

Parminder Saini

Call: 2001

"Parminder's key to success is his preparation. He goes above and beyond any other barrister I have seen and he is always determined to give his best shot."

Legal 500 2023

Parminder Saini specialises in Public law and Human Rights, with an emphasis on Immigration, Asylum & Nationality and Business Immigration.

Expertise

Immigration, Asylum & Nationality

Parminder is regarded by his peers as one of the most prominent and accomplished leading juniors at the Bar in this field. He is known for his formidable intellect, impeccable case analysis and excellent skills in advocacy. Parminder is regularly listed as a "leading junior" for Immigration in the legal directories, in which professional colleagues have described "his understanding and level of preparation" as "extraordinary".

He is the only leading junior in immigration law, to have appeared as sole counsel (i.e. unled by Queen's Counsel) in the Grand Chamber of the European Court of Justice, the Supreme Court of England & Wales and the Court of Appeal (Civil Division). Parminder regularly appears in the higher courts, opposed by Silks. He is recognised as a leading barrister in the areas of human rights, immigration, EU free movement, points-based system migration and Tier 2 & 5 Sponsor Licence suspensions and revocations.

As a reflection of his expertise and wealth of experience, Parminder was appointed a Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber in 2015. He is one of the youngest barristers to have ever achieved this distinguished appointment.

Parminder's abilities in research also permit him to turn his mind to novel legal arguments and even entirely new areas of law. As an example of this skill, after extensive research, Parminder was able to successfully deploy principles in tax law for the benefit of his client in R, (Balajigari & Ors) v SSHD [2019] 1 WLR 4647. As further recognition of this skill, Parminder was also selected as a Deputy Judge of the First-tier Tribunal, Tax Chamber in 2018 based on his leap into tax law.

Recognised as a bold advocate, he is known for taking on challenging cases and crafting legal arguments that have secured outcomes that have maintained the integrity of human rights law (see the Supreme Court judgment in R, (Agyarko & Ikuga) v SSHD [2017] 1 WLR 823), that have curtailed government practice in issuing supplementary decision letters (see R, (Caropen & Myrie) v SSHD [2017] 1 WLR 2339)

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and that have even resulted in Parliament amending the EEA Regulations governing the presence of EU citizens in the UK in line with Parminder's successful arguments and interpretations before the Grand Chamber of the European Court of Justice, the highest court in Europe (see Lounes C-165/16 (Citizenship of the Union: Border checks: Judgment) [2018] 3 WLR 375).

Parminder's cases frequently attract Press coverage (see below) and he regularly comments on caselaw and important legal developments on Twitter where he has over 1300 followers, including senior barristers, judges, professors, business leaders, entrepreneurs and politicians; and has been interviewed in the past by the Guardian and featured on the BBC, Telegraph, Bloomberg and the Financial Times: <https://twitter.com/ppssaini>. He is also often asked for comments on developments in law by the Press (print and social media and #journorequest) ranging from human rights and the hostile environment, Points Based System migration, to the fallout from Brexit to the crisis concerning the influx of migrants including from the Calais jungle.

In relation to his practice in Regulatory work, Parminder has advised and represented several well-known law firms in London acting as defence counsel before the Solicitors Disciplinary Tribunal, in challenging decisions taken by the Legal Ombudsman and has also successfully assisted a well-known Southall firm of immigration solicitors in a "Hamid" matter before the Upper Tribunal (see R, (Hamid) v SSHD [2012] EWHC 3070 (Admin) for background on this disciplinary jurisdiction).

In recent years, Parminder's practice has expanded and now encompasses instructions to act counsel in International Arbitration, most often for clients with interests in India and/or the UK and in Tax law for private clients and investors. He maintains connections with advocates and peers in Delhi and Punjab. Parminder also has in-depth experience in representing individuals before the Special Immigration Appeals Commission ("SIAC") and has previously represented individuals from particular religious communities that have been refused nationality based upon their alleged involvement with or membership of a Proscribed Organisation (as designated by the Home Secretary under the Terrorism Act 2000). He is skilled in dealing with this complex and sensitive work which involves access to information and evidence concerning national security and is regarded as an experienced and reputable counsel in nationality law and deprivation of the same."

Clients have consistently commended Parminder for his innate ability to delve straight to the heart of their matter and offer succinct, effective advice that best serves their interests and leads to the best outcome achievable. Clients also often compliment him for his patient, attentive manner and his care and unwavering perseverance in pursuing success on their behalf.

