

# Editor's Introduction

## Why an Issue Dedicated to Conditionality?

In June of 1994, over fifty human rights activists gathered in Cartagena, Colombia, for the purpose of updating their perception of what it means to work in the defense of human rights in the nineties. This meeting, which was called "Toward a Reconceptualization of Human Rights", represented an attempt to integrate the new demands being placed on human rights work, as social actors that have previously been marginalized take a larger role in voicing their demands and insisting that their causes be recognized and supported. Most of us now have an idea about who those voices belong to: women, the urban poor, landless peasants, indigenous peoples, gays and lesbians, immigrants and refugees, racial and ethnic groups that have been subject to discrimination within their countries of origin or residence, and indeed, the Earth itself, at a point in time when the threat to the environment is putting the future of life on this planet in peril.

With the advent of globalization and the wholesale promotion of world economic integration, it has become necessary to reassess virtually every aspect of public and political life, along with our personal and collective methodologies for working with key issues. In recognition of the fact that the role of national States is rapidly declining at a moment in time when other types of groupings are still in the process of being formed, it is essential to try to identify where the next points of power are being assembled and how we are going to relate to them.

One issue that was raised at the Cartagena meeting was the concept of *conditionality*, and whether or not pressure could, or indeed, should, be brought on States by multi-State groupings (such as the European Union) or by other, non-State, bodies (including multilateral institutions, such as the World Bank) in order to ensure respect for human rights. As a result of these discussions, it was decided that another meeting should be held to specifically examine the ethical questions surrounding conditionality, along with its potential effects.

This meeting subsequently took place in May of 1995, in Ghent, Belgium, the diplomatic site of the European Union.<sup>1</sup> Raising the question "Does Conditionality

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1. Both the Cartagena and the Ghent meetings were organized by the Instituto Latinoamericano de Servicios Legales Alternativos (ILSA).

Serve to Protect Human Rights?", the seminar brought together jurists, scholars, and researchers from Third World countries, Europe, and North America for an intense round of debate in which conditionality was examined from many angles. They were joined by the unofficial presence of United Nations personnel and advisors to members of the European Parliament who also made valuable contributions to the discussion.

During the Ghent meeting, questions that were opened at Cartagena were given careful consideration. How do we learn to work with the international and supra-national bodies (and entities like the free trade agreements and the regional trading blocs) that have multiplied in number and influence with the advent of a globalized world? The increased importance of multilateral agreements, covering a myriad of issues relating to aid and trade, and the ways in which these might be used to influence the behavior of States and other bodies cannot be overlooked. If governments and transnational corporations are prepared to use international agreements in order to gain economic advantage, why not attach conditions aimed at achieving respect for human rights and the environment, along with other types of demands? And, supposing it were possible to do this, how, then, can the use of such tactics be justified in a world where conditioning itself is of a lop-sided nature, benefitting and controlled by the powers of the First World?

Recognition was given to the fact that when conditionality is attached to development cooperation or aid, very often it is not the governments or elites in a country that suffer from its application, but the population itself, or to be more specific, that part of the population that is weakest and most vulnerable. Several other key points included the following:

- 1) Conditionality around human rights is frequently applied in a selective manner, and has been accused of harbouring a double standard. In other words, although their behavior may be similar, some countries get "conditioned" while others do not.
- 2) The supposedly universal standard of human rights on which conditionality is based is ethnocentric, in that it has its origin in occidental thinking; it is not compatible with the needs or cultures of some non-occidental societies.
- 3) While, on the one hand, certain groups may feel that asking the European Union, or similar bodies, to intervene in a country's internal affairs by applying conditionalities to aid and development or trade agreements is a viable idea, others believe that this approach only serves to increase the powers of the countries of the center over those of the periphery.

These are but a few of the ideas that are given an in-depth treatment in the papers that follow. We have tried to group them into related sections, placing those with a decidedly legal analysis content so that they follow those of a more contextualizing nature. We have also included, as an appendix, a statement by the European Parliament, in which that body's collective position on human rights is expressed, along with two committee opinions.

The papers presented at the Ghent meeting have been published in Spanish in the form of a book, under the title *La condicionalidad en las relaciones internacionales: sirve para la protección de los derechos humanos?* In order to make this work available to English-language readers, we have translated a selection of these papers for this special issue of *Beyond Law*.

The efforts of many people went into putting this issue together. I would like to particularly thank Paul-Emile Dupret, Hector-León Moncayo, Amparo Rojas, Amanda Romero, Marina Pagés, Luis Carlos Arenas (who edited the Spanish-language edition) and the ILSA librarian, Yolanda Sánchez, for her brilliant sleuth work in tracking down the sources of stray citations.

It is hoped that this double (some would say triple) issue of *Beyond Law* will be of use to students, instructors, and other readers interested in the practice of international law. Since conditionality as a concept is just beginning to be known beyond the narrow circles of international law researchers and practitioners, we hope that this volume will lead to greater understanding and a wider debate on an area that is increasing in importance as we enter a new millennium.

*Cyndi Mellon*  
ILSA  
Bogotá, Colombia  
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