



GARDEN COURT CHAMBERS

# Louise Hooper

YEAR OF CALL: 1997



Louise Hooper is an established public law, human rights and migration lawyer. Her practice over the last 20 years has involved a focus on human rights, equality and dignity. She views strong commitment to and enforcement of universal human rights standards as fundamental to the rule of law and she is committed to holding those responsible for breaching the human rights of others to account. She has particular expertise in cases involving child, refugee and migrant rights, sex, gender, LGBTI+, trafficking and detention.

Her current interests relate to the human rights and ethics implications of new technologies and whether regulation can be effective in a global society. She is researching issues including whether or not algorithms can ever be 'fair', the consequences of AI for public and private decision making and the adoption of new technologies for the purposes of immigration control and border management. Louise is registered with the Bar Council for Public Access work and advises individuals, companies and NGOs in this capacity.

Louise has worked extensively with the Council of Europe as an international expert. This work has involved designing and developing offline and online training on the Istanbul Convention on Combatting Violence against Women and Domestic Violence, conducting baseline country evaluations of compliance with the Istanbul Convention and, most recently writing the guide to 'Gender based asylum claims and non-refoulement: Articles 60 and 61 of the Istanbul Convention'.

She is the appointed international expert to the Drafting committee on Migrant Women of the Gender Equality Commission.

She co-authored the ICJ's *Practitioner Guide to Refugee Status Claims Based on Sexual Orientation and Gender Identity (2016)* with Livio Zilli, Butterworths *Human Trafficking and Modern Slavery: Law and Practice* (for criminal practitioners) (1st Edition), contributor and reader for *Legal Action Group's Migrant Support Handbook* (forthcoming). She is a regular contributor to MacDonald's *Immigration Law and Practice* (previously writing chapters on human rights, deportation, family migration and trafficking, currently working on the citizenship chapter for the 10th edition forthcoming in 2020).

"Louise is held in high esteem for her expertise regarding sexual orientation and gender-based claims. She is noted for the advice she gives to governments, NGOs and the Council of Europe regarding domestic violence cases and the Istanbul Convention."

CHAMBERS UK, 2024

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"It is an absolute pleasure to work with her. She is sharp in her analysis, and her oral representation skills are remarkable."

CHAMBERS UK, 2023

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"An incredibly knowledgeable barrister who has a sharp ability to think outside the box and develop complex arguments very quickly."

CHAMBERS UK, 2022 (IMMIGRATION)

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"She is really strong on asylum and appeals."

"An excellent refugee and immigration barrister with a real passion for the work."

CHAMBERS UK, 2021 (IMMIGRATION)

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"She is really strong on asylum and appeals as well as a pleasure to work with."

LEGAL 500, 2021 (IMMIGRATION)

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If you would like to get in touch with Louise please contact the clerking team:

[contactmyclerks@gclaw.co.uk](mailto:contactmyclerks@gclaw.co.uk) | +44 (0)20 7993 7600

## ADMINISTRATIVE AND PUBLIC LAW

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Louise has a strong public law practice and has acted in hundreds of successful claims which ordinarily settle prior to a substantive hearing.

She has conducted numerous successful judicial reviews of refusals of ILR to victims of domestic violence who did not meet the specific requirements of DV-ILR. She recently argued that the consequence of the *Ahsan/Balajigari* principles requires an oral hearing in all cases where deception/bad character is relied on as a general ground of refusal under the Immigration Rules. This case was conceded and ILR granted.

Louise's legally aided public law experience includes:

**Challenges to state failure to protect vulnerable individuals from harm under articles 3 and 4 ECHR particularly in respect of trafficking matters and detention**

**A significant number of challenges relying on article 8 ECHR in respect of private and family life**

**Complex trafficking cases challenging reasonable and conclusive grounds decisions and detention**

**Challenges to subsistence payments and accommodation and maintenance provisions for victims of trafficking**

**Procedural matters including the vires of secondary legislation and policy, fees regulations and immigration rules requirements for 'valid' applications**

**Certification decisions including the ambit and application of the fresh claim test**

**Dublin challenges including the nature and scope of remedies under article 27 remedy and challenges to the technical implementation and interpretation of Dublin III hierarchy criteria including article 17, ensuring that article 8 rights are properly taken into account in Dublin III decisions, technical criteria including time limits and general interpretation issues as between the Convention and the Implementing Directives**  
**Fresh claims including cases involving historic injustice caused by either the State or former representatives or both**

Louise also advises on the Equality Act 2010 and has obtained successful negotiated outcomes for transgender clients. She has a growing practice in relation to matters relating to privacy and data protection and recently provided training at a chamber's webinar on the legality of state surveillance using facial recognition technology.

