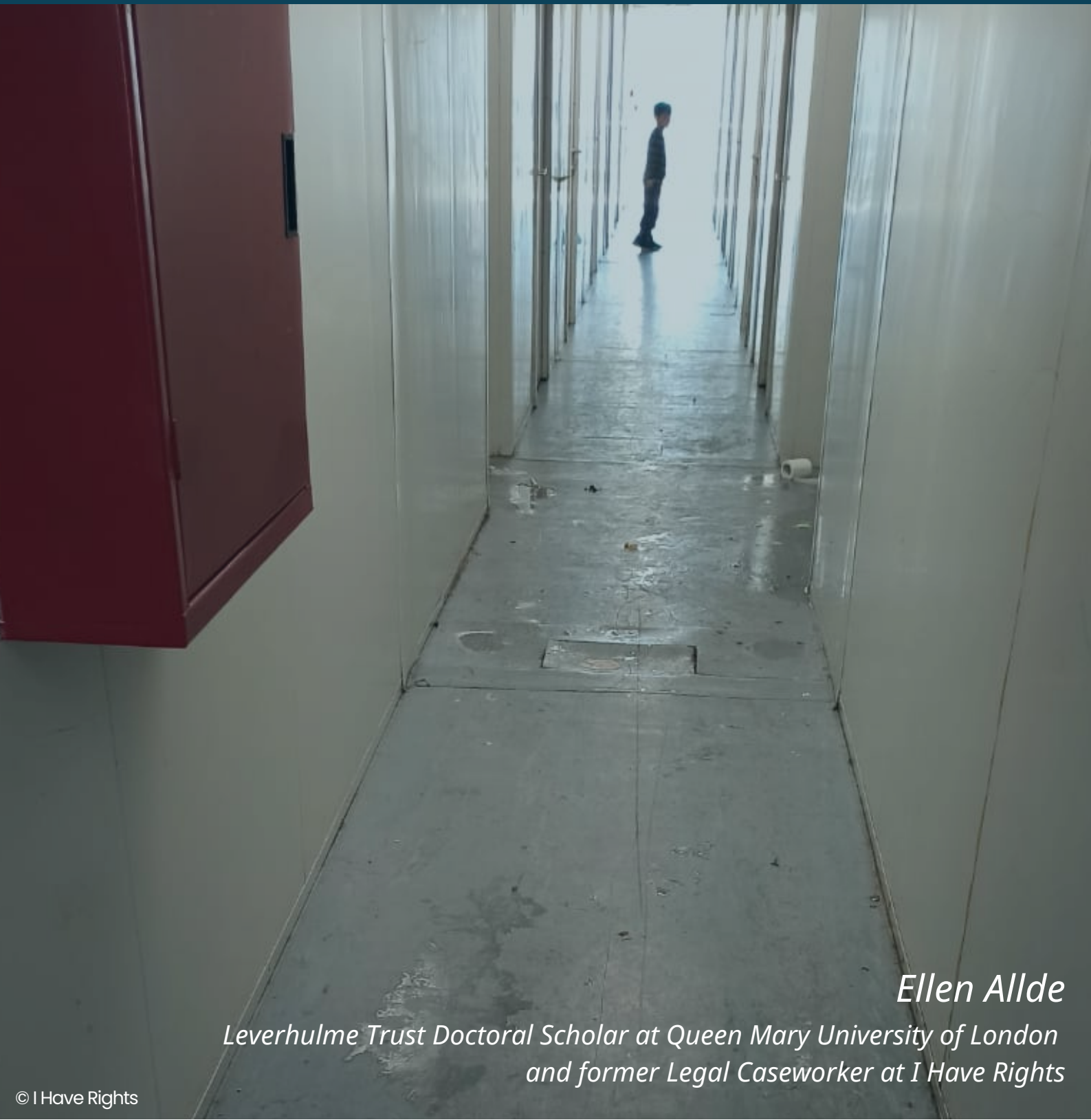


# 'SANCTIONED IGNORANCE' AND THE DETENTION OF PEOPLE SEEKING ASYLUM IN THE EU-FUNDED CCAC ON SAMOS



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## Introduction

The Samos Closed Controlled Access Centre (CCAC) opened in September 2021 as the first EU-funded facility in what was proposed as a more 'humane' approach to 'accommodating' people on the Greek hotspot islands (1). The EU Commissioner for Home Affairs, Ylva Johansson, stated in March earlier that year that these facilities would not be closed, would have areas for families and vulnerable people, would ensure children attend school, and were 'designed to make the process fair and efficient, including for those who are not allowed to stay' (1). Not only was Johansson's promise that these EU-funded facilities would not be 'closed' contradicted when the sites opened as CCACs, the situation unfolding in the CCACs has fallen drastically short of Johansson's other March 2021 commitments.

In February 2023, Samos-based civil society organisation I Have Rights (IHR) published a report demonstrating that the Samos CCAC is a site of unlawful de facto detention of people on the move (from now on referred to as 'IHR's report'). The report argued that the CCAC constitutes a systemic breach of the right to liberty and amounts to inhuman and degrading treatment, in violation of articles 3 and 5 of the European Convention of Human Rights (ECHR). The following paper returns to the findings of IHR's report—published only 9 months ago—to reflect on recent developments in the Samos CCAC. The continuously changing dynamics within the CCAC may provide insight into the broader situation for accessing protection and support. This paper highlights how the inconsistent decision-making and enforced waiting by the authorities in the CCAC contribute to and exacerbate the undignified and dehumanising conditions of the de facto detention shown in IHR's report.

IHR has observed and received testimony from individuals regarding the new temporary accommodation space in the former quarantine zone, suspension of interpretation services, restrictions to food provision, and extensive delays for police registration and substantive asylum interviews. Since August 2023, the number of arrivals to Samos has sharply increased and in October 2023 the CCAC's population exceeded capacity by 250%. In response, a new wave of unofficial changes were brought in, exacerbating the measures and conditions of detention. Where the authorities may dismiss this as the CCAC being further overwhelmed; this paper argues that the authorities were rather strategically ignorant of their preparedness. Moreover, these changes are not simply responsive decisions, but part of a practice that reinforces control over the rights of people on the move whilst displacing responsibility.

