

Kate O'Raghallaigh



Call: 2011

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Profile

Kate is a defence specialist. Her 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, she has particular expertise in terrorism, national security and the rights of children. In extradition, she has particular experience in cases which involve issues of jurisdiction and a cross-over with international criminal law. Kate has a strong appellate and judicial review practice and regularly appears alone and led in the Court of Appeal and Administrative Court. She is acting for several defendants in relation to murder appeals relating to the decision of the Supreme Court in **Jogee** [2016] UKSC 8.

Kate's practice often has an international dimension and she has advised in criminal, extradition and death penalty cases in Botswana, Kyrgyzstan, Gibraltar, Bulgaria, Trinidad and Tobago, Bermuda and the Bahamas.

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 the author of relation to deaths in custody in Mason's Forensic Medicine for Lawyers (Bloomsbury Professional).

Kate has acted in a number of cases of legal significance including:

- **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
- **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.
- **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 relation to 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 relation to 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
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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 and Appeals

Extradition

Business Crime and Investigations

Extradition

Kate represents requested persons at first instance and in appellate cases before the High Court under Part 1 and Part 2 of the Extradition Act 2003. Recent instructions include the 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 at first instance and in the High Court, 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 and *Italy v Hamasalih and Others*, an Italian terrorism case which concerned s.12A of the Extradition Act 2003 and whether the approach of the Irish Supreme Court should be adopted by UK courts.

Kate has acted in a number of cases which engage Article 3 including *Czech Republic v FK*

in which she represented a pregnant requested person who would enter life threatening heroin withdrawal if extradited and District Court Bratislava III v Richard Katrencik [2014] EWHC 2062 (Admin), where Kate challenged the compatibility of mandatory sentencing for drugs offences in Slovakia with Article 3 ECHR.

Kate is often instructed in cases which involve statutory interpretation or novel points of law. She acted alone in the first successful extradition costs challenge in the High Court: *Skraba v Poland* [2014] EWHC 2193 (Admin) and [2014] EWHC 2023 (Admin), in which it was argued that the Administrative Court had jurisdiction to review costs orders as part of a statutory appeal. Kate acted as a led junior in the case of *Celinski and Others* [2015] EWHC 1274 (Admin) which is now the leading case on the High Court's appellate jurisdiction in extradition appeals involving Article 8 ECHR, in which the Lord Chief Justice determined whether extradition appeals could only be interfered with on 'Wednesbury' grounds.

Other cases of note include:

- **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 gross negligence manslaughter, serious violence and firearms. Kate has developed particular experience in terrorism cases in both a criminal and extradition context. She has acted in high profile and complex trials as well as being instructed in an advisory capacity, and has worked with the UN in delivering training on human rights in the area of counter-terrorism measures. She has particular expertise in the applicability of international human rights law to terrorism legislation. Kate also acts in criminal cases before the Privy Council, and is currently acting for an Amicus Curiae in a death penalty case before the African Commission. Recent cases include:

- **R v Adrian Hoare** - 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** – 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** – led junior representing a teenage boy in a s.5 allegation and related charges under the Explosives Act 1985.
- **R v J** – junior alone representing a woman accused of downloading Al-Qaeda publications and related passport offences.
- **R v ZS** – junior alone representing a Kurdish national accused of disseminating terrorist publications.
- **R v Anjem Choudary** - 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 the area of religious speech. The case involved an interlocutory hearing in the Court of Appeal in which the compatibility of s.12 with Articles 7, 9 and 10 ECHR was argued, and in which it was confirmed that the expression of personal support for a proscribed organisation, including the caliphate declared by ISIS, is lawful.
- **R v Alamgir and others** - Parallel s.12 prosecution to that of Anjem Choudary and based on the covert infiltration of a 'cell' of Al-Muhajiroun in Luton. Case involved Articles 9 and 10 ECHR in the context of Islamic sermons and the religious legitimacy of the ISIS caliphate.
- **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.
- **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.
- **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. A seven judge board of the Privy Council considered the case over two days in February 2015. 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 - the appellant was sentenced to a five year post-conviction ASBO which was later converted to a Criminal Behaviour Order under the slip rule. On appeal it was held that, notwithstanding the effective repeal of ASBOS, the combined effect of s.33(1)(a) and s.33(2)(a) of the Anti-social Behaviour, Crime and Policing Act 2014 was that the court retained power to impose a post-conviction ASBO after 20 October 2014 if the relevant "criminal proceedings" began before that date. The Court of Appeal held that the judge was not able to impose a Criminal Behaviour Order when sentencing the appellant after that date, even though the operative parts of the Act were then in force. That was because s.22(1) made "conviction" a necessary precondition, and a "conviction" would be one after the coming into force of the Act on 20 October. Further, it was held that the five-year duration of the ASBO should be reduced to three years, and two of the conditions were unnecessary and were thereby quashed.

Inquiries and Inquests

Kate is regularly instructed to represent bereaved families in inquests. Kate has conducted Article 2 and jury inquests and is the author of 'Deaths in State Settings' for the 6th edition of *Mason's Forensic Medicine for Lawyers* (Bloomsbury Professional, published in February 2015). Recent and ongoing cases include:

- Inquest touching the death of IL: case involves a neonatal death in hospital. Issues include fetal cardiology, the adequacy of the birthing plan and expert evidence pertaining to obstetrics and gynaecology.
- Inquest touching the death of SL: complex case involving the death of a mentally ill man during his day release from hospital. Issues include capacity, the adequacy of inpatient and outpatient care, the decision to withdraw medication and the use of heroin

as self-harm.

- Inquest touching the death of AC: Article 2 jury inquest concerning the adequacy of the medical response to an inpatient at a psychiatric unit. Particular issues included the method of life support delivered at the scene. Following a two day hearing, the jury returned a verdict of death by natural causes. The Coroner made a Preventing Future Death Report in respect of staff training in CPR and basic life support.

Administrative and Public Law

Kate is sought after in cross-disciplinary work, including civil aspects of UK terrorism legislation and orders under the Terrorism Prevention and Investigation Measures Act: *Secretary of State for Home Department v. LF* [2017] EWHC 2685 (Admin).

She is also an experienced public lawyer in cases before the High Court which involve criminal justice issues – in particular, cases which involve criminal procedure and children's rights: *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).

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 Article 8 ECHR and the United Nations Convention on the Rights of the Child, the UK 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**).