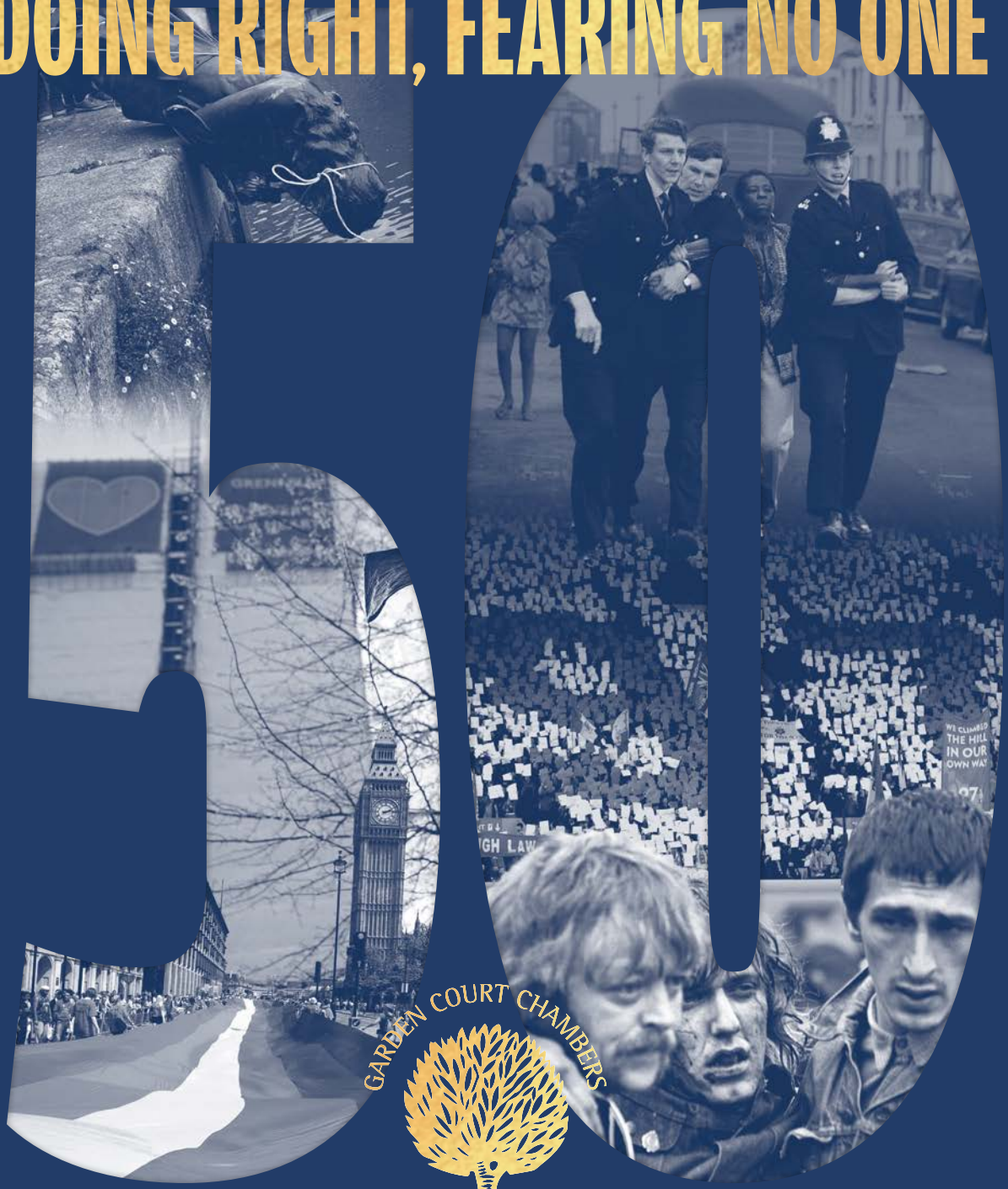
50 Cases/50 Years of

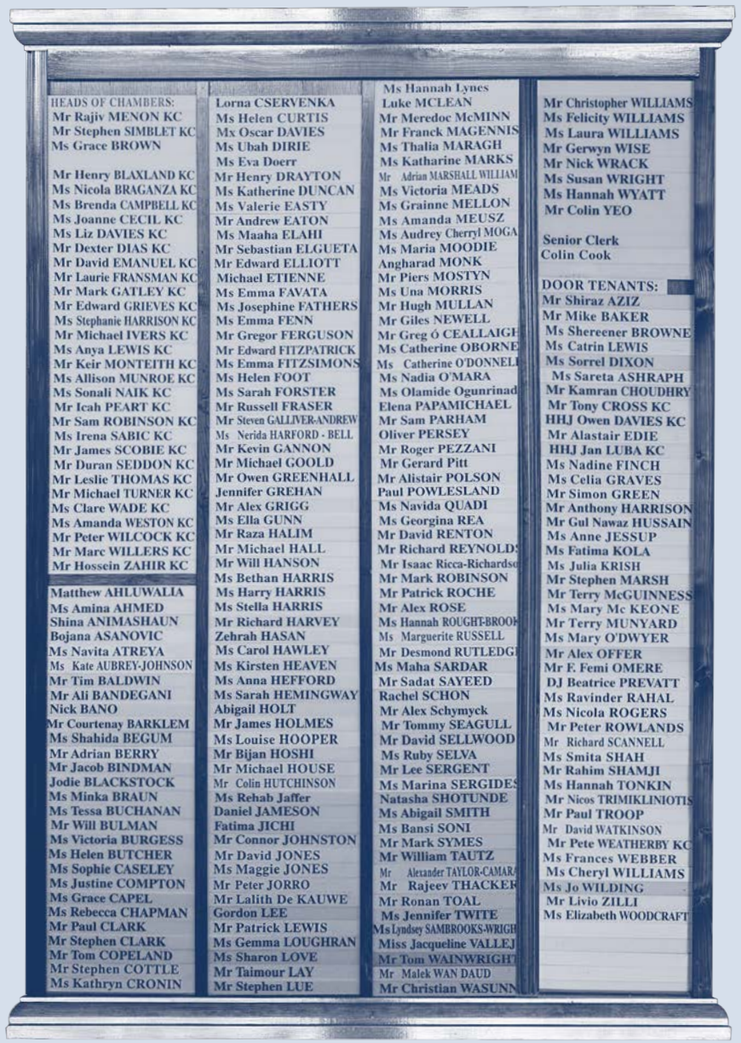
DOING RIGHT, FEARING NO ONE



GARDEN COURT CHAMBERS

50

50 CASES/50 YEARS OF DOING RIGHT, FEARING NO ONE



Editors: Amy Hughes; Fiona Bawdon; Stephanie Harrison KC.

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Special thanks to Mary Decolongon, Anousha Khan, Emma Nash and Claudia Neale for their invaluable support and to everyone else who contributed.

The names of Garden Court barristers and staff are shown in bold type. Where a member of chambers later went on to take silk, that is indicated by QC or KC appearing in brackets after their name.

Where possible, we have credited other key lawyers, but this could never be a definitive list of everyone who played a role in the listed cases. Apologies for any omissions. We thank all the solicitors and barristers we have worked alongside who also made these successes possible.

Image above is a composite of name boards at the entrance of Garden Court Chambers, listing all current members of chambers as of December 2024.

CONTENTS

50 Cases/50 Years of Doing Right, Fearing No One

Welcome to this unique publication marking 50 years since the formation of what was to become Garden Court Chambers, and evolve into the largest set in London, recognised for our expertise and commitment to equality and human rights.

This publication brings together a representative body of our work in a way we have never done before, and which serves to remind us of why we do what we do. It is a tribute to our clients, the individuals and organisations whose courage and determination made these successes achievable. Many of these cases were only made possible due to public funding, which should be all the proof anyone needs of why legal aid is a vital pillar of the welfare state and should be recognised as such.

In many of these cases – Hillsborough, Orgreave, Azelle Rodney, Birmingham Six – the path to justice has been long and uncertain, taking many decades. For some, like the families who lost relatives in the Birmingham pub bombings, it continues.

In the words of David Watkinson, one of our six founder members (of which more below): "We have always been in it for the long haul, rather than the shorter one. The forces of progress, like the forces of the establishment, go to and fro. So there's progress to be made, even in the most disheartening circumstances."

We hope this publication will inspire the next generation of lawyers and campaigners who will be defending equal rights, individual freedoms and justice for all in the next 50 years.

These 50 cases are a testimony to the power of the law to secure fundamental rights and bring about social change. They are also a much-needed reminder that, even in the most challenging times, progress is possible.

By any measure, it is an impressive list (and there were many that we couldn't include simply because of numbers). We have divided our selected cases into 12 overarching themes, which give an indication of the range and depth of our work: racial justice; miscarriages of justice; abuse of state power; women's rights; children's rights; migrants' rights; unlawful detention; climate justice; protest rights; access to justice; housing justice; and equality.

Some of these cases created headlines for days, months or ever years; the events behind some of them have passed into legal folklore: Mangrove Nine, Birmingham Six, Stephen Lawrence, Windrush Scandal, Derek Bentley, Grenfell Tower, Hillsborough, Battle of Orgreave, Sally Challen, Colston Four, Azelle Rodney, Rwanda scheme. Others received little or no wider attention, but all demanded immense courage from the clients at their heart and each raised a pressing issue for the individual and for wider society.

As housing silk and former Head of Chambers Liz Davies KC says: "I've had a few cases in the Court of Appeal and, back in the day, in the House of Lords, that have made a legal difference and I'm proud of that. But I am equally proud of all those hundreds of times I have kept someone in their home in the county court."

Whatever the profile of the case, we are proud that our clients and solicitors placed their trust in us and proud to have worked alongside so many remarkable individuals and organisations. Above all, this publication is a tribute to them and to the collective endeavour needed to secure access to justice for those who need it most but often have the least means to achieve it. Equality in and before the law has always been our central mission.

These 50 cases show that, for the rule of law to have any meaning, those subject to it or seeking its protection, must be able to redress the imbalances of power that still operate within the legal system and at all levels of our society.

Crucially, every one of these cases shows that Garden Court remains as wedded to our founding principles now, as those six idealistic young barristers who founded chambers were in 1974.

Joint Heads of Garden Court Chambers

Grace Brown, Stephen Simblet KC, Sonali Naik KC and Former Joint Head of Chambers Rajiv Menon KC

A BEACON OF HOPE

Fiona Bawdon explains how an unexpected "purge" of newly-qualified barristers in 1974 led to the creation of a radical new set of chambers, whose commitment to equality and human rights still burns bright 50 years on.

Every team of justice defenders needs an origin story.

Garden Court's origin story starts in February 1974, not with a radioactive spider but with a decision by Cloisters, a respected set of chambers (then and now) which was led by the trail-blazing radical lawyer John Platts Mills, to evict a number of recently qualified barristers who had been "squatting" in chambers.

Among those facing ejection were David Watkinson, Michael House, Edward Rees (now a KC) and Sadie Robarts, who would go on to become four of the six founder members of Garden Court.

David records in his diary:
Monday 11 February 1974

"News of purge on pupils resulting from yesterday's chambers meeting."

Two days later, he records there was a *"counsel [sic] of war amongst the youngsters"* to decide what to do next.

At that meeting, the four concluded, if Cloisters didn't want them, they would not look for another existing set to join. Instead, they would strike out on their own.

If Cloisters didn't want them, they would not look for another existing set to join. Instead, they would strike out on their own.

It was an audacious move for a group of young barristers. Michael Mansfield KC, who had been Michael House's "pupil master", says the decision was "like a beacon of hope". "Normally you'd have the traditional sets that had been there for generations. People would join at the bottom and work their way to the top. You didn't get something like this."

From the outset, the four wanted their set to break new ground. It was to be built on a commitment to working with law centres, which were just starting to emerge, advice agencies and radical solicitors. It would defend the rights of ordinary people, speak truth to power and have strong grassroots links. Equally radically, it would be a democracy, with no pecking order and all members having equal voice.

Once the decision was made, events moved quickly.

A lease was secured at 7 Stone Buildings, Lincoln's Inn. By April, David's diary records weekends spent *"scraping and plastering," "painting doors and walls"*. There were multiple visits to a well-known department store on Oxford Street to lug back rolls of rush matting, which then needed to be cut up and stitched to serve as carpet.

The quartet of Cloisters rejects were soon to be joined by two young women who were also struggling to find a foothold at the traditional Bar: Marguerite Russell and Helena Kennedy (now Baroness Kennedy) would become the final two founding members of the new chambers.

David's diary of 25 April 1974 records: *"Interviewed Marguerite and Helene* [sic]*."* Adding: *"Decided to have both."*

A few weeks later, he records Marguerite and Helen*a* accompanying him and Edward Rees *"to buy 2 chairs from 2nd hand shop in Chalk Farm".*

From the outset, Helena and Marguerite were committed to championing women's rights. Marguerite – who helped found Rights of Women, among other organisations, and advised at the first Rape Crisis Centre – recalls: "The struggle for women's equality and rights was part of the bedrock of the early days of chambers. It was our underlying political ethos that made us so different and was the foundation of our success."

All six committed themselves to a new approach to legal practice. The embryonic chambers would focus on challenging inequality and discrimination, arguing for racial and social justice, women's rights and providing the highest-quality publicly-funded legal services.

Garden Court's five-word mantra, encapsulating all of those aims, came a little later. "Do Right, Fear No One' even has its own origin story. The motto was plagiarised from a sword spotted in a German castle by Owen Davies (KC), who joined the same year and would become the seventh member of chambers.

Owen characterises Garden Court as "a sort of revolutionary outpost." "I liked the fact they weren't wanted anywhere else."

The late Ian Macdonald QC, having already put the motto into practice in the 1971 Mangrove Nine trial (see page 22) and credited with being the founding father of immigration law, arrived soon after. He was followed months later by Frances Webber, who was drawn to Garden Court by Ian's growing reputation for challenging, what we now call, institutional racism, police corruption and the legacies of colonialism.

The new chambers would focus on challenging inequality and discrimination, arguing for racial and social justice, women's rights and providing the highest-quality publicly-funded legal services.

Owen says: "It's difficult for people now to realise how reactionary the Inns of Court were then." With strict hierarchies, arcane rules, and rigorously enforced dress codes (he was told off for wearing a tie that was too large or too small – he forgets which). "We were regarded as, if not subversive, then rather ridiculous for the views that we held about equality and democracy and the kind of work we wanted to do."

David Watkinson's response when asked what the Bar was like in the 1970s is: "Well, you've seen episodes of Rumpole of the Bailey…."

Women faced extra barriers. Frances Webber was told there were areas of law that were "too difficult" for women. Some members of the Bench couldn't bring themselves to acknowledge her existence. In the manner of warring parents who communicate through their children, these judges would direct comments aimed at her to opposing counsel for them to relay.

By contrast, the atmosphere within chambers was welcoming and supportive – if a little quirky.

When Frances returned to chambers after her first trial, Owen gave her a "big tub of mushroom compost" to mark the occasion. "I can't remember now if it was compost made of mushroom or compost for growing mushrooms, but it was very nice of him," she says.

Part of a broad social movement

In 2013, Garden Court was further strengthened by the arrival of more than two dozen new members, following the dissolution of Tooks Chambers. Today, at over 190-strong, it has continued to be a magnet for barristers who couldn't see themselves thriving or doing the work they wanted to do, in the way they want to do it, within the confines of a traditional set.

Liz Davies KC, who became the 50th member, says: "I think I would have had real difficulty staying long in a 'normal' barristers set." For her, the appeal of Garden Court was to join her housing law heroes, David Watkinson, Jan Luba KC and Stephen Cottle. "I'm proud that its identity is not just about the law. We are part of a very broad social movement. An anti-racist, pro-migrant, pro-housing rights, civil liberties movement."

Ollie Persey, a newer recruit, says the quirkiness and collegiate spirit of the earliest days endures – and has a serious purpose. Members are encouraged to think outside the box, coming up with new or unexpected approaches. "One person's novel idea is actually a new sort of radical lawyering that then becomes conventional. You only need one of those ideas to come to fruition to drive things forward."

"I'm proud that its identity is not just about the law. We are part of a very broad social movement. An anti-racist, pro-migrant, pro-housing rights, civil liberties movement."

Certainly, that has proved true historically with Garden Court. Its founding principles which might have been seen as distinctly wacky by some at the time, are now positively mainstream at the Bar: a commitment to human rights, paying pupils, valuing diversity of all kinds.

Audrey Cherryl Mogan says it is this supportive ethos which empowers even relatively junior advocates like her to be fearless. "We're going to ruffle feathers. We're not going to leave any argument on the table. We're going to take every point."

The most multi-racial set

Equality was one of Garden Court's founding principles (and it broke new ground by having an equal number of men and women among its founding members). But despite these radical intentions, it remained an all-white team until 1979 when Lalith de Kauwe became the sixteenth member. Rajiv Menon KC says Lalith's arrival introduced "some badly needed racial diversity".

From there, its diversity rapidly increased.

Rajiv says when he joined 15 years later: "We were already 35-40% non-white. That was the driving factor for why I wanted to be at Garden Court. It was the most multi-racial set by a country mile, and from top to bottom."

Rajiv credits Courtenay Griffiths KC, Garden Court's first Black Head of Chambers and fellow criminal defence barrister, for "making me a better lawyer". A "formidable and devastating advocate", Courtenay "pushed and supported me".

Judy Khan KC, now an Old Bailey judge, says when she arrived in 1997: "The predominant feeling I had was of belonging." Judy joined Stephanie Harrison KC and Liz Davies KC in another first, when the three women where elected Heads of Chambers in 2020.

Stephanie says: "For the Bar as a whole, diversity remains very much an aspiration. At Garden Court, I felt that my background, as a woman from a northern working-class family, state-educated and of the first generation to go to university, was an asset, and not a hindrance to overcome."

Social class is an often unrecognised but remarkably resilient barrier to a successful career at the Bar, and Garden Court continues to take steps to encourage recruits from minority and disadvantaged groups. This is not just among its barristers but also its staff.

