

## Quincy Whitaker



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### **Profile**

Her practice spans the domestic criminal justice process, from challenges to the compatibility of criminal law with human rights law and other judicial review proceedings against public bodies through to obtaining civil redress for victims of state misconduct; civil actions against the police and other public authorities, prisoners' rights, discrimination claims and victims of trafficking. She has particular interest in disclosure and retention/misuse of data and represents G in the successful challenge to the existing criminal records disclosure scheme (P,G & W v Secretary of State for Home Dept & Secretary of State for Justice [2017] EWCA Civ 321 – Secretaries of States' appeal to be heard by the Supreme Court in June 2018).

She also has practical experience and detailed academic knowledge of international criminal and international human rights law and has taught & lectured widely on the subject as well as appearing at a variety of international tribunals. She has appeared in a number of notable cases involving the death penalty in the Caribbean and has been involved with death penalty litigation in many Commonwealth jurisdictions. She is a founding Director of TWL Legal Consulting which provides consultancy services in the field of international law and the development of legal and judicial systems to governments and NGOs. She has contributed as an International Expert to the development of the CoE's training programme for legal professionals and has acted as a Senior Criminal Justice consultant for DfID in

Kosovo.

She has a first class masters degree in International Human Rights Law and has taught undergraduate and graduate degree courses at the LSE, SOAS and the University of North London on Human Rights Law, Administrative Law and Criminal Law. She co-authored (with Keir Starmer QC) 'Criminal Justice, Police Powers & Human Rights' (Blackstone's) and has acted as legal consultant on a number of TV and film projects including the award winning drama documentary 'Consent'.

### **Related practice areas**

Actions Against the Police and Public Authorities

International Criminal Law

International Human Rights Law

Data Protection and Information Law

Anti-Trafficking

## **Prison Law and Criminal Justice**

Quincy has appeared in many High Court challenges concerning the compatibility of criminal law and procedure with Human Rights Law by way of Judicial Review and Case Stated applications. She successfully challenged the legality of an amendment to the Wildlife & Countryside Act 1981 which was conceded to be unlawful in *R(Dodsworth) v DEFRA & CPS*.

She has extensive experience of Prison Law over 20 years and has acted for prisoners in a wide range of judicial review proceedings, including challenges to parole proceedings, security classification, oral hearings for Category A prisoners, eligibility for Release on Temporary Licence, denial of medical treatment and other challenges to conditions & facilities, discrimination and access to visits and lawyers, and in private law claims involving assault, negligence, misfeasance in public office, discrimination (disability, racial, gender and sexuality) and under the Human Rights Act.

Successful cases include *R (MP) v Secretary of State for Justice* [2012] EWHC 214 holding that the Secretary of State's interpretation of his policy on eligibility for Childcare Resettlement Leave for prisoners who are sole carers of children was unlawful, that Article 8 was engaged by the decision and that the interests of the children must be taken into account, *R (Longmire) v Secretary of State for Justice* [2011] EWHC 1488 concerning oral hearings in categorisation review for Category A prisoners, *R (Kebilene) v Secretary of State for Justice* concerning the legality of holding an administrative detainee in Category A

conditions at HMP Belmarsh, *R (Khan) v Secretary of State for Justice* where the unlawfulness of the then existing policy on calculation of eligibility for release on temporary licence for prisoners serving a default term was conceded and *R v Pitchfork* [2009] EWCA Crim 1231 concerning tariff reduction for exceptional progress.

## Actions Against the Police and Public Authorities

Quincy has an extensive civil practice in all aspects of police misconduct and public law policing issues (in particular involving civil liberties and the right to protest), detention issues, victims of trafficking and police retention of and misuse of personal data (including cases arising from Operation Elveden). She has successfully acted for Claimants in actions against the police and prison authorities for false imprisonment and malicious prosecution, assault, negligence, misfeasance in public office, discrimination issues (racial, disability, gender and sexuality) under the Equality Act, and other human rights claims under the Human Rights Act and for victims of trafficking and immigration detainees in claims against the Home Office.

## Freedom of Information and Data Protection

Quincy has advised in numerous cases involving data protection, principally within the Criminal Justice context but also in relation to cases arising from Operation Elveden (sale of private information by corrupt police officers to newspapers) and misuse of private information by other state and private bodies. Within the criminal justice context Quincy has acted in judicial review and private law proceedings concerning liability of the police, judicial and prison authorities for inaccurate data held on the PNC, court and prison records; inaccurate disclosure by police to Social Services and liability of Local Authorities for disclosure of a juvenile's criminal convictions within their care raising the interplay of the DPA and duties under the Children's Act. She has also acted in numerous judicial review proceedings for prisoners concerning issues of security categorisation and involving subject access disclosure and in many cases involving Enhanced CRC disclosure to employers.

In related areas of judicial review in which she practises, information obtained through use of the Freedom of Information Act has been decisive; in one case tailored FOI requests demonstrated that a criminal offence created by secondary legislation had been enacted in error leading to the Regulations being quashed.

She co-authored (with Keir Starmer QC) 'Criminal Justice, Police Powers & Human Rights' and was responsible for writing the chapters on the collection and retention of personal data, surveillance, the investigation of electronic data and the interception of communications.

## International Criminal & Constitutional Law

Quincy has appeared as Defence Counsel before the Special Court for Sierra Leone and the International Criminal Tribunal for the Former Yugoslavia, where she was also briefed to act as an amicus to the Appeal Chamber. She has a particular interest in transitional justice in post-conflict societies and has worked for DFID as a Senior criminal justice consultant in Kosovo as well as conducting Human Rights Law training and seminars for government departments and senior police officers in the UK and judges, lawyers and prison officials in Sierra Leone, Botswana, Cameroon and Turkey.

She has an in-depth knowledge and working experience of Caribbean constitutional law with a particular emphasis on the death penalty and has appeared in many of the leading cases in this area at the Privy Council ( *Thomas & Hilaire v AG Trinidad & Tobago* [2000] 2 A.C. 1 - unconstitutional to execute prisoner while he has an outstanding application to an International Human Rights body , *Neville Lewis v AG Jamaica* [2001] 2 A.C. 50 - prerogative of mercy subject to natural justice - allegations of unconstitutional mistreatment must be determined with oral evidence; all proceedings to be concluded within 5 years or else execution violates constitutional prohibition on inhuman and degrading treatment) as well as having worked for 6 months in Trinidad on behalf of death row inmates.

## Criminal cases involving protes

Quincy has successfully acted in many criminal cases involving political protest, including the Greenpeace activists who were acquitted of causing criminal damage to Kingsnorth power station (*R v Hall & Others*) and those acquitted of public nuisance for boarding a tanker laden with GM animal feed (*R v Ayliffe & Others*) and anti-war protesters acquitted of

causing criminal damage to B52 bombers at RAF Fairford (R v Olditch & Pritchard).