

Can Yeginsu

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He has the gravitas of a natural leader and possesses a giant intellect.

- Chambers & Partners, 2019

Can Yeginsu is a leading barrister practising in commercial litigation and international arbitration, civil fraud, professional liability, public law and human rights, and both private and public international law.

Can is consistently ranked by Chambers Global, Chambers UK Bar, and Legal 500 as an outstanding junior in five practice areas: (i) commercial litigation; (ii) international arbitration; (iii) administrative and public law; (iv) civil liberties and human rights; and (v) public international law.

In 2019, Can was shortlisted for the '*International Arbitration Junior of the Year*' by Legal 500 and appointed to the independent High-Level Panel of Legal Experts on Media Freedom, convened by the former President of the UK Supreme Court, Lord Neuberger, and the UK's Special Envoy on Media Freedom, Amal Clooney, at the request of the UK and Canadian Governments.

Frequently appearing in the Commercial Court, Administrative Court, and the Chancery Division, Can has also acted in over 30 cases in the Court of Appeal, UK Supreme Court and the European Court of Human Rights. In addition, he has experience acting as co-counsel in proceedings before the ECOWAS Community Court of Justice, the Inter-American Court of Human Rights, the Federal Court of Malaysia, the Turkish Constitutional Court, and the Supreme Court of The Gambia. Can is admitted to the Bar of the DIFC Courts.

In his arbitral practice, Can is regularly instructed to act in commercial disputes under the LCIA, ICC, LMAA, and CIArb Rules, as well as in ad-hoc arbitrations under the UNCITRAL Rules. Can also has particular expertise in investor-state arbitration, including claims brought under the ICSID Rules and the ICSID Additional Facility Rules. He has received, and continues to accept, appointments as sole and co-arbitrator.

Can is **Adjunct Professor of Law** at Georgetown Law (Washington D.C.) and Koç University Law School (Istanbul) where he teaches investor-state arbitration. Can is also **Lecturer-in-Law** at Columbia Law School (New York) where he teaches international human rights law. He is the co-author of *The Protections for Religious Rights: Law and Practice* a leading practitioners' text, published by Oxford University Press, and **Partner Fellow** at the Lauterpacht Centre for International Law, University of Cambridge.

In 2013, Can was recognised as one of ten "Stars" practising at the Commercial Bar by Legal Week Magazine where he was identified as possibly one of "*the Bar's true polymaths...able to advocate in a wide variety of legal areas, with seemingly effortless fluency*".

Privacy Policy



Click here for a **Privacy Policy** for Can Yeginsu.

Transparency Statement

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Areas of Expertise

Public International Law

“A first-class international lawyer, with a very impressive breadth of expertise in the field. He has an unusual breadth of experience, spanning both commercial law and human rights, which is a great asset in cases that include elements of both.” Legal 500, Public International Law, 2021

Can has developed a significant practice in public international law which is evenly split between: (i) investment treaty arbitration work; and (ii) international human rights law.

He acts as counsel for foreign governments, multinational companies, banks, individuals (including foreign investors), and international organisations before a number of international arbitral tribunals, as well as the English (and other domestic) courts, the European Court of Human Rights, and the ECOWAS Community Court of Justice. Can is also regularly instructed in an advisory capacity.

Can is Adjunct Professor of Law at **Georgetown Law** (Washington D.C.) and **Koç University Law School** (Istanbul), where he teaches investor-state arbitration and public international law. He is **Partner Fellow** at the Lauterpacht Centre for International Law, University of Cambridge.

Before coming to the Bar, Can worked at the Permanent Mission for Turkey to the United Nations in New York.

