



Ministry of Foreign Affairs

*Policy document*

# Human Rights – Democracy – the International Legal Order



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I The importance of human rights, democracy and the international legal order for the Netherlands within the current geopolitical context

On 24 February 2022 Russia invaded Ukraine. As the world looked on in horror, the Russian regime violated the territorial integrity of a sovereign country. Russia's aggression was accompanied by a wave of gross human rights violations and war crimes, including attacks on civilian targets, torture, sexual violence and child abduction.

Despite these flagrant violations of the international legal order and of human rights, the international community has not been unanimous in explicitly condemning these acts. Nevertheless, with the European continent again in the grip of war, the importance of a value-based system and the power of coalitions based on universal human rights has become only too apparent. The European Union and its allies – with the Netherlands playing an active role – responded to Russia's aggression with a broad package of sanctions and measures. The invasion was condemned in various UN resolutions by a large majority of countries. In addition, Russia was excluded from the UN Human Rights Council and the Council of Europe. These actions were indicative of a broad coalition's commitment to a world that functions on the basis of international agreements, rather the principle that 'might makes right'. At the same time, it must be acknowledged that this coalition is incomplete and unstable. For example, there are few countries in Asia, Africa or Latin America that are willing to take legal steps to hold Russia accountable.

Human rights, democracy (a term which in this document refers to democratic states governed by the rule of law) and the international legal order form the foundation for peaceful, inclusive and prosperous societies. Protecting and promoting human rights, democracy and the international legal order lie at the heart of the foreign policy pursued by the Kingdom of the Netherlands,<sup>1</sup> in addition to enlightened self-interest. The Netherlands benefits from a world based on democratic values. After all, countries that embrace such values are more likely to protect the international legal order and contribute to a world that respects human rights. Countries in which human rights are observed and protected are more stable, resilient and prosperous. By contrast, countries where human rights are routinely violated often have *more* violence, impunity and instability.<sup>2</sup>

In a fragmented world, coordinated multilateral cooperation is essential for the Netherlands, in order to address transnational challenges and pursue a predictable and constructive foreign policy based on Dutch values and interests.

15 | Human rights, democracy and the international legal order provide a framework for cooperation and development, and a great deal of progress has been made through this framework since the 1950s. Thanks in part to widely accepted multilateral agreements, large parts of the world have enjoyed an unprecedented period of socioeconomic prosperity and relative stability, compared to previous centuries. Positive developments in the realm of human rights, democracy and the international legal order proved to be mutually reinforcing, though not all countries endorsed this framework, and there were often major obstacles to its implementation. Progress was made around the world in the realm of human rights and democracy. Examples include the rise in the minimum age for marriage, and the declining number of countries where consensual sexual relations between people of the same sex and/or non-traditional gender identities constitute a criminal offence.

Over the past decade, however, there has been a clear negative trend on all these fronts. Human rights are under pressure around the world; democratic backsliding is becoming increasingly common, and the international legal order is being threatened by power politics and violence.<sup>3</sup> In addition, more and more countries are turning their backs on multilateral cooperation on human rights and refusing to implement ratified human rights treaties. As a result the international institutions responsible are under pressure. This trend is being fuelled by populism and the rise of autocratic leaders, who take a relativist attitude towards the importance of human rights, but also by imbalances of power in multilateral forums and criticism of double standards.

<sup>1</sup> When this document uses the term 'the Netherlands', it refers to the entire Kingdom of the Netherlands, i.e. the polity consisting of the countries of the Netherlands, Aruba, Curaçao and St Maarten. Under the Charter for the Kingdom of the Netherlands, national human rights policy is an autonomous matter for each country within the Kingdom. This means that the Caribbean countries may in certain cases pursue policies that differ slightly from the Dutch vision. It is also relevant to note that the Caribbean parts of the Kingdom are not members of the EU, and consequently do not participate in the human rights policy that is shaped and promulgated at European level.

<sup>2</sup> Human Rights Council resolution A/HRC/43/37, Universal Human Rights Index, Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict (United Nations and World Bank, 2018), Human Rights, Inclusion and Empowerment Program (World Bank Group).

<sup>3</sup> [Foreign Affairs Policy Letter | Parliamentary Papers \(in Dutch\) | Rijksoverheid.nl](#). For the broader context and background, please refer to the [Policy Framework on Global Multilateralism | Policy document | Government.nl](#)

This decline is taking place in a world in which powers that adhere to models of governance based on far-reaching control and repression are exerting an ever greater influence. At present 80% of the world's population lives in a country where fundamental freedoms and human rights are subject to increasing restrictions. 2022 was the 17th year in a row in which civil rights lost ground around the world.<sup>4</sup> Globally, civil society organisations have less and less freedom to call states and other government authorities to account. It is also becoming increasingly difficult for human rights organisations to engage in multilateral negotiations and to serve as a bridge between individuals and the government. Digital surveillance and the online dissemination of propaganda and disinformation are having a destabilising effect. These tactics are particularly popular among autocratic leaders, who use them as a tool to curb and intimidate civil society and the free media. But democratically elected governments are also increasingly employing authoritarian tactics, such as engaging in cyber surveillance and using social media to sway public opinion.

In the meantime the influence of the Netherlands and its international partners is on the decline. This makes it more difficult to promote and protect human rights, democracy and the international legal order. At critical moments, for example, the Netherlands cannot always assume that countries that once championed human rights will actually express their support in international forums. More and more, multilateral human rights instruments are being characterised as an undesirable infringement of national sovereignty. Due in part to this, cooperation within international forums like the UN is becoming more difficult, more selective and more transactional. As a result, countries like China and Russia are succeeding in undermining the observance of human rights and bending the international legal order to their will as much as possible.

