



## COMMENTS TO THE HIGH-LEVEL ADVISORY BOARD FOR THE DRAFTING OF THE PACT FOR THE FUTURE

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### Chapeau:

Our NGO, Legal Pact for the Future, takes off its hat to the UN Secretary General for organizing a global effort, the Summit of the Future, to prepare a "renewed social contract"! We believe the Summit of the Future poses a real opportunity to address international crises in new ways. However, we also believe that there has not been a genuine effort to follow the direction of the Secretary General. Law, and courts to enforce it, lies at the core of our social contract, yet so far law has been largely ignored for discussion at the Summit of the Future, and in the wording of the Pact for the Future.

The goal of the Legal Pact for the Future is two-fold: One, through venues such as this, and participation in the zoom consultations, Legal Pact has repeatedly raised issues of "**more courts and fewer reports**", including the strengthening and expansion of the ICC and the Regional Courts. The Legal Pact hopes to promote the social contract's relationship to people, nature, and law. We therefore highlight the following recommendations to be included in discussions surrounding the Summit of the Future 1) enforceable environmental law, principally ecocide law, 2) an inclusive people-based focus that can promote cooperative international development and 3) expansion of domestic, regional and international courts to accommodate global changes.

Two, as can be seen in the logo for the Legal Pact, **we are facilitating linkage between people, NGOs, businesses, and governments** who favor the inclusion of enforceable environmental and human rights as part of the Pact for the Future. Our website provides the means for this linkage to occur. By participating on the Legal Pact website, the large numbers of people, NGO's, businesses, and governments who favor the rule of law, and enforceable environmental and

human rights, are able to gather their collective clout at the Summit of the Future, so that a renewed social contract includes enforceable law as a foundational element.

The work of the Legal Pact is in direct alignment with the Secretary General's "Common Agenda Report". The Secretary General has created a High-Level Advisory Board (HLAB). In collaboration with the HLAB, civil society is preparing its own "People's Pact for the Future." The idea is that the People's Pact will fill gaps in the Pact for the Future. **The Legal Pact is dedicated to the inclusion of law within the People's Pact, and the Pact for the Future documents.**

The HLAB has delivered its report to the Secretary General and member states in preparation of the Pact for the Future. Unfortunately, **there is a major gap in the HLAB report!** Even though the Secretary General states in the Common Agenda Report that "*international human rights law, underpins approximately 90 per cent of the Sustainable Development Goals*" (p.63) the HLAB report fails to address the strengthening of law and courts to make rights enforceable.

Environmental and human rights are an integrated core of humanity's social contract with those who govern. They must be judicially enforceable. Law should be part of the normative discussion in each of the five Chapters. We provide specific language to be included:

### **Chapter I. Sustainable development and financing for development**

Sustainable development includes judicially enforceable economic and social rights such as education, healthcare, and housing. Recent decades have been a march towards economic stratification internationally. It's time for a renewed social contract between the people and those who govern to ensure that economic and social rights are judicially enforceable on an equal par with civil and political rights.

If the Summit of the Future intends to renew our social contract for the coming years, it is essential that this exercise reflects what the social contract stands for, i.e. the right to law, both substantive and procedural, to provide the development framework, including courts, for a functioning, well-developed, international society.

### **Chapter II. International peace and security**

The rise of authoritarianism and the demise of the rule of law is well documented over the past 20 years – **and is continuing!** A renewed social contract should not allow for authoritarian governance over any nation or peoples. This is a discussion that should occur at the Summit of the Future as humanity plans for the decades ahead. Authoritarian governance is oppressive and leads to war. There will always be authoritarians who will attempt to set aside environmental and human rights to enhance their power, and no rights can be preserved without a strong and independent judiciary. Independent domestic, regional, and international courts are key to peace on Earth.

The Secretary General has made precisely this point in the Common Agenda Report:

"In support of efforts to put people at the centre of justice systems, I will promote a new vision for the rule of law, building on Sustainable Development Goal 16 and the 2012 Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels. We will examine how our rule of law assistance can support States, communities, and people in rebuilding their social contract as a foundation for sustaining peace." (p.25).

**The zero draft for the Pact for the Future should at least discuss this insight and directive from the Secretary General!**

For example, during the zoom consultation prior to the issuance of the HLAB report, Legal Pact raised the issue of strengthening and expanding the Regional Courts. The representatives from Germany and Namibia said they were looking to build upon existing structures (which the Regional Courts are) and during the consultation process said that "others are raising the issues of the Regional Courts." Then, at the most recent consultation on 13 December 2023, Legal Pact again raised the Regional Courts because they **were not even mentioned** in the HLAB report. This time, during the consultation, the response of the consultation leader was that "It is up to the member states to raise the Regional Courts."

