
Sean Aughey

Sean specialises in public international law, international arbitration (particularly investor-State arbitration) and public law.

Sean is recommended by the legal directories as “a top choice for international arbitration and public international law”, “absolutely fantastic for public international law” and as “extremely creative” (see “Recommendations” below). He is also listed in Who’s Who Global as a “future leader” in international arbitration.

Sean was appointed Junior Counsel to the Crown (the Attorney General’s Public International Law C Panel) in 2017.

He regularly appears before domestic and international courts and tribunals. Recent notable cases include:

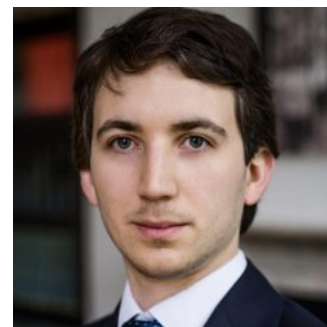
- 3 cases before the ICJ and two recent appearances as advocate: *Alleged Violations (Iran v. USA)*; *Certain Iranian Assets (Iran v. USA)*;
- 3 cases before investor-State tribunals, including one instruction as lead counsel to a State in a dispute under the OIC Agreement;
- 2 cases before the UK Supreme Court: *Belhaj v. Straw* concerning alleged HMG complicity in *Rahmatullah (No. 2) v. MOD* concerning legality of detention of suspected militants by HMG);
- UK armed forces in Iraq and Afghanistan and the Crown act of state doctrine (for extraordinary rendition and torture, state immunity and foreign act of state (for HMG));
- before foreign courts, *Swissbourgh v. Lesotho* (Singapore set-aside of an investor-State award and appeal)

Sean advises regularly on international law matters, including questions concerning treaty interpretation, State immunity, investment protection, sanctions, human rights, international humanitarian law and dispute settlement procedures.

Sean has experience of working in a leading boutique law firm, Government (as an FCO assistant legal advisor) and international organisations (European Court of Human Rights, stagiaire). Sean is comfortable working as a member of a counsel team, sole junior to a leader and as sole counsel.

He previously held academic positions as a Visiting Scholar (EALS) at Harvard Law School, a Bye Fellow and College Lecturer in Law at Downing College, Cambridge and Adjunct Professor in Public International Law at Pepperdine University School of Law.

Sean was a member of the legal panel for the report of the inquiry into protecting children in conflict and a contributor to the report, *Protecting Children in Armed Conflict* (Hart, 2018).



Professional Summary

Called 2010

Contact Details

Sean.Aughey@11kbw.com

+44 (0)20 7632 8500

Clerk Michael Smith

Clerk Hannah Rayner

Contact Clerks

Specialisms

International Arbitration

Sean is regularly instructed by various Governments and by claimants in international

arbitration. He has particular experience of investor-State arbitration, including under the ICSID, UNCITRAL and SCC Rules, and frequently works closely with law firms as part of a team of counsel. Notable cases include:

- *Investor v. State*, lead counsel to the respondent State in a dispute under the OIC Agreement (details confidential)
- Singapore Court of Appeal: *Kingdom of Lesotho v. Swissbourgh Diamond Mines* HC/OS 492/2016. Acting for Lesotho before the Singapore High Court and Court of Appeal (non-admitted) with respect to proceedings challenging an arbitral award rendered by an investor-State tribunal concerning alleged expropriation of mining rights arising from Lesotho's participation in the decision-making of an international organisation (led by Sam Wordsworth QC).
- *Al Jazeera v. Egypt*, ICSID Case No. ARB/16/1, acting for the Claimant in a dispute under a BIT regarding interference with media organisation and journalists (led by Toby Landau QC)
- *Alghanim v. Jordan*, ICSID Case No. ARB/13/38, successfully acted for Jordan in a dispute under a BIT regarding taxation of a telecoms investor (led by Sam Wordsworth QC); instructed in annulment.
- *PL Holdings v. Poland*, successfully acting for the Claimant bank in an expropriation dispute under an intra-EU BIT and the SCC Rules (led by Stephen Fietta)
- *Tethyan v. Pakistan*, ICSID Case No. ARB/12/1, acting for Pakistan in a dispute under a BIT regarding refusal of a mining licence (led by Cherie Blair QC)
- *Tethyan v. Balochistan*, ICC Case No. 18347/VRO/AGF, acting for the Respondent in a dispute under a joint venture contract regarding refusal of a mining licence (led by Cherie Blair QC and Graham Dunning QC)
- Various cases with Volterra Fietta including successfully acting for the Claimant in *Karmer v. Georgia*, ICSID Case No. ARB/08/19, a dispute under a BIT regarding interference with construction hospitality projects.
- Annex VII UNCLOS arbitration: *Mauritius v. United Kingdom (Marine Protected Area of the British Indian Ocean Territory)*, advising the UK.