## **NOTABLE CASES**

Past notable cases can be viewed below. [Click here to see a list of recent notable cases.](#)

### ***Habte v SSHD* [2020] EWHC 967 (Admin)**

Construction of Article 17(1) Dublin III Regulation. Permission to appeal sought from Court of Appeal

<https://www.bailii.org/ew/cases/EWHC/Admin/2020/967.html>

### ***KA & Anor v Secretary of State for the Home Department (ending of Kumar arrangements)* [2018] UKUT 201 (IAC) (17 September 2018) permission to appeal granted by the Court of Appeal, appeal pending**

Concerning the proper construction of Rule 29 Upper Tribunal (Tribunal Procedure) Rules 2008, materially whether there is a deadline for service of an AoS and the consequences of failure to comply and whether the UT acted ultra vires in extending time for service of an AoS from 21 to 42 days in *Kumar*.

<https://www.bailii.org/uk/cases/UKUT/IAC/2018/201.html>

### ***TN(Vietnam) and US(Pakistan) v Secretary of State for the Home Department and Lord Chancellor* [2018] EWCA Civ 2838**

Established 2005 Fast Track Procedure Rules were *ultra vires*. Overturned refusal of fresh claim and negative reasonable grounds decision.

### ***CP(Vietnam) v SSHD* [2018] EWHC 2122 (Admin)**

Breach of article 4 ECHR for failure to follow policy and failing to protect a vulnerable victim of trafficking who went missing following identification and was not re-identified as a victim when he was discovered in a cannabis factory. Unlawful detention on various grounds including misapplication of 'public order grounds'.

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***Mutesi v SSHD* [2015] EWHC 2467 (Admin)**

No requirement of corroboration to establish whether or not a person was a victim of trafficking.

<https://www.bailii.org/ew/cases/EWHC/Admin/2015/2467.html>

***HB(Ethiopia) v SSHD* [2006] EWCA Civ 1713**

Concerning delay in human rights cases (linked to *EB(Kosovo) v SSHD* which proceeded to the House of Lords see [2008] UKHL 41).

<https://www.bailii.org/ew/cases/EWCA/Civ/2006/1713.html>

***Rahman v SSHD* [2005] EWCA Civ 1826**

In which the Court of Appeal held there was a public law duty on the SSHD in a human rights case to ensure the court could determine the issue at hand by the provision of relevant information;

<https://www.bailii.org/ew/cases/EWCA/Civ/2005/1826.html>

***R (L) v Secretary of State for the Home Department* [2003] EWCA Civ 25, [2003] 1 WLR 1230**

On the introduction of the clearly unfounded certification regime and the failure to publish the relevant legislation. The Court accepted that there was potential unfairness in the government relying on unpublished legislation recognising ‘It is an aspect of the rule of law that individuals and those advising them, since they will be presumed to know the law, should have access to it in authentic form.’ [25].

<https://www.bailii.org/ew/cases/EWCA/Civ/2003/25.html>

## **IMMIGRATION: ASYLUM AND HUMAN RIGHTS**

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Louise has a broad range of experience of both clients and case types on all aspects of immigration, citizenship and asylum work, and is very familiar with the domestic and international jurisprudence on the Refugee Convention and other human rights conventions. Louise is recognised internationally as an expert on sex and gender-based violence claims and LGBTIQ+ issues. The vast majority of Louise’s work over the past 20 years has involved particularly vulnerable groups of clients often experiencing multiple barriers to accessing justice.

She has strong knowledge of UK citizenship law and EU residence and free movement rights. She also does a significant amount of unlawful detention work. She is currently examining the potentially discriminatory impact of the use of technology at borders and in other immigration control functions.

She has written or contributed to a number of leading domestic and international publications on international refugee and human rights law and is frequently asked to peer review material written by others. Her publication for the International Commission of Jurists has been used internationally to rewrite guidelines on governmental and judicial practice and procedure in refugee claims based on sexual orientation and gender identity. She has recently been appointed as the expert to the Migration drafting committee of the Gender Equality Commission of the Council of Europe.

Louise has also assisted a number of private clients in respect of complex immigration, citizenship and asylum issues.