Cases

- **ICSID Arbitration (Counsel)**
Acting for a foreign investor in a \$100m+ claim relating to investments in textile sector against a Central Asian State.
- **Mandlí and ors v Hungary (ECtHR)**
Acting for Media Legal Defence Initiative, the Helsinki Foundation for Human Rights, Mass Media Defence Centre, Ossigeno Per L’Informazione, and Media Development Centre in the Art. 10 challenge to Hungarian laws forbidding journalists from entering and reporting from parliamentary premises. The issues raised by this case are of increasing public importance considering the trend of parliaments inside and outside Europe to restricting the media from accessing and reporting from their premises, including recent examples Macedonia and Poland.
- **Investor claim against Central Asian State (Counsel)**
Instructed (leading Anthony Jones) on behalf of an investor in a pending ICSID claim against a Central Asian state relating to expropriation and unfair treatment, and raising complex issues of treaty interpretation.
- **Federation of African Journalists and ors v The Republic of The Gambia (ECOWAS Court of Justice, 2016-17)**
Acted as lead counsel for a leading African journalism union and leading Gambian journalists in the challenge before the regional ECOWAS Court of Justice against treatment by the former Jammeh regime in The Gambia, allegedly in breach of The Gambia’s obligations at customary international law and under various multilateral treaties, including the Revised ECOWAS Treaty, the



African Charter, and the ICCPR. Judgment is expected in early 2018.

- **Ismayilova v Azerbaijan (ECtHR)**

Acting (leading Miranda Butler) for 16 free expression and media freedom organisations intervening in the Art. 8 and Art. 10 application brought against Azerbaijan by UNESCO World Press Freedom Prize winning journalist, Khadija Ismayilova.

- **State Immunity Act 1978**

Advising on the applicability of the State Immunity Act 1978 in the context of an action brought against a state-owned corporation for the enforcement of an ICC arbitral award against the state.

- **Navalnyy v Russia (ECtHR)**

Acting for the leading journalists' protection NGO, Media Legal Defence Initiative, in the Article 10 challenge to the extension of defamation liability under Russian law to online blogs which link to third party content. The applicant Aleksey Navalnyy, a prominent Russian opposition politician, alleges that the Russian government is restricting his journalism and activism for political purposes, and the case also raises novel questions of how traditional legal models relating to defamation applies to blogging and web platforms.

- **Investor State Arbitration (Counsel)**

Acting for and advising an investor in arbitration proceedings against a Eurasian State (with Roger Stewart QC).

- **R. (Miranda) v SoS for the Home Department (CA)**

Instructed as lead counsel by Article 19, English PEN and Media Legal Defence Initiative in in the High Court and Court of Appeal intervening in the challenge brought to the use of the Terrorism Act 2000 to detain David Miranda when he was carrying material from the Edward Snowden NSA leaks.

Instructed to make submissions on public international law. The Court of Appeal issued a rare declaration of incompatibility, concluding that the Terrorism Act power used were incompatible with Art. 10, ECHR.

- **State Surveillance**

Advising an international technology company on the potential effects of international treaty obligations on a state in connection with the legality of new legislation proposed to govern the scope of state surveillance.

- **HSH Nordbank v Republic of Turkey (ECtHR)**

Acting for a European Bank (leading Anthony Jones) on a US \$75 million property rights claim before the ECHR challenging a state's handling of enforcement proceedings relating to ship mortgages. The application raises arguments under Art. 6 of the Convention and Art. 1 of the First Protocol, and is the first case before the Strasbourg Court specifically concerned with the Convention compliance of the international ship financing and enforcement regime.

- **Gambian Press Union, Jammeh & Ceesay v The Gambia (SC)**

Acting as lead co-counsel on behalf of leading journalists in The Gambia in a challenge before the Supreme Court of The Gambia to the constitutionality of certain sedition and criminal defamation laws on the basis that they violate fundamental human rights under the Gambian Constitution, the International Covenant on Civil and Political Rights, and the African Charter on Human and Peoples' Rights.

Related proceedings are being brought at the regional level in the Court of Justice of the Economic Community of West African States for which Can is also instructed.

- **Diplomatic Immunities**

Advising a foreign government (through its embassy) on the scope of diplomatic immunities.

Qualifications & Memberships

Memberships & Committee Positions



NEW SQUARE

- Investment Treaty Forum, British Institute of International and Comparative Law.
- Vice Chairman, British Turkish Lawyers' Association.
- Bar Liaison Committee, International Committee, and Library Committee, Inner Temple.
- Co-Editor-in-Chief, The Turkish Commercial Law Review.
- Memberships: IBA, COMBAR, LCIA, ICC, ICCA, ASA, BICCL, ALBA, ILI, IPBA, and Lawyers for Liberty.