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<sup>4</sup> [The Global Expansion of Authoritarian Rule | Freedom House](#)

## II Objectives of the Netherlands' policy on human rights, democracy and the international legal order

How can the Netherlands help safeguard human rights, democracy and the international legal order in the current geopolitical context? This document seeks to address that question. In order to pursue effective policy on these three themes in a changing geopolitical context, we need to adopt a fresh approach, without abandoning the Netherlands' objectives. These objectives are:

1. Protecting and promoting the observance of human rights, with a particular focus on five priorities:<sup>5</sup>
  - Equal rights for women and girls
  - Equal rights for LGBTIQ+ persons
  - Freedom of religion and belief
  - Protecting freedom of expression, online and offline
  - Protecting human rights defenders and civic space
2. Opposing democratic backsliding around the world and strengthening the rule of law
3. Promoting the development of the international legal order (in accordance with Article 90 of the Constitution)

These are government-wide objectives that encompass a variety of domains (Motion by MP Don Ceder, 32 735 no. 350). These efforts are closely bound up with the policy document on foreign trade and development cooperation,<sup>6</sup> the 2030 Agenda, the recently introduced feminist foreign policy<sup>7</sup> and the policy framework on Global Multilateralism.<sup>8</sup> Finally, in drafting this document, we made grateful use of the analysis and recommendations of the Advisory Council on International Affairs (AIV)<sup>9</sup>, and the report by the Policy and Operations Evaluation Department (IOB).<sup>10</sup>

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<sup>5</sup> The fight against impunity for the most serious crimes ('accountability') – previously designated as a sixth priority – has now been re-categorised under the theme 'international legal order'. For a more in-depth description of the Netherlands' policy efforts on these five priorities, the government would refer the reader to Annexe 1 of this policy document.

<sup>6</sup> ['Do What We Do Best' \(2022\) | Policy document | Government.nl](#)

<sup>7</sup> [Letter to the Senate on the added value for the Netherlands of a feminist foreign policy | Parliamentary Paper | Government.nl](#)

<sup>8</sup> [Policy Framework 'Global Multilateralism' | Policy document | Government.nl](#)

<sup>9</sup> [Human Rights: A Core Interest in the Current Geopolitical Context | Advisory Council on International Affairs](#)

<sup>10</sup> [Bound to Article 90: Towards a fully fledged policy on the international legal order \(in Dutch\) | Report | Rijksoverheid.nl](#)



III A fresh approach to the Netherlands' policy on human rights, democracy and the international legal order in the current geopolitical context

To pursue effective policy on human rights, democracy and the international legal order in a changing geopolitical context, we need a fresh approach. The Netherlands' plan for achieving its policy objectives is summarised in a new, five-part approach, which is described in brief below. The following section explains each part as it relates to the various objectives.

### **1 The nexus between human rights, democracy and the international legal order**

Promoting human rights, democracy and the international legal order has a greater chance of success if we pay attention to how these themes relate to each other. Democratic countries that respect the rule of law are more likely to protect human rights and contribute to a world order based on international agreements. Encouraging human rights, such as freedom of association and freedom of expression, helps foster a healthy democracy. Establishing clear international agreements and rules helps safeguard the rights of minorities and the weak in society. In order to advance the Netherlands' human rights objectives, it makes sense to invest simultaneously in tackling democratic backsliding and in the further development of the international legal order.

### **2 A dialogue of equals on the basis of a broad relationship**

The changing multilateral arena, the growing influence of autocratic leaders, and political polarisation are all factors that are complicating the dialogue between countries on issues like human rights, democracy and the international legal order. Countries that are called to account for not respecting their treaty obligations increasingly dismiss such criticism as an attack on their sovereignty. In order to engage effectively with countries on human rights, the dialogue must be conducted on the basis of a broad bilateral relationship rooted in equality. This means that the Netherlands needs to focus more on the interests and position of other parties and invest in a broad relationship with countries of the Global South, i.e. a relationship that encompasses more than simply a human rights dialogue. This requires a willingness to engage in self-reflection and to recognise the shortcomings of the Netherlands and the EU, for example by paying attention to criticism of double standards expressed by the Global South.

Working to develop a broad and equal relationship does not mean, however, that the Netherlands should close its eyes to human rights violations, democratic backsliding and violations of international law. When the situation warrants it, the Netherlands will speak out forcefully and use the means at its disposal to oppose violations of fundamental rights: we will be collaborative wherever possible and assertive wherever necessary.

### **3 Stronger partnerships with countries, coalitions and civil society organisations**

The influence exerted by the Netherlands and its traditional partners is on the decline. Consequently, we need to expand and deepen our cooperation with other countries, even if we are not in agreement on all fronts. The EU will remain the primary, central forum for cooperation. Together with their international partners, the Netherlands and the EU must work to ensure the largest possible support base for human rights, democracy and the international legal order.

More than ever, we must work to support and protect people, organisations and structures that are committed to the same goals. The Netherlands therefore aims to do even more to support the work of human rights defenders, journalists and civil society organisations.

### **4 Strengthening multilateral institutions, structures and instruments**

As noted in the recently published policy framework 'Global Multilateralism', the Netherlands is committed to building an inclusive and effective multilateral system, in part by protecting, strengthening and reforming multilateral institutions, structures and instruments. In this way, we are helping to halt the erosion of the basic principles of the international legal order and the undermining of human rights. As part of these efforts we need to take an assertive stance on initiatives aimed at restructuring multilateral cooperation.

### **5 Development of international law and norms**

With its knowledge and expertise, the Netherlands is a strong partner when it comes to the development of law on human rights, the rule of law and democracy. This is reflected, for example, in the Netherlands' active efforts to safeguard democracy and the rule of law in Europe. International law is always evolving. As a pioneer in international law, the Netherlands can make a particular difference in this area by pushing for the development of international law and norms.

# IV The Netherlands' approach to human rights, democracy and the international legal order (by theme)

## Human rights

*Human rights protect the freedom and dignity of every person. Human rights apply to all people in all places at all times regardless of sex, ethnic origin, nationality, religion or political conviction.*<sup>11</sup>

Human rights are not simply Western values, however often and forcefully anti-democratic or authoritarian regimes may attempt to argue this. The living proof of the universality of human rights is the variety of human rights treaties that have been ratified and implemented in recent years, often at the initiative of countries of the Global South. It is also clear from the human rights cooperation that goes on between many countries, and the large number of companies and organisations that have committed themselves to principles of equality and non-discrimination.

