

T. 020 7404 3447 (Practice Manager, Jason Housden 020 7611 9404)
E. razahusain@matrixlaw.co.uk

Year of Call: 1993. Silk: 2010.



Main Areas of Practice

Public law	European Union law
Human Rights law	Crime & Criminal Due Process
Immigration, Asylum & Free Movement	Discrimination law

Raza Husain read Politics Philosophy and Economics at Exeter College, Oxford (1987-90). He is a barrister specialising in public law with an emphasis on immigration and human rights. He was awarded Public Law and Human Rights Junior of the Year for 2007 by Chambers and Partners. Over the last five years, Raza was instructed in 19 House of Lords cases. Raza has gone on to be instructed in six cases before the Supreme Court so far.

2008

House of Lords - Raza has appeared in the following House of Lords cases:

- R v. Asfaw (February 2008) The House of Lords held that the prosecution of asylum seekers for travelling illegally was subject to an immunity under Article 31 of the Refugee Convention, and that to prosecute a defendant in such a manner as to deprive her of a statutory defence was an abuse of process.
- Chikwamba (April 2008) The House of Lords held that it was disproportionate to require a same-nationality post-flight refugee spouse to return to her home country to seek entry clearance there. More generally, their Lordships reversed the long-standing adverse exceptionality rule established in Mahmood CA 2000 with a favourable exceptionality principle: henceforth it is only in the exceptional case that it will be appropriate to dispose of an Article 8 claim on the basis that the individual may be returned to seek entry clearance.
- EM Lebanon (July 2008), which concerns the definition to be given to a 'flagrant breach' of human rights so as to prevent an individual's expulsion.

Also instructed in:

- JL (October 2008), which concerns the Article 2 obligation to investigate near-deaths in custody.
- OO (Jordan) (October 2008), which concerns whether expulsion to a trial in which evidence obtained by torture is permitted is a flagrant breach of Article 6.
- MD (Guinea), which concerns whether a provision of primary statute which requires the fact finding tribunal to treat certain forms of behaviour as damaging to credibility is incompatible with Articles 3 and 6 ECHR.

European Court of Human Rights

Raza appeared in the Grand Chamber of the European Court of Human Rights in A and Ors (the Belmarsh case). This raised issues under Articles 3, 5(4) and 5(5), and 6 ECHR. Also appeared in Al-Saadoon & Mufdhi v The United Kingdom (2010) which involved the transfer to the Iraqi authorities of 2 men detained by the UK in Iraq breached their right to freedom from inhuman treatment by exposing them to an ongoing fear that they may face the death penalty.

Court of Appeal

Raza is presently instructed in four cases concerning the actions of the British army in Iraq and Afghanistan, which trace the consequences of the House of Lords rulings in Al-Skeini and Al-Jedda. He is also instructed in Smith, concerning the applicability of Article 2 to British soldiers serving in Iraq.

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Raza also appeared as leading counsel in KH (Iraq), a test case on the meaning of Article 15C of the EU Refugee Qualification Directive, and in Etame and Anirah, which concerned the approach to be taken to second asylum or human rights claims under the Nationality Immigration and Asylum Act 2002.

He also appeared in two important cases concerning deportation of individuals to torturing states on the strength of diplomatic assurances. In AS and DD Libya the Court of Appeal held that deportation was incompatible with Article 3, and in OO Jordan, the Court of Appeal held that removal to a trial process infected by evidence obtained by torture was incompatible with Article 6.

Raza is also due to appear as leading counsel in KC (South Africa), a case concerning the compatibility with EU law and the Refugee Convention of a conclusive deeming statutory provision as to whether an individual has committed a particularly serious crime, and as leading counsel in test case litigation on the presumption in favour of detention for foreign national prisoners.

