

Monica Feria-Tinta

CALL: 2014

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Languages: Spanish (fluent); French (fluent); German (intermediate)



Overview

Monica is a specialist in public international law. She is featured in The Lawyer Hot 100 2020 as amongst “the most daring, innovative and creative lawyers” in the United Kingdom. Described as a ‘powerhouse of international law’, she was ‘Barrister of the Year’ Finalist in The Lawyer’s Awards 2020.

Monica’s practice covers the full spectrum of public international law including statehood, treaty interpretation, state responsibility, immunities, law of the sea, boundary delimitation, transboundary environmental damage, environmental law, investment law, UN law, the law of international organisations, diplomatic protection, self-determination, human rights, use of force, humanitarian law, international criminal law and international dispute settlement.

Her practice also covers private international law, international arbitration and public law, with an emphasis on human rights. In addition to counsel work, she also accepts appointments as arbitrator. She is currently sitting as Arbitrator (Chair) in an investment arbitration with a seat in The Hague and is a guest lecturer at the LCIL Executive Course on Investment Law and Arbitration, University of Cambridge.

Monica is regularly instructed in complex and high-profile cases. She acts as counsel for Sovereign states and private parties in cases before English courts, international courts and arbitral tribunals under a variety of rules and applicable laws. She has acted in cases before the Court of Appeal, the High Court, the International Court of Justice (ICJ), Permanent Court of Arbitration (PCA), International Tribunal for the Law of the Sea (ITLOS), OECD procedures, UN Human Rights Committee, CEDAW Committee,

Awards

- 2020 The Lawyer ‘Hot 100’
- Barrister of the Year Finalist – The Lawyer’s Awards
- Shortlisted “International Barrister of the Year” – Bar Pro Bono Awards
- 2007 Gruber Justice Prize, which honours individuals who have advanced the cause of justice as delivered through the legal system (Justice Sandra Day O’Connor from the US Supreme Court, being among the members of the selection panel awarding the prize).
- 2006 Inge Genefke International Award for “outstanding work against torture”.

Publications

Books

- *Foreign State Immunity and Enforcement of Arbitral Awards in English Courts* (Oxford University Press, forthcoming 2021).

Chapters

- ‘Climate Change as a Human Rights

Committee on the Rights of the Child, Inter-American Commission on Human Rights, Inter-American Court of Human Rights, ICSID, SCC and SIAC tribunals, International Criminal Tribunal for ex-Yugoslavia (ICTY), UN Special Procedures and diplomatic fora. She is admitted before the International Criminal Court (ICC). Increasingly, she is instructed to appear also in foreign courts.

Monica is an expert in the substance and procedure (including service of process) of diplomatic immunity, state immunity, and the immunity of State officials and special missions. She is also an expert in consular law, in all aspects of the Vienna Convention on Consular Relations. From 2018 to 2019 she served as Assistant Legal Adviser to the Foreign and Commonwealth Office where she routinely advised in those areas, including in the implementation of the Supreme Court judgment in *Benkharbouche* (in which the UKSC held the incompatibility of sections of the State Immunity Act with Article 6 of the European Convention on Human Rights). Recent notable work includes acting in the judicial review of Harry Dunn's parents against the Secretary of State for Foreign and Commonwealth Affairs (raising nuanced aspects of diplomatic immunity), advising a UN Specialised Agency on the immunity of international organisations and arbitration in complex contracts, advising in the high-profile US\$1bn gold dispute relating to the Central Bank of Venezuela, on recognition of governments and executive certification before commercial courts, and advising a State sitting on the board of the World Bank on immunity matters. Her expertise in the area of immunities is reflected in her forthcoming book *Foreign State Immunity and Enforcement of Arbitral Awards in English Courts* to be published by Oxford University Press.

Monica's career at the Bar is built on substantial experience working for international courts and tribunals which include the International Court of Justice where she advised in the seminal case on Genocide (*Bosnia v Ex-Yugoslavia*), and the ICTY (Chamber Trial I) where she advised on international humanitarian law and the law of command responsibility. Her experience working with international law institutions includes assisting members of the International Law Commission (ILC) drafting comments to the ILC Draft Articles on State Responsibility, acting as Amicus (with the ILC Special Rapporteur on Diplomatic Protection); drafting responses relating to UN Special Procedures; acting as expert to the Final Report of the Independent Expert on the right to reparation for victims of gross violations of human rights and humanitarian law; assisting in the drafting of UN General Assembly Resolutions (in an advisory capacity); and serving as legal adviser to a State Delegation to the Diplomatic Conference that negotiated the Rome Statute and established the ICC.

Monica's recent international practice in international law beyond the United Kingdom includes advising on cases arising from Kosovo (peace-building operation), Syria, Iraq, Iran, Libya, Afghanistan, UAE, Turkey, Indonesia, Tunisia, Mali, Hong Kong, Singapore, India, Democratic Republic of Congo, Kenya, and Somalia. In arbitration, she has recently advised on state attribution in the context of construction contracts in an ICSID claim and on the meaning of the word "territory" in a BIT relating to jurisdictional issues. In addition, she is acting in inter-state litigation raising novel aspects of international law in the area of the law of the sea. Monica's expertise in this area of law is acknowledged in her recent appointment to the IUCN World Commission on Environmental Law (Oceans, Coasts, and Coral Reefs Specialist Group).

Monica has also been active in cases raising sea-level rise issues, sinking islands, environmental degradation, oil spills, transboundary harm, climate change as a human right issue, environmental harm of waterways, protection of rivers, biodiversity, phasing-out coal mining cases and the enforcement of the Paris Agreement before a

Issue: Litigating Climate Change in the Inter-American System of Human Rights and the United Nations Human Rights Committee' in *Climate Change Litigation: Global Perspectives*, I. Alogna, C. Bakker and J.P. Gauci (eds.)(Brill, 2021)

- 'Arbitration and the European Convention on Human Rights' in *International Arbitration and EU Law*, J. Mata Dona and N. Lavranos (eds.)(Elgar Publishers, 2021)

Articles

- 'Climate Change Litigation in the European Court of Human Rights', *L'Europe des Droits et Libertés Journal*, December 2020 (Issue 3)
- 'World Bank Group Immunities after *Jam et al v IFC*', *Journal of International Banking and Regulations* (2019) issue 34 (10).
- 'The Rise of Environmental Law in International Dispute Resolution: The Inter-American Court of Human Rights Issues a Landmark Advisory Opinion on the Environment and Human Rights' *Yearbook of International Environmental Law* (Oxford University Press 11 October 2018) (with Simon Milnes).
- 'Sovereign Debt Enforcement in English Courts: Ukraine and Russia meet in the Court of Appeal in US \$3 Billion Eurobonds Dispute' (2018) 33(2) *Journal of International Banking Law and Regulation* (with Alistair Wooder).
- 'Bolivia and Chile in The Hague: Can They Quiet the Ghosts of the Pacific War, and Thrive together in the 21st Century?' *Opinio Juris* (27 March 2018) (with Simon Milnes).
- 'Like Oil and Water? Human Rights in Investment Arbitration in the Wake of *Philip Morris v. Uruguay*' (2017) 34(4) *Journal of International Arbitration* 601.
- 'The South China Sea: Chess Arbitration?' *EJIL: Talk!* (10 August 2016).
- 'Extra-Territorial Claims in the "Spider's Web" of the Law? UK Supreme Court Judgment in *Ministry of Defence v Iraqi Civilians*' *EJIL: Talk!* (25 May 2016).
- 'Litigation in Regional Human Rights Systems on Economics, Social and Cultural Rights against Poverty' in Van Bueren (ed), Sane (series ed), *Freedom from Poverty as a Human Right* (vol 4, UNESCO Publishing 2009).
- 'Due Process and the Right to Life in the Context of the Vienna Convention on Consular Relations: Arguing the *LaGrand Case*', *EJIL* 2001.
- 'Commanders on Trial: The Blaškić case and the Doctrine of Command Responsibility under International Law'

variety of international organs, including acting in the first climate change contentious case before the Human Rights Committee. She has also advised a State Party representative of a Least Developed Country in the drafting of the Rules of Procedure of Compliance with the Paris Agreement.

Monica has published extensively in the area of public international law and her work has been cited in ICJ proceedings and by Lord Carnwath of the UK Supreme Court. She has lectured worldwide on public international law including as guest lecturer at Oxford University; Kurt Bosch-University of Fribourg, Switzerland; Guangxi Normal University, Faculty of Law, China; Georgetown University Law Centre; and Universidad Autónoma de Mexico and previously held academic positions at the Lauterpacht Centre for International Law (University of Cambridge) where she is currently Partner Fellow, and at the London School of Economics (as Teaching Assistant to H.E. Christopher Greenwood, former ICJ Judge).

Monica has taken part in expert missions to Kenya (2020), Myanmar (2016), Guatemala (2015), and has trained advocates in South Africa on international law (2017), Colombian lawyers on judicial processes in the context of transitional justice (2017), and members of the Bar in Honduras on international arbitration (2016).

She has been appointed to the Equality and Human Rights Commission's Panel of Preferred Counsel (B Panel) who are generally instructed where "*substantial knowledge and experience is required*" in cases of great public importance concerning the Equality Act 2010 and human rights breaches in litigation before domestic and European Courts.

Lectures / talks

- The Global Network for Human Rights and the Environment, London (5 August 2020): Human Rights Strategies in Climate Change Litigation – A Latin American Perspective'.
- Bishkek Arbitration Days 2020, (5 June 2020), "Investment Arbitration claims in a post Covid-19 world".
- 'Yukos seminar' organised by De Brauw Blackstone Westbroek, London (4 March 2020).
- ASIL, (podcast): "Latin American States before the ICJ: The Latin Am. Influence in development of Int'l Law" (21 January 2020).
- British Institute of International and Comparative Law (London 16 January 2020): "Climate Change Litigation, Comparative and International Perspectives".
- UIA (Luxembourg, 9 November 2019): "Justiciability of environmental law cases".
- Dutch Arbitration Week (10 October 2019): "Enforcement of arbitral awards against states and state immunity international developments and recent case law".
- International Law Seminar Alumni Conference 2019, Palais des Nations, Geneva (19 July 2019): 'Procedural issues in International Dispute Settlement'.
- ASIA ADR Week (Kuala Lumpur, 28 June 2019): "Public Policy as a Shield: Enforceability of Contractual Obligations".
- AIAC YPG, Arbitral Women (Kuala Lumpur, 26 June 2019): "Unconscious Bias in International Arbitration".
- LCIL Executive Course on Investment Law and Arbitration, University of Cambridge (30 May 2019): 'Fair and Equitable Treatment & Full Protection and Security Standard in international investment law'.
- World Law Forum Business & Human Rights Practitioners

(2000) 47(3) Netherlands International Law Review 293 (awarded the denomination of "Publication of the month" in the area of international humanitarian law, for its contribution to the correct understanding of states' duties under the Laws of War by the Swiss Ministry of Defence in 2001).

Professional appointments / memberships

- AIAC Advisory Council Member (appointed by Malaysia)
- ALBA
- American Society of International Law
- Partner Fellow, Lauterpacht Centre for International Law, University of Cambridge
- British Institute of International and Comparative Law
- Canning House (The Hispanic and Luso Brazilian Council)
- CI Arb
- Chatham House (The Royal Institute of International Affairs)
- Commercial Bar Association (COMBAR)
- COMBAR African Committee
- Equality and Human Rights Commission's Panel of Preferred Counsel (B-Panel)
- European Society of International Law
- Fair Trial International: Legal Experts Advisory Panel
- Free Trade Agreements arbitrator roster for state-to-state dispute settlement mechanisms under the UK's FTAs (appointed by the UK)
- International Criminal Court Bar Association
- International Law Association
- IUCN World Commission on Environmental Law
- London Common Law and Commercial Bar Association
- Middle Temple (Bencher)
- UN Harmony with Nature Expert
- University of Cambridge, Jesus College Visiting Fellow (Oct-2021-)

Network (London, 26 March 2019): "Business & Human Rights Arbitration: Opportunities & Challenges"

- Schiefelbein Global Dispute Resolution Conference, Sandra Day O'Connor College of Law, Arizona State University (18 January 2019): 'International Dispute Resolution for Climate Change'
- 2018 UN Forum on Business and Human Rights (Palais de Nations, Geneva) (28 November 2018): 'New Perspectives on overcoming hurdles for parent company liability' (in conversation with Mr Surya Deva, Chairperson of the UN Working Group on Business and Human Rights).
- Pluricourts & IUCN World Commission on Environmental Law (Hawaii, 9 November 2018): "The Role of International Courts in Protecting Environmental Commons".
- Trinity College Law Review Distinguished Speaker Series, Trinity College, Dublin (8 November 2018): 'State Immunity and Human Rights'.
- Annual Government Legal Profession International Law Conference, Lancaster House (18 Oct 2018): 'Public International Law in the UK Courts'.
- United Nations Commission on International Trade Law, Regional Centre for Asia and the Pacific and THAC, Bangkok (17-18 May 2018): 'New Opportunities for convergence in alternative dispute resolution'; 'Alternative dispute resolution and its use for the enforcement of environmental obligations'.
- Universidad de Los Andes Law Faculty, Center for Social Juridical Studies, and the Colombian Academy of international Law, Roundtable with Agent for Colombia in the Advisory Opinion OC-23/17, Bogotá (4 April 2018): 'New Frontiers of Litigation in international environmental law'.
- British Institute of International Law panel (11 December 2017), 'Legal Consequences of the Separation of the Chagos Archipelago from Mauritius (ICJ Advisory Opinion): Intervening parties under Article 66(2) of the ICJ Statute.'
- 3rd Annual GAR Live Energy Disputes (15 June 2017): 'International boundary disputes and energy related natural resources'.
- Queen Mary University of London (School of International Arbitration - Centre for Commercial Law Studies) and Brazilian CBar (4 April 2017): 'The State as Party to Arbitration: Sovereign Immunity'.
- Oxford University Public International Law Discussion Group Lecture (Old Library - All Souls College) (1 December 2016): 'Like Oil and Water? Human Rights in Investment Arbitration in the Wake of Philip Morris vs. Uruguay'.
- Hong Kong Arbitration Week 2016, SCC and Shearman & Sterling Seminar, Hong Kong (19 October 2016): 'Energy Investment Arbitration: Trends and possible pitfalls'.
- The Law Society's Russian Law Week 2016 (14 November 2016): 'State-owned entities and enforcement of awards'.