If you believe in equality, you cannot be selective about it. One group does not have more or fewer rights than another, nor does one right outweigh another. Civil, political, social, economic and cultural rights are part of a larger whole: the right of every person to achieve their full potential in freedom, equality and dignity. Obviously, there is no 'one size fits all' approach to human rights. Not all rights can be implemented everywhere with equal speed or in the same way, as also noted in the AIV's advisory report.<sup>12</sup> The recognition that cultural diversity and the course of history have an influence on the approach to human rights can advance the universal acceptance of human rights. This is not cultural relativism; the Netherlands continues to stand firm for the principle of universal and individual rights. Nevertheless, the Netherlands will always take due account of the local context in order to promote human rights as effectively as possible. The advice and the support of civil society is essential in this regard.

### **Objective I: Preventing and protecting against human rights violations, prosecuting those responsible and holding violators to account**

In pursuit of this objective the Netherlands focuses on five thematic priorities: equal rights for women and girls, equal rights for LGBTIQ+ persons, freedom of religion and belief, protecting freedom of expression, online and offline, and protecting human rights defenders and civic space.

These are themes in which the Netherlands has built up expertise, networks and an international profile. The Netherlands is also active in other areas as necessary, but the initiative and majority of our diplomatic capacity will be used for these themes in order to achieve the biggest possible impact. For a more detailed description of the Netherlands policy efforts on these five priorities, the government would refer to Annex 1.

#### **1 The nexus between human rights, democracy and the international legal order**

Human rights, democracy and the international legal order are interconnected and form the foundation of open and free societies. More than ever, the Netherlands' efforts to promote human rights will focus on strengthening civil society, especially organisations that work to monitor and influence the government. These efforts will also help strengthen a country's commitment to democracy and the rule of law. For example, through its strategic partnerships with LGBTIQ+ civil society organisations, the Netherlands works to promote the inclusion of LGBTIQ+ persons in decision-making processes and economic development programmes. This is important not only because the principle of non-discrimination requires it but also because greater diversity contributes to stable governance and healthy societies. Another example of this link is increased monitoring of compliance with judgments of the European Court of Human Rights. Besides protecting human rights, such efforts also help protect aspects of democracy and the rule of law in Europe.

#### **2 A dialogue of equals on the basis of a broad relationship**

The human rights situation differs from country to country, and the same can be said of the willingness to engage in dialogue and cooperation. This calls for a careful assessment of the suitability of the available instruments. In order to be effective, we need to adopt a differentiated approach.

<sup>11</sup> Netherlands Institute for Human Rights, with reference to the Universal Declaration of Human Rights

<sup>12</sup> [Human Rights: A Core Interest in the Current Geopolitical Context | Advisory Council on International Affairs](#)

Indignant finger-wagging alone often does not have the desired effect. We can achieve more by engaging in a dialogue of equals within the context of a broader relationship, and by listening more and talking less. We will ensure better results by considering the standpoint and interests of others alongside our own values and interests, and by looking for common ground. In this connection, we will need to decide on a case-by-case basis whether criticism or concerns can best be expressed publicly or behind closed doors, and what the best moment to do so should be.

The human rights ambassador and the special envoy for freedom of religion or belief play a major role in this regard. They will continue to call countries to account for human rights violations, but they will also be used to build bridges. Recommendations made to countries as part of the Universal Periodic Review process<sup>13</sup> can provide guidance in this regard.

Being a better listener requires the willingness to acknowledge one's own shortcomings. 'Western' countries in particular should always reflect critically on the challenges that they face in the realm of human rights and treaty compliance. This goes for the Netherlands, too; the government's recent apology to the Caribbean parts of the Kingdom and Suriname for the Netherlands' role in the history of slavery was an important example of this. Being open about one's own challenges can make third countries more willing to engage in dialogue. The Kingdom will proactively enter into dialogue with third countries and be more culturally sensitive with regard to issues that are important to the countries of the Global South. In addition, the Ministry of Foreign Affairs will pay due attention to its own challenges, in areas such as racism.

The Netherlands will also endeavour to better highlight its own contributions in the area of socioeconomic rights. For example when it comes to equal rights for women and girls, the Netherlands focuses on socioeconomic rights as well as civil and political rights. It does this through gender-specific programmes and gender diplomacy. Our feminist foreign policy, with its greater emphasis on gender equality, enhances this policy aim. In this regard the Netherlands' international efforts concerning inclusion, food security, healthcare, labour rights and education, including its activities at EU level, should be portrayed more effectively as a contribution to the human rights associated with these areas. A comprehensive approach to sustainable development and human rights, via Agenda 2030 (SDGs), is also important. Our efforts within the realm of foreign trade and development cooperation help achieve human rights goals in relation to the economy, society, sexual and reproductive health and rights (SRHR), water, raw materials and the environment.

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In addition, we need to articulate a broader and more positive human rights narrative. One way to do so is by emphasising, where necessary, the connection between human rights, on the one hand, and stability, economic development, self-determination, inclusion and respect for international law, on the other. This narrative is sorely needed as a means of counterbalancing the assertive diplomacy practised by countries like Russia and China.

Intergovernmental cooperation can be improved by supporting national human rights institutions. Resources will be made available for this purpose from the Human Rights Fund, and will be channelled through the embassies. The Netherlands will step up its cooperation with the human rights bodies of regional institutions outside Europe, such as the Organization of American States and the African Union.

If serious human rights violations have been committed, cooperation and dialogue are not always possible. The Netherlands will take assertive action against notorious human rights violators, making an extra effort when necessary. Given the current pressure on human rights it is essential to respond forcefully, both domestically and globally, whenever people's fundamental rights are restricted, for example in the realm of SRHR and equal rights for women and LGBTIQ+ persons.<sup>14</sup> This can be done publicly or through quiet diplomacy, depending on the situation. Above all, the effectiveness of such action is much greater if it is taken by a coalition of countries. The choice of a particular course of action depends not only on the willingness of the country in question to cooperate, but also on the weight accorded to the Netherlands' values and interests. In line with the AIV's advisory report, we should not be afraid to use more transactional tools, such as candidacy support policy, or ongoing commitment to human rights clauses in trade, partnership and association agreements.