Colin Cook, now Director of Clerking, started his career at Garden Court over 40 years ago, and was the first Black senior clerk in the Temple. Its Finance Director, Michelle Burke, is a Black woman who has built her career at Garden Court.

Colin – who describes clerking as a mix of "theatrical agent, confidant and manager" – says Black clerks remain a rarity, all these years on. "I was one of the first, and a lot hasn't changed. Garden Court is quite special in that regard."

Stephanie Harrison KC says: "We would not be celebrating our 50th anniversary without the skill, dedication and hard work of our staff over the years. We cannot achieve what we do without them."

Mia Hakl-Law, Director of Operations and Human Resources since 2015, says when she first presented colleagues with proposals for Garden Court's now award-winning "Access to the Bar for All" mentoring programme, she was met with, not just approval for the scheme, but a round of applause ("which even now makes me tearful").

"I've never come across a group of people who just truly mean what they say. They walk the walk."

Emma Ginn from Medical Justice would agree. When Medical Justice's offices were torched in 2014, she put out an email plea: "Can anyone house us?" Fittingly for a chambers dedicated to fighting homelessness, Garden Court replied "within nine minutes, saying come to us". Emma adds: "We said it would be four days and it ended up being four months."

A bridge between legal world and activist

A significant number of Garden Court members came to law from a campaigning background, which continues to shape their approach to the law and their clients.

Rajiv Menon KC was working at Newham Monitoring Project before coming to the Bar. He says: "I wasn't one of those people who read 'To Kill a Mockingbird' age 16 and decided he wanted to be a lawyer." He invited Ian Macdonald QC to speak at an event about tackling racist violence in schools and the two kept in touch afterwards. "When I decided to become a barrister, I contacted Ian who said you've got to come to Garden Court."

Audrey Cherryl Mogan was in the NGO sector for 10 years, where she worked with Garden Court barristers, before joining chambers. She remembers "walking past the building and knowing that's exactly the kind of barrister I want to be".

Una Morris had been working at an organisation campaigning against hate crime and volunteering at a rape crisis centre before arriving at Garden Court. She describes it as her "work family". "Everybody has the same ethos. We're not just turning up and doing our individual jobs, although we do that as well, but we're part of something bigger."

A significant number of Garden Court members came to law from a campaigning background, which continues to shape their approach to the law and their clients.

Pragna Patel, Founder of Southall Black Sisters, describes Garden Court as "a bridge between the law and the activist." When she asked about making advice available to women ineligible for legal aid, Garden Court's response was to "galvanise their entire family team" and set up a monthly pro bono clinic.

Pragna's links with Garden Court go back many decades, including working on trailblazing cases with Ian Macdonald QC. From the start, he and his colleagues were keen to work collaboratively with organisations like hers, rather than seeing them "as people who were superfluous to legal developments".

Her comments are echoed by INQUEST Director Deborah Coles, who has worked with Garden Court for more than 30 years. "We were treated on an equal level and I can honestly say that was not reflected across the profession."

Prepared to take risks

Deborah first worked with Garden Court on the case of Philip Knight, a 15-year-old who killed himself in Swansea prison in 1990. "This was before the Human Rights Act; before the Coroners and Justice Act."

Inquests were unreformed and "really bloody difficult". Despite the lack of funding for inquests, "Garden Court would take on cases that nobody else would. They were willing to push at the boundaries of the inquest system, and be quite brave doing that. They were prepared to take risks."

Appropriately given its "fear no one" mantra, bravery is a word that comes up a lot, in relation to Garden Court. Aika Stephenson, founder and Legal Director of Just for Kids Law, says its lawyers are unflinching when it comes to putting clients' interests first, "rather than trying to curry favour" with judges or other barristers.

Aika was still a trainee solicitor when she first worked with Garden Court. It was a drug mule case, where a teenage girl had been found with drugs hidden in shoes she had been given by her much older "boyfriend". Her barrister was as junior as Aika but "made it very clear to the client she was going to fight for her". The barrister was as good as her word. When the 15-year-old was acquitted, "the whole courtroom was in tears". "So, she definitely did her job," says Aika.

Baroness Shami Chakrabarti, Director of Liberty from 2003-2016, who worked with Garden Court on numerous cases, including terrorism legislation challenges, says: "Its whole identity is associated with radicalism and access to justice."

Seed funding for social justice

Garden Court's Special Fund, to which all members donate a percentage of their income, is an example of how, in Shami Chakrabarti's words, it "puts its money where its mouth is."

Founded in 1989, the fund has made grants of around £3m to grassroots campaigners and other organisations (see page 109). Rajiv Menon KC explains, although the individual grants are relatively modest ("we are not the lottery board"), they are targeted for maximum impact.

Recent recipients have included Public Interest Law Centre, which had no money for computers when opening its first office; and Just for Kids Law's youth ambassadors programme and hardship fund. Just for Kids Law's Aika Stephenson says: "They fund the bits that go directly to young people, which are often quite hard to get grants for."

Katrina Ffrench says the fund's support was transformative when she was launching Unjust in 2021. "They provided seed funding - and that seed grew into us."

Three years on, Unjust has an annual income of nearly £200,000, but Katrina credits Garden Court's Special Fund with helping her get this far. "When you have nothing and someone gives you £4,000, that's a big thing." Having Garden Court's support meant it was easier to get other funders on board.

"Garden Court would take on cases that nobody else would. They were willing to push at the boundaries of the inquest system, and be quite brave doing that. They were prepared to take risks."

Shami Chakrabarti says Garden Court barristers not only donated money to Liberty (when wealthier chambers only wanted to donate "in kind"), but also their time. Its members helped with vital governance issues, sitting on its board, its policy council, its conference and appeals committees - performing essential but time-consuming and decidedly unglamourous tasks. "I'm talking about really mucking in with every aspect of the work of a campaign organisation."

Part of the legal aid family

Sue James, CEO of Legal Action Group, describes Garden Court as "part of the legal aid family". She first worked with them as a housing solicitor at Hammersmith & Fulham Law Centre, and continues to work with Garden Court in her newer role – including co-organising events and training. Its members are prolific authors for LAG and other legal publishers; and have been regular contributors to Legal Action magazine for decades. Garden Court has always seen its role to be a sharer, rather than hoarder, of its hard-won legal expertise and experience. To this day, many a practitioner will become misty-eyed as they tell you how it was reading *Macdonald's Immigration Law and Practice* (now into its 10th edition), or *Fransman's British Nationality Law*, that first inspired them to become a lawyer. More recently, its members are known for their extensive writing on complex and evolving areas like vulnerability in the justice system, domestic violence, social care, climate change, artificial intelligence, youth justice, and more (see page 107).

No round-up of Garden Court's contribution to the social justice sector over the last half century would be complete without mention of its frequent and legendary parties. They are also known as generous hosts of book launches, seminars, training and roundtables.

Paul Heron, founder of Public Interest Law Centre, is a fan of its training: "You always come out thinking, 'what you just told me in there has changed my case.'"

For him, attending these events brings possibly more unexpected benefits, too.

Paul says: "I'm not from a background where the legal community is part of my family history. I was the first in my family to go to university. For 99% of the time, you don't feel you are in the right place. But Garden Court events are an opportunity to start to get comfortable in a legal environment."

Garden Court has always seen its role to be a sharer, rather than hoarder, of its hard-won legal expertise and experience.

For Emma Ginn, the thought of providing evidence to the Brook House Inquiry (see page 41) was "not our comfort zone at all" but thanks to Garden Court's guidance, "it was just a marvellous experience." "They really helped us think about what evidence we could put together, going back to when we set up in 2005."

She says: "These people are unbelievable. They go home with suitcases of information and in the morning they have wrapped their heads around it. One of the defining features was the care they took to make sure that detained people's voices were really heard but their privacy and dignity was respected."

As always, there is more to be done. Medical Justice and Garden Court's next challenge is to ensure the inquiry's damning findings and its 33 recommendations are actually implemented.

Emma adds that the experience of working with Garden Court on the inquiry "really changed the fate of Medical Justice".

"It gave us so much credibility. It corroborated everything we've said over the last 20 years. It raised our profile and our future. Even if it hasn't been fully realised yet, in the fullness of time, it will be. They have put us in a position to be able to do that."

A semblance of hope

Of course, it is not only the fate of organisations that Garden Court can transform.

Sally Challen was given a life sentence in 2011, with a minimum term of 22 years, after being convicted of the murder of her abusive and controlling husband (see page 46).

Her son David and other family members believed the full story had not emerged at the trial, but there seemed no way of challenging the verdict. It was only when Clare Wade KC, instructed by the pioneering women's rights solicitor Harriet Wistrich, began working on Sally's appeal that it gave his family "the first semblance of hope that the truth could pierce through this darkness." The legal team began piecing together a 30-year history of coercive control and obtaining groundbreaking psychiatric evidence.

In 2019, Sally was freed, after the Court of Appeal accepted a reduced plea of manslaughter based on her mental state.

David says: "Our family got my mother back 10 years earlier than we would have done otherwise, and you can't say more than that really, can you?"

Fiona Bawdon is a freelance legal affairs journalist.

"Our family got my mother back 10 years earlier than we would have done otherwise, and you can't say more than that really, can you?"

Timeline

A brief history of the events and people who helped make Garden Court Chambers what it is today.

6 MAY 1974

What would later become Garden Court Chambers opens at 7 Stone Buildings, Lincoln's Inn, with one clerk, Paul Gilbert, and six barristers: Michael House, Helena Kennedy (KC), Edward Rees (KC), Sadie Robarts, Marguerite Russell, David Watkinson.

It was all but unheard of for a barristers' chambers to have equal numbers of men and women at the time.

1976

- Move to Farrar's Buildings, Temple.
- The late legal pioneer Barbara Calvert QC underwrote a loan to make the move to new premises possible.
- The late Ian Macdonald (QC) joins, bringing immigration law work to chambers for the first time.

1980

- Move to top floor 2 Garden Court, Middle Temple. Name changed to Garden Court Chambers. Garden Court would gradually take over the lower floors as it expanded.
- Garden Court grows to circa 30 barrister members.

- Carol Barnes (aka "Pud") becomes Senior Clerk. There were very few women clerks at the time; even fewer in senior positions.
- Colin Cook joins as Junior Clerk, aged 17 (now Director of Clerking).
- Owen Davies (KC) and Ian Macdonald (QC) become Joint Head of Chambers.

25 JAN 1987

Adoption of written constitution giving members equal rights and parental leave.

Thought to be the first chambers to do so.

1988

- David Watkinson re-joins Garden Court, after break-up of Wellington Street Chambers, along with Terry Munyard and Leslie Thomas (KC).
- Lesley Perrott becomes Garden Court's first female Head of Civil and Family Clerking.

1989

- Colin Cook becomes first Black Senior Clerk in the Inns of Court.
- Special Fund launched. All members donate a percentage of their income to fund grants for grassroots groups and others campaigning for access to justice, defending civil liberties and challenging racial and social injustice. In total, the fund has made grants of £3m.

1990

Garden Court starts paying trainee barristers during pupillage.

One of the first chambers to do so.

1996

Garden Court North founded, led by Ian Macdonald QC.

1997

Thomas Varughese joined as Garden Court's first qualified Finance Director.

1998

Inderpal Rahal Memorial Trust set up following the tragic death of a young Garden Court barrister. The trust in Inderpal's memory supports migrant or refugee women facing financial hardship to further their legal education and has made over 40 awards to date.

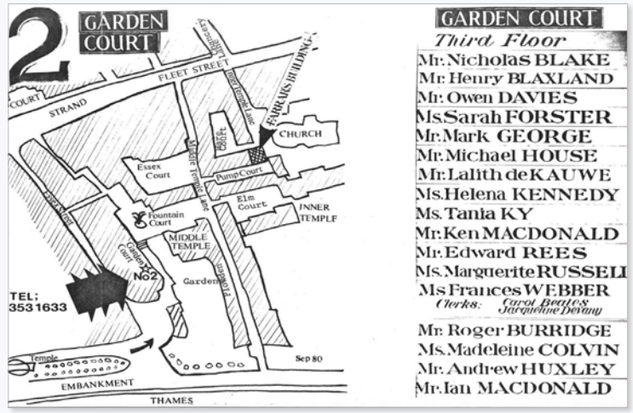
1999

- Owen Davies KC and Courtenay Griffiths KC become Joint Heads of Chambers.
- Courtenay is one of the first Black Head of Chambers.
- Dan Bunce joins as Administrative Assistant (now IT Systems Project Manager).

Continues over

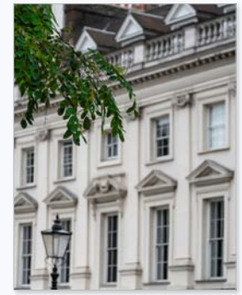
Left to Right: (Baroness) Helena Kennedy (KC), Paul Gilbert, Richard Harvey, Madeleine Colvin

(Baroness) Helena Kennedy (KC) and Madeleine Colvin at a protest



Move to top floor 2 Garden Court, Middle Temple, 1980

Left to Right: Ian Macdonald (QC), Mark George (KC), Marguerite Russell



Garden Court's premises at Lincoln's Inn Fields, London
© Lloyd Duckett

Continued from previous page

2000

Esin Akinci joins as Fees Clerk
(now Head of Revenue - Fees Collection).

2003

- Lisa O'Leary joins as Immigration Clerk (now Deputy Director of Clerking).
- Lauren Barber joins as 2nd Junior Clerk (now Revenue Controller - Civil Billing).

2004

- Members buy 57-60 Lincolns Inn Fields (current premises). Building located by barrister Colin Hutchinson; barrister Maggie Jones was also instrumental in securing the building which would be Garden Court's home for the next two decades. Kathryn Cronin, Owen Davies KC and Michael Turner KC also played key roles.
- Michelle Burke joins as Junior Accounts Clerk (now Finance Director).
- Chambers grows to circa 100 barristers and 40 staff.

2011

Henry Blaxland KC (chair), Kathryn Cronin and David Watkinson become Joint Heads of Chambers, following Owen Davies KC's appointment as Circuit Judge.

2013

Henry Blaxland KC (chair), Kathryn Cronin, and the late Stephen Knafler QC become Joint Heads of Chambers, following David Watkinson's retirement from full time practice.

Garden Court strengthened by addition of more than two dozen mainly specialist immigration barristers following break up of Tooks Chambers.

2016

Leslie Thomas KC (chair), Judy Khan KC and Marc Willers KC become Joint Heads of Chambers.

2017

'Access to the Bar for All' launched to support students from under-represented groups become barristers. The scheme and its creator, Mia Hakl-Law, Director of Operations and Human Resources, go on to win multiple awards in recognition of the contribution to diversity and inclusion. To date, 15 students have benefited from this scheme.

2020

- Michelle Burke becomes Garden Court's first female and first Black Director of Finance.
- Lisa O'Leary becomes Deputy Director of Clerking.
- Esin Akinci becomes Head of Revenue - Fees Collection.
- Judy Khan KC (chair), Liz Davies (KC) and Stephanie Harrison KC become Joint Heads of Chambers.
- The first time Garden Court has had three women as Joint Heads.

2021

Stephanie Harrison KC (chair), Liz Davies (KC) and Rajiv Menon KC become Joint Heads of Chambers.

2024

- Rajiv Menon KC (chair), Grace Brown and Stephen Simblet KC become Joint Heads of Chambers.
- Chambers grows to circa 190 barristers (including 30 silks), and 50 staff.

Garden Court North founded, 1996

Garden Court's premises at Lincoln's Inn Fields, London, in the snow

Mia Hakl-Law and Colin Cook with an award for the "Access to the Bar for All" mentoring scheme

Collage of members created for Garden Court's move to Lincoln's Inn Fields in 2005

Invite for the legendary Garden Court party held at Fabric in 2002

Racial Justice

1. MANGROVE 9
2. GEORGE LINDO
3. BRADFORD 12
4. DONALD V SECRETARY OF STATE FOR THE HOME DEPARTMENT
5. STEPHEN LAWRENCE INQUIRY

A women is arrested during the Mangrove Nine protest 1970. Credit: Mirrorpix / Alamy Stock Photo

1.
MANGROVE 9

Exposing 'racial hatred' in the Met Police

Central Criminal Court, 1971

The racist activities of the police, with their frequent raids on the Mangrove Restaurant, a hub for the Black community in Notting Hill, led to a march against police harassment on 9 August 1970. The peaceful protest was met with police brutality, and the Mangrove owner Frank Crichlow and eight others, Althea Jones-Lacointe, Darcus Howe, Barbara Beese, Rhodan Gordan, Godfrey Miller, Rupert Glasgow Boyce, Anthony Carlisle Innis and Rothwell Kentish, were arrested and charged with incitement to riot and affray. The riot charges were thrown out by a magistrate but reinstated by the DPP. The 55-day Old Bailey trial of the Mangrove Nine was a landmark criminal prosecution, in which the defendants ran a groundbreaking defence overtly challenging the racism of the police and within the legal system. For two days, they challenged the composition of the all-white jury, demanding a "jury of peers" - and advocated for a selection procedure that saw 63 jurors rejected for potential racial bias and leading to two Black jurors being on the panel. The acquittal of all defendants on the riot charges, and five acquitted on all charges, with suspended sentences for the rest, was seen as a major victory. It was, however, the closing remarks of the judge that had the biggest impact, when he acknowledged the evidence of "racial hatred" in the Metropolitan police.

LASTING IMPACT

The Mangrove Nine trial was groundbreaking: it was the first judicial acknowledgment of what is now called institutional racism within the police; and it challenged racial bias in the legal system itself. It is seen as a pivotal moment for Britain's Black community in defending itself against the routine racism in the police or the courts. It also marked a different kind of lawyering, with **Ian Macdonald (QC)** instrumental in devising the legal strategy along with the defendants, two of whom acted in person. The trial marked a turning point in the campaign to secure legal protection against discrimination, culminating in the Race Relations Act 1976. Ian Macdonald's trailblazing role in the Mangrove Nine trial was an example followed in other similar trials. It inspired generations of activists and lawyers to continue the fight for racial justice. As Ian's client Barbara Beese reflected 50 years later: "We thought we were going to change the world back then. But still, when you look at the disproportionate number of Black men in custody and the general climate we find ourselves in, we have to keep on fighting."

