HET RECHT OM TE DEMONSTREREN IN DE DEMOCRATISCHE RECHTSSTAAT

Onderzoek naar het Nederlandse demonstratierecht vanuit internationaalrechtelijk, empirisch, rechtsvergelijkend en rechtstheoretisch perspectief

English summary

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COLOFON

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ENGLISH SUMMARY

In 1983, the Dutch government decided to include the right to protest[1] ('het recht tot betoging') as an independent, fundamental right in Article 9 of the Dutch Constitution ('Grondwet'). In doing so, the government emphasised that protesting, as a collective way of expressing opinions and participating in public debate, had gained an important place in Dutch society.[2] This importance has not diminished over the years, as evidenced by the thousands of protests that are held each year.

A frequently heard argument in the political and public debate is that many protests in the Netherlands lead to disturbances of the peace or even result in (large-scale) violence or riots. In the vast majority of cases, however, protests are peaceful and cause little disruption. It is important to emphasise this, because the image portrayed in political and social discussions greatly colours the perception of protests.

In May 2025, the Inspectorate of Justice and Security of the Ministry of Justice and Security concluded that 97% of protests do not pose a risk to public order and safety.[3] Of the remaining 3% in which incidents occurred between 2015 and 2022, three-quarters of the cases involved a single incident being recorded. Only 1% of the protests with recorded incidents involved more than ten incidents, representing approximately 0.03% of all protests. The Inspectorate thus concludes that in most cases protests do not cause large-scale problems.[4]

Nevertheless, some protests give rise to challenges, creating complex situations in practice – for example, when demonstrators intentionally transgress the law or when the right to protest clashes with other people's ability to exercise their fundamental rights. This study considers both the vast majority of protests that proceed without incident and those that give rise to challenges.

It should be noted that large-scale violence and riots fall outside the scope of the right to protest and are therefore not protected by law. The right to protest pertains specifically to the right to do so *peacefully*. It is this fundamental freedom that lies at the heart of this study and forms the focus of the central research question we address.

The central research question is twofold and reads as follows:

[1] In this summary, we primarily use the common term '(the right to) protest', although it can also referred to as '(the right to) demonstrate' or, more broadly, '(the right to freedom of (peaceful)) assembly'.
[2] *Kamerstukken II* 1975/76, 133872, nr. 3, p. 39; *Tweede Rapport van de Staatscommissie van advies inzake de Grondwet en de Kieswet* (Report of Committee Cals/Donner), The Hague 1969.
[3] Inspectorate of Justice and Security, 'Faciliteren of begrenzen? Perspectieven op de functie van politie bij demonstraties', 15 May 2025, https://www.inspectie-jenv.nl/documenten/2025/05/15/rapport-faciliteren-of-begrenzen, p. 95.
[4] Ibid, p. 29.

(i) Does the Dutch law on the right to protest, as laid down in the *Public Assemblies Act* ('Wet openbare manifestaties') and in other legislation, provide sufficient tools to regulate protests so that, on the one hand, the right to protest is respected, while, on the other hand, other rights, freedoms, and interests are not disproportionately interfered with?

(ii) Does the way in which authorities in several neighbouring countries regulate protests provide inspiration for a revision of Dutch law on the right to protest within the framework of international human rights treaties and the Dutch Constitution?

In this report, commissioned by the Research and Data Centre (WODC) and conducted by a research team from the University of Groningen, Pro Facto, the University of Amsterdam and Tilburg University, this question is addressed through a combination of doctrinal, comparative, empirical and legal-theoretical research methods. The research consists primarily of an analysis of Dutch and international legislation and regulations, treaties, case law, literature and *soft law*. In addition, the research includes a comparative component, analysing Germany, England and France. For the empirical research, we distributed a questionnaire to all Dutch mayors and conducted 42 interviews with, among others, representatives of municipalities, the police, the Public Prosecution Service ('Openbaar Ministerie'), an NGO, advisory bodies, protest organisers or participants, lawyers and academics. At the end of the research period, we also organised two roundtable discussions, at which various experts reflected on a number of research findings. Lastly, the legal-theoretical research reflects on some of the foundational principles underpinning the right to protest in a democratic constitutional framework.