<sup>13</sup> The Universal Periodic Review is an instrument of the UN Human Rights Council in which the human rights situation in a country is subjected to a review every four-and-a-half years. All other UN member states can offer recommendations to that country for improving the human rights situation there. [Basic facts about the UPR | OHCHR](#)

<sup>14</sup> [Letter to parliament on the Netherlands' efforts to promote gender equality and equal rights for LGBTI persons in the EU \(in Dutch\) | Parliamentary Paper | Rijksoverheid.nl](#)

### 3 Stronger partnerships with countries, coalitions and civil society organisations

In order to foster broader support for human rights, we need to forge new, broader partnerships. This means stepping up our cooperation with countries with which the Netherlands does not always agree, but with which we can develop a shared agenda on the basis of shared interests. This will involve more systematic and strategic outreach on human rights issues – bilaterally, via the EU and via other like-minded coalitions,<sup>15</sup> for example by working more closely with regional bodies within the United Nations, such as the African Group and the Latin American and Caribbean Group.

Obviously, this new approach – promoting equal cooperation with a more varied group of countries – does not mean we will be focusing less on our relationships with strongly like-minded partners. The impact of a shift in the Netherlands' position will be much greater if we work with these traditional partners.

We must work more than ever to support and protect people, organisations and structures dedicated to defending human rights. First of all, this means that the Netherlands will further strengthen its partnerships with civil society organisations, journalists and human rights defenders. The Netherlands will continue working to enhance the security and protection of human rights defenders. It will do so in a variety of ways, including the central Human Rights Fund grant framework Safety for Voices (2023-2027), which is investing €20 million in the online and offline security of human rights defenders and €20 million in the online and offline security of journalists. The programme, which is global in scope, can be implemented flexibly, thus ensuring that human rights defenders and journalists in need can be given support without delay.

In a world where autocratic forces and forces that undermine democracy are acquiring ever more influence, it is encouraging to see that civil society organisations and governments that value human rights are working together more frequently. Civil society organisations are also better organised than they used to be, and thanks to new technology they have more and more opportunities to bring their message to a wider public. The Netherlands will continue working with allies so as to further encourage these positive developments. Another example involves working with allies from other backgrounds, such as religious actors who have spoken out against the criminalisation of LGBTIQ+ persons, or religious actors who use dialogue to counter discrimination, extremist movements and hate speech directed at other groups (religious or otherwise). The special envoy for freedom of religion or belief and the human rights ambassador play a key role in establishing these cross-cutting connections. The Joint Initiative for Strategic Religious Action (JISRA), a strategic partnership financed by the Netherlands, also makes a major contribution to supporting interreligious dialogue and strengthening the role of religious actors in building peaceful communities.

### 4 Strengthening multilateral institutions, structures and instruments

Well-functioning human rights instruments, procedures and institutions are the heart and soul of the multilateral human rights system. They are essential for monitoring compliance with human rights. More and more countries are attempting to undermine multilateral human rights instruments, structures and institutions, or to bend them to their will in order to protect their own immediate interests. We must therefore focus more on protecting and developing these institutions, structures and instruments, so they can address present and future challenges and remain effective, independent resources for ensuring the observance of universal human rights.

The Kingdom remains fully dedicated to investing in the UN human rights forums and instruments, which are rooted in the Universal Declaration of Human Rights. The Netherlands contributes, for example, by guaranteeing reliable, long-term financing for a variety of institutions and positions, including the Office of the High Commissioner for Human Rights, UNHCR and various UN rapporteurs and experts. Together with its international partners, the Netherlands is stepping up its efforts to combat procedural efforts to undermine human rights by authoritarian and anti-democratic countries. We are working, for example, to ensure that the composition of the UN Human Rights Council is diverse and balanced, as well as to combat the use of language in resolutions that has such an undermining effect. In this connection it is important to guarantee civil society access to multilateral processes and decision-making, and to prevent government-operated NGOs (GONGOs) from torpedoing these processes and procedures. With this in mind, the Netherlands will pay particular attention to safeguarding the quality of and access to Universal Periodic Review (UPR) processes.

<sup>15</sup> Policy Framework 'Global Multilateralism' Policy document | Government.nl

In this context the Kingdom of the Netherlands will stand for a seat on the UN Human Rights Council again (for the 2024-26 term). In order to safeguard the effectiveness and integrity of this body, the Kingdom of the Netherlands advocates a system whereby candidates for the Council are required to present themselves to the UN General Assembly, and once their term has ended, they must render account for their efforts to promote human rights around the world and in their own country.

The added value of the Council of Europe (CoE) and its instruments as a touchstone for human rights, democracy and the rule of law in Europe<sup>16</sup> cannot be overstated. Although the war in Ukraine and polarisation over human rights have also made themselves felt in this forum and hindered progress, the Council of Europe remains an important benchmark for human rights for the Netherlands. The Netherlands therefore supports the European Court of Human Rights. The Netherlands continues to press for the introduction of a treaty-based obligation that would require the EU's accession to the European Convention on Human Rights.

In addition, the Netherlands is working to preserve the inclusion of human rights clauses in EU trade agreements (and other relevant treaties), raise the issue of human rights in partnership and association councils, and develop procedures to make these clauses operational.

Finally, the Netherlands is seeking to promote human rights compliance via international financial institutions (IFIs), such as the World Bank, the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB). IFIs play a major role in stimulating economic development and good governance. At the same time, there is a risk that their financing could lead to human rights violations or serious environmental damage. The Netherlands has therefore adopted an integrated approach, with an emphasis on strict environmental and human rights standards for the IFIs, centring on the principle of 'do no harm' and on accessible and effective complaint mechanisms. In order to get a good sense of the human rights implications of the IFIs and opportunities to strengthen human rights standards, the Netherlands will work with civil society organisations.

## 5 Development of international law and norms

15 | Human rights are not set in stone; they are continuously evolving. Over the past few decades new human rights have taken shape, for example the right to access to clean, safe drinking water and sanitation and the right to a clean, healthy and sustainable physical environment. There is also now greater recognition that human rights apply equally to the online world. It is in the Netherlands' interests for the multilateral human rights infrastructure to embrace new social developments and, where necessary, for its focus to be shifted or sharpened on some issues. This keeps the human rights systems up to date, effective and inclusive.