Image: Mangrove Nine protest 1970. Credit: piemags/AN24 / Alamy Stock Photo

2.
GEORGE LINDO

The power of community advocacy

Bradford Crown Court, 1979

In 1977, George Lindo, a resident of Bradford of Jamaican descent, was wrongly accused of a robbery at a betting shop. Mr Lindo was convicted on a false confession obtained by the police, despite a strong alibi and no other direct evidence. Members of the Black community in Bradford and their supporters formed a campaign to fight against his wrongful conviction, supported by advocacy from the Bradford Black Collective and Race Today. Mr Lindo's conviction was successfully appealed when it was disclosed that one of the officers involved in his case, DC David Brierley, had been suspended and was under investigation for allegedly having concocted witness statements in another case. This crucial information was withheld by the West Yorkshire Police during the trial and led to the quashing of the conviction in June 1979. Mr Lindo was later awarded compensation of £24,275.

LASTING IMPACT

The George Lindo case exposed police misconduct and underscores the importance of rigorous standards in the disclosure of evidence which have since been a key component in many miscarriages of justice cases. The case shows the importance of **Marguerite Russell**'s fearless advocacy in challenging racial discrimination in the police and injustice in the legal system. What also marked the case out was the power of the grassroots campaign to free George Lindo. The poet Linton Kwesi Johnson captured that community spirt when he wrote: "Me seh dem frame up George Lindo up in Bradford town, But de Bradford Blacks dem a rally round."

3.
BRADFORD 12

Self-defence and minoritised communities

Leeds Crown Court, 1982

The Bradford 12 case concerned a dozen young Asian men (Giovanni Singh, Ishaq Mohammed Kazi, Sabir Hussain, Pravin Patel, Ahmed Ebrahim Mansoor, Saeed Hussain, Jayesh Amin, Tarlochan Gata·Aura, Masood Malik, Vasant Patel, Tariq Mehmood, and Bahram Nook Kahn), who were members of the United Black Youth League. They were charged with making explosive devices (petrol bombs) with intent to cause damage to property and people. These charges arose from their actions during a period of increased racist violence across the country and heightened racial tensions in their own community with the rise of the far right, and a growing fear of racist attacks.

Instructed by solicitors Ruth Bundey and Gareth Peirce, the claim of self-defence, advanced by **(Baroness) Helena Kennedy (KC)**, **Edward Rees (KC)**, **Marguerite Russell**, and **Frances Webber** (along with the other legal teams) was radical. It was based on evidence of racial violence and pervasive racism in the local police force, necessitating the action taken by the youths in response to imminent threats to the community and a lack of police protection. The jury acquitted all 12 defendants recognising the legitimacy of their fears and the reasonableness of their response in the circumstances. This acquittal was a legal milestone, acknowledging for the first time the right of communities to organise and defend themselves against racial violence when state protection is inadequate and is compromised by institutional racism.

LASTING IMPACT

The Bradford 12 case was important for the legal interpretation of self-defence and the ability of minority communities to evoke a right to collective self-defence. It highlighted the importance of considering the reality of the socio-political contexts influencing individuals' actions. One of the defendants asked the jury to "put yourself in my shoes and ask what you would have done." It also underscored the necessity for law enforcement to effectively protect all communities equally. Another important legacy was to establish that, when it comes to mobilisation of support across communities, as the campaign for justice had done, "self-defence is no offence."

4.
R (DONALD) V SECRETARY OF STATE FOR THE HOME DEPARTMENT

Accountability for victims of Windrush Scandal

High Court, 2024

Trevor Donald challenged the decision made by former Home Secretary Suella Braverman to abandon three important commitments made in response to recommendations in the Wendy Williams Windrush Lessons Learned review. Those commitments required the Home Office to i) run reconciliation events allowing Windrush victims to testify to the scandal's impact on their lives (recommendation 3); ii) introduce a Migrants' Commissioner (recommendation 9); and iii) review and strengthen the role of the Independent Chief Inspector of Borders and Immigration (recommendation 10). Although the challenge over reconciliation events was not upheld, the Secretary of State's decision to drop the other two recommendations was unlawful because it breached a "procedural legitimate expectation" as there was inadequate consultation with the Windrush community and no consultation with Wendy Williams. The decision also breached equality law by indirectly discriminating on grounds of race in breach of Article 14 European Convention on Human Rights (ECHR) read with Article 8, as well as the important public sector equality duty under s.149 of the Equality Act 2010. **Grace Brown** represented Mr Donald, instructed by Deighton Pierce Glynn. **Nicola Braganza KC** and **Bijan Hoshi** acted for the intervener, Black Equity Organisation, instructed by Public Law Project

LASTING IMPACT

The judgment makes a significant finding that the Home Secretary broke the law. She resiled on previous commitments to remedy the grave injustice done to members of the Windrush generation and their descendants. It comes against the backdrop of the government's failure to remedy many of the systemic problems, arising out of the hostile environment, that gave rise to the Windrush scandal in the first place. It lays the foundation for more effective implementation of the recommendations for independent reviews and public inquiries, and helps to increase the possibilities of holding government to account for its publicly made commitments.

5.
STEPHEN LAWRENCE INQUIRY

Institutional racism in the Met Police

1997-1999

In 1993, Stephen Lawrence, an 18-year-old Black teenager, was stabbed to death by white youths, while waiting with his friend, Duwayne Brooks, at a bus stop in Eltham, South London. The Met's response, particularly the delay in identifying suspects and their treatment of Stephen's family and Duwayne, reflected entrenched institutional racism and racial inequality in policing. In 1997, the Home Secretary announced a judicial inquiry into the Met's handling of the case, led by Sir William Macpherson. The Macpherson Report, published in 1999, concluded that the Met's investigation into Stephen's murder had been "marred by a combination of professional incompetence, institutional racism and a failure of leadership". The report's recommendations included making it a ministerial priority for all police services "to increase trust and confidence in policing among minority ethnic communities", with an overall aim of "the elimination of racist prejudice and disadvantage and the demonstration of fairness in all aspects of policing." **Ian Macdonald QC** and **Rajiv Menon (KC)** represented Duwayne Brooks, instructed by Jane Deighton. **Maya Sikand (KC)**, represented the Commission for Racial Equality, working alongside the team representing Stephen Lawrence's family in the long struggle for justice, led by Michael Mansfield KC, **Stephen Kamlish (KC)** and solicitor Imran Khan (KC).

LASTING IMPACT

The Macpherson Report was seminal in its finding of institutional racism within the Met police 25 years after it had first been recognised by the judge in the Mangrove Nine trial (see page 22). The Home Secretary published an action plan in March 1999, accepting most of the inquiry's recommendations and set up a steering group to oversee implementation. The recommendation to repeal the double jeopardy rule in murder cases to allow a retrial where new and compelling evidence was available was introduced in 2005. This enabled the conviction of Gary Dobson and David Norris in 2012, receiving life sentences for Stephen's murder. However, in 2021, more than 20 years on from publication of the Macpherson Report, the Home Affairs Select Committee (HASC) found continuing serious and deep-rooted racial disparities, and that police forces and governments have not taken race equality seriously. **Leslie Thomas KC**, **Una Morris** and **Michael Etienne** provided evidence to the HASC through the Police Action Lawyers Group.

Miscarriages of Justice

6. BIRMINGHAM SIX
7. DEREK BENTLEY

The Birmingham Six outside the Old Bailey in London. Credit: Sean Dempsey / Alamy Stock Photo

6.
BIRMINGHAM SIX

Overturning a historic miscarriage of justice; the ongoing search for the truth

Court of Appeal, 1991

The Birmingham Six were Paddy Hill, Gerry Hunter, Johnny Walker, Hugh Callaghan, Richard McIlkenny and Billy Power. All were from the North of Ireland, but living in Birmingham, when they were convicted for the murders of 21 people in two pub bombings in the city on 21 November 1974. Five of the six men were arrested the night after the bombings, as they were on their way to Belfast to attend a funeral of an IRA member. The subsequent convictions were based on "confessions" by four of them, and forensic tests, which supposedly showed that two had tested positive for handling chemicals used in explosives. The case was first referred to the Court of Appeal in 1987, but the convictions were upheld. However, further evidence later emerged relating to police fabrication and suppression of evidence; the unreliability of both the confessions and the forensic evidence. In light of this fresh evidence, the case was reconsidered by the Court of Appeal in 1991. By this time, the six had already served nearly 17 years in prison. On 14 March 1991, the convictions were quashed as unsafe and unsatisfactory and the six walked free. In 2001, a decade after their release, they were awarded compensation ranging from £840,000 to £1.2m. **Nicholas Blake (KC)** as junior counsel represented five of the six men in the 1991 appeal, led by Michael Mansfield KC. In 2016, **Leslie Thomas KC** was instructed in the Birmingham Pub Bombing Inquest, representing nine families who had lost relatives in the explosions. The jury returned a verdict of unlawful killing.

LASTING IMPACT

The Birmingham Six is one of the most notorious miscarriages of justice in British legal history. It led to the 1991 Royal Commission on Criminal Justice, which in turn led to the Criminal Appeal Act 1995, which established the Criminal Cases Review Commission. Three officers from the West Midlands police were charged with perjury and conspiracy to pervert the course of justice, although never prosecuted. The Royal Commission vindicated the work of investigative journalist Chris Mullin MP, whose campaign was vilified in particular by the Sun newspaper. It also recognised the years of painstaking and dedicated work by solicitor Gareth Peirce, of what was then known as BM Birnberg & Co. Gareth acted for five of the Birmingham Six, playing a pivotal role in exposing police corruption in this and many other miscarriages of justice, including the Guildford Four, Judith Ward, and the Maguire Seven. The gravity of police and other failings in the Birmingham Six case was underlined by the verdict in the 2016 inquest. The bombings remain the biggest unsolved mass murder in British history - and the families of those killed or injured continue to be denied justice.

7.
DEREK BENTLEY

Victim of British Justice

Criminal Court of Appeal, 1998

This was a posthumous appeal on behalf of Derek Bentley who was convicted in 1952 and executed by hanging for murder in 1953. Derek Bentley, aged 19, with a learning disability was with Christopher Craig, aged 16, when Craig shot and killed a police constable. Mr Bentley was convicted of murder on the basis of joint enterprise. The police officer is said to have asked Craig to hand over the gun and the prosecution case rested on the ambiguous alleged words "Let him have it, Chris" interpreted by the court as an incitement to murder. Craig could not be subject to the death penalty because of his age. Mr Bentley was one of the last men in Britain to be sentenced to the death penalty. The Court of Appeal ruled that the summing-up to the jury by the trial judge, Lord Chief Justice Goddard - whom it acknowledged as "one of the outstanding criminal judges of this century" – had been unfairly prejudicial to Mr Bentley, and "was such as to deny [a] fair trial which is the birthright of every British citizen". Lord Goddard had also failed to give the jury the necessary "careful direction" as to certain key aspects of the alleged joint enterprise. In doing so the Court applied the law on joint enterprise according to modern standards and not those applied in 1952. Issues were also raised in respect of the reliability of a "confession" which was shown by novel forensic linguistics methods to have been largely edited by police. The appeal was allowed and the conviction quashed. **Henry Blaxland (KC)** acted for Derek Bentley's niece Maria Bentley-Dingwall (who brought the appeal on Mr Bentley's behalf), led by Edward Fitzgerald KC and instructed by BM Birnberg & Co.

LASTING IMPACT

The case stands as testament to the barbarity of the death penalty and the dangers of the law on joint enterprise. The public outrage over the case contributed to the eventual abolition of the death penalty in 1969. While Mr Bentley was posthumously granted a royal pardon in 1993 in respect of the death sentence, it was this appeal, that overturned the conviction and underscored the grave miscarriage of justice, after years of campaigning by his family to clear his name. It also remains a leading case on the correct standards the Court applies when considering appeals against historic convictions so that Defendants benefit from contemporary standards. On the occasion of the 70th anniversary of the execution of this innocent man, his niece Maria explained the importance of keeping this case in the public conscious "lest we forget the miscarriages of justice that still occur today". Emily Bolton of the organisation APPEAL which challenges miscarriage of justice cases said: "The prisoners we represent have only one life, and that life has been stolen from them by a criminal justice system that is in denial about its mistakes. The Court of Appeal needs to treat these cases as emergencies, so that there are no more 'Victims of British Justice', as Derek Bentley is described on his gravestone."

Abuse of State Power

8. HILLSBOROUGH INQUESTS
9. BATTLE OF ORGREAVE
10. AZELLE RODNEY PUBLIC INQUIRY
11. JIMMY MUBENGA INQUEST
12. TERRY SMITH INQUEST
13. BROOK HOUSE INQUIRY

A picket, injured during clashes with police at the Orgreave Coking Plant near Rotherham, is helped away. Credit: PA / Alamy Stock Photo

LASTING IMPACT

The findings of the jury at the Inquests are a powerful indictment of the catastrophic failings that led to the tragedy. They are also a testament to the families' unrelenting pursuit of truth, justice and accountability for their loved ones, and for all those smeared by the lies and institutional cover up by the state and the media. The findings lay bare the unjustifiable failures and inadequacies in the earlier inquests and judicial investigations into the deaths. The fight to improve the system for state accountability continues through the campaign for a Hillsborough Law to impose a duty of candour on public servants, public authorities and corporations to act in the public interest and proactively and truthfully assist investigations, inquests and inquiries of all official kinds, at the earliest possible opportunity. Campaigners are hopeful that the Hillsborough Law will be enacted.

Image: Liverpool supporters on the Kop display a giant mosaic in memory of the 97 victims of the 1989 Hillsborough disaster. Credit: Action Plus Sports/Alamy Live News

8.

HILLSBOROUGH INQUESTS

Delayed Justice for the 97

Warrington Coroner's Court, 2014-2016

Ninety-Seven Liverpool football fans died as a result of the Hillsborough disaster on 15 April 1989. They, and their loved ones, were repeatedly failed by the judicial system and politicians. The bereaved families campaigned for over 26 years seeking truth, justice and accountability. On the day of the disaster the South Yorkshire Police embarked on a cover up of their failings, seeking to blame the Liverpool supporters, who were vilified in parts of the national press. At the end of the longest running inquests in British legal history, the jury concluded that the then 96 victims had been unlawfully killed. They also cleared the Liverpool supporters of any blame and identified grave failings by the police, Sheffield Wednesday FC, Sheffield City Council, the club's engineers Eastwood & Partners, and the emergency services, giving the families the vindication they had been denied for so long.

Twenty-one past and present members of Garden Court Chambers represented families at the inquests: **Mark George KC**, **Judy Khan KC**, **Rajiv Menon KC**, **Leslie Thomas KC**, **Pete Weatherby KC**, **Peter Wilcock KC**, **Brenda Campbell (KC)**, **Emma Favata**, **Kirsten Heaven**, **Sean Horstead**, **Martin Huseyin**, **Thalia Maragh**, **James Mehigan**, **Anna Morris (KC)**, **Allison Munroe (KC)**, **Terry Munyard**, **Jesse Nicholls**, **Patrick Roche**, **Stephen Simblet (KC)**, **Tom Stoate**, and **Chris Williams.** They were instructed by Birnberg Peirce, Broudie Jackson Canter and Harrison Bundey. All counsel and solicitors provided unstinting support to the families in their struggle for truth, justice and accountability.

9.
BATTLE OF ORGREAVE

Exposing police brutality and corruption

Sheffield Crown Court, 1985

The Orgreave miners' trial was the longest public order trial of its time. It exposed not only police brutality, but the way policing had been politicised by the Thatcher government, and corruption within the South Yorkshire force. All the accused miners were acquitted, after police lies were exposed during the trial. What was to be dubbed the Battle of Orgreave took place on 18 June 1984, when police tactics against striking miners included deliberately injuring people in order to make them disperse. Senior police officers at Orgreave spoke of "incapacitating" demonstrators, "flushing out" pickets, and leaving "strike zones", which were in violation of the law. The accused miners and their lawyers insisted on footage from a police camera, which the prosecution had not presented in evidence, being shown to the jury. The film contradicted key elements of the police account. Cross-examination of the arresting officers revealed that the introductory paragraphs of their respective witness statements had been dictated to them, as part of an orchestrated campaign by the police. Under cross-examination by **Marguerite Russell**, PC Gary Grey admitted that his witness statement, accusing miner Ernie Barber of throwing stones, was wrong. Subsequently, the Crown discontinued the trial and dropped all the charges against the miners who were then freed. **Marguerite Russell** was one of many members of Garden Court who, alongside barristers from Tooks Chambers, frequently travelled to coalfields across the country to defend striking miners accused of offences across the country. They were often facing the full force of the state, which was intent on defeating the year-long strike.

LASTING IMPACT

This case exposed shocking levels of brutality and corruption in South Yorkshire Police, in the era before the Police and Criminal Evidence Act 1984 introduced stronger safeguards for those accused of committing offences. It remains one of the most notorious instances of politicisation of policing by the government and widespread police abuse of power in recent British history, along with the Hillsborough disaster and cover up (see page 34) - which involved the same police force. In June 2024, Labour pledged to launch an inquiry into the Battle of Orgreave.

10.
AZELLE RODNEY PUBLIC INQUIRY

Unlawful killing by police

Inquiry, 2010-2013

Azelle Rodney was killed in 2005, after being shot by a Specialist Firearms Officer in the Metropolitan Police, when the vehicle he was travelling in was stopped in north London. The officer fired eight shots, of which six hit Mr Rodney. It was announced in March 2010 that, for the first time in a case of this kind, rather than holding an inquest into the fatal shooting, a public inquiry would be held instead. This was due to the investigation into events leading to Mr Rodney's death involving evidence which could not be heard in public by a jury. After a claim was brought in the European Court of Human Rights in 2009, the government accepted in February 2012 that it had failed to carry out a prompt investigation as required under Article 2 European Convention on Human Rights (ECHR). The inquiry hearings began on 3 September 2012.

