

**HIGH-LEVEL COMMEMORATIVE PLENARY MEETING OF THE GENERAL ASSEMBLY TO MARK  
THE 40TH ANNIVERSARY OF THE ADOPTION OF THE UNITED NATIONS  
CONVENTION ON THE LAW OF THE SEA (UNCLOS)  
29 APRIL 2022, 10 A.M. (EDT)**

**Speech by H.E. Judge Joan E. Donoghue,  
President of the International Court of Justice**

Mr. President,  
Excellencies,  
Ladies and Gentlemen,

I am honoured to participate in this high-level commemorative plenary meeting of the General Assembly to mark the 40th anniversary of the adoption of the United Nations Convention on the Law of the Sea. It is a great privilege to do so alongside the distinguished speakers who have played important roles in the negotiation of the Convention and its implementation.

A speech by the President of the International Court of Justice (ICJ) on an anniversary of the adoption of the Convention can be expected to address two topics — first, the success of the Convention’s innovative provisions on dispute settlement and, secondly, the contribution of the ICJ to the law of the sea. In the time allotted to me, I could tell you a positive story on each of these points, thank you for your attention and return to my judicial work. However, the state of the world today compels me to offer some broader reflections about the lessons that we can learn from this Convention.

I begin with some brief remarks on the two points that I have just mentioned. One of the signal features of the Convention is that, with certain exceptions, disputes about its interpretation and application are subject to compulsory adjudication or arbitration. The multiplicity of available forums created a risk that the emerging jurisprudence would be fragmented, even parochial. Fortunately, quite the opposite has been true. The judgments and awards of the International Court of Justice, the International Tribunal for the Law of the Sea and arbitral tribunals show that great care is taken to examine and take into account the full range of relevant jurisprudence.

Turning to one of the particular contributions of the ICJ, our Court is available to settle disputes between two States parties to the Convention, and is also open to States that are not parties to that treaty. The Court has been seised with quite a number of such cases, which are governed by customary international law. However, the Convention is always at the centre of the Parties’ contentions regarding the content of customary international law, and the Court has had occasion to state that a number of key provisions of the Convention reflect customary international law. The resulting jurisprudence plays an important role in identifying and solidifying the rules that apply not only to States that are parties to the Convention, but also to those that are not parties to it.

Now I shall turn briefly to some broader lessons from the negotiation and conclusion of the Convention that seem particularly pertinent today. As I deliver these remarks in April 2022, the recent track record of international institutions and of international law can be characterized as very disappointing. All too often, governments have responded to the COVID crisis largely by taking care of their own populations, despite the global nature of the pandemic. The prohibition on the use of force and the rules of international humanitarian law are being ignored. Desperate people flee from dire circumstances in their home countries, at times welcomed, at times rebuffed, but always in need of help to meet their basic needs. Many around the world are being denied fundamental human rights.

For each individual who is involved in the work of the United Nations, whether as a delegate, a member of the Secretariat or a judge, these circumstances must serve as a wake-up call. This is not the time for complacency. We cannot afford to deliver and to listen to the same remarks that each of us might have delivered in the General Assembly hall at another time.

To tackle today's pressing problems, we must instead draw inspiration from the boldness and tenacity that made possible the adoption of the Convention after more than a decade of negotiations. The Convention that we celebrate today arose out of the failure of the 1958 treaties on the law of the sea. Its adoption established a "legal order of the seas" which replaced a situation that could have been described as the "legal chaos of the seas". This came about because the individuals who led the negotiations had the courage to employ novel approaches to the negotiation process, and because the participants did not adhere woodenly to long-standing positions, but rather recalibrated their objectives in pursuit of a durable package deal that would advance the common good.

Today's problems can appear daunting; the differences among States may seem impossible to bridge. But we cannot succumb to cynicism or fatalism. Instead, we must recall, as demonstrated by the United Nations Convention on the Law of the Sea, that international law and international institutions offer tools that we can use to solve seemingly intractable problems, to reduce conflict and to move, with diligence and foresight, towards the ideals that inspired the Charter of the United Nations.

Mr. President, to conclude, the judges of the International Court of Justice are keen to continue our work on the law of the sea and to participate in future exchanges such as today's commemorative meeting, where we can honour not only the Convention's many contributions to ocean law, but also the bold, co-operative and flexible approach that led to its adoption 40 years ago.

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