

# Monica Feria-Tinta

CALL: 2014 (Middle Temple)

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Nationality: British/Peruvian

Date of Birth: 06.09.1966

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

Education: LLM (LSE) (1996); Diploma Hague Academy of International Law (2000), Visiting Scholar (LCIL, University of Cambridge) (2001-2002); *Bachiller en Derecho* (PUCP)



## Overview

Monica is a specialist in public international law. Her practice covers the full spectrum of public international law including statehood, treaty interpretation, state responsibility, immunities, law of the sea, boundary delimitation, international environmental law, trade and investment law, UN law, self-determination, human rights, use of force, and international dispute settlement.

Her practice also covers private international law, international arbitration.

Monica acts as counsel in cases before English courts, international courts and arbitral tribunals under a variety of rules and applicable laws. She has appeared or advised before the International Court of Justice (ICJ), Permanent Court of Arbitration (PCA), International Tribunal for the Law of the Sea, UN Human Rights Committee, ICSID, SIAC, ICC, UNCITRAL and SCC arbitral tribunals, UN Special Rapporteurships and diplomatic fora. Monica has broad experience in arbitration involving Sovereign States and State-owned entities. She is currently sitting as Arbitrator (Chair) in an investment arbitration with a seat in The Hague.

She brings a wealth of international law experience to her practice, and thorough knowledge of procedural and substantive law of international tribunals, having worked for the ICJ and the ICTY (Chamber Trial I) prior to the Bar. Her experience 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

## Awards

- “The Lawyer” Hot 100, 2020: Amongst “the most daring, innovative, and creative lawyers” in the United Kingdom.
- 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).

## Recent Publications

### Books

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

### Articles

- ‘World Bank Group immunities after *Jam et al v International Finance Corp*’, *Journal of International Banking Law and Regulations* (JIBLR) (2019) issue 34 (10).
- ‘The Rise of Environmental Law in International Dispute Resolution’ *Yearbook of International Environmental Law* (Oxford University Press 11 October 2018).
- ‘Like Oil and Water? Human Rights in Investment Arbitration in the Wake of Philip Morris v. Uruguay’ (2017) 34(4) *Journal of International Arbitration*
- ‘The South China Sea: Chess Arbitration?’ *EJIL: Talk!* (10 August 2016).

- ‘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).

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 drafting 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. She has also served as Assistant Legal Adviser to the Foreign and Commonwealth Office (2018-2019).

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 is the author of a leading treatise in the investment arbitration series of OUP. Monica 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. She has held academic positions at the Lauterpacht Centre for International Law (University of Cambridge) where she is currently Partner Fellow, and at the LSE (as Teaching Assistant to HE Christopher Greenwood, former ICJ Judge). 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’. Recent commentary on Investment Arbitration topics includes a piece on Yukos and an analysis of recent jurisprudence in Europe under the Energy Charter Treaty. 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).

## International arbitration

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### Inter-State arbitration

- *The Enrica Lexie Incident (Italy v India)*, International Tribunal for the Law of the Sea (advising Italy) - an inter-State arbitration under Annex VII of UNCLOS. Permanent Court of Arbitration NO 2015-28

### Commercial and Investment Arbitration

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. Recent experience in Commercial and Investment Arbitration includes:

- *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 (SCC rules) (details confidential).
- Advising on treaty interpretation and state succession in complex jurisdictional issues arising from a CIS investment arbitration.
- A high-stake commercial arbitration raising competition law issues, in the telecommunication sector, under ICC rules, seated in London (for the claimant).
- Advising a newly appointed administration in an Asian State on its BITs liabilities by reference to other conflicting duties under international law.
- Commercial international arbitration arising from a JVA agreement in the garment industry, under the SIAC Rules, with seat in Singapore (tribunal).
- Investment Arbitration case in the construction sector under the Turkish-Turkmenistan BIT (ICSID) (assisting the Tribunal)