To restrict the scope of this research, the report focuses on the general aspects of the right to protest, complemented by a focused selection of specific, exceptional protest types. The selection was made on the basis of the research assignment, the topicality of the issues, and the scope and duration of the research. The different categories of protests overlap and are therefore not mutually exclusive. They concern the following categories of protests: (1) protests in which protesters deliberately transgress the law, as can occur in blockades, occupations or when demonstrators deliberate damage or destruct cultural heritage, (2) protests in which other fundamental rights can be affected, as can be the case with demonstrations in the vicinity of abortion clinics, private residences or other manifestations (such as another demonstration or commemoration), and (3) protests that may cause international tensions, such as protests near embassies or consulates, and protests involving the desecration of religious texts.

The aim of this study is to provide insights into the existing frameworks surrounding the right to protest in the Netherlands and to contribute to an informed debate on how to regulate the right to protest in the Netherlands. To this end, the report consists of six parts (parts A-F). We briefly summarise these parts below.

Part A. Framework for the right to protest

Chapters 2 and 3 – The right to protest is protected at both the national level (Article 9 of the Constitution) as well as on the international level (Article 11 of the European Convention on Human Rights (ECHR) and Article 21 of the International Covenant on Civil and Political Rights (ICCPR), which refer to the broader right to freedom of 'peaceful assembly'). These provisions provide a framework to which Dutch authorities must adhere.

The first conclusion to be drawn from this framework is that the right to protest safeguards all types of protest activity. Protests are protected by this right as long as they are peaceful. The protection only ceases when organisers and demonstrators are not peaceful, meaning that they use or incite violence or have violent intentions. Thus, protests that are disruptive, disturbing or offensive are also protected by the right to protest. Although there is not always a clear distinction between peaceful and non-peaceful demonstrations, the starting point is a presumption of peacefulness.

The primary responsibility of the authorities is to respect, protect, and facilitate protests. In principle, protestors choose the time, location, and manner of their protest themselves. Authorities have a duty to ensure that this is as close as possible to the location preferred by the protestors. They must exercise caution when imposing restrictions and actively safeguard the safety of the demonstrators.

Restrictions on the right to protest are only permitted under the ICCPR and the ECHR if they (i) have a clear legal basis, (ii) serve one of the legitimate aims set out in Article 21 of the ICCPR and Article 11(2) of the ECHR, and (iii) are necessary in a democratic society. At the national level, Article 9(1) of the Dutch Constitution requires that any restriction be based on a law enacted by the legislator (the government and the States General). Pursuant to Article 9(2) of the Constitution, Dutch local authorities – with the mayor playing a particularly important role in this respect – may only impose restrictions to protect public health, in the interests of traffic or to combat or prevent disorder, and only insofar as this power has been granted to them by law.

When imposing restrictions, the specific circumstances of the case and the risk of a chilling effect – particularly from criminal restrictions – on the peaceful exercise of the right to protest must always be considered. According to the European Court of Human Rights (ECtHR, which is responsible for interpreting the ECHR), the imposition of (criminal) penalties on protestors can be permissible when they engage in reprehensible conduct: the intentional serious disruption to ordinary life and to the activities lawfully carried out by others, which disruption is more significant than that caused by the normal exercise of the right to protest. In a few (recent) judgments, the ECHR has also considered a criminal conviction possible outside the context of a reprehensible act.[5] However, the Court also emphasises that it is not permissible to prosecute a demonstrator solely for participating in a peaceful protest without engaging in illegal or violent conduct. Criminal proceedings, including the imposition of sanctions, must at all times remain proportionate and should not exceed what is necessary to achieve the legitimate aim.

[5] See, in particular: ECHR 24 October 2024, appl. no. 56270/01 (*Eckert v. France)*, paras. 73-75 (participation in a prohibited demonstration) and ECHR 27 May 2025, appl. no. 29791/21 (*Kári Orrason and others v. Iceland)*, paras. 64-69 (failure to comply with a police order to leave a part of the Ministry of Justice that was closed to the public).

Part B. Right to protest in the Netherlands

Chapters 4 and 5 – Dutch law includes various administrative, criminal and civil provisions under which protests and the conduct of protestors may be regulated. These provisions give effect to the possibility of restricting the right to protest as laid down in the Dutch Constitution and international treaties.