Louise was counsel instructed in **HJ(Iran)** before the Tribunal in 2008 and before going on sabbatical sought and obtained permission to appeal before the Court of Appeal on the grounds that the Tribunal had misdirected itself in law in finding it was reasonable to expect a person to hide their sexuality to avoid serious harm. This became one of the ground-breaking refugee law cases of recent times. (see **HJ(Iran) v SSHD [2009] EWCA Civ 172**). She is currently instructed in **YD(Algeria) v SSHD (UNHCR intervening)** where the Court of Appeal will consider whether the life-long social stigma, ostracism and discrimination coupled with a risk of attack and/or arrest in Algeria amounts to either persecution or renders internal relocation unduly harsh.

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No requirement of corroboration to establish whether or not a person was a victim of trafficking.

<https://www.bailii.org/ew/cases/EWHC/Admin/2015/2467.html>

***Ogundimu v SSHD [2013] UKUT 60 (IAC)***

Definition of the word 'ties' in paragraph 399A of the Immigration Rules.

[https://www.bailii.org/uk/cases/UKUT/IAC/2013/00060\\_ukut\\_iac\\_2013\\_oo\\_nigeria.html](https://www.bailii.org/uk/cases/UKUT/IAC/2013/00060_ukut_iac_2013_oo_nigeria.html)

***HJ (Iran), HT(Cameroon) v SSHD [2009] EWCA Civ 172***

Relating to gay men in Iran. One of the groundbreaking refugee law cases of recent times establishing that where "discretion" or "hiding" - here of sexuality - was necessary to avoid serious harm persecution under the Refugee Convention was established. She successfully obtained permission to appeal to the Court of Appeal for HJ prior to going on sabbatical on the grounds that the core arguments of the appellant (many of which succeeded in the House of Lords) were not determined by the Tribunal. She also gave the original advice to Stonewall in respect of the merits of an appeal to the Tribunal for HT. Tribunal determination in HJ here:

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In which the Court of Appeal held there was a public law duty on the SSHD in a human rights case to ensure

the court could determine the issue at hand by the provision of relevant information.

<https://www.bailii.org/ew/cases/EWCA/Civ/2005/1826.html>

***BK and Others (Spouses: Marriage- meaning of ‘subsisting’) Turkey [2005] UKAIT***

Interpretation of ‘subsisting marriage’ under the Immigration Rules.

***HM (Somalia) [2005] UKIAT 00040***

The UKAIT recognised that women in Somalia formed a particular social group.

***R (L) v Secretary of State for the Home Department [2003] EWCA Civ 25, [2003] 1 WLR 1230***

On the introduction of the clearly unfounded certification regime and the failure to publish the relevant legislation. The Court accepted that there was potential unfairness in the government relying on unpublished legislation recognising ‘It is an aspect of the rule of law that individuals and those advising them, since they will be presumed to know the law, should have access to it in authentic form.’ [25].

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## INTERNATIONAL HUMAN RIGHTS

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Louise has expertise in international law and international human rights law generally and in particular relating to sex and gender and the ECHR. Her work in this field has included examining legal frameworks and the implementation of laws relating to sex and gender-based violence, domestic violence, sexual orientation and gender identity (S/GBV) and persecution and trafficking cases. Domestically, this includes challenges to reasonable grounds and conclusive grounds decisions, refusals of residence permits, detention of victims of trafficking and breaches of the duty to investigate arising under policy and Article 4 ECHR. Internationally, she is frequently called upon to provide expert advice, amicus briefs and training for governments, Judges, NGOs, academics and others by international bodies and charitable organisations. She has worked in this capacity for many organisations including the Council of Europe, UNHCR, International Commission of Jurists, Rainbow Railroad, Women’s Link Worldwide. She will be provided a key note speech on gender and asylum at the ELENA conference 2020.

### NOTABLE CASES

***HJ (Iran), HT(Cameroon) v SSHD [2009] EWCA Civ 172***

Relating to gay men in Iran. One of the groundbreaking refugee law cases of recent times establishing that where "discretion" or "hiding" - here of sexuality - was necessary to avoid serious harm persecution under the



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## TRAFFICKING AND MODERN DAY SLAVERY

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Louise has assisted a significant number of victims of trafficking over the years to overturn negative decisions of the NRM, obtain release from detention and damages for a breach of article 4 duties to protect by the UK state. Most of these complex cases were conceded by the government without a substantive hearing including one case in which she successfully argued at permission stage that it is at least arguable that *SSHD v HAM* [2016] EWCA Civ 565 is wrongly decided in respect of the ambit of the article 4 protection duty.

