

Do the structures below manage to sufficiently...

- Mark a **coherent line** allowing the paper to pursue the key steps required for the reasoning to be deployed in **well-organised and comprehensive** fashion;
- Construct a smooth narrative, arranged in **sections that are inter-linked, complement one another and follow naturally from one to the next**;
- Show the **gist of the argument / hypothesis** the essay intends to develop;
- Allow for a clear and effective answer to the **main research question and related sub-questions** to be provided;
- Address the **“real-world” problem** underpinning the investigation (somewhere) in the sections proposed;
- **Avoid irrelevance, extraneous detail and/or excessive levels of generality**;
- Give space to express the **added value / originality** of the research and the author’s “own voice” (upon consideration of all relevant elements, evidence and arguments).



### SAMPLE 1)

**Working Title:** *Non-State Actors and the Provision of Protection: The Kurdish Regional Government’s Response to the Influx of Syrian Refugees*

#### Structure

1. Introduction
2. Background/Context to the influx of refugees into Kurdistan after 2011
3. Non-state actors and ‘effective protection’ under international law:
  - I. Do non-state actors have human rights and refugee protection obligations under international law?
  - II. Can non-state actors guarantee ‘effective protection’ under international law?
4. Analysis: The KRG’s Response to the influx of Syrian Refugees
5. Implications for refugee status determination and international protection
6. Conclusion

### SAMPLE 2)

**Working title:** *A Feminist Analysis of the 1951 Refugee Convention: Does Reliance on the ‘Particular Social Group’ Convention Ground in Cases of Female Genital Mutilation Reveal an Underlying Gendered Politics?*

#### Structure

##### Introduction

##### Part 1: The Practice of FGM/C as a ground for asylum under the 1951 Refugee Convention

- I. What is FGM/C?
  - Statistics related to where it is practiced/ states where refugees originate from

- Reasons why it is still practiced
  - Health consequences / social implications of resistance and opposition to FGM/C
- II. Well-founded fear of persecution
    - Human rights the FGM/C practice violates
    - Discussion of whether and why it amounts to 'persecution' (looking at the UK and US approaches in relevant case law)
  - III. Convention grounds
    - Exploration of the potential grounds engaged by FGM/C practices: religion; PSG; and political opinion (looking at the UK and US approaches in relevant case law)

## Part 2: Feminist critiques of international refugee law

- I. The 'genealogy of the female subjects of international law' as applied to refugee law<sup>1</sup>
- II. The public/private dichotomy (and its impact on how 'persecution' should be defined)
- III. The concept of 'politics'<sup>2</sup> (and its application to international refugee law)

## Part 3: Towards a gender-sensitive interpretation of the 1951 Convention; an analysis of national treatment of FGM/C asylum claims

- I. The place of women within the 1951 Convention: The role of the PSG clause
- II. Re-defining persecution: FGM/C as gendered, private persecution (tolerated by the state of origin)
- III. A feminist understanding of the 'political opinion' Convention ground (and its application to opposition to FGM/C, re-framed as contestation of female oppression in patriarchal societies)
  - Analogies that could be drawn to the US forced sterilization/abortion asylum jurisprudence

## Conclusion

### SAMPLE 3)

**Working Title:** *The Legality of Borders Fences and 'Passive Refoulement'*

## Structure

1. Introduction

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<sup>1</sup> Dianne Otto, 'Disconcerting Masculinities: Reinventing the Gendered Subject(s) of International Human Rights Law', in Buss and Manji (eds), *International Law Modern Feminist Approaches* (Hart, 2005); Efrat Arbel, Catherine Dauvergne, and Jenni Millbank eds, *Gender in Refugee Law* (Routledge, 2014).

<sup>2</sup> Heaven Crawley, *Refugees and Gender* (Jordans, 2001).

2. Border Fences
  - Historical overview
  - Examples from contemporary practice (Ceuta & Melilla; Hungary; the US)
  - Effects on refugee flows and access to asylum
  
3. The emergence of 'Passive *Refoulement*'
  - *Non-Refoulement* under Refugee Law (Art. 33 RC) and Human Rights Law (Art. 3 CAT, Art. 7 ICCPR, Art. 3 ECHR)
  - *Passive Refoulement* (defining the concept and distinguishing it from direct, indirect or "chain" *refoulement* as well as practices of *neo-refoulement*<sup>3</sup> and "constructive" *refoulement*<sup>4</sup>)
  - Collective expulsion (covering the procedural dimension of *non-refoulement*)
  
4. Exceptions?
  - Mass Influx Situations
  - States of Emergency
  
5. Conclusions

#### SAMPLE 4)

**Working title:** *Is the UK National Referral Mechanism (NRM) for Trafficking Determination compatible with the 1951 Refugee Convention?*

