Are All International Climate Obligations *Erga Omnes*?
5 August 2026 (Online)
Organised by the Centre for International Law (CIL), National University of Singapore

Executive Summary

On 5 August 2026, the Centre for International Law (CIL), National University of Singapore convened a webinar on **"Are All International Climate Obligations *Erga Omnes*?"**

Moderated by Conrado M. Cornelius (Research Associate, Climate Law and Policy at CIL), the webinar featured Dr Priya Urs, Junior Research Fellow in Law at St John's College, University of Oxford and Dr Craig Eggett, Associate Professor of International Law at Maastricht University.

The webinar examined whether, and to what extent, international climate obligations may be characterised as obligations *erga omnes*, meaning obligations owed to the international community as a whole, or as obligations *erga omnes partes*, meaning obligations owed to all parties to a particular multilateral treaty.

Key themes included:

- the uncertainty surrounding the legal test for identifying *erga omnes* obligations;
- the relevance of the no-harm rule and due diligence;
- the role of non-injured states in invoking responsibility; and
- the difficulty of applying traditional remedies to cumulative and irreversible climate harm.

👏 Thank you to the distinguished speakers for such a thoughtful and timely discussion.

Introduction

The webinar was convened against the background of the International Court of Justice's advisory opinion on the obligations of states in relation to climate change and the subsequent General Assembly resolution welcoming the opinion. The opening remarks noted that the breadth and richness of the ICJ advisory opinion had generated extensive scholarly and policy reflection.

The General Assembly resolution was described as calling upon states to comply with their obligations under international law to protect the climate system from anthropogenic greenhouse gas emissions. It also recalled the ICJ's finding that a breach of the identified climate obligations constitutes an internationally wrongful act capable of engaging state responsibility.

The webinar therefore sought to examine which climate obligations, if any, possess *erga omnes* status, the legal basis for that characterisation, and the implications for state responsibility, standing and remedies.

1. Conceptual Foundations of *Erga Omnes* Obligations

The speakers were first asked how *erga omnes* obligations differ from other obligations in international law, and how *erga omnes* obligations may be distinguished from *erga omnes partes* obligations.

Dr Urs explained that the ICJ has not adopted a single, consistent methodology for characterising an obligation as *erga omnes*, and identified three distinct rationales that recur across the case law, at times inconsistently applied. She identified three possible approaches. The first is the existence of an obligation that may protect a collective interest: that of the international community as a whole for *erga omnes* obligations, or that of a group of treaty parties for *erga omnes* partes obligations. The second, invoked by the ICJ in some instances where collective interest alone was treated as insufficient, is the substantive importance of the underlying right that the obligation protects. The third, more prominent in ILC discourse than in ICJ jurisprudence itself, conceives of *erga omnes* obligations as incapable of bilateralisation, that is, obligations whose breach does not specially injure any single state, a characterisation with direct implications for questions of standing and enforcement.

She also noted that *erga omnes* obligations are usually associated with customary international law, while *erga omnes partes* obligations usually arise under multilateral treaties. However, she questioned whether this is a true legal distinction or simply a pattern seen in practice.

Dr Eggett broadly agreed but suggested that the clearer distinction lies in the number of states involved. An obligation owed to all states is *erga omnes*, while one owed only to a limited group of states is *erga omnes partes*. Although the latter usually arises under a treaty, he noted that a regional customary rule could theoretically have the same effect.

Dr Eggett welcomed the ICJ's recognition that some climate obligations may be *erga omnes*, but considered the advisory opinion incomplete. The ICJ did not clearly explain whether this status was based on the substantive importance of the rights protected or on the structural nature of the obligations. He therefore concluded that the distinction between *erga omnes* and *erga omnes partes* remains conceptually unclear.

2. The No-Harm Rule and Due Diligence

The discussion then considered whether the no-harm rule and due diligence, as identified in the ICJ's climate advisory opinion, operate as *erga omnes* obligations.