The Kingdom of the Netherlands is therefore committed to a fair and inclusive transition, and will work to reduce climate vulnerability by supporting the right to a clean, healthy and sustainable physical environment. We will also work on the further codification of human rights within the private sector, e.g. via EU due diligence legislation and monitoring and implementation of the National Action Plan on Business and Human Rights. In addition we will promote the further safeguarding of human rights in value chains, including raw material extraction, by means of international responsible business conduct legislation, policy to combat forced labour and child labour, and various voluntary agreements.

To ensure that technological and digital advances do not come at the cost of human rights, the Netherlands is focusing explicitly on promoting new international technical standards and rules for emerging digital technologies such as artificial intelligence. For more on this please see the International Cyber Strategy 2023-2028.

<sup>16</sup> With the European Convention on Human Rights as a cornerstone of the European human rights system.

## Democracy

*A system of government which is led by representatives elected by the people, and ideally a system of national and local governance in which everyone can participate, contribute and vote, freely and under equal conditions.*

The Netherlands benefits from a world based on democratic values. After all, countries that embrace these values are more likely to protect the international legal order and contribute to a world that functions on the basis of agreements, rather than the principle that ‘might makes right’. The same applies to the EU, which can only function effectively if its member states respect democracy and the rule of law. Only then can EU law be applied uniformly and effectively, and only then can there be mutual trust between member states. In addition, well-functioning democracies are essential to creating a long-term approach to cyberattacks, terrorism and transnational crime that undermines society – problems that also affect the Netherlands.

### Objective II: Fighting democratic backsliding and strengthening the rule of law

#### 1 The nexus between human rights, democracy and the international legal order

For a well-functioning democratic legal order, human rights like freedom of association and freedom of expression are of vital importance. These rights offer a guarantee for the existence and efficacy of political movements, and they also create scope for civil society more broadly, which has an advisory and oversight role in relation to the government. These fundamental rights also cover the right to demonstrate. The prevention of democratic backsliding goes hand in hand with protecting human rights and the international agreements that have been concluded on this subject. In its dialogue with countries where democratic backsliding is occurring, the Netherlands will focus more on the importance of freedom of expression, for example. Using the Human Rights Fund it will finance projects in those countries to promote those human rights in particular that contribute to democratic space.

#### 2 A dialogue of equals on the basis of a broad relationship

Even in countries where democratic backsliding is occurring or where a non-democratic system of government is in place, it may nonetheless be acknowledged that good governance leads to economic development and better living conditions. With that as a point of departure, there is scope for engaging in a different kind of dialogue and identifying common ground where cooperation is possible. A well-functioning democracy is not only desirable from the perspective of equal participation in public decision-making processes, but also for the purpose of fighting corruption and delivering promised services to the public.

In order to tackle democratic backsliding, the Netherlands will actively work to improve bilateral cooperation in the justice sector (for example by means of knowledge exchange between judges and public prosecutors). At country level, especially in fragile contexts, the Netherlands is involved in developing the rule of law and improving access to justice, through both bilateral and multilateral programmes. In addition to providing ‘traditional’ support, i.e. reinforcing justice institutions, the Netherlands also seeks to help vulnerable groups gain access to justice. To this end the Netherlands pursues a people-centred approach, which prioritises the needs and priorities of individuals.<sup>17</sup>

The Netherlands takes account of countervailing forces that are actively seeking to undermine the rule of law. International organised crime and large-scale corruption undermine public trust in the government. Democracies like the Netherlands must defend themselves against such forces. They must also resist undesirable foreign interference. The Netherlands does this, for example, by calling third countries to account for undesirable forms of interference in diaspora communities in the Netherlands.<sup>18</sup>

As stated above, cooperation with civil society is an important way of improving the human rights situation in a country and calling governments to account. However, in order to combat democratic backsliding, it is also important to work with government bodies, such as human rights institutions, audit offices, the judiciary and ombudsmen. The Human Rights Fund will be made available for this purpose through the network of missions. This form of cooperation not only strengthens institutions that are needed for a democracy to function; it also offers opportunities for engaging in dialogue with the government of the country in question about shared values and interests.

<sup>17</sup> The House of Representatives is regularly updated on this topic, for example via an annual report on the results of the Netherlands’ development cooperation efforts, and by means of a dedicated budget indicator for ‘access to justice’.

<sup>18</sup> See also [Threat Assessment on State-Sponsored Actors \(TASA 2\)](#) | Publication | General Intelligence and Security Service (AIVD)



The Netherlands uses its Fund for Regional Partnerships (NFRP) for Eastern and Southeastern Europe and the Middle East and North Africa specifically. This fund supports the development of the rule of law, good governance and democracy. The programme consists of three parts:

- The Matra programme supports EU candidate countries (and potential candidate countries) and the countries of the Eastern Partnership in achieving social transformation.
- The Shiraka programme supports social change in the Middle East and North Africa.
- The Political Parties Programme seeks to establish lasting cooperative relationships centred on strengthening the rule of law, good governance and democracy, by twinning Dutch political parties with parties in target countries.

### 3 Stronger partnerships with countries, coalitions and civil society organisations

The Netherlands aims to work more closely with countries that are seen as exemplary democracies or countries where the democratic backsliding that has occurred is still reversible. This is not to say that the Netherlands cannot work with or maintain bilateral relations with autocratic countries, or that countries must be forced to make a choice between two systems. Here, too, the Netherlands will work on the principle of equal cooperation within broader bilateral relationships. By stepping up our cooperation with countries, including those that do not always share the same values, we expect to create better conditions for cooperation at multilateral level and for dialogue on sensitive human rights issues.