The *Public Assemblies Act* is particularly relevant in this context. The mayor must be notified in advance of protests held in public places – not to obtain permission, but to enable the mayor to take measures facilitating the protest. Restricting or (in exceptional cases) prohibiting or dispersing a protest is only permitted if this is necessary to protect the legitimate interests (health, traffic, disorder) and may not be based on the content of the protest. A more limited regime applies to locations other than public places: there, the mayor may intervene only by dispersing the demonstration, and only in light of two legitimate interests (health and disorder).

The *Public Assemblies Act* forms the primary legal framework for regulating protests in the Netherlands. General administrative powers contained in other legislation should not be relied upon for this purpose. For instance, in our view, an order subject to a penalty for non-compliance ('dwangsom') is not an appropriate means of ensuring compliance with the provisions of the *Public Assemblies Act*. Moreover, the mayor's emergency powers (Articles 175 and 176 of the *Municipalities Act*) do not, in our opinion, provide a sufficient legal basis for restricting the right to protest.

Criminal law and criminal procedure powers remain fully applicable during demonstrations (by virtue of Article 9(1) of the Constitution). Protestors who commit criminal offences – such as trespass, incitement or acts of violence – can therefore be prosecuted under criminal law. Although criminal prosecution should not have a chilling effect on the peaceful exercise of the right to protest and should be proportionate, a certain degree of deterrent effect may be justified when it concerns the commission of (serious) criminal offences.

Chapter 6 – Focusing on the current regulation in Dutch law of the types of protests to which we pay attention in our research, the following can be concluded.

Protests in which protesters deliberately transgress the law (as can occur during blockades, occupations or protests that damage cultural heritage) – In principle, protestors are required to comply with the (criminal) law. The fact that an action falls under the protection of the right to protest (Article 11(1) ECHR) does not mean that restrictions cannot be imposed under certain conditions (Article 11(2) ECHR). Peaceful blockades or occupations generally fall within the scope of the right to protest. The mayor may intervene on the basis of the *Public Assemblies Act* (Articles 5-8). Breaching an imposed restriction constitutes a criminal offence (Article 11) but does not automatically justify the termination of the demonstration (Article 7). In the case of occupations on private property, the property owner can also file a complaint against the protestors (trespass, Article 138 of the *Dutch Penal Code*). With regard to demonstrations that damage or destruct cultural heritage, it should be noted that the right to protest and the right to freedom of expression generally also protect the (non-verbal) form in which an opinion is

expressed. However, it remains a question to what extent violent conduct against property falls within the scope of Article 11 ECHR. We consider it defensible if the (Dutch) courts — consistent with, among others, the UN Human Rights Committee (which monitors compliance with Article 21 ICCPR) — were to assume non-peacefulness in cases of intentional, serious damage to the property of others. The fact that some demonstrators employ violence does not, however, mean that the entire demonstration can automatically be considered non-peaceful. Damaging or destroying cultural heritage in the context of a protest can, in principle, be regarded as a reprehensible act, against which criminal action can be taken according to the case law of the ECtHR. However, such action must at all times be proportionate.

Protests in which other fundamental rights may be affected (such as protests at abortion clinics, private residences or other manifestations) – Demonstrations that shock, offend or disturb generally fall within the scope of the right to protest. The limit of this right is reached when protestors are not peaceful and thus exhibit violent behaviour or a violent intent. As long as this is not the case, demonstrations at abortion clinics, private residences and other manifestations (such as commemorations) generally fall within the scope of the right to protest. A peaceful counter-protest is, moreover, generally entitled to the same level of protection as the manifestation to which it is directed. Authorities have a positive obligation to actively ensure that both manifestations can proceed peacefully and safely. The mayor may impose restrictions on protests — such as designating an alternative location — only when this is necessary to protect public health, maintain traffic order, or prevent or combat disorder (and therefore not explicitly for the protection of the rights and freedoms of others). In certain contexts (for example, near parliamentary buildings, hospitals or cemeteries, but according to case law also near abortion clinics), the threshold for public disorder may be reached earlier given the greater tranquility and public order that must prevail at such locations. This can also be the case during (counter)demonstrations that take place in the vicinity of a commemorative event, given the dignity that characterises such an occasion.