On the no-harm rule, Dr Eggett argued that the prevention of significant transboundary environmental harm could plausibly satisfy either a rights-based or structural approach. Under the rights-based approach, the substantive importance of the climate system and the rights held by those affected by it pointed towards *erga omnes* status. Under the structural approach, although the no-harm rule could theoretically be reconstructed as a series of bilateral obligations between individual states, the more natural understanding was that it transcended bilateral state interests and was owed to the international community, and to humankind, as a whole. He noted with some frustration that the ICJ itself had not committed to either rationale. The ICJ had not elaborated on the underlying justification and had acknowledged that some obligations might carry *erga omnes* status without specifying which obligations these were or why.

Dr Urs was asked to draw a comparison with *erga omnes* obligations in other areas, such as genocide, since even though the impact of genocide is typically localised rather than global, the prohibition is nonetheless treated as *erga omnes*. Dr Urs observed that a rights-based justification is easier to establish for genocide. In the climate context, she considered the structural approach more appropriate, particularly because linking individual states' conduct to specific harm is difficult. She also noted that the IACtHR took a different approach by treating the prohibition of significant transboundary harm as arising from a peremptory norm.

The moderator noted that the ICJ's advisory opinion had also characterised due diligence as an *erga omnes* obligation. The moderator asked how the due diligence standard, which incorporated the best available science and accounted for states' differing capabilities, related to mitigation and adaptation, and whether this inherent flexibility strengthened or weakened its claim to *erga omnes* status.

Dr Urs responded that she was uncertain whether the specificity or precision of an obligation had any meaningful bearing on its *erga omnes* character. She observed that both highly specific treaty obligations, such as reporting requirements under instruments like the Convention Against Torture, and broader, less determinate obligations had been treated as having *erga omnes partes* status in different contexts. This suggested that there was no clear correlation between the precision of an obligation and whether it attracted such status.

Dr Eggett agreed and developed the point further. Although he acknowledged the instinctive caution involved in assigning *erga omnes* status to a flexible standard such as due diligence, he argued that this flexibility should not affect the obligation's status. This applied both to due diligence specifically and to climate obligations more generally, particularly given the differentiated responsibilities of states. He noted that variation in an obligation's content across states and circumstances was not unique to due diligence, but was an inherent feature of legal rules, which required interpretation and operated differently depending on context.

Returning to first principles, Dr Eggett proposed that *erga omnes* status was best understood as a mechanism for enforcing international law. Certain obligations, whether because of their substantive importance or structural nature, warranted an additional procedural mechanism granting all states, or a defined group of states, standing to invoke responsibility for their breach. Because this rationale concerned the status of the obligation rather than its precise content in a particular case, he concluded that the flexibility inherent in due diligence did not undermine its *erga omnes* character.

3. Common Concern of Humankind and Intergenerational Equity

Following Dr Eggett's earlier remarks, the moderator posed a third question: whether characterising climate protection as a "common concern of humankind" automatically generated *erga omnes* obligations or merely served as interpretive context.

Dr Eggett cautioned against overstating the significance of such language. He emphasised that *erga omnes* status attached to specific obligations rather than broad normative concepts, making it essential to identify the particular obligations arising within a given framework. Returning to a point raised earlier by Dr Urs, he suggested that a common interest might be a necessary but insufficient condition for *erga omnes* status. Although it could support either a rights-based rationale or a structural, non-bilateralisable rationale, it could not, without greater precision, generate that status on its own.

He compared this with genocide, arguing that its status as a peremptory norm allowed the *erga omnes* character of the negative obligation not to commit genocide to follow relatively directly, whereas climate obligations did not operate in the same way. He therefore concluded that, particularly in the environmental context, general obligations should be divided into their specific components, including positive, negative and procedural obligations, with the *erga omnes* status of each assessed separately.