The Netherlands works mainly via the EU to combat democratic backsliding. It takes its cue in this regard from the EU Action Plan on Human Rights and Democracy 2020-2024.<sup>19</sup> In international forums, too, the Netherlands works to strengthen electoral processes. In addition to observing elections, this includes strengthening the capacity of bodies like election committees, and performing monitoring activities. Within the Organization for Security and Co-operation in Europe (OSCE), the Netherlands works with the Office for Democratic Institutions and Human Rights (ODIHR) to carry out election missions and capacity building in relation to elections. The Principles of Democracy adopted at the Council of Europe Summit of Heads of State and Government in Reykjavik (May 2023) can serve as a set of guidelines for combating democratic backsliding. The Summit for Democracy, a US initiative, is another platform for upholding democratic values through international cooperation. The Netherlands is closely involved in this initiative, and acted as regional host for the second edition of the summit, whose theme was media freedom.

Democracies cannot survive and thrive without free, independent and pluralistic media. The Netherlands works to promote media freedom, including a diverse, open and pluralistic media landscape. We do this at bilateral and multilateral level, through our embassies, international coalitions and the Human Rights Fund. Some of our important partners in this connection include OHCHR, UNESCO and the OSCE. The Media Freedom Coalition, which includes countries from all parts of the world, offers a podium that enables its members to keep this theme high on the political and diplomatic agenda.

The Netherlands seeks to strengthen civil society organisations because they effectively defend individual rights and interests in many countries. The Netherlands supports civil society organisations in areas such as climate adaptation, food security, women's and LGBTIQ+ rights, SRHR, the rights of religious and other minorities, and security and the rule of law.<sup>20</sup> Since January 2021 the Dutch government has been working with national and international civil society organisations in 42 strategic partnerships, seeking to influence policy in all these areas. Increasingly, this fosters strong local organisations that lobby their own government and businesses.

Strengthening the rule of law is also a key element of the Netherlands' foreign trade and development cooperation policy. An example of this is the Dutch contribution to the Justice Action Coalition. This coalition brings together governmental and non-governmental actors at national and international level for the purpose of closing the global justice gap through enhanced international cooperation on the use of data and knowledge, and through dedicated projects.<sup>21</sup>

<sup>19</sup> [EU Action Plan on Human Rights and Democracy, 2020-2024.pdf \(europa.eu\)](#)

<sup>20</sup> [Policy framework for strengthening civil society](#)

<sup>21</sup> [Pathfinders for Justice | Justice Action Coalition \(sdg16.plus\)](#)

The Netherlands is stepping up its cooperation with other countries in order to address crime that undermines society.<sup>22</sup> A concrete example of this is the Netherlands' contribution to the Europe Latin America Programme of Assistance against Transnational Organised Crime, a programme that promotes capacity-building and cooperation in the justice and security sector in order to fight cross-border crime that undermines society. Various EU member states and countries in Latin American and the Caribbean take part in this programme.<sup>23</sup>

#### 4 Strengthening multilateral institutions, structures and instruments

In various EU countries the very foundations of democracy and the rule of law are under pressure. In order to operate effectively and credibly in the international domain, it is vital that the EU itself acts in accordance with established democratic values and norms. Together with other like-minded countries, the Netherlands will continue to urge the EU to take proactive, consistent and effective measures to protect the values of the Union. This commitment is reflected first and foremost in our active efforts to safeguard democracy and the rule of law in the European Union. If the EU is to enter into an honest dialogue about the state of human rights, democracy and the rule of law, it – like the Netherlands – must engage in self-reflection. The better the EU performs and the more it demonstrates awareness of its own challenges and shortcomings, the more credible it will be to the rest of the world. This is an additional motivation for the Netherlands to promote the effective use of EU instruments designed to ensure compliance with rule-of-law norms and democratic values in the European Union, including the Article 7 procedure and the Rule of Law Review Cycle.<sup>24</sup> With this goal in mind, in 2022 the Netherlands, in accordance with the motion by MPs Kati Piri and Tom van der Lee, also stepped up its support for organisations dedicated to strengthening the rule of law in EU countries where concerns exist in this area. This support will be continued.<sup>25</sup>

#### 5 Development of international law and norms

The development of international law and norms with regard to the functioning of democracies governed by the rule of law generally takes place through the advancement of the treaty system and the norm-setting work of the Council of Europe.

In addition, the Netherlands is increasingly focusing on the development of international law and norms as they relate to tackling disinformation. Access to fact-based and fact-checked information is essential to a democracy. At the same time, vigilance is necessary: in many countries a crackdown on disinformation is leading to censorship and restrictive legislation that is often deliberately designed to curtail freedom of expression. At the UN General Assembly, the Netherlands teamed up with Canada to advocate a set of international 'rules of the road' for combating disinformation.

In tackling disinformation the Netherlands works mainly via the EU, both internally and externally. Our approach to disinformation is part of a broader range of EU efforts to promote democratic participation, as stated in the European Democracy Action Plan.<sup>26</sup> The Netherlands is actively helping to strengthen European cooperation in this area, for example by means of a European Media Freedom Act.<sup>27</sup> The establishment of norms in a UN framework, such as the Human Rights Council resolution (initiated by the Netherlands) on the importance of access to information and digital literacy, can be seen in this light as well.

<sup>22</sup> International approach to crime that undermines society | Government.nl.

<sup>23</sup> Europe Latin America Programme of Assistance against Transnational Organised Crime, <https://www.elpaccto.eu/en>.

<sup>24</sup> Article 7 of the Treaty on European Union (TEU) enables the EU institutions to monitor compliance with the values of the Union as laid down in Article 2 TEU, including the rule of law.

<sup>25</sup> <https://zoek.officielebekendmakingen.nl/kst-35925-V-34.html>

<sup>26</sup> [https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/european-democracy-action-plan\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/european-democracy-action-plan_en)

<sup>27</sup> [fiche-2-europese-media-vrijheid-verordening-en-aanbeveling-redactionele-onafhankelijkheid-en-transparantie-mediaeigendom.pdf](https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/european-democracy-action-plan_en#fiche-2-europese-media-vrijheid-verordening-en-aanbeveling-redactionele-onafhankelijkheid-en-transparantie-mediaeigendom.pdf) ([overheid.nl](https://overheid.nl))

## The international legal order

*The system of norms and agreements aimed at promoting international peace and security*

In a fragmented world, coordinated multilateral cooperation is essential for the Netherlands in order to address transnational challenges and pursue a predictable and constructive foreign policy. This is why the Netherlands is working to strengthen the rules-based international order.<sup>28</sup> The Netherlands contributes to the development of rules that embody the international legal order, and pushes for compliance with existing rules.<sup>29</sup>

In doing so the Netherlands is guided by its conviction that national sovereignty cannot override every other principle. The Netherlands has a long tradition of promoting international law, stretching from Hugo Grotius's *Mare Liberum* to its current role as host to numerous legal institutions, including the International Court of Justice – the only one of the UN's main bodies not located in New York – and the International Criminal Court. The Netherlands is home to a trove of legal knowledge, and as the city of peace and justice The Hague plays a key role in the international administration of justice.