In 2013, Sir Christopher Holland, Chairman of the Azelle Rodney Inquiry, published a report rejecting the account of the police officer who shot Mr Rodney, and concluding he had no lawful justification for the shooting. He was also critical of the way the operation was planned and controlled, which had failed to minimise the use of lethal force, as required under Article 2 of the European Convention of Human Rights. In 2014, the High Court rejected a judicial review of the inquiry's unlawful killing verdict, brought by the officer who carried out the shooting. The High Court found that the decision of the inquiry was rationally based on the evidence and dismissed the challenge as "unarguable". **Leslie Thomas (KC)** represented Azelle Rodney's family, leading Adam Straw, instructed by Hickman and Rose.

LASTING IMPACT

This was the first time in England that a public inquiry has been set up to establish how a person came to their death, replacing the role of the inquest. It was also one of the first clear and unequivocal findings in a fatal case of wrongdoing by a state agent in the line of duty, setting an important precedent for many later cases. The CPS charged the former SFO police officer with Azelle Rodney's murder saying: "There is a realistic prospect of conviction and that a prosecution is in the public interest." The officer was acquitted in 2015.

11.
JIMMY MUBENGA INQUEST

Unlawful killing by G4S security guards

Isleworth Crown Court, 2013-2014

In October 2010, Jimmy Mubenga, a healthy 46-year-old, died after being restrained by G4S security guards on a British Airways plane at Heathrow. Mr Mubenga, a father of five, was being forcibly deported to Angola from the UK, where he had lived with his family for 17 years. As he was being restrained, he had been heard by passengers calling for help and saying he could not breathe. In returning a verdict of unlawful killing, the Inquest jury rejected the evidence of the G4S guards who claimed they had not heard Mr Mubenga and denied forcing his head into a position known to risk asphyxia. The guards had claimed to be restraining Mr Mubenga to stop him hurting himself, or other passengers, despite the fact he had been handcuffed from behind and strapped into his seat. The Inquest accepted that the guards knew their actions were putting him at risk of positional asphyxia. The jury found that "unreasonable force was used," and that "the guards would have known that they would have caused harm to Mr Mubenga, if not serious harm." Evidence uncovered during the hearing demonstrated, what the Coroner, Karon Monaghan KC, described as "pervasive racism" within G4S, with "numerous" racist text messages found on the mobile phones of two guards involved in the removal. The Coroner said this was "not evidence of a couple of 'rotten apples' but rather seemed to evidence a more pervasive racism within G4S". Mr Mubenga's family was represented by **Henry Blaxland KC**, leading Fiona Murphy, instructed by Bhatt Murphy solicitors.

LASTING IMPACT

As the Home Office had been warned for at least a decade, the Inquest verdict confirmed the dangers inherent in the restraint techniques practised by private security firms like G4S and others, when forcibly removing people from the UK. Concerns at the use of excessive force in the removal process have been frequently raised by HM Inspector of Prisons, and the injuries inflicted recorded by organisations such as Medical Justice, the Medical Foundation for the Care of Victims of Torture and the Institute of Race Relations. The violent and tragic death of Mr Mubenga put that beyond any doubt, exposing the lack of concern for welfare and safety. The Coroner issued a report aimed at preventing future deaths which was highly critical of government failure to act on previous advice: "the outcome of the work being undertaken is still not known and no changes of any significance have yet been introduced" (nearly three years after Mr Mubenga's death). She called for an urgent "review of the approved methods of restraint, and specifically the use of force in overseas removals". This was followed up by a bespoke investigation by Prisons and Probation Ombudsman Stephen Shaw, who called for a ban on such dangerous restraint techniques.

The three guards who had restrained Mr Mubenga were subsequently charged with manslaughter, but all were acquitted. The virulently racist texts and other evidence of racism on the part of the G4S guards were not admitted as evidence during their trials. After the Inquest jury's verdict, Mr Mubenga's widow, Adrienne Makenda Kambana, said jurors have helped her "get closer to justice for Jimmy" although justice "will only be fully achieved when I can tell my children that those responsible have been properly held to account and no other family suffers in the way we are." Ms Kambana and her children are, like many others, still waiting for resolution. One of the many truly damning findings of the Brook House Inquiry (see page 41) was that the banned dangerous restraint technique, that led to Mr Mubenga's death, was still being used at the detention centre in 2017.

Image: 'United Families and Friends Campaign' silent procession down Whitehall to Downing Street. Credit: janine wiedel / Alamy Stock Photo

12.
TERRY SMITH INQUEST

The role of police 'neglect'

Surrey Coroner's Court, 2018

Terry Smith was 33 when he died on 13 November 2013, after detention and restraint by Surrey Police. Mr Smith had been detained, following his family's call for an ambulance, after he displayed increasingly distressed, strange and agitated behaviour. He was restrained by multiple police officers, using handcuffs, leg restraints, and a spit hood. They did not provide any immediate medical care but instead arrested him for possession of drugs and took him to a police station. At the police station, Mr Smith continued to be hooded and restrained. CCTV footage showed him breathing irregularly and 13 times saying: "I can't breathe." Despite this, the officers present said they had no concerns he might be having breathing difficulties. Mr Smith was eventually moved into a police van where he went into cardiac arrest. He was then taken to hospital by ambulance but later died in hospital. **Leslie Thomas KC** and **Una Morris** represented Terry Smith's family at the 2018 inquest into his death, instructed by Saunders Law. It heard evidence from over 50 witnesses, including police officers, paramedics, the police doctor, police trainers, and a variety of medical experts. The jury found Mr Smith's death was contributed to by neglect on the part of Surrey Police.

LASTING IMPACT

Central to this inquest was the controversial issue of "excited delirium" – a medical condition often linked to deaths involving restraint in custody. The exact causes of the condition are the subject of debate among medical experts. However, during the 13-week inquest, the jury heard that police guidance and training makes it clear that excited delirium carries risk of death and should be treated as a medical emergency. The failure to recognise the signs of a medical emergency, the lack of adequate assessment or training, and the use of prolonged and excessive restraint contributed to Mr Smith's death. The inquest also exposed lies, collusion and cover up by the police.

13.
BROOK HOUSE INQUIRY

'Inhumane treatment' of vulnerable people in immigration detention

Public Inquiry, 2023

The Brook House Public Inquiry published its long-awaited report on 19 September 2023 into the shocking mistreatment and abuse first exposed by BBC Panorama in 2017. The inquiry found credible evidence of 19 separate incidents of inhuman and/or degrading treatment in breach of Article 3 European Convention on Human Rights (ECHR) within a five-month period. It documented widespread misuse of force and segregation powers, particularly involving vulnerable adults as a means of "managing" mental illness alongside a "wholesale failure" of detention safeguards, as well as a toxic institutional culture of dehumanisation, "othering" and impunity, which was a "breeding ground for racist views". There was systemic failure of oversight mechanisms within the Home Office and G4S at all levels. It concluded that all these factors had caused or contributed to the conditions leading to mistreatment, with the conditions for repeated mistreatment ongoing. **Stephanie Harrison KC**, **Kirsten Heaven**, **Louise Hooper**, **Gordon Lee**, **Una Morris** and **Alex Schymyck** represented Brook House detainees, along with Alex Goodman (KC), as well as representing the Reverend Nathan Ward, a former G4S employee and whistle-blower, instructed by Duncan Lewis Solicitors. **Stephanie Harrison KC** also represented the charity Medical Justice, leading **Shu Sin Luh** and **Laura Profumo**, instructed by Bhatt Murphy Solicitors.

LASTING IMPACT

The Brook House Inquiry is the first statutory inquiry into mistreatment in immigration detention centres. It followed a successful judicial review in 2019 brought by two former detainees, MA and BB, which had ruled that in order to meet obligations under Article 3 ECHR, inquiries must include the power to compel witnesses and publicly-funded legal representation. This was necessary to "afford the abused detainees an opportunity to see and confront their abuser on equal terms, as a means of restoring dignity and respect to the person from whom it has been so wholly stripped away". The inquiry report made 33 recommendations urging wholesale reform across all aspects of the detention system. This included a key demand for a 28-day time limit on detention, alongside comprehensive reviews of detention safeguards and the use of force, particularly on the mentally ill. The report provides an authoritative record of the long-standing endemic illegality and abuse in the use of immigration detention. It is a stark indictment of the corrosive impact of hostile political rhetoric and policies on individuals and institutions, undermining legal protections and ultimately the rule of law. It is a vindication of medical and detention NGOs and professional bodies within the medical sector, who have tirelessly worked to secure release, to support those damaged by detention, and to expose the dysfunction and inhumanity in the darkest of closed environments.

Women's Rights

Sally Challen at the Old Bailey after hearing she will not face a retrial, 2010. Credit: PA Images / Alamy Stock Photo

14.
F V M

Coercive control: protecting women and children

High Court, Family Division, 2021

F v M was one of the first reported cases in the family courts that dealt comprehensively with allegations of coercive controlling behaviour, with the court considering the circumstances of two separate families in which the same father (F) was accused of extreme abuse. **Maggie Jones** represented the mother (M), in successfully resisting the father's application for contact with their two children, instructed by Duncan Lewis Solicitors. She secured findings that F lacked credibility and that he had been guilty of coercive and controlling behaviour in both relationships. The judge concluding that F was a "profoundly dangerous young man, dangerous to women who he identifies as vulnerable and dangerous to children". The judge commented: "It takes a skilled practitioner to piece together the evidence required to challenge a confident and self-assured abuser."

In recognition of these challenges the judge gave a detailed analysis of the nature of coercive controlling behaviour and guidance on how court processes needed to adapt to reflect the particular nature of this insidious type of abuse.

LASTING IMPACT

F v M has served as a key reference for all legal professionals handling similar issues in the family courts and beyond. It provides a vital resource for understanding this extreme form of domestic abuse, giving essential guidance on how to prepare and best present cases to ensure victims, most often women and children, are protected. It provides a powerful lesson in how courts must be vigilant to ensure access to justice is on an equal footing.

15.
TPKN V MINISTRY OF DEFENCE

Vicarious liability for rape

High Court, 2019

TPKN was a long serving Royal Navy servicewoman who brought a civil claim for assault and misfeasance after she was raped by a British Army serviceman on a military base, while serving in Gibraltar. The rape had occurred in the early hours of the morning, after a social night out, while the serviceman was stationed at the base for a training exercise. The claimant had become pregnant as a result. There had been a criminal investigation, in which the Service Prosecuting Authority (SPA) had assumed jurisdiction (rather than leaving it to the courts of Gibraltar), but had decided not to prosecute. In the civil proceedings, a Master granted the Ministry of Defence, the defendant, summary judgment, on the basis that it was not vicariously liable for the serviceman's actions and striking out the misfeasance claim. The Master granted judgment to the defendant. On appeal, Sweeney J overturned the decision and ruled that the SPA's exercise of jurisdiction was relevant to the question of vicarious liability. It also accepted that there were triable issues of fact, "in relation, for example, to the nature of, and interconnections between the jobs of the Claimant and [the serviceman], the duty of care, the exercise of jurisdiction by the SPA, and the extent of the connection between the position in which [the serviceman] was employed and his wrongful conduct." This allowed TPKN who was suffering PTSD to be able to pursue her claim for compensation against the Ministry of Defence. TPKN was represented by **Una Morris** and **Camila Zapata Besso**, instructed by Hodge Jones & Allen.

LASTING IMPACT

This is understood to be the first case, in which it has been held as arguable, that the MoD can be vicariously liable for sexual assault committed by off-duty members of the armed forces. Misfeasance in public office can also arise on the same facts. It is expected to encourage other service personnel who have suffered sexual assault in the course of their employment, to consider pursuing a civil action, as such behaviour in the armed services comes increasingly under the spotlight. It is a problem which disproportionately affects women, and people from Black and minoritised communities, in the armed services.

High Court, London, UK. 27 February 2019. Sally's son, David Challen (Centre) with protestors. Credit: Tommy London/Alamy

16.
SALLY CHALLEN

Freedom for survivor of coercive control

Central Criminal Court, 2019

In 2011, Sally Challen, then aged 56, was convicted at Guildford Crown Court of murdering her husband and sentenced to life imprisonment. In 2017, Clare Wade KC, instructed by Harriet Wistrich, submitted new grounds of appeal. In February 2019, the Court of Appeal quashed the murder conviction and ordered a retrial in light of new evidence about Ms Challen's mental state at the time of the killing. The new psychiatric evidence and an expert report showed how coercive control provided a better framework for understanding Sally's actions after a long history of provocation. The Court accepted Sally's mental disorders were likely to have been affected by the extreme coercive control exercised by her husband over a 30-year period.

On 7 June 2019, a judge at the Old Bailey ruled that Ms Challen would not face a retrial, nor serve any further time in prison, after prosecutors accepted her manslaughter plea on grounds of diminished responsibility. Sally had pleaded not guilty to murder.

Sally Challen was represented by **Clare Wade KC** and **Lucie Wibberley**, instructed by Birnberg Peirce & Partners.

LASTING IMPACT

At the time of Ms Challen's initial trial, coercive control was not understood as a form of severe domestic abuse. However, as the Court of Appeal accepted, since 2011, medical, social, academic and legal thinking has developed, so the impact of this pattern of abusive behaviour on a victim is now better understood and recognised. This case marked the culmination of years of pioneering work by Justice for Women and others working together to expose sex discrimination, misogynistic assumptions in the criminal justice system, and to hold the state to account when it fails women. In September 2021, **Clare Wade KC** was appointed to lead an independent review into domestic homicide sentencing. Clare made 17 recommendations for reform to ensure justice for victims of serious abuse. In 2023, the government announced that coercive and controlling behaviour, murders which take place after the end of a relationship, and extreme violence, were to be made a statutory aggravating factor in sentencing perpetrators (usually men). At the same time, coercive control would also be treated as a statutory mitigating factor for those charged with murder in circumstances where they had been driven to kill their abusers (usually women). A review of defences to murders involving domestic abuse was also announced and, in December 2024, The Lord Chancellor announced that the government intend to bring forward legislation to implement two outstanding recommendations in **Clare Wade KC's** independent Domestic Homicide Sentencing Review. These measures are statutory aggravating factors for murders involving strangulation and those connected with the end of a relationship.

Children's Rights

17. RE AB (A CHILD)
18. H-W (CHILDREN)
19. R V PETHERICK

Belfast mural depicting children's right to play. Credit: Elizabeth Leyden / Alamy Stock Photo

17.
RE AB (A CHILD)

Caring for a disabled child at home

Court of Appeal and Family Court, 2017-2018

Mr and Mrs N were parents of AB, a four-year old child with severe life-limiting neurological disabilities. AB had a complex and intensive care routine. In 2016, his parents had unsuccessfully opposed the NHS Trust from withholding certain medical treatment, including all forms of resuscitation, if AB's condition deteriorated.

In 2017, the local authority issued care proceedings alleging that Mr and Mrs N's behaviour had led to AB not receiving appropriate treatment and proposing to take him into residential or foster care. A High Court judge made a care order but also found that the levels of care provided to AB by his parents (objected to by the local authority) helped to prolong his life. The Court of Appeal allowed the parents' appeal. The care order was set aside, and the case remitted for a rehearing on all issues. At the rehearing, the local authority decided not to seek removal of AB from his parents' care and withdrew the application for a care order. The guardian strongly supported the local authority's request to withdraw, in light of up-to-date evidence and the agreed arrangements for his care. **Amanda Meusz**, led by Nicholas Stonor KC, acted for the parents, instructed by Jung & Co.

LASTING IMPACT

The case highlights the acute complexity in cases where there is a disparity of views relating to the medical treatment of children with significantly reduced quality of life. It emphasises the need to focus solely on the welfare of the child so that he or she is in the best possible position. In this case, that was being cared for by his loving parents. The President of the Family Division, Munby LJ underscored the need for local authorities to very carefully consider whether they should embark on care proceedings to remove a child from its parents, given the challenges of finding an appropriate alternative placement, and the impact on contact between parents and a child during, what may be, the last few months or weeks of life. For AB, he was able to "remain stable and largely comfortable at home" with his family.

AB emphasises the need to focus solely on the welfare of the child so that he or she is in the best possible position. In this case, that was being cared for by his loving parents. The President of the Family Division, Munby LJ, underscored the need for local authorities to very carefully consider whether they should embark on care proceedings to remove a child from its parents, given the challenges of finding an appropriate alternative placement, and the impact on contact between parents and a child during, what may be, the last few months or weeks of life.

18.
H-W (CHILDREN)

Final care orders as a last resort

UK Supreme Court, 2022

H-W concerned the imposition of care orders for three children, C, D and E, which would have authorised their removal from their mother into separate long-term foster placements because of a history of sexual abuse, the risk of further abuse, and the mother's failure to protect the children from abuse.

A High Court judge had ruled that care orders should be issued for C, D and E, and an appeal by their mother and her partner was dismissed. However, the Supreme Court allowed the appeal, holding that the judge had not sufficiently analysed whether the care orders were necessary and proportionate. The Supreme Court required a structured approach to be undertaken with the judge considering: (a) if the children would suffer sexual harm; (b) the consequences of such harm; (c) the possibility of reducing or mitigating the risk of such harm; and (d) the comparative welfare advantages and disadvantages of the options presented. While the judge had considered the first two points, he had failed to properly consider the latter two in the holistic assessment that was required.

Amanda Meusz acted for the Children's Guardians, led by Cyrus Larizadeh KC in the Supreme Court, instructed by David Barney & Co.

LASTING IMPACT

This case is pivotal in clarifying the correct approach to final care orders. It emphasises their intrusive nature and that they should only be made when absolutely necessary, and less restrictive options must be fully explored. It underscored the requirements for evaluating necessity and proportionality, which means exploring all available alternatives, and considering measures to mitigate harm or risk. The significance of this ruling was recognised when it was selected as the Family Law Awards 2022 Case of the Year.

19.
R V PETHERICK

Impact of custody on defendant's children

Court of Appeal, 2012

Rosie Lee Petherick, 22, appealed against a prison sentence of four years and nine months for causing death by dangerous driving and driving with excess alcohol, due to the impact on her two-year-old son, for whom she was the primary carer. Allowing her appeal in part, the Court of Appeal reduced her sentence by 11 months, recognising that the sentencing of defendants with families engages Article 8 family life rights.