Although some of Parminder's reported cases appear further below, it must be borne in mind that owing to his skill in drafting and negotiation, his clients have often secured success in out of court settlements (most often at the Court of Appeal) resulting in many of Parminder's complex arguments not yet being deployed in court, most commonly due to an opposing party settling to avoid a published judgment creating binding legal precedent against them (whilst also paying Parminder's client's legal costs).

Parminder's LinkedIn Profile may be seen here: <https://www.linkedin.com/in/parmsaini/>

Parminder can be contacted via his clerks or by email at psa@no5.com

Business Immigration

Parminder Saini is a barrister practising at the Bar in London. He specialises in Public law and Human Rights, with an emphasis on Business Immigration and Immigration, Asylum, Nationality and Free Movement law. He is regarded by his peers as one of the most prominent and accomplished leading juniors at the Bar in this field. He is known for his formidable intellect, impeccable case analysis and excellent skills in advocacy. Parminder is regularly listed as a "leading junior" for Immigration in the legal directories, in which professional colleagues have described "his understanding and level of preparation" as "extraordinary".

He is the only leading junior in immigration law, to have appeared as sole counsel (i.e. unled by Queen's Counsel) in the Grand Chamber of the European Court of Justice, the Supreme Court of England & Wales and the Court of Appeal (Civil Division).

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Parminder regularly appears in the higher courts, opposed by Silks. He is recognised as a leading barrister in the areas of human rights, immigration, EU free movement, points-based system migration and Tier 2 & 5 Sponsor Licence suspensions and revocations.

As a reflection of his expertise and wealth of experience, Parminder was appointed a Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber in 2015. He is one of the youngest barristers to have ever achieved this distinguished appointment.

Parminder's expertise and experience in Business Immigration is extensive covering a wide array of clients, covering all manner of Tier 2 and Tier 5 Sponsors and their sponsored migrant workers, ranging from Tech companies to nationwide Chain and Franchise Restaurants, Care Homes to Charities and places of Religious Worship. Parminder's services are often retained by clients as early as the drafting a response to a Suspension Notice, all the way through to drafting grounds for judicial review and challenging revocations of Sponsor Licence before the High Court. Needless to say, the sooner that Parminder has been involved in any suspension or revocation process, the easier it has been for his clients to reap the benefits of his advice and representation, frequently resulting in positive outcomes and very often avoiding the need for entering into costly litigation.

To give an insight into Parminder's Business Immigration practice, some recent examples of work include the following:

- Lodging Pre-Action Protocol challenge for an Ayurvedic company whose employees faced difficulties in whether their sponsored employment was of a sufficient standard against the relevant Standard Occupational Classification (SOC) codes and NQF Level (resulting in the Licence being reinstated);
- Drafting Judicial Review grounds for a Care Home employing numerous keyworkers that has lost its accounting staff which has crippled it during the Covid-19 pandemic (currently on appeal to the Court of Appeal);
- Lodging Pre-Action Protocol challenge for a Tier 5 Punjabi Cultural Events company that faced criticism over its artists not having "international status" despite their having millions of followers on social media (resulting in the Licence being reinstated);
- Drafting a Response to a Suspension of Sponsor Licence for an International Plastics company (resulting in the Licence being reinstated)

As may be seen below, Parminder's notable cases include the Court of Appeal matter of ICS Car Srl v Secretary of State for the Home Department [2016] EWCA Civ 394, which is one of only three higher court authorities concerning penalties levied upon haulage companies for unknowingly having their vehicles infiltrated by migrants attempting to unlawfully cross the UK-EU Border, in this instance at the Port of Calais. In one of only three higher court authorities concerning penalties levied upon haulage companies for unknowingly having their vehicles infiltrated by migrants attempting to unlawfully cross the UK-EU Border, in this instance at the Port of Calais. The appeal from the County Court concerned a challenge to a Civil Penalty and the SSHD's Regulations governing penalties issued to hauliers carrying clandestine entrants boarding lorries via the Calais 'jungle' raising challenges to the definitions within the Immigration and Asylum Act 1999 and where a final check should occur in the light of dangers to drivers arising from refugees attempting to board lorries bound for the UK. In the event, the Court failed to grapple with the interpretation of the legislation argued for on the joint appellants' behalf which may require revisiting in future. Parminder represented the freight company / haulier and its driver in this landmark appeal.

