

Letter to the House of Representatives from the Minister of Foreign Affairs presenting the government's response to AIV advisory report no. 122, 'Human Rights: A Core Interest in the Current Geopolitical Context'

Please find below the government's response to advisory report no. 122 of the Advisory Council on International Affairs (AIV), entitled 'Human Rights: A Core Interest in the Current Geopolitical Context', which was published on 28 June 2022. The government is grateful for this in-depth report and wishes to express its appreciation for the AIV's analysis and clear recommendations, which provide an excellent foundation for the government's policy document on Human Rights, Democracy and the International Legal Order. The government will elaborate on its specific objectives and choices in this policy document, which will be presented to the House of Representatives before the end of the year, as announced in the Letter of 8 March 2022 from the Minister of Foreign Affairs to the House of Representatives on foreign policy. The present response will address the AIV's points and recommendations in general terms.

The government agrees with the AIV's analysis that human rights are not just a worthy ideal but also a matter of enlightened self-interest, in that they form a vital link between democracy and the rule of law, on the one hand, and international security, on the other. As a result of shifts in the global balance of power and the rise of autocratic tendencies and regimes, democracy, the rule of law and human rights are under pressure. At the same time, it is important to take account of the diminished global influence of the Netherlands and our partner countries. The UN Human Rights Council's recent vote rejecting a procedural resolution on human rights in China is a painful illustration of this new reality. As the AIV rightly points out, this harsh reality inevitably calls for an adjustment of foreign policy, including human rights policy. Effectiveness is a key guiding principle in this regard. In a policy document that will be presented to the House of Representatives before the end of the year, the government will set out how it intends to pursue an effective human rights policy in this changing world.

Below you will find an assessment of each of the recommendations in the AIV's advisory report.

- Recommendation 1 – Defend the preservation of the rule of law, democracy and human rights without reservation.

The AIV rightly notes that the Netherlands has made the protection of fundamental rights and human rights the cornerstone of its own legal order and foreign policy. As announced in the aforementioned policy letter on foreign affairs, the government intends to submit to the House a policy document clarifying the relationship between human rights, democracy and the international legal order, as well as the Netherlands' efforts in this area. Human rights, democracy and the international legal order are closely intertwined and are a key foundation stone of stable and prosperous societies. Where possible, the government will work to link these core values to security, sustainable development and the environment.

- Recommendation 2 – Continue to place the core principles of human rights as defined at international level – human dignity, universality, equality/non-discrimination and indivisibility – at the heart of foreign policy. These principles also encompass the precepts of freedom and the fight against impunity and corruption.
- Recommendation 3 – Stop distinguishing between different categories of rights.

The forthcoming policy document on Human Rights, Democracy and the International Legal Order will centre on the fundamental principles of human rights, such as human dignity, universality and the principle of equality. Moreover, rather than distinguishing between different categories of rights, the government will focus its efforts chiefly on protecting and developing human rights and the associated instruments and institutions, including by contributing to the development of new international law. The AIV rightly states that not all rights are implemented equally quickly or in the same way in all situations. In line with the AIV's recommendations, it therefore makes sense to endorse whatever approach is supported in each context, for example by civil society or other actors, and to be flexible in this regard. This will also increase opportunities for cooperation with countries that are actively seeking to improve the national and international human rights situation. However, as set out in the coalition agreement and in keeping with its forthcoming feminist foreign policy, the government will continue to devote special attention, across the entire

human rights spectrum, to equal rights for women and girls, equal rights for LGBTIQ+ persons, freedom of religion and belief, protecting freedom of expression (both online and offline), and protecting human rights defenders and civic space. The policy document on Human Rights, Democracy and the International Legal Order will also pay special attention to fighting flagrant corruption and kleptocracy, for example by strengthening anti-corruption instruments in cooperation with international partners.

- Recommendation 4 – Proactively defend and protect the national and international human rights infrastructure. Use the formal and informal checks and balances contained within this infrastructure to increase the effectiveness of human rights over time.

The AIV notes that policy should focus not only on the absence of human rights violations but also on ensuring the existence of an adequate constitutional, political and social infrastructure designed to prevent and remedy such violations. The government's new policy will seek to promote the observance of universal human rights, with a special focus on protecting and developing human rights and the associated instruments and institutions, including by contributing to the development of new international law. In line with the advisory report, the government will work to counter attempts by other states to procedurally undermine the independence and effectiveness of human rights infrastructure, ensuring that civil society has effective access to this infrastructure and guaranteeing adequate long-term funding to support its functioning. In addition, the government will work to prevent and protect against human rights violations, prosecuting those responsible and holding violators to account. In this context, it is important to strengthen and support various countries' national institutions that are committed to protecting human rights. This applies both to state institutions (an independent judiciary and effective national human rights institutions) and to social watchdogs – from free media to human rights defenders and human rights organisations, that is, a robust civil society.