In the first section, this paper borrows postcolonial scholar Gayatri Spivak's concept of 'sanctioned ignorance' (2) to address the Greek and EU authorities' inconsistent decision-making, and what Glenda Garelli and Martina Tazzioli called 'governing by nongoverning' in camps (3). Spivak's concept originally referred to how the Western literary canon is tainted by imperialist assumptions that is nonetheless ignorant and widely sanctioned by scholars. This paper develops her critique of sanctioned ignorance as epistemic violence into sanctioned ignorance as a material violence, helping to constitute the CCAC as a space of detention.

The authorities in the CCAC simultaneously weaponise their own ignorance, and project an ignorance onto those who are detained. Developing Spivak's concept provides a useful way to reattribute agency to those managing and operating the CCAC—a space constructed to suspend racialised mobilities—without necessarily diagnosing the intent of the authorities. Rather, there is power in the ignorance of decision-making or failure to take decisions, while simultaneously perpetuating an image of their benevolence or 'humanitarianism'.

The second section describes the infrastructure, key changes and legal basis which already make the CCAC a detention space contrary to European law. This transitions the paper to the central discussion in sections three and four on how ignorance together with changing detention practices and enforced waiting, contribute to and exacerbate detention. These practices undermine suggestions by the Greek and EU authorities that they are simply responding to an overwhelming situation, but rather they are strategically ignorant towards their preparedness and thus produce their own failings. This paper concludes that the changing circumstances make the space and practices of detention more difficult to challenge. Revealing a third aspect of ignorance, wherein legal NGOs and lawyers are themselves mediating ignorance. Ultimately, changes to practices, standards and conditions cannot reconcile with the arbitrary and unlawful detention of people on the move which the CCAC represents. Reiterating statements made in IHR's report, this paper does not find any form of detention of people seeking international protection permissible, regardless of the 'sophisticated language' and appeals to benevolent intentions.

## **1. Introducing *Sanctioned Ignorance***

The Greek hotspot islands are politically positioned as an 'entry-point' or 'frontier' into Europe and the European Union. For this reason, Gayatri Spivak's postcolonial scholarship importantly aids in recognising and critiquing the colonial entanglements which persist in the practices of bordering 'Europe'. Scholars writing in the fields of decoloniality, postcoloniality, and Third World Approaches to International Law (TWAAIL), argue that international law and the international refugee law regime were informed by enduring colonial logics (4). The EU hotspot approach—the political and legal basis for the Samos CCAC—suspends the mobility of populations from the global south entering Europe during the so-called 'refugee crisis'. This is inextricably entrenched and entangled in Europe's 'post'-colonial present.

The crisis of borders is also a crisis of management, wherein media and political discourse refer to an 'overwhelming' number of people arriving at the border and an 'overwhelmed' system for managing those populations (5). This discourse is often framed in racialised terms but ignorant to the colonial and hegemonic histories which produce contemporary mobilities. As argued by Polly Pallister-Wilkins, the so-called 'humanitarian border' space is involved in perpetuating Fanon's global colour line of unequal mobility and the Greek hotspots are a material and bureaucratic tool for consolidating that inequality (6). The CCAC is not only a form of unlawful and arbitrary de facto detention but occurs within the specific context and historical legacy of constructing and bordering 'Europe'. Postcolonial scholarship for this reason may also help us understand how the material infrastructure and pervasive social control are exacerbated by this legacy.

In Gayatri Spivak's *A Critique of Postcolonial Reason* (1999), she writes that 'the mainstream has never run clean...part of mainstream education involves learning to ignore this absolutely, with a sanctioned ignorance' (2). Spivak's concept describes how scholars of political theory and history foreclosed the counter-narratives of colonised populations, disavowing these narratives from the 'real world' and their significance in it. This serves to further reproduce the colonial structures which they ignore. In *Selected Subaltern Studies* (1988), Spivak describes how 'sophisticated vocabulary' was used to shield sanctioned ignorance, or cognitive failures, which displaced counter-narratives (7). She refers to Ranajit Guha's account of elitist historiography of Indian nationalism which failed to acknowledge or interpret the contribution of Indian nationalism independently of the elite, and thus, was unable to explain popular nationalist campaigns in defiance to or absent of elite control.

Importantly, Spivak is not trying to diagnose these scholars' hidden beliefs, but rather reconstructing the script or legacy which their text may be read within. Lucy Mayblin argues that sanctioned ignorance does more than merely charge scholars with an omission, but rather that it gives agency to the ommitter and collective academy (8). She describes this as a 'purposeful silencing' by institutions wherein the context is dismissed as irrelevant, and forms of analysis or ways of thinking are prevented from entering the debate. Spivak and Mayblin focus attention on literature, historiography, philosophy and cultural studies. In this paper, sanctioned ignorance is developed to consider how it is mobilised to disavow the narratives of people who are contained within the CCAC, in particular the narrative of their detention.

This sanctioned ignorance is weaponised differently within the CCAC, first as the ignorance of the authorities when constructing the arbitrary and unlawful detention space. Linsey McGoey, writing outside the postcolonial and refugee context, describes strategic ignorance as a 'productive asset' which entails mobilising 'unknowns in a situation in order to command resources, deny liability in the aftermath of disaster, and to exert expert control in the face of both foreseeable unpredictable outcomes' (9). In the remainder, this paper refers to different ways in which detention is constituted in the CCAC by measures that seem to weaponise an unknown, or at the very least rely on an ignorance towards their potential impact. The authorities will suddenly change their plans or rules on entry and exit, food provision, or the dates of asylum interviews, ignoring the inevitable ramifications this has towards leaving the CCAC. They nonetheless happen within the contemporary context of increased containment of mobile people seeking to enter Europe, and the historical legacy of Europe exercising control over (formerly) colonised populations.