Sean is a member of the team analysing the jurisdictional decisions of investor-State arbitration tribunals for InvestmentClaims.com (a leading OUP database). He is a former editor of the Young ICCA Blog.

Public International Law

Sean is instructed regularly by various Governments and has appeared as counsel before the International Court of Justice, the UK Supreme Court and investor-State arbitration tribunals.

Notable cases include:

- ICJ: *Certain Iranian Assets (Iran v. USA)*, *Preliminary Objections* (counsel and advocate for Iran).
- ICJ: *Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Iran v. USA)*, *Provisional Measures* (counsel and advocate for Iran).
- ICJ: *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, *Provisional Measures* (counsel for Russia).
- UKSC: *Rahmatullah (No 2) v. Ministry of Defence* [2017] UKSC 1. Successfully acted for the Government Appellants in striking out tort claims challenging legality of detention of suspected insurgents in Afghanistan and Iraq on the ground of the Crown act of state doctrine. Led by James Eadie QC, Karen Steyn QC and Sam Wordsworth QC.
- UKSC: *Belhaj and anor v. Straw and Ors* [2017] UKSC 3. Acted for the Government in its appeal on state immunity and foreign act of state. Concerned whether claims of complicity in unlawful detention and mistreatment overseas at the hands of foreign state officials are properly triable in the English courts. Sole junior led by Rory Philips QC, Sam Wordsworth QC and Karen Steyn QC.
- Singapore Court of Appeal: *Kingdom of Lesotho v. Swissbourgh Diamond Mines* HC/OS 492/2016. Acting for Lesotho before the Singapore High Court and Court of Appeal (non-admitted) with respect to proceedings challenging an arbitral award rendered by an

investor-State tribunal concerning alleged expropriation of mining rights arising from Lesotho's participation in the decision-making of an international organisation (led by Sam Wordsworth QC).

- South Africa Constitutional Court: *Minister of Justice v. SALC*. Acted for Amnesty
- International as amicus curiae in the Al Bashir head of state immunity case concerning South Africa's failure to arrest President Al Bashir and surrender him to the ICC. Appeal withdrawn by South Africa following its withdrawal from the Rome Statute of the ICC. Led by Sudhanshu Swaroop QC.
- *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No. 3)* [2013] EWHC 1502 (Admin) (inadmissibility of diplomatic documents), advising the UK FCO
- Advising the Albanian Compensation and Restitution Agency, a State entity, on the expropriation under the former Communist regime compatibility with the ECHR of Albania's proposed new draft law on redress for mass
- *R (Noor Khan) v Secretary of State for Foreign and Commonwealth Affairs* [2014] EWCA Civ 24 (alleged UK liability in relation to drone strikes; foreign act of state and nonjusticiability), assisting Karen Steyn
- *Haqim and others v Secretary of State for Defence* (jurisdiction over and justiciability of habeas corpus applications and ECHR claims), assisting Karen Steyn
- ECtHR: *Brough v. UK* (right to strike and collective bargaining), assisting Daniel Stilitz QC
- ECtHR: *Roffey v. UK* (right to strike and collective bargaining), as a stagiaire at the ECtHR
- ICTY: *Prosecutor v. Popovic et al* (conspiracy to commit genocide), assisting counsel for the Seventh Defendant

Public & Human Rights

Sean has significant experience of public law and human rights, especially cases concerning the relationship between English law and the ECHR and public international law. He has been involved in some of the most significant cases involving national security, international relations, and the armed forces. Notable cases include:

