

Finnian Clarke



Call: 2021

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Profile

Before coming to the bar, Finnian worked as a Legal Caseworker at United Voices of the World, a trade union predominantly representing low-paid and precarious migrant workers. He appeared regularly in multi-day Employment Tribunal hearings, including *Javier Sanchez Ortiz v Mitie Limited* 2301303/2019, and ran strategic claims such as *Antwi & ors v The Royal Parks Limited* 2202211/2020 and *Avsar v Wilson James Ltd* [2020] EWHC 3412.

Prior to this, Finnian spent a summer with Advocates Abroad providing asylum interview preparation support to refugees at the Vial Refugee Camp in Chios, Greece. He gained further understanding of asylum and immigration law, as well as public law more generally, while working as a Judicial Assistant to Lord Justice Singh, working on cases such as *TN (Vietnam) v Secretary of State for the Home Department* [2018] EWCA Civ 2838, *WA (Pakistan) v Secretary of State for the Home Department* [2019] EWCA Civ 302 and *DPP v Ziegler* [2019] EWHC 71 (Admin).

In addition, Finnian has taught European Union law to undergraduates at the London School of Economics and worked as a research assistant for Professors Jeff King and Laura Hoyano. He has worked for a number of NGOs, including Reprieve, the Women's Inclusive Team, Amicus and the South African Legal Resources Centre.

Education

Bar Professional Training Course (BPP Holborn) - Very Competent, 2019-2020

Bachelor of Civil Law (University of Oxford) - Distinction, 2017-2018

Certificat Supérieur de Droit Français et Européen (Université Paris II Panthéon-Assas), 2015-2016

BA Law with French Law (University of Oxford) - First Class (8th in year of 224), 2013-2017

Related practice areas

Employment, Discrimination and Equality Law

Immigration

Community Care and Health

Climate and Environmental Justice

Employment and Discrimination

Employment Tribunal litigation

Finnian has gained experience across the full spectrum of employment and discrimination law. He is regularly instructed to conduct multi-day Final Hearings in Tribunals across the UK, and as well as in closed and open Preliminary Hearings. He also has a busy advisory practice.

Recent work includes:

- Successfully securing a full 90-day protective award on behalf of over 700 Unite the Union workers made redundant in the printing industry.
- Persuading a Tribunal that Hackney Council had directly discriminated against a Claimant on the grounds of disability after a 5-day hearing. Also succeeded in claims for failure to make reasonable adjustments, unfair dismissal and discrimination arising from disability, see [here](#).
- Conducting a Final Hearing on behalf of Unite the Union and successfully securing a full 90-day protective award on behalf of over 700 workers made redundant in the printing industry.

- Successfully arguing a s.104A ERA national minimum wage-related automatic unfair dismissal claim after a multi-day hearing.
- Persuading a Tribunal that a Claimant's depression and anxiety amounted to a disability within the meaning of s.6 EqA after a one-day preliminary hearing.
- Representing a group of over 20 Forensic Medical Examiners in an 8-day employee and worker status Preliminary Hearing against the Metropolitan Police (led by David Stephenson and Louise Mankau, hearing part-heard and judgment pending).
- Representing unled a Claimant in a complex multi-day multi-party whistleblowing claim (judgment pending).
- Appearing in the EAT in a race harassment claim (led by Paras Gorasia).
- Drafting pleadings in unfair dismissal, breach of contract, whistleblowing and discrimination claims.
- Advising in disability, race, sex, age, religion and marital status discrimination cases, as well as on contractual variation, breach of contract, whistleblowing and unfair dismissal claims.
- Conducting both open and closed Preliminary Hearings, including resisting strike out applications and making successful applications to amend.
- Successfully applying for reconsideration of a strike out judgment.

International employment law

Finnian is developing a specialist practice in employment disputes with an international dimension. He has experience advising and litigating in claims raising questions of territorial jurisdiction, international jurisdiction and applicable law, and is comfortable with applying the full gamut of domestic, European and private international legal principles in such cases.

Recent work includes:

- Advising a trade union on the lawfulness of proposed industrial action against Isle of Man and Guernsey-based employers.
- Advising on and drafting pleadings in claims against shipping companies operating across multiple jurisdictions.