Education, Qualifications & Prizes

- **University College, Oxford:** Double First Class B.A. in English Language and Literature; College Scholar, Master's Scholar, and the Stephen Boyd Memorial Prize recipient for the top First in Finals.
- **Princeton University:** Jane Eliza Procter Fellow.
- **City University, University of London:** First Class LL.B. (1st in year).
- **Harvard Law School:** LL.M. and Cravath International Scholar.
- **Inner Temple:** Treasurer's Prize, Major Scholar, and Princess Royal Scholar.

Languages: Turkish (native speaker), French (working knowledge)

Insights

GCHQ, encrypted chats and IPA 2016

18 July 2019

This article was first published on Lexis@PSL on 8 July 2019. Corporate Crime analysis: An open letter signed by over 50 organisations, including Apple, WhatsApp, Liberty and Privacy International, recently called on the UK Government Communications Headquarters (GCHQ) to abandon a proposal to eavesdrop on encrypted chats. Can Yeginsu and Anthony Jones, barristers at 4 New Square Chambers, explain the background to the proposal and consider some of the related legislation in this area.

Covered Investment in International Investment Law – Chapter in Investment Treaty Arbitration Review (Ed. Barton Legum, 2019)

1 July 2019

Can Yeginsu (4 New Square Chambers) and Ceyda Knoebel (Gibson Dunn) examine the definition of "investment", often a critical threshold question of jurisdiction in investor state arbitration.

Criminalizing Speech to Protect Religious Peace?

28 November 2018

Can Yeginsu and John Williams analyse the recent decision of the European Court of Human Rights in *E.S. v. Austrian* an article for Just Security.

Covered Investment in International Investment Law – Chapter in Investment Treaty Arbitration Review (Ed. Barton Legum, 2018)

5 October 2018

Can Yeginsu (4 New Square Chambers) and Ceyda Knoebel (Gibson Dunn) examine the definition of "investment", often a critical threshold question of jurisdiction in investor state arbitration.

The emerging human rights liability of banks? - B.J.I.B. & F.L. 2016, 31(6), 353-355

1 June 2016

Discusses potential risks and liabilities facing banks regarding their involvement in breaches of human rights. Notes the report "Banks and Human Rights: A Legal Analysis" produced by the UN Environment Programme Finance Initiative and law firm Foley Hoag LLP in December 2015. Considers examples of circumstances in which banks might be subject to criminal prosecutions or civil claims regarding human rights violations.

Book: Jackson & Powell on Professional Liability (Sweet & Maxwell, 6th, 7th, 8th editions)



NEW SQUARE

13 December 2016

The definitive text on professional liability and a comprehensive guide for every practitioner. Can edit the Litigation Chapter (Group Actions and Expert Evidence) with Jonathan Hough QC.

Book: The Protections for Religious Rights: Law and Practice (Oxford University Press)

31 October 2013

The first practitioner work to offer a full and systematic treatment of the law as it pertains to religious rights in the UK and abroad. A practical working aid to a sensitive and important area of increasing litigation and public debate, this text examines the applicable legal instruments, considers the current state of the law, and reviews domestic, comparative, and international case law to provide a comprehensive reference resource that informs on all matters of significance in this area.

Londongrad calling: jurisdiction battles in the English courts - D.R.I. 2014, May, 25-36

10 May 2014

Examines the circumstances when the English courts may accept jurisdiction over a commercial dispute served from outside the jurisdiction against a defendant who is not domiciled in the EU. Outlines the applicable principles. Discusses the Court of Appeal judgment in *Cherney v Deripaska*, and subsequent case law, on whether England could be found to be the appropriate forum for the dispute even when the applicant had conceded that it was not the natural forum.

Cross-border challenges

5 August 2013

Explores the reasons behind the continuing popularity of England as a forum for the resolution of commercial disputes between foreign parties.

