The Global Legal Environment and its Future
Four Scenarios

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Abstract
Both national and international law are created and upheld in a global legal environment that seems to be changing dramatically. Many lawyers and legal scholars have extensively signaled and analysed the internationalisation of law and the rise of private legal and governance regimes. In this article, these trends are used to explore the future of the global legal environment. The use of scenario techniques enables us to systematically scrutinise possible futures. In turn, the scenarios indicate major strategic challenges for both national legislators and international legal institutions.

Keywords
global legal environment; future scenarios; internationalization of law; private legal regimes

1. Predicting and Scanning the Future of Law

Legal futurism is not widespread among lawyers and legal scholars. Instead of writing legal science fiction novels, most lawyers and legal scholars prefer to meticulously scrutinise the law in order to establish what is legally valid. Since the future is too uncertain and anything may happen, why bother about it. The Law of the Future program we have set up attempts to break with this tradition.1 Whereas predicting the future is impossible, the methodologies that have been developed by the future studies allow us to systematically scan possible futures. Instead of ignoring uncertainty, these methodologies embrace uncertainty by building theories on it. For example, scenario analysis enables us to imagine possible futures that are built

on uncertain developments. In this article, we illustrate scenario analysis by applying it to the future of the global legal environment. A scenario refers to a story on what may happen.

All national legislators are confronted with a global legal environment in which authoritative rule making, rule enforcement, and processes of dispute resolution occur. Conceptually the global legal environment does not mean that global rules are made or that these rules are globally enforced. In our definition the global legal environment refers to a multi-layered phenomenon which includes all mechanisms of authoritative rule making, rule enforcement, and dispute resolution that transcend national borders. It emerges out of the actions of both public and private legal actors, the ideas and research of legal scholars, and the initiatives and actions of international institutions. Even though national legislators’ behaviour affects the global legal environment, it emerges to a large extent without being directed.

A scenario analysis on the future of the global legal environment starts with mapping the major trends that occur now. These trends are presented in section two. The trends are then used to build future scenarios that picture possible futures of the global legal environment in section three. We conclude with a brief exploration of some implications of these scenarios for national legislators. The timeframe we have used for the scenarios extends to 2030. This timeframe is long enough to allow some imagination while it simultaneously prevents us from engaging in legal science fiction.

2. The Global Legal Environment: Major Trends

In order to map the trends in the global legal environment we have asked a number of legal scholars and lawyers from different disciplines and different parts of the world to write a paper on what they see happening in the global legal environment right now. These papers indicate two major trends, which can be referred to as the internationalisation of law and the growth of private governance regimes. These trends are not new and have extensively been mapped in the literature. Both trends will be briefly explained.

First, a growing patchwork of international law, international institutions, and transnational cooperation is observed. Increasing international trade