### Public international law - international courts and representative commercial cases

- *Bravo and Others v Amerisur Resources PLC*, High Court (Queen’s Bench Division) (for the defendant) (oil & gas dispute)
- *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 (diplomatic immunity case).
- *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.
- *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.
- *Advised a Sovereign State on the viability of an Advisory Opinion before the International Tribunal for the Law of the Sea under UNCLOS and ITLOS rules.*
- *Torres Strait Islanders v Australia*, UN Human Rights Committee (for the Torres Strait Islanders)
- *Montara Oil Spill case* (concerning transboundary harm/Australia), UN Special Proceedings (for 13 West Timor regencies) (oil dispute)
- Advised non-self-governing peoples on the UN Charter, decolonisation, and statehood.
- Advised non-self-governing peoples on the viability of a claim under ICERD and before ICJ

- (1) *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)* (case settled)
- Adrian Favela case (concerning enforced disappearance/Mexico), UN Special Proceedings (for the claimants)
- *Foreign Commonwealth Office v Bamieh* [2019] EWCA Civ 803 ((Court of Appeal) for the claimant)
- Advised a government on exile on its position under international law, treaty interpretation, statehood and self-determination.
- *Jam et al v International Finance Corp (US Supreme Court)*, Advised World Bank/UK on immunities of international organisations
- *Verica Tomanovic and others v FCO*, High Court: a case raising issues on the rules of attribution for liability in the context of peace-building operations and immunities of international organisations (for the defendant).
- *Benkharbouche* (UK Supreme Court) decision, Advised the UK on the implementation of the judgment following a declaration of incompatibility of the State Immunity Act with the European Convention on Human Rights.
- *Nazanin Zaghari-Ratcliffe* case (UK/Iran) (Advising on Diplomatic Protection in this and other Iranian double-nationality cases)
- Case regarding the Constitutionality of Legislative Act No 1, 2017 which establishes the Special Jurisdiction for Peace to prosecute crimes during the internal armed conflict in Colombia, Constitutional Court of Colombia - Amicus Curiae brief on Command Responsibility and Corporate Responsibility (Article 24 and Article 16 respectively)
- The Sousse & Bardo terrorist attacks; Advising on remedies under international law
- Gaddafi's sponsored terrorism; Advising on state responsibility for sponsoring terrorism and secondary rules of international law
- Advising on the immunity of special missions
- Advising on the immunity of bank accounts of a Diplomatic mission in a foreign jurisdiction
- Legal Consequences of the separation of the Chagos Archipelago from Mauritius in 1965 (Request for Advisory Opinion), International Court of Justice (Application on behalf of seeking intervener under Article 66 (2) of the ICJ Statute)
- *Gareth Henry v Jamaica*, Inter-American Commission on Human Rights (Advising the claimant)
- Eloise Mukami Kimathi and others and the Foreign and Commonwealth Office ('The Kenyan Emergency Group Litigation'), High Court of Justice (for the defendant)
- *Pedro Emiro Florez Arroyo and others v Equion Energia Ltd* (formerly known as BP Exploration Company (Colombia) Ltd) [2016] EWHC 1699 (TCC): a case on alleged environmental damage caused by the construction of an oil pipeline; the trial lasted five months.
- *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.
- *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).
- Case of J v Peru, Inter-American Court of Human rights (for the claimant)
- Communication No 2034/2011 v Canada, UN Human Rights Committee (for the claimants)
- Case of Miguel Castro Castro Prison Massacre vs Peru, Inter-American Court of Human Rights (for the claimant)
- Caso of the Gomez Paquiyauri Brothers vs Peru, Inter-American Court of Human Rights (for the claimants)
- LaGrand case (Federal Republic of Germany v United States of America), International Court of Justice (advising Germany)
- 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 ICJ)
- Prosecutor v Timohir Blaskic, International Criminal Tribunal for the Former Yugoslavia (Advising Chamber Trial I)
- 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