Louise was counsel in *SM v SSHD* [2015] EWHC 2467 (Admin) which established that there was no requirement of corroboration to determine whether or not a person was a victim of trafficking. She was instructed as leading junior counsel in *PG v SSHD* in which permission was granted in respect of the definition of 'public order grounds' for detention. That case settled with an award of damages for the Claimant. She prevented the removal of *KA*, a victim of trafficking who had been previously disbelieved and subsequently detained pending removal resulting in her experiencing a psychotic breakdown in detention.

She is currently instructed in litigation seeking to challenge systemic failures in cases involving children in the UK care system who become trafficked including issues resulting in their subsequent deportation and the lack of durable solutions for these children. Those systemic issues include failure to apply for leave to remain and/or apply the correct policy to children, failure to obtain citizenship and failures to safeguard the child's immigration status. She is also working on approaches to remedies for historic injustice in these cases.

Louise was a founder member of the Anti-Trafficking Legal Project set up in 2006 to educate other professionals in best practice in trafficking cases, provide publicly accessible legal and training materials free of charge, respond to proposed legislative changes at domestic and European level and develop a network of lawyers and other professionals across the UK.

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Established 2005 Fast Track Procedure Rules were ultra vires. Overturned refusal of fresh claim and negative reasonable grounds decision.

***PG v SSHD (2019- unreported)***

Instructed as leading junior in *PG v SSHD* on the definition of ‘public order grounds’ for the purposes of detaining a victim of trafficking. The case settled prior to the substantive hearing with compensation of £25000 for unlawful detention

***KA v SSHD (unreported 2019)***

Prevented the removal of *KA*, a victim of trafficking who had been previously disbelieved notwithstanding the fact she was rescued from a brothel and subsequently detained pending removal resulting in her experiencing a psychotic breakdown in detention.

[https://www.duncanlewis.co.uk/news/Chinese\\_victim\\_of\\_trafficking\\_released\\_from\\_detention\\_where\\_were\\_the\\_sa](https://www.duncanlewis.co.uk/news/Chinese_victim_of_trafficking_released_from_detention_where_were_the_sa)

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***Mutesi v SSHD [2015] EWHC 2467 (Admin)***

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<https://www.bailii.org/ew/cases/EWHC/Admin/2015/2467.html>

***AA(Iraq) v SSHD [2012] EWCA Civ 23***

Removal of a victim of trafficking under the Dublin II regulations, led by Kathryn Cronin.

<https://www.bailii.org/ew/cases/EWCA/Civ/2012/23.html>

## **UNLAWFUL DETENTION**

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Louise regularly acts in complex and urgent detention claims either alone or more recently as leading junior counsel. Many of these claims involve victims of trafficking and all but one since 1999 have been compromised following the Claimant’s release agreeing damages settlements prior to trial.

## NOTABLE CASES

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### ***SML v SSHD [2020] 5 WLUK 148***

Interim relief: Immediate release of a Vietnamese national during Coronavirus pandemic to suitable accommodation provided by the Secretary of State.

### ***PG v SSHD (2019- unreported)***

Instructed as leading junior in *PG v SSHD* on the definition of ‘public order grounds’ for the purposes of detaining a victim of trafficking. The case settled prior to the substantive hearing with compensation of £25000 for unlawful detention.

### ***KA v SSHD (unreported 2019)***

Prevented the removal of *KA*, a victim of trafficking who had been previously disbelieved notwithstanding the fact she was rescued from a brothel and subsequently detained pending removal resulting in her experiencing a psychotic breakdown in detention.

[https://www.duncanlewis.co.uk/news/Chinese\\_victim\\_of\\_trafficking\\_released\\_from\\_detention\\_where\\_were\\_the\\_sa](https://www.duncanlewis.co.uk/news/Chinese_victim_of_trafficking_released_from_detention_where_were_the_sa)

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## DATA, PRIVACY AND TECHNOLOGY

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### *Internationally*

Louise was a speaker at COGx 2020 on ‘The Day of Judgement: What does it mean to have a meaningful working relationship with a non-human actor?’ Using live thought experiments the panel considered the relationship between human and AI around the themes of accountability, authority, agency, ‘advisory’ and abdication (with Robbie Stamp, Lorraine Dodd, Adah Parris, and Tony Fish). Please see a recording of the event [here](#).

During the pandemic Louise was invited to take part in the plenary panel at a global conference ‘Data Surveillance: Viral Pandemics’ organised by the African Legal Network Academy in conjunction with The Commonwealth, Griffith University, Microsoft and Strathmore University. She was subsequently a panellist at the follow up ‘deep dive’ session designed to identify the Ethics, Governance and Human Rights Issues to be considered in developing an international governing framework and whether or not any such framework could be ‘effective’.

