



# Jo Wilding

YEAR OF CALL: 2007



Jo practises in asylum and immigration, including trafficking, unlawful detention and damages for false imprisonment.

She is currently a Postdoctoral Research Fellow at the University of Brighton, funded by the Economic and Social Research Council, having completed a PhD on legal aid for asylum and immigration work in 2019.

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## FALSE IMPRISONMENT

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Jo acts in claims for damages for false imprisonment under immigration powers. Successes include: an Iraqi national detained after finishing a prison sentence, where the probation trust had failed to approve or allocate accommodation for him, preventing him from making an effective bail application; a victim of human trafficking unlawfully detained for removal to Eritrea; and a woman detained for an excessive period with a view to removal to Italy under the Dublin Convention.

Jo's public law practice includes a broad range of asylum and immigration-related work including trafficking (challenging negative reasonable and conclusive grounds decisions), challenging refusals in asylum fresh claim cases, fitness-to-fly challenges to proposed removals and unlawful detention, including obtaining interim relief in the form of release.

## IMMIGRATION: ASYLUM AND HUMAN RIGHTS

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A recent asylum case involved a young person who had arrived in the UK as a child, had had his nationality disputed, suffered poor representation at first instance and subsequently made a fresh claim. Jo worked closely with instructing solicitors on the fresh claim appeal, meticulously preparing and thoroughly dissecting the evidence - particularly the language analysis reports - which resulted in both the client's nationality and his account being accepted, leading to a grant of asylum.

Jo makes effective use of empirical psychological evidence in asylum cases where credibility is in dispute. For example, Home Office refusal letters and Tribunal decisions frequently rely on assumptions about what is reasonable to expect an applicant to remember, which is contrary to evidence around normal and traumatic memory. She is a strong believer in weaving together the facts, psychological evidence and case law as a

narrative to put forward the client's account in a compelling way.

## **NOTABLE CASES**

***D (DRC)*** [2012] CO/5969/2012: obtained an injunction preventing removal to the DRC, expressed as affecting all removals to the DRC.

***R (TA) v SSHD*** [2012] Court of Appeal: obtained an emergency injunction (on appeal from Admin Court) preventing removal of an elderly Iraqi woman on the basis of administrative unfairness and a fresh claim. Subsequently secured bail.

***R (on the application of TWM) v Upper Tribunal*** CO/2412/2011 (settled in 2014): "Cart" judicial review. Permission granted and case settled with a grant of humanitarian protection to a Zimbabwean national with significant mental health problems.

***GK (Zimbabwe)*** [2011] Court of Appeal: permission granted on asylum and Articles 3 and 8 on the basis of arguments which took the matter beyond "pure medical" issues to bring the Appellant's sight loss within the scope of Articles 3 and 8.

***MHM (Iraq) v SSHD and Tower Hamlets Probation Service*** [2012] Admin Court: detention found unlawful, on a challenge against both UKBA, who maintained detention for an excessive period under s36(1) power, and the probation service, who failed to provide approved accommodation in order for MHM to make an effective bail application.

## **TRAFFICKING AND MODERN DAY SLAVERY**

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Jo undertakes trafficking work at Tribunal and judicial review level. Tribunal successes include a grant of asylum as a former victim of trafficking for a Vietnamese child, a grant of asylum for an adult male Afghan as a former victim of trafficking and grants for female DRC nationals trafficked for exploitation as children. She also succeeded on a s83 'upgrade' appeal for a child victim of trafficking from the DRC.

## **NOTABLE CASES**

***R (on the application of SSM)***: obtained interim relief in the form of release from detention, permission to challenge a negative reasonable grounds decision and later damages for false imprisonment.

## ADMINISTRATIVE AND PUBLIC LAW

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***R (on the application of Andargi) v SSHD*** [2014] EWHC The Claimant's detention was unlawful because the Defendant's consideration of the Rule 35 report was inadequate and by reason of excessive length in the circumstances.

***R (on the application of Efenure) v SSHD*** [2013] EWHC 3072: the decision to treat a student as an illegal entrant on the basis of verbal deception was unlawful, as was his consequent detention for five months. Damages awarded.

## PUBLICATIONS

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Jo is a contributor to the eighth and ninth editions of *Macdonald's Immigration Law and Practice* and the upcoming fifth edition of *Jackson and Warr's Immigration Law and Practice*.

Jo has been on sabbatical since autumn 2014. She is currently working on a report and advocacy project funded by the Joseph Rowntree Charitable Trust on the supply side of the immigration and asylum legal aid market. This report is based on a three-year research project for Jo's PhD at Brighton Business School. The research investigates how demand, supply, quality and financial viability interact, through case studies of peer-recognised high-quality practitioners, firms, not-for-profits and chambers.

Previously she was a Research Fellow at the University of Brighton, working with Professor Marie-Benedicte Dembour on the EU-funded investigation of the application of the best interests principle to unaccompanied children seeking asylum in the UK, France, Austria and Slovenia. The national report is [available here](#) and Jo's evidence was extensively cited in the House of Lords EU Home Affairs Sub-Committee report, *Children in Crisis: unaccompanied migrant children in the EU* - is [available on the parliament website](#). Articles based on this research have been published in the *International Journal of Refugee Law* and *Critical Social Policy*.

