

## Obituary

### Prof. Dr. iur. *Ulrich Beyerlin* (1944-2015)

As a highly renowned expert in international environmental law *Ulrich Beyerlin* substantially contributed to this ever more important field of public international law. Legal research aiming at the protection of the international environment always meant more to him than a mere object of academic work: It was a matter of individual and community responsibility. He emphatically pursued it, but never adopted a loud or intrusive attitude. With *Ulrich Beyerlin* a highly qualified and humanely exemplary representative of his field has gone.

Born in Reutlingen in 1944, he studied law at Eberhard Karls University Tübingen from 1963 to 1968. In 1973, having completed his second State Examination, he joined the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, where he stayed until his retirement in 2009. For many years, he diligently and successfully served as the managing editor of the *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* (Heidelberg Journal of International Law).

Early on, he was attracted by public international law. His 1974 doctoral thesis,<sup>1</sup> written under the supervision of *Hermann-Wilfried Bayer* in Tübingen, focused upon non-international armed conflicts prior to the 1974-1977 Geneva Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. *Ulrich Beyerlin's* strict reading of the prohibition of the use of force and his arguments in favour of strengthening the role of the International Committee of the Red Cross (ICRC) rightly met the applause of reviewers. *Otto Kimmich* highlighted the “careful structuring, precise formulations, rigorous scientific approach in terms of methodology, convincing argument, precise representation of existing law and reasonable proposals for its further development”.<sup>2</sup> *Lothar Gündling* underlined *Beyerlin's* reading of international law as an instance holding states accountable, rather than being merely a “legitimizing tool”.<sup>3</sup> Throughout his academic career, *Ulrich Beyerlin* continued to discuss the topic of “humanitarian intervention” and consistently argued his position. He intensely addressed the issue in a widely de-

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<sup>1</sup> *U. Beyerlin*, Die humanitäre Aktion zur Gewährleistung des Mindeststandards in nicht-internationalen Konflikten, 1975.

<sup>2</sup> *O. Kimmich*, Die Friedens-Warte 59 (1976), 84 et seq. (84) (translation by the author).

<sup>3</sup> *L. Gündling*, ZaöRV 37 (1977), 809 et seq. (810) (translation by the author).

bated article on the Israeli military action at Entebbe,<sup>4</sup> with which he caused a strong controversy<sup>5</sup> because he came to the then unpopular conclusion that the operation could not be justified as self-defence under public international law.

*Ulrich Beyerlin's* post-doctoral thesis, written in Heidelberg under the supervision of *Rudolf Bernhardt* and published in 1988, addressed legal problems of local transfrontier cooperation.<sup>6</sup> The study was the first comprehensive analysis of decentralized foreign relations in Western Europe, focusing upon the treaty practice of the Federal Republic of Germany, Switzerland and France. *Ulrich Beyerlin* analysed many aspects of what is today framed as transnational public law, at the time still an underexplored area at the interface of international and municipal law.<sup>7</sup> Some of his research in this area directly impacted his move towards international environmental law, from the early 1980s onwards. This is particularly true for his early writings on public participation in transboundary environmental decision-making.<sup>8</sup>

*Ulrich Beyerlin* never perceived international environmental law as merely intergovernmental, but he always included individual and human rights as well as the role of civil society.<sup>9</sup> While his analysis *de lege lata*, methodologically rigorous, only allowed modest conclusions, he was convinced that, in particular, regional human rights law can provide a forum to implement and enforce international environmental standards. It was this balance between pragmatic positivism and a solid vision for the further development of the law which characterized many of his academic contributions to inter-

<sup>4</sup> *U. Beyerlin*, Die israelische Befreiungsaktion von Entebbe in völkerrechtlicher Sicht, *ZaöRV* 37 (1977), 213 et seq.

<sup>5</sup> *H. Streb*, Nochmals zur Geiselfreiung in Entebbe, *ZaöRV* 37 (1977), 691 et seq.

<sup>6</sup> *U. Beyerlin*, Rechtsprobleme der lokalen grenzüberschreitenden Zusammenarbeit, 1988.