Education

- The Hague Academy of International Law: Diploma in International Law (2000)
- London School of Economics:LLM, with merit (1996)
- Pontificia Universidad Católica del Perú:Bachiller en Derecho (1991)

Further training

- Institute of Human Rights, Abbo Academy:Diploma in Advanced Human Rights (Fellowship, European Commission and Finnish Ministry of Foreign Affairs) (2001)
- UN International Law Commission's International Law

Seminar (Palais de Nations, UN Geneva), United Nations Fellowship, (amongst 24 lawyers, selected worldwide, to participate in the 36th session of the International Law Seminar to be trained by the UN International Law Commission in all areas of General International Law, pursuant to General Assembly Resolution 54/111), Geneva(2000)

- Institut International des Droits de l'Homme, René Cassin Foundation, Strasbourg: Diploma in International Protection of Human Rights and International Humanitarian Law (1997)

Example cases

- *Bravo and others v Amerisur Resources plc* [2020] EWHC 203 (QB), (for defendant) (UK/Colombia)- currently acting in this claim for economic and non-economic damage allegedly caused by environmental contamination and pollution of land and waterways (oil spill). The case has been reported in The Lawyer.
- *Deutsche Bank AG London Branch and Receivers Appointed by the Court, Central Bank of Venezuela, and The Governor and Company of the Bank of England and The Ad Hoc Administrative Board of The Central Bank of Venezuela and the Board of the Central Bank of Venezuela* [2020] EWHC 1721 (The High Court, Queen's Bench Division Commercial Court) - Advised the Board of the Central Bank of Venezuela on matters of public international law (recognition of governments and executive certification) relating to this high-profile US\$1bn gold dispute before commercial courts. The case received great media attention with coverage by The Financial Times, Forbes, Reuters, The Telegraph, CNBC, ITV, Al Jazeera and The Guardian.
- *R (Charles & Dunn) v Secretary of State for Foreign and Commonwealth Affairs* [2020] EWHC 3185 (Admin) - (for the claimants) acting in the judicial review of Harry Dunn's parents against the Secretary of State for Foreign and Commonwealth Affairs (raising nuanced aspects of diplomatic immunity and Article 2 obligations under the European Convention on Human Rights).
- *Cerrejón case* before the UN Special Procedures - (for the claimants) (sole counsel) Secured a UN intervention calling on the halting of mining operations during COVID-19, in this high-profile case concerning alleged violations of environmental harm and human rights by one of the largest open pit coal mines in the world owned by BHP, Anglo American and Glencore. The case has received worldwide attention with coverage from The New York Times, Reuters, The Telegraph and the Sydney Morning Herald.
- *Torres Strait Islanders case v Australia (UN Human Rights Committee)* -Acting for claimants in this ground-breaking case on climate change litigation under the International Covenant on Civil and Political Rights. Referred to as the 'world's first climate change human rights case' by the media, the case has received worldwide attention with coverage from The New York Times, The Guardian, Al Jazeera, CNN.
- *Montara Oil Spill case* (concerning transboundary harm/Australia) - sole counsel before UN Special Proceedings in this case considered to be one of Australia's worst oil disasters (for 13 West Timor regencies) - (state responsibility for transboundary harm (oil spill), law of the sea, precautionary principle, general international law).
- *Verica Tomanovic and others v FCO* (The High Court)- Advising the defendant in this case concerning alleged vicarious liability for human rights violations of the contributing State to EULEX mission for acts/omissions of a secondee in Kosovo, raising issues on the rules of attribution for liability in the context of peace-building operations and immunities of international organisations.
- *Jam v International Finance Corporation* (586 U.S. 2019) (US Supreme Court) (India/US) - Advising (unled) a State sitting on the board of the World Bank on the implications of this US Supreme Court judgment which denied absolute immunity to the IFC as an international organisation. The case was brought by Indian fishing communities and farmers from India against the IFC, a member of the World Bank Group over the adverse environmental impact of a power station (the Tata Mundra Ultra Mega coal-fired power plant in Gujarat, India) partly funded by the IFC.
- *Benkharbouche (Respondent) v Secretary of State for Foreign and Commonwealth Affairs (Appellant)* [2017] UKSC 62-Advised the UK government (sole counsel) on State Immunity issues in the implementation of the Supreme Court judgment in *Benkharbouche*, in which the Court held that sections 4(2)(b) and 16(1) (a) of the State Immunity Act 1978 are incompatible with Article 6 of the European Convention on Human Rights.
- *Nazanin Zaghari-Ratcliff case* (UK/Iran) - Advised the FCO and the Secretary of State on this high-profile case on diplomatic protection. The case was covered by international press including The New York Times, Huffington Post, ITV news, The BBC, The Financial Times, The Telegraph, The Guardian.

- *MH17 case*- Advised a Sovereign State on the ICAO Convention and on the law of international claims and mechanisms at inter-state level in cases of airplane downings in international practice. Advice focused on the Malaysia Airlines flight MH17 case, which was shot down by a missile when flying over eastern Ukraine in route from Amsterdam to Kuala Lumpur in 2014. The incident is the deadliest airliner shutdown incident to date.
- *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ICJ: advised the ICJ on substantive and procedural matters (applicable standards) in relation to genocide and state responsibility under the UN Genocide Convention as opposed to individual criminal responsibility standards and assisted with the legal analysis of evidence (over 700 witness statements).
- *LaGrand Case, (Federal Republic of Germany v United States of America)* ICJ: a ground-breaking case on the Vienna Convention on Consular Relations; developed successful lines of argumentation on the right to consular assistance and its relation to human rights, which set a new precedent in the interpretation of the Vienna Convention on Consular Relations (for Germany).
- *Reyes v Al-Malki* [2015] IRLR 289 (Court of Appeal): test case concerning the interpretation of the Vienna Convention on Diplomatic Relations, in particular whether Article 31(1)(c) excludes diplomatic immunity in the context of employment/human trafficking claims (assisted Sir Daniel Bethlehem QC and Sudhanshu Swaroop QC).
- *Prosecutor v Timohir Blaskic* ICTY: advised Trial Chamber I under the Presidency of HE Judge Claude Jorda on the applicable law in connection to command responsibility under international law, in preparation of a judgment relating to the highest-ranking officer at that time to be tried by the ICTY.
- *Actavis UK v Eli Lilly* [2015] EWCA Civ 555 (Court of Appeal): a multi-billion pound case concerning the interpretation of Rome II Regulation raising issues of patent law across Europe in which Monica made a substantial contribution to the private international law arguments, which led the court to conclude that the conditions for negative declaratory relief are procedural and governed by the *lex fori* under Rome II (assisted Thomas Raphael QC).
- *The Enrica Lexie Incident (Italy v India)* (ITLOS) (PCA): an inter-state arbitration under Annex VII of the United Nations Convention on the Law of the Sea; Monica developed the successful line of argumentation on the law of the sea and human rights, which secured the granting of Provisional Measures in favour of Italy in the case.

Public international law - international courts/international claims

Monica is a leading barrister in public international law and ranked in The Legal 500 where it is noted that she is “*an expert in public international law, particularly in relation to international organisations and on privileges and immunities*”. She has an exceptional in-depth knowledge across all areas of Public International Law and advises in English, French and Spanish.

In the past two years, she has advised/acted in cases on immunities, law of the sea, international environmental law, investment law disputes, claims to statehood, territorial disputes, responsibility of international organisations (from the World Bank to peacekeeping operations), State Responsibility, the effect of recognition under international law, governments in exile, EU law, diplomatic protection, inter-state disputes and transboundary harm, consular law, international claims (state-to-state negotiations), treaty interpretation, international human rights and UN law, extra-territorial claims, and the law applicable to armed conflicts. She has acquired high expertise in international claims and advised in complex and sensitive cases arising from Syria, Iraq, Afghanistan, India, Iran, and Kosovo, amongst others. In 2018-2019, Monica was seconded to the Legal Directorate of the Foreign & Commonwealth Office, where she advised on a variety of public international law issues and led litigation for the FCO in a number of high-profile cases.

During this time Monica has advised on the interpretation and effect of over 80 international agreements (bilateral and multilateral) and conventions. These include the UN Charter, Convention on Consular Relations, Convention on Diplomatic Relations, European Convention on State Immunity, European Convention on Human Rights, UN Convention on Jurisdictional Immunities of States and their Property, International Convention for the Suppression of the Financing of Terrorism, The Convention on International Civil Aviation, ILO Conventions, Hague Conventions, UNCLOS, Convention Against Torture, ICCPR, ICERD, ICESCR, CRC, Geneva Conventions, Rome Statute, Energy Charter Treaty and Bilateral Investment Treaties.

She holds specialised knowledge in the law of the sea having recently spent two months at the headquarters of the International Tribunal for the Law of the Sea as part of the IFLOS Academy. She led her team to take first place at the Moot Court on the Law of the Sea in 2019. Monica is also active in investment arbitration and has been appointed as Presiding Arbitrator, the youngest appointed Chair in an energy investment dispute.

Prior to the Bar, Monica had a stellar career in international law litigating cases before international courts and tribunals, including a stint working at the International Court of Justice and ICTY. Her practice rests on a strong academic background, having been trained in international law in London, Geneva, Strasbourg, Hamburg and The Hague. She was awarded the Hague Diploma, a mark of distinction amongst international lawyers. She has taught PIL as a Teaching Assistant to the former ICJ Judge Sir Christopher Greenwood, and is currently a guest lecturer on investment law and Partner Fellow at the Lauterpacht Centre for International Law. A sought-after speaker, she has recently joined the registrar of ITLOS to discuss international dispute resolution at the UN *Palais de Nations*, and was selected by the Foreign & Commonwealth Office to speak on ‘Public International Law before UK Courts’ at the Annual Government Legal Profession International Law

Conference, in Lancaster House.

Recent work includes:

- *OECD claims against BHP, Anglo American, Glencore and ESB* (acting in multiple complaints under the OECD Guidelines for Multinational Enterprises, filed before Multiple National Contact Points (NCPs) in Australia, the United Kingdom, Switzerland, and Ireland, against three parent companies over allegations of serious human rights abuses and devastating environmental pollution at a coal mine, and against Ireland's state-owned energy provider over purchases of coal from the mine having allegedly failed to identify adverse impacts which are directly linked to the mine operations.
- *Amicus Curiae, Los Cedros* – before the Constitutional Court of Ecuador – Legal Intervention on the novel issue of “Rights of Nature” under Article 71 of the Constitution of Ecuador; first world case on the Rights of Nature.
Monica's *amicus* raises Ecuador's obligations under the 1992 Convention on Biological Diversity, the Aichi Targets, the 1992 United Nations Framework Convention on Climate Change, The Paris Agreement, the 1972 UNESCO Convention concerning the protection of the world cultural and natural heritage, as well as regional agreements specific to the Americas, all of which are directly justiciable in Ecuador's legal system.
- *Amicus Curiae, On the Constitutionality of Federal Mining Law* – before The Supreme Court of Justice of the Nation (SCJN) of Mexico; Legal Intervention in a constitutional action brought by the Masewal people of Cuetzalan based in the Sierra Norte of the Mexican state of Puebla against Mexico's Federal Mining Law. The Amicus covers issues concerning the Right of Consultation under international law in the context of extractive activities. The decision by the SCJN in the case is likely to have a major impact on the extractive sector and on the legislation regulating mining law in Mexico.
- Advising on five cases before the UN Working Group on Arbitrary Detentions.
- *Amicus Curiae, Sierra Nevada de Santa Marta – Linea Negra Decree 1500 Nullity case*, before the Supreme Administrative Court of Colombia (for ABColombia & Colombian Caravana) – Legal Intervention focusing on international law norms directly relevant to the protection of rainforests and natural world of global importance, including arguments under regional and UN treaties. .The case was covered by the BBC.
- *Correjón case* before the UN Special Procedures, UN Special Rapporteur on Environment and Human Rights; UN Special Rapporteur on the Rights to Safe Drinking Water and Sanitation; UN Special Rapporteur on Toxic Wastes and Working Group on Business and Human Rights – (for claimants) (sole counsel) Secured a UN intervention in favour of claimants in this high profile case concerning alleged violations of environmental harm and human rights by one of the largest open pit coal mines in the world owned by BHP, Anglo American and Glencore. The case has received worldwide attention with coverage from The New York Times, Reuters, The Telegraph and the Sydney Morning Herald.
- *Investment Arbitration under the Energy Charter Treaty*– Acting as Presiding Arbitrator in a multi-million-pound arbitration with a seat in The Hague between a Sovereign State and an investor alleging breaches of the Energy Charter Treaty (details confidential).
- *Individual complaint before the Inter-American Commission on Human Rights under the OAS Charter and the American Declaration of the Rights and Duties of Man* (for claimant) (sole counsel).
- Advising a Sovereign State on the meaning of the word “territory” in a BIT and jurisdictional issues, the moving-treaty frontier rule, interpretation of Article 15 and 29 of the Vienna Convention on the Law of Treaties, and issues of reciprocity.
- *Provisional Measures request before the Inter-American Commission on Human Rights under the OAS Charter* (for claimant) (sole counsel).
- *Case before UN Special Procedures (Geneva) (Working Group on Arbitrary Detention and Special Rapporteur on the Independence of Judges/lawyers)* (for the claimant) (sole counsel).
- *Amicus Curiae, Gençay Bastimar v Turkey*, CCPR Case No. 3592/2019, before the United Nations Human Rights Committee (for the BHRC of England & Wales) – (with leave by the UN HRC) – standards of derogability of rights in a state of emergency under the ICCPR, legality of decree laws dismissing public servants on terrorism grounds, international standards to be met by a lawful arrest warrant, novel issues on mass surveillance and the right to privacy similar to the ones raised by *Big Brother Watch and others v the United Kingdom (applications 58170/13, 62322/14 and 24960/15)* before the European Court of Human Rights. (with Stephen Cragg QC).
- Advising non-self-governing peoples on the UN Charter, decolonisation, and statehood.
- *Advisory Opinion before the International Tribunal for the Sea* – Advising a Sovereign State on remedies for climate change (coral bleach, high acidity in the sea, sinking islands, sea level rise) caused by high gas emissions and the feasibility of an advisory opinion under UNCLOS before the International Tribunal for the Law of the Sea (UNCLOS interpretation, law of the sea, environmental provisions, procedural aspects of request for an advisory opinion, interpretation of ITLOS Statute).
- *Case before the UN Human Rights Committee* – Advised on the viability of a claim before the UNHRC relating to human rights violations of peoples undergoing a decolonization process in a foreign jurisdiction.
- *Case before the UN Committee – International Convention on the Elimination of Racial Discrimination (Inter-State proceedings under Article 11 & 12 ICERD) (Geneva) and International Court of Justice (The Hague)* – Advised on an inter-state communication submitted under Article 11 of the ICERD with the view to elevate a claim to the International Court

of Justice) (sole counsel).