#### Structure

1. Introduction
  
2. The NRM
  - explaining the role of the National Referral Mechanism, its link to refugee status under the 1951 Convention and how asylum claims may be made via judicial review of the "conclusive grounds" decision.
  - A paragraph to explain the of the decision in *MS (Pakistan)* regarding the admissibility of subsequent evidence in the judicial review of a conclusive grounds decision, and its application in the case of *AUJ* i.e. that new evidence may only be introduced if the "conclusive grounds" decision was found to be irrational.
  - A paragraph to explain the ground of irrationality in judicial review and how this may be applied to NRM "conclusive grounds" decisions.

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<sup>3</sup> Jennifer Hyndmann and Alison Mountz, 'Another Brick in the Wall? Neo-Refoulement and the Externalization of Asylum by Australia and Europe' (2008) 43 *Government and Opposition* 249.

<sup>4</sup> Penelope Mathew, 'Constructive Refoulement', in Satvinder Juss (ed.), *Research Handbook on International Refugee Law* (Edward Elgar, 2019) 207.

### 3. “Conclusive grounds” decisions and asylum claims

The section will explore whether the case law on “conclusive grounds” presents a problem for any asylum claim the victim of trafficking may undertake by way of judicial review/an appeal. This will be done by addressing the following questions:

- What is the scope (i.e. depth and breadth) of judicial review of an NRM decision?
  - What evidence is assessed for the purpose of an NRM decision?
  - Where does the burden of proof lie, and what standard of proof is applied for an NRM conclusive grounds decision?
  - What legal assistance is available throughout the NRM process (and does it guarantee access to courts and judicial protection)?
  - How do each of these compare to a stand-alone asylum claim under the Refugee Convention, and would an appeal on the grounds of asylum usually necessitate new/subsequent evidence not required by the NRM decision-maker? *(It will be argued that subsequent evidence will almost certainly be needed as only evidence regarding the individual’s being trafficked or having been subject to forced labour/domestic servitude will have been assessed in the NRM, whilst an asylum claim would require evidence as to why the individual cannot return to their country of origin/why they’re unwilling to avail themselves to the protection of its authorities.)*
  - What are the implications of needing new/subsequent evidence and how is this approached at the judicial review stage? Do asylum claims unduly fail because only trafficking-related evidence is considered? Does this comply with Art 1 RC?
  - On the basis of the conclusions made in answer to the above questions, and due to the Upper Tribunal’s decision regarding subsequent evidence in *AUJ*, would a victim of trafficking be discouraged from making an NRM referral, in fear that it would jeopardise an asylum claim?
4. **Conclusion** (on whether the NRM process is therefore at odds with the Refugee Convention and an asylum-seeker’s access to justice).

#### SAMPLE 5)

**Working title:** *Is the administrative detention of refugees ever justified under the Refugee Convention?*

#### Structure

1. Introduction
  - Background and terminology, including the different stages of “detainability” (on arrival, in transit, and while awaiting deportation) and explaining what the focus of the essay will be and why

## **Part 1: Is the detention of asylum seekers on grounds of administrative convenience permitted in international refugee and human rights law?**

2. International law on the restriction of movement of asylum seekers
  - The definition of an “asylum seeker” and its implications for refugees
  - Analysis of Art 26 RC
  - Analysis of Article 31(2) RC (how is “necessity” determined)
3. Human rights law and the detention of non-citizens in search of protection
  - The Universal Level: Arts 9 and 12 of the ICCPR (and case law)
  - The Regional Plane: Art 6 and Art 52(1) of the EU Charter of Fundamental Rights, Art 5(1)(f) ECHR; Art 7 ACHR; Arts I and XXV of the American Declaration on the Rights and Duties of Man; Art 6 AChHPR (and case law)
4. EU law and the deprivation of liberty of third-country nationals
  - Reception Conditions Directive and Returns Directive
  - How is ‘necessity’ defined
  - Analysis of the permitted grounds of detention
  - The assessment of ‘proportionality’ and effectiveness

## **Part 2: Detention of Asylum Seekers in Practice**

5. Case Study – Detained Fast Track system in the UK
6. UNHCR Guidelines
7. Conditions of detention, facilities and duration of detention- An analysis of the European Committee for the Prevention of Torture’s (CPT) standards related to ‘foreign nationals detained under aliens legislation’ in the UK
8. Detention of Children and other ‘vulnerable’ applicants - The UN Convention on the Rights of the Child

## **Part 3 Assessment and Alternatives**

## **Conclusions and The Way Forward**