

# letters

**Dear Editor,**

I intervene in the debate on refugee camps to introduce a dimension that appears to have been neglected both by Crisp & Jacobsen (in FMR 3) and by Richard Black (in FMR 2 and 3). Refugee camps are institutions in which human rights violations are endemic, and this is not simply the consequence of 'bad' camps which one ought to try to improve. Violations of human rights of refugees in camps are quintessential to the very nature of camps, and I have tried to show this in an article forthcoming in the *Journal of Refugee Studies* ('Human Rights and Refugees: The Case of Kenya', vol 12, no 1, 1999).

Crisp & Jacobsen at one point assert that 'legal experts have recognised that host states do have a right to accommodate refugees in special camps or designated areas' but never really substantiate this - the passage in Goodwin-Gill's *The Refugee in International Law* to which they refer does not in any way buttress such a bold contention. Refugees are forced to reside in camps either by avowedly restrictive measures - including barbed wire around the camps or the imposition of sanctions, often of a criminal nature, on refugees who leave the designated area - or through more surreptitious measures that achieve the same result by making aid available only to refugees who choose to remain in camps. In this latter case, refugees are obliged to become parties to an unwritten pact in which they renounce their freedoms - most notably freedom of movement - in exchange for aid. These measures result in a violation of the refugees' freedom of movement, a fundamental human right that is protected both under refugee law and under human rights law. It is also important to remember that under human rights law freedom of movement encompasses the right to choose one's place of residence (Article 12, International Covenant on Civil and Political Rights 1966).

But camps are not only about undue restrictions on the refugees' freedom of movement - and, sadly, this is what even most human rights activists fail to perceive. In fact, although the administrative structure of different camps may vary, a defining feature of camps is their 'separatedness' from the societal as well as legal-administrative surrounding. It can never be emphasised enough that this 'separatedness' means that camps constitute spaces in which the law of the host country virtually ceases to be applied, notwithstanding the absence of any legal justification for this. Compounded by the absence of any form of judicial control and by the shield of the law of immunity which protects international organisations, camps become spaces that are virtually beyond the rule of law and in which the lives of refugees end up being governed by a highly oppressive blend of the rules laid down by the humanitarian agencies and the customary practices of the various communities. The view that humanitarian agencies would be doing a favour to refugees by exempting them from the application of the law of countries that are often authoritarian is an untenable one: even in a country like Kenya, with all its chronic institutional and judicial failures, injustice suffered by refugees outside camps at the hands of the Kenyan authorities is theoretically and concretely more 'remediable' than injustice perpetrated in camps.

In this respect as well as in others, the arrival of refugees - accompanied as it is by aid, international observers and humanitarian organisations - could be a positive opportunity and catalyse improvements in the situation of the host country even in terms of general respect for human rights.

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previously a research officer at the RSP where he conducted a field study  
on refugee protection in Kenya).

**Dear Editor,**

There is a danger that the excellent contributions of Jeff Crisp & Karen Jacobsen and Richard Black in the August and December 1998 issues of FMR might be misinterpreted and stall recent progress in improving the temporary settlement options for forced migrants.

The immediate questions facing the aid community are, in any given situation: whether a temporary settlement response is appropriate; how to identify the appropriate form from the range of options; and how to involve and gain the support of the refugees/IDPs, host government and donors for the decision. The opportunities and impacts presented by the range of options have yet to be made clear to the aid community. Yet lessons from the responses made over the last 45 years offer all the permutations needed to begin this task.

Field personnel urgently require more appropriate assessment tools, coordination, resources and funding to undertake more sophisticated site selection in the emergency phase, as it is this decision that defines the form of temporary settlement to be advocated and implemented.

Significant progress has recently been made to respond to these needs: emergency assessment guidelines are being developed by, among others, UNHCR and WEDC; RedR [<http://www.redr.org>] has just introduced its Needs Assessment Service, with experienced technical personnel available at short notice; the new Sphere Standards [<http://www.sphereproject.org>], supported by most NGOs worldwide, describe a process of site selection, physical planning and settlement management that balance refugee, host and environmental needs to identify an appropriate response that can then be presented to host governments and donors; UNHCR has published environmental guidelines that emphasise the need to consider the density and dispersal of settlements, essential for managing environmental resources over the five years that an average refugee situation lasts; and Oxfam is currently developing operational guidelines on site selection that draw upon these positive developments and stress the need for considering a phased response to the establishment of temporary settlements.

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Cambridge, in collaboration with Oxfam)