2007

House of Lords - Last year Raza appeared in:

- Huang (March 2007). This case concerned the meaning and content of the proportionality test under Article 8, and the relationship between the executive and the courts in determining that question. The House of Lords made clear that the "fair balance" test was part of the proportionality exercise (building on from the de Freitas test), that Article 8 did not impose, in immigration cases, a test of "true exceptionality" (overruling the Court of Appeal), and that the question was for the independent appellate authority, rather than for the Secretary of State.
- JJ and Ors (July 2007). These appeals concerned the compatibility with Articles 5 and 6 of control orders made under the Prevention of Terrorism Act 2005, and in particular whether the control order regime amounted to a parallel scheme of executive justice, and unjustifiably imposed measures amounting to a deprivation of liberty on controlled persons.
- E (July 2007). This case also concerned control orders made under the Prevention of Terrorism Act 2005. The issue was whether control orders could be made without considering criminal prosecution as first option, and whether the Secretary of State had a duty to consult the controlled person during the life of the control order.
- El Banna (hearing in October 2007 - case conceded by FCO). This case concerned the legality of the Foreign Secretary's refusal to make representations seeking the return of British residents and refugees held at Guantanamo Bay, Cuba, by US forces. The appeal raised issues under the Race Relations Act 1976 and under Article 3 ECHR, in light of the level of suffering and distress being experienced by those detained and by family members resident in the UK.

In May 2007, Raza was instructed by the United Nations High Commissioner for Refugees to intervene in the Grand Chamber of the European Court of Human Rights in Saadi v. UK (hearing May 2007). This case concerned the compatibility with Article 5(1)(f) of a system of detention of immigrants for the purposes of administrative convenience.

In the Court of Appeal in 2007, Raza appeared in the following, amongst other, cases:

- JM Liberia, where the Court of Appeal reversed the specialist tribunal's starred ruling that human rights were not justiciable in variation appeals;
- AM Serbia, where the Court of Appeal held that a procedure rule which precluded the amendment of grounds of appeal was an irrational and ultra vires exercise of the enabling power to make such rules;
- MT Algeria, where the Court of Appeal allowed an appeal of an individual facing deportation on the strength of diplomatic assurances to Algeria;
- F Mongolia, where the Court of Appeal considered whether statutory provisions providing for review by the High Court on paper only of inferior decisions had the effect of ousting judicial review.

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Other Notable Cases

From 2004 - 2007 Raza was instructed in, amongst others, the following House of Lords cases

- **A (Belmarsh)**. This was a landmark decision of a nine-member House of Lords declaring (by 8:1) executive detention without trial and the UK's derogation from Article 5 ECHR under Article 15 to be unlawful, disproportionate and discriminatory. The measures were enacted in the aftermath of the 9/11 terrorist attacks.
- **A No. 2 (torture)**. This was the decision of a seven-member House of Lords declaring (by 7:0) the admission of evidence obtained by torture, irrespective of the location and nationality of the torturer and victim, to be unlawful, repugnant to the standards of civilised society and an affront to the conscience of the court.
- **Limbuela**. In this case, the House of Lords held that the denial of basic subsistence to asylum seekers who had made late claims to refugee status was incompatible with Article 3 ECHR. Raza intervened for JUSTICE, Liberty and JCWI.
- **Ullah**. Here, the House of Lords held that the application of the ECHR in immigration cases was not restricted (as the Court of Appeal had held) to Article 3, but rather extended in principle to the whole of the ECHR. Raza was instructed as an intervenor by JUSTICE and Liberty.

Over 2004-2007, Raza has also appeared in many of the leading Court of Appeal cases in the field of immigration, human rights and public law, including

- **E and R**. This is the leading Court of Appeal decision on the circumstances in which an error of fact may amount to an error of law.
- **Rashid**. This appeal concerned the enforceability of historical legitimate expectations based on policy in cases where circumstances had changed and the relevant policy rendered defunct. In a landmark case, the Court of Appeal held that the policy had to be honoured, so that Iraqis with historical well-founded fear of persecution at the hands of Saddam Hussain, whose cases had been improperly dealt with, were entitled to permission to stay in the UK. After a successful challenge in the follow up test cases of **R (A, H and AH)** (in which Raza also appeared), the Home Office set up a special unit devoted to 'Rashid reconsiderations'.
- **Nadarajah 3**. In this case, which also concerned the doctrine of legitimate expectation, the Court of Appeal held that there was no analytical difference between substantive and procedural expectations. The decision has been the subject of considerable academic commentary (eg. by Professors Craig and Mark Elliot)
- **Nadarajah 2**. In this appeal, the Court of Appeal held that the lack of transparency of the Secretary of State's detention policy amounted to a violation of Article 5.
- **D v Home Office**. This was a landmark judgement in which the Court of Appeal held that Immigration Officers had no immunity from suit in a claim for false imprisonment. The Court of Appeal declined to follow a binding precedent owing to the enactment of the Human Rights Act 1998, and held that guidance given in an old House of Lords case (**Everett v. Griffiths**) on the imposition of tortious liability on public authorities was no longer good law.

