1274 (Admin); [2016] 1 W.L.R. 551; [2016] 3 All E.R. 71; [2015] 5 WLUK 109; [2015] A.C.D. 125 – now the leading case in relation to the scope of Article 8 ECHR in extradition appeals
- **Bloch v. Governor of Wandsworth Prison** [2015] EWHC 303 (Admin); [2015] 1 WLUK 324 – application for a writ of habeas corpus in relation to the NCA's failure to remove the applicant pursuant to an extradition order.

## What the directories say

*"A powerhouse junior, who has the ability to take difficult points and carry them well."* - Chambers and Partners 2023

*"Kate is incredibly clever. Excellent tactical strategy. Superb client care. Brilliant skeleton arguments and ability to navigate complex factual issues, law and admissibility issues."* - Legal 500 2023

*"An expert in cases with complex legal arguments and technical elements. She is a talented advocate."* - Chambers and Partners 2022

*"Kate is extremely clever. She is deeply passionate about her cases."* - Legal 500 2022

## Education

BA Hons (Cantab) English Literature 2004-2007

Graduate Diploma in Law 2008-2009

Bar Vocational Course 2009-2011

Hardwicke Scholar 2008-2010

Chambers of George Carter Stephenson QC and Paul Mendelle QC at 25 Bedford Row: pupillage 2011-2013

## Languages

Irish

## **Related practice areas**

Criminal Law

Extradition

Business Crime

Actions Against the Police and Public Authorities

Children's Rights Group

Inquests and Public Inquiries

Criminal Appeals

## **Extradition**

Kate regularly represents requested persons at first instance and in appeals before the High Court under Part 1 and Part 2 of the Extradition Act 2003. Recent instructions include an American extradition request of 'hacker' Nathan Wyatt, who was previously arrested in the UK in relation to hacking the iCloud account of Pippa Middleton (for coverage see [here](#).)

Kate has acted in a number of significant cases, including *Brown & others v Government of Rwanda* [2017] EWHC 1912 (Admin) where she represented one of five men whose extradition was sought by the Government of Rwanda in relation to the 1994 genocide. Kate also acted for the lead appellant in *Celinski and Others* [2015] EWHC 1274 (Admin), now the leading case in relation to the High Court's appellate review of Article 8 determinations.

## **Other cases include:**

- **Germany v Parkes** [2021] EWHC 1655 (Admin)
- **Curi v Czech Republic** [2021] EWHC 867 (Admin)
- **Wyatt v United States** [2019] EWHC 2978 (Admin)
- **Szatkowski v Poland** [2019] EWHC 883 (Admin)
- **Amadu Ture v. Portugal** [2017] EWHC 1613 (Admin)
- **Jerzy Borkowski** [2014] EWHC 3583 (Admin)
- **Nowak v Poland** [2014] EWHC 3466 (Admin)

## Crime

Kate's recent instructions include matters of fraud, terrorism, murder and gross negligence manslaughter. She regularly advises in 'joint enterprise' murder appeals based on the judgment of the Supreme Court in the case of *R v Jogee* [2016] UKSC 8. Kate also acts in criminal appeals before the Privy Council, and is currently acting for an Amicus Curiae in a death penalty case before the African Commission. Notable trials and appeals include:

- **R v KK** (2023) – led junior in allegation of murder of a child based on a historic s.18 conviction of 'baby shaking'.
- **FCA v NH** (2023) – junior alone acting for former broker of cryptocurrency products, accused of conspiracy to commit fraud and to breach the general prohibition imposed by s.19 FSMA 2000
- **R v AB** (2023) – junior alone acting for former employee of a bank accused of high-value theft and money laundering
- **R v KD** (2022) – 'joint enterprise' multi-defendant murder tried at the Central Criminal Court. Leave to appeal sentence granted by Court of Appeal.
- **R v YO** (ongoing) – led junior acting for a defendant in an alleged fraud concerning a Libyan Sovereign Wealth fund under the Ghaddafi regime.
- **R v DJ** (2022) – junior alone acting for a defendant accused of attempted murder
- **R v SG** (2021) – junior alone acting for a former IFA accused of fraud by abuse of position over an 18-year period
- **R v Cutter** (2020) – led junior for a female defendant in an allegation of membership of proscribed organisation, National Action.
- **R v Adrian Hoare** (2019) - led junior for female accused of gross negligence manslaughter. The defendant had placed her three-year old child in the footwell of a car, who was subsequently crushed to death beneath the front passenger seat.
- **R v Hamasalih** (2017)– led junior in the first contested ISIS membership trial at the CCC. The case involved expert evidence relating to the political and religious backdrop of Iraqi Kurdistan and the operations of the Peshmerga in northern Iraq.
- **R v JC** (2018) – led junior representing a teenage boy in a s.5 allegation and related charges under the Explosives Act 1985.

