

## Rabah Kherbane



Call: 2016

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### Profile

Rabah is a specialist in serious crime and appeals, extradition, administrative and public law, and international law. He is highly experienced in terrorism and national security issues across these areas of practice. He also has a practice in inquests, regulatory, professional discipline, and media cases.

### What the directories say

In **Chambers and Partners**, Rabah is described as:

*“A very powerful advocate, whose command of the law is incredibly impressive. He fights fearlessly for clients.”* (2024)

*“Rabah is an outstanding advocate with a strategic mind, adept at dealing with the most complex cases.”* (2024)

*“He’s an excellent advocate: very thorough, very measured and a rising star at the bar.”* (2024)

*“Rabah has a very sharp intellect and comes from a very strong academic background, which shows in his approach to cases and his analysis of the evidence.”* (2024)

*“Rabah is a fearless advocate. He is superb on the law and someone with excellent client care skills.”* (2023)

In **The Legal 500**, he is described as:

*“One of the best juniors around”, “He works incredibly hard and leaves no stone unturned. His knowledge of the law is second to none”, and “A future star of the Bar.”* (2024)

*“One of the outstanding talents of his generation”, and “hugely sought-after.”* (2023)

## **Overview**

Rabah regularly acts in high-profile criminal cases involving allegations of murder, terrorism, politically motivated offending, organised crime, and cases arising out of protest action. He is sought in trials that give rise to complex legal and evidential issues. He has extensive expertise in cases predicated on allegations of membership or association to a political, terrorist, or organised group, or a gang.

Rabah advises on fresh appeals against conviction and sentence. He has advised on miscarriages of justice in murder cases and historic convictions. He has appeared successfully alone and led in the Court of Appeal, including in a recent case overturning a serious conviction on bias by the trial judge and lack of a fair trial.

Rabah is expert in judicial review proceedings linked to criminal justice matters, and has a broad public law practice. He was judicial assistant to Swift J, the judge in charge of the Administrative Court, High Court.

Rabah’s extradition practice encompasses cases at all levels, and foreign or international proceedings. Rabah acts on sensitive international law cases, including those involving sanctions, and serious human rights abuses such as extrajudicial killings and arbitrary detention.

## **Background**

Rabah completed his master’s degree in law (BCL) at the University of Oxford, specialising in terrorism and national security issues, human rights, and international law. He was the Oxford Bonavero Institute Fellow and then the Bertha Justice Fellow at Reprieve, where he worked on terrorism and national security cases involving the UK and US, and assisted with the representation of Guantanamo Bay detainees. He also delivered strategic litigation training abroad. Rabah assisted in the representation of Radovan Karadzic at the appeals chamber in the International Criminal Tribunal for the former Yugoslavia, The Hague.

## **Education**

BCL (Distinction) – University of Oxford

BPTC – The City Law School

LLB (First-Class Honours, top in the year) – The City Law School

### **Languages**

French

Arabic

### **Related practice areas**

Criminal Law

Criminal Appeals

Administrative & Public Law

Extradition

Sanctions

Business Crime

Professional Discipline and Regulation

International Law

Inquests and Public Inquiries

## **Serious Crime, Terrorism and Homicide**

Rabah is an experienced trial advocate. He has represented defendants, with success, in serious, lengthy, multi-handed, high-profile, and complex trials, including as leading counsel, or when prosecuted by both KC and junior.

### **Examples of recent cases include:**

- **R v GG** (Woolwich CC) – *ongoing* instructed to represent client alleged to be creator and administrator of an ‘extremist’ Telegram channel, charged with terrorism offences.
- **R v UR** (Winchester CC) – *ongoing* instructed to represent client charged with dissemination terrorism offences in relation to alleged terrorist ‘manual’, video from a historic conflict, and *Nasheed*.
- **R v MT** (Old Bailey) – *ongoing* instructed to represent client charged with joint enterprise murder in a shooting outside a music recording studio.
- **R v RM** (Old Bailey) – *ongoing* instructed to represent client charged with joint enterprise murder in a stabbing of a child at birthday party.