- *Genocide before the International Criminal Court* - Advising on the territorial jurisdiction of the ICC and the viability of a case on Genocide before the International Criminal Court.
- *Genocide case before the International Court of Justice* - Advised on whether a particular situation amounted to genocide under the Genocide Convention, and procedural issues before the ICJ.
- *Adrian Favela case* (concerning enforced disappearances/Mexico), UN Special Proceedings, Special Rapporteur on Torture and Working Group on Enforced Disappearances (for the claimants) - Lead counsel on this case raising state responsibility for systematic enforced Disappearances, duty to investigate, torture, and reparations.
- *Montara Oil Spill case* (concerning transboundary harm/Australia), sole counsel before UN Special Proceedings in this case considered to be one of Australia's worst oil disasters (for 13 West Timor regencies) - (state responsibility for transboundary harm (oil spill), law of the sea, precautionary principle, general international law).
- *Inter-State matter regarding government in exile* - advised a government in Asia on issues of statehood, territory, the position of governments on exile under international law, issues of legitimate/non-legitimate government and self-determination; prescriptive acquisition under international law, the doctrine of estoppel under international law; and effects of coercion in treaty making.
- *Torres Strait Islanders case v Australia (UN Human Rights Committee)* - Acting for claimants in this ground-breaking case on climate change litigation under the International Covenant on Civil and Political Rights. Referred to as the 'world's first climate change human rights case' by the media, the case has received worldwide attention with coverage from The New York Times, The Guardian, Al Jazeera, CNN.
- Advising on the law governing immunities under customary international law, and diplomatic law, in the context of an attempted seizing of funds of a diplomatic mission's bank account in Democratic Republic of Congo in the context of enforcement proceedings. (proceedings in French)
- Advising a Sovereign State on a response to the UN Special Procedures on consular law and human rights arising from Iraq.
- Advised on follow-up proceedings (implementation) in a case already adjudicated by the UNHRC.
- *Gaddafi's sponsored terrorism* - advised UK Ministers on the position under international law (secondary rules of State responsibility) and possible compensation for victims of IRA terrorism, by Libya, on account of state-sponsored terrorism during the Gaddafi regime.
- Advising on the International Criminal Court and Non-State Parties immunities (interpretation of Article 27 and Article 98 of the Rome Statute).
- Advised on a high profile case arising from the UAE and whether the treatment afforded to a British National amounted to torture as defined under international law.
- Advising a diplomatic mission in enforcement proceedings in Mali (francophone jurisdiction) whereby bank accounts belonging to the mission had been seized - secured the measure was lifted within 24 hours (drafting in French).
- *Jam v International Finance Corporation* (586 U.S. 2019) (US Supreme Court) (*India/US*) - Advising (unled) a State sitting on the board of the World Bank on the implications of this US Supreme Court judgment which denied absolute immunity to the IFC as an international organisation. The case was brought by Indian fishing communities and farmers from India against the IFC, a member of the World Bank Group over the adverse environmental impact of a power station (the Tata Mundra Ultra Mega coal-fired power plant in Gujarat, India) partly funded by the IFC.
- *The Sousse & Bardo terrorist attacks* - Advised the UK government (at ministerial level) on remedies for the British victims of the Sousse terrorist attack, a mass shooting occurring at a tourist resort at Port El Kantaoui near the city of Sousse, Tunisia. In June 2015, 38 people, 30 of whom were British, were killed by an ISIS gunman (the biggest loss of British life to terrorism since the 2005 London bombings).
- *MH17 case*- Advised a Sovereign State on the ICAO Convention and on the law of international claims and mechanisms at inter-state level in cases of airplane downings in international practice. Advice focused on the Malaysia Airlines flight MH17 case, which was shot down by a missile when flying over eastern Ukraine in route from Amsterdam to Kuala Lumpur in 2014. The incident is the deadliest airliner shutdown incident to date.
- *Nazanin Zaghari-Ratcliffe case* (UK/Iran) - Advised the FCO and the Secretary of State on this high-profile case on diplomatic protection. The case was covered by international press including The New York Times, Huffington Post, ITV news, The BBC, The Financial Times, The Telegraph, The Guardian.
- Assisting the Tribunal in an Investment Arbitration case in the construction sector under the Turkish-Turkmenistan BIT.
- Successfully advising a party on a human rights application to Charter-based UN Special Rapporteurships (sole counsel).
- Successfully advising a party on diplomatic protection and the interaction of international human rights law (under the European Convention on Human Rights), international refugee law and extradition law in the context of a commercial dispute with a South American State (sole counsel).

- Advising an African Sovereign State on matters concerning Genocide and a potential case before the International Court of Justice (with Sir Michael Wood).
- Commission for the Control of Files of INTERPOL- (lead counsel) (for the applicant), Successfully challenging a Red Notice on the grounds of breach of human rights (fair trial) under international law, in support of a multi-jurisdictional arbitration.
- *Legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965 (Request for Advisory Opinion)*, International Court of Justice (application to intervene) (for an international non-governmental organisation) (lead counsel) – Application under Article 66 (2) of the ICJ Statute; the case is one of the most high profile cases concerning de-colonisation and territorial issues relating to the UK, recently decided before the ICJ.
- *Case before the UN CEDAW Committee* – (for the claimants) Advising as lead counsel on a ground-breaking multiparty claim before the UN CEDAW Committee concerning mass rape, impunity for atrocities, and other serious violations against women and girls in the context of internal armed conflict arising from South Sudan.
- *Amicus Curiae, before the Constitutional Court of Colombia* – (sole counsel) on the compatibility of Acto Legislativo No. 1 de 2017, Article 24 (Command Responsibility) and Article 16 (on individual criminal responsibility of third parties (aiding and abetting)), with international law.
- *QT v Director of Immigration* [2018] HKCFA 28 (sole counsel) – Advising on the legality of excluding same-sex couples from Hong Kong's policy of granting dependant visas to the spouses of employment visa holders and public international law aspects of the claim before the Hong Kong Court of Final Appeal (advising a third party intervenor).
- Advising on matters concerning crimes against humanity, jurisdictions, discontinuance of claims, state immunity, universal jurisdiction, and compliance with ICJ judgments in relation to a potential claim / and claim, in the ICJ (with Sir Michael Wood). (Languages used French, English, and Spanish)
- *The Enrica Lexie Incident (Italy v India)* – (for the Claimant) Assisted Guglielmo Verdirame QC in this inter-State arbitration under Annex VII of UNCLOS. Permanent Court of Arbitration No 2015-28 (See also Request for Provisional Measures, before the International Tribunal for the Law of the Sea (ITLOS)). Monica developed the successful line of argumentation on individual human rights (due process safeguards under Article 9(2), 14(3)(a), 9(1) under the ICCPR) pleaded by counsel on behalf of the Republic of Italy. The case concerns an oil tanker flying the Italian flag, and India's subsequent exercise of criminal jurisdiction over two Italian marines from the Italian Navy in respect of an incident concerning the killing of two Indian fishermen on board an Indian vessel. The case raises issues of immunity as well as human rights, within the broader framework of the law of the sea.
- *Gareth Henry v Jamaica*, before the Inter-American Commission on Human Rights – (for the claimant) Successfully advising on a non-discrimination case, challenging a law criminalising all forms of consensual sexual activity between adult males; potentially to change criminal law legislation in Jamaica.
- *Case of J v Peru* Preliminary Objection, merits, reparations and costs. Judgment of November 27, 2013. Series C No 175 Inter-American Court of Human Rights, lead counsel to the Claimant. Successfully represented a case of State international Responsibility for arbitrary detention and violations of fair trial, torture and right to privacy.
- *Communication No 2034/2011 v Canada* before the United Nations Human Rights Committee, under the International Covenant on Civil and Political Rights. Sole Counsel to the Claimants (Concerning fair trial in administrative proceedings related to zoning-law in Toronto, non-discrimination, right to privacy).
- *Case of the Miguel Castro Castro Prison Massacre vs Peru*, Judgment of November 25, 2006 (Series C: Decisions and Judgments No 160), before the Inter-American Court of Human Rights. Lead Counsel acting for 800 victims. Successfully representing a multi-million-dollar landmark case on the protection of persons in detention. First international human rights case in which an international court ordered the prosecution of a former Head of State for crimes against humanity and held the State's duty to take all judicial and diplomatic steps for that purpose (seeking extradition). Precedent on torture practices to include *falanga* beatings, electro-shocks with batons, use of unmuzzled dogs in prisons against detainees, prolonged incommunicado detention, positional torture, blunt beatings following different methodologies, manipulation of sleep patterns, deprivation of water, deprivation of natural light, denial of exercise, denial of access to books and of work, enforced hunger and denial of medical attention, among others. First international binding case on violence against women in the Latin America region under the Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belem do Pará").
- *Case of the Gomez Paquiyauri Brothers vs Peru*, Judgment of July 8, 2004 (Series C: Decisions and Judgments No. 110), before the Inter-American Court of Human Rights – Sole Counsel to the claimants. Successfully representing a case concerning the arbitrary detention, torture and extra-judicial execution of two minors in the context of anti-terrorist police operations under states of emergency, securing a US\$740,500 reparation award. First international case on the protection of children in times of internal armed conflict; precedent on opposing the use of Ad Hoc Judges in individual contentious cases before the Inter-American Court, which led to the elimination of Ad Hoc Judges in individual petitions before the Inter-American Court in 2009.
- *LaGrand Case, (Federal Republic of Germany v United States of America)*, International Court of Justice. Advising Counsel for Germany, Professor Bruno Simma; developed successful lines of argumentation on the right to consular assistance and its relation to human rights which set a new precedent in the interpretation of the Vienna Convention on Consular Relations.

- *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, International Court of Justice. Advising the International Court of Justice on substantive and procedural matters (applicable standards) in relation to Genocide and State Responsibility under the UN Genocide Convention as opposed to individual criminal responsibility standards and assisting with the legal analysis of evidence (over 700 witness' statements) in the case.
- *Bouterse case*, Amsterdam Court of Appeals – Joint Amicus Curiae brief with Professor John Dugard, former Special Rapporteur on Diplomatic Protection at the United Nations International Law Commission, relating to Netherlands' jurisdiction to prosecute extra-judicial killings and torture amounting to crimes against humanity in Surinam by former Dictator Desi Bouterse.
- *Prosecutor v Timohir Blaskic*, International Criminal Tribunal for the Former Yugoslavia (Chamber Trial I). Advising Trial Chamber I under the Presidency of H.E. Judge Claude Jorda, on the applicable law in connection to command responsibility under international law in preparation of a judgment in the case, of the highest-ranking officer at that time to be tried by the ICTY.
- *Communication No 868/1999: Philippines. 11/11/2003*, United Nations Human Rights Committee. Adviser to the Redress Trust, representing the claimant.
- Advising on jurisdictional and substantive issues arising from a death penalty case before the Inter-American Commission on Human Rights, relating to a Caribbean State.

Public international law - English courts - Constitutional and Public Law

Monica is a leading barrister in public international law and ranked in The Legal 500 where it is noted that she is “an expert in public international law, particularly in relation to international organisations and on privileges and immunities”. In 2018 she was selected by the Foreign & Commonwealth Office to speak on ‘Public International Law before UK Courts’, at the Annual Government Legal Profession International Law Conference opened by the Attorney General.

Monica acts and advises in all areas of public international law arising in domestic disputes, often in the intersection between commercial law and public international law, as in cases where different areas of public international law appear to converge (or apparently to conflict), namely human rights, EU law (and its application to human rights), immunities, and international humanitarian law. Monica often is called to act in cases of legal complexity including those raising national security issues. Monica holds particular expertise in consular law, diplomatic law, State, diplomatic and special mission immunities, including nuanced procedural aspects of these areas of law. During 2018-2019, Monica was seconded to the Legal Directorate of the Foreign & Commonwealth Office.

Monica routinely advises on immunity cases raising diplomatic immunity, state immunity, immunity of heads of states, and the immunity of international organisations *inter alia* service of process, the immunity of personnel of international missions (in two cases before the English courts), immunity of sovereign aircraft, state-owned property immunity, the immunity of special missions, a non-recognised state and immunity law, various claims on diplomatic immunity, immunity of state property in enforcement proceedings (in several jurisdictions) and the immunity of state officials. Monica is a world expert on enforcement immunity in the context of enforcement of arbitral awards. Her forthcoming book *Foreign State Immunity and Enforcement of Arbitral Awards in English Courts* is to be published (Oxford University Press) in 2021. She also holds expertise in construing the State immunity Act 1978 and other domestic statutes by reference to International UK obligations, *inter alia* those under the European Convention on Human Rights and EU law.

Monica acts for, and against, the crown. She has acted for/advised the Secretary of State for Foreign and Commonwealth Affairs, the Secretary of State for the Home Department, the Secretary of State for Transport and the Secretary of State for International Development. She also acts for claimants and foreign States. Monica is national security vetted (‘Security Check’ level) and is comfortable working with sensitive material.

Recent cases include:

- *The Queen (On the Application of Charlotte Charles and Tim Dunn) and The Secretary of State for Foreign and Commonwealth Affairs* – (for the claimants) acting in the judicial review of Harry Dunn’s parents against the Secretary of State for Foreign and Commonwealth Affairs (raising nuanced aspects of diplomatic immunity and Article 2 obligations under the European Convention on Human Rights).
- *Deutsche Bank AG London Branch and Receivers Appointed by the Court, Central Bank of Venezuela, and The Governor and Company of the Bank of England and The Ad Hoc Administrative Board of The Central Bank of Venezuela and the Board of the Central Bank of Venezuela* [2020] EWHC 1721 (The High Court, Queen’s Bench Division Commercial Court) - Advised the Board of the Central Bank of Venezuela on matters of public international law (recognition of governments and executive certification) relating to this high-profile US\$1bn gold dispute before commercial courts. The case received great media attention with coverage by The Financial Times, Forbes, Reuters, The Telegraph, CNBC, ITV, Al Jazeera and The Guardian.
- *Strategic Technologies Pte Ltd v Procurement Bureau of the Republic of China Ministry of National Defence* [2020] EWHC 362 (QB) (High Court – Queen’s Bench Division) (21 February 2020) – Advised a third party on the status of Taiwan in

international law and English law, matters of recognition of States in international law, effects of recognition in a domestic sphere, interpretation of the State Immunity Act 1978 – issues underlying in this action concerning the registration in England and the enforcement (here and elsewhere) of a judgment in the name of the Claimant, Strategic Technologies Pte Ltd (“ST”) against the Defendant, the Ministry of National Defence (“the MND”) of the Republic of China (“ROC”), also and better known as Taiwan.