**Objective III: Promoting the development of the international legal order (in accordance with Article 90 of the Constitution)**

### 1 The nexus between human rights, democracy and the international legal order

This policy letter adopts the recommendations given in the aforementioned IOB report on the need for a fully fledged policy on the international legal order. Whereas the IOB concluded that activities to promote the international legal order had thus far too often taken place on an ad hoc basis, this document aims to provide a solid foundation for policy related to the international legal order. The combined approach between this policy and human rights policy, which has been enshrined in policy documents since 1979, further highlights the relevance of human rights – alongside numerous other themes – to the further development of the international legal order.

Serious and large-scale human rights violations and international crimes like aggression, war crimes, crimes against humanity and genocide cannot be allowed to go unpunished. By calling the perpetrators of the most serious violations of international law to account and combating impunity, the Netherlands contributes to the effective functioning of the international legal order, observance of human rights and redress for victims.

The practice of calling both countries and individuals to account is perfectly in keeping with Dutch policy to promote accountability. 'Accountability' is interpreted broadly in this connection, encompassing not only the act of holding states responsible but also efforts to combat impunity for individual perpetrators of grave human rights violations and international crimes.

Dutch efforts in this area include documenting evidence, investigating and prosecuting individuals, and gathering international support for holding states responsible for their actions. It is crucial that these not be limited to one-off initiatives. The responsibility for investigating and prosecuting the perpetrators of international crimes rests primarily with individual states. If states are unable or unwilling to bear this responsibility, international intervention is possible as a last resort to safeguard the international legal order.

The pursuit of accountability has evolved significantly in recent years, and the Netherlands plays an active leadership role in this regard. One aim of the Netherlands' efforts is to help victims achieve justice. With this in mind, the Netherlands listens as much as possible to the victims and survivors themselves, and to their interpretation of the concept of 'accountability'.

<sup>28</sup> This ambition is enshrined in Article 90 of the Dutch Constitution: 'The Government shall promote the development of the international legal order.'

<sup>29</sup> Protecting the international legal order and stability is also one of the main tasks of the Ministry of Defence. The scope of this policy letter is, however, limited to the rules and treaties that make up the international legal order, and the legal observance of those rules and treaties.

The Netherlands plays a leading role in the pursuit of accountability in Ukraine. On 14 July 2022 the Netherlands, in collaboration with the EU and the International Criminal Court, hosted the Ukraine Accountability Conference, where over €20 million was pledged in support of accountability in Ukraine and where 14 countries announced their intention to send experts (including forensic experts) to the ICC and/or the Ukrainian Prosecutor-General. In addition, 45 countries have committed themselves to establishing a Dialogue Group, which seeks to promote coordination between states and international organisations involved in investigating and prosecuting international crimes committed in Ukraine. This Dialogue Group was established in March 2023 by the Netherlands, Ukraine, the ICC, the European Commission and Eurojust, and is currently being further operationalised. Two forensic and investigation teams have been sent to Ukraine under the flag of the ICC. A third and fourth mission will follow in 2023. The Netherlands will host an International Centre for the Prosecution of the Crime of Aggression (ICPA). The centre will be staffed mostly by Ukrainian law enforcement authorities that are investigating the crime of aggression. The ICPA will fall under Eurojust, where it will be closely connected to the multi-country Joint Investigation Team (JIT), which is already part of Eurojust. Discussions are also under way on establishing a special tribunal in The Hague<sup>30</sup> to try the individuals responsible for Russian aggression in Ukraine. The Netherlands has expressed its support for this plan, provided there is broad political and financial support for it and that such a tribunal does not compromise the work of the ICC. The Netherlands is also the host of the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine, which was established on 17 May at the Council of Europe Summit in Reykjavik. The above is consistent with the leading role the Netherlands has pledged to play<sup>31</sup> in relation to point 7 (restoration of justice) of the 10-point peace plan put forward by the Ukrainian president, Volodymyr Zelenskyy.

## 2 A dialogue of equals on the basis of a broad relationship

Binding international law always takes precedence over national law. States must structure their national legal order in such a way that they can comply with their international obligations.

International law is pre-eminently an area that lends itself to a dialogue of equals, including with countries with which the Netherlands has differences, political and otherwise. The common denominator is, after all, the rules of international law, which apply equally to everyone and are known to all. Here, too, however, the war in Ukraine is a grim illustration of the limitations of international law and existing mechanisms. In the absence of any enforcement authority, a country, and particularly a permanent member of the Security Council, can flagrantly violate international law without being corrected. The Netherlands is committed to addressing these gaps in international law wherever possible, for example by working to establish a tribunal devoted to the crime of aggression, as noted above.

## 3 Stronger partnerships with countries, coalitions and civil society organisations

The development of the international legal order in particular requires broad coalitions that include parties in addition to our traditional partners. After all, this is an area not yet covered by international consensus, and therefore an area where global partnerships need to be forged with a view to taking international law a step further.

Giving NGOs the space they need to do their work is an important way of promoting international law and thus the international legal order. Experience has taught us that NGOs and scholarship often point the way forward when it comes to the development of international law. Creating space for these actors – something which can not always be taken for granted in multilateral forums – is fully in keeping with the Netherlands' policy priority of supporting human rights defenders. That said, we do need to look beyond 'the usual suspects' and give organisations that find themselves in dire straits a chance to make themselves heard.