Dr Urs responded that the ICJ's advisory opinion had, in fact, reflected both approaches. She referred to paragraph 440, in which the ICJ invoked states' common interest in protecting global environmental commons to justify the *erga omnes* status of certain obligations, while also relying on the preambles of the UNFCCC and the Paris Agreement, both of which described climate change as a common concern of humankind. She linked this to the ICJ's broader interpretive practice of examining a treaty's object and purpose when determining whether particular obligations carried *erga omnes partes* status.

Dr Urs further observed that states were increasingly understood not as ends in themselves, but as institutions serving the people within them, which lent additional weight to the "common concern of humankind" characterisation. Her principal reservation was that this approach risked setting an undemanding threshold for establishing *erga omnes* or *erga omnes partes* status, since it was relatively easy to identify a common interest among states in most multilateral contexts, whether under customary international law or treaty law.

The discussion then turned to intergenerational equity, including whether duties owed by the present generation to future generations supported an *erga omnes* framing and whether future generations could be regarded as rights holders for the purposes of standing, notwithstanding the state-versus-state structure of ICJ proceedings.

Dr Eggett described intergenerational equity as a powerful concept for emphasising the importance of relevant obligations and guiding the interpretation of duties such as due diligence. In his view, it supported both approaches to *erga omnes* status discussed earlier in the panel. He nevertheless

expressed reservations about treating future generations as rights holders through a framework modelled directly on human rights law. Such an approach would introduce substantial difficulties concerning harm and representation, while existing climate and human rights obligations already addressed much of the underlying concern.

Dr Urs suggested that future generations could usefully be understood as beneficiaries of relevant obligations, adopting the terminology of the ILC, while maintaining a clear distinction between beneficiary status and the right to invoke responsibility, which she considered should remain vested in states.

She connected this distinction to Article 48 of the ILC's Articles on State Responsibility, under which non-injured states could seek reparation in the interests of injured states or the beneficiaries of the obligation breached. She suggested that the form such reparation might take for future generations, potentially including measures such as protective infrastructure, remained an important and largely unexplored question. She characterised this area as one of progressive development by the ILC and noted that the approach the ICJ might take to claims by non-injured states seeking reparation on behalf of beneficiaries remained to be seen in pending proceedings.

Dr Eggett concluded by clarifying that he agreed with Dr Urs's more nuanced treatment of future generations as beneficiaries within the existing legal framework. His concern related instead to a more extreme formulation, encountered elsewhere, that relied exclusively on a human-rights-based approach to future generations. In his view, that approach introduced unnecessary philosophical and practical difficulties by disregarding the existing legal structure into which Dr Urs's formulation could be integrated.

4. Treaty Architecture and Differentiated Obligations

The moderator posed two related questions arising from the treaty architecture of the Paris Agreement and the UNFCCC. The first concerned whether differentiated, nationally determined obligations, such as those embodied in Nationally Determined Contributions (NDCs) and associated transparency requirements, could properly be characterised as *erga omnes partes*, or whether they merely represented a minimum threshold of due diligence.

On the first question, Dr Urs saw no difficulty in treating differentiated obligations, such as NDCs, as *erga omnes partes*. She reasoned that even where the specific content of each state's obligation differed substantially, this did not preclude the obligation from having *erga omnes partes* status, since that status simply meant that the obligation was owed to all states parties to the relevant treaty. Provided that the states parties accepted this characterisation, differentiation in content was not disqualifying. However, the underlying basis for *erga omnes* status, such as the existence of a collective interest, still had to be established independently.

Dr Eggett agreed but added two observations. First, he noted that it would nevertheless be significant for specific, technical and procedural obligations to be formally recognised as *erga omnes*, given that the most widely accepted examples generally resembled classic *jus cogens* norms and tended to be broad rather than narrow or technical. Second, he raised an unresolved question regarding the relationship between specific procedural obligations and the broader duty to protect the environment. He questioned whether a breach of a procedural obligation that was not itself *erga omnes* might nonetheless amount to a breach of the broader *erga omnes* obligation from which it derived. He suggested that this might require more than an isolated violation, such as a systemic or serious pattern of non-compliance.