- **R v BR** (Old Bailey) – junior counsel to BR, charged in the ‘Gray’s Inn bomb plot’ terrorism trial. Dealt with significant covert surveillance evidence, and disclosure issues. After four-month trial, BR was acquitted.
  - **R v MI** (Reading CC) – leading counsel to MI, charged with assisting an offender in a murder case; arranged safehouse, tickets to Somalia, and transport to airport for brother, who was involved in high-profile stabbing in Slough. MI was acquitted.
  - **R v MH** (Old Bailey) – represented MH, charged in seven-handed conspiracy to transfer firearms from his prison cell, linked to contract killings. Prosecuted by KC and Junior. MH was acquitted.
  - **R v RS** (Cambridge CC) – junior counsel to 16-year-old charged with murder and manslaughter. Acquitted on both charges.
  - **R v BC** (Old Bailey) – junior counsel to BC, the first defendant on the indictment, charged with murder and conspiracy to pervert the course of justice in seven-handed trial. Resisted co-defendant cutthroat bad character application. Ten-week trial, BC was acquitted.
  - **R v IM** (Snaresbrook CC) – represented IM, accused of organising the gunpoint conspiracy to rob celebrity and former boxing world champion Amir Khan. Prosecuted by KC and Junior. Following a two-week trial, IM was acquitted.
- R v KA** (Old Bailey) – junior counsel to KA, charged with multiple counts of dissemination of terrorist publications and possession of a machete for terrorist purposes. Complex arguments on ‘mindset’ material concerning five proscribed organisations, including ISIS, Taliban, and Al Qaeda. Called expert evidence on language, culture, and theology. After a three-week trial, KA was acquitted on all counts.
- **R v H** (Old Bailey) – leading counsel in three-month murder and attempt murder trial, linked to a popular music artist. Represented H (himself a music artist) charged with perverting course of justice by disposing of vehicle used in two shootings, allegedly to assist in gang revenge plot. Trial raised complex legal issues on evidence of gang membership, including use of rap music. Prosecuted by KC and Junior. H was acquitted.
  - **R v JG** (Old Bailey) – represented second defendant (father of first defendant) in five-handed joint enterprise attempt murder. Arrest operation involved 65+ counter terrorist specialist firearms officers. Defendant framed by a dishonest complainant. Defendant

was acquitted.

- **R v AK** (Old Bailey) – junior counsel in four-week trial for first defendant charged with attempt murder and possession of a firearm with intent to endanger life. Alleged group hunt of victim, and point-blank shooting to his stomach with sawn-off shotgun, captured on CCTV. Successful legal arguments, including on ID evidence, and under the Investigatory Powers Act 2016. Defendant was acquitted.
- **R v SA** (Snaresbrook Crown Court) – represented defendant in four-handed attempt murder and GBH s. 18 trial, involving stabbing outside Stepney Green Underground Station. Defendant was acquitted.
- **R v MGS** (Snaresbrook Crown Court) – represented defendant in six-handed conspiracy to supply Class A drugs and possession of firearms indictment. Defendant was acquitted.
- **R v MM** (Woolwich Crown Court) – represented first defendant on Class A drugs trafficking charges. Defendant was found in ‘drug house’ with cash and paraphernalia. Instructed human trafficking expert to oppose bad character evidence. Defendant was acquitted.
- **R v SM** (Wood Green Crown Court) – represented defendant charged with possession of a loaded firearm in his local council estate. Prosecution relied on DNA evidence, and SM’s presence where firearm was found. Defence case involved cross-examination of experts on limits of DNA evidence in attributing direct, ‘time-stamped’ contact, and disinviting guilt by association. Defendant was acquitted.
- **R v HN** (Croydon Crown Court) – represented defendant charged in a stabbing at a New Year’s Party. Both complainant and defendant were intoxicated on Class A drugs and alcohol. Defendant was acquitted.
- **R v Jonathan Chew** (Westminster Magistrates’ Court) – represented Jonathan Chew, charged with assault by beating on the Government Chief Medical Officer, Professor Chris Whitty, an incident captured on video. Instructed a psychologist to comment on JC’s autism, ADHD, and learning disabilities, connected to defence of mistake of fact. Prosecution offered no evidence on assault charge and accepted lesser plea to Public Order Act offence.
- **R v Piers Corbyn** (Westminster Magistrates’ Court) – junior counsel in Piers Corbyn first trial for two breaches of COVID-19 regulations during protests. Piers Corbyn was acquitted on one charge, and received an absolute discharge in respect of the other.