The Court ruled: "Almost by definition, imprisonment interferes with, and often severely, the family life not only of the defendant but of those with whom the defendant normally lives and often with others as well. Even without the potentially heartrending effects on children or other dependants, a family is likely to be deprived of its breadwinner, the family home not infrequently has to go, schools may have to be changed. Lives may be turned upside down by crime." The Court emphasised "the need of society to punish serious crime," and "not only society but also children have a direct interest in society's climate being one of moral accountability for wrongdoing," but also accepted, where a case stood on the cusp of custody, "the interference with the family life of one or more entirely innocent children can sometimes tip the scales". Where custody could not be avoided, the effect on children or other family members might afford grounds for mitigating the length of sentence. **Marguerite Russell** represented Rosie Lee Petherick

LASTING IMPACT

This case underscores the importance of considering family circumstances when sentencing for criminal offences. It highlights the relevance of human rights principles underpinning the impact on family members, particularly children, when sentencing primary carers.

Placard against the UK deportation flights to Rwanda near Brook House Immigration Removal Centre, 2022.
Source: horst friedrichs / Alamy Stock Photo

Migrants' Rights

20. M V HOME OFFICE
21. SHAH AND ISLAM V SECRETARY OF STATE FOR THE HOME DEPARTMENT
22. HJ (IRAN) AND HT (CAMEROON) V SECRETARY OF STATE FOR THE HOME DEPARTMENT
23. KV (SRI LANKA) V SECRETARY OF STATE FOR THE HOME DEPARTMENT
24. BEOKU-BETTS V SECRETARY OF STATE FOR THE HOME DEPARTMENT
25. CHAHAL V UK

20.
M V HOME OFFICE

Government accountability; paving the way to stop Rwanda flights

House of Lords, 1993

M was an asylum seeker from Zaire seeking a last-minute injunction to prevent his removal so that medical evidence documenting torture could be considered in support of his claim. Despite undertakings from counsel that he would not be removed, M was sent back to Zaire. M's solicitor was the highly respected and much missed Sonia Burgess (known professionally David Burgess), of Winstanley Burgess, who sought an out-of-hours injunction from Garland J ordering M's return to the UK. The then Home Secretary, Kenneth Baker, was advised that he was not bound to follow the injunction, on the basis that there was no power to injunct the Crown. The House of Lords ruled that was wrong and Ministers are not immune from contempt of court. The constitutional significance of the case is captured by Lord Templeman when he said: "The argument that there is no power to enforce the law by injunction or contempt proceedings against a minister in his official capacity would, if upheld, establish the proposition that the executive obey the law as a matter of grace and not as a matter of necessity, a proposition which would reverse the result of the Civil War."

Richard Scannell and Anthony Bradley acted for M, led by Stephen Sedley KC, up to the Court of Appeal; in the House of Lords, the leader was Sydney Kentridge KC.

LASTING IMPACT

This was the first case in which it was established that the courts could grant injunctions against ministers acting in their official capacity, and in which a minister was held to be in contempt of court for actions carried out in an official capacity. It has been the foundation stone ever since for preventing unlawful removal - or requiring return - to ensure a lawful consideration of claims for asylum and international protection. It has protected many hundreds if not thousands of people from the risk of torture, ill treatment and persecution, particularly for those like M, whose claims had been rejected because they were not properly prepared in the first place.

This case paved the way for the successful Rwanda litigation. The first planned flight to Rwanda, scheduled for 14 June 2022, was cancelled after the European Court of Human Rights issued an interim measure. Several barristers from Garden Court were involved in the domestic injunction proceedings. The importance of interim remedies in vindicating the rule of law was confirmed when the Divisional Court ruled that the individual decision-making was unlawful in many cases, and moreover, when the Supreme Court, relying on evidence from the United Nations High Commissioner for Refugees, ruled that Rwanda could not lawfully be treated as a safe country compatibly with the UK's domestic and international law obligations.

"The argument that there is no power to enforce the law by injunction or contempt proceedings against a minister in his official capacity would, if upheld, establish the proposition that the executive obey the law as a matter of grace and not as a matter of necessity, a proposition which would reverse the result of the Civil War."

LORD TEMPLEMAN

Sonali Naik KC, **Greg Ó Ceallaigh KC**, **Amanda Weston KC**, **Ali Bandegani**, **Adrian Berry**, **Grace Brown**, **Grace Capel**, **Stephen Clark**, **Ubah Dirie**, **Steven Galliver-Andrew**, **Alex Grigg**, **Ella Gunn**, **Raza Halim**, **Isaac Ricca-Richardson**, **Maha Sardar**, **David Sellwood**, **Mark Symes** and **Ronan Toal** worked on various stages of the Rwanda case, instructed by Barnes Harrild & Dyer, Duncan Lewis and Wilson Solicitors.

In July 2024, the Labour government scrapped the Rwanda scheme with not a single person forcibly removed to Rwanda. The legal cases were part of a much wider campaign across the political spectrum in Parliament and beyond, with charities and NGOs working tirelessly for over two years, to expose and challenge this deeply retrograde and pernicious policy.

21.
SHAH AND ISLAM V SECRETARY OF STATE FOR THE HOME DEPARTMENT

Refugee protection for women subject to violence

House of Lords, 1999

Syeda Shah and Shahanna Islam were two Pakistani women seeking refuge in the UK from serious physical violence by their husbands and false accusations of adultery, who were at risk of severe penalties under religious law and unable to seek any protection from the Pakistani police.

The House of Lords' decision was groundbreaking in recognising that the women's experience of gender-based violence and the denial of state protection in Pakistan because they were women, qualified them as members of a "particular social group", under the UN Convention Relating to the Status of Refugees 1951 (and its 1967 Protocol).

Ms Shah was represented by **Frances Webber** and Ms Islam by **Stephanie Harrison (KC)**; both were led by **Nicholas Blake KC**, instructed by Malik Gould Associates and Gulbenkian Harris Andonian, respectively. They were able to draw upon the work of many other feminist lawyers, academics, activists, and international bodies, such as the UNHCR, which had all been promoting the adoption of national Gender Guidelines recognising the particular protection needs of refugee women, which was important context when the case came before the House of Lords.

LASTING IMPACT

The ruling was the first to establish a right to refugee status and international protection for women facing gender-based violence and systemic discrimination. The ruling set a precedent across all jurisdictions applying the Refugee Convention, although not without resistance. Even in the UK, a further ruling by the House of Lords in *Fornah v Secretary of State for the Home Department* was required, in which **Kathryn Cronin** and **Frances Webber**, instructed by Brighton Housing Trust, succeeded in securing the protection of the Refugee Convention for women fleeing the threat of female genital mutilation (FGM).

In her judgment in *Fornah*, Lady Hale underscored the significance of the *Shah and Islam* ruling: "… it must be a mystery to some why [the case] had to reach this house … the world has woken up to the fact that women as a sex may be persecuted in ways which are different from the ways in which men are persecuted and that they may be persecuted because of their inferior status accorded to their gender in their home society." The principled approach to the interpretation of the Refugee Convention, and to the term "particular social group", was also instrumental in securing protection for other persecuted groups based, for example, on sexual orientation or gender identity. *Shah and Islam* also reflects the importance of the wider work being undertaken, with Lord Hoffman drawing on the Gender Guidelines: "As the Gender Guidelines for the Determination of Asylum Claims in the UK (published by the Refugee Women's Legal Group in July 1998) succinctly puts it (at p 5): 'Persecution = Serious Harm + The Failure of State Protection.'"

22.
HJ (IRAN) AND HT (CAMEROON) V SECRETARY OF STATE FOR THE HOME DEPARTMENT

Protecting gay asylum-seekers

Supreme Court, 2010

This case involved two gay male asylum-seekers from Iran and Cameroon, respectively, who feared persecution on return due to their sexuality. The Asylum and Immigration Tribunal had held that HJ could reasonably be expected to tolerate living "discreetly" in Iran by concealing his sexual identity, and that there was no real risk of gay men being persecuted if they were discrete. It held that HT would in fact live "discreetly" in Cameroon and would, therefore, not be persecuted as a result. The Court of Appeal dismissed both appeals. However, the Supreme Court held that if a gay person would not in fact conceal their sexuality on return and has a well-founded fear of persecution as a result, then they will be entitled to asylum, however unreasonable their refusal to conceal their sexuality may be. If they would conceal their sexuality on return and thus avoid persecution, the question was why they would do so. If it was "in response to social pressures or for cultural or religious reasons of [their] own choosing and not because of a fear of persecution," then they are not entitled to asylum, but if it was because they genuinely feared that otherwise they would be persecuted, then they were entitled to asylum. **Peter Jorro** represented HT, led by Moncia Carss Frisk KC, instructed by Wilson & Co Solicitors, alongside Laura Dubinsky (KC) and Raza Husain KC.

LASTING IMPACT

This landmark case established that gay people cannot be expected to live in the closet to avoid persecution, and that those who wish to live openly, but could not do so on return to their country of origin, due to genuine fear, are entitled to asylum. Sexuality is an innate or immutable characteristic which a person cannot be expected to change, and it fulfils the conditions for a particular social group in the definition of a refugee.

23.
KV (SRI LANKA) V SECRETARY OF STATE FOR THE HOME DEPARTMENT

Medical evidence of torture

Supreme Court, 2019

KV was a Sri Lankan asylum-seeker who alleged that he had been tortured by government forces in Sri Lanka. A medico-legal report had assessed the consistency of his extensive scarring with the claimed torture, applying the Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In the Court of Appeal, Sales LJ made a series of controversial observations, which appeared effectively to discount the value of an Istanbul Protocol-compliant medico-legal report in corroborating an asylum-seeker's account.

On appeal, the Supreme Court described Sales LJ's observations as "erroneous", holding that: "In their supremely difficult and important task, exemplified by the present case, of analysing whether scars have been established to be the result of torture, decision-makers can legitimately receive assistance, often valuable, from medical experts who feel able, within their expertise, to offer an opinion about the consistency of their findings with the asylum seeker's account of the circumstances in which the scarring was sustained, not limited to the mechanism by which it was sustained." It made clear that the Istanbul Protocol was authoritative. It also addressed the possibility of the scars having been "self-inflicted" by a third-party or "proxy", agreeing with Elias LJ in the Court of Appeal that self-infliction by proxy was "likely to be extremely rare". **Michelle Brewer**, Charlotte Bayati and **Ronan Toal**, led by Richard Drabble KC, acted for KV, instructed by Birnberg Pierce.

Stephanie Harrison KC, **Ali Bandegani** and **Mark Symes** represented Helen Bamber Foundation, Freedom from Torture and Medical Justice as Intervenors, instructed by Fresh Fields Bruckhaus Deringer.

LASTING IMPACT

This is the leading case on the role of medical evidence in establishing claims for international protection. It restored the recognised position that an Istanbul Protocol-compliant report can often be a powerful piece of evidence in support of an asylum-seeker's credibility and establishing their claim of torture. It, therefore, underscores the critical role in the asylum determination process of organisations like those who intervened in this case.

24.
BEOKU-BETTS V SECRETARY OF STATE FOR THE HOME DEPARTMENT

The right for families to be together

House of Lords, 2008

Ernest Beoku-Betts was a Sierra Leonean whose asylum and human rights claim was refused by the Home Office. His mother and sisters were in the UK with indefinite leave to remain. He appealed to an adjudicator, who dismissed his asylum appeal, but allowed his appeal on the basis of the right to family life, under Article 8 of the European Convention on Human Rights, due to his close-knit family and his mother's reliance on him for emotional support. The Immigration Appeal Tribunal allowed the Secretary of State's appeal, and the Court of Appeal upheld that decision.

The House of Lords allowed the appeal and restored the adjudicator's decision, holding that, in immigration appeals, the right to family life should be considered with reference to the family unit as a whole and not just the rights of the appellant. The Article 8 rights of family members other than the appellant themselves were, therefore, a relevant consideration in such appeals.

Sonali Naik (KC) represented Mr Beoku-Betts, led by Richard Drabble KC in the House of Lords, instructed by Irving & Co.

LASTING IMPACT

This important decision ensured that the rights of family members living in the UK cannot be left out of account in immigration decision-making. Lady Hale held that: "The right to respect for family life of one family member necessarily encompasses the right to respect for the family life of others." The House of Lords further widened the interpretation of the relevant statutory framework to include the rights of third-party non-appellant family members and ensure third-party rights are all considered in Article 8 appeals.

25.
CHAHAL V UK

Absolute protection in international law against torture

Grand Chamber European Court of Human Rights, 1996

Karamjit Singh Chahal was lawfully living in the UK with his wife and two British children when a Home Office decision was made to deport him to India on national security grounds. Mr Chahal, a supporter of an independent Sikh homeland, was accused of involvement in terrorism, who feared repeat detention and torture, or that he would be killed if removed to India. He was detained under immigration powers for six years until the Grand Chamber ruled that deportation would breach Article 3 European Convention on Human Rights (ECHR). The Court emphasised the fundamental nature of Article 3 in holding that the prohibition against ill treatment in expulsion cases is made in "absolute terms ... irrespective of the victim's conduct".

The Grand Chamber also held that Mr Chahal had been denied an effective remedy to challenge both the legality of his prolonged detention under Article 5(4) ECHR, as well as the removal under Article 3 and 13 ECHR, because in the domestic proceedings, neither the so called Three Wisemen Advisory Panel, nor the courts, were provided with the information relating to national security.

Nicholas Blake KC instructed by Sonia Burgess, represented the Chahal family.

LASTING IMPACT

This seminal case underscores that the Article 3 prohibition on torture, inhuman and degrading treatment is an absolute and fundamental protection in international human rights law. It also paved the way for the introduction of the Special Immigration Appeals Act 1997 and the creation of a "closed material procedure", so that the Special Immigration Appeals Commission (SIAC), with the assistance of Special Advocates, could receive and challenge the secret evidence. This was intended to be a significant improvement on the existing process but was also controversial given the grave disadvantage those going through the tribunal faced of not knowing the case against them. However, it has prevented individuals accused of terrorism being expelled to risks of torture.

SIAC has ruled against all deportation decisions made under the Home Office's equally controversial policy of deportation with assurances - on grounds of incompatibility with Convention rights - with successful appeals against removals to India, Ethiopia, Libya, Pakistan, Afghanistan and Algeria, for example.

Since its inception, members of Garden Court have played an important role in proceedings before the Commission, utilising the *Chahal* judgment to defend this most fundamental of human rights in expulsion, exclusion and deprivation of citizenship cases; and seeking to contest and expose the inequities inherent in the closed procedure.

Freedom from Torture and the Survivors Speak OUT network campaign image, 2022. Credit: Freedom from Torture.

Laurie Fransman KC, **Edward Grieves KC**, **Stephanie Harrison KC**, **Sonali Naik KC**, **Duran Seddon KC**, **Amanda Weston KC**, **Ali Bandegani**, **Stephen Clarke**, **Eva Doerr**, **Emma Fitzsimmons**, **Helen Foote**, **Raza Halim**, **Peter Jorro**, **Maha Sardar**, **Nadia Omara**, **Isaac Ricca Richardson**, **David Sellwood**, **the late Navi Singh Ahluwalia**, and **Colin Yeo** work on cases that frequently refer to Cahal, several solicitor firms expert in this field, including Birnberg Peirce, Tyndallwoods, Wilson & Co, Duncan Lewis, Bindmans, and Deighton Peirce Glynn.

Ian Macdonald QC and **Richard Scannell** were appointed as Special Advocates in 1997 but resigned in 2004 in light of their experience of the appeals against indefinite detention under the Anti-terrorism, Crime and Security Act 2001. Ian described the 2001 law as "fundamentally flawed and contrary to our deepest notions of justice".

Unlawful Detention

Human Rights and Civil Liberties activists gather at Belmarsh Prison in London

26. BELMARSH NINE
27. HARDIAL SINGH V GOVERNOR
28. RE T (A CHILD)
29. ST V NOTTINGHAMSHIRE POLICE

26.
BELMARSH NINE

Indefinite detention of foreign nationals

House of Lords, 2004

The Belmarsh case concerned nine foreign nationals who could not be lawfully deported from the UK, because of risks to their safety, who were detained indefinitely as suspected terrorists under section 23 of the Anti-terrorism, Crime and Security Act 2001 (ATCSA 2001). The Special Immigration Appeals Commission declared section 23 of ATCSA to be incompatible with Articles 5 and 14 of the European Convention on Human Rights (ECHR), but the Court of Appeal overturned that decision. The House of Lords restored the judgment of the Commission and overturned the Court of Appeal's decision. The majority accepted that 9/11 created a "public emergency threatening the life of the nation" but held that section 23 of ACTSA did not rationally address the threat to security and was not "strictly required by the exigencies of the situation" within the meaning of Article 15 of the ECHR.

Detention under the legislation was disproportionate and discriminatory as it only applied to non-UK nationals, when the security threat from terrorism was not limited to that group. It, therefore, also breached Article 14 of the ECHR when read with Article 5 ECHR. As a result, the Human Rights Act 1998 (Designated Derogation) Order 2001 was quashed, and section 23 of ATCSA 2001 was declared incompatible with Convention rights under section 4 of the Human Rights Act 1998. On 3 April 2005, the derogation that had been inserted into Schedule 3 to the Human Rights Act 1998 was repealed and the Prevention of Terrorism Act 2005 repealed Part 4 of the 2001 Act. Ben Emmerson KC, Raza Husain (KC) and Philippe Sands KC represented seven of the appellants, instructed by Gareth Pierce. **Stephanie Harrison (KC)** represented two others C and D, led by Manjit Gill KC, instructed by Natalie Garcia of Tyndall Woods solicitors, whose individual appeals were also later conceded by the Secretary of State for the Home Department. Alex Balin, Lord David Pannick KC and Rabinder Singh (KC) represented the Interveners, Liberty.