- *The Channel Tunnel Group Ltd (2) France-Manche SA (Together T/A Eurotunnel) v The Secretary of State for Transport* – (for the Secretary of State for Transport) acted in this multi-million-pound claim brought by Eurotunnel, challenging the procurement process followed by the Secretary of State for Transport which granted other companies contracts for the supply of additional freight capacity on short sea crossings for Roll-on-Roll-off (Ro-Ro) services between English and European ports, following Brexit, in a non-deal scenario (case eventually settled).
- *The Independent Inquiry into Child Sexual Abuse (IICSA)* – Acting for the Home Office (working with highly sensitive material) in this high-profile public inquiry into child sexual abuse, investigating the extent to which institutions in England and Wales handled their duty of care to protect children from sexual abuse.
- *Verica Tomanovic and others v FCO*, High Court – Successfully defended a case (leading the position of the FCO while on secondment) concerning vicarious liability for human rights violations of the contributing state to the EULEX mission for acts/omissions of a secondee in Kosovo, raising issues on the rules of attribution for liability in the context of peace-building operations and immunities of international organisations.
- *Benkharbouche (Respondent) v Secretary of State for Foreign and Commonwealth Affairs (Appellant)* [2017] UKSC 62 – Advised the UK government (sole counsel) on State Immunity issues in the implementation of the Supreme Court judgment in *Benkharbouche*, in which the Court held that sections 4(2)(b) and 16(1) (a) of the State Immunity Act 1978 are incompatible with Article 6 of the European Convention on Human Rights.
- *Foreign Commonwealth Office v Bamieh* [2019] EWCA Civ 803 – successfully led the position of the FCO (on secondment), in this Court of Appeal challenge relating to the extra-territorial application of the Employment Rights Act 1996 (“the ERA”). The Court of Appeal addressed the question of whether the “whistleblowing” provisions contained in ss. 47B(1A) and 48(1A) of the ERA apply extraterritorially in respect of a claim between co-workers seconded to the international *European Union Rule of Law Mission in Kosovo* (“EULEX”), an EU International Mission, in circumstances where each was (separately) employed by the FCO. This is now the leading case on the extra-territorial application of the ERA.
- *Attorney General of the Virgin Islands v Secretary of State for Foreign & Commonwealth Affairs* (for the Secretary of State for Foreign & Commonwealth) – Advising on the proper manner of service of process in a constitutional and judicial review challenge against the UK Government by the BVI.
- Advising on principles governing the declaration of *persona non grata* in diplomatic law and in the practice relating to members of international organisation enjoying privileges and immunities.
- Advising a diplomatic mission in enforcement proceedings in a foreign jurisdiction (francophone) whereby bank accounts belonging to the mission had been seized – secured the measure be lifted within 24 hours.
- *Ali v Consulate of Pakistan (Birmingham) (1306001/2018) (Employment Tribunal)*- Advising on the proper service of process and immunity issues pertaining to a claim brought by a former consulate staff from the Consulate of Pakistan. (claim was withdrawn).
- Advising on the procedural rules applicable in cases of potential immunity in investigations by the CPS and other relevant offices charged with the investigation and prosecution of war crimes, crimes against humanity, genocide and torture; on the consideration of immunity in the context of applications for Director of Public Prosecutions (DPP) consent for a private arrest warrant, and advised on the use of executive certificates relevant to establishing the status of a defendant.
- Advising (Home Office/FCO) on a case of mutual assistance raising national security issues, torture, and assurances standards for mutual legal assistance (India/UK).
- Advising on a case raising mutual assistance issues (concerning Nigeria/UK) and extradition law issues relevant to three jurisdictions, including Israel.
- Advising on the position under English law concerning proper service of process in immunity related cases.
- Advising on consular obligations under the Vienna Convention on Consular Relations, by a receiving State in relation to minors whose guardians are no longer able to exercise guardianship.
- Advising on the immunity of aircraft carrying royal families (state-owned aircrafts and non state-owned aircrafts) and the immunity of aircrafts carrying special missions or other state officials.
- Advising on the position under English law on immunities of special missions.
- Matter before the High Court Family Division relating to a claim under the child abduction and custody Act 1985 incorporating the 1980 Hague Convention on the Civil Aspects of International Child Abduction against a staff member of a diplomatic mission – led the FCO’s position (intervening) on diplomatic immunity and issues under Article 32 (2) and 32 (c) of the VCDR. (claim was withdrawn)

- Advising the National Crime Agency on the rules governing the determination of status of “state official” in a case of an alleged foreign state official subject of criminal investigations.
- Advising a Sovereign State on whether state-owned property (electronic devices such as computers) are protected by immunity in foreign travel of state officials (not as a special missions).
- Advising on a nationality and security case and repatriation of children (British Nationals) from a war zone.
- Advising on individual rights under Article 36 of the Vienna Convention on Consular Relations.
- *Gregory Nduka Ofulue v Secretary of State for the Home Department and Secretary of State for Foreign and Commonwealth Affairs (Queen’s Bench Division Administrative Court)* – Judicial Review – (leading the position of the State for Foreign and Commonwealth Affairs) Successfully defended a judicial review claim on a refusal to issue an Emergency Travel document.
- Advising the Home Office on the evidentiary value of *Notes Verbales* in legal proceedings relating to a case of deprivation of nationality.
- Advising on evidentiary issues relating to forced marriage cases, seeking an order from the Court of Protection.
- *Yusuf v SSHD & Foreign & Commonwealth Office* – (before a county court) – led the FCO’s position in this claim alleging negligence on the part of the FCO for “failure to provide consular assistance” to a British National in Somalia. The case raised the fundamental question of whether English courts have jurisdiction to scrutinise the manner in which HMG Posts may afford (or not) consular assistance in foreign jurisdictions, and whether consular assistance is an entitlement of British Nationals (and indeed whether the FCO owed any duty of care in the content of the case). A hearing seeking disclosure under CPR was vacated upon a robust defence by the FCO. The main claim was withdrawn at the pre-action stage.
- Successfully acting for a party bringing a judicial review in the education sector, with discrimination elements under the Equality Act 2010 (case was successful at pre-action stage).
- *The London Borough of Haringey (Wards Corner Regeneration Project) Compulsory Purchase Order 2016 Public Inquiry* – Appearing as lead counsel for objectors in a three-week public inquiry into the compulsory purchase order sought in respect of the c.£100m redevelopment of the Seven Sisters market, during which she cross-examined both witnesses of fact and expert witnesses for two consecutive weeks. The case raised novel arguments under the Equality Act 2010 and human rights, including under a non-incorporated treaty.
- *Eloise Mukami Kimathi James Karanja Nyoro and others and the Foreign and Commonwealth Office (“The Kenyan Emergency Group Litigation”)* Claim No HQ13XO2162 High Court of Justice (instructed by the Foreign and Commonwealth Office) – A multi-million pound claim alleging human rights violations against the Mau Mau, in Colonial Kenya during the Emergency Period between 1952 and 1961.
- Advising on State immunity in the context of enforcement of arbitral awards with a particular focus on the interrelation between substantive immunity matters and procedural issues.
- Advising a Sovereign State on its position on immunity and liabilities as guarantor on aircraft leasing contracts entered into by its national airline in the context of proceedings against the airline for alleged default in its contractual obligations; in particular, as to whether the guarantees it provided are “on demand” or a secondary liability, and on issues of State immunity under the 1978 State Immunity Act.
- *Reyes v Al-Malki* [2015] IRLR 289 (Court of Appeal) – Assisted Sir Daniel Bethlehem QC and Sudhanshu Swaroop QC in this test case concerning the interpretation of the Vienna Convention on Diplomatic Relations (VCDR), in particular whether Article 31(1) (c) of the VCDR excludes diplomatic immunity in the context of employment/human trafficking claims and whether this position is affected by Articles 4 or 6 of the European Convention on Human Rights. Monica’s work in the case covered drafting substantive arguments on State immunity, diplomatic immunity, a review of all relevant Strasbourg jurisprudence, developing key arguments on treaty Interpretation under the Vienna Convention on the Law of Treaties (which included a thorough analysis of the Travaux Préparatoires of the VCDR) as well as a full review of US jurisprudence on diplomatic immunity and preparing arguments on the correct method for serving process on diplomats under English law.

Public international law - Amicus Curiae

- *Amicus Curiae, Los Cedros* – before the Constitutional Court of Ecuador – Legal Intervention on the novel issue of “Rights of Nature” under Article 71 of the Constitution of Ecuador; first world case on the Rights of Nature.
Monica’s *amicus* raises Ecuador’s obligations under the 1992 Convention on Biological Diversity, the Aichi Targets, the 1992 United Nations Framework Convention on Climate Change, The Paris Agreement, the 1972 UNESCO Convention concerning the protection of the world cultural and natural heritage, as well as regional agreements specific to the Americas, all of which are directly justiciable in Ecuador’s legal system.

- *Amicus Curiae, On the Constitutionality of Federal Mining Law* – before The Supreme Court of Justice of the Nation (SCJN) of Mexico; Legal Intervention in a constitutional action brought by the Masewal people of Cuetzalan based in the Sierra Norte of the Mexican state of Puebla against Mexico’s Federal Mining Law. The Amicus covers issues concerning the Right of Consultation under international law in the context of extractive activities. The decision by the SCJN in the case is likely to have a major impact on the extractive sector and on the legislation regulating mining law in Mexico.
- *Amicus Curiae, Sierra Nevada de Santa Marta – Linea Negra Decree 1500 Nullity case*, before the Supreme Administrative Court of Colombia (for ABColombia & Colombian Caravana) – Legal Intervention focusing on international law norms directly relevant to the protection of rainforests and natural world of global importance, including arguments under regional and UN treaties. (The case was covered by the BBC).
- *Amicus Curiae, Gençay Bastimar v Turkey*, CCPR Case No. 3592/2019, before the United Nations Human Rights Committee (for the BHRC of England & Wales) – (with leave by the UN HRC) – standards of derogability of rights in a state of emergency under the ICCPR, legality of decree laws dismissing public servants on terrorism grounds, international standards to be met by a lawful arrest warrant, novel issues on mass surveillance and the right to privacy similar to the ones raised by *Big Brother Watch and others v. the United Kingdom (applications 58170/13, 62322/14 and 24960/15)* before the European Court of Human Rights (with Stephen Cragg QC).
- *QT v Director of Immigration* [2018] HKCFA 28 – Advising on the legality of excluding same-sex couples from Hong Kong’s policy of granting dependant visas to the spouses of employment visa holders and public international law aspects of the claim before the Hong Kong Court of Final Appeal (advising a third party intervenor). The case was widely publicised by the BBC, The Guardian, The New York Times, China Morning Post, Reuters, and Hong Kong Free Press.
- *Amicus Curiae before the Constitutional Court of Colombia*– on the compatibility of Acto Legislativo No. 1 de 2017, Article 24 (Command Responsibility) and Article 16 (on individual criminal responsibility of third parties (aiding and abetting)), with international law (endorsed by The Law Society, and the international non-governmental organisations ABColombia and Colombian Caravana UK Lawyers Group).
- *Amicus Curiae, Bouterse case, Amsterdam Court of Appeals* – Joint Amicus Curiae brief with Professor John Dugard, former Special Rapporteur on Diplomatic Protection at the United Nations International Law Commission, relating to Netherlands’ jurisdiction to prosecute extra-judicial killings and torture amounting to crimes against humanity in Surinam by former Dictator Desi Bouterse.

Public international law - non-contentious matters

Fact-finding missions and training to foreign lawyers and diplomats

- Monica has participated in fact-finding missions to Guatemala (2015) and to Myanmar (2016). She has further carried out training for Diplomats in Guatemala (On Business and Human Rights in the energy sector) by invitation of the FCO, to foreign lawyers in South Africa (on international law in domestic courts), in Guatemala and Honduras (on arbitration, under the auspices of the FCO), and for Colombian lawyers (on international law in transitional justice).

Advising States/International Organisations

- Diplomatic Conference for the Establishment of an International Criminal Court. Rome, Italy
- Legal Adviser in International Human Rights Law and International Humanitarian Law for the Delegation of the Islamic Republic of Comoros Islands
- Advised a State Party representative of a Least Developed Country in the Paris Agreement Compliance Committee, in the drafting of the Rules of Procedure under Article 15.
- Advising the UN World Food Programme on International Organisations Privileges & Immunities under the Convention on the Privileges and Immunities of the United Nations (1946) and that of the Specialised Agencies (1947) and dispute resolution clauses in contracts relating to in-kind contributions and donations by private parties for their operations, to assist with transport of goods for Covid-19.
- Advised a government on the extradition framework (treaties) relating to several jurisdictions, applicable principles of extradition law and on INTERPOL law.
- Advising on diplomatic immunity and a diplomatic bag – whether the scanning of a diplomatic bag in a foreign jurisdiction is a breach of the Vienna Convention on Diplomatic Relations.
- Advising on commercial law and diplomatic law relating to a diplomatic mission in Afghanistan
- Advised on a case of mutual assistance raising national security issues, torture, and assurances standards for mutual legal assistance (India/UK).
- Advised on treaties relating to mutual assistance and matters relating to extradition relating to three jurisdictions

(Nigeria/UK and Israel).

- Advising a newly appointed administration in an Asian State on its BITs liabilities by reference to other conflicting duties under international law.

