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Jonathan Crow QC

**Attorney General to HRH
the Prince of Wales**

**Called: 1981
Silk: 2006**

Chambers UK: *“quite simply, one of the best advocates ... an exceptionally sharp and quick mind”*

The Lawyer: *“an excellent strategist and a stylish advocate”*

Summary

Jonathan specialises in company/commercial litigation and public law cases, appearing for private clients and for public authorities alike, both in trials and in appellate work. He has appeared in well over 100 reported cases, including 21 in the House of Lords and many others in the Court of Appeal and in the European Court of Human Rights. In the last 12 months he has appeared 5 times in the Court of Appeal, once in the House of Lords and once in the Court of Appeal in Bermuda, as well as conducting a number of other High Court actions in London. In January 2009 he was named by The Lawyer magazine as one of the Hot 100. He was also featured by The Times newspaper as one of their lawyers of the week in 2008. Particularly significant recent cases include the OFT's claim against the 8 main high street banks concerning their overdraft charges, an appeal in the House of Lords concerning Diego Garcia (Bancoult (No. 2)), two in the Court of Appeal concerning Francovich damages (Byrne and Moore), another Court of Appeal case concerning the challenge by the Barclay brothers to the new constitution of Sark, a substantial judicial review against HM Treasury concerning the validity of the Financial Collateral Arrangements (No 2) Regulations 2003, and another concerning the validity of proceedings purportedly brought against Abbey National by the Financial Services Compensation Scheme Ltd.

Career

1981-1998: As a junior specialising in company/commercial litigation, Jonathan was heavily involved in cases such as Guinness, Polly Peck and Barlow Clowes, as well as numerous shareholder disputes, and media and entertainment cases. He also appeared overseas, in the Sea Containers takeover dispute and in the litigation following the insolvency of Bermuda Fire and Marine. Chambers & Partners described him as an “absolute star”, and ranked him in 4 categories – company law, financial services, chancery and insolvency. The Legal 500 described him as “brilliant” and “outstanding”, ranking him as one of the top 3 juniors at the Bar, with recommendations in commercial litigation, company law, banking and insolvency.

1998-2006: During his tenure as First Treasury Counsel (Chancery), Jonathan was retained exclusively by the Government. His practice widened to include all aspects of public law, with an emphasis on human rights and freedom of information. Although by convention he remained a junior, his practice was effectively that of a silk throughout.

2006 onwards: In 2006, Jonathan returned to private practice as a silk. On announcing his retirement as First Treasury Counsel, the Attorney General said that Jonathan was a barrister “of the very highest calibre” who had given “outstanding service to the government in many cases of the greatest public importance”. Jonathan now combines his wider experience in public law with his previous specialisation in company/commercial litigation.

Cases of Interest

Administration: whether the costs of an unsuccessful administration petition should rank as costs in the winding-up of the company: Re Gosscott (Groundworks) Ltd (1988) 4 BCC 372.

Anti-social behaviour orders: decision of the House of Lords whether ASBOs involve ‘criminal proceedings’, such that hearsay evidence would be inadmissible: R (McCann) v. Crown Court at Manchester [2003] 1 AC 787; also C v. Sunderland Youth Court [2004] 1 Cr App R (S) 76.

Asset Recovery: the leading case on the scope of the Asset Recovery Agency’s powers: ARA v. Green [2005] EWHC 3168 Admin.

Breach of confidence: Court of Appeal decision on breach of confidence by a former Crown servant: A-G v. Times Newspapers Ltd [2001] 1 WLR 885.

Business names: the only case dealing with legal restrictions on the use of certain business names: Association of Certified Public Accountants of Britain v. Secretary of State for Trade & Industry [1997] 2 BCLC 307.

Companies Act investigations: two leading cases on Companies Act investigations: R (Clegg) v. Secretary of State for Trade & Industry [2003] BCC 128, and A-G’s Reference (No.2 of 1998) [2000] QB 412.

Constitutional law: House of Lords decision on whether an instruction issued by the Crown to the Government of a British Overseas Territory was so issued in right of the UK, or in right of the BOT: R (Quark Fishing Ltd) v. Secretary of State for Foreign & Commonwealth Affairs [2006] 1 AC 529. High Court decision on the new constitution for Sark: R (Barclay) v. Lord Chancellor [2008] 3 WLR 867.

Consumer credit: two leading cases in the House of Lords on the Consumer Credit Act 1974: DGFT v. First National Bank Plc [2002] 1 AC 481 and Wilson v. First County Trust Ltd (No.2) [2004] 1 AC 816.