Parminder is also frequently contacted in strictest confidence by high-net-worth individuals looking for means of availing of routes to obtaining dual-passport and citizenship to the UK, the USA (e.g. the E-2 Visa) and beyond. In addition, Parminder has experience in assisting applicants for Investor, Investor, Entrepreneur and Startup Visas.

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System migration, to the fallout from Brexit to the crisis concerning the influx of migrants including from the Calais jungle.

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In terms of Parminder's skills in private client relating to Immigration, Asylum and Nationality, please refer to his separate profile for this related area of expertise.

Parminder's LinkedIn Profile may be seen here: <https://www.linkedin.com/in/parmsaini/>

Parminder can be contacted via his clerks or by email at psa@no5.com

Memberships

- EIN
- ALBA
- ILPA
- Society of Asian Lawyers

Appointments

- Deputy Judge of the Upper Tribunal, Immigration and Asylum Chamber
- Deputy Judge of the First-tier Tribunal, Tax Chamber

Qualifications

- Barrister-at-Law (England & Wales)
- Attorney-at-Law (New York State, USA)
- Solicitor (England & Wales) [Non-Practicing]

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Languages

- Hindi
- Punjabi
- Italian
- Spanish
- German
- Japanese
- French

Notable Cases

R, (Pathan) v SSHD [UKSC 2018/0194]

Following an adverse decision from the Court of Appeal, Parminder was brought in to take the matter to the Supreme Court. He obtained permission to appeal to the Supreme Court in March 2019 in an appeal concerning fundamental principles of procedural fairness and substantive unfairness in public law arising from the SSHD's refusal to grant 60 days to Tier 2 Migrants to find alternate sponsors in contrast to the treatment given to Tier 4 Students in the light of Patel (revocation of sponsor licence – fairness) India [2011] UKUT 211 (IAC). This is the first appeal in the history of the House of Lords and the Supreme Court which raises fairness in public law decision-making in the context of immigration, particularly under the Points-Based System regime.

R, (Balajigari & Ors) v SSHD [2019] 1 WLR 4647

Parminder successfully represented one of four appellants in landmark linked appeals before the Court of Appeal concerning the refusal of settlement to PBS migrants arising from aspersions cast upon their character, conduct and associations arising from late amendments made to their Tax Returns in an unprecedented joint operation to prevent fraud launched by the Home Office in conjunction with HMRC. The Court's unprecedented judgment gave guidance in relation to procedural fairness in the SSHD's refusals of such matters via the Administrative Review process and gave guidance in relation to a wholly new "minded to refuse" process whereby the Home Office would put applicants on notice of its concerns and give them the opportunity to raise the existence of their human rights which would trigger rights of appeal in respect of the private lives of those migrants being interfered with where the Home Office sought to refuse settlement.

<https://www.bailii.org/ew/cases/EWCA/Civ/2019/673.html>

Lounes C-165/16 (Citizenship of the Union: Border checks: Judgment) [2018] 3 WLR 375

Parminder successfully represented the appellant in a landmark referral from the High Court (see Lang, J's judgment and referral: R, (Lounes) v SSHD [2016] EWHC 436 (Admin)) concerning the amendment to the EEA Regulations precluding dual EEA-British nationals from being recognised as EU citizens precluding reliance upon free movement rights. The matter came before a 15-judge panel of the Grand Chamber of the European Court of Justice following which the CJEU accepted my argument that the failure to acknowledge free movement rights would violate Article 21(1) TFEU, thus defeating counter-arguments from the SSHD and intervention from Poland. The judgment resulted in the creation of a wholly new "derivative right of residence" and as a result, the EEA Regulations were amended in July 2018 in accordance with the ratio of the judgment (namely, that a non-EU national may benefit from a right of residence in the Member State in which his EU citizen family member resided before acquiring the nationality of that Member State in addition to her nationality of origin).

<https://www.bailii.org/eu/cases/EUECJ/2017/C16516.html>

TZ (Pakistan) & PG (India) v SSHD [2018] Imm AR 1301

Parminder represented two appellants in their linked appeals before the Court of Appeal concerning correct approach to determining errors of law made by the First-tier Tribunal, whether the immigration rules formed a comprehensive summary of all means of protected Article 8 family life and the ambit of the immigration rules (upon which the Court sadly avoided resolution) and where the Court gave

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guidance as to the proper approach for Tribunal judges approaching human rights appeals where both immigration rules and the ECHR are in play.