What good is the HLAB process if they cannot raise strengthening and expansion of the Regional Courts, or the ICC, on their own? This type of thinking is creating a flawed, renewed social contract from the very start.

**Chapter III. Science, technology and innovation and digital cooperation**

Without a renewed social contract, and courts to enforce that social contract, war and despoliation of the environment are going to be Earth norms that are carried into space. This is a travesty, particularly for younger generations.

Space should become a demilitarized legal common area with a neural net of low Earth orbit satellites providing internet free for all on Earth. Through this neural net, education, health care, emergency services and much more can be provided on a global scale.

Also, AI use should be seriously discussed with a focus on ensuring regulation within legally enforceable parameters because of its potential for both positive and negative ramifications globally.

It is difficult to believe that many thoughtful people could spend their time drafting these five chapters, and **there is not one on the environment**. Was it discussed? Is anyone listening to the younger generations who are faced with a despoiled planet? There is good reason why **"Environmental Rights" should be a new Chapter 6** – it is a cross-cutting normative issue.

Environment is discussed here, although it **must** be its own **Chapter 6**. Science and technology give us new insights into the interrelatedness of life on earth. Some countries are recognizing Earth Law, a timely topic for the Summit.

Climate change is widely considered the greatest “collective action” problem of history. With the increasing urgency of this task, and law’s role as the guarantor of society according to social contract theory, it is essential we create the means to effectively enforce the law.

The expansion of the International Criminal Court through the implementation of Ecocide law is an excellent example of how law can be used effectively to protect the environment. The call for Ecocide law is global and increasing rapidly, yet Ecocide is not even mentioned in the HLAB report. It must be foundational in the new **Chapter 6 "Environmental Rights."**

#### **Chapter IV. Youth and future generations**

Not enough, but to some extent, youth are gaining a place at the table for the Summit of the Future. Faced with a despoiled planet from climate change, rising authoritarianism, growing stratification and economic disparity, many youths at, and around, the table want to rewrite the rules. **They want to renew the social contract with those who have been at the table for a long time.** Solutions designed for the renewal of the social contract must be intergenerational, where environmental and human injustice is resolved by multilateral structures that can ensure enforceable law. Conversations must transcend age, demographic, border and sector.

The Millennials and Gen Z. have the right to be assertive. Legal Pact seeks to empower them. These generations recognize that the most power they can wield is not as individuals, but by linking with others, and their lifetimes on the Internet and social media give them a perspective that welcomes interaction with others internationally.

#### **Chapter V. Transforming global governance**

When the Universal Declaration of Human Rights (UDHR) was drafted, the renowned law professor, Hersh Lauterpacht, was deeply concerned that the UDHR would be talked about as if it was law, when it was not, and that as decades passed, there would be much talk about rights, but little legal enforcement of them. His concerns have proven to be right.

This shortcoming is not just the shortsightedness of nation states, it also reflects civil society: NGOs, academic think tanks, and foundations. **There has not been a collective, assertive demand for enforceable environmental and human rights in courts of law.** The Legal Pact for the Future provides the opportunity for all those persons, NGOs, businesses, and governments who profess to support the rule of law to take one minute, and link with others to help bring about the application of the rule of law internationally.

2023 is the 75th anniversary of the UDHR. Its achievement bringing focus and expectation for rights should be celebrated, but now, at the Summit of the Future, as a matter global governance through a renewed social contract, **it is time for both member states and civil society to discuss how environmental and human rights will become judicially enforceable.**

It was this linkage between rights and courts for which Rene Cassin was awarded the Nobel Peace Prize for his work both as a drafter of the UDHR and as the President/Judge of the European Court of Human Rights.

There is much talk about how the Summit of the Future will address the disparities between the global north and the global south. One way to correct this imbalance is to bring the Regional Court systems, the African Court of Human and People's rights and the Inter-American Court of Human Rights, up to the level procedurally and financially of the European Court of Human Rights. This can be accomplished by providing \$100 million for each to construct new courthouses for the Judges and staff necessary for the rule of law.

In addition to the strengthening and expansion of the Regional Courts, the International Criminal Court should be strengthened and expanded with Ecocide, along with the International Court of Justice being expanded with universal, compulsory, jurisdiction and expanded provision for an Advisory Opinion. Climate change highlights that evolving policy areas such as environmental protection need an authentic legal structure. Consideration should also be given to an International Anti-corruption Court as well as an International Environmental Court.

Environmental and human rights are nothing but words on paper without their effective enforcement, lack of which lends to vulnerability of the whole legal system. That built on top cannot stand with conviction if the base is broken. We firmly believe that real change requires materialization in appropriate civil and criminal judicial settings.

Thank you for your consideration.