Other Notable Cases

Civil liberties / Public law

R (Mills & Poole) v CCRC QBD (judicial review of decision of Criminal Cases Review Commission concerning the relationship between safety and fairness under Article 6, and developments in the law of abuse of process)

R v Saunders CA (reference by Criminal Cases Review Commission, Article 6, Retrospectivity of Human Rights Act 1998)

R (La Rose and M) v Metropolitan Police Commissioner CA (compatibility of police station facilities with Article 6 and internal policy)

Abbey v Home Office (Wormwood Scrubs litigation in respect of assaults committed by Prison Officers)

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Other Notable Cases

Immigration

[R v Secretary of State ex p. Radiom and Shingara](#) ECJ (due process in EC law)

[R v Secretary of State ex p. Kaur](#) ECJ

(intervening for JUSTICE compatibility of UK nationality law with international human rights standards)

[Adan v Secretary of State](#) HL (refugee definition; historic fear and civil war)

[Omuruyi v Secretary of State](#) HL (whether conscious discrimination of persecutor necessary in refugee definition)

[Lamey v The Queen](#) PC (capital murder in Jamaican Constitution)

[R \(Saadi\)v Secretary of State](#) CA ('Oakington detention'; intervening for JUSTICE, Liberty and the AIRE Centre)

[R v IAT ex p. Robinson](#) CA (internal flight as part of refugee definition)

[R v Secretary of State ex p. Chahal](#) CA (compensation under Article 5(5) for breach of Article 5(4))

[R v Uxbridge Magistrates Court ex p. Adimi](#) QBD

(Article 31 Refugee Convention, and illegality of prosecutorial policy)

[Quaquah \(1\), \(2\) and \(3\)](#) QBD (Article 6 and immigration discretion, and unregulated 'limbo' status)

[S v Mail on Sunday](#) QBD (injunction preventing publication of details of refugee)

[S v Home Office](#) QBD (false imprisonment action against Home Office)

[R v Immigration Officer ex p. Cakmak](#) QBD (discretion and fairness in illegal entry process)

What the Directories Say

Chambers & Partners 2010 recommend Raza Husain as a leading junior in Administrative and Public law; "*considered, intellectual approach and outstanding preparatory work*". Also recommended in Civil Liberties and Immigration (band 1); "*simply a cut above the rest*".

Legal 500 2009/2010 rank Raza Husain as a leading junior in Human Rights and Civil Liberties (tier 1) and Immigration; "*extremely clever and hardworking*".

Chambers & Partners 2009 recommends Raza Husain as a leading junior in Administrative and Public law; "*absolutely first class preparation skills*". Also recommended in Civil Liberties ("*extremely able and resourceful*") and Immigration ("*one of the undisputed leading lights of the Immigration Bar*").

Legal 500 2008/2009 rank Raza Husain as a leading junior in Human Rights and Civil Liberties and Immigration ("*intelligent and extremely hardworking*").

Education and Career

Philosophy, Politics and Economics Exeter College, Oxford (1987-90)

2 Garden Court 1994-2000

Founder member of Matrix, 2000

Articles / Books / Speeches

Co-author, with Nicholas Blake QC, of Immigration, Asylum and Human Rights (Oxford University Press, 2003)

October 2007, lecture at Georgetown University, Washington DC on 'The Human Rights of Non-Nationals'

Professional and other Memberships

- Council Member of JUSTICE,
- Liberty Human Rights Panel,
- Former Executive Committee of Immigration Law Practitioners' Association,
- Administrative Law Bar Association