Protests that can cause international tensions (such as protests at embassies or consulates and protests involving the desecration of religious texts) – The fact that a demonstration may give rise to international tensions is not in itself a ground for restricting it. However, under Article 9 of the *Public Assemblies Act*, a special regime applies to demonstrations at diplomatic missions: protestors may not interfere with the functioning of the institution. If necessary, the mayor may issue instructions during the protest and (in exceptional cases) disperse the protest. Case law and academic literature indicate that the desecration of a religious text during a demonstration does not, in principle, result in the demonstration losing its protection under the right to protest. Under Dutch law, the desecration of religious texts is, moreover, not a criminal offence. The fact that a religious text is desecrated can, however, contribute to certain statements made in connection with the act being deemed punishable (Article 137c *Dutch Penal Code*). The ECtHR appears to allow national authorities a margin of appreciation to impose restrictions on the desecration of religious texts in line with domestic legislation (such as criminalisation). It is up to national legislative bodies to impose restrictions or not. According to the literature, there does not currently appear to be an explicit, positive obligation to criminalise the desecration of religious texts. This may, however, be different if the action is classified as a serious form of hate speech or an abuse of rights (article 17 ECHR).

Part C. Dutch legal practice

Chapter 7 – The empirical research into the legal practice of the right to protest in the Netherlands reveals a varied picture of how this fundamental right and its exercise are experienced, protected, and regulated in practice. The questionnaire, interviews, and roundtable discussions reveal that, despite differences in implementation between municipalities, there is broad recognition of the fundamental nature of the right to protest. At the same time, based on the interviews, we observe that the protest climate is subject to change. Although the vast majority of protests are without incident, societal and political attention is disproportionately focused on a small number of protests where incidents do occur. According to respondents, this selective view contributes to a public perception in which demonstrations are associated with escalation. This creates political demand for stricter restrictions, which our respondents do not consider legally necessary.

Whereas protests used to be organised by clear, recognisable movements or organisations, there is currently a higher degree of fragmentation. This creates a new dynamic, in which multiple identities come together within a single protest. This makes it more difficult for local authorities and the police to assess risks, establish contact with organisers and make arrangements regarding facilitation and protection. The fact that some protests are not notified exacerbates this tension. Respondents and participants in the roundtable discussions share the opinion that the solution does not lie in banning unnotified protests, but rather in encouraging notification by making it clear that this benefits the protestors and the protest.

The empirical research also shows that the existing legal framework provides mayors with sufficient tools and is adequate to ensure the respect, protection, and facilitation of demonstrations. According to the respondents, the main issues lie in the application and enforcement of that framework. They often point to capacity problems within the police and municipalities, but also to aspects like the changing dynamics of certain protests, organisers' (un)willingness to notify, knowledge of the right to protest among both authorities and citizens, and the sometimes strained communication between the parties involved.

Although the police see themselves as facilitators and protectors of protestors, the protestors may perceive the presence of the police as controlling or intimidating. The tension between facilitation and repression is a recurring theme during interviews. Possible solutions are sought in the more selective deployment of the police and the more frequent use of the police liaison units ('Handhaven en Netwerken'). Balancing the objective of facilitating and protecting demonstrations with the constraints of limited capacity constitutes a challenge. Nevertheless, respondents indicate that practical obstacles should not, in principle, lead to legislative changes.

The overarching message conveyed by respondents in our empirical study is therefore that the legal framework is generally adequate and does not need to be amended. Attention should mainly be given to the practical course of action, with particular consideration of capacity issues, increasing the willingness to notify, and strengthening public knowledge about the right to protest as well strengthening communication between municipalities, the police and protest organisers.

Part D. The right to protest in other countries

Looking at several countries neighbouring the Netherlands – for this report, Germany, England and France have been analysed – it is notable that England in particular, but also France, demonstrate how the right to protest should not be regulated in legislation or practice. German law, on the other hand, offers inspiration in certain respects.

Chapter 8 – In Germany, the right to protest is firmly enshrined in the German constitution and the case law of the Federal Constitutional Court. This court regards the right to protest as indispensable in a democratic constitutional state and is critical of restrictions on this right: restrictions are only possible insofar as they are necessary to protect other, (at least) equally important legal interests and with strict observance of the principle of proportionality. German law offers inspiration in several respects: (1) the German courts take the fundamental rights of others into account to a greater extent than Dutch courts when determining the criteria under which restrictions on protests may be imposed; (2) the German Assemblies Act (*Versammlungsgesetz*) is regarded more clearly than in the Netherlands as the exhaustive legal framework for regulating protests; and (3) a recent revision of the law provides for a balanced regulation of issues surrounding protests at abortion clinics. Nevertheless, worrying trends are also observable in Germany, such as the imposition of disproportionately severe, unconditional prison sentences on demonstrators engaging in acts of civil disobedience, and the introduction of broad — and therefore potentially disproportionate — bans on demonstrations on roads and at airports. These sentences and bans conflict with the requirements of Article 11 of the ECHR.