In other aspects of life within the CCAC, people are left waiting for extensive periods—for interviews, for interpreters, for food, for medical support, and entering and exiting the camp. This is often attributed to a shortage of staff, resources, or funding (10). Glenda Garelli and Martina Tazzioli write that 'governing by nongoverning is a powerful way of having control over people's lives' (3). They argue that freedom of movement is not only governed by 'sheer blockage', but also through mechanisms that suspend people's relationship to time and space. Thus, whilst IHR's report significantly addressed the physical 'restriction' to the CCAC and the material infrastructure, as will be addressed in the second section below, the deprivation of people's freedom of movement is also constituted by the measures that create the 'feeling' of being in a prison or detained. Regardless of supposedly unintentional shortages which create waiting

periods, this cannot be separated or excused from their cumulative impact on constructing the unlawful and arbitrary detention space.

This brings us to the second way sanctioned ignorance is weaponised, namely by projecting ignorance onto the people who are within the CCAC. People are refused information or knowledge on changes made in the CCAC and the reasons they are made to wait. I refer here to Dipesh Chakrabarty's 'imaginary waiting rooms of history', wherein European liberal thinkers refused self-government to Indians and Africans because they were not yet civilised enough (11). To acquire a historical consciousness and the public spirit necessary to govern themselves, liberal thinkers recommended that the colonised populations wait. The people who are detained within the CCAC are often made to wait—for an asylum card, food, to see medical professionals, or receive their asylum decision. This waiting is part of what constitutes the physical barriers of detention, waiting to be able to leave the CCAC, but also waiting to access basic services. Changes are made with no effective communication as to why, and potentially disrupting the prior understanding which people had gathered towards the functioning of the CCAC. In this way, knowledge of the processes and procedures in the CCAC are the tools for self-government which authorities refuse to people who they make wait.

In the following sections, I address the numerous ways sanctioned ignorance is weaponised by the authorities and against people within the CCAC in order to both reproduce and conceal detention. The final section will return to and argue that there is a third layer of ignorance. Namely, sanctioned ignorance is weaponised against the legal NGOs and lawyers who must mediate between the ignorance of the authorities and the ignorance projected onto people within the CCAC. This has a significant impact on the ability of organisations, such as IHR, to challenge detention as well as sanctioned ignorance.

## **2. The Closed Controlled Access Centre**

The CCAC was overtly constructed as a space to make a mobile population wait. The Hotspot approach is more broadly described as a space to keep people 'out of sight, out of mind'—a space that the EU and Greek authorities can ignore (12). In this section, by first describing the Samos CCAC generally and the key historical changes over its operation, the situation is put in direct conversation with Spivak's sanctioned ignorance. This transitions to the remainder of the paper where ignorance experienced daily contributes to the cumulative construction and reproduction of this as a space of detention.

On the Greek Ministry of Migration website, the CCAC is described as having 'modern technical and functional infrastructure that makes it a safe, controlled access facility, with upgraded living conditions for the accommodated people' (13). Yet, people held there consistently describe the space as a prison, depriving them of their freedoms (14, 15). Constructed in a mountainous region of Samos, 8km from the city of Vathy, the facility consists of containers and temporary structures separated by internal fencing with checkpoints and external NATO-grade barbed wire fencing. The CCAC is guarded 24/7 by the Hellenic Police and private security company G4S, and monitored by constant CCTV using 'smart' AI software (13).



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Moreover, those able to leave the CCAC are subject to a curfew between 8pm to 8am. To enter and leave the CCAC, people must undergo airport-style security checks, involving both metal detectors and a bodily search. A two-factor access control system is in place for entry to the structure, which uses biometric AI technology, where the authorities scan an identification document and fingerprints. The monotonous appearance, constant surveillance, geographical isolation and securitised structure mimic the dehumanising architecture of prisons. Recently, the EU Ombudsman drew similar conclusions in their strategic inquiry into fundamental rights in the CCAC:

*The external fencing and surveillance infrastructure do not create a physical environment conducive to wellbeing and are, rather, reminiscent of detention facilities...It is questionable how respect for human dignity and protection of the best interests of the child and of vulnerable individuals can be ensured if residents are forced to stay in such an environment (16).*



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Over the last two years of its operation, people have been prevented from leaving the CCAC by various changing measures that the authorities describe simply as ‘restrictions’ to the facility. Shortly after opening in November 2021, the authorities insisted that only those with an asylum seeker’s card could enter and exit the CCAC, therefore preventing those who are newly arrived and those who received a negative asylum decision from leaving (17). This was eventually ruled unlawful for the later group by the Administrative Court of Syros in December 2021 (17). In the first few months of the CCAC, constant legislative changes made it difficult to identify the legal basis for the ‘restriction’ to the CCAC and people were not provided an administrative decision or information regarding the legal basis for such a ban (18). By March 2022, all newly arrived people to Samos were blanket detained in the CCAC once again until they received an asylum card. The restriction to newly arrived people was exacerbated by the fact that people arriving to the islands were still subject to a mandatory quarantine until 25 November 2022—per Joint Ministerial Decision 51236/22—despite other third country national entry measures (including for tourists) ending by 01 May 2022 (19).

The CCAC is currently governed by Greek Law 4939/2022, which came into force in June 2022. Article 40 of Law 4939/2022 provides for ‘a state of restriction of their freedom’ by the issuance of a restriction of freedom order for 5 days, which may be extended by a further order for up to a total of 25 days (20). This measure is justified by the authorities as for the purpose of undertaking identification procedures—not defined by the provision or elsewhere in Greek law. As such, the restriction should end where an individual has been ‘identified’ prior to the 25-day period. Despite the wording of a ‘restriction’ to the CCAC, the measure amounts to deprivation of freedom of movement which is both arbitrary and unlawful (21). Deprivation is determined according to the concrete situation arising from measures affecting freedom of movement, and taking into consideration duration, degree and intensity of the circumstances (22). This is primarily interpreted within the meaning of article 6 of the EU Charter for Fundamental Rights

and deprivation of liberty for the purpose of article 5 ECHR. Since March 2022, all newly arrived protection seekers to Samos are indiscriminately prohibited from leaving up to 25 days, without individual assessment and solely on the basis that they are an applicant of international protection, contrary to article 8 of Directive 2013/33/EU. For this reason, the European Commission has initiated infringement proceedings against Greece regarding article 40 (23). In the next section, I address the different interpretations and practical implementations of the restriction to newly arrived people.