Dr Urs then clarified that the ICJ's advisory opinion appeared to suggest, although not entirely clearly, that only the main mitigation obligations under the UNFCCC and the Paris Agreement carried *erga omnes* status, rather than every ancillary obligation contained in those instruments. On this view, an obligation-by-obligation assessment would be necessary to determine whether a particular duty qualified as a main mitigation obligation.

Turning to the second question, the moderator asked whether the principle of common but differentiated responsibilities and respective capabilities, which recognised differences in the capacities of developed and developing states while requiring all states to contribute to mitigation efforts, individualised the content of what was intended to be a shared *erga omnes* duty.

Dr Urs again saw no difficulty. Although differentiation might individualise what was required of each state, she argued that the essence of an *erga omnes* obligation lay in the collective interest being protected. There was therefore no inherent tension between a shared collective interest and differentiated obligations imposed on individual states, particularly in relation to global commons or resources beyond the jurisdiction of any single state.

Dr Eggett likewise agreed. He observed that the application of all legal rules depended on background principles and concepts that determined their precise content in particular

circumstances. In his view, common but differentiated responsibilities and respective capabilities represented a more developed and explicit example of this interpretive mechanism in international environmental law, which he regarded as an advantage over fields lacking such a clearly articulated principle.

He distinguished between two separate questions: which factors determined the specific content of an obligation, such as due diligence, in a given scenario, and whether that obligation retained its *erga omnes* status. Provided that the underlying rationale for *erga omnes* status remained fulfilled, variation in the obligation's content across states did not affect that status, as the two questions operated independently.

5. Standing and Intergenerational Equity

The moderator's first question concerned who was entitled to invoke responsibility for the breach of an *erga omnes* climate obligation, including whether that right extended to any state, regional organisations, or non-state actors acting through domestic courts.

Dr Urs began by observing that the status of an obligation ultimately fed into the separate questions of enforcement and standing, which were assessed differently across the various procedural contexts of international law. She emphasised that multilateral treaties could establish their own rules on standing and that these rules took precedence over general principles, since the ILC's rules on the invocation of state responsibility were residual in nature. The treaty itself should therefore be the first point of reference in any given case.

She further noted that existing practice concerning both *erga omnes* and *erga omnes partes* obligations had been overwhelmingly interstate. To her knowledge, there had been no significant developments extending standing to international organisations or domestic actors solely on the basis of an obligation's *erga omnes* status. She therefore concluded that such status did not, by itself, confer standing on actors other than states.

Dr Eggett agreed that states remained the clearest holders of the right to invoke responsibility. He observed that states often acted through international organisations and regional bodies, meaning that responsibility could be invoked collectively within such fora, including through action in the General Assembly. He suggested that a broader conception of the international community, encompassing certain international organisations, might support a role for those organisations. In practice, however, he considered invocation of responsibility to remain primarily within the domain of states.

He was more cautious regarding NGOs and individuals. Their important role in enforcing climate obligations generally arose within domestic legal systems, where the international *erga omnes* status of an obligation did not determine whether a domestic court would grant standing.

The moderator then provided historical context by referring to the *South West Africa* cases, in which the ICJ had recognised the substantive importance of certain obligations while declining to grant standing on an *actio popularis* basis. This illustrated the distinction between the substantive character of an obligation and the ICJ's jurisdiction to entertain a claim.

The moderator also observed that recent ICJ practice appeared more receptive to granting standing to non-injured third states in relation to *erga omnes partes* obligations, as illustrated by *The Gambia v Myanmar*, than in relation to obligations arising under customary international law, where such claims had generally been unsuccessful. The reasons for this difference remained unclear.

