

James Schofield

Called: 2004 (England and Wales)
Victorian Practising Counsel (Division A, Part 1) of
the Victorian Bar, Australia
Qualified to Accept Public Access Instructions

Introduction

James is a dual qualified English and Australian barrister. Called to the Bar of England and Wales by Gray's Inn in July 2004, he obtained his full Qualification Certificate on 30 September 2008. He was admitted as an Australian Lawyer in May 2021 while still practising in London. On 24 July 2024, he was Called to the Victorian Bar in Melbourne. As an English barrister, he is authorised to exercise rights of audience before every court in relation to all proceedings in England and Wales. His Australian barrister's practising certificate allows him to appear before courts in every Australian State and Territory.

James' long relationship with Australia began on his first visit there in December 1985. But his first practical encounter with human rights and international law began a few days earlier, on an extended stopover in Jakarta where a plan to interview Indonesian dissidents on behalf of a London-based NGO almost ended in arrest and deportation – or worse. This had been intended to be a quiet visit to Indonesia. A quick 'in and out'. It ended in a narrow escape. Followed by a quick dash to the airport. It was not the last time that his curiosity about the world and a commitment to help humanity by using the law in its broadest sense, in Southeast Asia, in East, Central and Southern Africa, in the Middle East and in Albania, among other places around the world, has got James into trouble.

Previous experience

Since completing pupillage at Coram Chambers on 30 September 2008, and for the sixteen years following, James has practised as a barrister in the field of Children Law in London, acting in public law proceedings on behalf of parents or other carers, or for children through their Children's Guardian, or for parents or their children in private law disputes over child arrangements. He is often instructed by the National Youth Advocacy Service (NYAS).

He has a particular interest and empathy for children on the autistic spectrum or with specific learning differences or disabilities.



He seeks to build a practice working in international law where he can combine his knowledge and experience of the world and his legal training in the UK and Australia with a commitment to humanitarianism. He is particularly interested in international criminal law, human rights law, international humanitarian law and the law relating to State responsibility.

Since joining the Victoria Bar, James has gained experience working in criminal defence in the Melbourne Magistrates Court and regional Victorian courts. He has observed and participated in other matters in the Victorian Supreme Court and the County Court of Victoria. He has been a member of the Australian Section of the International Commission of Jurists for many years and contributes to their monthly online meetings.

Previous career

James began his (first) professional career working as an overseas correspondent for the ABC Australia in East Africa in an era when stories were typed on a typewriter and television video (not film, by this time) was hand delivered to the nearest airport for onwards travel.

He arrived in Eritrea three months after the Eritrean people's Liberation Front moved into the capital Asmara, to interview the new president Isaias Afwerki, then flew to Addis Ababa from which the EPRDF had forced Mengistu Haile Mariam to flee the country and interviewed the new leader Meles Zenawi.

He covered humanitarian crises and conflict in the Horn of Africa and Central Africa (and Angola). The years of this post-Cold War

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period were years of living dangerously. In early May 1994, he drove a car into Rwanda with three colleagues, from Bujumbura to Kigali, through some 50 Impuzamugambi and Interahamwe roadblocks. It was in Kigali that the four of them learned, by extrapolating the figures for those killed in Kigali to other sites in Rwanda, that around half a million people had been killed in just four weeks.

South Sudan, in these years, was a primer in atrocity crimes; like the massacre near Bor in December 1991 or the aerial bombardment of towns and villages in 1993-1994, like the village of Pageri. He was there and he saw.

From 1991 to 1995, he reported on “man’s inhumanity to man”: genocide in Rwanda, ethnic and political slaughter in Burundi; conflict in Somalia and Sudan; the deliberate deprivation of food and destruction of medical facilities; the murder of humanitarian aid workers; inter-clan massacres; the killing and wounding of children by bombs and by the ignition of stored high explosive and ammunition; child soldiers in Sudan and child executioners in Rwanda; and landmines in Angola.

His interest in humanitarian law extends to his interest in protecting journalists working in places where the nature of their work puts them at great personal risk. There was a brutal reminder of the risks they face, on 12 July 1993 in the Somali capital, Mogadishu. Four of his colleagues were murdered when an infuriated crowd turned on them following a deliberate attack by UNOSOM 2 forces against a building whose occupants were never given the chance to surrender – a UNOSOM attack characterised by Keith Richburg of *The Washington Post* as “the UN’s first officially authorized assassination”. A few months after the genocide in Rwanda, he experienced a dangerous near-miss himself – a tank shell exploding above his head and sending sharp splinters through his back and leg.

