‘There is a crack in everything, that’s how the light gets in’

Since August 2016, the Legal Centre Lesvos has provided access to legal information, assistance and representation to migrants arriving by sea to the Greek island of Lesvos.

The Legal Centre also works towards structural change as part of movements resisting Europe’s border imperialism on many fronts, including through advocacy and strategic litigation. Core to its work is an open door policy, so everyone who wants it can access legal information about the violent and labyrinthine procedures people are subject to in making claims for international protection. It assists with preparation for first asylum interviews, appeals, evidence gathering for second applications, referrals for medical or psychological assistance or housing, among other services, and Dublin family reunification applications.

It also defends those charged with crimes with a political motivation, such as the Moria 35 in 2018, or the Moria 6. Teenagers charged with arson, endangering human life and membership of a criminal organisation following the fires that destroyed Moria camp in September 2020, two of whom were convicted in March 2021 despite a lack of any credible evidence against them.

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A success
The Legal Centre Lesvos sees many defeats and much grief and anger. But there are successes too. One such success followed a series of applications for interim measures filed at the ECHR to transfer individuals off the island to the mainland.

Why is this so significant?
For migrants who have reached Lesvos wanting to seek asylum in Europe, getting from Lesvos to the mainland is almost impossible unless refugee status is granted. The island has been used as an open-air prison and holding zone for migrants seeking to cross from Turkey to the European mainland since the EU-Turkey Deal in March 2016. The COVID-19 related regulations are used in a racist manner to further restrict the freedom of all migrants, and have been used to justify failure to transfer to the mainland, as the law mandates, of ‘vulnerable persons or persons who need special reception conditions’ who ‘cannot be provided with appropriate support’ on the island – despite the fact that the restrictions contain clear exceptions for medical care and Greek and EU nationals have been travelling to the mainland in this way. The restrictions trapping migrants in Lesvos therefore currently affect two groups most drastically. These are Syrians and those requiring medical treatment not available on the island.

Syrians
The EU-Turkey Deal allows the European and Greek Asylum services to refuse Syrian asylum applications on the Greek islands as inadmissible if they have passed through Turkey, because Turkey is deemed to be a safe third country to which they can be returned. This is a politically motivated fallacy: Turkey simply is not safe for Syrians. Unlawful deportations of Syrians from Turkey to Syria have been widely documented. They are justified chiefly in two ways. Firstly, through laws allowing deportation on criminal charge, not conviction. This includes vague charges of relations to a terrorist organisation, in practice applicable to almost anyone of Kurdish ethnicity. Secondly, through the authorities forcing individuals to sign voluntary deportation agreements, often through threats or physical abuse, and often via ongoing raids on Syrian neighbourhoods in major Turkish cities.

If, on the other hand, an application for international protection is made by a Syrian national on the Greek mainland or in any other European country, the admissibility criteria are not applied and the substantive claim for asylum is examined. As such, it is

January

18: An associate of Trump lawyer Rudy Giuliani told a former CIA officer that a presidential pardon was ‘going to cost $2m’, as lobbyists sought pardons on behalf of fee-paying clients. It is not illegal in the US to do so.

20: Business Secretary Kwasi Kwarteng confirms a review of how EU employment rights could be changed after Brexit, after consulting ‘business leaders’ on the rules, including the working time directive, which sets a maximum 48-hour week.

25: The Colston Four, charged with criminal damage for the toppling of the statue of slave trader Edward Colston in Bristol on 7th June last year have opted to be tried before a judge and jury.

25: A French court is set to hear a landmark case against more than a dozen companies that supplied the US with the notorious chemical Agent Orange during the Vietnam War. Tran To Nga, a 78-year-old French-Vietnamese woman accuses the chemical firms (including Monsanto and Dow Chemical) of causing harm to her and her children.

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Medical Treatment

The second group most terribly affected by confinement on Lesvos is those requiring urgent medical treatment which they are unable to access on the islands. Many people living in the camp are very sick. A Medecins sans Frontières submission to the United Nations Committee Against Torture in June 2019 stated that migrants in Lesvos suffer not only the ‘physical and mental health consequences of chronic overcrowding, lack of access to hygiene and appropriate shelter, but also the deterioration of their medical and mental health conditions due to the ongoing conflict in Syria.

Medical facilities on the island are limited and overstretched. Many migrants are given doctor’s referrals saying that they need to be transferred to the mainland for treatment. However, even with such a referral, getting transferred remains extremely rare. Transfers were being facilitated on a limited basis by the UNHCR. In 2020 the estimated wait time for ‘emergency medical transfers’ was eight months. However in January 2021 competency for transfers was handed over to the Greek authorities.

What did the Legal Centre do?

The Legal Centre tries differing legal approaches to try to get these two groups of people off the island. For Syrians, the Legal Centre submits memos in support of asylum applications or appeals arguing that Turkey isn’t safe for that individual, because of their specific characteristics, and because the situation in Turkey had changed since the ruling by the Greek Council of State that Turkey was safe for Syrians in September 2017.

There have been limited, sporadic successes. With regard to those with medical problems, the Legal Centre has a number of clients who are very sick, many with life-threatening conditions requiring examination and treatment on the mainland, and yet have been awaiting transfer for many months. The Legal Centre: a) repeatedly referred these individuals to the appropriate authorities for transfer, b) wrote a detailed complaint to the Greek ombudsmen regarding said authorities’ ongoing failure to transfer these individuals and c) publicly denounced the situation. The Legal Centre then chose five test cases and applied to the ECtHR for interim measures, namely an order to the Greek state that they be urgently transferred to the mainland and adequately accommodated. This was on the basis of Article 3 ECHR, the prohibition on inhuman and degrading treatment and torture, and Article 2, the obligation on states to take positive steps to safeguard the life of those in their jurisdiction. The test cases included a very old person, a very young person, a pregnant woman, and a single man, in order to be able to apply the results to a range of others should the applications be successful.

Within days of filing each application, the ECtHR ordered the transfer of the Applicant in question and their immediate family members, and days after that, they were transferred off the island.

Following this success, the Legal Centre sent two follow up emails to the Greek asylum service. These emails listed over 35 more people, explaining how their circumstances are analogous to the circumstances of those granted interim measures. The emails demanded that the authorities act with the same degree of urgency to transfer and accommodate those people, one individuals were transferred but it seems that this was incidental and not owing to the representations made in the emails. The Legal Centre is now preparing a second batch of interim measure applications. The systemic problems remain, but the work makes a difference for individuals.

Nobody should be forced to live in a camp, not here in Lesvos, not anywhere. The provisions and categories that exist in both Greek and European law are manifestly inadequate. However the Greek state’s failure to even act in accordance with these laws and transfer those who are disproportionately exposed to danger and death in Lesvos to appropriate medical care and accommodation on the mainland is one more attack on migrants’ lives that will not stand.

Justice for the Moria 6

After the infamous Moria refugee camp burned down last September, instead of laying the blame firmly with the EU, the Greek state arrested and charged six young Afghan migrants, two of whom were jailed after their ‘trial’ in March. The Legal Centre Lesvos is seeking international trial observers to oversee proceedings in the trial of the remaining four on 11th June. For more details email info@legalcentrelesvos.org or go to https://legalcentrelesvos.org/