These official measures, compounding with the CCAC's infrastructure, constitute detention. Spivak described how 'sophisticated vocabulary' was weaponised to conceal the work of sanctioned ignorance. In this brief analysis of the legal basis for restrictions, the law and legal categories are weaponised to conceal what inevitably amounts to detention. The European Council on Refugees and Exiles (ECRE) described this as a common practice by EU states 'to qualify places of detention as something else...in order to circumvent their obligations to avoid arbitrary deprivation of liberty' (24). Even after this 25-day period, the infrastructure and social control continues and re-establishes the CCAC as a space of de facto detention. IHR's report importantly highlighted that the 'far-reaching and cumulative measures affecting people when they arrive on Samos effectively and presumptively' produce a situation of de facto detention (21). In the ECtHR decision of *Guzzardi v Italy*, the Court found that factors may 'cumulatively and in combination' give rise to an article 5 violation (25). For this reason, measures which may not alone produce detention are important to a finding of unlawful and arbitrary detention of people seeking international protection. In the fourth section, this paper goes further to argue that the space of detention is produced by the culmination of these pervasive social and material controls, and by the Greek and EU authorities weaponising a sanctioned ignorance when implementing sudden changes or confining people to an 'imaginary waiting room'. As stated above, this helps generate the 'feeling' of being detained. Moreover, this postcolonial analysis situates the CCAC within the historical and colonial legacy of bordering Europe and containing racialised people.

### **3. Weaponising ignorance as changing detention practices**

At least four different unofficial approaches 'restricting' people to the CCAC have recently been observed by IHR. These approaches are dictated by the Ministry of Migration and Asylum and/or the Reception and Identification Service (RIS), the state authority under the Ministry responsible for the CCAC. They are then implemented by RIS staff, G4S contracted by the RIS, and the Hellenic Police. As the population of the CCAC began to increase, these approaches progressed. Instead of practices that might help reduce the number of people detained, the changes themselves produce conditions which make the facility seem overwhelmed, but nonetheless allow the RIS to consolidate control over the population and result in mass de facto detention of people to the centre. This section argues that these changes weaponise ignorance to re-produce detention; first, by ignoring the effect that different applications of this 'restriction' have on freedom of movement. Second, that they project an ignorance onto people within the CCAC, refusing them information on when they will be able to leave, how to challenge detention, and ultimately access to legal services. The measures which produce detention may appear



mundane in the following two sections, yet by seeming unrelated or insignificant these measures have huge implications on producing detention. The sanctioned ignorance of the authorities works to conceal the experiences—the counter-narrative in Spivak’s terms—of detention in the CCAC.

From March 2022 to November 2022, people were issued a ‘restriction of freedom’ order to the CCAC for up to 25 days the day after quarantine ended. Nevertheless, people were not permitted to leave the CCAC until they had been issued an asylum card, regardless of whether the 25-day period had passed. The time limit constraint of article 40 was effectively ignored by the RIS in favour of when they considered an individual ‘identified’. As noted above, identification is not formally defined by law. Therefore, until November 2022, the RIS claimed that a person was only identified once they had been issued an asylum seeker card. This is despite the fact that, (i) people were provided with an ID document (the ‘Police Note’) at the same time that the order for ‘restriction of freedom’ was provided; (ii) people had undergone two or three interviews with the authorities prior; and (iii) the fact that the (GAS), conducted substantive asylum interviews before a person had received the card and therefore able to leave the CCAC for legal counselling (21). Internal correspondence from the European Commission revealed that these delays were the result of the lack of interpreters and a permanent doctor who could sign off on medical checks (10). Neither the presence of interpreters nor medical checks (an essential part of vulnerability assessments) provide a legal basis for detention. Moreover, this approach did not provide the two-stage order and often did not follow the time-period constraint, as provided by article 40.



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That administrative delays in issuing asylum cards partially constituted and dismissed detention showcases how ignorance is weaponised towards the effect of cumulative measures that do not have the ‘intention’ to detain people. This is particularly true where the reasons for these delays are the result of their own inability to employ sufficient medical staff and interpreters—pivotal to upholding the fundamental rights of people in the CCAC. Moreover, the emphasis on the asylum cards ignored the several ways in which people were alternatively and already identified—such as by their fingerprints and the police notes issued after their first interview at the CCAC. Referring to Spivak’s ‘sophisticated vocabulary’, the stated use of restrictions and identification worked to conceal how delays issuing asylum cards and the 25-day measure unlawfully detained people in the CCAC.

In November 2022, the RIS accepted that a person was identified after their full registration interview, which occurs prior to being provided with an asylum seekers card. During this time, full registration interviews usually occurred within the first week of arrival. The RIS claimed that as long as someone had undergone their full registration interview, they would be able to leave the CCAC, even if they did not have an ID card, as long as they asked for permission to leave the day before their exit. Even after the change, however, IHR found that the privately contracted G4S security staff continued to prevent people from leaving if they did not have an asylum card (21). Moreover, that people must ask permission to leave was held to nevertheless constitute detention in the ECtHR decision of *Khalifa v Italy* (22). From November 2022 to June 2023, IHR noted that people were receiving their 'restriction of freedom' orders well after they had arrived to the CCAC (i.e. days after their police interview).