LASTING IMPACT

This is a landmark judgment which underscores the role of the judiciary as a critical check on the powers of the executive in matters concerning national security in asserting the right to liberty and equality before the law. Central to the ruling reversing the judgment of the Court of Appeal was the rejection of the SSHD's argument that the executive was entitled to wide discretion in national security matters, as they were a matter for democratic decisionmakers, not judges. Lord Bingham selected the Belmarsh case as the most important decision of his career and it is best known for his emphatic defence of the role of the independent judiciary: "It is also of course true…that Parliament, the executive and the courts have different functions. But the function of independent judges charged to interpret and apply the law is universally recognised as a cardinal feature of the modern democratic state, a cornerstone of the rule of law itself. The Attorney General is fully entitled to insist on the proper limits of judicial authority, but he is wrong to stigmatise judicial decision-making as in some way undemocratic…" It was Parliament's will, by enacting the Human Rights Act 1998 and by conferring a right of appeal on derogation issues, that provided the Court with its function for holding the executive to account. There was no judicial overreach but a vindication of the central principle of equality in the rule of law.

27.
HARDIAL SINGH V GOVERNOR OF DURHAM PRISON

Limits on arbitrary immigration detention

High Court, 1984

Hardial Singh was an Indian national who entered the UK lawfully in 1977 and was given indefinite leave to remain. In 1982, he was prosecuted for burglary and while in custody, the Home Secretary issued a deportation order against him. On the day he was due to be paroled from prison, Mr Singh was detained, pending his removal under immigration powers. While in immigration detention, there had been a five-month delay by the Indian High Commission in issuing his travel documents.

Mr Singh, represented by **Terry Munyard**, instructed by Bradford Law Centre, applied for a writ of habeas corpus seeking his release.

The judge, Woolf J, held that that the Home Secretary's power under the Immigration Act 1971 to detain a person until their removal is subject to strict implied limitations: (i) the Home Secretary must intend to remove the person and can only use the power to detain for that purpose; (ii) the person may only be detained for a period that is reasonable in all the circumstances; (iii) if, before the expiry of the reasonable period, it becomes apparent that the Home Secretary will not be able to remove them within a reasonable period, he or she should not seek to exercise the power of detention; (iv) the Home Secretary should act with reasonable diligence and expedition to effect removal. The judge ordered that, unless the Home Office produced evidence within three days to show that Mr Singh was about to be removed, the court would order his release from custody.

LASTING IMPACT

This case established bedrock legal principles restricting the powers of administrative immigration detention, which were subsequently approved by the Supreme Court in *WL Congo v SSHD* in 2011. In the absence of a statutory time limit on the length of immigration detention, the *Hardial Singh* principles represent the principal constraint on the arbitrary exercise of the power to detain and ensures that individuals cannot be detained for an ulterior purpose, or indefinitely, when there is no realistic prospect of removal. It is these principles that also ensure that detention powers are exercised compatibly with Article 5 ECHR.

28.
RE T (A CHILD)

Safeguards for children in secure accommodation

UK Supreme Court, 2021

T was a vulnerable 15-year-old, who needed to be placed in secure accommodation for her safety due to significant emotional and psychological needs. Her local authority, Caerphilly County Borough Council, sought authorisation from the High Court to place her in an unregistered home, due to a shortage of places in officially registered secure children's homes. The Supreme Court upheld the High Court's authorisation, confirming that a young person could be placed in unregistered secure accommodation under a Deprivation of Liberty order, if it was the only available option to protect the child.

The court emphasised that using the inherent jurisdiction to approve unregistered placements should be exceptional and that any deprivation of liberty must be necessary, proportionate, and in the child's best interests. Furthermore, the judgment highlighted the lack of secure placement provision (which Lord Stephens called "scandalous", "disgraceful" and "utterly shaming") and stressed that reliance on unregistered accommodation as a substitute was deeply problematic.

Amanda Weston KC, **Amanda Meusz** and **Lyndsey Sambrooks-Wright** represented Caerphilly County Borough Council.

LASTING IMPACT

The Supreme Court reiterated the need for strict proportionality and safeguarding assessments when authorising placements in unregistered accommodation. While T's placement was authorised, the judgment underscored the urgent need for systemic improvements in the provision of secure children's homes and the need for such placements to align with the statutory framework of the Children Act 1989.

29.
ST V NOTTINGHAMSHIRE POLICE

False imprisonment of a 14-year-old boy

High Court, 2022

On 20 December 2011, ST, a 14-year-old boy, was arrested at 5:30am in his family home on suspicion of robbery and held for six hours, despite the police having limited information about the alleged offence.

ST was represented by **Sarah Hemingway** in a claim for false imprisonment, instructed by Gregsons Solicitors. After a five-day trial, although the County Court judge criticised the timing of the arrest as "disturbing", "reprehensible" and "lamentable", it was found to be lawful.

On appeal, the High Court overturned the decision, emphasising that the police must consider a child's best interests when determining the necessity of an arrest applying the Police and Criminal Evidence Act 1984 (PACE) codes of practice. Officers should prioritise less intrusive alternatives, with safeguarding and welfare at the forefront of any decision. The judge ruled that timing and location can significantly influence the necessity of an arrest, particularly of children.

LASTING IMPACT

This case was the culmination of a decade long pursuit of justice for ST. It led to significant changes in police training nationwide, ensuring officers recognise the need to treat children differently from adults, prioritising their best interests and welfare, as well as the objective of diverting children from the criminal justice system. It is a seminal case on the arrest of children.

Climate Justice

30. PERGAU DAM
31. VEREIN KLIMASENIORINNEN SCHWEIZ V SWITZERLAND
32. FINCH V SURREY COUNTY COUNCIL

KlimaSeniorinnen. Credit: By Hadi - Own work, CC0

30.
PERGAU DAM

The right of NGOs to bring legal challenges

High Court, 1995

This trail-blazing judicial review brought by the World Development Movement, challenged the decision of the UK government to provide aid to fund the Pergau Dam in Malaysia, a hydro-electric power station, in exchange for a major arms deal.

The first issue before the Divisional Court was whether the World Development Movement, despite its lack of a direct legal or financial interest in the case, had standing to bring the case. The Court accepted that it did. It held that "standing should not be treated as a preliminary issue, but must be taken in the legal and factual context of the whole case"; that "the merits of the challenge are an important, if not dominant, factor when considering standing," along with "the importance of vindicating the rule of law", "the importance of the issue raised", "the likely absence of any other responsible challenger", "the nature of the breach of duty against which relief is sought", and "the prominent role of these applicants in giving advice, guidance and assistance with regard to aid".

Owen Davies (KC) acted for the World Development Movement, instructed by Bindmans.

LASTING IMPACT

This ruling set a precedent for NGO challenges and continues to be widely cited in judicial review cases. It was vitally important in allowing NGOs to bring legal challenges in the public interest to vindicate the rule of law and to ensure accountability of public authorities for unlawful decision-making. The Court went on to allow the substantive claim for judicial review, holding that the decision to provide the £234m funding was not within the statutory purposes permitted by section 1(1) of the Overseas Development and Co-operation Act 1980 of "promoting the development or maintaining the economy of a country....or the welfare of its people", because the development was "so economically unsound that there is no economic argument in favour the case". In this regard it is also a seminal case on the misuse of foreign aid.

31.
VEREIN KLIMASENIORINNEN SCHWEIZ V SWITZERLAND

States' duty to protect citizens from climate change

European Court of Human Rights, 2024

The landmark ruling by the European Court of Human Rights (ECtHR) in KlimaSeniorinnen established that states have a duty to undertake effective measures to mitigate and adapt to climate change to protect the human rights of their citizens.

In KlimaSeniorinnen, the ECtHR held that Switzerland's failure to take sufficient action against climate change violated the rights of older Swiss women, particularly highlighting the adverse impact on their health and living conditions due to their vulnerability to heatwaves. This case set a legal precedent that state inaction on climate issues can constitute a violation of human rights, emphasising the need for them to protect vulnerable populations from the impacts of climate change.

Marc Willers KC was part of a team representing the applicants, instructed by Greenpeace International.

LASTING IMPACT

This case marks a pivotal moment in climate justice. It is a turning point for the ability of ordinary people to bring legal claims to demand that states take action on the climate crisis and a key reference point for future generations. Its significance cannot be overestimated in establishing a novel legal principle: states must proactively and effectively address climate change to fulfil their human rights obligations under the European Convention on Human Rights (ECHR), ensuring the protection of all citizens, especially those most vulnerable to adverse climate impacts. This ruling should pave the way for future legal action and policies globally, empowering citizens to demand stronger governmental action on climate change.

32.
FINCH V SURREY COUNTY COUNCIL

Fossil fuels and climate change

UK Supreme Court, 2024

Sarah Finch, a concerned local resident, succeeded in quashing a decision by Surrey County Council to grant planning permission for oil extraction for 20 years at Horse Hill in Surrey. This Supreme Court decision marked the end of a five-year legal battle by Ms Finch and the Weald Action Group, who argued that the council's failure to assess the impact of downstream greenhouse gas emissions, that would arise from the combustion of the oil extracted from Horse Hill, was an error of law. The court agreed with Ms Finch, concluding that the emissions were clearly indirect effects of the development. It emphasised the need for decision makers to be provided with full information on all the environmental impacts of a proposed development, and for there to be public consultation before a decision is taken, saying: "You can only care about what you know about." The Court rejected the arguments from the council, Horse Hill Development Limited, and the Secretary of State, which included the suggestion that if oil was not extracted from the Horse Hill site, it would be substituted by oil produced in another location, and the idea that "if environmental harm is exported it may be ignored."

Marc Willers KC represented Ms Finch, with Estelle Dehon KC and Ruchi Parekh, instructed by Leigh Day Solicitors.

LASTING IMPACT

This is the first time the highest court in any jurisdiction has addressed the interpretation of the Environmental Impact Assessment Directive in the context of fossil fuel extraction and is likely to be followed by courts in other EU states, and beyond. It makes clear that consideration has to be given to the full environmental impacts of any fossil fuel extraction.

As a result of this case, other such projects have been withdrawn or overturned - for example, the government conceded that planning permission for the Whitehaven coal mine in Cumbria had been unlawfully granted and withdrew its defence to a legal challenge.

Image: Sarah Finch speaks to the media outside the Supreme Court, 2024. Credit: SOPA Images Limited/ Alamy Live News.

Protest Rights

Protesters throw statue of Edward Colston into Bristol harbour during a Black Lives Matter protest rally, 2020
Credit: Ben Birchall / Alamy Stock Photo

33.
DPP V ZIEGLER AND OTHERS

The right to be 'obstructive' in Anti-arms-trade protest

UK Supreme Court, 2021

The case involved anti-arms trade protesters who blocked a road leading to London's Excel Centre, where an arms fair was being held. They were charged under section 137 of the Highways Act 1980 for obstructing the public highway after locking themselves together and lying down in the road. The protestors were all acquitted at trial. The High Court overturned the acquittals, criticising the District Judge for giving undue weight to the right to protest and their opposition to the arms trade. The Supreme Court reinstated the acquittals, confirming that the protection of the right to protest under Articles 10 and 11 European Convention on Human Rights (ECHR) extends to a protest which is intentionally disruptive and obstructs others, although it is a relevant factor in the assessment of proportionality. The District Judge was correct to take into account other factors in the proportionality assessment, including that the appellants' action was peaceful with no form of disorder, did not involve the commission of any offence other than the alleged section 137 offence, was carefully targeted at vehicles heading to the arms fair, involved no complete obstruction of the highway, and was of limited duration (lasting 90-100 minutes).

Blinne Ni Ghrálaigh (KC) and **Owen Greenhall** were led by **Henry Blaxland KC** in the Divisional Court and the Supreme Court, instructed by Hodge Jones & Allen and Bindmans.

LASTING IMPACT

Ziegler is a high-water mark in the protection of peaceful protest that is disruptive to others. The Supreme Court clarified that deliberate physically obstructive conduct by protesters could, in some circumstances, have a "lawful excuse" for the purposes of section 137, even if the impact on other highway users was more than minimal. An assessment of the facts in each individual case was necessary to determine whether the interference with the protesters' rights, under Articles 10 and 11 of the European Convention on Human Rights, was proportionate. Determining proportionality requires assessing whether a fair balance was struck between protesters' rights and community interests. This fact-specific inquiry includes considering the degree of obstruction, the nature of the protest, and any other offences committed. Significantly, the Supreme Court permitted consideration of the merits of the protest. It highlighted that trial courts should assess whether the issues prompting the protest are "very important", thus attributing weight to them in the proportionality balance. Furthermore, the court emphasised the importance of tolerance for disruption to ordinary life, including traffic, resulting from the exercise of the Article 10/11 rights to freedom of expression and peaceful assembly.

Image: Supporters of Campaign Against the Arms Trade stand outside the High Court. Credit: Mark Kerrison/Alamy Live News

34.
COLSTON FOUR

Black Lives Matter protests

Bristol Crown Court, 2022

Rhian Graham, Milo Ponsford, Jake Skuse and Sage Willoughby, were acquitted by a Bristol jury of criminal damage after the June 2020 toppling of the statue of slave trader Edward Colston. Known collectively as the Colston Four, they had pulled down the statue and dunked it in the harbour as an act of protest and in solidarity with the Black Lives Matter movement, which reverberated around the world that year.

Tom Wainwright, defending Mr Ponsford, instructed by GT Stewart Solicitors, said in his closing speech to the jury that the events of 7 June 2020 "did not destroy history, they created history". Adding: "Democracy doesn't start and end at the ballot box. The right to protest is part of our history, our democracy, our constitution and the rule of law. Protest is not a departure from democracy, it is absolutely essential to it."

LASTING IMPACT

The jury's verdict was widely seen as a victory for local justice and as a vindication of the right to protest as part of the wave of action across the world against racism and police brutality. It represented a symbolic moment in Britain's reckoning with its colonial and imperial past. The protests sparked a national conversation and led to a number of local authorities, companies and other organisations throughout the country confronting their links with the slave trade and removing racist and offensive memorials.

35.
STANSTED 15

Peaceful protestors facing terrorism charges

Court of Appeal, 2021

The Stansted 15 were Helen Brewer, Lyndsay Burtonshaw, Nathan Clack, Laura Clayson, Melanie Evans, Joseph McGahan, Benjamin Smoke, Jyotsna Ram, Nicholas Sigsworth, Melanie Strickland, Alistair Tamlit, Edward Thacker, Emma Hughes, May McKeith and Ruth Potts. They were a group of protestors who took action to stop a deportation flight intended to remove people from the UK, some of whom were at risk of serious harm in their home countries. Subsequently, at least 11 of those due to be removed were found to have the right to remain in the UK, with a number found to have been victims of human trafficking or at risk due to their sexuality.

Following a trial at Chelmsford Crown Court, the 15 protestors were convicted of Endangering Safety at an Aerodrome contrary to s.1(2) of the Aviation and Maritime Security Act 1990, an offence associated with terrorism and carrying a maximum penalty of life imprisonment.

After hearing mitigation, the trial judge was persuaded that although this was an offence which would normally carry a custodial sentence, in light of the defendants' Article 10 and 11 rights under the European Convention on Human Rights (ECHR), and their positive good character, none would be sent to prison. Twelve defendants were given community orders and three suspended sentences. On appeal, the Court of Appeal quashed the convictions under s.1(2) of the 1990 Act, holding that, "taking the Crown's case at its highest and considering all relevant potential consequences, it could not be established to the criminal standard that the actions of the defendants created disruption to the services of Stansted airport which was likely to endanger its safe operation or the safety of persons there." It went on to hold that the defendants "should not have been prosecuted" for this offence, and that, although "the various summary-only offences with which the defendants were originally charged, if proved, might well not reflect the gravity of their actions," that did not allow the use of an offence which "aims at conduct of a different nature".

Nine of the 15 Defendants were represented by seven members of Garden Court: **Dexter Dias KC**, **Abigail Bache**, **Jacob Bindman**, **Owen Greenhall**, **Terry Munyard**, **Tom Wainwright** and **Susan Wright**, instructed by Hodge Jones & Allen.

LASTING IMPACT

All the defendants avoided prison when originally convicted, and their convictions were subsequently quashed on appeal. This case shows that the courts will not accept peaceful protestors being charged under legislation intended to tackle serious violence of a terrorist nature.

Jubilant protesters outside the Houses of Parliament, after hearing the news of the Lords vote on general Pinochet, 1988
Credit: john voos / Alamy Stock Photo

Access to Justice

36. MUSSINGTON V DEVELOPMENT CONTROL AUTHORITY
37. GENERAL PINOCHET EXTRADITION
38. ANUFRIJEVA V SECRETARY OF STATE FOR THE HOME DEPARTMENT

36.
MUSSINGTON V DEVELOPMENT CONTROL AUTHORITY

The right to bring judicial review

Privy Council, 2024

John Mussington and Jacklyn Frank, citizens concerned about the environment, brought a judicial review challenging the Antigua & Barbuda Development Control Authority's 2018 decision to grant a development permit for the construction of an airport on Barbuda. The Eastern Caribbean Court of Appeal dismissed their claim on the ground that they lacked standing to bring the claim.

The Privy Council upheld the appellants' appeal against that decision on the basis that they had "a genuine interest and sufficient knowledge of the subject" to meet the requirements for standing in environmental cases. In doing so, the Privy Council endorsed and expanded the principle in the earlier case of *Walton v Scottish Ministers* on standing, providing clear guidance that in environmental judicial reviews, expertise in the subject matter is not required — some knowledge or concern is sufficient. The Privy Council gave examples of an amateur ornithologist, birdwatcher, fisherman, local historian, or a local resident, who may all have standing where projects have relevant impacts on birds, fish, historic sites, or a local beauty spot. The potential noise and disruption flowing from the operation of the airport in close proximity to their homes, together with concerns over the quality of drinking water as a result of the airstrip's operation, was held to "clearly demonstrate" that both appellants are substantially affected within the standing rules in Eastern Caribbean CPR 56.2(2)(a).

Leslie Thomas KC, **Marc Willers KC**, **Stephen Cottle** and **Thalia Maragh a**cted pro bono in the proceedings, assisted by **David Watkinson** and **Claudia Neale**, instructed by Sheridans. Global Legal Action Network (GLAN) supported the case.