## 4 Strengthening multilateral institutions, structures and instruments

The international legal order can only function if rules are followed. Multilateral organisations and institutions play a crucial role in monitoring compliance with international law and in fighting impunity. As the host country of the highest judicial authority for the interpretation of international law (the International Court of Justice), the International Criminal Court and other international law bodies, the Netherlands is well aware of the fundamental role played by these institutions within the international legal order. The Netherlands therefore gives political and financial support to international courts and tribunals, in order to strengthen and safeguard their position. The Netherlands also develops

<sup>30</sup> Motion 21 501-20, no. 1841 – MP Sjoerd Sjoerdsma et al. on a special tribunal for trying individuals responsible for the Russian aggression in Ukraine.

<sup>31</sup> Motion 21 501-20, no. 1877 – MP Sjoerd Sjoerdsma on being the lead nation in restoring justice in Ukraine and informing the Ukrainian government of this role.

initiatives to improve the organisation and procedures of the courts and tribunals, for example when it comes to the composition of the courts (e.g. gender balance and regional representation). In addition the Netherlands will continue to offer support to international law bodies based abroad, such as the European Court of Human Rights (ECtHR). The Netherlands also focuses specifically on two thematic priorities: accountability for the use of hunger as a weapon of war and conflict-related sexual violence.

Moreover it recognises the value of sanctions regimes (including those intended to address human rights violations), if they can improve compliance with international rules. The Netherlands aims to play a strong, proactive role in the creation and development of EU sanctions instruments. In addition to sanctions imposed directly by the UN Security Council, the European Union has the ability to impose sanctions of its own. These sanction regimes can be geographical in nature (e.g. with regard to Myanmar, Venezuela, Iran or Russia) or horizontal/thematic (cybersecurity or human rights).

## **5 Development of international law and norms**

International law continues to evolve. Thanks to its long tradition and expertise in international law, the Netherlands is able to play a leading role in this area, for example in the UN General Assembly or Human Rights Council. Where necessary, the Netherlands will initiate new bilateral and multilateral treaties.

The Netherlands' efforts to develop international rules take a variety of forms. For example, together with Argentina, Belgium, Mongolia, Senegal and Slovenia, we are pressing for a Multilateral Treaty for Mutual Legal Assistance and Extradition in Domestic Prosecution of Atrocity Crimes. Another key topic is combating large-scale corruption by public officials (kleptocracy). In November 2022 the Netherlands, together with Canada and Ecuador, organised a High-Level Roundtable, in which a broad group of countries discussed ways of enhancing efforts to tackle large-scale corruption in the years ahead, for example by establishing an anti-corruption court. The Netherlands also supports opening negotiations within the UN on a treaty concerning crimes against humanity, and it actively takes part in international efforts aimed at the responsible development and use of autonomous weapons systems. Finally, the Netherlands contributes to responsible state conduct in cyberspace, as set out in the International Cyber Strategy, 2023-2028.

# V Conclusion

Human rights, democracy and the international legal order are under increasing pressure. At the same time, the Russian invasion of Ukraine and the gross human rights violations occurring in Iran, Afghanistan and many other places in the world show the importance of respect for human rights, democracy and the rules-based international legal order for more stable, resilient and prosperous societies.

In order to continue pursuing effective policy on human rights, democracy and the international legal order in a changing geopolitical context, we need a fresh approach. Promoting human rights, democracy and the international legal order has a greater chance of success when we pay attention to how these themes relate to each other. Democratic countries that respect the rule of law have a greater tendency to protect human rights and contribute to a world order that functions on the basis of agreements and cooperation.

Although the influence exerted by the Netherlands and its traditional partners is on the decline, there is still global scope to collaborate on these important themes. This means however that the Netherlands needs to invest in new, broader partnerships, which must be formed on the basis of equality. It must also be willing to work on issues that matter to other countries. The Netherlands will continue to seek out areas of common ground that lend themselves to cooperation, looking beyond the like-minded countries and organisations that are our traditional partners. In this connection we acknowledge that not all rights can be implemented everywhere at the same pace. Taking account of cultural sensitivities and a broader human rights narrative will contribute to the universal acceptance of human rights. The matter of whether public or quiet diplomacy is the more effective approach will differ from case to case. The choice of a particular course of action depends not only on the willingness of the country in question to cooperate, but also on the weight accorded to the Netherlands' different values and interests.

At the same time the Netherlands will have to focus more than ever before on strengthening organisations, institutions, structures and instruments that protect democracy, human rights and the international legal order. The Netherlands must also use its own expertise and knowledge of the development of law on human rights, democracy and the international legal order in order to update existing international agreements and rules. This will ensure that our support for human rights, democracy and the international legal order remains as strong as possible, and the Netherlands will benefit from the resulting stability and economic development.

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Whenever fundamental rights are at risk or gross human rights violations are occurring, the Netherlands will continue to take assertive action, together with its partners. For example, in areas like SRHR, women's rights and equal rights for LGBTIQ+ persons, which are increasingly being targeted by populist, anti-democratic and authoritarian forces. The Netherlands will continue to support allies on the frontline of the global rollback of human rights. Human rights defenders, journalists and other members of the media protect the foundations of democracy and a world based on rules and cooperation. They can count on steadfast Dutch support in an era in which populists, autocrats and undermining forces increasingly favour the interests of the few instead of equal rights for all.

More and more is being asked of us, in a world in which the Netherlands and its partners exert less and less control. The dilemmas facing countries that promote human rights, democracy and the international legal order are becoming more complex. This requires a careful assessment of our different values and interests. At the same time, it should be remembered that it is not simply the Netherlands and its traditional partners, but rather a broad coalition of countries that stand to benefit from a world that functions on the basis of agreements instead of the principle that 'might makes right'. Whenever wars break out or crises arise, individuals, organisations, government bodies and companies yearn for predictability and agreements in order to make lives of human dignity possible. Over the past 75 years, democratic governance models, respect for human rights and the international legal order have demonstrably contributed to economic development, stability and improved standards of living for people around the world. In the multipolar world with which the Netherlands must engage in protecting the rights and interests of its people, human rights, democracy and the international legal order offer the most inclusive and effective framework in which to do so.

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