



## RICHARD HERMER QC

### MAIN AREAS OF PRACTICE:

Arbitration  
Civil Actions against the Police  
Environmental Law and Natural Resources  
Healthcare, Mental Health and Mental Capacity  
Human Rights  
Inquests and Inquiries  
International Law  
Prison Law  
Public and Private International Sports Law

Called to the Bar 1993

Appointed to Silk 2009

### CONTACT:

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Jason Housden, Practice

Director

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Richard's public international law cases have included some of the most high-profile claims of recent years. He has been involved in many of the major claims emanating from the Iraq conflict, Guantanamo Bay, extraordinary renditions and the United Nations anti-terrorism measures. He has also been instructed in cases concerning the application of sovereign immunity as well as litigation arising out of colonial legacies. He regularly advises on a wide range of PIL issues including international human rights law and international humanitarian law.

### PUBLIC INTERNATIONAL CLAIMS INCLUDE:

**Al Malki v Reyes** [2018] 1 All ER 629 (Supreme Court), intervention on appeal concerning the scope of consular immunities.

**Mohammed & Others v MOD** [2017] 3 All ER 179 (Supreme Court) an appeal concerning the application of the doctrine of 'Crown Act of State'.

**Al Waheed & Others v MOD** [2017] 3 All ER 215 (Supreme Court) an appeal concern the legality of the detention systems in Iraq and Afghanistan including issues of the scope of United Nations mandates, attribution of responsibility in international law and the extra-territorial scope of the Human Rights Act.

**Belhadj v Jack Straw and Others** [2017] 3 All ER 337 (Supreme Court) concerning the applicability of the Foreign Act of State doctrine to claims against the Foreign Secretary and Security Services for alleged complicity in rendition (Supreme Court November 2015)

**Secretary of State v Al Jedda** [2014] 1 All ER 356 (Supreme Court) concerning the deprivation of UK citizenship in the context of the status in international law of Coalition Provision Authority (Iraq) laws.

**Al Rawi & Others v Security Services & Others** [2010] 1 All ER 1 (Supreme Court), litigation brought against the UK by former and current residents of Guantanamo Bay for alleged complicity in rendition and torture, (Supreme Court 2011)

**Ahmed & Others v HM Treasury** [2010] 4 All ER 745 (Supreme Court), a challenge to the vires of anti-terrorism legislation promulgated under the United Nations Act 1946. The very first case to be heard by the Supreme Court.

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## DIRECTORIES' RECOMMENDATIONS

### HERES WHAT THEY SAY:

**"He has a brilliant strategic brain. When you bring him in on an issue, he is quick to see all the different angles and give you direction going forward."**  
(C&P 2017, Admin & Public Law)

**"An effective advocate who makes the complicated easily digestible."**  
(C&P 2017, Civil Liberties and Human Rights)

**"Incredibly effective and a master tactician."**  
(C&P 2017, Environment)

**"He is highly respected as a civil litigator."**  
C&P 2017, Police Law: Mainly Claimant)

**"He has a first-class brain and strategic sense, which he combines with a deep commitment to his cases."**  
(L500 2016, Civil Liberties and Human Rights)

**"A superb silk"**  
(L500 2016, Environment)

**"He is a brilliant tactician"** (C&P 2016, Admin & Public Law)

**"Has a wealth of experience"** (C&P 2016, Civil Liberties and Human Rights)

**"He is very easy to deal with, very good with clients and very good in the courts which is an all too rare combination"** (C&P 2016, Environment)

**"His practice is considerably influenced by his public international law expertise"** (C&P 2016, Personal Injury)

**"He is a good lawyer with good judgement"** (C&P 2016, Police Law: Mainly Claimant)

**"Recommended for his broad practice"** (L500 2015, Civil Liberties and Human Rights)

**"Experienced in international oil-related group actions"** (Legal 500 2015, Environment)

**"Highly active in public and private international law"** (Legal 500 2015, Public International Law)

**Al Jedda v Secretary of State for Defence** [2008] 1 AC 153 (House of Lords) a case concerning the legality of detention in Iraq under the United Nations mandate

**Al-Skeini & others v Secretary of State for Defence** [2006] 1 AC 529 (House of Lords), a claim examining the territorial scope of the Human Rights Act;

**Mitchell & others v Al-Dali & others**, [2006] 2 WLR 1424 (House of Lords) a claim against Saudi Arabian officials accused of torturing British citizens and whether it was precluded by operation of principles of state immunity;

**SK (Zimbabwe) v Secretary of State for Home Department** [2012] 4 All ER 1205 (Court of Appeal) a refugee claim concerning the test in international law for an act to amount to a crime against humanity.

**Prosecutor v Kallon & Others** (Case No. SCSL-2004-15-AR72(E)), intervention before the Appeal Chamber of the Special Court of Sierra Leone on issue as to whether amnesties for crimes against humanity are valid in international law (March 2004)

## PRIVATE INTERNATIONAL CLAIMS INCLUDE

Richard's private international law practice includes acting in almost all high profile claims brought by foreign claimants in the English courts against multinational corporations for human rights abuses or widespread environmental damage committed overseas. In the past few years he had advised in cases stemming from South Africa, the DRC, Sudan, the Ivory Coast, Kenya, Saudi Arabia, Peru, Bahrain, Iraq, Papua New Guinea, Colombia, Bangladesh, Madagascar, Nigeria, Tanzania, Israel & OPT and Sierra Leone. Such cases include:

**Lungowe & Others v Vedanta** [2017] All ER 102 (Court of Appeal – judgment of the Supreme Court awaited) jurisdictional challenge in a claim brought by villagers alleged to have been impacted by pollution flowing from the mine operated by a defendant and said to be controlled by its UK domiciled parent company.

