

## AMNESTY INTERNATIONAL NETHERLANDS

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# FREEDOM OF PEACEFUL ASSEMBLY IN THE NETHERLANDS UNDER ATTACK

The right to protest is under attack globally.<sup>1</sup> Unfortunately, the Netherlands are no exception. Amnesty International the Netherlands has launched a campaign to expose violations of the right to freedom of assembly, and support movements in their demands for accountability.<sup>2</sup> In The Netherlands, human rights are often perceived as being guaranteed and protected properly - "compared to the repression in other parts of the world, things are not so bad here". Still, in the Netherlands, many demonstrations face restrictions, some of which are outright violations of human rights. Protesters face content-based restrictions, and here, too, peaceful protesters are arrested.<sup>3</sup>

## CAUSES: SUBSTANDARD LEGISLATION; INSUFFICIENT KNOWLEDGE

Amnesty considers two main causes for the right to freedom of peaceful assembly to be under attack. Firstly, the national legislation regulating assemblies, the Public Assemblies Act ("*Wet openbare manifestaties, Wom*"), contains provisions that are not in accordance with international human rights standards.<sup>4</sup> The Act currently allows authorities/the mayor to impose restrictions, bans and dispersal of an assembly where international human rights law does not. It also allows for the possibility to prosecute and punish peaceful protesters, when they merely failed to submit the required notification (in time) or violated a prior imposed restriction.<sup>5</sup> These provisions open the door to unlawful threats of enforcement, discouraging people from exercising their right to peaceful assembly (chilling effect).

Secondly, the mayor is the competent authority when it comes to the freedom of peaceful assembly in the Netherlands. It is the local authorities that decide on restrictions, bans, and dispersal of assemblies. Amnesty International Netherlands has identified a lack of knowledge and understanding of the scope and importance of the freedom of peaceful assembly as a second reason why this right is under attack.<sup>6</sup> A few examples:

- There is insufficient regard for assumption of peacefulness. Protesters are regarded a possible risk / threat, not as concerned citizens that exercise their right to express an opinion collectively. In recent months, politicians have called for a tougher approach to (especially) climate activists,<sup>7</sup> even suggesting they should be labeled a 'criminal organization'.<sup>8</sup>

<sup>1</sup> <https://www.amnesty.org/en/what-we-do/freedom-of-expression/protest/>

<sup>2</sup> <https://www.amnesty.nl/wat-we-doen/campagnes/right-to-protest>

<sup>3</sup> Very recently (1 and 2 February), protesters were not allowed to use megaphones at their protest at a train station, which resulted in one of the speakers being arrested. On 3 February, during an entirely different protest, several speakers were taken down from their podium by the police, and a sound installation was confiscated. Because of their role as speaker, one person was taken and questioned by police in a police van. Another was obligated to show her ID. A third person was detained for not showing ID. Amnesty International Netherlands is still investigating these incidents. More information could be requested through the contact details below.

<sup>4</sup> Amnesty International Nederland, *Demonstratierecht onder druk. Regels en praktijk in Nederland moeten beter*, November 2022, para. 4.1, [AMN 22\\_33 demonstratierecht-onder-druk.pdf \(amnesty.nl\)](#). See for an English version of the Public Assemblies Act here [https://www.rightofassembly.info/assets/downloads/1998\\_Public\\_Assemblies\\_Act\\_\(as\\_amended\)\\_English\\_translation.pdf](https://www.rightofassembly.info/assets/downloads/1998_Public_Assemblies_Act_(as_amended)_English_translation.pdf)

<sup>5</sup> More specifically, art. 2 provides for the possibility to impose restrictions based on traffic considerations. International human rights law (IHRL) does not allow for restrictions *merely* in the interest of traffic. Similarly, art. 7 (a) and (b) of the Act allow for a restriction and even a ban, in cases where protesters did not notify the authorities (in time), and/or when protesters act in violation of a prior restriction, whereas IHRL does not allow for restrictions, bans or dispersal merely because the authorities were not notified (in time) or protesters act in violation of a restriction. Finally, art. 11 (1) (a) and (b) allow for penal sanctions in cases of holding or participating in an assembly for which the required notification has not been given, and infringements of restrictions imposed on an assembly. See recommendation 5, Amnesty International Nederland, *Demonstratierecht onder druk*, p. 76, [AMN 22\\_33 demonstratierecht-onder-druk.pdf \(amnesty.nl\)](#)