LASTING IMPACT

The case greatly strengthens the ability of citizens to bring environmental protection cases, and hold governments and private entities to account, for adverse environmental, habitat and community impacts.

Barbuda Land Rights and Resources Committee. Credit: The Global Legal Action Network.

37.
GENERAL PINOCHET EXTRADITION

Challenging a torturer's immunity

House of Lords, 2000

General Pinochet, the former dictator of Chile, was arrested on a visit to London, with a view to extraditing him to Spain, following warrants issued by Spanish courts, including charges of torture. Pinochet challenged the extradition by judicial review claiming, as a former Head of State, his actions were covered by state immunity under International and English law. Pinochet succeeded before the Divisional Court. The House of Lords allowed the appeal by a majority of three to two, but that decision was set aside, on the basis of apparent bias, because Lord Hoffmann's wife had links with Amnesty International who were intervening. The ruling was set aside and heard by a differently constituted court. Again, the majority of their Lordships held that, although Pinochet had immunity in respect of his official acts as a former Head of State, this immunity did not apply to acts of torture committed after 8 December 1988, when Chile, Spain, and the UK had all ratified the UN Convention against Torture (UNCAT), which provided for universal jurisdiction to prosecute acts of torture committed by public officials.

Owen Davies KC and **Frances Webber** represented Amnesty International and other intervenors in the case, instructed by Geoffrey Bindman of Bindmans.

LASTING IMPACT

This ruling represented a major step in holding political leaders and government officials accountable for torture, asserting the universal jurisdiction and the obligation of all signatory states to take positive action to bring those who are responsible for torture to justice.

38.
ANUFRIJEVA V SECRETARY OF STATE FOR THE HOME DEPARTMENT

The right to be notified of official decisions

House of Lords, 2004

Nadezda Anufrijeva was a Lithuanian of Russian origin and an asylum seeker. She was refused asylum on 19 November 1999, without her knowledge, and her entitlement to income support was terminated on 9 December 1999. The asylum refusal was not actually sent to her until 25 April 2000. She challenged the decision to treat her asylum claim as determined before the decision was communicated to her, and claimed the decision to terminate her income support was, therefore, unlawful. In the House of Lords, the majority held that the decision refusing asylum did not have legal effect until it was communicated to her.

Nicola Braganza (KC) acted for Ms Anufrijeva, led by Richard Drabble KC, instructed by Ole Hansen & Co.

LASTING IMPACT

This case established the right to notice of adverse decisions as a fundamental principle of administrative law. As Lord Steyn held: "The constitutional principle requiring the rule of law to be observed" requires that "a constitutional state must accord to individuals the right to know of a decision before their rights can be adversely affected". He further observed: "The antithesis of such a state was described by Kafka: a state where the rights of individuals are overridden by hole-in-the-corner decisions or knocks on doors in the early hours. That is not our system."

Housing Justice

Signage at Grenfell Tower. Credit: Aaron Chown / Alamy Stock Photo

39.
GRENFELL TOWER PUBLIC INQUIRY

Exposing 'systematic dishonesty' that led to 72 deaths

2017- 2023

The Grenfell Tower Inquiry was set up to investigate the fire at the 24-storey block of flats in West London on the night of 14 June 2017, which killed 72 people and disproportionately impacted Black and minoritised ethnic groups. It was chaired by Sir Martin Moore-Bick. Phase 1 focused on the factual narrative of the events on the night of the blaze; Phase 2 examined the causes of these events, including how the building was in a condition which allowed the fire to spread in the way identified by Phase 1.

Nine past and present members of Garden Court Chambers represented bereaved family members and survivors in the Inquiry: **Danny Friedman KC**, **Rajiv Menon KC**, **Allison Munroe KC**, **Leslie Thomas KC**, **Pete Weatherby KC**, **Liz Davies (KC)**, **Jesse Nicholls**, **Ifeanyi Odogwu**, and **Thalia Maragh**. Their solicitors included Bhatt Murphy, Bindmans, Birnberg Peirce, Deighton Pierce Glynn, Duncan Lewis, Hickman & Rose, Hodge Jones & Allen, Saunders Law and Saunders Solicitors. **Patrick Roche** represented bereaved family members and survivors in their claims for damages arising from the disaster.

LASTING IMPACT

The Grenfell Tower Inquiry's final report sets out how a chain of failures across government and the private sector led to Grenfell Tower becoming a death trap. The external cladding added to the building was found to be the "principal" reason for the blaze's rapid spread, with "systematic dishonesty" by the cladding companies contributing to the horrific fire. The report revealed years of missed opportunities to prevent the catastrophe and that those responsible had put their commercial interests above residents' safety.

The system for regulating the construction and refurbishment of high-rise residential buildings in place at the time of the disaster was found to be "seriously defective". The government had failed to actively monitor that system or take appropriate steps to deal with known issues. In 2016 "the government was well aware of the risks, but failed to act on what it knew." The Tenant Management Organisation (TMO) and the Royal Borough of Kensington and Chelsea were marked by a "persistent indifference to fire safety". Wholesale change and reform have been identified as necessary to prevent continuing failure and risk of future fires.

40.
LISA SMITH V SECRETARY OF STATE FOR LEVELLING UP, HOUSING & COMMUNITIES

Protecting elderly and disabled Gypsies and Travellers

Court of Appeal, 2022

Lisa Smith was a Romani Gypsy living in caravans on a site with temporary planning permission. Her application for permanent permission was refused by the council and a planning inspector dismissed her appeal. The inspector had concluded that Ms Smith did not meet the planning definition of a "Gypsies and Travellers" in the Planning Policy for Traveller Sites (PPTS 2015) because she had permanently ceased travelling due to old age and disability; and therefore she could not rely on favourable planning policy in PPTS 2015. Ms Smith challenged that decision and the Court of Appeal ruled that the planning definition of "Gypsies and Travellers" was unlawful because it was indirectly discriminatory on grounds of race, age and disability. The Court ruled that the policy definition and its explanation in the equality impact assessment did not meet a legitimate aim, was not justified nor proportionate.

Marc Willers KC and **Tessa Buchanan** represented Ms Smith, instructed by Deighton Pierce Glynn. **Owen Greenhall**, led by David Wolfe KC, acted for the intervenors: London Gypsies and Travellers; Friends, Families and Travellers; Derbyshire Gypsy Liaison Group; and Southwark Travellers Action Group, instructed by Community Law Partnership. They provided compelling evidence of the disastrous effects of the policy.

LASTING IMPACT

The case emphasised the importance of bringing a policy challenge where it "affects real people in the particular circumstances of the case in hand". The recognition of the discriminatory impact on the most vulnerable members of the Gypsy and Traveller communities prompted the government to issue a new inclusive policy definition, thereby compelling local authorities to reassess caravan site provisions for Gypsies and Travellers, ensuring availability to those previously excluded because they no longer travel due to age or disability.

41.

WOLVERHAMPTON CITY COUNCIL V LONDON GYPSIES AND TRAVELLERS

Bans against 'persons unknown'

UK Supreme Court, 2024

Between 2015 and 2020, numerous local authorities obtained wide-ranging civil injunctions against "persons unknown", prohibiting unauthorised camping on public land, significantly impacting the traditional nomadic lifestyle of Gypsy and Traveller communities. These "borough-wide injunctions" left very few stopping places and put people at risk of contempt proceedings without having an opportunity to contest the order, to explain their individual circumstances and the impact on their family and private lives.

London Gypsies and Travellers, Friends Families and Travellers, and the Derbyshire Gypsy Liaison Group contested the widespread use of "persons unknown" injunctions. Friends of the Earth and Liberty intervened to highlight similar draconian impacts on the right to protest. The Supreme Court ruled that such injunctions could, in principle, be granted against "persons unknown", but it was an exceptional measure which could only be justified by a compelling need. It endorsed the earlier judgement of the Court of Appeal, in *Bromley London Borough Council v Persons Unknown*, which had emphasised the importance of protecting the fundamental rights of the Gypsy and Traveller community.

Marc Willers KC, **Tessa Buchanan** and **Owen Greenhall** represented London Gypsies and Travellers, Friends Families and Travellers, and the Derbyshire Gypsy Liaison Group, instructed by Community Law Partnership. **Stephanie Harrison KC**, **Stephen Clark** and **Fatima Jichi** represented Friends of the Earth.

LASTING IMPACT

While the Supreme Court's ruling authorised the use of such orders, they must be judiciously applied, with strict limitations on scope and duration, to ensure they are proportionate and justifiable. It also established specific safeguards protecting the rights of Gypsies and Travellers, underscoring the need for legal measures to consider the significant impacts on the lives of these communities.

It also built upon the important earlier decision of the House of Lords in *South Bucks DC v Porter and Others* in 2004 which had held that the Court was obliged, when imposing an injunction, to consider the individual circumstances and proportionate use of an injunction under Article 8 of the European Convention on Human Rights, despite a breach of planning laws which was not decisive in that case. **Stephen Cottle** acted for Mrs Porter and Mr Berry, instructed by Community Law Partnership.

While the Supreme Court's ruling authorised the use of such orders, they must be judiciously applied, with strict limitations on scope and duration, to ensure they are proportionate and justifiable. It also established specific safeguards protecting the rights of Gypsies and Travellers, underscoring the need for legal measures to consider the significant impacts on the lives of these communities.

London Gypsy and Traveller Unit in parliament square. 21 May, 2016. Credit: Peter Marshall / Alamy Stock Photo.

42.

R (TMX) V CROYDON COUNCIL

Housing disabled asylum seekers.

High Court, 2024

TMX was a 50-year-old asylum seeker with severe disabilities housed in wholly unsuitable Home Office hotel accommodation with his wife and children, with Croydon Council refusing to accept a duty to accommodate under the Care Act 2014.

In a ground-breaking judgment, the High Court ruled that the local authority did have a duty to accommodate him. It was legally irrelevant that he had asylum accommodation and support under the Immigration and Asylum Act 1999 – duties under the Care Act took precedence. Moreover, leaving TMX and his family in conditions adversely impacting his daily life and dignity, exacerbating his medical conditions and severely restricting his personal life and mobility, was held to be degrading treatment in breach of Article 3 and a disproportionate interference with his family and private life contrary to Article 8 European Convention on Human Rights (ECHR).

Nadia O'Mara and **Gráinne Mellon** represented TMX, instructed by TV Edwards.

LASTING IMPACT

TMX clarified the circumstances in which local authorities have duties to accommodate and support destitute asylum seekers with needs arising from physical and/or mental impairments under the Care Act 2014. Where the individual has "accommodation-related" needs for care and support which the local authority is responsible for meeting, the local authority cannot rely on the availability of Home Office asylum support accommodation as meeting those needs. Exceptionally, the Court made a mandatory order for the local authority to accommodate TMX and his family, and they were moved to a suitable flat.

The case sets an important precedent for the need for humane treatment of disabled asylum seekers. This judgment also marked a rare instance where a local authority had been found to be in breach of both Article 3 ECHR and Article 8 ECHR due to its non-compliance with Care Act duties.

43.

HACKNEY V OKORO

Protecting tenants during the pandemic

Court of Appeal, 2020

Kevin Okoro was a tenant who successfully argued that appeals against a possession order were within Practice Direction 51Z, an emergency Covid-19 measure which imposed an automatic stay on residential possession proceedings during the pandemic. The Court of Appeal rejected the argument by his landlord, Hackney London Borough Council, that possession appeals were excluded from the emergency legislation.

Timothy Baldwin, led by the late **Stephen Knafler QC**, represented Mr Okoro, instructed by Hackney Community Law Centre.

LASTING IMPACT

This case expanded the scope of the protection of automatic stays on possession proceedings, allowing many tenants to avoid eviction and homelessness during the Covid-19 pandemic.

People marching to demand better homes and an end to the housing crisis. London, 2015. Credit: Guy Bell / Alamy Stock Photo

44.
AKERMAN-LIVINGSTONE V ASTER COMMUNITIES

Fair treatment of disabled tenants

Supreme Court, 2015

Mr Akerman-Livingstone was a homeless disabled tenant with chronic and severe mental ill health, who had been placed in a temporary housing association flat. A claim for possession was made after he refused alternative longer-term accommodation, and his disability was raised by way of explanation and a defence based on unlawful discrimination contrary to section 15 of the Equality Act 2010 (EA).

The County Court, High Court and Court of Appeal all summarily rejected his defence - without a hearing. The Supreme Court disagreed. It held that, usually, such defences raised by tenants would require full consideration on their merits. The Court made clear that the substantive right to equal treatment is not the same, and is additional to, the European Convention on Human Rights (ECHR) Article 8 right: it applies to private as well as public landlords; it prohibits discriminatory treatment, for example, by evicting a Black person where a white person would not be evicted; and it grants additional rights to disabled people to reasonable adjustments to meet their particular needs. The EA 2010 is a stronger protection, puts a burden on the landlord to show that there were no less drastic means available and that the effect on the occupier was not disproportionate. It would not be appropriate to summarily dismiss a claim if genuinely disputed on substantial grounds, and where disclosure or expert evidence might be required.

Jan Luba KC acted for the tenant, instructed by Shelter, and led Russell James and Catherine Casserley.

LASTING IMPACT

This case established the key right of tenants, even without security of tenure, to advance a defence to possession proceedings based on discrimination grounds. This applies to all protected groups whether based on disability, race, religion, sex, gender identity, sexuality or age. As the Supreme Court explained, the right to equal treatment is a distinct right which can provide a wider and stronger protection for tenants seeking to avoid eviction than Article 8 ECHR, although both can be advanced at the same time thanks to this case, and the important earlier case of *Hounslow V Powell*, *Leeds CC V Hall*, *Birmingham CC V Frisby* in 2011. In this case the Supreme Court held that such tenants could defend possession claims on the grounds that evicting them would not be "proportionate", for the purposes of Article 8 ECHR provided that they could show that such a defence was "seriously arguable". The tenants were represented by **Jan Luba KC** leading Adam Fullwood of Garden Court North, **Kevin Gannon** and Michael Singleton, instructed by Scully & Sowerbutts Solicitors.

Equality

45. DUDGEON V UK
46. FITZPATRICK V STERLING HOUSING ASSOCIATION
47. A V WEST YORKSHIRE POLICE
48. BURNIP V BIRMINGHAM CITY COUNCIL AND SECRETARY OF STATE FOR WORK AND PENSIONS
49. TYLER V PAUL CARR ESTATE AGENTS
50. HOUNGA V ALLEN

Giant rainbow flag floating at Parliament square. Credit: Gianni Muratore / Alamy Stock Photo

45.
DUDGEON V UK

A landmark for gay rights

European Court of Human Rights, 1981

Dudgeon v UK is a seminal case in gay rights. It challenged the law in Northern Ireland that criminalised sex between adult men in private, with the European Court of Human Rights (EctHR) ruling it incompatible with the right to private life protected by Article 8 European Convention on Human Rights (ECHR).

Jeff Dudgeon, a shipping clerk and gay rights activist from Belfast, brought the claim in 1976, after he had been intensely questioned by the police about his sex life although no charges were brought against him.

Terry Munyard, alongside Lord Tony Gifford, instructed by Paul Crane Solicitors, successfully argued that the fear, suffering, and psychological distress caused by the very existence of the law was sufficient to constitute a breach of Article 8 ECHR private life rights.

LASTING IMPACT

The decision in *Dudgeon* was a pivotal ruling in several aspects. It was the first successful challenge to the criminalisation of male homosexuality. It led to significant legal reforms in Northern Ireland aligning its laws on homosexuality with those in other parts of the UK in 1982. As a legal precedent, it set in train subsequent cases, such as *Norris v Ireland*, furthering the decriminalisation of homosexual acts across many jurisdictions within the Council of Europe. It ultimately paved the way for the equalising of age of consent, albeit some years later in 2000, meeting the ultimate aim of campaigners like Mr Dudgeon and many others.

The case also influenced global human rights law, with the US Supreme Court's landmark decision in *Lawrence v Texas* drawing on the ruling in *Dudgeon*, to hold that the criminalisation of sexual activity between consenting same-sex adults was a violation of the US Constitution.

46.
FITZPATRICK V STERLING HOUSING ASSOCIATION

Housing equality for same sex couples

House of Lords, 2001

Martin Fitzpatrick and John Thompson were a gay couple, who had lived together in a flat rented by Mr Thompson from 1972 until his death in 1994. Mr Fitzpatrick wished to continue to live in their family home and to succeed his partner in the tenancy. At the time, there was no legal recognition for gay marriage or civil partnership, making it necessary to argue that "husband or wife" or "family" was capable of including a same-sex partner. The claim by Mr Fitzpatrick was rejected by the Court of Appeal. Despite expressing sympathy for him and acknowledging his long-term relationship and caregiving role, the Court ruled that none of the terms included a same sex partner, and said it was Parliament's responsibility to amend the law. The House of Lords did not agree. A purposive interpretation was required, and the law needed to reflect changing societal attitudes to relationships. While the Court did not accept that the expression "wife or husband" includes a same-sex partner, it was held that a same-sex partner could be "a member of the original tenant's family". The long-term and committed nature of the relationship between the two met the familial criteria needed for tenancy succession.

Jan Luba (KC) represented Mr Fitzpatrick, with **Nicholas Blake KC** leading in the House of Lords, instructed by John Ford Solicitors.

LASTING IMPACT

This decision broadened the legal definition of "family" to include same-sex couples, reflecting a more inclusive understanding of familial relationships. It was hailed as a significant victory for gay and lesbian rights, marking a progressive move towards legal recognition of same sex relationships. The Court's adoption of a purposive and updated approach to statutory interpretation, to take account of contemporary attitudes and reality of people's lives, was a critical aspect of the legal ruling, which would set an important precedent more closely aligned to the approach in human rights law.