Jo was the legal expert on the Quality of Asylum Legal Advice research team comprising Migration Work CIC, Refugee Action and Asylum Research Consultancy, commissioned by the Solicitors Regulation Authority, Legal Ombudsman and Unbound Philanthropy - [available on the Solicitors Regulation Authority website](#).

She is a member of the Bar Standards Board's research peer review panel.

## ACADEMIC PUBLICATIONS

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2019. ['Droughts and Deserts. A report on the immigration legal aid market'](#). This report was funded by Joseph Rowntree Charitable Trust.

2017. Unaccompanied Children Seeking Asylum in the UK: From Centres of Concentration to a Better Holding Environment. *International Journal of Refugee Law*, 29 (2), 270–291.

2016. With S. Guentner, S. Lukes, R. Stanton, B. Vollmer. 'Bordering practices in the UK welfare system.' *Critical Social Policy* 36 (3), 391-411.

Wilding, J. 'The Business of Asylum Justice: profit and protest in UK asylum legal aid provision', in S. McGurk and A. Pine (eds), *Profit, Protest and the Asylum Industry*. PM Press, forthcoming 2019.

Wilding, J. 'The Business of Asylum Justice and the Future of Human Rights', in CM Smyth and R. Lang (eds), *The Future of Human Rights in the UK*. Cambridge Scholars Publishing, 2017, p111-130

Wilding, J. 'Not the Best, Not the Worst: Care and Processing of Unaccompanied Children Seeking Asylum in the United Kingdom', in Mateja Sedmak et al (eds), *A Journey to the Unknown. The rights of Unaccompanied Children:*

*Between Theory and Practice*. Annales University Press, 2015, p117-232.

## OTHER PUBLICATIONS

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The Independent: ['Expect more bodies after the 39 in a truck in Essex. EU desperation to keep out migrants has left it in a helpless position'](#) (October 2019)

'Don't Shoot the Clowns' (book) New Internationalist, 2004.

'Fallujah', in John Pilger (ed), *Tell Me No Lies: investigative journalism and its triumphs*. Jonathan Cape, 2004.

['Asylum seeker children face a desperate welfare lottery when they arrive in Britain'](#), *New Statesman*, 27 October 2015

Contributions to Macdonald's *Immigration Law and Practice*, eighth and ninth editions by Ian Macdonald QC and Ronan Toal. Lexis Nexis, 2010 and 2014.

Contribution to Jackson and Warr Immigration Law and Practice, fifth edition. Bloomsbury. Forthcoming 2019.

Articles in The Conversation UK:

- [Q&A: what is the Tier 1 UK visa Roman Abramovich is trying to renew and why might it be delayed?](#)
- [Paragraph 322\(5\): what the Home Office uses to refuse highly skilled migrants leave to remain in Britain](#)
- [Revealed: legal advice for asylum seekers disappearing due to legal aid cuts](#)
- [Young Eritreans are victims of poor decision making by British asylum officials](#)
- [The false economy of giving sloppy legal advice to asylum seekers](#)

She is regularly invited to comment on news issues around immigration, legal aid and unaccompanied migrant children. She has been a panel guest on the BBC World Service 'Weekend' programme several times and appeared on BBC Radio 4's Midweek programme discussing the book and play of 'Don't Shoot the Clowns'.

She presented the documentary, 'A Letter to the Prime Minister: Jo Wilding's Diary From Iraq' (Dir: Julia Guest, Year Zero Films 2005) which won the Best International Documentary prize in the Al-Jazeera Film Awards in 2006. Working with the same director, she presented two 15-minute documentaries dealing with sanctions in Iraq and the war in Iraq for the 'Inside Out' programme on BBC South West.

Most recently, she was legal consultant to Kate Evans on the graphic novel 'Threads: From the refugee crisis' (Verso 2017).

## **BACKGROUND**

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Jo joined as a tenant at Garden Court Chambers in 2007 after completing pupillage here. Prior to that she spent several months in Iraq - before, during and after the 2003 invasion - documenting civilian casualties, setting up and running a small circus where she worked with traumatised and internally displaced children, and writing a weblog which later became a book and a stage-play, *Don't Shoot the Clowns*.

She spent time in Fallujah during the April 2004 siege, where she escorted ambulances through conflict areas. For this work she was co-nominated as one of the 1000 Peacewomen for the Nobel Peace Prize. Her writing from Fallujah was included in *Tell Me No Lies: Investigative Journalism and its Triumphs*, edited by John Pilger, who described her work as, "some of the finest frontline reporting of the war" and "the best and bravest eyewitness journalism".

Jo is mum to two children and recently returned to track and field athletics after a 21-year break.

## TRAINING AND SEMINARS

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Jo has taught public law, migration law and legal research at the University of Brighton. She also delivers in-house training and is happy to tailor training to the needs of solicitors or other organisations.

## EDUCATION

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- BA (Hons) Combined Studies (Newcastle)
- MSc Exercise and Health Science (Bristol)
- PGDip Law (UWE Bristol)
- BVC (UWE Bristol)
- PhD (Brighton)

## PROFESSIONAL MEMBERSHIP

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