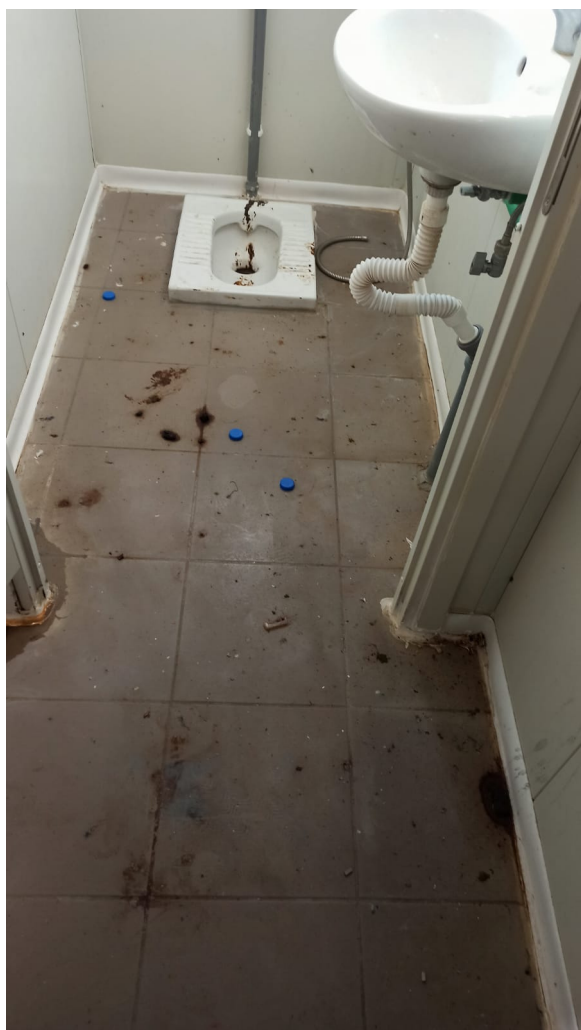
While the order was provided in stages as required by Greek Law, in practice IHR observed that the order for restriction of freedom was automatically extended, thereby violating the requirement that an extension is both factually and legal justified (article 40(a)). At times people were provided with two orders, the initial and the extension, at the same time. This act is both absurd and performative, showcasing how the measures are implemented with little regard for the substantive aim but rather to appear as if legal obligations are upheld. Moreover, delegating responsibility to G4S allowed the authorities to ignore the ways in which the methods to supposedly bypass the blanket restriction to the camp were manifestly and practically inaccessible.

From February 2023 to June 2023, there were low arrivals of people to the CCAC with 0 arrivals in April, 63 in May and 29 in June (26). This drastically changed by the end of June. The significance of pushbacks and the 14 June Pylos shipwreck are beyond the scope of this paper, but nevertheless important context to a change in arrivals to the CCAC. Aegean Boat Report noted that in June/July 2023—following the Pylos shipwreck—arrivals to Greece increased by 190% and recorded pushbacks decreased by over 90% (27). Actors noticed a change in tactics by the Hellenic Coastguard, in that they are increasingly rescuing boats and bringing them to the islands (27). Those who began arriving in June were held in the two former mandatory quarantine zones—now referred to by the authorities as temporary accommodation zones—for periods of up to two weeks (28). The two temporary accommodation zones are physically separated from the remainder of the CCAC, cut off from access to any medical and psychological support. Moreover, the zones do not have separate accommodation for unaccompanied minors or female single-headed households. The authorities continued to issue 'restriction of freedom' orders in stages but only after people had been detained for around 2 weeks to a month. Moreover, when the orders were provided, they were often given to people a week after the date written on the order for detention.

By August 2023, Samos continued to experience a sharp increase in arrivals. With this, the time people were detained in the temporary accommodation zones became longer and longer. The restriction of freedom orders were increasingly abandoned. Police interviews, which normally happen a day or two after arrival, were delayed for several weeks. Therefore, people did not receive their police note. The police notes are substantially relied upon as a form of identification, particularly when delays issuing asylum cards persist. This creates an additional risk for people who are quickly transferred from the island but do not have any formal identifying

documents. In July and August 1447 people were brought to the Samos CCAC and the estimated period of detention in the temporary accommodation zone was around 3 weeks (29).

In September and October 2023, arrivals increased. The CCAC reached 250% capacity in October. The authorities resorted to detaining people in the CCAC without any written order or documents for around a month and a half. During this time, the temporary accommodation zones became too full, and people were detained in other parts of the CCAC, including the Pre-removal and Detention Centre, which was opened for the first time for this purpose. IHR received reports of inhuman conditions and severe overcrowding in the CCAC, including an almost total lack of access to medical treatment, an epidemic of scabies (worsened by the lack of laundry facilities), limited or no running water, and people sleeping in overcrowded containers, in corridors and in large groups on the floor in communal spaces. In October 2023, the Greek authorities refused permission for journalists to access the Samos CCAC entirely (30). As the population on Samos increased, measures were therefore not taken to reduce the number of people detained, but rather detention was prolonged and the conditions worsened. This is despite the fact that high arrival rates were predictable both because summer months on the islands have comparably higher rates, but also because in this instance the increase of arrivals has been linked to, following Pylos, the Hellenic Coastguards conducting more sea rescues as required by international law (26).



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Pictures sent to I Have Rights by residents of the CCAC.

The use of 'identification procedures' to conceal detention weaponises an unknown quite overtly—the 'restriction' to freedom of movement is justified by the authorities because people who are newly arrived are unknown to them. I have shown that ignorance is weaponised beyond this purpose, disproportionately affecting other rights and ultimately depriving people of their freedom of movement. That the unknown is weaponised blanketly and without individual assessment evidences a colonial continuity in that a racialised population as a group is treated with inherent suspicion (31). The authorities also display an ignorance towards ways in which a person may become known, such as through other forms of identification and individual assessment. Moreover, the authorities ignore how the changes to this restriction individually and cumulatively constitute detention. These latter two changes were implemented with knowledge of the European Commission's infringement proceedings regarding article 40. Yet, the detention of people newly arriving to Samos persists on this basis and further deprives people of access to medical and psychosocial support, essential provisions such as clothing, and legal counselling.

Finally, that people are no longer issued with the 'restriction of freedom' order deprives people of access to the legal information and basis for their detention—despite the incorrect terminology and accompanying procedural safeguards—and creates barriers to administratively challenge detention. Ignorance is projected onto the population, refusing them information on how long they may be held in the CCAC and how long they can legally be held.

