



# Franck Magennis

YEAR OF CALL: 2016



Franck Magennis practices in public, civil and criminal defence. His work centres on challenging the British and other imperial states, the bourgeoisie and the landlord class. He is an expert on the Palestinian struggle for emancipation from Israeli apartheid and occupation. His practice spans asylum and immigration, public law, defendant side housing, employment and industrial relations, civil actions against public authorities, inquests, criminal defence, prison law, and international law.

"I just got a call from the client in prison who Franck represented [at an immigration bail application] on 29 May 2020. He didn't have enough to describe how fantastic he thought Franck was and made me promise to pass on his thanks and provide feedback for him. He said Franck was the best!"

ANONYMOUS LAY CLIENT, 2020

If you would like to get in touch with Franck please contact the clerking team:

[contactmyclerks@gclaw.co.uk](mailto:contactmyclerks@gclaw.co.uk) | [+44 \(0\)20 7993 7600](tel:+442079937600)

You can also contact Franck directly:

[franckm@gclaw.co.uk](mailto:franckm@gclaw.co.uk)

## IMMIGRATION LAW

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Franck regularly appears in the First-tier Tribunal representing migrants facing removal and deportation. He has acted for clients from numerous countries, with an emphasis on Palestine as well as ex-British colonies and countries enduring or recovering from recent unlawful British military violence. He has represented unaccompanied asylum-seeking children. He also helps rich people navigate the Home Office labyrinth, using the fee income thereby generated to subsidise pro bono and non-legal work.

He has extensive experience of obtaining immigration bail for vulnerable clients caught in the Home Office's administratively dysfunctional and institutionally racist system of immigration detention. He will not hesitate to use Judicial Review to overcome delays in obtaining bail from the First-Tier Tribunal, especially in circumstances where the Home Office seeks to rely on its own unlawful failure to provide accommodation to justify continued detention. He has a firm command of the law relating to victims of torture and trafficking and the National Referral Mechanism.

He has helped to pioneer the argument that subjection to Israeli apartheid for Palestinians – as well as Jewish-Israeli conscientious objectors pursuant to UN General Assembly resolution A/RES/33/165 of 20 December 1978 on “Status of persons refusing service in military or police forces used to enforce apartheid” – amounts to persecution under the 1951 Refugee Convention and a breach of human rights under the Human Rights Act 1998.

### NOTABLE CASES

#### **APKC v Secretary of State for the Home Department (2019, settled out of court)**

Judicial Review of immigration detention that two experts had confirmed was having an injurious effect on the Claimant's mental health, who had multiple diagnoses of mental health problems including Post Traumatic Stress Disorder (PTSD) and psychotic symptoms. The Defendant had also delayed in providing accommodation under section 4 of the Immigration Asylum Act 1999. The Defendant settled the public law aspect of the claim and released the Claimant to a section 4 address.

#### **Afghan unaccompanied asylum seeking child granted asylum after voyage to the Upper**

## **Tribunal**

AR v Secretary of State for the Home Department (unreported, PA/05037/2017)

The Appellant, an unaccompanied asylum-seeking child from Afghanistan whose father had been murdered, lost his asylum appeal at first instance. Franck succeeded in overturning that decision in the Upper Tribunal, before winning the remitted hearing in the First-tier Tribunal.

## **HOUSING LAW**

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Franck accepts instructions from people resisting possession proceedings against both public and private landlords, those reviewing adverse Local Authority homelessness decisions under sections 188 and 204 of the Housing Act 1996, those enduring unlawful disrepair, and those who have been unlawfully evicted. He has experience of: suspending warrants for possession; appearing at ex parte hearings seeking relief against rogue landlords; advising on enforcement of damages orders to reduce the risk of landlords dissipating their assets; advising on adverse possession, and; representing clients up to trial.

Franck was a pupil under [Liz Davies](#), the co-author of [Housing Allocation and Homelessness](#). Through her he gained extensive insight into homelessness appeals under the Housing Act 1996 and all areas of defendant side housing law.

He is a co-founder of the [Materialist Housing Group](#), a collective who find ways, including direct action and litigation, to expropriate landlords and create collective ownership structures for the houses we live in.

## **NOTABLE CASES**

**Family of seven resist possession and retain introductory tenancy following successful public law defence**

***Thurrock Borough Council v Scamp (2018, unreported)***

The Defendant, her partner, and their five children faced eviction from their Local Authority property which they occupied under an introductory tenancy. Acting in concert with [Kevin Gannon](#) of Garden Court, Franck successfully made out a public law defence relating to the Local Authority's failure to consider alternatives to eviction pursuant to its duties under s.11 Children Act 2004. In direct consequence the family remained in possession, and their introductory tenancy was converted into a secure tenancy.