He was also one of the very few journalists present in Mogadishu to witness the ‘Black Hawk Down’ battle in October 1993.

From Nairobi, he moved to Jerusalem fulfilling a long-held ambition to cover the Middle East. It felt at the time as though the Oslo Accords had changed things irrevocably. He reported from Gaza and the West Bank and Amman, from Cairo and from Baghdad. Then in 1998, he moved to Lebanon, reporting for *The Financial Times* from Beirut and Damascus. By the time he arrived, ad hoc international criminal tribunals had been established for the

former Yugoslavia and Rwanda: bricks in a wall to end the culture of impunity and to build a culture of accountability.

He returned to the region in May 2000 to witness Israel’s withdrawal to its internationally recognized border with southern Lebanon.

International law

As a reporter, James had been attracted by the thought of qualifying in law and working in the field of international criminal law. He had always had a very strong interest in States, peoples and international affairs, an interest which had existed before he became a journalist.

His participation in the work of the ICJ-AS since 2021 has been a catalyst for the reawakening of his interest in crime and international criminal law.

In early February 2024, James wrote to the *Law Society* journal about the South Africa v. Israel case in the International Court of Justice which caught the attention of the organizer of a conference in Worcester on law in war. James accepted his invitation to prepare and deliver a paper to the conference on 11 March 2024 on the International Court of Justice, with specific reference to Ukraine v. Russia case and the South Africa v. Israel case. He researched all the relevant ICJ genocide decisions, not just those two. It was the start of an abiding interest in the jurisprudence of the International Court of Justice.

The delivered paper was later published by the ICJ-AS as well.

Notable cases

In the matter of S (A Child) [2017] EWCA Civ 249 (an appeal against the making of care and placement for adoption), James represented a mother with learning difficulties and a mental health issue. In the Court of Appeal, Lord Justice McFarlane, giving the judgment of the Court, said this:

“Mr Schofield, on behalf of the mother, who represented her at trial and before this court... has conspicuously done so with great care, skill and insight...”

In a case in 2021, he successfully represented the Vietnamese mother of a 3-month-old baby who had been removed from his pa-

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rents' care with his older sibling after presenting with metaphyseal fractures of the right and left distal tibia and healing fractures of posterior lateral left fifth and sixth ribs. The mother, like the father, had arrived in England as an unaccompanied asylum seeker. The father had no understanding of English. Expert evidence pointed to non-accidental harm. The Court found that threshold in respect of the rib fractures had not been made out. The Court found that the metaphyseal fractures had not been inflicted in a malicious way; there had been no failure to protect and no failure to seek prompt medical treatment.

The Court ordered that both children be returned to their parents.

Awards

For his work in Africa and the Middle East, he received the following journalism awards:

- Logie Award (1994) - Most Outstanding Achievement in Television News – Australian television award for coverage of Rwanda, the 1994 genocide and the forced exodus of Rwandans into Zaire.
- Runner-up for the Golden Walkley Award (1994), Australia's highest award for journalism – for frontline radio reporting from the war in southern Sudan.
- Walkley Award (1994) - Best Application of the Radio Medium to Journalism – Somalia - for reporting on the Islamic Courts established in northern Mogadishu during the struggle for power between rival clans.
- Walkley Award (1994) - Best Coverage of a Current Story – Sudan - frontline radio reporting from the war in southern Sudan.
- Highly Commended in Walkley Awards (1997) – Occupied Palestinian Territory - for his television reporting from the West Bank city of Hebron during violent stand-off between Palestinians and Israeli Defence Forces soldiers following provocation of the Palestinians by Israeli settlers.

Memberships

Honourable Society of Gray's Inn
The Victorian Bar
International Commission of Jurists (Australian Section)
JUSTICE
Bar of England & Wales
Bar Human Rights Committee
International Law Section of the Law Council of Australia

Education

College of Law, Melbourne (by remote learning), Trusts and Office Accounts, Ethics, Professional Responsibility (High Distinction)
University of Southern Queensland (by remote learning), Australian Administrative Law (High Distinction)
University of Southern Queensland (by remote learning), Company Law
Charles Darwin University (by remote learning), State and Federal Constitutional Law
BPP Law School, Bar Vocational Course (part-time), Sept 2002 to July 2004 (Very Competent)
Middlesex University, Postgraduate Diploma in Law/ CPE (part-time), Sept 2000 to July 2002 (Commendation)
University of Oxford, M.A. English Language and Literature
University of Oxford, B.A. Hons. English Language and Literature, 1979-1982



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