#### **4. Waiting on the asylum procedures and in queues**

The detention of people within the CCAC is not only constituted by physical barriers to entry and exit, or 'sheer blockage' as argued by Glenda Garelli and Martina Tazzioli. Rather, J.R. and others referred to the 'duration, degree and intensity' of the concrete situation (22). This paper argues that detention is also constituted by what creates the 'feeling' of being detained, such as the pervasive social control seen in the CCAC. Throughout the previous section, people experience the 'restriction' upon arrival as prolonged waiting. Waiting pervasively marks the experience of the European bordering space more generally. In this section, this paper considers that the several ways in which people are made to wait in the CCAC contribute to and exacerbate experiences of detention. Ignorance is once again weaponised to make a population wait, consolidating the authorities' control. The authorities both ignore how waiting contributes to detention, but also projects ignorance onto the population waiting. Thus, referring to Dipesh Chakrabarty, the CCAC is an 'imaginary waiting room' wherein the population are refused information as a tool of self-governing. We have already addressed how people wait for permission to leave and for asylum cards, the following section addresses the multiple other ways in which people wait for their asylum interview, interpretation, and medical care. Moreover, people must physically wait to enter and exit, participate in the weekly census and to receive food. In addition to the pervasive social control that creates the feeling of being detained, these aspects of waiting ultimately prevent people from leaving the CCAC.

## Asylum Procedures

The experience of bordering in Greece may generally be described as a period of prolonged waiting, particularly in relation to asylum procedures. On Samos, waiting for the asylum procedures exacerbates and is exacerbated by detention in the CCAC. The dates of substantive asylum interviews vary drastically and there is little transparency on the timeline. IHR reported that this created tension within the CCAC as people did not 'understand why one person is interviewed on their second week while another has to wait for months' (32). The wait for an asylum interview may be prolonged, but also expedited at extremely short notice. This is particularly problematic when compounded with the 'restriction' to the camp. People who have their asylum interview before they can leave the CCAC are effectively deprived of the right to legal advice or counselling (33).

This year, two major instances contributed to the prolonged delay of asylum procedures: the launch of the Alkyoni system and suspension of interpretation services. Earlier this year, the GAS platform, Alykoni, underwent an upgrade that meant that across Greece, including on Samos, people were unable to register a first instance asylum application between 05 May and 21 August 2023 (29). Asylum interviews were also postponed as GAS caseworkers could not access the files of applicants. The upgrade was originally proposed in early 2022 for a January 2023 launch (34). However, the suspension was announced abruptly and without further information on the expected resumption of services.

Asylum interviews requiring interpretation on Samos were indefinitely postponed in March 2023 after the contract between the Ministry of Migration and European Asylum Agency for interpretation services failed to be renewed (35). For two months, the CCAC had extremely limited access to interpretation. In fact, Efsyn, a Greek newspaper, described interpreters in the CCACs as an 'endangered species' (35). IHR reported that people were expressing a willingness to forgo their right to an interpreter to avoid prolonging their stay, exemplifying how waiting for asylum interviews and the 'prison-like' structure of the CCAC have a corollary impact (32). Comparatively, those who did not require interpretation were faced with the opposite problem, wherein they may be called at extremely short notice for a substantive asylum interview. Often people who had their original interview date set in, for example, two weeks' time, were called at noon to the reception desk for a new interview date the following morning at 8am (32).

Access to interpretation was not exclusively impactful on the asylum interviews, but also inhibited communication with all of the authorities present in the CCAC. For example, people without ID cards struggled to request permission to leave the CCAC to see a doctor or lawyer. The lack of interpretation therefore had a profound impact as both a physical barrier to leaving, as well as exacerbating the degree and intensity of detention. This issue with interpretation is replicated at a smaller scale on a general basis in the CCAC, where access to interpreters will affect the wait-times of asylum interviews and where interpreters are often not available to facilitate communication between people held in the CCAC and authorities.

The failure to implement the Alkyoni system and to secure the interpretation contract on Samos prolonged waiting for some in the CCAC. This prolonged waiting contributes to detention as it interferes with people's sense of time, contributing to a sense of limbo or lack of control over the

asylum procedures. In the same way, a suddenly expedited interview both undermines their right to legal counselling and can lead to people attending an interview without being prepared. The population can generally not rely on the wait times prior to asylum interviews or their asylum decision. This uncertainty has a profound impact on individuals in the CCAC and contributes to the feeling of being detained. The changes further exacerbated this dynamic due to the lack of transparency or information on when issues would be resolved. In this example of waiting for asylum procedures and interpreters, the ignorance of the authorities and ignorance projected onto the population in the CCAC are intertwined. Moreover, the authorities ignore the way different wait times for different populations may contribute to divisions within the CCAC. This contributes to detention as people may feel socially isolated or unsafe.



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After arrival to the CCAC and during the asylum procedures, people also wait to access medical and psychosocial support and assessment. There has not been a permanent state (EODY) doctor within the CCAC for over a year. Instead, people rely on access to MSF, who launched an emergency response to the severe lack of state medical support, and a volunteer state doctor who visits on an ad hoc basis, around 2 afternoons per week (15). As a result, medical assessments reportedly either do not take place or are described as 'rushed' and like a 'tick box' exercise (15). For example, a survivor of human trafficking who was suffering from severe stomach pain and gynaecological issues was not assessed by an EODY doctor until a month after their arrival to the CCAC (15). This treatment is not permissible in any carceral setting and in this context further contributes to the degree and intensity of detention. Medical assessments are necessary foremost as a matter of basic rights, but also in order to identify 'vulnerable' individuals whom the Greek authorities accept should not be confined to the CCAC (36). Greek law provides that a vulnerability assessment should be undertaken at registration; nonetheless,

most will not undergo a vulnerability assessment until their asylum interview or not at all (37). Even where MSF is more readily available, according to Greek law reports from non-state actors are not accepted by the authorities in certifying whether someone has been subjected to torture, rape, or other serious acts of violence (39). Only EODY personnel can undertake a vulnerability assessment (37). In such instances, the authorities would simply ignore the significance of an MSF report towards a finding of vulnerability. The failure to employ a permanent EODY doctor on Samos, the authorities exacerbate the feeling of detention and are able to ignore those individuals who should be transferred from the island significantly earlier.