Advising non-governmental organisations and academic institutions

- Prepared the Moot Court Case ("*The Case of AW v Landia*"), for the Moot Court Competition to mark the celebration of the 25th anniversary of the UN Convention on the Rights of the Child (CRC), to be judged on the final bench by H.E. Judge Joyce Aluoch of the ICC, H.E. Judge Flavia Lattanzi and H.E. Judge Mandiaye Niang of the UN ICTY. Commissioned by Leiden University, Law Department. (2014)
- Legal Opinion – In the Matter of the International Legal Implications of the Honduran Constitutional Statute on Special Development Regions ("Regiones Especiales de Desarrollo") jointly with Professor Guglielmo Verdirame, instructed by the Urbanisation Project Stern Business School, New York University. (June 2012)
- Prepared Expert Comments to the Final Report of the Independent Expert on the right to reparation for victims of gross violations of human rights and humanitarian law, Mr. Cherif Bassiouni on behalf of the Redress Trust. (2000)
- Worked on a draft paper of future International Law Commission area of codification and development: "The Effects of War on Treaty Obligations" under the supervision of Professor Hafner, member of the ILC. (2000)
- Prepared Comments on the International Law Commission Draft Articles on State Responsibility (secondary rules and Article 19) at the request of Prof. Bruno Simma, member of the ILC. (2000)

Private international law

Monica has a keen interest in conflict of laws and extra-territorial torts. In particular, in cases raising issues of corporate liability for extra-territorial torts and cases alleging corporate complicity in human rights violations and/or environmental harm. Her public international law background enables her to effectively deal with act of state doctrine arguments in the context of extra-territorial violations. Her developing expertise in this area of law is reflected in her speaking engagements which includes being a panellist on "Parent Company Liability in English law" at the 2018 UN Forum Business & Human Rights at the UN Headquarters in Geneva.

Her dual training in the common law and civil law systems allows her to be comfortable handling cases arising from common law and civil law jurisdictions. Originally trained as an advocate in Latin America, and with over 15 years' international experience in the region, Monica has particular interest in representing cases arising from Latin American jurisdictions. Her ability to handle evidence in the technical, legal, native language, has come as an advantage in her practice, especially in the representation of cases where the applicable law may be foreign law.

Example cases:

- *Bravo and others v Amerisur Resources plc [2020] EWHC 203 (QB)*, (for defendant) (Colombia/UK) currently acting in this claim for economic and non-economic damage allegedly caused by environmental contamination and pollution of land and waterways by oil spill (oil & gas). The applicable law in the case is Colombian law. The case raises questions under Brussels I (Recast). The case has been reported by The Lawyer.
- *In Amenas terror attack – BP* – Advising on a conflict of laws issues arising from a tort taking place overseas (Private International Law Act 1995, Rome II, and Brussels I) and due diligence duties owed by a company to its employees in the context of a terrorist attack at an Algerian gas plant.
- *Pedro Emiro Florez Arroyo and Equion Energia Limited (formerly known as BP Exploration Company (Colombia) (Ltd))* (In the matter of the Ocesa pipeline group litigation) before the Technology and Construction Court (on behalf of the claimants) (under the supervision of Sudhanshu Swaroop QC, led by Alex Layton QC) (a case brought by Colombian farmers claiming for environmental damage and damage to their land, caused by the construction of an oil pipeline, against BP, and decided by the English Courts under Colombian law). Described in the media as "one of the largest cases in environmental legal history", the trial lasted five months.
- Carried out comparative analysis on issues concerning tort, private international law and corporate liability in the United States (under the Aliens Tort Act jurisprudence) and tort under English law

Examples of other conflict of law/private international law cases:

- *In Amenas terror attack - BP* – Advising on conflict of laws issues relating to the manner in which evidence provided in judicial proceedings in France could be used to support legal proceedings in English courts and on the applicable procedural law.
- Advising on conflict of law issues and the applicability of The *Hague Convention* of 25 October 1980 on the Civil Aspects of International *Child Abduction* (HCC 1980 *Child Abduction Convention*) and the repatriation of children of British Nationality from a foreign jurisdiction (war zone).
- [Actavis UK v Eli Lilly](#) [2015] EWCA Civ 555 – Assisted Thomas Raphael QC (arguing the private international law aspects of the case for Actavis) in a multi-billion pound case before the Court of Appeal, raising issues of patent law across Europe as well as of private international law (a case concerning five jurisdictions), as Lilly argued that the conditions for negative declaratory relief were governed by the *lex causae* not the *lex fori*. Monica made a substantial contribution to the private international law arguments which secured Actavis winning its case on private international law, as the Court of Appeal concluded that the conditions for negative declaratory relief are procedural and governed by the *lex fori* under Rome II in its judgment, the lead judgment on this aspect of the new Rome II Regulation. (Areas of work in the case included Interpretation of Rome II/ *lex fori/lex causae* principle/interpretative principles/forum shopping/EU legislation/Academic commentary) Languages used: German/Spanish/English).

Banking and financial services

Monica is developing a practice on the interface between banking and financial services and public international law, in which she is an expert. She has been called to advise on complex issues relating to immunities of international financial institutions such as the World Bank and on issues of recognition of government on a US\$1bn banking dispute. She is very experienced in recognition of states, recognition of governments, succession, jurisdictional immunities, immunities in enforcement proceedings (Bank account missions, Central Banks), justiciability doctrine and executive certifications. Monica is a regular contributor to the Journal of International Banking Law and Regulation.

- *Deutsche Bank AG London Branch and Receivers Appointed by the Court, Central Bank of Venezuela, and The Governor and Company of the Bank of England and The Ad Hoc Administrative Board of The Central Bank of Venezuela and the Board of the Central Bank of Venezuela* [2020] EWHC 1721 (The High Court, Queen's Bench Division Commercial Court) - Advised the Board of the Central Bank of Venezuela on matters of public international law (recognition of governments and executive certification) relating to this high-profile US\$1bn gold dispute before commercial courts. The case received great media attention with coverage by The Financial Times, Forbes, Reuters, The Telegraph, CNBC, ITV, Al Jazeera and The Guardian.
- Advising on the law governing immunities under customary international law, and diplomatic law, in the context of an attempted seizing of funds of a diplomatic mission's bank account in Democratic Republic of Congo) in the context of enforcement proceedings.
- Advising a diplomatic mission in enforcement proceedings in Mali (francophone jurisdiction) whereby bank accounts belonging to the mission had been seized – secured the measure was lifted within 24 hours.
- *Jam v International Finance Corporation* (586 U.S. 2019) (US Supreme Court) (*India/US*) – Advising (unled) a State sitting on the board of the World Bank on the implications of this US Supreme Court judgment which denied absolute immunity to the IFC as an international organisation. The case was brought by Indian fishing communities and farmers from India against the IFC, a member of the World Bank Group over the adverse environmental impact of a power station (the Tata Mundra Ultra Mega coal-fired power plant in Gujarat, India) partly funded by the IFC. The case has been covered by the Washington Post, The Financial Times, NPR, The Guardian and Bloomberg.
- Advising a Sovereign State on its position on immunity and liabilities as guarantor on aircraft leasing contracts entered into by its national airline in the context of proceedings against the airline for alleged default in its contractual obligations; in particular, as to whether the guarantees it provided were “on demand” or a secondary liability, and on issues of State immunity under the 1978 State Immunity Act (led by Thomas Raphael QC)

Energy and natural resources

Monica has advised and appeared in significant disputes involving major international energy companies (often unled), across all energy sectors; namely, mining, oil & gas, renewables, mega-hydroelectric projects, and is a leading barrister in disputes relating to climate change. Her cases in the energy sector often raise issues connected with Private International Law and Public International Law, in which she is an expert. Her litigation work in this area has led to her being featured in The Lawyer magazine's Hot 100 in 2020.

Examples of her recent cases in the energy sector are:

- *OECD claims against BHP, Anglo American, Glencore and ESB* (acting in multiple complaints under the OECD Guidelines for Multinational Enterprises, filed before Multiple National Contact Points (NCPs) in Australia, the United Kingdom, Switzerland, and Ireland, against three parent companies over allegations of serious human rights abuses and

devastating environmental pollution at a coal mine, and against Ireland's state-owned energy provider over purchases of coal from the mine having allegedly failed to identify adverse impacts which are directly linked to the mine operations.

- *Amicus Curiae, On the Constitutionality of Federal Mining Law* - before The Supreme Court of Justice of the Nation (SCJN) of Mexico; Legal Intervention in a constitutional action brought by the Masewal people of Cuetzalan based in the Sierra Norte of the Mexican state of Puebla against Mexico's Federal Mining Law. The Amicus covers issues concerning the Right of Consultation under international law in the context of extractive activities. The decision by the SCJN in the case is likely to have a major impact on the extractive sector and on the legislation regulating mining law in Mexico.
- *Cerrejón case* before the UN Special Procedures, UN Special Rapporteur on Environment and Human Rights; UN Special Rapporteur on the Rights to Safe Drinking Water and Sanitation; UN Special Rapporteur on Toxic Wastes and Working Group on Business and Human Rights - (for claimants) (sole counsel) Secured a UN intervention in favour of claimants in this high profile case concerning violations of environmental harm and human rights by one of the largest open pit coal mines in the world owned by BHP, Anglo American and Glencore. The case has received worldwide attention with coverage from The New York Times, Reuters, The Telegraph and the Sydney Morning Herald.
- *Bravo and others v Amerisur Resources plc [2020] EWHC 203 (QB)*, (for defendant) (Colombia/UK) currently acting in this claim for economic and non-economic damage allegedly caused by environmental contamination and pollution of land and waterways by oil spill (oil & gas). The case has been reported by The Lawyer.
- *Bravo and others v Amerisur Resources PLC (freezing injunction application - costs hearing) (for defendant)* (led by Alan Maclean QC) (Colombia/UK) - A group of *campesinos* (small scale farmers) from the Putumayo region of southern Colombia obtained an interim freezing injunction for £3 million+ against Amerisur Resources PLC, an AIM-listed company that was about to be acquired by the Bermuda-incorporated GeoPark group and converted into a private company. (oil & gas)
- *Investment Arbitration under the Energy Charter Treaty*- Acting as Presiding Arbitrator in a multi-million-pound arbitration between a Sovereign State and an investor alleging breaches of the Energy Charter Treaty (renewables) (details confidential).
- Advising a Sovereign State on remedies for climate change (coral bleach, high acidity in the sea, sinking islands, sea level rise) caused by high gas emissions and the feasibility of an advisory opinion/contentious case under UNCLOS before the International Tribunal for the Law of the Sea or the ICJ.
- *Montara Oil Spill case* (concerning transboundary harm/Australia), (Indonesia/Australia) sole counsel before UN Special Proceedings in this case considered to be one of Australia's worst oil disasters (for 13 West Timor regencies) - (state responsibility for transboundary harm (oil spill), law of the sea, precautionary principle, general international law). (oil & gas)
- *Torres Strait Islanders case v Australia (UN Human Rights Committee)(Australia)* -Acting for claimants in this ground-breaking case on climate change litigation under the International Covenant on Civil and Political Rights. Referred to as the 'world's first climate change human rights case' by the media, the case has received worldwide attention with coverage from The New York Times, The Guardian, Al Jazeera, CNN. (climate change)
- *Jam v. International Finance Corporation (586 U.S. 2019) (US Supreme Court) (India/US)* - advised (unled) a State sitting on the board of the World Bank on the implications of this US Supreme Court judgment which denied absolute immunity to the IFC as an international organisation. The case was brought by Indian fishing communities and farmers from India against the IFC, a member of the World Bank Group over the adverse environmental impact of a power station (the Tata Mundra Ultra Mega coal-fired power plant in Gujarat, India) partly funded by the IFC. (coal-fired plant)
- *Salween River Dams (Myanmar)*- Advised (unled) on regulatory aspects (cross-over between public international law and energy and natural resources investment law) of a large-scale hydroelectric project on one of the longest undammed rivers remaining in mainland Southeast Asia, in Myanmar. Monica acted as an expert on corporate due diligence practices under the UN Guiding Principles on Business and Human Rights; entitlements of local communities under international law, standards on the right to consultation; aspects to be addressed by EIAs, balancing rights between investment protection under a BIT and State duties under other treaty obligations, among others.(hydroelectric project)
- *Mega hydro-electric project in Chiquimula (Guatemala)*- Acted as an expert on issues of human rights of Mayan communities, corporate responsibility and hydro-electric projects in Guatemala. As part of an expert delegation, Monica visited the region, met with all stakeholders and wrote a [report](#) on the situation with recommendations. The report addressed issues such as business and human rights good practices (UN Guiding Principles on Business and Human Rights), indigenous peoples' rights, collective rights to property and their entitlements to land and natural resources, as well as the right to consultation in the context of large-scale investment. (hydroelectric project)
- *Camisea Gas Project (Peru)*- Advised (unled) on matters concerning exploration of gas in one of the largest undeveloped gas reserves in South America, the Camisea Gas Project, and the rights of indigenous populations in the Amazon (addressing considerations relating to the fragile biodiversity in the relevant Amazon jungle basin, rights of Indigenous Peoples in Voluntary Isolation and Initial Contact living in the area, and the legal status of territorial reserves, within the general framework of international law).
- *In Amenas terror attack - BP*- Advising on conflict of law issues arising from a tort taking place overseas (Private International Law Act 1995, Rome II, and Brussels I) and due diligence duties owed by a company to its employees in the

context of a terrorist attack at an Algerian gas plant.

- [*Pedro Emiro Florez Arroyo and others v Equion Energia Limited*\(formerly known as BP Exploration Company \(Colombia\) Limited\)](#) [2016] EWHC 1699 (TCC) (on behalf of the claimants) – assisted Alex Layton QC on this case brought by Colombian farmers claiming for environmental damage and damage to their land, caused by the construction of an oil pipeline, against BP, and decided by the English Courts under Colombian law. Described in the media as “one of the largest cases in environmental legal history”, the trial lasted five months. (oil & gas)

Monica has been a speaker on Energy in Investment Arbitration at different fora including at the Hong Kong Arbitration Week 2016 (“Energy disputes – lessons learnt in Europe and opportunities facing the Chinese energy market”), (representing the Bar) at Russian Law Week 2016 in London, and on “Renewable energy cases in investment treaty arbitration and before the European Court of Justice” at the Stockholm Chamber of Commerce at an event jointly organised by SCC, IBA and ICC.

