

IN MEMORIAM

Professor P.H. Kooijmans (1933-2013)

On 13 February 2013, the Dutch international law community lost its figurehead with the passing away of Pieter Hendrik (Peter) Kooijmans, aged 79, after a short illness. Few persons in the Netherlands, if any, have had such a rewarding and multifaceted career in international law as Kooijmans had. Born into a protestant family, he was solidly trained as a jurist at the (Calvinist) VU University Amsterdam. He took courses in various fields of law and economics and specialized in his final years in constitutional law, public international law and the nascent European law and co-operation, graduating in 1957. He wrote his doctoral dissertation under the supervision of Professor Gesina van der Molen, the first and for a long time the only female international law professor in the Netherlands. He defended his doctoral work in 1964 at the VU University Amsterdam, entitled *The Doctrine of the Legal Equality of States. An Inquiry into the Foundations of International Law*.¹ Subsequently, Kooijmans was appointed as a professor of international and European law at this university in 1965, delivering his inaugural address on *Volkenrecht en Sociale Rechtvaardigheid* (The Law of Nations and Social Justice) on 26 March 1965.

For twenty-five years, with one interruption, he served on the Editorial Board of the *Netherlands International Law Review* during the periods 1969-1972 and 1979-2000. His assessment of submissions was always fair and balanced, adhering to academic standards. In 1973, he interrupted his *NILR* editorship and his academic career when he was appointed as State Secretary (Deputy Minister) for Foreign Affairs of the Netherlands, with special responsibility for UN affairs and disarmament issues. He served in the centre-left Den Uyl Cabinet, named after the Labour Party Prime Minister. Kooijmans headed the Foreign Office jointly with Minister of Foreign Affairs Max van der Stoep, Development Co-operation Minister Jan Pronk and Deputy Minister for European Affairs Laurens-Jan Brinkhorst. This was a particular period in international affairs, with the Arab-Israeli conflict in 1973, the call for a New International Economic Order (1974-1976), the first Lomé Convention between the European Community and 46 developing countries (1975), the independence of Suriname (1975), sanctions against apartheid South Africa (an arms embargo in 1976) and détente in the Cold War (the Helsinki

1. Published by Sijthoff: Leiden, 1964. See the special issue of the *Netherlands Yearbook of International Law* 2012, vol. 43, 'Legal Equality and the International Rule of Law. Essays in Honour of P.H. Kooijmans', edited by J.E. Nijman and W.G. Werner (2013).

process started in 1976). At that time the Dutch government pursued a rather proactive foreign policy and the Christian Democrat Kooijmans was one of the architects.

In 1978, Kooijmans returned to academia and took up the appointment as chair of public international law at Leiden University, which he held until 1993 and once again from 1994-1997. This gave rise to a steady stream of publications on a wide variety of topics, including the peaceful settlement of international disputes, the role of the Security Council, the International Court of Justice, sovereignty, self-determination and human rights. During this period, in 1989, he also published his main textbook in Dutch under the title *Internationaal Publiekrecht in Vogelvlucht* (A Bird's Eye View of Public International Law); this inspiring book would have as many as ten editions, the latest of which appeared in 2008. During the same period he also became actively engaged with the United Nations, first as a member of the Dutch delegation to the UN Commission on Human Rights and serving as the Chairperson of the Commission in 1984. In 1985, Kooijmans was appointed as the first UN Special Rapporteur examining questions relevant to torture, a position in which Sir Nigel Rodley succeeded him in 1992. He viewed the widespread practice of torture as 'the Black Plague' of modern times and would later report that this UN rapporteurship was amongst the most formative years in his professional life, inducing him to a level of alertness and to adopt the posture of an 'institutionalized meddler' and an 'authorized prier' as never before. In 1991, Kooijmans was elected as an associate member of the *Institut de droit international* and became a member in 1997.

Quite unexpectedly, he was appointed Minister of Foreign Affairs in the Lubbers III Cabinet in January 1993, to replace Minister Hans van den Broek following his appointment as EU Commissioner for External Relations and European Neighbourhood policy. After the end of the Cold War, the world had got into turmoil and a great deal of controversy was aroused following the Gulf War (Kuwait/Iraq), the outbreak of the armed conflict in Yugoslavia and the genocide in Rwanda. Kooijmans, well versed in international affairs and foreign diplomacy, knew exactly what he wanted in 1993-94 and made a lasting impression as a minister. He was instrumental in facilitating the establishment of the *ad hoc* criminal tribunals for the former Yugoslavia and Rwanda, the initiation of inter-governmental talks on a permanent International Criminal Court and played a key role at the Vienna World Conference on Human Rights (1993). He was also co-responsible for the dispatch of the Dutch battalion to head the UN Protection Force in Srebrenica in Bosnia-Herzegovina, in order to provide its population with a 'safe area' and 'free from armed attacks and from any other hostile act' (UN Doc. S/RES/824, 6 May 1993). Furthermore, he also guided the new Dutch Law on the approval and promulgation of treaties through both Houses of Parliament.²

2. *Rijkswet goedkeuring en bekendmaking verdragen* (Act on the Approval and Promulgation of Treaties), *Staatsblad* (Government Gazette) 1994, no. 542. This law elaborates Art. 91 of the 1983 Constitution of the Kingdom of the Netherlands and is applicable to both treaties and decisions of international organizations.

Obviously, Kooijmans had started to enjoy his work as a minister and performed his functions with élan. However, his Christian Democratic Party with its new party leader (Brinkman had succeeded Lubbers) dramatically lost the 1994 elections and his term of office ended on 22 August 1994. Thereupon Kooijmans, who also felt more like a passer-by in politics, happily returned to the chair of public international law at Leiden University. However, it would not be for long. After an initial but floundered attempt to fill the interim-vacancy left by Judge Roberto Ago who had passed away in 1995 (and was succeeded by Luigi Ferrari Bravo), he won a seat in the elections for the International Court of Justice in 1996 following an intensive international campaign by the Netherlands government on his behalf. He considered this election both as ‘his boyhood dream’ and ‘the crowning moment of his career’.

Kooijmans served one full term of nine years at the World Court, from 6 February 1997 until 5 February 2006. On the bench of the ICJ, he was widely appreciated for his balanced views and wise judgment.³ While he did not shy away from taking his own positions, as his Declarations, Separate Opinions and one Dissenting Opinion demonstrate, he was first of all a team player who often served on the drafting committees of the Court.⁴ In 2007, Queen Beatrix appointed him, upon a proposal by the Balkenende-Bos Cabinet, as Minister of State of the Netherlands, an exceptional honour.

With the passing away of Pieter Hendrik Kooijmans the international law community has lost one of its most dedicated members. A passionate teacher gifted with eloquence and an extraordinary capacity to get to the point, an astute author with a facile pen, a pioneering UN Special Rapporteur, a politician who managed to remain upright and to stick to his principles, a ‘proactive’ international judge disposed to judicial activism but operating cautiously and averse to wishful thinking. In sum, a colleague whom all of us will miss dearly.

N.J. Schrijver
Board of Editors

3. See for a review of his role on the Court, M.M.T.A. Brus, ‘Judge Pieter Kooijmans retires from the International Court of Justice’, 19 *LJIL* (2006) pp. 619-717.

4. See also P.H. Kooijmans, ‘The ICJ in the 21st Century. Judicial Restraint, Judicial Activism, and Proactive Judicial Policy’, 56 *ICLQ* (2007) pp. 741-754.