- Recommendation 5 – Make human rights an explicit part of other global policy areas and narratives, such as the Sustainable Development Goals, climate, the environment, migration and social media. Operationalise human rights policy through a government-wide, cross-sectoral approach and through human rights education.

As the AIV noted in its 2019 advisory report on the Sustainable Development Goals (SDGs) and human rights, the SDG agenda provides a global framework for a coherent (comprehensive) approach to sustainable development and human rights. Reaching the SDGs can also help achieve many economic, social and environmental human rights goals. One of the main objectives of Dutch development cooperation policy, as set out in the policy document on Foreign Trade and Development Cooperation: 'Do What We Do Best', is to achieve the SDGs. The forthcoming policy document on Human Rights, Democracy and the International Legal Order will contribute to this objective by prioritising the protection and development of human rights instruments and the development of new international law. In this way, it will safeguard the existence of the entire spectrum of human rights, including civil and political rights and socioeconomic and other rights, fostering compliance with the associated legal obligations, not least in the areas of monitoring and enforcement. The policy document will be coordinated at interministerial level and will be implemented by means of a government-wide effort.

- Recommendation 6 – Actively build new (and shifting) coalitions with like-minded countries and civil society partnerships – both within and outside Europe – based on shared values and interests.

As the AIV correctly notes, the international community is more diverse than ever. In order to embed human rights and human rights protection more firmly in the international legal order, it is necessary to invest in new partnerships with like-minded countries and with actors other than states. The government would add that this should apply not only to like-minded countries: it is equally important to enter into a dialogue and search for areas of common ground with countries that do not share our views. This pluralism can itself be used to strengthen Dutch human rights policy. In this regard, it is important to prioritise equal dialogue over mere finger-wagging, especially in bilateral relations.

The government intends to follow the AIV's recommendation to take advantage of the new opportunities offered by many of today's societies to support and promote bottom-up efforts in the

area of human rights and human rights protection, both when working with civil society organisations and businesses, on the one hand, and when working with national human rights institutions, the judiciary, religious and other belief-related organisations, and media organisations and journalists, on the other.

- Recommendation 7 – Use and promote new international and EU instruments to protect human rights and sanction or otherwise address human rights violations.

As indicated in the response to recommendation 4, the policy document on Human Rights, Democracy and the International Legal Order will focus on protecting and developing human rights and the associated instruments and institutions, including by contributing to the development of new international law. In line with the AIV's recommendations, the government will emphasise the importance of the rule of law as part of its efforts to promote democracy. In addition, it will promote increased coherence with EU human rights instruments and the Council of Europe's efforts, and examine options for strengthening national human rights institutions, as noted in the response to recommendation 4.

- Recommendation 8 – Approach relations with autocratic states from a position of principle but also dare to be pragmatic: persist with dialogue while supporting anti-authoritarian movements.

As indicated in its response to recommendation 6, the government will also enter into dialogue with countries that do not share our views on every issue, including countries that are more autocratic in nature. The government shares the AIV's opinion that the human rights narrative of autocratic states, or the lack thereof, differs so substantially from that of the Netherlands that it will often be difficult to reach agreement or achieve results on the basis of a rational dialogue. However, this should not make us any less willing to engage in dialogue and, where possible, move towards certain forms of cooperation and assistance. In this regard it is important to simultaneously offer support to civil society, free media and other actors that are actively working to promote civic space and human rights.

- Recommendation 9 – Acknowledge that there are shortcomings in the observance of human rights in the Netherlands and in the West.

In order to ensure the credibility of Dutch human rights efforts, it is important that the Netherlands be open and honest about its own shortcomings and those of the EU. There should be scope to discuss the human rights situation in the Netherlands, and the importance of protecting and enhancing the rights of Dutch citizens, not only in bilateral contacts with other countries and partner organisations but also when using multilateral instruments such as the Universal Periodic Review (UPR). The Netherlands also remains committed to opposing the restriction of democratic space, human rights and the rule of law within the EU wherever it can.

- Recommendation 10 – Enhance capacity and knowledge in the field of human rights within government, including the Ministry of Foreign Affairs and the mission network.

The coalition agreement stated that additional resources would be made available in support of human rights worldwide. These resources have been used to strengthen the capacity of the mission network and the Ministry of Foreign Affairs, as well as to replenish the Human Rights Fund. Following the presentation of the policy document on Human Rights, Democracy and the International Legal Order to the House of Representatives, the Ministry of Foreign Affairs will also develop a new human rights training course for policy officers. In line with the AIV's recommendations, this course will be available to staff from other ministries as well.