***London Borough of Lewisham v (1) Persons Unknown & (2) CC (2019, unreported)***

Franck was instructed by Hodge Jones & Allen at incredibly short notice, the claim having been brought by

the Claimant Local Authority landlord under the expedited procedure against persons unknown. The persons in question were occupying a piece of land adjacent to the Tidemill wildlife garden in protest against the Claimant's unpopular decision to destroy one of Deptford's few remaining green spaces. After a brave Defendant agreed to step forward and be named, Franck collaborated with his solicitors and the protestors to persuade a judge that the claim was genuinely disputed on grounds which appeared to be substantial, namely that the Landlord had failed to consider adequately or at all the protestors' rights under Articles 10 and 11 of the European Convention on Human Rights, thereby delaying the eviction by more than two months.

## **EMPLOYMENT AND DISCRIMINATION LAW**

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Franck accepts instructions from those bringing claims against bosses before the Employment Tribunal. He has particular expertise of bringing trade union victimisation and group holiday pay claims. He has acted for sex workers asserting their status as 'limb b' workers, and for workers in the legal sector alleging disability discrimination.

He is dedicated to representing members of radical 'base' trade unions who organise in economic sectors with large numbers of migrant and precarious workers. From September 2019 to March 2020 he was seconded to United Voices of the World ('UVW') as the head of their legal department. As part of that position he participated in numerous indirect race discrimination challenges under section 41 of the Equality Act 2010, in respect of the decision by Respondents to outsource resulting in racially segregated sections of their workforce. He has extensive knowledge of discrimination law.

Franck advises trade unions on taking industrial action under the Trade Union Labour Relations (Consolidation) Act 1992 ('TULR(C)A').

Franck has appeared before the Central Arbitration Commission and has advised trade unions in relation to the law, procedure, strategy and tactics of voluntary and statutory recognition agreements under the 'TULR(C)A'.

Franck is an executive committee member of UVW. He co-founded, and is the elected treasurer of, the Legal Sector Workers United branch of UVW. He is also a member of Unite the Union. His commitment to confronting the bosses (and the managers they employ) extends well beyond his role in the court room.

## **CLAIMS AGAINST THE POLICE AND PUBLIC AUTHORITIES**

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Franck's knowledge of asylum, prison and criminal law strengthens his grasp of how successfully to sue public authorities. He has experience of suing the cops, prisons, and the Home Office, including where claims start life as applications for Judicial Review.

Before arriving at Garden Court, he spent two years as a paralegal in the AAP Department at Birnberg Peirce. There he received training in how to obtain damages from the Home Office, prison governors, police forces, and the Crown Prosecution Service. He also worked on civil litigation in the High Court governed by Closed Material Procedures, brought against the security services in relation to their imposition of "control orders" on a group of Libyan dissidents.

## PRISONERS' RIGHTS

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Franck has experience appearing at parole board hearings, where he brings his knowledge of immigration and deportation law to bear. Before being called to the bar he regularly volunteered his time at the Prisoners' Advice Service, where he developed his knowledge of the practical and legal realities governing life inside.

### NOTABLE CASES

#### **Ex-gang member serving life sentence for murder secures transfer to open conditions**

*S v The Parole Board* (2017, unreported)

Franck represented a man who had been convicted of a gang-related murder at the age 17, securing his client's transfer to open conditions.

## CRIMINAL DEFENCE

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Franck accepts instructions from those charged with criminal offences. He is particularly interested in cases relating to public protest and where police officers are involved as complainants. He has acted for people charged while resisting their illegal eviction from squats, for anti-fracking protestors, and for activists monitoring and disrupting badger culls. He is interested in the tactical and political considerations surrounding defences of justification.

### NOTABLE CASES

#### **Anti-fracking activists charged with "watching and besetting" receive conditional discharges**

*R v B and N*

(2017, unreported)

Franck acted for one of two co-defendants jointly charged with the archaic offence of watching and besetting. The two had "locked on" outside the entrance to a hydraulic fracturing exploration site, which the Crown alleged had disrupted operations for the day. Both defendants were convicted following trial and were sentenced summarily, receiving conditional discharges pursuant to *R v Jones (Margaret)* [2006] UKHL 16.

### **Activist charged in connection with monitoring of badger cull acquitted**

*R v A* (2017, unreported)

The Defendant was charged with failing to provide information contrary to s172(2) of the Road Traffic Act 1988 in respect of a motor vehicle used by a number of people to monitor badger culls. Franck secured the Defendant's acquittal.

### ***R v Andrew Rowe* (2019, unreported)**

The Defendant was a British citizen who had previously served a 15 year prison sentence for terrorism offences in 2005. Following his release he was later charged with falsely claiming benefits. Franck was instructed by Birnberg Peirce to represent the Defendant, who pleaded guilty. In the face of hostile right wing press and transparently political pressure from the prosecutor to depart entirely from the sentencing guidelines to impose a custodial sentence, Franck succeeded in securing a suspended sentence.