Chapter 9 – In recent years, the right to protest in England has been significantly curtailed by new legislation, in particular the *Police, Crime, Sentencing and Courts Act 2022* and the *Public Order Act 2023*. These laws lower the threshold for police intervention in protests and introduce (partly unnecessary) criminal offences for certain protest tactics — sometimes accompanied by disproportionate sanctions — which may have a chilling effect and can lead to unpredictable, inconsistent, and even arbitrary police action. These provisions are at odds with the requirements of Article 11 of the ECHR and, as evidenced by reports from the Joint Committee on Human Rights of the UK Parliament, as well as commentary from English scholars and international organisations, reflect a worrying trend of increasingly repressive measures against protests. As noted by a scholar from England, the legislation is reactive in nature and lacks an overall thought-through plan.

Chapter 10 – In France, the exercise of the right to protest has also come under increasing pressure in practice, even though the right is firmly enshrined in the French Constitution. The French example demonstrates how quickly a repressive approach can have a chilling effect on citizens wishing to protest and can harden the relationship between protestors and authorities. The severe response of the police and the judiciary, along with the broad application of criminal law provisions, have resulted in individuals becoming more reluctant to express their views. This, in turn, places the democratic function of the right to protest — as a forum for pluralism — under strain.

Part E. Legal-theoretical analysis

Chapter 11 – The Constitution and the ECHR recognize freedom of expression and the right to protest as fundamental pillars of a democratic constitutional state. These rights are indispensable for pluralism, public debate and citizen participation. Both the ECtHR and the Dutch Supreme Court emphasise that expressions that offend or shock must, in principle, be tolerated as long as they contribute to public debate. Government intervention is only permissible when expressions incite violence, hatred or intolerance, or disproportionately infringe upon the rights and freedoms of others. Within a resilient democracy, it may sometimes be necessary to limit freedom of expression or the right to protest in order to protect the fundamental principles of the democratic constitutional state; at the same time, the authorities must exercise restraint in the use of coercive measures and criminal prosecution. In the case of demonstrations involving civil disobedience, the government also has a duty to examine whether these actions expose substantive deficiencies in particular decisions or in the functioning of democracy. A resilient democracy is distinguished precisely by its openness to self-correction: it protects itself against expressions that undermine its foundations, while remaining receptive to criticism and change. Both citizens and the authorities share the responsibility to act within the fundamental principles of the democratic constitutional state and to sustain democracy through dialogue, tolerance and respect for the rights of others.

Part F. Key findings

Chapter 12 – The main conclusion of this study is that the *Public Assemblies Act*, in combination with other legislation, overall provides sufficient scope for both the exercise of the right to protest and the restriction of protests where necessary in view of other rights, freedoms, and interests. A (substantial) amendment of the Dutch law on the right to protest is therefore not required. This key conclusion does not detract from the fact that there are issues that require attention and improvement. However, these issues primarily concern the implementation of the law, that is, legal practice.

First and foremost, a robust protection of the right to protest is inextricably linked to a healthy democratic constitutional state in the Netherlands. The right to protest guarantees both the pluralistic character of a democratic society and the participation of citizens in the decision-making process. During the 42 interviews we conducted, all respondents highlighted the importance of this right. They emphasised that restraint should be exercised when amending the legal framework and imposing restrictions on protests, and that facilitating and protecting the right to protest should be the starting point. If we look at England, for example, where in recent years the government has rapidly implemented legislation that in several respects is directly at odds with the provisions of international human rights treaties, we see how fragile democratic safeguards can be.

Our empirical research among mayors, the police, the judiciary, an NGO, (lawyers of) protestors, academics, and others also shows that the majority of those interviewed see no need or necessity to tighten the law or to apply it more restrictively. Respondents indicate – in line with the findings of the Inspectorate of Justice and Security that 97% of protests between 2015 and 2022 took place without incident – that only a very small proportion of demonstrations involve incidents and that it is important to bear this in mind when discussing changes to the legal framework governing protests. In this context, we also consider it important to gain a better

understanding of what exactly constitutes an incident and whether an incident is caused by the protestors themselves or, for example, by third parties.