- **R v X** (2017)– junior alone representing a woman accused of downloading Al-Qaeda publications.
- **R v ZS** (2018) – junior alone representing a Kurdish national accused of disseminating terrorist publications.
- **R v Choudary** (2016) - Criminal trial of controversial Islamic preacher which attracted worldwide press coverage. The trial was the first major test case under s.12 of the Terrorism Act 2000 in relation to religious ‘support’ for the caliphate declared by ISIS.
- **R v Alamgir and others** (2016) - Parallel s.12 prosecution to that of Choudary and based on the covert infiltration of a ‘cell’ of Al-Muhajiroun in Luton.
- **R v Thorne and others** [2016] - led junior in gross negligence manslaughter trial at the Central Criminal Court. The case involved the use of restraint by SIA approved door supervisors.
- **The Queen v Timothy Hunte and Shazad Khan** [2015] UKPC 33; Times, July 23, 2015 – appeals against conviction and mandatory sentence of death upheld by Court of Appeal in Trinidad for offence of murder in 2003. Issues included whether the Privy Council should reopen its previous ruling in *Ramdeen v The Queen* [2014] UKPC 7 regarding the power to substitute a sentence of death for one of life imprisonment on constitutional grounds.
- **R v Onur Simsek** [2015] EWCA Crim 1268 - appeal in relation to the transitional provisions pertaining to Criminal Behaviour Orders
- **R v Kelvin Merritt** [2014] EWCA Crim 2384 – successful appeal against combined sentence of £5000 costs and 21 months' imprisonment for possession of indecent images. Court of Appeal quashed the order for costs and substituted a sentence of 16 months' imprisonment, accepting that the appellant had exceptional mitigation.
- **R v Mohammed Ali** [2014] EWCA Crim 2170 – successful appeal against the activation of a suspended sentence in full where the appellant was sectioned under the Mental Health Act during the operational period, and the sentencing judge had exceeded his sentencing powers. Sentence reduced from 17 to 12 months' imprisonment.

## Administrative and Public Law

Kate is an experienced public lawyer in cases before the High Court and Judicial Committee of the Privy Council which involve criminal justice issues – in particular, cases which involve criminal procedure, constitutional law and children's rights:

- *Suraj and Maharaj v Attorney General of Trinidad and Tobago* [2022] UKPC 26
- *Griffiths v. Tickle* [2021] EWCA Civ 1882
- *Commissioner of Prisons v. Seepersad* [2021] UKPC 13
- *R (on application of DPP) v Woolwich Crown Court* [2021] 1 W.L.R. 938)
- *R (on application of M) v. Hammersmith Youth Court* [2017] EWHC 1359 (Admin)
- *R (on application of Charles v. Criminal Cases Review Commission)* [2017] EWHC 1219 (Admin)
- *Secretary of State for Home Department v. LF* [2017] EWHC 2685 (Admin).
- *Hunte v Attorney General of Trinidad and Tobago* [2015] UKPC 33

Kate is currently advising a number of individuals and organisations in public law challenges, spanning migrants' rights, prisoners' rights, Article 2 breaches, and police/CPS charging decisions.

Kate was part of the legal team acting for Just for Kids Law in strategic litigation regarding the use of overnight police detention for 17-year-olds ('Still a Child at 17'). Following months of pre-action correspondence and a nationwide campaign in which the Claimant challenged the compatibility of s.38 of the Police and Criminal Evidence Act 1984 with the United Nations Convention on the Rights of the Child, the Government agreed to amend the provisions of PACE to afford 17 year olds the same protections as 16 year olds in overnight police detention: (**Read More**).

## Actions Against the Police & Public Authorities

Kate is regularly instructed by claimants in cases involving wrongful arrest and the alleged negligence of police officers in relation to their detention and treatment in custody. Kate has a particular interest in Article 2 ECHR claims pertaining to women affected by domestic violence and claims which involve ineffective investigations by police officers. Owing to her involvement in the Post Office criminal appeals, Kate also has experience in advising on

claims in malicious prosecution. Ongoing and recent instructions include:

- Advising in relation to a proposed action against the police relating to their failure to secure medical treatment for a detainee and for conducting an unlawful strip search in custody.
- Acts for deceased's estate and family in case involving police's failure to conduct an effective investigation into the deceased's killer
- Acts for deceased's estate and seven claimants in case involving police's failure to prevent a domestic homicide

Acts for deceased's estate and family members in relation to police's failure to assess risk of domestic homicide