<sup>6</sup> Amnesty International Nederland, *Demonstratierecht onder druk. Regels en praktijk in Nederland moeten beter*, november 2022, para. 4.2, [AMN 22\\_33 demonstratierecht-onder-druk.pdf \(amnesty.nl\)](#)

<sup>7</sup> <https://www.volkskrant.nl/politiek/formerende-partijen-eisen-harder-optreden-politie-en-justitie-tegen-extinction-rebellion~b1d967150/>

<sup>8</sup> <https://decorrespondent.nl/15099/activisten-van-extinction-rebellion-zijn-irritant-maar-niet-crimineel/90737996-a278-063b-01da-47f423977398>

- A 'disturbance of the public order' (*verstoring van de openbare orde*) is considered legitimate grounds for imposing restrictions, or even banning, a protest. Whereas the threshold should be much higher, ie 'disorder' (*wanordelikheden*).
- (Local) politicians often refer to the alleged committing of criminal acts as being grounds for banning a protest. However, the alleged committing of criminal acts does not mean protesters are no longer protected by the right to peaceful assembly. An outright ban is a serious infringement of human rights that may only be considered under exceptional circumstances.

These examples illustrate a limited interpretation of the scope of the right to protest, clearly contradicting fundamental principles of the freedom of peaceful assembly. This leads to a stigmatization and criminalization of peaceful protesters, depicting them as a threat and a risk.<sup>9</sup>

## CONSEQUENCES: PEACEFUL PROTEST IS PERCEIVED AS A THREAT

### INSUFICIENT SANCTIONING OF VIGILANTE JUSTICE

Insufficient understanding of the scope and importance of the freedom of peaceful assembly can lead to intolerance and vigilante justice. A recent example is a protest of the anti-racism group Kick Out Zwarte Piet (KOZP) in the municipality of Staphorst in November 2022, where Amnesty was present with a team of observers.<sup>10</sup> The mayor banned the protest of KOZP because of a large group of rioters who deliberately tried to prevent the peaceful assembly. KOZP has been protesting for years against Black Pete, a Dutch folklore figure. Their protests are often restricted and they have faced threats and violence numerous times. Only in a few cases has the violence against been sanctioned.<sup>11</sup> In the days and hours leading up to the demonstration in 2022, the local authorities did not adequately act against the threats and violence against KOZP's protest.<sup>12</sup> Once the protesters and Amnesty observers reached Staphorst, the rioters blocked their cars, smeared the vehicles with an oily liquid and threw eggs, fireworks, and other objects. The rioters also intimidated journalists. Authorities failed to protect the protesters.<sup>13</sup> In January 2024, four suspects were prosecuted for assault (*openlijke geweldpleging*). Three of them were convicted to a community service. None of them, nor anyone else of the several hundred rioters, was prosecuted for (successfully) preventing/hindering a peaceful protest. This should have been at the core of this criminal case: blocking a protest (with violence) is a punishable act, which the authorities should investigate and prosecute. Not doing so sends the wrong signal: it could legitimize the use of force to prevent any protest that someone doesn't agree with. This kind of vigilante justice is unacceptable and undermines the rule of law.

### PROBLEMATIZATION OF PEACEFUL PROTEST

Peaceful protest is continuously seen as a problem by local authorities, national politicians and, unfortunately, a large section of the general public. Constant reference is made to the increasing number of assemblies, increasingly rapid mobilization through social media, new forms of protest actions, increasing number of assemblies for which the required notification has not been given - suggesting that in these developments lies a problem. In Amnesty's view, these developments should be seen as a sign of a resilient and vibrant society. Authorities should welcome citizens who feel angry and unheard and choose to voice those concerns in a peaceful protest.

