The Iran War and the Dutch Retreat from International Law

Without International Law as a Compass, the Netherlands Is Adrift in the Fog of a New World Order

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On 2 March, the Netherlands' new Minister of Foreign Affairs, Tom Berendsen, stated that he could have "understanding" for the American and Israeli attacks on Iran. When asked whether those attacks were contrary to international law, he replied: "That is not for me to assess." He added: "This Government considers international law important," but "at the same time, I also want to be honest that international law is not the only framework that you can apply to this situation. You must also be realistic given the murderous nature of the regime in Iran." According to the minister, we must thus pursue a more realistic course in which there is only limited room for international law. Ultimately, he said, it is about the "Dutch interest abroad," while we are "sailing through the fog of the new world order." Such a relativization of international law, and its selective application, is troubling, not only from a moral perspective, but above all from a constitutional one.

Article 90: A Constitutional Mandate

Article 90 of the Dutch Constitution obliges the Netherlands Government to "promote the development of the international legal order." This is not a political preference; it is a constitutional mandate.

During the constitutional revision of 1983, the government initially proposed deleting this provision. Strong resistance emerged from several political parties, including the Christian Democratic Appeal (CDA), which is a Christian democratic and conservative political party in the Netherlands, and the People's Party for Freedom and Democracy ('Volkspartij voor Vrijheid en Democratie', VVD), a center-right conservative-liberal political party. Members of the CDA parliamentary group argued that the provision "had gained greatly in significance as a result of the international struggle, strongly supported by the Netherlands, in favor of human rights in the broadest sense of the word." Members of the VVD argued that "maintaining such a provision would once again clearly demonstrate the great value that our country wishes to attach to an international order based on universally applicable legal norms."

Prime Minister Dries van Agt (CDA), Minister of the Interior Hans Wiegel and Minister of Foreign Affairs Chris van der Klaauw (both VVD) ultimately accepted these objections. They wrote:

> *"Upon further consideration we believe we must accommodate these objections. In the effort to clarify and shorten the existing constitutional provisions on foreign relations, it is not appropriate to leave any room for the misunderstanding, nationally or internationally, that the tradition of the Netherlands to cooperate in promoting the international legal order would not be continued. We agree with the view that for this reason an explicit constitutional provision deserves preference."*

Article 90 was therefore retained. The ministers further clarified that "the concept 'international legal order' should be understood in the broad sense of an international order based on universally applicable legal norms." They elaborated as follows:

> *"In our view, durable international peace [...] is linked to the establishment of an international*

legal order. Since the Second World War, the Government has repeatedly expressed the conviction that an international system of fully sovereign states no longer fits the problems with which the present world is confronted and that it is therefore desirable to transform this system into a new world order in which national interests can, where necessary, be subordinated to more comprehensive interests. The provision incorporated in the Constitution in 1953 concerning the promotion of the development of the international legal order, against the background of this conviction (which is widely shared in our country), therefore primarily expresses that in the Dutch constitutional order national sovereignty is not regarded as an absolute norm. At the same time, in our opinion, striving for an international order based on universally applicable legal norms also includes promoting the universal realization of human rights, in the broadest sense of the word, that is to say both civil and political rights as well as economic, social and cultural rights. On that basis, the promotion of the welfare of the world population may also be understood to fall within it. We therefore believe that by maintaining [Article 90 of the Constitution] it is also expressed that global solidarity [...] is a permanent objective of government policy."

A Warning from the Advisory Council on International Affairs

In recent years, the Netherlands Government appears to have taken this constitutional duty less seriously. The Advisory Council on International Affairs (AIV) observed as much in its advisory letter of 23 October 2024, calling for a more active Dutch commitment to promoting and ensuring compliance with international law in the Israeli–Palestinian conflict. The AIV noted:

"The Netherlands has, over the course of its history, built a reputation when it comes to issues of international law. As the host country of the ICJ and the ICC, the Netherlands is also expected to play an active role in promoting and complying with international law. This role is also enshrined in our Constitution, the underlying rationale being that this is also a matter of direct concern to the Netherlands."

The AIV also warned against "double standards":

"The AIV would underscore the risks associated with applying double standards in promoting respect for human rights and compliance with international law in general. The inconsistent invocation and application of rules of international law contribute significantly to the undermining and politicization of that body of law, and undercut the overarching idea that international law applies, and is applied equally, to all states. Over the past year, inconsistency in the invocation and application of international law by Europe and European states has been repeatedly raised in the international political arena, including by UN Secretary-General António Guterres. The efforts that the Netherlands and Europe have made to create accountability mechanisms in the war in Ukraine, for example, find no equivalent when it comes to the Israeli-Palestinian conflict. Unbalanced enforcement fuels anti-Europeanism and anti-Americanism in many countries of the Global South."

The Maduro Abduction and Dutch Silence

Let us look at the most recent developments. Former Minister of Foreign Affairs David van Weel (VVD) refused to condemn the violent abduction of the Venezuelan president Nicolás Maduro by the United States, the unlawfulness of which is evident. Don Ceder (Member of Parliament of the ChristenUnie), during a consultation of 8 January 2026, put the following question to the Minister of Foreign Affairs:

"My question is what it means for Article 90 [of the Constitution] that we are called upon to promote the international legal order. Does that legal order still exist? What does promoting it look like according to the minister?"

The answer of Minister Van Weel was as follows:

> *"There is a difference between promoting, making statements and judging; and there is also a difference in the way in which you do it. I see myself as a realpolitiker, in the sense that I look at the world as it is and not necessarily at the world as I would like it to be. Within the world as it is, I look at how I can make a difference in order to bring the world a little closer to how I would like the world to be. That very often requires diplomacy behind the scenes. That very often requires acting together with others, so as not to stand alone and thereby reduce your impact. By definition, that comes across as less spectacular [than making public statements], but I do believe that with my tangible contribution I do indeed fulfil the promise of Article 90 [of the Constitution]. With full conviction."*

The minister thus argued that as a realist within the existing world order he could achieve more through diplomacy behind the scenes than through public condemnations. A realpolitik interpretation that primarily focuses on quiet diplomacy and the direct national interest, in my view, sits uneasily with the idealistic-cosmopolitan vision that underlies Article 90 of the Constitution.

The Iran War and Dutch "Realism"

His successor, Tom Berendsen (CDA), goes one step further by emphasizing that applying only the international legal framework is not realistic when dealing with a murderous regime such as that of Iran. When responding to questions in the Dutch Parliament on 3 March, he emphasized once again that:

> *"[…] this Government stands for international law. We want to promote the international legal order, and we will do everything we can to use our position in the world to ensure that we have a world order based on international law. At the same time, we must be realistic. We see that international law as we envision it is being pushed aside by various major powers. And we will have to have a discussion together about how we as the Netherlands will navigate within that new world order in the future. At the same time, I continue to state that given the maliciousness of the Iranian regime the Netherlands Government has understanding that Israel and the US felt compelled to intervene."*

It is difficult to reconcile this approach, in which the relevance of international law is explicitly called into question and in which a selective application of it is advocated, with the constitutional duty under Article 90 of the Constitution, which requires that the Netherlands present itself as a defender of the international legal order – especially when this is difficult to do.

Conclusion

The fundamental question is therefore straightforward: does international law remain the foundation of Dutch foreign policy, or has it become merely one decision-making framework among many others? The Netherlands' Constitution leaves little room for ambiguity. It would be welcome if today's political leaders in the Netherlands drew renewed inspiration from the constitutional idealism articulated by their predecessors.

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