Costs: leading case in the House of Lords on conditional fee agreements: Callery v. Gray (Nos. 1 & 2) [2002] 1 WLR 2000.

Criminal injuries compensation: leading cases in the Court of Appeal and the High Court on the scope of the Criminal Injuries Compensation Board's powers: R (August) v. Criminal Injuries Compensation Appeals Panel [2001] QB 774 and R v. CICA, ex parte Leatherland [2001] ACD 76.

Crime: House of Lords decision in the case of David Shayler, the former MI5 officer who claimed that the Official Secrets Act 1989 represented a violation of his right to freedom of expression: R v. Shayler [2003] 1 AC 247.

Crown: House of Lords decision on the availability of judicial review in relation to prerogative legislation: R (Bancoult) v. Secretary of State for Foreign & Commonwealth Affairs (No. 2) [2008] 3 WLR 955.

Data protection: the scope of the Information Commissioner's power to challenge a certificate from the Secretary of State under s. 28 of the DPA 1998: R (Secretary of State for the Home Department) v. Information Tribunal [2008] 1 WLR 58.

Declaratory relief: whether declaratory relief with regard to the lawfulness of future conduct is appropriate: I-CD Publishing Ltd v. Secretary of State [2003] ACD 396.

Directors disqualification: House of Lords decision on the scope of the Official Receiver's powers: In re Pantmaenog Timber Co Ltd [2004] 1 AC 158. Other cases include Re Blackspur Group plc [2001] 1 BCLC 653, Re Surrey Leisure Ltd [1999] 2 BCLC 457, Re Polly Peck International Plc [1994] 1 BCLC 574, Re Godwin Warren Control Systems Plc [1992] BCC 557, Re Tasbian Ltd (No. 3) [1992] BCC 358, and Re Cladrose Ltd [1990] BCC 11.

Directors duties: House of Lords decision in the Guinness case concerning the company's claim to recover £5.2 million from one of its directors: Guinness Plc v. Saunders [1990] 2 AC 663. Judgment given as a Deputy High Court Judge: Extrasure Travel Insurances Ltd v. Scattergood [2003] 1 BCLC 598.

Discrimination: ECHR decision on whether the application of inheritance tax to co-habiting sisters was discriminatory: Burden v. UK (2008) 47 EHRR 38.

Education law: House of Lords decision on the lawfulness of the abolition of corporal punishment in independent schools: R (Williamson) Secretary of State for Education and Employment [2005] 2 AC 246.

Electoral law: leading case on whether electors should have the right to object to their name appearing in copies of the electoral register that are sold for commercial purposes: R (Robertson) v. Wakefield MDC [2002] QB 1052.

Employment law: House of Lords decision on the extraterritorial effect of the Employment Rights Act 1996: Lawson v. Serco Ltd [2006] 1 All ER 823.

Environmental law: the adequacy of the UK's implementation of certain EU environmental protection Directives: R v. Secretary of State for Trade & Industry, ex parte Greenpeace Ltd [2000] Env LR 221, [2000] 2 CLR 92.

European Law: the scope of s.2 of the ECA 1972: Crane v. Sky In-Home Service Ltd (2007) 1 CLC 389; also ECJ decision on the lawfulness under EU law of the Government's retention of a 'golden share' in BAA: Commission v. UK, Case C-98/01 [2003] 2 CMLR 19.

Expert evidence: whether expert witness is entitled to immunity from disciplinary proceedings in respect of expert evidence given in court: Meadow v. General Medical Council [2007] QB 462.

Financial assistance: judgment given as a Deputy High Court Judge on s.151 of the Companies Act 1985: In a Flap Envelope Company Ltd [2003] BCC 487.

Financial services: judicial review concerning the powers of the Financial Services Compensation Scheme: FSCS Ltd v. Abbey National Treasury Services Plc [2008] WLR (D) 277. Also, judgment given as a Deputy High Court Judge on the scope of the court's power to wind up a partnership under s.367 of the Financial Services and Markets Act 2000: Re The Inertia Partnership LLP [2007] Bus LR 879.

Francovich damages: whether the UK was in sufficiently serious breach of an EU directive to justify an award of Francovich damages: Byrne v. MIB [2008] 4 All ER 476. Also, two decisions concerning the date when the limitation period starts to run for the purposes of claiming Francovich damages: Spencer v. Secretary of State for Work & Pensions [2008] PIQR 21, and Moore v. Secretary of State for Transport [2007] PIQR 24.

Fraud: whether a solicitor's duty of confidence to his client is overridden by allegations of fraud: Finers v. Miro [1991] 1 WLR 35.