The waiting is further exacerbated by reliance on the megaphone system as the primary form of communication within the CCAC. In a collection of short articles titled 'The Eye', resident S described the megaphone system:

*Every morning, even though it sounds horrible, the different nationalities wake up early before 8am to listen to the calls on the loudspeakers. The words 'good morning, please pay attention' are the first words of every announcer of each language followed by the information he/she may want to communicate to the asylum seekers. (39)*

S continues to describe how the announcements direct people to different rooms which they have come to understand as representing different outcomes that they may be waiting for: registration interviews, asylum interviews, appointments with the doctor, an open card, or their asylum decision. The megaphone system is only a one-way form of communication, depriving people of opportunity for clarification or questioning. IHR's clients report that they are required to go through checkpoints to enter key parts of the CCAC. For example, they report being prevented entry by guards to the GAS in the CCAC if they attempt to inquire about their situation. This further adds to the feeling that people are suspended in time within the CCAC, waiting days or weeks or months to hear their name called. The system also makes it practically difficult to ensure that people are accurately informed of important information regarding the CCAC and their asylum claims. It also raises serious concerns regarding confidentiality. For example, people are called by name to attend the office of the psychologist. The megaphone system additionally creates a barrier to leaving the CCAC, as people are concerned that leaving may mean they do not hear an important announcement regarding their interviews, decisions, or appointments. IHR also reports that it is common for clients to ask to immediately end appointments to return to the CCAC as soon as possible after being informed by friends that their name has been called 'on the speaker'. The megaphone system reinstates the prolonged waiting, consolidates the authorities' control over the CCAC population, and exacerbated people's feeling of detention.

## **In Queues**

Waiting additionally creates a physical and daily barrier to freedom of movement, experienced through the various queues which pervade life in the CCAC. To enter and exit the CCAC, there is a long chain of checks, including removing footwear and outerwear, placing items in an X-Ray

machine, a bag search, walking through a metal detector, and for some, a body search. An IHR client described the body search:

*They do that to everyone. It makes me feel embarrassed and very very bad, it is shameful. Once you pass the machine, they start checking you and tell. They touch your bra, they feel inside the bra. (14)*

The invasiveness of this search contributes to how people describe being treated as criminals and may discourage leaving the CCAC. Every Tuesday in the camp, a census is taken from early in the morning. People must partake in the census before they can leave the CCAC. Resident S describes waiting in the census:

*It starts at eight and goes on until evening. People stand in line from 8am till 4pm and wait on a first-come-first-served basis.*

*S. asks: Why is this done every week and why not every month or even every three months? Is it that they do not have records of the asylum seekers coming and going from the camp? (39)*

As asked by S, the proportionality of a weekly census is questionable considering that people can only enter and exit the CCAC through scanning their fingerprints and showing identification documents.



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The provision of food within the CCAC is a significant complaint for those who are detained. In March 2023, the provision of food was suddenly restricted so that individuals had to personally and physically attend to receive their food from the CCAC twice per day (32). Prior to this, a person could request that their friend collect food for them. The most obvious effect of this sudden change was that the wait time for food distribution dramatically increased. In addition, the food provision was set for 9AM and 1PM, overlapping with the standard asylum interview times at 9AM and 12PM. This therefore required that people undergo half of their food for the day to articulate their claim for asylum. The policy has once again changed, permitting people to collect for others. Nevertheless, as the CCAC population is now at 4,850 with only two distribution points, food distribution remains crowded and long. One individual reported to IHR that they waited two to three hours in the morning for breakfast, and then three to four hours for lunch. People have also reported to IHR that lunch distribution ends before everyone receives it, so people were choosing to stay in the lunch queue immediately after receiving their breakfast. The food is described as insufficient and inedible (14). Even if people wished to prepare their own food, they are restricted from being able to bring in utensils for food preparation, such as a knife, and their kitchenettes are shared between several people in overcrowded containers.



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Picture sent to I Have Rights from the CCAC, showing the line to receive food.

This final example of food provision combines changes and waiting to showcase how ignorance is mobilised by the authorities, contributing to the cumulative construction of detention but also helping to conceal it. The authorities implemented this change without any stated reasoning, producing the wait and depriving people of food. The result may have seemed obvious, nonetheless this ignorance was mobilised to exercise control over the people detained within the CCAC and with no other options but to abide by the change. If the authorities assume responsibility through 'restrictions' to the CCAC and by measures of pervasive social control, the provision of food should be ensured. Moreover, the provision of food should be undertaken in a way that does not further deprive people of their liberties and ability to leave the CCAC. Waiting for hours in queues exemplifies a non-governance which is particularly dehumanising. The decision to immediately re-join the queue for lunch was described by an IHR client as humiliating.

## **5. Challenges litigating**

Finally, I conclude by considering how a third ignorance pervades the object of this paper and detention in the CCAC. Legal aid organisations like IHR attempt to mediate an ignorance, making it more difficult to challenge the cumulative measures of detention. This is best exemplified by the fact that the CCAC is not a formal space of detention yet amounts to a de facto detention site. The 'sophisticated vocabulary' of 'restriction of freedom' orders serves to evade the legal safeguards for detention spaces. The Reception Conditions Directive outlines safeguards, guarantees and legal remedies which must be upheld where detention is used. None of these safeguards are in place as the authorities refuse the categorisation of detention. The changes to detention practices, the failure to announce or communicate these changes, coupled with the delays in clients' ability to leave the CCAC, produce additional ignorance which makes it difficult for NGOs to litigate and work in solidarity with people on Samos.