Respondents mention that the political and public debate focuses largely on incidents that occur during demonstrations. According to many respondents, if a protest proceeds without incident, there is little or no media coverage. They believe that the focus on incidents contributes to a misperception of demonstrations as inherently disruptive or threatening, which on the one hand undermines support for the protection of the right to protest and on the other hand increases support for the introduction of disproportionate restrictions on protests. In this context, respondents emphatically stress the need to place incidents at demonstrations in a historical perspective; (discussions about) incidents at protests are nothing new. According to them, it cannot be said that today's demonstrations are more disruptive or more radical when viewed from a historical perspective.

Furthermore, there is a risk that (legal) changes restricting the right to protest will be ineffective (or even counterproductive) and that this will require greater efforts on the part of the enforcement authorities, while our empirical research shows that the limited available capacity is already a problem when it comes to regulating protests. In countries such as England and France, the restrictive and repressive trend regarding demonstrations that has emerged in recent years has created a negative climate surrounding the exercise of the right to protest. This can result in peaceful demonstrators refraining from exercising their right to protest and can contribute to hardening attitudes and discontent, which may manifest in non-peaceful ways.

Although we do not consider a (substantial) amendment of legislation to be necessary or effective, there are some issues that we believe can be resolved with smaller legislative adjustments. One of these adjustments must be implemented – namely, bringing the *Public Assemblies Act* in line with international human rights treaties and the Dutch Constitution (see recommendation 3 below) – while the others are worth considering but do not concern situations in which Dutch law clearly falls short of the Constitution and international legal obligations.

The issues that arise during protests, however, mainly concern the practical implementation of the law. Besides the previously mentioned shortcomings in notification, knowledge of the right to protest, communication with organisers and participants, and capacity restraints, authorities struggle with protests in which protestors deliberately transgress the law, as can be the case with motorway blockades. In this context, respondents indicate that legal norms should not be 'empty shells' and that enforcement of those norms can also be important from a constitutional law perspective. International human rights treaties appear – in the case of this type of demonstration, such as an occupation or participation in a prohibited demonstration – to allow somewhat more scope for (criminal) intervention within the framework of the current law than Dutch courts currently seem to consider. Nevertheless, such action – arrest, prosecution, conviction – and the sanctions imposed must always be proportionate. Moreover, we see that the legal basis for action against such protests is sometimes questionable in legal practice, while more appropriate means are available that are rarely or never used. Furthermore, the use of far-reaching privacy-restricting public order enforcement measures (such as home visits and monitoring in private chat groups) in the absence of (imminent) criminal offences is not permitted under current legislation and is also not necessary in a democratic society.

It should furthermore be noted that, at the time of writing this report, several cases on anti-abortion/pro-life demonstrations at abortion clinics are pending before the Administrative Jurisdiction Division of the Council of State ('Afdeling bestuursrechtspraak van de Raad van State'), in which this Division is expected to issue important rulings on the interpretation of the concept of disorder.[6] These rulings will be issued after the completion date of this report. It is therefore possible that solutions regarding this type of protest will further crystallise in case law. If this is not the case, the legislator may consider taking further steps. We do not consider it desirable to amend Article 9(2) of the Constitution and Article 2 of the *Public Assemblies Act* more generally in such a way that a new legitimate aim for the protection of the rights of others is added. In this context, several respondents indicated during our research that there is a risk that such a ground for restriction could become a kind of 'catch-all' category, disproportionately restricting the right to protest.

Recommendations and points for consideration

The research findings lead to several recommendations and points for consideration:

1. Do not make substantial changes to the laws governing the right to protest in the Netherlands. This is not in line with the fundamental importance of the right to protest in our democratic constitutional state and is neither necessary nor effective.

2. Consider explicitly embedding the necessity test in the *Public Assemblies Act*. This will increase the visibility and legitimacy of the standard.[7]

3. The text of Article 5(2)(a) and (b) and Article 7(a) of the *Public Assemblies Act* should be brought in line with international human rights treaties by removing the powers to prohibit or disperse a demonstration on the grounds of failure to (timely) notify of a protest or to (timely) provide the required information, or by acting in violation of an imposed restriction under the *Public Assemblies Act*. Prohibiting or dispersing a demonstration is only permitted if necessitated by one of the legitimate aims.