<sup>7</sup> It was only in 1992, that Article 24 (1a) was introduced into the German Basic Law, reading as follows: "Insofar as the Länder are competent to exercise state powers and to perform state functions, they may, with the consent of the Federal Government, transfer sovereign powers to transfrontier institutions in neighbouring regions." A pertinent analysis is included in *U. Beyerlin*, Zur Übertragung von Hoheitsrechten im Kontext dezentraler grenzüberschreitender Zusammenarbeit, *ZaöRV* 54 (1994), 587 et seq.

<sup>8</sup> *U. Beyerlin*, Klagebefugnis von Ausländern gegen grenzüberschreitende Umweltbelastungen, *ZaöRV* 44 (1984), 336 et seq.; *U. Beyerlin*, Die Beteiligung ausländischer Grenznachbarn an umweltrechtlichen Verwaltungsverfahren und Möglichkeiten zu ihrer vertraglichen Regelung auf "euregionaler" Ebene, *Natur und Recht* 7 (1985), 173 et seq.

<sup>9</sup> *U. Beyerlin*, The Role of NGOs in International Environmental Litigation, *ZaöRV* 61 (2001), 357 et seq.; *U. Beyerlin*, Umweltschutz und Menschenrechte, *ZaöRV* 65 (2005), 525 et seq.; *U. Beyerlin*, Access of indigenous peoples to natural resources from a human rights perspective, in: M. Breuer/A. Epiney/A. Haratsch/S. Schmahl/N. Weiß (eds.), *Der Staat im Recht. Festschrift für Eckart Klein zum 70. Geburtstag*, 2013, 993 et seq.

national environmental law. His interest in the ethical foundations of this area of public international law was a major concern in some of his late writings.<sup>10</sup> *Ulrich Beyerlin* was convinced that solidarity “should ... impel states belonging to antagonistic state groups to make every effort towards bridging the gap between them” and that substantive “equality implies the need to treat unequal states unequally in view of providing distributive justice in interstate environmental and developmental affairs”.<sup>11</sup>

These ethical underpinnings of his research coupled with his sense of political responsibility for our common natural resources also drove him to make practical proposals for the development of international environmental law.<sup>12</sup> *Ulrich Beyerlin* was well aware of the political environment he worked in. This perhaps is expressed best by the fact that he openly addressed the problems of both, the further development as well as the implementation of international environmental law, especially with regard to the North-South relationship.<sup>13</sup> One of the sub-areas of international environmental law which lately had become a matter of special concern for him was nature conservation and the protection of biological diversity.<sup>14</sup>

The coherence of international environmental law was one of *Ulrich Beyerlin's* primary academic concerns, not only for educational purposes but also in light of its political impact. His pertinent work culminated in 2000 with the publication of the much-cited textbook “Umweltvölkerrecht”,<sup>15</sup> remaining the only German textbook on this subject for many years. Numerous reviewers praised the book as useful for students and practitioners,<sup>16</sup> as a contribution to the “necessary stepping up and optimizing of international environmental protection”,<sup>17</sup> as a resource, which “reli-

<sup>10</sup> *U. Beyerlin*, Gedanken zur ethischen Fundierung internationaler Umweltschutznormen am Beispiel des Konzepts “nachhaltige Entwicklung”, in: A. Fischer-Lescano/H.-P. Gasser/T. Marauhn/N. Ronzitti, Frieden in Freiheit. Festschrift für Michael Bothe zum 70. Geburtstag, 2008, 581 et seq.

<sup>11</sup> *U. Beyerlin/T. Marauhn*, International Environmental Law, 2011, 36 and 37.

<sup>12</sup> *U. Beyerlin/T. Marauhn*, Law-Making and Law-Enforcement in International Environmental Law after the 1992 Rio Conference, 1997.

<sup>13</sup> *U. Beyerlin*, Bridging the North-South Divide in International Environmental Law, ZaöRV 66 (2006), 259 et seq.