<https://www.bailii.org/ew/cases/EWCA/Civ/2018/1109.html>

R, (Talpada) v SSHD [2018] EWCA Civ 841

Parminder represented a Tier 2 migrant in an appeal concerning the omissions made by the SSHD and poor advice given by its Sponsor Customer Services team to the Tier 2 Sponsor, which had the effect of allowed the Tier 2 to re-use a “CoS” which should have been marked as assigned but was not, and which was not brought to his attention prior to refusal raising issues of procedural fairness and substantive unfairness.

<https://www.bailii.org/ew/cases/EWCA/Civ/2018/841.html>

R, (Caroopen & Myrie) v SSHD [2017] 1 WLR 2339

In the Court of Appeal, Parminder represented the successful 2nd appellant in an unprecedented challenge to the SSHD’s egregious system of issuing “supplementary” decision letters following the grant of permission in the majority of judicial review claims which attempted to insert ex post facto reasons as a basis for defeating the appellant’s judicial review claims. The Court unanimously accepted the SSHD’s approach was flawed and vehemently discouraged its practice. As a result, the SSHD ceased this extremely successful litigation tactic which had previously prevailed for many years.

<https://www.bailii.org/ew/cases/EWCA/Civ/2016/1307.html>

R, (Agyarko & Ikuga) v SSHD [2017] 1 WLR 823

Parminder represented two appellants (unled) in their linked appeals over the course of two days before a panel of nine Justices in the Supreme Court opposed by a formidable Silk and junior counsel. The appeals concerned the lawfulness of the immigration rules which incorporated a rigid insurmountable obstacles test and a literal interpretation of exceptional circumstances at the expense of proportionality. The resulting seminal judgment, delivered alongside the MM (Lebanon) cohort of appeals, restored the status quo of Huang, Razgar and EB (Kosovo) and preserved the concept of a proportionality assessment that should be performed outside the immigration rule-incorporation of human rights. This authority is cited almost daily by Tribunal judges as establishing a fundamental starting point for considering human rights law in modern immigration law.

<https://www.bailii.org/uk/cases/UKSC/2017/11.html>

Saimon (Cart Review: “pending”: Bangladesh) [2017] UKUT 371 (IAC)

In this reported decision of the Upper Tribunal, Parminder pursued a bold argument concerning the interpretation of what the impact would be upon an appellant’s section 3C leave and whether or not their appeal was pending in light of an order from the High Court quashing a decision refusing permission to appeal. The decision is interesting for its discussion upon the existence of an appeal following a Cart Judicial Review although the UT notably failed to consider all of the arguments put on the appellant’s behalf.

<https://www.bailii.org/uk/cases/UKUT/IAC/2017/371.html>

Ahmed v SSHD [2017] 1 WLR 3977

Before the Court of Appeal, Parminder represented the appellant in an important appeal concerning the interpretation of Article 13(2) of the Free Movement Directive (Directive 2004/38/EC) for retaining the right of residence following divorce and where the SSHD inadvertently prevented the appellant from complying with the Directive by failing to provide a certificate of application enabling him to take employment at the relevant time. The case is interesting for the Court’s dichotomous views on Article 13(2) right of retained rights of residence seen in this matter and in Baigazieva v SSHD [2018] EWCA Civ 1088.

<https://www.bailii.org/ew/cases/EWCA/Civ/2017/99.html>

ICS Car Srl & Or v SSHD [2016] EWCA Civ 394

In one of only three higher court authorities concerning penalties levied upon haulage companies for unknowingly having their vehicles infiltrated by migrants attempting to unlawfully cross the UK-EU Border, in this instance at the Port of Calais. The appeal from the County Court concerned a challenge to a Civil Penalty and the SSHD’s Regulations governing penalties issued to hauliers carrying clandestine entrants boarding lorries via the Calais ‘jungle’ raising challenges to the definitions within the Immigration and Asylum Act 1999 and where a final check should occur in the light of dangers to drivers arising from refugees attempting to board lorries bound for the UK. In the event,

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the Court failed to grapple with the interpretation of the legislation argued for on the joint appellants' behalf. Parminder represented the freight company / haulier and its driver.

<https://www.bailii.org/ew/cases/EWCA/Civ/2016/394.html>

Personal Interests

Parminder was previously a Music Scholarship holder and he plays a range of instruments from classical Piano and Bassoon to Spanish guitar. His interests away from the Bar include film, screenwriting, travel, classic cars, and the history and philosophy of Sikhism. Parminder also has a keen interest in language and continues to learn several languages.

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