The first successful judicial review on Cart principles: R. (Kuteh) v Upper Tribunal - J.R. 2013, 18(1), 134-139

14 January 2013

Discusses the Administrative Court ruling in *R. (on the application of Kuteh) v Upper Tribunal (Administrative Appeals Chamber)* on whether the refusal of permission to appeal the First-tier Tribunal decision upholding the inclusion of a nurse on the Protection of Children and Vulnerable Adults lists was amenable to judicial review as: (1) the First-tier Tribunal had committed a serious procedural irregularity in ignoring evidence supporting the applicant's claim that he had assaulted a patient in self defence; and (2) the threat to his career was a "compelling reason" to allow the challenge.

Inquests and the "detachable" article 2 obligation: In Re McCaughey - J.R. 2011, 16(3), 290-296

12 September 2011

Discusses the Supreme Court judgment in *Re McCaughey's Application for Judicial Review* on whether the House of Lords decision in *Re McKerr's Application for Judicial Review*, ruling that an inquest into deaths occurring before the Human Rights Act 1998 entered into force need not meet the procedural requirements of the European Convention on Human Rights 1950 art.2, should be overruled as a consequence of the European Court of Human Rights ruling in *Silih v Slovenia* (71463/01) that, in certain circumstances, art.2 imposed freestanding procedural obligations.

The business of sport after the Bribery Act 2010 - S.L.A. & P. 2011

1 August 2011

Discusses the implications for sport of the coming into force of the Bribery Act 2010 on July 1, 2011. Outlines the key provisions of the Act and comments on its scope. Provides a comparison between the Act and the US Foreign Corrupt Practices Act 1977. Provides illustrative case examples of the Act's potential significance in terms of awarding the rights to stage events and corporate hospitality and entertainment at sporting events. Advises on steps that can be taken to minimise the risk of incurring liability.

Conditional fee agreements and human rights: MGN Limited v United Kingdom - J.R. 2011, 16(2), 151-155

15 March 2011

Comments on the European Court of Human Rights judgment in *MGN Ltd v United Kingdom* (39401/04) on whether: (1) the award



of damages to the model Naomi Campbell for breach of confidence, following a newspaper's publication of details and photographs relating to her treatment for drug addiction, was a disproportionate interference with the applicant's rights under the European Convention on Human Rights 1950 art.10; and (2) the success fees claimed by Ms Campbell's solicitors and counsel on top of their base costs under the terms of a conditional fee agreement breached art.10.

Smith (Oxfordshire Coroner) in the Supreme Court - J.R. 2010, 15(4), 356-365

10 December 2010

Comments on the Supreme Court judgment in R. (on the application of Smith) v Oxfordshire Assistant Deputy Coroner on whether British service personnel serving overseas remained within the UK's jurisdiction for the purpose of determining if they retained the rights conferred by the European Convention on Human Rights 1950. Considers whether the death of a soldier should have been made subject to an inquest satisfying the procedural and investigative standards implicitly required by art.2 of the Convention.

Turkey Packs the Court - The New York Review of Books

22 September 2010

Discusses the 12 September 2010 constitutional referendum in Turkey.

Storm in a teacup: domestic and international conservatism from the Corner House case - J.R. 2008, 13(4), 267-272

12 December 2008

Considers the House of Lords decision in R. (on the application of Corner House Research) v Director of Serious Fraud Office on whether the respondent's submission to the threat that Saudi Arabia would no longer assist the UK with counter-terrorism intelligence if a corruption investigation was not discontinued had been unlawful on the ground that it had not shown that there had been no alternative. Discusses whether this standard unduly restricted the respondent's discretion. Assesses the court's jurisdiction to consider whether the decision complied with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997 art.5.

Religious Liberty in British Courts: A Critique and Some Guidance - 49 HARV. INT'L L.J. 28 (2008)

11 April 2008

For centuries, religious liberty in Britain existed as a broad-ranging but principally negative freedom at common law. Individuals were permitted to do as they pleased in matters of faith, unless the law stated otherwise. Religious liberty, thus conceived, was more passive toleration of religion than any active promotion of religious freedom as a fundamental right. All that changed on October 2, 2000...

Deep in the texture: The trials of Orhan Pamuk and of Turkey - The Times Literary Supplement

3 February 2006

Willingly or not, Orhan Pamuk has become as much a political symbol as a man of letters. February 7, next week, was the date set for Turkey to try its foremost novelist for the crime of "publicly denigrating Turkishness"...