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*Obligation to participate in planetary
defense action as part of international
jus cogens*



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NEO collision threat as threat to international peace and security

Threat of asteroid collision with global consequences can be considered as threat to international peace and security. It implies, that provisions of UN Charter could be applied in order to prevent a global catastrophe.

UN Security Councils' primary responsibility is to maintain international peace and security. UN Members are obligated to accept and carry out the decisions of the Security Council

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The concept of *jus cogens* in international public law

Article 53 of Vienna Convention on Law of Treaties – introduction of *Jus Cogens* into the international legal order

Jus cogens is a norm:

- 1) of universal international law;
- 2) accepted and recognized by the international community of states as a whole;
- 3) norm from which no derogation is permitted;
- 4) norm that can be changed only by a subsequent norm of general international law of the same character.

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The concept of *jus cogens* in international public law

The identification of *jus cogens* norms is made on the basis of three criteria. The **sociological criterion** is met if the norm is accepted and recognized as peremptory by the international community of states as a whole. The **normative criterion** consists in the prohibition of derogation. The **axiological criterion** concerns the values cited above that underlie the contemporary international community. Only the combined fulfillment of these three criteria allows for the recognition of an international legal norm as an *jus cogens* norm.

THERE IS NO CATALOGUE OF JUS COGENS NORMS

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UN Charter provisions as legal source of obligations to participate in planetary defense

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace (...)
(...)
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character (...)

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UN Charter provisions as legal source of obligations to participate in planetary defense

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

(...)

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.

(...)

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

(...)

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

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Role of Security Council in Planetary Defense

Article 24

The Security Council primary responsibility is the maintenance of international peace and security and States agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council.

Article 39

The Security Council determinates the existence of any threat to the peace and makes recommendations or decides what measures shall be taken to maintain or restore international peace and security.

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Role of Security Council in Planetary Defense

Article 41

The Security Council decides what measures not involving the use of armed force to employ.

Article 42

If measures not involving the use of armed force are inadequate, it can take action by air, sea, or land forces as may be necessary

Article 43

All Members of the United Nations, in order to contribute to the maintenance of international peace and security make available to the Security Council armed forces, assistance, and facilities

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Role of Security Council in Planetary Defense

Article 48

All members of the United Nations or some of them have to take action required to carry out the decisions of the Security Council

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

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Are these obligations to be considered as *jus cogens*?

YES

- They meet all the criteria for identification of *jus cogens* (sociological, normative and axiological)
- Article 1 and 2 of UN Charter were shown as example of *jus cogens* during drafting VCLT
- They are connected to values protected by other, recognised *jus cogens* norms

NO

- UN Charter contains provisions of specific nature (art. 103)
- *Jus cogens* main effect is focused on validity of treaties
- Beside Vienna Conference, there is no proof of *jus cogens* character of mentioned UN Charter obligations

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Conclusions

**Are States obligated to participate in
global planetary defense action?**

YES

(if the Security Council takes an action)

**Is an obligation to participate in
planetary defense action an
international *jus cogens*?**

There is no definite answer, because this
obligation is strictly bound to the UN
Charter

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Thank you for your attention



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