Recent commentary on Energy disputes includes “ECT and Renewables – An Early Scorecard” (an analysis of recent jurisprudence in Europe under the Energy Charter Treaty) (Project Finance International Sept 21 2016), “South China Sea: Business as Usual?” on implications of the South China Sea case on the Energy Sector (New Law Journal, 7 Oct 2016), a piece on Yukos (“Annulment of the Yukos award: a sore spot in Investment Arbitration?”) and an analysis of the landmark decision *Jam v IFC* in the Journal of International Banking Law and Regulations. For her arbitration practice (including in the energy sector) see below.

Environment & Climate Change

Monica’s practice in environment is broad and international, appearing both before UK and international courts/tribunals, in environmental law cases. She has been instructed in high-profile, often ground-breaking cases. Her cases raise issues of private and public international law (across the full spectrum of public international law – from immunities of international organisations (like in *Jam v IFC*) to the law of the sea and environmental protection). She is experienced in dealing with transboundary harm, oil spills, mining disputes, hydroelectric projects, and climate change disputes. She is recognised as a leading barrister in environment in The Legal 500 with clients noting that she “*astutely combines vast knowledge of human rights and international environmental law with great advocacy skills*”. In 2020, *The Lawyer* magazine featured her in its Hot 100 list, for her stand-out work in this area of the law.

She has acted on the following matters:

- *OECD claims against BHP, Anglo American, Glencore and ESB* (acting in multiple complaints under the OECD Guidelines for Multinational Enterprises, filed before Multiple National Contact Points (NCPs) in Australia, the United Kingdom, Switzerland, and Ireland, against three parent companies over allegations of serious human rights abuses and devastating environmental pollution at a coal mine, and against Ireland’s state-owned energy provider over purchases of coal from the mine having allegedly failed to identify adverse impacts which are directly linked to the mine operations.
- Advised a State Party representative of a Least Developed Country in the Paris Agreement Compliance Committee, in the drafting of the Rules of Procedure under Article 15.
- *Amicus Curiae, Los Cedros* – before the Constitutional Court of Ecuador – Legal Intervention on the novel issue of “Rights of Nature” under Article 71 of the Constitution of Ecuador; first world case on the Rights of Nature. Monica’s *amicus* raises Ecuador’s obligations under the 1992 Convention on Biological Diversity, the Aichi Targets, the 1992 United Nations Framework Convention on Climate Change, The Paris Agreement, the 1972 UNESCO Convention concerning the protection of the world cultural and natural heritage, as well as regional agreements specific to the Americas, all of which are directly justiciable in Ecuador’s legal system.
- *Amicus Curiae, On the Constitutionality of Federal Mining Law* – before The Supreme Court of Justice of the Nation (SCJN) of Mexico; Legal Intervention in a constitutional action brought by the Masewal people of Cuetzalan based in the Sierra Norte of the Mexican state of Puebla against Mexico’s Federal Mining Law. The *Amicus* covers issues concerning the Right of Consultation under international law in the context of extractive activities. The decision by the SCJN in the case is likely to have a major impact on the extractive sector and on the legislation regulating mining law in Mexico.
- *Amicus Curiae, Sierra Nevada de Santa Marta – Linea Negra Decree 1500 Nullity case*, before the Supreme Administrative Court of Colombia (for ABColombia & Colombian Caravana) – Legal Intervention focusing on international law norms directly relevant to the protection of rainforests and natural world of global importance, including arguments under regional and UN treaties. The case was covered by the BBC.
- *Cerrejón case* before the UN Special Procedures, UN Special Rapporteur on Environment and Human Rights; UN Special Rapporteur on the Rights to Safe Drinking Water and Sanitation; UN Special Rapporteur on Toxic Wastes and Working Group on Business and Human Rights – (for claimants) (sole counsel) Secured a UN intervention in favour of claimants in this high profile case concerning violations of environmental harm and human rights by one of the largest open pit coal mines in the world owned by BHP, Anglo American and Glencore. The case has received worldwide attention with coverage from The New York Times, Reuters, The Telegraph and the Sydney Morning Herald.

- *Bravo and others v Amerisur Resources plc* [2020] EWHC 203 (QB), (for defendant) (UK/Colombia) – currently acting in this claim for economic and non-economic damage allegedly caused by environmental contamination and pollution of land and waterways (oil spill). The case has been reported in *The Lawyer*.
- *Bravo and others v Amerisur Resources PLC (freezing injunction application – costs hearing) (for defendant)* (UK/Colombia) (led by Alan Maclean QC) – A group of *campesinos* (small scale farmers) from the Putumayo region of southern Colombia obtained an interim freezing injunction for £3 million+ against Amerisur Resources PLC, an AIM-listed company that was about to be acquired by the Bermuda-incorporated GeoPark group and converted into a private company.
- *Montara Oil Spill* case (concerning transboundary harm/Australia), (*Indonesia/Australia*) sole counsel before UN Special Proceedings in this case considered to be one of Australia’s worst oil disasters (for 13 West Timor regencies). State responsibility for transboundary harm (oil spill), law of the sea, precautionary principle, general international law.
- *Torres Strait Islanders case v Australia (UN Human Rights Committee) (Australia)* – Acting for claimants in this ground-breaking case on climate change litigation under the International Covenant on Civil and Political Rights. Referred to as the ‘world’s first climate change human rights case’ by the media, the case has received worldwide attention with coverage from *The New York Times*, *The Guardian*, Al Jazeera, CNN.
- *Jam v. International Finance Corporation* (586 U.S. 2019) (US Supreme Court) (US/India) – advised a State sitting on the board of the World Bank on the implications of this US Supreme Court judgment which denied absolute immunity to the IFC as an international organisation. The case was brought by Indian fishing communities and farmers from India against the IFC, a member of the World Bank Group over the adverse environmental impact of a power station (the Tata Mundra Ultra Mega coal-fired power plant in Gujarat, India) partly funded by the IFC.
- *Salween River Dams (Myanmar)*– Instructed as adviser on regulatory aspects (cross-over between public international law and energy and natural resources investment law) of a large-scale hydroelectric project on one of the longest undammed rivers remaining in mainland Southeast Asia, in Myanmar.
- *Mega hydro-electric project in Chiquimula (Guatemala)*– Acting as an expert on issues of human rights of Mayan communities, corporate responsibility and hydro-electric projects in Guatemala. As part of an expert delegation, Monica visited the region, met with all stakeholders and wrote a [report](#) on the situation with recommendations. The report addressed issues such as business and human rights good practices (UN Guiding Principles on Business and Human Rights), indigenous peoples’ rights, collective rights to property and their entitlements to land and natural resources, as well as the right to consultation in the context of large-scale investment.
- *Camisea Gas Project (Peru)*– Advising on matters concerning exploration of gas in one of the largest undeveloped gas reserves in South America, the Camisea Gas Project, and the rights of indigenous populations in the Amazon (addressing considerations relating to the fragile biodiversity in the relevant Amazon jungle basin, rights of Indigenous Peoples in Voluntary Isolation and Initial Contact living in the area, and the legal status of territorial reserves, within the general framework of international law).
- [Pedro Emiro Florez Arroyo and others v Equion Energia Limited \(formerly known as BP Exploration Company \(Colombia\) Limited\)](#) [2016] EWHC 1699 (TCC) (on behalf of the claimants) – assisted Alex Layton QC on this case brought by Colombian farmers claiming for environmental damage and damage to their land, caused by the construction of an oil pipeline, against BP, and decided by the English Courts under Colombian law. Described in the media as “one of the largest cases in environmental legal history”, the trial lasted five months.

International arbitration

Monica has been involved in both investment and commercial international arbitrations across a range of sectors (including the construction, telecommunications, energy and the garment sectors) governed by a variety of arbitration rules (ICSID, UNCITRAL, SIAC, ICC Rules) and applicable laws. She also acts and advises in Inter-State arbitration cases.

Inter-State arbitration

The Enrica Lexie Incident (Italy v India), an inter-State arbitration under Annex VII of UNCLOS. Permanent Court of Arbitration NO 2015-28 (See also Request for Provisional Measures, before the International Tribunal for the Law of the Sea (ITLOS)) – Monica developed the line of argumentation on individual human rights (due process safeguards under Article 9(2), 14(3)(a), 9(1) under the ICCPR) [successfully pleaded on behalf of Italy](#). The case concerns an oil tanker flying the Italian flag, and India’s subsequent exercise of criminal jurisdiction over two Italian marines from the Italian Navy in respect of an incident concerning the killing of two Indian fishermen on board an Indian vessel. The case raises issues of immunity as well as human rights, within the broader framework of the law of the sea.

Commercial and Investment Arbitration

In Investment Arbitration, Monica has expertise on disputes both under multilateral treaties as well as Bilateral Investment Treaties (BITs) including ICSID and NAFTA arbitration and disputes under the Energy Charter Treaty. Monica brings to her Investment Arbitration practice a strong Public International Law foundation. She is experienced in addressing the inter-

relationship between Bilateral Investment Treaties and Human Rights (and other competing treaty obligations to investment protection) in the context of BITs disputes, as well as “right to regulate” arguments both under BITs and Energy Charter Treaty claims.

Recent experience in Commercial and Investment Arbitration includes:

- Advising a Sovereign State on the meaning of the word “territory” in a BIT and jurisdictional issues, the moving-treaty frontier rule, interpretation of Article 15 and 29 of the Vienna Convention on the Law of Treaties, and issues of reciprocity.
- *Investment Arbitration under the Energy Charter Treaty* – Acting as Presiding Arbitrator in a multi-million-pound arbitration with a seat in The Hague between a Sovereign State and an investor alleging breaches of the Energy Charter Treaty (details confidential).
- Involved in a commercial arbitration raising competition law issues, in the telecommunication sector, under ICC rules, seated in London.
- Advising a newly appointed administration in an Asian State on its BITs liabilities by reference to other conflicting duties under international law.
- Assisting the Tribunal in a commercial international arbitration arising from a JVA agreement in the garment industry, under the SIAC Rules, with seat in Singapore.
- Assisting the Tribunal in an Investment Arbitration case in the construction sector under the Turkish-Turkmenistan BIT.

Monica has lectured in the LCIL Executive Course on Investment Law and Arbitration, at the University of Cambridge, specifically on ‘Fair and Equitable Treatment & Full Protection and Security Standard in international investment law’.

She has been a speaker on Investment Arbitration at different fora including at the invitation of the UK Embassy in Central America and at Hong Kong Arbitration Week 2016 (“[Energy disputes – lessons learnt in Europe and opportunities facing the Chinese energy market](#)”); at the Stockholm Chamber of Commerce in an event jointly organised by SCC, IBA and ICC (“Renewable energy cases in investment treaty arbitration and before the European Court of Justice”); at Russian Law Week 2016 (on enforcement of awards and State entities); and at Oxford University (on “Like Oil and Water? Human Rights in Investment Arbitration in the Wake of Philip Morris v Uruguay case”).

Recent commentary on Investment Arbitration topics includes a piece on Yukos (“[Annulment of the Yukos award: a sore spot in Investment Arbitration?](#)”), “ECT and Renewables – An Early Scorecard” (an analysis of recent jurisprudence in Europe under the Energy Charter Treaty), and a forthcoming piece on the Journal of World Investment and Trade.

She is a member of the Chartered Institute of Arbitrators and has recently been listed on the panel of arbitrators of SCC, ICC, and CRECIG (Comisión de Resolución de Conflictos de la Cámara de Industria de Guatemala).

Human rights

Monica brings to the Bar over 15 years of award-winning international litigation experience in human rights cases.

Her human rights practice is international. She acts before the European Court of Human Rights, the Inter-American System and more recently, the African system, as well as before UN Human Rights Treaty-based-bodies (Committee Against Torture), UN Human Rights Committee, CESC, CEDAW, CRC) and Charter-based bodies under Special Procedures). She is also increasingly being instructed to act/advise on cases before foreign courts (Hong Kong Court of Appeal, Constitutional Court of Ecuador, Supreme Administrative Court Colombia, Supreme Court of Mexico).

Her human rights litigation work covers the full spectrum of human rights: from security of person, the right to privacy, non-discrimination and due process (on civil, administrative and criminal cases) to the rights of the child, gender justice, prisoners’ rights and the protection of the right to life and freedom from torture in the context of mass atrocities. Whereas some of the issues she has dealt with have arisen from societies in times of peace, she has wide experience litigating human rights violations taking place in the context of armed conflicts and states of emergency. Monica is very experienced in the investigation of violations of the right to life in the context of counterinsurgency operations, police operations, death under custody and crowd control, and expertise in dealing with cases of mass violations of the right to life of civilians based on alleged direct participation in hostilities. She has experience working with complex forensic evidence requiring specialised knowledge on a wide range of weapons, ammunition and gases (i.e. white phosphorous cases) and their impact on human targets both in closed and open environments.

She has extensive experience dealing with large-scale cases of torture and its investigation under international standards. Her mastering of fair trial standards permitted her to advise the Foreign & Commonwealth Office said standards, and guidance to consular posts around the world.

In her litigation practice, Monica has proven, tested experience in successfully running novel points of law and obtaining ground-breaking decisions. She has used her strong academic foundation in all core areas of Public International Law and

her previous practical experience working in large, complex cases before international tribunals (ICTY and ICJ), to successfully represent human rights claims. She has particular experience in dealing with the interface of different areas of public international law (such as immunities/human rights; international human rights law/international humanitarian law; human rights/international refugee law; human rights *ius ad bellum/ius in bellum*, *environmental law/human rights*) in human rights litigation.

As a world expert in the Inter-American system, Monica has particular interest in *duty to investigate* cases (e.g. such as in the context of inquests and enquiries), before English courts, including cases raising extra-territorial issues, concerning massacres or violations taking place abroad. The Inter-American system has produced most of the jurisprudence on the duty to investigate often relied on by the European Court of Human Rights and the UK Supreme Court in deciding cases raising Article 2 of the European Convention. Monica is interested both in extra-territorial cases raising *temporal* issues under the right to investigate, as well as *territorial* issues, namely the scope of extraterritorial jurisdiction and the duty to investigate.

Monica also welcomes instructions raising complex jurisdictional public international law matters (such as those raised by extraordinary rendition cases), *acts of state doctrine*, non-justiciability, and universal jurisdiction.

Monica has also a keen interest in the interface of human rights and environmental law. She is counsel in first world case on climate change (before the Human Rights Committee) and is leading landmark cases on climate change justice, raising climate change and environmental degradation as a human rights issue. She is recognised as a leading barrister in the Legal 500 noting that "*She astutely combines vast knowledge of human rights and international environmental law with great advocacy skills.*" In 2007 she was awarded the Justice Gruber Prize for her international litigation and in 2006, the Inge Genekfe award for her ground-breaking work on torture.