## Criminal Appeals

Rabah has obtained exceptional results in the Court of Appeal. He is regularly instructed to advise on appeals against conviction (including CCRC referrals), and sentence.

In his appearances before the Court of Appeal, Rabah has been praised for the excellence of his oral and written submissions, with the Court '*paying tribute to the clarity and focus*' of his advocacy.

### Examples of recent cases include:

- **R v LA** [2023] *ongoing* – fresh appeal against conviction and sentence on murder.
- **R v CD** [2023] *ongoing* – CCRC application on historic murder conviction.
- **R v PS** [2022] *ongoing* – fresh appeal against conviction on behalf of victim of human trafficking detained in cannabis farm.
- **R v MO** [2022] *ongoing* – fresh appeal against conviction and sentence for murder, on behalf of 18-year-old woman who was sexually assaulted by the victim at time of stabbing him.
- **R v Davidson** [2022] EWCA Crim 895 – applications for a sexual harm prevention order must not 'go through on the nod', and must be properly presented and properly considered. Full reasons must be given for the imposition of any such order.
- **R v Brown** [2021] *TBC* – successful appeal against sentence; judgment pending.
- **CPS v White** [2021] EWCA Crim 141 – successful appeal against sentence for supply Class A drugs, resulting in immediate release. Court agreed starting point for street dealer feeding addiction was lesser role, and pre-sentence report should have been ordered. Novel point on court power to recommend licence conditions on release.
- **AF v Regina** [2020] *TBC* – successful appeal against conviction, bias by trial judge. Taken the law 'one step further.' Judges are 'neutral arbiters' in the process – 'the essence of being a judge' – and must avoid conduct or language that may suggest an appearance of advocacy on behalf of the prosecution, which is 'never appropriate.'
- **Omar v Regina** [2020] EWCA Crim 684 – successful appeal against sentence of 7 years' imprisonment for supply of Class A drugs (x 6), and offer to supply 1kg of Class A drugs. Court confirmed correct approach to sentencing 'offer to supply' offences.

- **Thomas v Regina** [2019] EWCA Crim 2426 – appeal with leave on a point of law, in relation to use of untested hearsay evidence during an assessment of dangerousness.

## Administrative and Public Law

As a previous Judicial Assistant to Swift J, Rabah brings invaluable skill and insight to judicial review proceedings.

Rabah has a track record of successful public law challenges, including in the field of criminal justice. He is regularly instructed to challenge decisions made by the police, Crown Prosecution Service, Parole Board, prison authorities, first instance courts, and other public bodies.

### Examples of recent cases include:

- **MM v SRA and AHZ (IP)** – successfully represented interested party in proceedings involving challenge to results of an investigation by the Solicitors Regulation Authority.
- **GM v Surrey Police** – successfully challenged failure by Surrey Police to refer for charging decision a half million-pound fraud against an NHS-funded medical practice, perpetrated by an employee. GM received full apology from Surrey Police, and the investigation was re-opened in line with pleadings.
- **FD v Metropolitan Police** – represented FD, a young man of good character, issued with an unlawful caution. Drafted grounds for judicial review; after being lodged, led to caution withdrawn and expunged from FD's records. Metropolitan Police implemented individual learning points for all officers involved, citing 'unacceptable decision-making' in line with grounds.
- **22 Students v Manchester County Council and MMU** – represented 22 students in pre-action correspondence with Manchester County Council and Manchester Metropolitan University, following 'lockdown' of student halls through purported use of Covid-19 regulations.
- **LL v CPS** – represented 15-year-old charged with bladed article offence, after being found self-harming outside her foster home with a kitchen knife. Secured out of court disposal after judicial review of charging decision initiated.

