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International Law Association chose for this year's session,
"International Law: our common good".

Let m





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In spite of the challenges that multilateralism is facing, it is important to counter sentiments that we now hear everywhere being expressed regarding a supposed general decline in respect for international law.

Such reflections are not novel. We have heard rumours of the death of international law before and, like Mark Twain's supposed demise, they have been "an exaggeration". For instance, in the 1960s and 1970s, when the newly independent States were challenging what had formerly been thought of as established international law. Also, after the 9/11 terrorist attacks. And after the military intervention in Iraq in 2003. The decline or decreased use of the International Court of Justice has also been declared in the past, including in academic circles. And yet, as I just mentioned, the number of cases the Court is actually seized of has increased. And these are cases coming from all regions of the world and relating to major contemporary crises.

Yet international law has always survived. The established rules are challenged. But those who challenged them do so, not by rejecting the notion that there is any international law, but by articulating what they claim the law to be, or at the very least what they think the law should be. Others respond, also in the language of international law. The existing rules are reaffirmed. Or they change and adapt. But there is always international law.

Thus, what is sometimes perceived as a crisis of international law is often "simply" a lack of consensus among Member States about





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the current state of the law or about the direction in which it should develop.

One might even say that periodical crises are an inherent part of international law, for as long as the world faces new challenges or new perspectives open up on existing ones.

International law is, at the very least, the basic common language that States use when they talk to each other and, in that regard, our common good.

If there is a crisis of multilateralism, then, that does not imply a crisis of international law, or that international law is no longer an appropriate tool for the conduct of international relations. It is actually the other way round: international law provides stability, even when and where other processes and tools fail.

The ongoing armed conflict in Ukraine and the situation that led to it are no exception. The Russian Federation has justified its actions in terms of international law; and others have also justified their responses in terms of international law. However, using the language of international law does not necessarily





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articulating their understanding of the state of international law. The so-called Friendly Relations Declaration, adopted by the General Assembly in 1970, is but one example.

But they also do so when responding to specific situations.

The Security Council has done so on a number of occasions, in particular under Chapter VII of the Charter. Among others, it has determined that a particular use of force was unlawful: for example, the Iraqi invasion and occupation of Kuwait or Israel's attack on nuclear installations in Iraq in 1981. It has interpreted what would constitute a threat to the peace, as for example regarding terrorist acts. And it has also referred to specific acts that would constitute a violation of international humanitarian law in the context of the protection of civilians.

The role of the General Assembly in articulating international law views is also an old question from an international law perspective. Strong legal positions have been expressed in General Assembly resolutions in a number of occasions, for example with regard to *apartheid* in South Africa. The most recent ones are those related to the situation in Ukraine.

The General Assembly, meeting at the 11th emergency special session, adopted a resolution entitled "Aggression against Ukraine" on 2 March 2022, with 141 votes in favour, 5 against and 35 abstentions, which deplored "in the strongest terms the aggression by the Russian Federation in violation of Article 2(4) of the Charter". The General Assembly also deplored its decision related to "





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As to the Secretariat, and in particular the Secretary-General, while States have from time to time contended that it is not for the Secretary-General to make interpretations of international law or to assess if States are implementing or complying with it, it is the p ys an





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The ongoing discussions within United Nations intergovernmental bodies on a number of issues of global concern, such as the use and misuse of information and communication technologies,¹ show Member States' commitment to the United Nations as a place of choice. Again, the discussions in the framework of the Intergovernmental Conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction underscore the importance of the United Nations as a unique forum specifically for the development of international law. And I could go on.

But in the interest of time, I will conclude.

Queridos colegas,

Things are certainly not as they should be. Being in Lisbon, I can only but quote Fernando Pessoa's *Livro do Desassossego* (*Book of Disquiet*): "Trago comigo as feridas de todas as batalhas que evitei... Em mim o que há de primordial é o hábito e o jeito de sonhar." [*"I bear the wounds of all the battles I avoided. My muscles are sore from all the effort I have never even thought of making"*.] Multilateralism and the United Nations similarly bear the wounds of the battles they have avoided.





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The Secretary-General, in his Global Wake Up Call of July 2020, had already sounded the alarm, when he noted that “[t]oday’s multilateralism lacks scale, ambition and teeth — and some of the instruments that do have teeth show little or no appetite to bite, as we have seen in the difficulties faced by the Security Council [...] A new, networked, inclusive, effective multilateralism, based on the enduring values of the United Nations Charter, could snap us out of our sleepwalking state and stop the slide towards ever greater danger.”

Indeed, there is no alternative, if we are not all to face the grave and perilous consequences of international disorder. And the United Nations remains the only universal platform with the mandate to maintain international peace and security.

As the Secretary-General noted on 25 February 2022, “it is important to remember that the UN is not just the chamber behind me. It is tens of thousands of women and men around the world. Feeding the hungry. Vaccinating children. Promoting development. Protecting civilians in peacekeeping operations. Mediating conflicts. Supporting refugees and migrants. Advancing human rights. Standing, delivering, extending a lifeline of hope.”

In other words, the United Nations remains a major actor for the weak and forgotten; confl,ttgd fahItan 0.5 (f)1.5 (l)/6.0017anPahom[5 BDC



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