International cases

- *OECD claims against BHP, Anglo American, Glencore and ESB* (acting in multiple complaints under the OECD Guidelines for Multinational Enterprises, filed before Multiple National Contact Points (NCPs) in Australia, the United Kingdom, Switzerland, and Ireland, against three parent companies over allegations of serious human rights abuses and devastating environmental pollution at a coal mine, and against Ireland's state-owned energy provider over purchases of coal from the mine having allegedly failed to identify adverse impacts which are directly linked to the mine operations.
- *Amicus Curiae, Los Cedros* – before the Constitutional Court of Ecuador – Legal Intervention on the novel issue of "Rights of Nature" under Article 71 of the Constitution of Ecuador; first world case on the Rights of Nature. Monica's *amicus* raises Ecuador's obligations under the 1992 Convention on Biological Diversity, the Aichi Targets, the 1992 United Nations Framework Convention on Climate Change, The Paris Agreement, the 1972 UNESCO Convention concerning the protection of the world cultural and natural heritage, as well as regional agreements specific to the Americas, all of which are directly justiciable in Ecuador's legal system.
- *Amicus Curiae, On the Constitutionality of Federal Mining Law* – before The Supreme Court of Justice of the Nation (SCJN) of Mexico; Legal Intervention in a constitutional action brought by the Masewal people of Cuetzalan based in the Sierra Norte of the Mexican state of Puebla against Mexico's Federal Mining Law. The *Amicus* covers issues concerning the Right of Consultation under international law in the context of extractive activities. The decision by the SCJN in the case is likely to have a major impact on the extractive sector and on the legislation regulating mining law in Mexico.
- Advising on five cases before the UN Working Group on Arbitrary Detentions.
- *Amicus Curiae, Sierra Nevada de Santa Marta – Linea Negra Decree 1500 Nullity case*, before the Supreme Administrative Court of Colombia (for ABColombia & Colombian Caravana) – Legal Intervention focusing on international law norms directly relevant to the protection of rainforests and natural world of global importance, including arguments on right to consultation and indigenous peoples under regional and UN treaties. The case received coverage by the BBC.
- *Correjón case* before the UN Special Procedures, UN Special Rapporteur on Environment and Human Rights; UN Special Rapporteur on the Rights to Safe Drinking Water and Sanitation; UN Special Rapporteur on Toxic Wastes and Working Group on Business and Human Rights – (for claimants) (sole counsel) Securing a UN intervention in favour of claimants in this high profile case concerning alleged violations of environmental harm and human rights by one of the largest open pit coal mines in the world owned by BHP, Anglo American and Glencore. The case has received worldwide attention with coverage from The New York Times, Reuters, The Telegraph and the Sydney Morning Herald.
- *Individual complaint before the Inter-American Commission on Human Rights under the OAS Charter and the American Declaration of the Rights and Duties of Man* (for claimant) (sole counsel).
- *Provisional Measures request before the Inter-American Commission on Human Rights under the OAS Charter* (for claimant) (sole counsel).
- *Case before UN Special Procedures (Geneva) (Working Group on Arbitrary Detention and Special Rapporteur on the Independence of Judges/lawyers)*(for the claimant) (sole counsel).
- *Amicus Curiae, Gençay Bastimar v Turkey*, CCPR Case No. 3592/2019, before the United Nations Human Rights Committee (for the BHRC of England & Wales) – (with leave by the UN HRC) – standards of derogability of rights in a state

of emergency under the ICCPR, legality of decree laws dismissing public servants on terrorism grounds, international standards to be met by a lawful arrest warrant, novel issues on mass surveillance and the right to privacy similar to the ones raised by *Big Brother Watch and others v the United Kingdom (applications 58170/13, 62322/14 and 24960/15)* before the European Court of Human Rights. (with Stephen Cragg QC).

- Advising non-self-governing peoples on the UN Charter, decolonisation, and statehood.
- *Case before the UN Human Rights Committee* – Advised on the viability of a claim before the UNHRC relating to human rights violations of peoples undergoing a decolonization process in a foreign jurisdiction.
- *Case before the UN Committee – International Convention on the Elimination of Racial Discrimination (Inter-State proceedings under Article 11 & 12 ICERD) (Geneva) and International Court of Justice (The Hague)*– Advised on an inter-state communication submitted under Article 11 of the ICERD with the view to elevate a claim to the International Court of Justice) (sole counsel).
- *Genocide before the International Criminal Court*– Advising on the territorial jurisdiction of the ICC and the viability of a case on Genocide before the International Criminal Court.
- *Genocide case before the International Court of Justice* – Advised on whether a particular situation amounted to genocide under the Genocide Convention, and procedural issues before the ICJ.
- *Adrian Favela case* (concerning enforced disappearances/Mexico), UN Special Proceedings, Special Rapporteur on Torture and Working Group on Enforced Disappearances (for the claimants) – Lead counsel on this case raising state responsibility for systematic enforced Disappearances, duty to investigate, torture, and reparations.
- *Montara Oil Spill case* (concerning transboundary harm/Australia), sole counsel before UN Special Proceedings in this case considered to be one of Australia’s worst oil disasters (for 13 West Timor regencies) – (state responsibility for transboundary harm (oil spill), law of the sea, precautionary principle, general international law).
- *Torres Strait Islanders case v Australia (UN Human Rights Committee)* –Acting for claimants in this ground-breaking case on climate change litigation under the International Covenant on Civil and Political Rights. Referred to as the ‘world’s first climate change human rights case’ by the media, the case has received worldwide attention with coverage from The New York Times, The Guardian, Al Jazeera, CNN.
- Advised on international fair trial standards to guide consular practice in UK foreign missions in respect of treatment of British nationals abroad.
- Advising a Sovereign State on a response to the UN Special Procedures on consular law and human rights arising from Iraq.
- Advised on follow-up proceedings (implementation) in a case already adjudicated by the UNHRC.
- *Gaddafi’s sponsored terrorism* –advised UK Ministers on the position under international law (secondary rules of State responsibility) and possible compensation for victims of IRA terrorism, by Libya, on account of state-sponsored terrorism during the Gaddafi regime.
- Advised on a high-profile case arising from the UAE and whether the treatment afforded to a British National amounted to torture as defined under international law.
- Advised on a case of mutual assistance raising national security issues, torture, and assurances standards for mutual legal assistance (India/UK).
- *Jam v International Finance Corporation*(586 U.S. 2019) (US Supreme Court) (*India/US*) – Advising (unled) a State sitting on the board of the World Bank on the implications of this US Supreme Court judgment which denied absolute immunity to the IFC as an international organisation. The case was brought by Indian fishing communities and farmers from India against the IFC, a member of the World Bank Group over the adverse environmental impact of a power station (the Tata Mundra Ultra Mega coal-fired power plant in Gujarat, India) partly funded by the IFC.
- *MH17 case*– Advised a Sovereign State on the ICAO Convention and on the law of international claims and mechanisms at inter-state level in cases of airplane downings in international practice. Advice focused on the Malaysia Airlines flight MH17 case, which was shot down by a missile when flying over eastern Ukraine in route from Amsterdam to Kuala Lumpur in 2014. The incident is the deadliest airliner shutdown incident to date.
- *Nazanin Zaghari-Ratcliff case* (UK/Iran) – Advised the FCO and the Secretary of State on this high-profile case on diplomatic protection. The case was covered by international press including The New York Times, Huffington Post, ITV news, The BBC, The Financial Times, The Telegraph, The Guardian.
- Successfully advising a party on a human rights application to Charter-based UN Special Rapporteurships (sole counsel).
- Successfully advising a party on diplomatic protection and the interaction of international human rights law (under the European Convention on Human Rights), international refugee law and extradition law in the context of a commercial dispute with a South American State (sole counsel).
- Advising an African Sovereign State on matters concerning Genocide and a potential case before the International Court of Justice (with Sir Michael Wood).

- Commission for the Control of Files of INTERPOL- (lead counsel) (for the applicant), Successfully challenging a Red Notice on the grounds of breach of human rights (fair trial) under international law, in support of a multi-jurisdictional arbitration.
- *Case before the UN CEDAW Committee*- (for the claimants) Advising as lead counsel on a ground-breaking multiparty claim before the UN CEDAW Committee concerning mass rape, impunity for atrocities, and other serious violations against women and girls in the context of internal armed conflict arising from South Sudan.
- *Amicus Curiae, before the Constitutional Court of Colombia*- (sole counsel) on the compatibility of Acto Legislativo No. 1 de 2017, Article 24 (Command Responsibility) and Article 16 (on individual criminal responsibility of third parties (aiding and abetting)), with international law.
- *QT v Director of Immigration* [2018] HKCFA 28 (sole counsel) – Advising on the legality of excluding same-sex couples from Hong Kong’s policy of granting dependant visas to the spouses of employment visa holders and public international law aspects of the claim before the Hong Kong Court of Final Appeal (advising a third party intervenor).
- *The Enrica Lexie Incident (Italy v India)*- (for the Claimant) Assisted Guglielmo Verdirame QC in this inter-State arbitration under Annex VII of UNCLOS. Permanent Court of Arbitration No 2015-28 (See also Request for Provisional Measures, before the International Tribunal for the Law of the Sea (ITLOS)). Monica developed the successful line of argumentation on individual human rights (due process safeguards under Article 9(2), 14(3)(a), 9(1) under the ICCPR) pleaded by counsel on behalf of the Republic of Italy. The case concerns an oil tanker flying the Italian flag, and India’s subsequent exercise of criminal jurisdiction over two Italian marines from the Italian Navy in respect of an incident concerning the killing of two Indian fishermen on board an Indian vessel. The case raises issues of immunity as well as human rights, within the broader framework of the law of the sea.
- *Gareth Henry v Jamaica*, before the Inter-American Commission on Human Rights – (for the claimant) Successfully advising on a non-discrimination case, challenging a law criminalising all forms of consensual sexual activity between adult males; potentially to change criminal law legislation in Jamaica.
- *Case of J v Peru* Preliminary Objection, merits, reparations and costs. Judgment of November 27, 2013. Series C No 175 Inter-American Court of Human Rights, lead counsel to the Claimant. Successfully represented a case of State international Responsibility for arbitrary detention and violations of fair trial, torture and right to privacy.
- *Communication No 2034/2011 v Canada* before the United Nations Human Rights Committee, under the International Covenant on Civil and Political Rights. Sole Counsel to the Claimants (Concerning fair trial in administrative proceedings related to zoning-law in Toronto, non-discrimination, right to privacy).
- *Case of the Miguel Castro Castro Prison Massacre vs Peru*, Judgment of November 25, 2006 (Series C: Decisions and Judgments No 160), before the Inter-American Court of Human Rights. Lead Counsel acting for 800 victims. Successfully representing a multi-million-dollar landmark case on the protection of persons in detention. First international human rights case in which an international court ordered the prosecution of a former Head of State for crimes against humanity and held the State’s duty to take all judicial and diplomatic steps for that purpose (seeking extradition). Precedent on torture practices to include *falanga* beatings, electro-shocks with batons, use of unmuzzled dogs in prisons against detainees, prolonged incommunicado detention, positional torture, blunt beatings following different methodologies, manipulation of sleep patterns, deprivation of water, deprivation of natural light, denial of exercise, denial of access to books and of work, enforced hunger and denial of medical attention, among others. First international binding case on violence against women in the Latin America region under the Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belem do Pará”).
- *Case of the Gomez Paquiyauri Brothers vs Peru*, Judgment of July 8, 2004 (Series C: Decisions and Judgments No. 110), before the Inter-American Court of Human Rights – Sole Counsel to the claimants. Successfully representing a case concerning the arbitrary detention, torture and extra-judicial execution of two minors in the context of anti-terrorist police operations under states of emergency, securing a US\$740,500 reparation award. First international case on the protection of children in times of internal armed conflict; precedent on opposing the use of Ad Hoc Judges in individual contentious cases before the Inter-American Court, which led to the elimination of Ad Hoc Judges in individual petitions before the Inter-American Court in 2009.
- *LaGrand Case, (Federal Republic of Germany v United States of America)*, International Court of Justice. Advising Counsel for Germany, Professor Bruno Simma; developed successful lines of argumentation on the right to consular assistance and its relation to human rights which set a new precedent in the interpretation of the Vienna Convention on Consular Relations.
- *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, International Court of Justice. Advising the International Court of Justice on substantive and procedural matters (applicable standards) in relation to Genocide and State Responsibility under the UN Genocide Convention as opposed to individual criminal responsibility standards and assisting with the legal analysis of evidence (over 700 witness’ statements) in the case.
- *Bouterse case*, Amsterdam Court of Appeals – Joint Amicus Curiae brief with Professor John Dugard, former Special Rapporteur on Diplomatic Protection at the United Nations International Law Commission, relating to Netherlands’ jurisdiction to prosecute extra-judicial killings and torture amounting to crimes against humanity in Surinam by former Dictator Desi Bouterse.

- *Prosecutor v Timohir Blaskic*, International Criminal Tribunal for the Former Yugoslavia (Chamber Trial I). Advising Trial Chamber I under the Presidency of H.E. Judge Claude Jorda, on the applicable law in connection to command responsibility under international law in preparation of a judgment in the case, of the highest-ranking officer at that time to be tried by the ICTY.
- *Communication No 868/1999: Philippines. 11/11/2003*, United Nations Human Rights Committee. Adviser to the Redress Trust, representing the claimant.
- Advising on jurisdictional and substantive issues arising from a death penalty case before the Inter-American Commission on Human Rights, relating to a Caribbean State.