**Okpabi & Others v Royal Dutch Shell** [2018] EWCA Civ 191 (Court of Appeal) a jurisdictional challenge in a claim brought by inhabitants of the Niger Delta in respect of mass pollution.

**AAA v Unilever** [2018] All ER 87 (Court of Appeal) a jurisdictional challenge brought in respect of alleged failures to protect workers from election based ethnic violence.

**Kalma v AML** [2018] All ER 145 a claim brought by villagers in Sierra Leone against a mining company for alleged complicity in human rights abuses.

**Iraqi Civilians v MOD** [2016] 1 WLR 2001 (Supreme Court) scope of the Foreign Limitation Periods Act 1984

**Bodo Community v Shell Petroleum Development Corporation**. Claim by 15,000 inhabitants of the Niger Delta for environmental damage. Claim settled shortly before trial for £50million plus an obligation to remedy.

**Motto & Others v Trafigura**, a claim brought by 30,000 inhabitants of the Ivory Coast following the dumping of toxic waste in Abidjan. The claim settled shortly before trial for £30million

**Tabra v Montericco**, a claim brought by environmental protestors against the UK parent company of a Peruvian mine subsequent upon their torture and mistreatment. The claim settled before trial

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**Kenyan Munitions Victims v MOD**, a claim brought by Masai tribes for damages caused by unexploded ordnances left on pastoral lands;

**Stradahur & others v National Environmental Research Council**, [2004] 4 All ER 490 (House of Lords) a claim brought by inhabitants of the Bengal Delta for a failure to detect arsenic in deep well water.;

## OTHER NOTABLE CASES INCLUDE

**Alseran & Others v Ministry of Defence** [2018] All ER 48. Two sets of six week trials before Mr Justice Leggatt brought by Iraqis alleging mistreatment and unlawful detention by the British Army.

**El Gizouli v The Secretary of State for the Home Department** [2019] All ER 83 (Divisional Court) a challenge to the decision to provide the United States authorities with information for use in criminal proceedings in which the death penalty is likely if convicted.

**SXH v Crown Prosecution Service** [2018] 1 All ER 267 (Supreme Court) a challenge to a decision to prosecute an asylum applicant for illegal entry.

**BF v Secretary of State for the Home Department** (Court of Appeal – judgment awaited) a challenge to the system for the identification of children in immigration detention.

**IS v Director of Legal Aid** [2017] 2 All ER 642 (Court of Appeal) a systemic challenge to new legal aid regulations.

**Smith & Others v MOD** [2013] 3 WLR 69 (Supreme Court) a case brought by wounded servicemen for injuries sustained in armed conflict and whether precluded by the doctrine of combat immunity.

**Childrens' Rights Alliance v Secretary of State for Justice** [2013] All ER 117 a challenge arising out of the unlawful use of force on children in the criminal justice system.

**Matua & Others v Foreign and Commonwealth Office** [2011] All ER 200, the 'Mau Mau' litigation, settlement of claims for over 3,000 Kenyan victims of systemic abuse, following two successful High Court hearings. The terms of settlement included a public apology from the Foreign Secretary delivered in the House of Commons;

**Norris v United States** [2010] 2 All ER 267 (Supreme Court) a case concerning the applicability of Article 8 of the Human Rights Act in extradition proceedings.

**Savage v South Essex Partnership Trust** [2009] 2 WLR 115 (House of Lords) a case concerning the liability of a health service for breach of Article 2 for failure to protect a mentally vulnerable patient.

**Shaker Aamer v Secretary of State for Foreign and Commonwealth Affairs** [2009] EWHC 3316 (Divisional Court) a claim for disclosure on behalf of a claimants held in Guantanamo Bay.

**Van Colle v South Herfordshire Police** [2008] 3 All ER 977 (House of Lords) a case concerning the scope of Article 2 in police investigations.

**Ashley v Chief Constable of Sussex** [2008] 2 WLR 975 (House of Lords) concerned the requirements for the tort of trespass to the person following a fatal police shooting.

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Richard is also regularly instructed in group litigation. For example he has led the 'Opiate Dependent Prisoner Litigation', a group action against the Home Office on behalf of several hundred prisoners concerning the treatment of their drug dependence (settled before trial); the "Porton Down" claims brought by former servicemen who were exposed to nerve agents (settled before trial) and a group action brought by a large number of children unlawfully detained in the asylum system (settled before trial). Richard also represented a group of former detainees at Guantanamo Bay in civil claims against the UK government as well as large number of Iraqi claimants in settlements with the UK, including not only those alleging mistreatment but also former translators employed by the armed services.

Richard has been instructed in a number of Inquests raising systemic failings in the custodial system including into the series of deaths of Irish men in Brixton prison, the series of deaths of vulnerable women at Stayl prison, and the case of Adam Rickwood, the youngest person to die in custody in the modern era;

Richard has also been instructed in a range of cases involving national security issues and counter-terrorism including the use of sanctions, Control Orders and TPIMs.

Richard accepts instructions under Standard Contractual Terms, details of which can be found on our website under Our Service.