47.
A V WEST YORKSHIRE POLICE

Employment discrimination against transgender people

House of Lords, 2004

Ms A was a post-operative transgender woman who was denied employment as a police constable. West Yorkshire Police argued that under domestic law, Ms A was considered male because that was her biological sex recorded at birth and she was, therefore, unable to legally carry out searches that required a same-sex officer. Ms A relied on the landmark European Court of Justice judgment of *P v S 1996*, which had ruled that dismissing a person from employment because they had undergone gender reassignment was unlawful sex discrimination, contrary to the Equal Treatment Directive.

The House of Lords upheld the Employment Tribunal's ruling in favour of Ms A, that in order to give effect to the Equal Treatment Directive, the words "the same sex" in s 54 of PACE 1984 and "woman", "man" and "men" in the Sex Discrimination Act 1975 had to be read as referring to the "acquired gender" which, in Ms A's case, meant treating her as a woman.

Ms A was represented by **Stephanie Harrison (KC)**, instructed by Sonia Burgess, and led by **Nicholas Blake KC** in the House of Lords, instructed by the Equal Opportunities Commission.

LASTING IMPACT

This was a crucial case in giving a legal effect to a trans person's acquired gender and recognition to change of sex, applying principles of equal treatment, at a time when there was no provision for legal recognition of a trans person's acquired gender in English law. The judgment recognised Ms A as a woman for certain legal purposes. It set an important precedent for protecting transgender rights in employment, which aligned with the ruling of the European Court of Human Rights in *Goodwin v UK*, which had ruled that the UK's refusal to amend birth certificates to reflect a change of sex was a breach of Article 8 European Convention on Human Rights (ECHR). Together with other developments, this led to significant changes to the law with the Gender Recognition Act 2004.

48.
BURNIP V BIRMINGHAM CITY COUNCIL AND SECRETARY OF STATE FOR WORK AND PENSIONS

Challenging disability discrimination in housing

Court of Appeal, 2012

Ian Burnip and the late Lucy Trengove were severely disabled and needed the assistance of full-time carers overnight. Regulation 13D(3) of the Housing Benefit Regulations 2006 limited, through "size criteria", the number of rooms for which they were entitled to receive benefits, and meant that a room could not be made available to their carers without financial hardship for them. The Court of Appeal held the regulation to be a discriminatory breach of their human rights, as the rule failed to take account of the differences between disabled and non-disabled people (drawing on *Thlimmenos v Greece*) and therefore did not make any allowance for the essential housing needs of severely disabled people who need additional space. The Secretary of State had failed to establish any objective and reasonable justification for the discriminatory impact of the Regulations.

Desmond Rutledge, led by Richard Drabble KC, represented Rebecca Trengove, acting on behalf of her late daughter Lucy, instructed by Birmingham Law Centre.

LASTING IMPACT

The "bedroom tax" was introduced by the coalition government. This important case underscored the severe hardship imposed on vulnerable adults and children by the tax. It exposed how these measures were discriminatory, unjustified, and disproportionate in their impact.

Image: protest at discrimination against housing benefit claimants. Credit: Patricia Phillips / Alamy Stock Photo

49.

TYLER V PAUL CARR ESTATE AGENTS

"No DSS" policy declared unlawful

York County Court, 2020

This groundbreaking civil claim was brought against a firm of letting agents by a disabled claimant, Stephen Tyler, who was in receipt of state benefits. The claimant had been informed that he could not apply to rent three properties being marketed by the agents because he was in receipt of housing benefit. He brought a successful claim for discrimination based on disability grounds. The judge declared the letting agent's policy of automatically rejecting tenancy applications from applicants in receipt of benefits was unlawful. It was indirectly discriminatory, as disabled people were more likely to be in receipt of housing benefit than the general population. The defendant did not argue that the policy could be justified. The judge also awarded £6,000 in damages.

Tessa Buchanan represented Stephen Tyler, instructed by Shelter.

LASTING IMPACT

This case was the first in which a "No DSS" policy has been declared unlawful. It was an important step forward in protecting the rights of disabled tenants, many of whom face a hostile private rental market and the threat of homelessness. The case also had implications for renters across the country.

"No DSS" policies, under which landlords and letting agents operate a blanket ban against people on Housing Benefit, had been widespread in the private rented sector for many years. These policies effectively excluded people from properties which are suitable and affordable for them, without any consideration of their individual circumstances, solely because they are poor and in receipt of benefits. Research by Shelter was important to show that disabled people are more likely to be in receipt of benefits, and so disproportionately affected by "No DSS" policies.

50.
HOUNGA V ALLEN

Employment rights for a trafficked domestic worker

Supreme Court, 2014

Ms Hounga was a Nigerian national, who was trafficked to England aged 14 to work as a domestic servant for a British family.

The family took steps to obtain a passport and visa for her with a false identity, and she was then forced to work for them in the UK, without pay and subject to serious physical abuse. She was threatened that if she tried to leave, she would be imprisoned because she was in the UK illegally. Ultimately, she was forcibly evicted and dismissed by the family.

After her dismissal, Ms Hounga brought a number of claims before the Employment Tribunal. All but one of these were dismissed, because her contract of employment was unlawful, but the Tribunal upheld her claim for dismissal on racially discriminatory grounds. However, the Court of Appeal subsequently rejected the distinction made by the Tribunal, ruling that all Ms Hounga's claims should be rejected.

Ms Hounga then took her case to the Supreme Court, which overruled the Court of Appeal's decision and upheld her right to bring a race discrimination claim, restoring the award of damages and sending her claim for harassment back to the tribunal to be decided.

Jan Luba KC, **Michelle Brewer**, **Kathryn Cronin** and **Ronan Toal**, instructed by Public Interest Lawyers, acted pro bono for Interveners Anti-Slavery International, who had provided a report for the tribunal identifying Ms Hounga as a child victim of human trafficking.

LASTING IMPACT

This ruling established that undocumented migrant workers – who are often vulnerable to extreme abuse and forced to work in conditions of modern slavery - are entitled to protection from discrimination in employment. The judgment of the Court of Appeal denied all undocumented migrant workers any labour rights and would have permitted employers to benefit from their own illegal conduct. The Supreme Court ruling was, therefore, fundamental in achieving some essential employment rights and protection for migrant workers without lawful immigration status. In rejecting the employers' defence of illegality, the Court, acknowledged the public policy interest in upholding the integrity of the legal system, but also identified that another important aspect of public policy in play was countering international trafficking of vulnerable people and providing them with protection.

The Supreme Court held that it would be an affront to current public policy against trafficking to allow the employer to evade liability because of the illegality of the contract agreed between them. This judgment was the first to address and vindicate the protections afforded by Article 4 ECHR and other Conventions against human trafficking and modern slavery which are now well established in domestic and international law.

50 Books

A selection of 50 key books authored, or contributed to, by Garden Court members.

1. *Macdonald's Immigration Law and Practice (11th ed)* – Editors: **Stephanie Harrison KC**, **Ronan Toal**, **Sadat Sayeed** & **Claudia Neale** (First published in 1983, by the late Ian Macdonald QC) (2025)
2. *Jackson's Immigration Law and Practice (5th ed)* – **Colin Yeo**, Bernard Ryan, Helena Wray (2025)
3. *Inquests: A Practitioner's Guide (4th ed)* – **Leslie Thomas KC** (2025)
4. *Domestic Abuse and Housing Law* – **Liz Davies KC**, **Marina Sergides**, Sue James & Cris McCurley (2025)
5. *Child Migration: Family and Immigration Laws* – **Kathryn Cronin**, **Claudia Neale** & Jemma Dally (2024)
6. *A Practical Guide to County Lines, Human Trafficking and Exploitation* - **Gerwyn Wise** (2024)
7. *Fransman's British Nationality Law (4th ed)* – **Laurie Fransman KC** & **Adrian Berry** (2024)
8. *Criminal Disclosure Referencer (3rd ed)* - **Tom Wainwright**, **Emma Fenn**, **Shahida Begum** (2024)
9. *Against Landlords: How to Solve the Housing Crisis* – **Nick Bano** (2024)
10. *Discrimination in Housing Law* – **David Renton** (2024)
11. *Migrant Support Handbook* – **Connor Johnston** & **Shu Shin Luh** (2023)
12. *A Practical Guide to the Public Sector Equality Duty in Housing* – **Nick Bano** (2023)
13. *Blackstone's Guide to the Domestic Abuse Act 2021: Homelessness, Tenancy and Charging* - **Stephanie Harrison KC**, **Marina Sergides** & Susan Edwards (2023)
14. *Do Right and Fear No One: A Life Dedicated to Fighting for Justice* – **Leslie Thomas KC** (2022)
15. *Refugee Law* – **Colin Yeo** (2022)
16. *Housing Allocation and Homelessness: Law and Practice (6th ed)* - **HHJ Jan Luba KC**, **Liz Davies (KC)**, **Connor Johnston** & **Tessa Buchanan** (2022)
17. *Immigration Appeals and Remedies Handbook (2nd ed)* – **Mark Symes** & **Peter Jorro** (2021)
18. *A Practical Guide to Health and Medical Cases in Immigration Law* - **Rebecca Chapman** & **Miranda Butler** (2021)
19. *Jobs and Homes: Stories of the Law in Lockdown* – **David Renton** (2021)
20. *The Protest Handbook (2nd ed)* – **Tom Wainwright**, **Owen Greenhall** & **Anna Morris (KC)** & Lochlinn Parker (2020)
21. *Human Trafficking and Modern Slavery: Law and Practice (2nd ed)* – **Michelle Brewer**, Ben Douglas-Jones KC & Philippa Southwell (2020)
22. *Housing Law Handbook: A Practical Guide (2nd ed)* – **Stephen Cottle** (2020)
23. *Welcome to Britain: Fixing Our Broken Immigration System* – **Colin Yeo** (2020)
24. *A Practical Guide to Secondary Liability and Joint Enterprise Post-Jogee* – **Joanne Cecil (KC)** & **James Mehigan** (2020)
25. *Gypsy and Traveller Law (3rd ed)* – **Marc Willers KC** & Chris Johnson (2020)
26. *Adult Social Care Law* – **Stephen Knafler QC**, **Tim Baldwin**, **Desmond Rutledge**, Leon Glenister, Admas Habteslasie, Yaaser Vanderman & Galina Ward (2019)

27. *Housing Conditions: Tenants' Rights (6th ed)* – **HHJ Jan Luba KC**, **Catherine O'Donnell** & Giles Peaker (2019)

28. *Youth Justice Law and Practice* - **Kate Aubrey-Johnson**, **Jennifer Twite** & Shauneen Lambe (2019)

29. *The Ten Types of Human: Who We Are and Who We Can Be* – **(HHJ) Dexter Dias KC** (2018)

30. *The Reform of Civil Justice (2nd ed)* – **Stephen Clark** & The Right Hon Sir Rupert Jackson (2018)

31. *Judicial Review: A Practical Guide (3rd ed)* – **Amanda Weston (KC)**, Hugh Southey KC, Jude Bunting & Raj Desai (2017)

32. *Immigration and Asylum Handbook: A Guide to Publicly Funded Legal Work under the Immigration and Asylum Accreditation Scheme* – **Mark Symes** (2016)

33. *Ensuring access to rights for Roma and Travellers: The role of the European Court of Human Rights* – **Marc Willers (KC)** (2016)

34. *Refugee Status Claims Based on Sexual Orientation and Gender Identity: A Practitioners' Guide* – **Louise Hooper** & Livio Zilli (2016)

35. *The Confiscation Manual* – **Tom Wainwright**, **Terry McGuinness**, James O'Hara & Kieran Vaughan (2015)

36. *Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions* – **Jodie Blackstock** (2014)

37. *Inside Police Custody: Training Framework on the Provisions of Suspects' Rights* – **Jodie Blackstock**, Ed Cape, Jacqueline Hodgson, Anna Ogorodova, Taru Sproken & Miet Vanderhallen (2014)

38. *Making Mediation Work For You: A Practical Handbook* – **Kate Aubrey-Johnson** & **Helen Curtis** (2012)

39. *Struck Out: Why Employment Tribunals Fail Workers and What Can be Done* – **David Renton** (2012)

40. *JCWI Guide to the Points Based System* – **Duran Seddon (KC)** (2011)

41. *Asylum Law and Practice (2nd ed)* – **Mark Symes** & **Peter Jorro** (2010)

42. *Blackstone's Guide to the Borders, Citizenship and Immigration Act 2009* - **Ian Macdonald QC**, **Laurie Fransman KC**, **Adrian Berry**, **Ronan Toal**, Alison Harvey & Hina Majid (2010)

43. *Blackstone's Guide to the Criminal Justice and Immigration Act 2008* – **Maya Sikand (KC)**, **Brenda Campbell (KC)**, **Anya Lewis (KC)**, **Anna Morris (KC)**, **Adrian Berry**, **Kate Aubrey-Johnson** & **Tom Wainwright** (2009)

44. *JCWI Immigration, Nationality and Refugee Law Handbook 2006 (6th ed)* – **Duran Seddon (KC)** (2006)

45. *Legal and Ethical Aspects of Anaesthesia, Critical Care and Perioperative* Medicine – **Timothy Baldwin** & Stuart White (2004)

46. *The Anti-Social Behaviour Act 2003: A Special Bulletin* – **Timothy Baldwin**, Helen Carr, Matthew Waddington & Ann Blair (2004)

47. *Blake and Fransman: Immigration, Nationality and Asylum under the Human Rights Act* – **Laurie Fransman (KC)**, **Nicholas Blake KC**, **Frances Webber**, **Duran Seddon (KC)**, **Stephanie Harrison (KC)**, Nuala Mole & Rick Scannell (1999)

48. *Race Relations and Immigration Law* – **Ian Macdonald QC** (1969)

49. *Halsbury's Laws of England: British Nationality* (contributors to multiple volumes)

50. *Halsbury's Laws of England: Immigration and Asylum* (contributors to multiple volumes)

Garden Court members have contributed to countless other books, journals, magazines and blogs through the years. This list is intended to give a snapshot of our work and commitment to developing and sharing expertise. For reasons of space, only the names of book authors/editors are listed (we could not include contributing editors) – but we recognise that all of these publications were a team effort. The names of Garden Court members are shown in bold.

Garden Court's Special Fund

Garden Court's Special Fund was created in 1989 as recognition that our commitment to social change had to extend beyond the legal sphere. All members of chambers donate a percentage of their income to the fund. To date, we have donated around £3m to support grassroots organisations, campaign groups and others. As Garden Court reaches its 50th year, below are 50 of the hundreds of organisations we are proud to have supported.

1. AIRE Centre
2. Amicus
3. Anti-Slavery International
4. Appeal
5. Asylum Support Appeals Project
6. Bail for Immigration Detainees
7. Brent Community Law Centre
8. Campaign Against the Arms Trade
9. Campaign Against Criminalising Communities
10. Central London Law Centre
11. Centre for Women's Justice
12. Corporate Watch
13. Death Penalty Project
14. Fair Trials
15. Free Representation Unit
16. Freedom from Torture
17. Friends, Families & Travellers
18. Hackney Community Law Centre
19. Haldane Society of Socialist Lawyers
20. Helen Bamber Foundation
21. Howard League for Penal Reform
22. Imkaan
23. Independent Provider of Special Education Advice
24. Inderpal Rahal Memorial Trust
25. Inquest
26. Institute of Race Relations
27. International Centre for Trade Union Rights
28. Joint Council for the Welfare of Immigrants
29. Joint Enterprise Not Guilty by Association
30. Just for Kids Law
31. Justice
32. Legal Action Group
33. Liberty
34. Migrants Rights Network
35. Network for Police Monitoring
36. Newham Monitoring Project
37. Paddington Law Centre
38. Peace Brigades International
39. Public Interest Law Centre
40. Public Law Project
41. Refuge
42. Reprieve
43. Rights of Women
44. Southall Black Sisters
45. Spark Inside
46. Statewatch
47. Travellers Advice Team
48. Unjust
49. War on Want
50. Women in Prison

Garden Court Rising

By David Watkinson

1. Let the drum rolls roar and the trumpets bray,
May 6th 1974 was the day
That six young barristers and one clerk all unknown
Set up a three-room Chambers in Lincoln's Inn
Buildings 7 Stone.

2. To serve the Law Centres, then new sprung, was their intent
Together with agencies of advice and solicitors of like
bent
And those disadvantaged to represent,
Whether by no or low income or race or sex
discrimination, to ensure
That all achieved their rights within the law.

3. Now from this little acorn a mighty oak has grown
Full 200 barristers and 100 staff.
Can this be overblown?
No! For injustice and oppression still do stalk the
land.
For government, corporates, and those with power do
form a band
Against which our Chambers and friends do oppose a
wall
And cause such as the Rwanda scheme to
fall.

4. So no longer is Chambers the tiny mouse
Which once raised up its claws
But now it is a mighty Lion that for Justice roars.
For our Chambers of Garden Court
Cannot and never will be bought
Or turned from the course
Which for 50 years has flowed down from its source.
So I ask you, each and every one, to raise the glass
that is in your hand
For DO RIGHT, FEAR NO ONE will ever be our
stand.

Written by Garden Court's in-house poet, David Watkinson, and read by him at the party held on 4 October 2024 to celebrate our 50th anniversary. David explains that the poem includes references to Garden Court's Constitution and the final song in Eisenstein's film "Alexander Nevsky".

50 Cases/50 Years of Doing Right, Fearing No One is a unique publication marking 50 years since six radical young barristers founded a set of chambers that would go on to become Garden Court. As we mark our 50th anniversary, Garden Court, now the largest set in London, remains wedded to our founders' vision of an absolute commitment to defending the rights or ordinary people, speaking truth to power,
and forging strong links with grassroots groups.

The 50 cases set out here tell not just the story of one set of chambers or one group of barristers, but chart the evolution of social justice in this country. Some of the cases have passed into folklore – Mangrove Nine; Birmingham Six; Stephen Lawrence; Windrush Scandal; Hillsborough; Sally Challen; Battle of Orgreave. Others are less well-known outside of legal circles. However, every one of these cases demanded immense courage from the clients at their heart and raised a pressing issue for them and for wider society.

We hope this publication will serve as testimony to the power of the law to bring about social change - and as a reminder that, even in the most challenging times, progress is possible.

GARDEN COURT CHAMBERS

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