- Persuading a Tribunal that an organisation wholly owned and operated by the Russian government did not benefit from state immunity.
- Persuading a Tribunal that it had jurisdiction over CNN in respect of a high-profile international correspondent's claims for discrimination and unfair dismissal in *Bhatti v CNN* Case Number: 2204637/2018 (11 August 2023) (with Paras Gorasia and Jen Robinson).

Immigration and migration-related public law cases

Finnian is regularly instructed in matters covering all areas of asylum and immigration law, including in the First-Tier and Upper Tribunals, judicial review proceedings and damages claims for unlawful detention.

Recent work includes:

- Successfully persuading the Upper Tribunal that the First-tier Tribunal and SSHD had been applying the wrong test to “particular social group” in *AH (Ethiopia) v SSHD* Appeal No. UI-2023-004603.
- Having an “admirably comprehensive skeleton” praised by the First-tier Tribunal in a successful Eritrean nationality dispute asylum case.
- Successfully persuading the Upper Tribunal that the First-tier Tribunal and SSHD had been applying the wrong test to “particular social group” in *AH (Ethiopia) v SSHD* Appeal No. UI-2023-004603.
- Persuading the Home Office to concede asylum and human rights appeals after Appeal Skeleton Arguments are submitted.
- Regularly persuading Tribunals to grant immigration bail to clients, both in the First-tier Tribunal and in detention centre courtrooms.
- Resisting the imposition of immigration bail conditions, including the mandatory electronic tagging condition in deportation cases on human rights grounds.
- Appearing regularly in the First-tier Tribunal in statutory appeals, bail hearings and CMRs.

- Appearing unled in an Upper Tribunal asylum appeal relating to material errors of fact under *E v SSHD* and perversity.
- Drafting grounds of appeal to the Court of Appeal.

Public law challenges

Finnian is regularly instructed in judicial review matters across a wide range of areas, with a particular focus on immigration, asylum and detention. He is already frequently instructed to appear in the Administrative Court and Upper Tribunal.

Recent work includes:

- Acting for BSO, a Palestinian teenager, in a linked case challenging the Foreign Office's refusal to provide diplomatic support to assist his evacuation from Gaza, and challenging the Home Office's refusal to grant him a visa. Appeared in the Administrative Court before the SSHD and FCDO withdrew their decisions (led by Charlotte Kilroy KC and Michelle Knorr), see [here](#).
- Acting for RM and others, a Palestinian family seeking to join their daughter/sibling in the UK, in a successful challenge to the Home Office's refusal of applications for entry clearance because they were unable to give biometrics in Gaza (led by Charlotte Kilroy KC and Michelle Knorr), see [here](#).
- Advising on and drafting interim relief and judicial review applications in immigration detention cases addressing the effect of s.12 Illegal Migration Act 2023.
- Working alongside other leading counsel on judicial review challenges such as the Manston House and Bibby Stockholm cases.
- Assisting with a judicial review challenging the government's application of the Afghan Relocations and Assistance Policy.
- Drafting facts and grounds relating to delay in granting discretionary leave to a victim of trafficking (assisting Alasdair Mackenzie).
- Drafting facts and grounds in a detention case concerning whether a fresh claim appeal has been validly instituted (assisting Alasdair Mackenzie).

Civil claims

Finnian is currently instructed to draft pleadings on behalf of multiple Claimants who were detained in Manston House by the Home Office. He regularly advises on and acts in other

damages claims arising from unlawful immigration detention, including most recently on various Napier Barracks cases. He has also conducted infant settlement-related hearings on behalf of children and protected parties.

Environmental and climate justice

Finnian accepts instructions in Environmental and Climate Justice.

Recent work includes:

- Drafting amicus submissions sent to the Inter-American Court on Human Rights as part of its Advisory Opinion on the Climate Emergency and Human Rights, instructed by CEJIL, Global Action Plan and Kyklos (alongside Ben Cooper KC, Louise Willocx and Toby Fisher).
- Advising a former advertising worker as to whether a settlement agreement could preclude him from undertaking climate activism that would involve highlighting his former employer's greenwashing practices.
- Working alongside other practitioners in developing the concept of a climate refugee in domestic, international and soft law contexts.
- Drafting litigation funding applications in respect of strategic climate cases involving greenwashing and the advertising industry.