4. Consider creating specific emergency powers for protests in the *Public Assemblies Act* itself. The broad emergency powers under Article 175 (power to issue emergency orders) and Article 176 (power to issue emergency ordinances) of the *Municipalities Act* are not designed to restrict the right to protest.

[6] Press agenda of the Council of State of 10 June 2025, see: https://www.raadvanstate.nl/actueel/persagenda/?CalDtm=20250610&evt_SttDtm=20250610&evt_EndDtm=20250610.

[7] This test – which follows explicitly from international treaty provisions to which the Netherlands is bound – means that a restriction must meet a pressing social need, be proportionate to the legitimate aim pursued, be the least restrictive measure that can serve to protect the interest pursued, and means that the reasons put forward by the national authorities to justify the restriction are relevant and sufficient.

5. In the exceptional situation where the forced relocation of protestors becomes necessary following the termination of a demonstration in accordance with the *Public Assemblies Act* and the subsequent breach of the emergency order issued in that context, this may only take place on the basis of a specific legal provision: administrative detention ('bestuurlijke ophouding') within the meaning of Article 176a in conjunction with Article 154a of the *Municipalities Act*. It is advisable to explore the extent to which the conditions for the application of this instrument can be eased within the requirements imposed by international treaties on deprivation of liberty.

6. With regard to protests at abortion clinics – the specific type of protest that, according to the responses to the questionnaire, occurs relatively often – it is possible that solutions will further crystallise in case law. If this is not the case, the legislator may consider taking action with specifically designed legislation. We do not consider it desirable to amend Article 9(2) of the Constitution and Article 2 of the *Public Assemblies Act* more generally in this context, in the sense of adding a new legitimate aim for the protection of the rights of others.

7. Invest in structural solutions to address the police capacity constraints related to protests. In this context, it is important to consider both the facilitation and protection of protests and other police tasks, as well as the workload within the police organisation.

8. It is advisable to further specify figures on incidents during protests. Among other things, it is important to clarify what exactly is considered an incident and whether an incident is caused by the protestors themselves or by third parties, for example. Better insight into incidents allows for a better understanding of protest practices.

9. Improve the proactive provision of information to protestors and invest in line with international legal standards in increasing knowledge of the right to protest among both the government and citizens. This could include expanding the training of civil servants and police officers, sharing *best practices* between municipalities, and making information proactively and easily accessible to citizens.

10. Actively consider the manner in which communication and coordination with protestors takes place, for example by clearly communicating in advance that notifying the authorities of a protest is worthwhile and by providing an accessible notification form. In addition, explicitly invest in relationships with organisers. The police's Enforcement and Networking teams also play a role in this; these teams specialise in establishing contact with protestors and organisers.

11. Exercise restraint when imposing restrictions on protests. Restrictions are only permitted when they are necessary on the basis of legitimate interests laid down in law (to protect health, in the interest of traffic, or to prevent or combat public disorder). The use of standard regulations to restrict demonstrations is not permitted; each demonstration must be assessed on its own merits.

12. Do not use far-reaching privacy-restricting public order enforcement measures (such as home visits, monitoring in closed chat groups and surveillance) against protestors in the absence of (imminent) criminal offences. These measures are unnecessary infringements of fundamental rights for which Article 3 of the *Police Act* does not provide a sufficient legal basis.

13. In certain protest cases in which protestors deliberately transgress of the law, international human rights treaties appear to allow somewhat more scope for (criminal) intervention within the current legal framework than the Public Prosecution Service and the Dutch courts currently allow for. For example, a deterrent effect may be justified with regard to the commission of (serious) criminal offences during protests. This does not alter the fact that (criminal) interventions against protestors must always be proportionate.

14. It is important that those involved are aware of the democratic rules within which the right to protest is exercised. For the government, this means that it must view protests from a right-to-protest-perspective, with the primary responsibility to respect, protect and facilitate the exercise of the right to protest. Authorities may only impose restrictions to the extent that this is strictly necessary. For organisers of demonstrations, this means – in the words of the ECtHR – that they must abide by the rules of the democratic game in which they themselves are actors, by respecting the applicable rules[8]; the same applies to participants in a protest.

[8] ECHR 24 October 2024, application no. 56270/01 (*Eckert v. France)*, para. 71.