- *Lysongo v. FCO and Cameroon* [2018] EWHC 2955 (QB). Successfully acted for the FCO in securing strike out on grounds of non-justiciability of unincorporated treaties, UN immunity, state immunity, Crown act of state and foreign act of state.
- *Rahmatullah (No 2) v. Ministry of Defence* [2017] UKSC 1. Successfully acted for the Government Appellants in striking out tort claims challenging legality of detention of suspected insurgents in Afghanistan and Iraq on the ground of the Crown act of state doctrine. Led by James Eadie QC, Karen Steyn QC and Sam Wordsworth QC.
- *Belhaj and anor v. Straw and Ors* [2017] UKSC 3. Acted for the Government in its appeal on state immunity and foreign act of state. Concerned whether claims of complicity in unlawful detention and mistreatment overseas at the hands of foreign state officials are properly triable in the English courts. Sole junior led by Rory Philips QC, Sam Wordsworth QC and Karen Steyn QC.
- *Minister of Justice v. SALC*, South Africa Constitutional Court. Acted for Amnesty
- International as amicus curiae in the Al Bashir head of state immunity case concerning South Africa's failure to arrest President Al Bashir and surrender him to the ICC. Appeal withdrawn by South Africa following its withdrawal from the Rome Statute of the ICC. Led by Sudhanshu Swaroop QC.
- *X and Commissioner of the Police of the Metropolis v. Z (Children)* [2015] EWCA Civ 34. Successfully acted for the MPS in the first case considering police handling of DNA data since *Marper v UK* (led by Anya Proops).
- *R (Noor Khan) v Secretary of State for Foreign and Commonwealth Affairs* [2014] EWCA Civ 24 (alleged UK liability in relation to drone strikes; foreign act of state and nonjusticiability), assisting Karen Steyn
- *Haqim and others v Secretary of State for Defence* (jurisdiction over and justiciability of habeas corpus applications and ECHR claims), assisting Karen Steyn
- ECtHR: *Brough v. UK* (right to strike and collective bargaining), assisting Daniel Stilitz QC
- ECtHR: *Roffey v. UK* (right to strike and collective bargaining), as a stagiaire at the ECtHR
- *R (Governing Body of Uplands Junior School) v Leicester City Council* [2013] EWHC 4128 (Admin); [2014] ELR 157, QBD. Successfully acted for the Council in the first case

considering the exercise of school intervention powers (led by Clive Sheldon QC).

He is a member of ALBA and previously volunteered with Liberty's advice and information department.

Employment

Sean has particular experience of employment disputes which raise questions of private international law, human rights and International Labour Organization standards. He writes the chapter on 'Foreign Employees' in Tolley's Employment Law Handbook .

Recommendations

"Superb barrister Sean Aughey who peers variously describe as 'very able' and 'a great team player'. Sources describe him as 'clearly one of the leading juniors in international public law'".

– Who's Who Legal, Arbitration (UK Bar) 2019

"An absolutely first-rate mind, excellent sense of judgement and knowledge of PIL." – Chambers & Partners 2020, Public International Law (Band 2)

"Terrific on detail." – Chambers & Partners 2020, Public International Law (Band 2)

"He thinks about things very deeply and comes up with convincing arguments." – Chambers & Partners 2020, Public International Law (Band 2)

"Very sharp intellect." – Chambers & Partners 2020, International Arbitration: General Commercial & Insurance (Band 4)

"A brilliant young lawyer with an absolutely first-rate mind." – Chambers & Partners 2020, International Arbitration: General Commercial & Insurance (Band 4)

"Absolutely excellent – he's got a brilliant analytic mind, he's extremely hardworking, and a very good advocate" – Legal 500 2019, International Arbitration (Band 2)

"Very knowledgeable about public international law, rigorous in his research, and good to work with" – Legal 500 2019, Public International Law (Band 2)

"Future Leader" – Who's Who Legal: Arbitration (Global) 2019

"A top choice for international arbitration and public international law" – Legal 500 2018, International Arbitration (Band 2)

"Absolutely fantastic for public international law" – Legal 500 2018, Public International Law (Band 3)

"Extremely creative and very international in outlook" – Chambers and Partners 2019, Public International Law (Band 3)

"Highly rated junior for state-on-state disputes, investor-state arbitration and domestic litigation involving PIL aspects", "He is excellent", and "He is always very responsive" – Chambers and Partners 2018, Public International Law (Band 3)

"Highly sought-after for international arbitration and public international law" – Legal 500 2017, International Arbitration (Band 2)

"He combines excellent academics with acute practical skills" – Legal 500 2017, Public International Law (Band 3)