Free speech: ECHR decision concerning a land owner's right to evict peaceful demonstrators from his land: Appleby v. UK (2003) 37 EHRR 38.

Freezing order: provision for living and legal expenses out of a disputed fund: United Mizrahi Bank v. Doherty [1998] 1 WLR 435.

Human rights: three of the leading ECHR cases on privacy: Peck v. UK (2003) 13 BHRC 669, PG & JH v. UK [2002] Crim LR 308, and Khan v. UK (2000) 8 BHRC 310.

Injunctions: jurisdiction of the court to restrain the publication of allegedly true allegations made pursuant to a conspiracy to injure: Femis Bank Anguilla Ltd v. Lazar [1991] Ch 391.

Inquests: House of Lords decision on whether inquests are capable of discharging the State's obligations under Article 2 of the ECHR: R (Middleton) v. West Somerset Coroner [2004] 2 AC 182.

Insolvency: whether arrest under the Insolvency Act 1986, s. 364, is compatible with ECHR Article 5: Hickling v. Baker [2007] 1 WLR 2386; part of the dispute between Alan Sugar and Terry Venables: Tottenham Hotspur Plc v. Ryman [1996] 2 BCLC 389.

International relations: challenge brought to the UK's participation in negotiations for the accession of Cyprus to the EU: R v. Secretary of State for Foreign & Commonwealth Affairs, ex parte British Council of Turkish Cypriot Associations [1998] COD 336.

Interrogatories: use of interrogatories in the context of a shareholder dispute: Neal v. December Commercial Properties (No. 1) Ltd [1996] BCC 577.

Judicial review: Court of Appeal decision on the permitted scope of argument on appeal in JR: R (Smith) v. Parole Board [2003] 1 WLR 2548.

Jurisdiction: House of Lords decision on the scope of its own jurisdiction: Reg. v. Secretary of State for Trade & Industry, ex parte Eastaway [2000] 1 WLR 2222. Court of Appeal decision on the scope of its jurisdiction: Re Tasbian Ltd (No. 2) [1990] BCC 322.

Legal aid: a challenge to the new regime for public funding: R v. Legal Aid Board, ex parte Duncan [2000] COD 159. Also R (Jarrett) v. Legal Services Commission [2002] ACD 25.

Legal professional privilege: House of Lords decision on the scope of legal professional privilege: Three Rivers DC v. Bank of England (No. 6) [2005] 1 AC 610.

Liquidator: removal of liquidator: Re Edenote Ltd [1996] BCC 718.

Listed buildings: almost the only case on listed buildings: R (Bancroft) v. Secretary of State for Culture, Media & Sport [2005] JPL 477.

Market rights: House of Lords decision concerning the scope of a statutory market owner's powers: R (Corporation of London) v. Secretary of State for the Environment, Food & Rural Affairs [2006] 1 WLR 1721.

Misfeasance in public office: Court of Appeal decision in a claim against immigration officials who failed to detain an illegal immigrant who subsequently raped and murdered a woman: Akenzua v. Secretary of State for the Home Department [2003] 1 WLR 741.

Money laundering: Court of Appeal decision on a bank's duties in relation to money laundering investigations: Bank of Scotland v. A Ltd [2001] 1 WLR 751.

National security: House of Lords decision in contempt proceedings against Punch for publishing articles by David Shayler in breach of a court injunction: A-G v. Punch Ltd [2003] 1 AC 1046.

Naturalisation: Court of Appeal decision on Mohamed Fayed's challenge to the Home Secretary's refusal to grant him naturalisation: R v. Secretary of State for the Home Department, ex parte Fayed [2001] Imm AR 134.

Official Receiver: Court of Appeal decision on the status of the OR: Minotaur Data Systems Ltd [1999] 1 WLR 1129.

Parental leave: Court of Appeal decision on the adequacy of the UK's implementation of the EU parental leave Directive: R v. Secretary of State for Trade & Industry, ex parte TUC [2001] 1 CMLR 5 & 8.

Parenting orders: Court of Appeal decision on the compatibility with the ECHR of parenting orders under s.8 of the Crime & Disorder Act 1998: R (M) v. Inner London Crown Court [2003] 1 FLR 994.

Parole: Court of Appeal decision on the lawfulness of conditions imposed on a prisoner released on licence: R (Uttley) v. Secretary of State for the Home Department [2003] 1 WLR 2590.

Pensions: two important cases concerning the calculation of public sector pensions: Department of Health v. Pensions Ombudsman [2000] 1 WLR 561 and Mock v. Pensions Ombudsman [2000] OPLR 331.