- **CD v CPS** – represented 14-year-old charged with supply of Class C drugs at school. Secured out of court disposal after judicial review of charging decision initiated.
- **R v KC** – represented 14-year-old charged with Public Order Act offence. Crown discontinued prosecution after pre-action correspondence.
- **FK v HM Prison Service** – assisted in pre-action correspondence in judicial review of prison transfer which interfered with prisoner's Article 3 (rehabilitation) and Article 8 (family visitation) rights. Transfer reversed.

## Extradition

Rabah has experience in the broad range of issues in extradition proceedings and appeals, including successful arguments related to suicide risk, and prison conditions under Article 3. Rabah has defeated warrants on Article 8 arguments.

Rabah has represented clients in extradition cases involving a range of jurisdictions, including Spain, Hungary, Italy, Romania, Lithuania, and the US; and relating to offences from million-pound corporate tax evasion and money laundering, to murder, manslaughter, and allegations of membership to proscribed terrorist organisations.

Rabah has experience seeking Rule 39 interim relief, and making applications under Article 34 to the European Court of Human Rights, including in a case, led by Ben Cooper KC and Mark Summers KC, concerning a US extradition request to the UK for a man wanted for a 1991 murder in California. Rabah also has experience in extradition proceedings in foreign courts, and international criminal courts.

## Civil, Regulatory and Professional Discipline

Rabah is instructed in civil proceedings linked to criminal investigations, including financial crime matters. He has secured a number of successful outcomes in restraint proceedings, for example in a recent cross-jurisdictional £11.2m investment fraud case, where the defendant was subject to an all-assets restraint order.

Rabah has experience in regulatory, and health and safety matters. He has appeared on both sides of Health and Safety at Work Act 1974 and Environmental Protection Act 1990 prosecutions.



Rabah accepts instructions in professional discipline cases, and has presented cases for various regulatory bodies including the General Dental Council, General Optical Council, and General Medical Council.

Rabah has expertise in contempt proceedings and issues related to reporting restrictions.

Rabah has experience in areas of employment law. He has advised on complex issues such as immunity, whistleblowing within the Civil Service (including interactions with the Official Secrets Act), and territorial jurisdiction (for example in claims involving the BBC). Rabah has conducted internal investigations including producing fact-finding reports on allegations of bullying and harassment.

## International Law

Rabah has expertise in public international law, with a focus on international human rights law, international humanitarian law, and international criminal law.

Rabah is also a specialist on sanctions issues, and has been instructed in domestic, foreign, and international sanctions cases, as well as petitions for de-listing, including those involving terrorism sanctions regimes. He has acted for high-profile clients challenging prosecution for alleged breaches of sanctions regulations. He has also challenged UN and EU listings for individuals sanctioned on the basis of alleged membership to proscribed organisations.

Rabah has acted in high-profile, sensitive cases, including those concerning foreign government officials. He is familiar with the use of various international law mechanisms to progress a case, including applications before UN bodies and Special Rapporteurs, and proceedings in international, regional, and overseas/domestic courts.

## Inquests

Rabah has experience in inquests touching on deaths involving police or prison custody, young people, and self-harm / suicide. Rabah is experienced in dealing with complex medical evidence, and issues concerning substance misuse, mental health treatment, or other vulnerabilities.

Rabah's broader experiences in criminal justice, national security, and public and administrative law provide him with insight to a variety of settings involving the State's obligations and duties to persons in its care.