Sean was **"highly recommended"** in Legal Week's Stars at the Bar 2017

"One of the best public international law juniors at his level, possibly the best; his knowledge his unparalleled" – Legal 500 2016, Public International Law

“One of the sharpest minds at the junior end of the arbitration and public international law Bar ”
– Legal 500 2016, International Arbitration

“Quick to grasp the essential issues; he is destined for great things ” – Legal 500 2015, Public International Law

“His skills are excellent; he is a very strong junior in the area of public international law ” – Legal 500 2015, International Arbitration

His submissions are ***“scholarly, well researched and cogent”*** – UKEAT/0192/11/DA

News, Articles & Publications

- Member of the Legal Panel for Legal Report for the Inquiry on Protecting Children in Conflict (forthcoming under the lead authorship of Shaheed Fatima QC).
- ‘Armed Drones and Judicial Review’, PLP Judicial Review Conference, October 2016.
- ‘When should there be a duty to investigate UK military action abroad’, Public Law Project conference on Inquiries, Investigations and the Law, 21 April 2016.
- ‘Uses and Abuses of Unincorporated Treaties’, Administrative Law Bar Association, 2 February 2016.
- ‘Recent Developments: International Law in the UK Courts’, Government Legal Service International Law Conference, 14 October 2015.
- ‘International Law in Domestic Courts’, lecture presented to the Government Legal Service’s inaugural International Law Course, 9 June 2015.
- ‘Targeting and Detention in Non-International Armed Conflict: Serdar Mohammed and the Limits of Human Rights Convergence’, 91 International Law Studies (2015) 60-118 (with Sari).
- Several short pieces on EJIL:Talk!, the Blog of the European Journal of International Law (2015).
- Several case comments and analysis for International Law in Domestic Courts, an online database run by Oxford University Press.
- Chapter on ‘Foreign Employees’ in Tolley’s Employment Handbook 2015 (29 ed).
- ‘Foundations and Futures of International Humanitarian Law and Human Rights Law’, paper presented at the 2014 ILA British Branch Spring Conference, 24 May 2014.
- Case note published in the European Procurement and Public Private Partnership Law Review (2014).
- ‘Asian Attitudes towards International Law and Democracy’, panel moderator, Harvard Project for Asian and International Relations, 2012 Asia Conference (24-28 August 2012, Th Taipei).
- ‘Chinese Attitudes towards Sovereignty and Non-Intervention in International Law’, Harvard Law School, EALS Seminar, May 2012.
- Lecture on ‘International Boundary Law’, University of London, 2011.
- ‘Continuity and Change: Obama on Human Rights’, The World Today, January 2011.
- ‘Transatlantic Dialogues on International Law: International Law and Human Rights’, summary of a joint Chatham House and Atlantic Council of the United States workshop held on 10-11 November 2010.

Education

University of Cambridge, Downing College, LL.M

University of Cambridge, Downing College, BA (Hons)

The Hague Academy of International Law

Other

1. Scholarships and prizes

Highest examination results in the LL.M in International Dispute Settlement, International Commercial Litigation and International Human Rights.

- International Law Fund Scholarship, Lauterpacht Centre of International Law
- Association Prize, Downing College
- Harris Prize for Especial Distinction, Downing College
- Buchanan Prize, Downing College
- Graystone Prize, Downing College
- Harris Scholar and Senior Harris Scholar, Downing College
- Rebecca Flower Squire Scholarship, University of Cambridge
- Lord Denning Scholarship, Lincoln's Inn
- Hardwicke Award, Lincoln's Inn
- Grant to undertake traineeship at the ECtHR in Strasbourg, Lincoln's Inn
- Grant to participate in the international rounds of the Jessup Moot Competition, Lincoln's Inn

2. Professional Associations

- International law: ESIL, ILA (British Branch).
- International arbitration: ICC Young Arbitrators Forum, LCIA Young International Arbitrators Group, Young ICSID, Young ICCA, ICDR Young & International.
- Public law: Human Rights Lawyers Association, Administrative Law Bar Association.



ADDRESS

11KBW
11 King's Bench Walk
Temple
London
EC4Y 7EQ



CONTACT US

T +44 (0)20 7632 8500
F +44 (0)20 7583 9123
OUT OF HOURS CLERK
T +44 (0)7824 365 991



EMAIL

clerksroom@11kbw.com

DX NUMBER

LDE 368
