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# Symposium: The Human Dimension of International Law

## Introduction

Paola Gaeta\*

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This symposium comprises the contributions presented by five distinguished international lawyers at the European University Institute in Florence in October 2008 on a very special occasion. Antonio Cassese ('Nino' to his friends and colleagues) had recently celebrated his 70th birthday and, as is customary in many European countries, a group of his former students and friends chose this occasion to celebrate his academic and professional career with the publication of a selection of his most important writings on the three branches of public international law he has most influenced – international humanitarian law, international human rights law, and international criminal law. The outcome was a book, *The Human Dimension of International Law*, published in summer 2008 by Oxford University Press, the intention of which is to shed light on Nino's intellectual approach to these three areas of public international law.<sup>1</sup> The publication of this volume also provided an excellent occasion to convene a small number of friends and colleagues as a token of appreciation and admiration for his many achievements as an international lawyer. As Nino shies away from any personal limelight (indeed, I am certain he will be troubled by these few lines about him), it was decided that this meeting at the EUI would not deal directly with Nino or his writings, but would rather address a specific topic close to his heart in a friendly and participative manner.

\* Professor of International Criminal Law at the University of Geneva and member of the EJIL Editorial Board. Email: Paola.Gaeta@unige.ch.

<sup>1</sup> A. Cassese, *The Human Dimension of International Law. Selected Papers*, edited by P. Gaeta and S. Zappalà (Oxford: Oxford University Press, 2008).

The choice of topic was relatively simple: throughout his career Nino has been intensely interested in the role that public international law plays, and can play, to protect individuals. It was therefore a natural choice to ask the five speakers to present their views on the action of individuals under current international law, to underline both the progress made and the elements of stagnation that continue to hamper international law in acquiring a more effective human dimension. The roundtable discussion took place in a relaxed and friendly atmosphere of the kind Nino most enjoys, and was so successful that we decided it was worth publishing the reflections presented by the five speakers. The written texts of speeches presented at the meeting are published here in this symposium.

The five articles discuss the position of individuals in contemporary international law from different angles. Andrew Clapham provides us with the general legal picture. He outlines the reasons why one can assert that individuals now possess rights and obligations under international law, and finally wonders whether one can go a step further to recognize that individuals also have ‘civil’ obligations as opposed to the already asserted criminal law obligations. The following contributions adopt more specific perspectives. Giorgio Gaja focuses on the International Law Commission’s (ILC) lack of a comprehensive approach to the issue. However, in his article he underlines the progressive stand taken by the ICL with respect to the reparatory rights eventually accruing to individuals under international law, and notes that both the Articles on State Responsibility and the Articles on Diplomatic Protection convey the idea that individuals may be the injured entities for whose benefit the responsible state is required to provide reparation. Christian Tomuschat and Francesco Francioni discuss the relevance of the international law of human rights to two other branches of public international law: international humanitarian law and international environmental law, respectively. Tomuschat raises crucial questions as regards the contemporary application of international humanitarian law and human rights law in armed conflicts. Francioni challenges the view that human rights and the existing mechanisms for their international protection constitute the most appropriate means to counter the increasing degradation of the environment. Luigi Condorelli concludes the symposium, presenting his views on the progress made to date on the role of individuals in international law, and reflects on the extent to which one can be optimistic about the development of a more effective human dimension in public international law.

Obviously, *EJIL* readers will draw their own conclusions as to the extent to which the ‘opening up’ of international law to individuals achieved to date is sufficient to enable an optimistic attitude towards the possibility that remaining areas of stagnation may be challenged in the not too distant future. There is, however, a lesson, among the many I have learnt from my ‘maestro’, expressed in a poem by Bertold Brecht that Nino very much likes. In *The Carpet-Weavers of Kujan-Bulak*, Brecht tells us of the inhabitants of Kujan-Bulak, a village in southern Turkestan, who decide to organize a major event in praise of Lenin. Instead of erecting a bust of comrade Lenin in their village, they decide to purchase paraffin and pour it over the swamp surrounding the area where they bury their camels in order to be rid of the mosquitoes that spread a terrible disease. Thus, they decide to fight the fever, but in Lenin’s honour.

On the celebration day they take their dented pails filled with black paraffin and pour it over the swamp. The mosquitoes die and the disease is eradicated.

Taking our cue from Brecht's poem, in celebrating Nino's 70th birthday we chose not to discuss this man's scholarly achievements or failings nor, even worse, to 'erect a bust' or 'monument', but rather to delve into some of the crucial and agonizing questions that Nino has wrestled with during his long and distinguished career and which continue to face the international community today.

This symposium is published just a few months after the 60th anniversary of the UN Declaration of Human Rights, one of the most important international instruments and one that certainly marked the beginning of a human dimension of international law. Since then, we have witnessed much progress, which remains however wholly inadequate in the face of the immense tragedies that too many human beings experience every day, at home or abroad. International law can continue to develop a human dimension only to the extent that there are women and men who, at various levels, make a contribution, however small it may be, to the cause of respect for human values. Nino, we believe, is certainly one of them.