<sup>14</sup> *U. Beyerlin*, Internationaler Waldschutz am Scheideweg? Von den “Rio-Waldprinzipien” zu “REDD plus”, Jahrbuch des Umwelt- und Technikrechts 2012, 171 et seq.; *U. Beyerlin*, Universal Transboundary Protection of Biodiversity and Its Impact on the Low-Level Transboundary Protection of Wild Life, in: L. J. Kotzé/T. Marauhn (eds.) Transboundary Governance of Biodiversity, 2014, 107 et seq.

<sup>15</sup> *U. Beyerlin*, Umweltvölkerrecht, 2000.

<sup>16</sup> *M. Mencke*, GYIL 44 (2001), 771 et seq. (translation by the author).

<sup>17</sup> *H. Bauer*, DÖV 54 (2001), 792 (translation by the author).

ably informed readers with academic and practical interests”.<sup>18</sup> *Jutta Brunnée* praised the book as “a model in clarity and accuracy. It impresses through the sure-footed manner in which international environmental law is placed in its policy and political contexts, allowing the reader to appreciate the dynamics that shape the law”.<sup>19</sup> The textbook illustrated *Ulrich Beyerlin’s* doctrinal precision, being careful to avoid that conflicts of interest are covered up by the use of vague terms (such as “sustainable development”). As another example, he raised the question whether the notion of principles in international environmental law might not be a “pathological phenomenon”.<sup>20</sup>

Based on the German textbook, it was a pleasure for me to co-author the textbook “International Environmental Law” together with *Ulrich Beyerlin*. It is to his honour and respect that the following comments by reviewers are taken up: “an invaluable resource for both students and practitioners interested in gaining a substantial understanding of this complex area of law”;<sup>21</sup> “well organised, informative and problem orientated, with a clear and accessible structure”;<sup>22</sup> “immediately engaging, clearly written and very accessible”.<sup>23</sup> The second edition of the textbook was on the agenda, but unfortunately *Ulrich Beyerlin* died before its completion; the new edition will, nevertheless, be finalized in his spirit.

*Ulrich Beyerlin* never forced himself into the limelight. His social commitment and responsibility were pre-dominant in his life. As an example, he declined an early offer to take up a professorship outside Heidelberg because of his loving care for his family. Noteworthy are also the responsible treatment of his doctoral students and the deep commitment to friendships. Outstanding was his absolute reliability to definitely keep a promise once made.

Despite the extensive list of writings, to *Ulrich Beyerlin* writing was not a process of mass production. Being the managing editor of the *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* (Heidelberg Journal of International Law), even a review had to be aesthetically sophisticated.

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<sup>18</sup> *M. Schröder*, *Zeitschrift für Wasserrecht* 40 (2001), 271 et seq. (translation by the author).

<sup>19</sup> *J. Brunnée*, *ZaöRV* 61 (2001), 320-322 (322).

<sup>20</sup> *U. Beyerlin*, “Prinzipien” im Umweltvölkerrecht – Ein pathologisches Phänomen?, in: H.-J. Cremer/T. Giegerich/D. Richter/A. Zimmermann (eds.), *Tradition und Weltoffenheit des Rechts. Festschrift für Helmut Steinberger*, 2002, 31 et seq.

<sup>21</sup> *A. Zeri*, *International Community Law Review* 15 (2013), 137 et seq.

<sup>22</sup> *M. Fitzmaurice*, *J. Env’tl. L.* 25 (2013), 159 et seq. (161).

<sup>23</sup> *K. Wilkinson*, *Environmental Liability* 19 (2011), 194 et seq. (195).

After a short, serious illness, on August 28, 2015, *Ulrich Beyerlin* passed away. We commemorate a researcher who, besides all his academic contributions and his sense of responsibility for the discipline as such, was outstanding for his sensitivity, which also expressed itself in his love to Jazz, poetry and fine art. Colleagues, friends and family will always remember him as a highly professional, amiable and extremely tolerant individual.

Gießen, November 2015

*Thilo Marauhn*

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