Domestic cases

- *The Queen (On the Application of Charlotte Charles and Tim Dunn) and The Secretary of State for Foreign and Commonwealth Affairs* – (for the claimants) acting in the judicial review of Harry Dunn’s parents against the Secretary of State for Foreign and Commonwealth Affairs (raising nuanced aspects of diplomatic immunity and Article 2 obligations under the European Convention on Human Rights).
- *The Independent Inquiry into Child Sexual Abuse (IICSA)* – Acting for the Home Office (working with highly sensitive material) in this high-profile public inquiry into child sexual abuse, investigating the extent to which institutions in England and Wales handled their duty of care to protect children from sexual abuse.
- *Verica Tomanovic and others v FCO*, High Court – Successfully defended a case (leading the position of the FCO while on secondment) concerning vicarious liability for human rights violations (alleged failure to investigate enforced disappearances) of the contributing state to the EULEX mission for acts/omissions of a secondee in Kosovo, raising issues on the rules of attribution for liability in the context of peace-building operations and immunities of international organisations. The case raised the extraterritorial application of the Human Rights Act.
- *Benkharbouche (Respondent) v Secretary of State for Foreign and Commonwealth Affairs (Appellant)* [2017] UKSC 62– Advised the UK government (sole counsel) on State Immunity issues in the implementation of the Supreme Court judgment in *Benkharbouche*, in which the Court held that sections 4(2)(b) and 16(1) (a) of the State Immunity Act 1978 are incompatible with Article 6 of the European Convention on Human Rights.
- Advising (Home Office/FCO) on a case of mutual assistance raising national security issues, torture, and assurances standards for mutual legal assistance (India/UK).
- Advising on a case raising mutual assistance issues (concerning Nigeria/UK) and extradition law issues relevant to three jurisdictions, including Israel.
- Advising on a nationality and security case and repatriation of children (British Nationals) from a war zone.
- Advising the Home Office in legal proceedings relating to a case of deprivation of nationality.
- Advising on evidentiary issues relating to forced marriage cases, seeking an order from the Court of Protection.
- *Yusuf v SSHD & Foreign & Commonwealth Office* – (before a county court) – led the FCO’s position in this claim alleging negligence on the part of the FCO for “failure to provide consular assistance” to a British National in Somalia and raised arguments under the Human Rights Act (and extraterritorial application of the European Convention on Human Rights). Monica’s defence secured that the claim was withdrawn at the pre-action stage.
- Successfully acting for a party bringing a judicial review in the education sector, with discrimination elements under the Equality Act 2010 and arguments under the Human Rights Act (case was successful at pre-action stage).
- *The London Borough of Haringey (Wards Corner Regeneration Project) Compulsory Purchase Order 2016 Public Inquiry*– Appearing as lead counsel for objectors in a three-week public inquiry into the compulsory purchase order sought in respect of the c.£100m redevelopment of the Seven Sisters market, during which she cross-examined both witnesses of fact and expert witnesses for two consecutive weeks. The case raised novel arguments under the Equality Act 2010 and human rights, including under a non-incorporated treaty (ICCPR).
- *Eloise Mukami Kimathi James Karanja Nyoro and others and the Foreign and Commonwealth Office (“The Kenyan Emergency Group Litigation”)* Claim No HQ13XO2162 High Court of Justice (instructed by the Foreign and Commonwealth Office) – A multi-million pound claim alleging human rights violations against the Mau Mau, in Colonial Kenya during the Emergency Period between 1952 and 1961.
- *Reyes v Al-Malki* [2015] IRLR 289 (Court of Appeal) – Assisted Sir Daniel Bethlehem QC and Sudhanshu Swaroop QC in this test case concerning the interpretation of the Vienna Convention on Diplomatic Relations (VCDR), in particular whether Article 31(1) (c) of the VCDR excludes diplomatic immunity in the context of employment/human trafficking claims and whether this position is affected by Articles 4 or 6 of the European Convention on Human Rights. Monica’s work in the case covered drafting substantive arguments on State immunity, diplomatic immunity, a review of all relevant Strasbourg jurisprudence, developing key arguments on treaty Interpretation under the Vienna Convention on the Law of Treaties (which included a thorough analysis of the Travaux Préparatoires of the VCDR) as well as a full review of US

jurisprudence on diplomatic immunity and preparing arguments on the correct method for serving process on diplomats under English law.

International criminal law, mutual legal assistance, Interpol law

Monica has vast experience of handling complex matters such as genocide, crimes against humanity, war crimes and gross human rights violations amounting to international crimes. She is described in *The Legal 500* as “*very experienced in international criminal law matters*”. She acted as legal adviser to a State delegation during the negotiations of the Rome Statute which established the International Criminal Court. Monica is an experienced counsel in the area of Command Responsibility and on genocide, having worked on seminal cases, during a stint at the International Criminal Tribunal for former Yugoslavia (ICTY) and at the International Court of Justice (*Bosnia v Ex-Yugoslavia Genocide* case), respectively. She is also an expert in the laws of war and the use of force (*ius ad bellum*). Notably, she has acted as lead counsel in a case of crimes against humanity on behalf of 800 victims, which led to the prosecution of a former Head of State and represented the first international case on the rights of the child in times of armed conflict.

Recent cases include advising sovereign States and government on terrorist related cases, on torture, on the duty to investigate in the context of peace-building missions, and on legal issues arising from Libya, Iraq, Iran, Syria, Afghanistan, India, and UAE. She has also advised on mutual assistance, extradition and national security related cases. Monica is national security vetted ('Security Check' level) and is comfortable working with sensitive material. She is admitted to appear before the International Criminal Court.

Examples of cases in which she has acted/advised in this area:

- Advising on conflict of laws relating to seizing jurisdiction (English, Belgian and South African jurisdictions involved) for the investigation of a crime taking place during a flight, diplomatic law and immunity.
- *Genocide case before the International Criminal Court*– Advised on whether a particular situation amounted to genocide under the Rome Statute, on the territorial jurisdiction of the ICC and the viability of a case on genocide before the International Criminal Court.
- *Adrian Favela case*(concerning enforced disappearances/Mexico), UN Special Proceedings, Special Rapporteur on Torture and Working Group on Enforced Disappearances (for the claimants) – Lead counsel on this case raising state responsibility for systematic enforced disappearances, duty to investigate, torture, and reparations.
- *Genocide case before the International Court of Justice* – Advised on whether a particular situation amounted to genocide under the Genocide Convention, and procedural issues before the ICJ.
- Advised on the extradition framework (treaties) relating to several jurisdictions, applicable principles of extradition law and on INTERPOL law.
- Advised on a case of mutual assistance raising national security issues, torture, and assurances standards for mutual legal assistance (India/UK).
- *Gaddafi's sponsored terrorism* –Advised UK Ministers on the position under international law (secondary rules of State responsibility) and possible compensation for victims of IRA terrorism, by Libya, on account of state-sponsored terrorism during the Gaddafi regime.
- Advised on the International Criminal Court and Non-State Parties immunities (interpretation of Article 27 and Article 98 of the Rome Statute).
- *The Sousse & Bardo terrorist attacks* –Advised the UK government (at ministerial level) on remedies for the British victims of the Sousse terrorist attack, a mass shooting occurring at a tourist resort at Port El Kantaoui near the city of Sousse, Tunisia. In June 2015, 38 people, 30 of whom were British, were killed by an ISIS gunman (the biggest loss of British life to terrorism since the 2005 London bombings).
- *MH17 case*– Advised a Sovereign State on the ICAO Convention and on the law of international claims and mechanisms at inter-state level in cases of airplane downings in international practice. Advice focused on the Malaysia Airlines flight MH17 case, which was shot down by a missile when flying over eastern Ukraine in route from Amsterdam to Kuala Lumpur in 2014. The incident is the deadliest airliner shutdown incident to date.
- Advised on treaties relating to mutual assistance and matters relating to extradition relating to three jurisdictions (Nigeria/UK and Israel).
- Advised an African Sovereign State on historical genocide and a potential case before the International Court of Justice (with Sir Michael Wood).
- *Verica Tomanovic and others v FCO*, High Court (for the FCO) – Successfully defending this case concerning vicarious liability for human rights violations (duty to investigate in relation to enforced disappearances).Case concerned a

contributing state to the EULEX mission for acts/omissions of a secondee in Kosovo, raising issues on the rules of attribution for liability in the context of peace-building operations and immunities of international organisations.

- Advised on a high profile case arising from the UAE and whether the treatment afforded to a British National amounted to torture as defined under international law.
- Commission for the Control of Files of INTERPOL – (lead counsel) (for the applicant) Successful application challenging a Red Notice in support of a multi-jurisdictional arbitration.
- *Case regarding the Constitutionality of Legislative Act No 1, 2017* (Expediente RPZ-003), Constitutional Court of Colombia, which establishes the Special Jurisdiction for Peace to prosecute crimes during the internal armed conflict in Colombia. Amicus Curiae (sole amicus) challenging the compatibility with international law of Art. 24 (Command Responsibility) and Art.16 (Aiding and Abetting) (Corporate Responsibility) of Legislative Act No.1 of 2017.
- *Case before the UN CEDAW Committee*– (for the claimants) Advised as lead counsel on a ground-breaking multiparty claim before the UN CEDAW Committee concerning mass rape, impunity for atrocities, and other serious violations against women and girls in the context of internal armed conflict arising from South Sudan.
- *Matter before the International Court of Justice*– Advised on matters concerning crimes against humanity, jurisdictions, discontinuance of claims, state immunity, universal jurisdiction, and compliance with ICJ judgments in relation to a potential claim / and claim, in the ICJ (with Sir Michael Wood). (Languages used French, English, and Spanish)
- *Case of the Miguel Castro Castro Prison Massacre vs Peru*, Judgment of November 25, 2006 (Series C: Decisions and Judgments No 160), before the Inter-American Court of Human Rights. Lead Counsel acting for 800 victims. Successfully representing a multi-million dollar landmark case on the protection of persons in detention on a case relating to violations amounting to crimes against humanity. Secured an order of prosecution against a former head of State.
- *Case of the Gomez Paquiyauri Brothers vs Peru*, Judgment of July 8, 2004 (Series C: Decisions and Judgments No. 110), before the Inter-American Court of Human Rights – Sole Counsel to the claimants. Successfully representing a case concerning the arbitrary detention, torture and extra-judicial execution of two minors in the context of anti-terrorist police operations under states of emergency, securing a US\$740,500 reparation award. First international case on the protection of children in times of internal armed conflict.
- *Bouterse case*, Amsterdam Court of Appeals – Joint Amicus Curiae brief with Professor John Dugard, former Special Rapporteur on Diplomatic Protection at the United Nations International Law Commission, relating to Netherlands’ jurisdiction to prosecute extra-judicial killings and torture amounting to crimes against humanity in Surinam by former Dictator Desi Bouterse.
- *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, International Court of Justice – Advising the International Court of Justice on substantive and procedural matters (applicable standards) in relation to Genocide and State Responsibility under the UN Genocide Convention as opposed to individual criminal responsibility standards and assisting with the legal analysis of evidence (over 700 witness’ statements) in the case.
- *Prosecutor v Timohir Blaskic*, International Criminal Tribunal for the Former Yugoslavia (Chamber Trial I) – Advising Trial Chamber I under the Presidency of H.E. Judge Claude Jorda, on the applicable law in connection to command responsibility under international law in preparation of a judgment in the case, of the highest-ranking officer at that time to be tried by the ICTY.
- Advising on jurisdictional and substantive issues arising from a death penalty case before the Inter-American Commission on Human Rights, relating to a Caribbean State.

Technology & Telecoms

- Acting in a novel OECD claim – the first time the OECD Guidelines have been applied to a digital dispute involving cryptocurrency.
- *Amicus Curiae, Gençay Bastimar v Turkey*, CCPR Case No. 3592/2019, before the United Nations Human Rights Committee (for the BHRC of England & Wales) – (with leave by the UN HRC) – novel issues on mass surveillance and the right to privacy similar to the ones raised by *Big Brother Watch and others v the United Kingdom (applications 58170/13, 62322/14 and 24960/15)* before the European Court of Human Rights. (with Stephen Cragg QC)
- Involved in a commercial arbitration raising competition law issues, in the telecommunication sector, under ICC rules, seated in London.

Aviation

Monica’s practice in aviation law lies at the confluence of aviation and public international law. She is very experienced advising on reparation in cases of airplane downings (including cases where the interests of several States are involved) and on the interpretation of multilateral air law treaties including the Convention on International Civil Aviation (‘The

Chicago Convention') and the Montreal Convention. Recent advice in this area includes:

- Advising on International Organisations Privileges & Immunities under the Convention on the Privileges and Immunities of the United Nations (1946) and that of the Specialised Agencies (1947) and dispute resolution clauses in contracts relating to in-kind contributions and donations to the UN World Food Programme, by private parties, for its operations, to assist with transport of goods for Covid-19.
- Advising a Sovereign State on the interpretation of the Montreal Convention and other reparation mechanisms under International law in a case of downing by a missile
- Advising a Sovereign State on different headings of reparation and the notion of next-of-kin under international law in aircraft downings
- Advising on the immunity of aircrafts carrying royal families (state-owned aircrafts and non state-owned aircrafts)
- Advising a Sovereign State on the nature of sovereign guarantees in commercial contracts relating to the leasing of aircrafts for a state-owned national airline.

Recommendations

She is a real expert in international environmental law and the legal mind behind world landmark cases. She has encyclopaedic knowledge in this area of law. [Chambers UK Bar 2022](#)

A junior who is very competent and dedicated to her work [The Legal 500 UK Bar 2022](#)

She's outstanding. She is incredibly user-friendly and hard-working. [Chambers UK Bar 2022](#)

An outstanding practitioner in the field of international environmental and human rights law. [The Legal 500 UK Bar 2022](#)

Monica is approachable yet also formidable. She has a broad knowledge of PIL and human rights law, and she brings a lot of passion and dedication to her work. [Chambers UK Bar 2022](#)

Incredibly hardworking with a fine eye for detail, she is a great junior who will take Silk before too long. [The Legal 500 UK Bar 2022](#)

Sharp intellect, dedication, excellent knowledge of the law, and experience - willing and able to think outside the box. [The Legal 500 UK Bar 2021](#)

Hardworking, very committed... She has made disputes under international environmental treaties her own [The Legal 500 UK Bar 2021](#)

An expert in public international law, particularly in relation to international organisations and privileges and immunities. [The Legal 500 UK Bar 2020](#)

Her work is a stroke of genius.

A powerhouse of international law. [Chambers & Partners blog, 2015](#)

Very experienced in international criminal law matters. [The Legal 500 UK Bar 2020](#)

She is outstanding.

She astutely combines vast knowledge of human rights and international environmental law with great advocacy skills. [The Legal 500 UK Bar 2020](#)

Her practice is centred around international crime matters. [The Legal 500 UK Bar 2019](#)

A delight to work with.

She has superb attention to detail.

Monica Fera-Tinta's Hot 100 ranking is only the latest of many garlands awarded to her in a sparkling career spanning many countries. [The Lawyer Hot 100](#)