She has worked with the Digital Futures Commission and 5Rights in the UK and UNICEF in the Balkans on child data and digital rights in education. She was an independent gender advisor to ITFLOWS, an EU funded consortium developing migration prediction technology. She has also worked as an advisor assisting tech start-ups implement human rights risk assessments.

### *Domestically*

Louise examined the ethical and human rights implications of the decision in the Administrative Court in *Bridges v South Wales Police* on the use of live facial recognition technology for the [chambers webinar on 'Kettles and Facial Recognition'](#) and argued that the judgment was wrong, in particular on the grounds of the discriminatory and societal impact of bias or potential bias in the system, data protection and on article 8 privacy grounds. She is very pleased (and relieved!) that the judgment has been overturned by the Court of Appeal.

Louise obtained the **Asser Institute Winter School programme: Certificate of study in AI and international Law** in January 2020.

Louise authored a chapter on AI and Human Rights in ‘The Law of Artificial Intelligence’, Hervey and Lavy, 2nd Ed, 2023 (forthcoming). She is an expert to the Council of Europe Committee of Experts on Artificial Intelligence, Equality and Discrimination (GEC/ADI-AI).

## **BACKGROUND**

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Louise is a recognised expert on LGBTI, gender and domestic violence. She formed part of the GREVIO mission to investigate and report on the compliance of Austria with the Council of Europe Convention on Prevention and Combatting Violence Against Women and Domestic Violence (the Istanbul Convention) and is currently engaged by the Council of Europe to work on developing e-training materials.

Louise has travelled extensively around South and Central America. In 2008 she engaged in a misguided attempt to become a ski instructor, forgot to land a jump and decided maybe paperwork was actually more fun after all.

## PUBLICATIONS

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Louise authored a chapter on AI and Human Rights in 'The Law of Artificial Intelligence', Hervey and Lavy, 2nd Ed, 2023 (forthcoming).

'Gender based asylum claims and non-refoulement: Articles 60 and 61 of the Istanbul Convention' (Council of Europe)

*Refugee Status Claims Based on Sexual Orientation and Gender Identity: A Practitioners' Guide* (2016) ICJ, Louise Hooper and Livio Zilli. Click [here](#) to view the press release on the launch of the book.

*Macdonald's Immigration Law and Practice Chapters on family* (2005) deportation (2007), human rights (2010) and trafficking in human beings (2013), citizenship (10th edition, forthcoming) in the UK practitioner text on asylum and immigration law (LexisNexis)

Legal Action Group's *Migrant Support Handbook* (forthcoming, contributor and reader)

Butterworths *Human Trafficking and Modern Slavery: Law and practice* (first edition) (for criminal practitioners)

'Back in the Closet: Should Concealment and Self-oppression as a Consequence of Stigma, Ostracism and Deep Rooted Universal Disapproval of Homosexuality be Considered as a 'Serious Harm'?'(2017) *Journal of Immigration, Asylum and Nationality Law*, 31, 4, 330-346.

'Representing Trafficked Women and Children: An Unreported Nigerian Trafficking Case - FI (Nigeria)' *Women's Asylum News* (Asylum Aid, Issue 72, February 2008)

## TRAINING AND SEMINARS

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Louise has extensive experience of developing, preparing and providing training in the fields of immigration, asylum, trafficking and human rights law online and in person, both domestically and internationally.

On behalf of GREVIO (Istanbul Convention Group of Experts) and in conjunction with UNHCR and GRETA (ECAT Group of Experts) she has trained judges, decision makers and others on the protection of migrant and refugee women throughout Europe. She has also worked with the International Commission of Jurists in Lebanon.

Louise is scheduled to be a keynote speaker at the European Legal Network on Asylum annual conference in October.

She was also a speaker at CogX 2020 discussing AI and accountability, for the African Legal Network's conference on Data surveillance, viral pandemics plenary and deep dive sessions on Ethics, Governance Human and People's Rights.

Louise spoke on the accountability and reliability of facial recognition technology at the recent Garden Court protest law webinar series.

## EDUCATION

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**BA (Hons)**

**CPE**

Asser Institute Winter School programme: Certificate of study in AI and international Law 2020

## PROFESSIONAL MEMBERSHIP

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**Immigration Law Practitioners' Association**

**Amnesty International**

**Greenpeace**

**Human Rights Lawyers Association**

## LANGUAGES

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**Spanish (working knowledge), basic French and Portuguese**

If you would like to get in touch with Louise please contact the clerking team:

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