<sup>9</sup> Amnesty International Nederland, *Demonstratierecht onder druk. Regels en praktijk in Nederland moeten beter*, november 2022, para. 4.2 & 5.2, [AMN\\_22\\_33\\_demonstratierecht-onder-druk.pdf \(amnesty.nl\)](https://www.amnesty.nl/actueel/amnesty-nederland-doet-aangifte-van-bedreiging-rond-demonstratie-in-staphorst)

<sup>10</sup> <https://www.amnesty.nl/actueel/amnesty-nederland-doet-aangifte-van-bedreiging-rond-demonstratie-in-staphorst>

<sup>11</sup> <https://www.amnesty.nl/staphorst-gebrek-aan-sanctionering-vijandig-publiek>

<sup>12</sup> <https://www.amnesty.nl/actueel/gemeente-staphorst-schiet-ernstig-tekort-in-aanpak-sinterklaas-intoct> and <https://www.amnesty.nl/actueel/aanpak-politie-staphorst-maakte-weg-vrij-voor-eigenrichting-bij-intoct>

<sup>13</sup> <https://www.amnesty.nl/actueel/amnesty-nederland-doet-aangifte-van-bedreiging-rond-demonstratie-in-staphorst>

## CRIMINALIZATION OF PEACEFUL PROTEST

Problematic of protest already regularly results in **criminalization**. Earlier this year, seven peaceful protesters were sentenced to community service for their call to participate in a peaceful protest.<sup>14</sup> Criminal proceedings against peaceful protesters can have a discouraging effect on the rest of the population. Fortunately, in some case the court has recognized this risk and dismissed peaceful protesters from prosecution.<sup>15</sup>

## SURVEILLANCE OF PROTEST

Additionally, authorities are turning to surveillance tools, collecting data from social media, deploying camera surveillance during protests, and knocking on activists' doors with questions about their participation in protests. Through unlawful ID checks, the police process personal data from peaceful protesters in police databanks. This practice violates the right to privacy, has a chilling effect on the right to peaceful assembly and may have a discriminatory effect.<sup>16</sup> Another concern is the operation of local intelligence units of the police, called TOOI (*team openbare inlichtingen*), which act under the authority of the mayor. It is not always clear which surveillance tools are being used, and regulation and supervision are inadequate or lacking altogether.<sup>17</sup> The use of surveillance underscores once again that the government views peaceful protest primarily as a risk and not as the exercise of a human right that it is obliged to facilitate.

## CONCLUSION

Amnesty International Netherlands thanks the EESC Fundamental Rights and Rule of Law Group for the opportunity to discuss fundamental rights and the rule of law in the Netherlands.

See for additional information on the work of Amnesty International Netherlands on the right to protest:  
<https://www.amnesty.nl/wat-we-doen/demonstratierecht-in-nederland>

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<sup>14</sup> <https://www.amnesty.nl/actueel/leden-extinction-rebellion-veroordeeld-tot-taakstraf-en-geldboete-voor-oproep-tot-vreedzaam-protest>

<sup>15</sup> For example, in a recent case the court of appeal ruled that detaining peaceful protesters has an undesired *chilling effect* on the freedom of peaceful assembly. See <https://uitspraken.rechtspraak.nl/#/details?id=ECLI:NL:GHARL:2023:1359>

<sup>16</sup> Amnesty International, *Unchecked Power: ID check and collection of data from peaceful protesters in the Netherlands*, May 2023, <https://www.amnesty.org/en/documents/eur35/6650/2023/en/>

<sup>17</sup> In response to a peaceful protest action at Schiphol Airport, even people that had not been at the assembly received a warning letter from the Public Prosecution's office, stating that in case of a future protest at the airport, they would be prosecuted. See <https://www.rtlnieuws.nl/nieuws/nederland/artikel/5398033/klimaat-klimaatdemonstratie-schiphol-openbaar-ministerie-5> The police admits that regulation and supervision is inadequate, see <https://www.politie.nl/nieuws/2023/mei/19/00-tooi-probeert-relschoppers-een-stap-voor-te-zijn.html>. For more on the local intelligence teams (TOOI), acting under the supervision of the mayor, see <https://www.regioburgemeesters.nl/oldnews/?id=17> and <https://www.parool.nl/amsterdam/halsema-wil-betere-controle-op-inlichtingendienst-van-politie-na-kwestie-met-linkse-activist~bb288275/>