Dr Eggett responded that invoking responsibility was broader than initiating proceedings before the ICJ. Where a compromissory clause existed, as in several of the cases discussed, it provided the relevant jurisdictional basis. He noted that reconciling broad standing for non-injured states

with the fundamentally bilateral structure of contentious proceedings before the ICJ remained unresolved and was especially difficult where no treaty-based compromissory clause existed.

6. Remedies

The moderator then turned to remedies, asking what forms of reparation were plausible for diffuse climate harm and whether systemic or collective remedies could be reconciled with the traditional law of state responsibility where multiple contributors had caused indivisible harm.

Dr Urs responded that, although all standard forms of reparation remained available in principle, the distinctive features of climate change made some considerably more realistic than others. Restitution was unlikely to be workable given the irreversibility of much climate harm, whereas compensation, potentially accompanied by some form of satisfaction, appeared more plausible.

She identified causation as the central and most persistent difficulty, particularly the challenge of attributing specific harm to the wrongful conduct of an individual state. She noted that there was ongoing debate over whether causation standards might be adapted beyond requiring a strict factual causal link, which was especially difficult to establish in the climate context. Although she was less familiar with the concept of systemic or collective remedies, she suggested that a negotiated political solution among states might ultimately be more realistic than adjudicated reparation.

Dr Urs was also critical of the ICJ's treatment of causation in its advisory opinion. In her view, the ICJ had not meaningfully advanced the issue, but had instead restated its existing requirement that harm be direct and reasonably foreseeable, while asserting, without further explanation, that the standard was sufficiently flexible to accommodate the climate context.

Dr Eggett agreed that remedies constituted the central issue underlying the broader discussion. He referred to criticism that the advisory opinion amounted to little more than a catalogue of obligations without clear practical effect, a view reportedly expressed by a member of the ICJ, possibly Judge Yusuf. Like Dr Urs, he considered a negotiated political solution the most realistic path forward, while acknowledging that the precise form of any resulting reparation remained difficult to determine.

He observed that the existing rules on state responsibility and reparation had been developed primarily for bilateral harm between two states. The global, interconnected and potentially catastrophic nature of climate harm therefore created serious difficulties in attributing responsibility and identifying and quantifying the harm to be repaired. In his view, the field would need to respond creatively, as any attempt to isolate each state's contribution and connect it precisely to individual instances of harm would be exceptionally difficult and likely to face substantial resistance.

By analogy, Dr Eggett referred to space law, where the difficulty of tracing space debris to a particular state had spurred a pragmatic approach based on drawing a temporal line, after which prospective obligations of mitigation and compensation applied, rather than attempting retrospective attribution. He suggested that a comparable model might be adopted in the climate context, under which major contributing states would pay into a collective fund to address climate-related harm. He referred to the existing loss and damage fund as a practical analogue, while noting

that it remained inadequately supported, with only a limited number of states having pledged contributions and the amounts committed falling far below what was required.

Dr Eggett concluded that, given the practical near-impossibility of applying strict individualised standards of attribution and harm on this scale, any mechanism that satisfied the underlying principle of full reparation, as reflected in the *Factory at Chorzów* rule, should be regarded as consistent with the law of state responsibility, even if it did not fit neatly within the traditional categories of restitution, compensation and satisfaction. He reiterated that remedies remained the most difficult and ultimately decisive issue in the broader debate.

7. Audience Q&A

Following the main discussion, the moderator turned to questions submitted by the audience through the Q&A function.

The first question, submitted by Ahmed Sabirin, asked which legal criteria should distinguish climate obligations that qualified as *erga omnes* from those that remained purely treaty-based, and how compliance with *erga omnes* obligations could be reconciled with differentiated obligations between developed and developing states without undermining climate justice.

Dr Urs addressed the treaty-based aspect of the question. She observed that the ICJ had not directly explained how to distinguish *erga omnes partes* obligations from other obligations within the same treaty, even in cases concerning the Genocide Convention and the Convention Against Torture. She identified two broad approaches reflected in scholarship and, to some extent, the ICJ's jurisprudence.