Police: power of the Secretary of State to require the suspension of a Chief Constable: R (Secretary of State for the Home Department) v. Humberside Police Authority [2004] ACD 92.

Police Complaints Authority: Court of Appeal decision on the lawfulness of the PCA's practice of refusing to disclose witness statements to the complainant: R (Green) v. Police Complaints Authority [2002] UKHRR 293 & 985.

Prisoners' rights: House of Lords decision on the scope of the State's obligation to investigate deaths in custody: R (Amin) v. Secretary of State for the Home Department [2004] 1 AC 653.

Private examination: scope of s.236 of the Insolvency Act 1986: Re Cloverbay Ltd (1989) 5 BCC 732, and In re Pantmaenog Timber Co Ltd [2004] 1 AC 158.

Property law: ECHR decision on whether UK law on adverse possession is compatible with the European Convention on Human Rights: Pye (Oxford) Ltd v. UK (2008) 46 EHRR 45.

Public procurement: Court of Appeal decision on the consequences of failing to comply with EU rules on public procurement: Jobsin.co.uk plc v. Department of Health [2001] Eu LR 685.

Registrar of Companies: one of the few cases concerning the power of the court to supervise the functions of the Registrar of Companies: Re a Company (No. 007466 of 2003) [2004] 1 WLR 1357.

Religious rights: House of Lords decision on whether a school's refusal to allow a pupil to wear a *jilbab* constituted a violation of her rights under Article 9 of the ECHR: R (SB) v.

Governors of Denbigh High School [2007] 1 AC 100. Court of Appeal decision on the slaughter of the holy bullock Shambo: R (Swami Suryananda) v. Welsh Ministers [2007] WLR (D) 211.

Retrospectivity: Court of Appeal decision whether an order could be made under s.28 of the Criminal Justice & Court Services Act 2000 in respect of conduct occurring before the Act came into force: R v. Field [2003] 1 WLR 882.

Sentencing: House of Lords decision on the lawfulness of the process for fixing the minimum term for mandatory life sentences: R (Hammond) v. Secretary of State for the Home Department [2005] 3 WLR 1229.

Shareholder disputes: numerous reported cases on s.459 of the Companies Act 1985 (such as Oriental Gas Co Ltd [2000] 1 BCLC 209, Re Sticky Fingers Restaurant Ltd [1991] BCC 754, Re Sherborne Park Residents Association Ltd (1986) 2 BCC 99,528 and Re a Company (No. 003160 of 1986) (1986) 2 BCC 99,276), and a judgment given as a Deputy High Court Judge on the scope of s.459: Atlasview Ltd v. Brightview Ltd [2004] 2 BCLC 191.

State aid: Court of Appeal decision on the lawfulness of the auction of 3G wavebands: Reg. v. Secretary of State for Trade & Industry, ex parte BT3G Limited [2001] 3 CMLR 61 & [2001] 822 Eu LR 822.

Suicide: House of Lords and ECHR decisions in the case of Dianne Pretty: R (Pretty) v. DPP [2002] 1 AC 800, and Pretty v. UK (2002) 35 EHRR 1.

Trusts: Court of Appeal decision whether prisoners' cash, surrendered to the prison Governor, are held by him on trust: Duggan v. Governor of Full Sutton Prison [2004] 1 WLR 1010.

Valuation of shares: two cases concerning valuation in the context of a shareholder dispute: Re ESC Publishing Ltd [1990] BCC 335 and Re D.R. Chemicals Ltd (1989) 5 BCC 39.

Winding-up: *locus standi* of alleged creditor to petition for the winding-up of a company: Tottenham Hotspur Plc v. Edenote Plc [1994] BCC 681.

Lectures and Seminars

Jonathan is regularly asked to provide lectures and seminars for solicitors and for various professional bodies, including the Administrative Law Bar Association, the Human Rights Lawyers Association, the Property Law Bar Association, and the annual conference of the Government Legal Service. He gave the annual speech to the Insolvency Lawyers Association in 2006, and addressed both the Chancery Bar Association's annual conference and the Administrative Law Bar Association's annual seminar on the Human Rights Act in 2007. He spoke again at the Chancery Bar Association's annual conference and at the GLS's annual conference on administrative law in 2008.

Appointments

1994 Treasury Counsel (Chancery)

1998 First Treasury Counsel (Chancery)

1998 Bencher of Lincoln's Inn

2001 Deputy High Court Judge

2006 Attorney General to HRH the Prince of Wales

Professional

Commercial Bar Association

Chancery Bar Association

Administrative Law Bar Association

Insolvency Lawyers Association