## **ADMINISTRATIVE AND PUBLIC LAW**

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Franck accepts instructions in all areas of administrative and public law. He has experience of the Special Immigration Appeal Commission, including nationality and control order cases. He has also been instructed in civil proceedings arising from SIAC decisions.

He is committed to bringing strategic litigation relating to tax justice, migration and borders, and housing.

## **INQUESTS AND INQUIRIES**

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Franck represents injured interested parties and bereaved families before inquests and inquiries. In light of the outrageous funding regime that routinely deprives bereaved families of Legal Aid in inquests, Franck is highly flexible on fees and is willing to act pro bono where necessary.

## **NOTABLE CASES**

**Inquest touching on the deaths of Muhamadou Jagana and others (2018), representing five**

## **families and an Interested Party injured in the incident**

Five migrant labourers were killed when a shoddily constructed wall collapsed on them at a metal recycling plant in Birmingham. The inquest jury found that there was a “foreseeable risk” that the wall would collapse. Franck acted for the families of the five deceased, and for Tombong Camara Conteh, an Interested Party who had been badly injured in the collapse.

## **BACKGROUND**

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Situating his practice within the class struggle between labour and capital, Franck emphasises the need to organise as an organic part of the international working class in order to maximise its collective autonomy. His approach to legal practice is influenced by Gramsci’s concept of the ‘organic intellectual’, as well as Jacques Vergès’ ‘rupture defence’ and Duncan Kennedy’s conception of radical lawyer as “part technician, part judo expert, able to turn the tables exactly because she never lets herself be mystified by [liberal...] rhetoric [...]”. He is a communist first, and a lawyer second.

Franck co-founded the Materialist Lawyers’ Group, which critically interrogates law’s role in reproducing unjust hierarchies and resource distributions.

Franck co-founded [People’s Private Equity \(‘PPE’\)](#), a non-hierarchical group of radicals who develop mechanisms for aggressively intervening in capitalist firms and reconstituting them along counter-hegemonic, socialist lines. During his Master’s degree he co-founded [Deptford Cinema](#), a community-run, non-profit arts organisation. He is the co-founding director of the [London Learning Cooperative](#), a workers’ cooperative tuition agency with a commitment to redistributive pricing, emancipatory pedagogy, and anti-imperialist institutional design and praxis.

He enjoys chess, writing plays, playing guitar and piano, and singing trashy pop songs (especially Lana del Rey).

## **PUBLICATIONS**

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Review: *The Shock Doctrine of the Left* by Graham Jones, *Socialist Lawyer* No. 79, June 2018.

Review: *The Critical Lawyers’ Handbook* by Ian Grigg-Spall and Paddy Ireland, *Socialist Lawyer* No. 77, October 2017.

'Blacklisting of construction workers: a legal black hole', *Socialist Lawyer* No. 71, October 2015.

'Hands up if you're a 'domestic extremist', *Socialist Lawyer* No. 70, June 2015.

'[Private Equity by and for the People](#)', with others under the by-line 'People's Private Equity', *New Socialist*, 13 February 2019.

'[Using finance to transform the legal sector](#)', with Zachary Whyte, *Law Society Gazette*, 1 April 2019.

'[Rent Strike—now? A legal and political analysis](#)', with Nicholas Bano, *New Socialist*, 14 April 2020.

'[Detained Migrants Are Workers. They Belong in the Trade Union Movement](#)', with Isaac Ricca-Richardson, *Novara Media*, 25 May 2020.

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## TRAINING AND SEMINARS

'Homelessness and Allocation: Case Law Update', (in conjunction with [Liz Davies](#), Garden Court) NPSS National Conference 2018.

'Arguing Palestinian cases in the light of the latest UN positions' – with [Mark Symes](#) and [Camila Zapata Besso](#), 26 February 2020, Garden Court Chambers.

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## EDUCATION

- BA (History)
- Graduate Diploma in Law
- LL.M.
- Bar Professional Training Course

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## PROFESSIONAL MEMBERSHIP

- Haldane Society of Socialist Lawyers
- Housing Law Practitioners Association
- Immigration Law Practitioners' Association
- Lawyers for Palestinian Human Rights
- London Irish Lawyers' Association



- **Materialist Lawyers' Group**
- **Police Action Lawyers Group**
- **Legal Sector Workers United (branch of United Voices of the World)**
- **Unite the Union**

## LANGUAGES

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- **French (advanced)**
- **Arabic (basic)**
- **Spanish (basic)**
- **Irish (basic)**

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**[franckm@gclaw.co.uk](mailto:franckm@gclaw.co.uk)**



57-60 Lincoln's Inn Fields, London, WC2A 3LJ

Email: [info@gclaw.co.uk](mailto:info@gclaw.co.uk)

Tel: +44 (0)20 7993 7600

DX: 34 Chancery Lane