Detention practices have a profound impact on the ability of NGOs, who mostly operate outside the CCAC, to provide legal counselling and assistance generally, primarily as people can often not leave the CCAC to attend appointments. The constant and unannounced changes make this additionally difficult as organisations are constantly having to anticipate new barriers to leaving the CCAC and adapt the provision of their services. For example, legal organisations must anticipate that the date of a substantive asylum interview may suddenly be changed to the following day, even if a client is provided with an invitation to interview for two weeks in the future. Or they must change their appointment times to avoid requiring people to forgo food to attend appointments. Moreover, that the organisations do not receive formal communication or notice of these changes can undermine their reliability with clients. If the organisation recommends that they may be permitted to leave by asking for permission the day before, but the reception nonetheless refuses, this may reflect on the organisation as well. When asylum interviews are scheduled at short notice or before a person can leave the CCAC, the organisations may adapt to provide legal information over the phone, which is more depersonalised and may make a person feel less comfortable disclosing particularly sensitive topics, including potential mistreatment at the hands of the authorities (14).

The lack of written evidence or communication creates a major barrier to challenging detention. I described above how the one-way megaphone system was the main form of communication within the CCAC and between the authorities and people detained. Major changes in the CCAC are not officially published or communicated to NGOs. This often leaves organisations, including the UNHCR and other non-state actors, in a constant state of fact finding. While the testimony of clients holds significant weight for organisations, it is difficult to rely on this alone when undertaking litigation. Moreover, certain litigation pathways require that individuals are named in a complaint against the authorities. For already precarious people who are waiting for asylum decisions from the authorities, this becomes a significant barrier towards participating in complaints procedures. That a practice or measure may suddenly change without written notice or transparency may disrupt ongoing litigation. The lack of acknowledgement of this change does little to prevent repetition of this bad practice. This is shown, for example, by the issuance of orders for restriction of freedom in stages: first, there were no stages despite being required by law, then the stages were introduced, and finally abandoned. As many people from August are no longer receiving any documents—police notes or ‘restriction of freedom’ orders—administrative challenges to detention are nearly impossible. The non-governing by the authorities means organisations such as IHR need to provide evidence of non-issuance of something or the absence of assistance or procedural safeguards. In effect, the challenge for organisations is to show proof of nothing.

Returning to the arguments of Spivak and situating the text within the colonial legacy of bordering Europe, this final ignorance makes it difficult to critique the racialisation of the CCAC and detention that may amount to racial discrimination. Resident S described how Africans feel they are treated poorly because of their race (39). Similarly, an IHR client states that the CCAC is “a place we call ‘the next African prison’” (14). However, that detention in the CCAC is racialised and produces racial discrimination is ignored, primarily by the fact that bordering and the refugee law regime permits a degree of racial discrimination (40). Ulrike Krause argues that the Refugee Convention’s colonial ignorance permits the prioritisation of Western refugees and the exclusion of racialised ‘other’ refugees (4). Thus, this reflects the criticism raised by a self-organised group of asylum seekers on Samos called the ‘Concerned Asylum Seekers of Samos’ that positive asylum decisions are ‘neglecting West African Countries’ (41). It is difficult to produce evidence of inconsistent changes resulting in different or exacerbated conditions of detention for people along racialised hierarchies. For example, as requesting permission to leave is both informal and inconsistent, it is difficult to collect evidence that people from West African countries are more likely to be refused. Yet, situating the CCAC and detention within the broader script of sanctioned ignorance and bordering Europe, we can identify the colonial continuities and racial discrimination of the mandatory quarantine applicable only to people seeking asylum and not to other third country nationals arriving to Greece, such as tourists. In addition, it seems inevitable that the combination of higher rates of refusal towards people from West Africa and confinement to the CCAC, will produce a racialised detention space.

## Conclusion

This paper has addressed how the CCAC on Samos cumulatively constitutes a space of detention. The infrastructure and blanket, automatic detention of people newly arrived to the CCAC already amounts to an unlawful and arbitrary deprivation of liberty contrary to article 8 of Directive 2013/33/EU and in violation of article 5 ECHR. Nonetheless, the inconsistent decision-making and enforced waiting of the CCAC contribute to and exacerbate the conditions of detention. In particular, these measures have shown how the Greek and EU authorities produced the current situation—worsening conditions and exceeding capacity over 250%—by their strategic ignorance. The decision to ignore alternative forms of identification, conduct weekly censuses, and restrict access to food provision, are not examples of responsive decision-making, but rather attempts to reinforce control over a population. These seemingly mundane measures, moreover, have profound impacts on basic rights, such as access to food and legal counselling.

By developing Gayatri Spivak's concept of 'sanctioned ignorance', this paper aimed to situate the CCAC and these measures within a legacy of disavowing the counter-narratives, or experiences, of people that allows for this legacy to be reproduced. In this instance, by ignoring the European legacy of bordering and detention of racialised people, the authorities are able to reproduce, consolidate and conceal these structures. I developed Spivak's concept from an epistemic violence to a more material violence. The authorities weaponise ignorance both as their own ignorance and by projecting it onto the population in the CCAC. The authorities ignore how changes to the 'restriction' to the CCAC, waiting for medical assistance, and refusing people information on when they can leave or see a doctor, cumulatively contribute to detention. However, by refusing the counter-narrative of detention, confining people to wait, and projecting ignorance onto the population in the CCAC, sanctioned ignorance in the CCAC is equally a form of epistemic violence. The final section identified how a third ignorance is experienced by International Organisations and NGOs as they attempt to mediate and challenge detention in the CCAC.

To conclude, Dipesh Chakrabarty argues that people are nonetheless living in the 'imaginary waiting rooms' that they are consigned to. People in the CCAC resist the ignorance that is projected onto them and work together with organisations to criticise how the CCAC on Samos amounts to unlawful and arbitrary detention.

This paper was prepared by a former IHR caseworker and PhD researcher at the Queen Mary University of London School of Law, supported by testimony and evidence from IHR on Samos. IHR is a non-profit law clinic that provides assistance to people undergoing all stages of the asylum procedure on Samos. The organisation undertakes advocacy and strategic litigation work, seeking to (i) end the detention of people on the move, (ii) end the illegal practice of pushbacks, and (iii) defend the right of people to seek asylum. In addition to the publication of the detention report in February, the organisation has published a report on the mental health impact of the CCAC (2), a report on the failure to identify survivors of human trafficking (3), and presented evidence before the Council of Ministers, European Court of Human Rights, European Commission, and the Office of the United Nations High Commission for Human Rights.

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