The first linked an obligation's *erga omnes* character to its relationship with the treaty's object and purpose, an approach she associated with Judge ad hoc Kress's declaration in *The Gambia v Myanmar*. The second, structural approach asked whether an obligation would effectively go unenforced unless it were recognised as *erga omnes partes*, because no state would otherwise qualify as injured by its breach. Dr Urs suggested that the first approach, while useful for courts seeking to limit the scope of potential litigation, was relatively subjective. She preferred the structural approach because it connected *erga omnes* status directly to the practical question of enforceability.

Dr Eggett agreed and added that the structural approach would often also satisfy the substantive-importance approach. Obligations whose breach did not injure any particular state typically existed to protect a broader collective interest that was itself substantively important. Extending Dr Urs's reasoning beyond multilateral treaties, he observed that the mere fact that all states shared an interest in compliance with international law did not necessarily establish a genuinely collective interest, as opposed to a collection of bilateral interests. Identifying this additional threshold therefore remained a central analytical challenge.

The moderator added that the final paragraph of the ICJ's advisory opinion suggested that legal solutions alone might be insufficient, referring to the ICJ's call for contributions from all fields of human knowledge, including science and economics. He suggested that insights from other disciplines, such as economics, could usefully inform the climate context. In his view, *erga omnes* status might ultimately be not just a question of law, but also a question of the factual characteristics of particular obligations, an issue that warranted further scholarly discussion.

The second question, submitted by Dominic Virgil, referred to the ITLOS advisory opinion, which suggested that states' due diligence efforts should be directed towards achieving the temperature goals set out in climate treaties. It asked whether reliance on such a stringent standard would be sufficient to elevate an obligation to *erga omnes* status.

Dr Eggett reiterated that the content or stringency of a due diligence standard did not determine its *erga omnes* character. In his view, that status depended instead on the underlying rationale, whether framed in terms of collective interest and substantive importance or structural non-bilateralisability.

Dr Urs largely agreed. She noted that one could argue that a temperature goal reflected a collective interest in preventing global warming beyond a particular threshold, thereby satisfying the ICJ's test of collective interest. A stringent standard might also signal the importance of that interest. Nevertheless, she agreed that stringency alone was unlikely to provide the strongest basis for establishing *erga omnes* status, although existing practice remained sufficiently vague to support several possible lines of reasoning.

By way of context, she observed that the 2011 ITLOS Advisory Opinion on the Responsibilities and Obligations of States Sponsoring Persons and Entities with respect to Activities in the Area had referred to certain obligations as *erga omnes*. By contrast, the more recent 2024 ITLOS climate advisory opinion had not addressed the legal consequences of breach and therefore had not considered *erga omnes* status. She concluded that further developments would need to be observed over time.

The third question, submitted by Tariq Fias, asked whether the framework established by the advisory opinion could be extended to private companies.

Dr Eggett emphasised the indirect domestic pathway through which the advisory opinion was likely to exert influence. He noted that decisions of international courts and tribunals, including the ICJ, ITLOS and the IACtHR, helped shape global legal standards. These standards could, in turn, influence how domestic courts and legislatures framed and applied their laws to private companies, which he regarded as key to the underlying pollution problem.

Dr Urs approached the question differently and cautioned against extending the concept of *erga omnes* obligations too far. Although she acknowledged the rhetorical appeal of obligations owed to an international community extending beyond states, she stressed that *erga omnes* status concerned standing and enforcement. It could not resolve the separate difficulties involved in enforcing international law against non-state actors such as private corporations, or address jurisdictional requirements, which remained independent obstacles unaffected by an obligation's *erga omnes* character. She identified this as the principal takeaway she wished to leave with participants regarding the proper scope of the concept.

The moderator closed the session by echoing this caution. He emphasised that *erga omnes* status should not be understood as a general entitlement allowing any uninjured state to bring proceedings against any other state. He then thanked Dr Urs and Dr Eggett for their participation and formally concluded the webinar.