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The Constitution

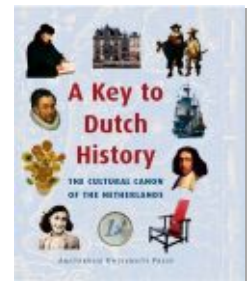
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A Key to Dutch History: The Cultural Canon of the Netherlands.

Amsterdam University Press, 2007.

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1848

The Constitution

Fundamental rules and principles of government

The Constitution is the most important law of a state. (The word “state” refers to an autonomous territory in which power is exercised over the inhabitants.)

The Constitution determines who exercises power in practice in such a state and how this will take place. The Dutch Constitution sets out, for example, the role of the monarch and that of the ministers. The Constitution also states how other laws are to be made, what duties judges have and what the tasks of the municipalities and provinces are. Moreover, the Constitution sets out what influence and power Dutch citizens have in the state.

Right at the beginning, the Dutch Constitution sets out the rights of citizens in terms of the state: basic rights. Basic rights are not the rights of citizens amongst one another but rather the rights of citizens to live their own lives without the interference of the state in their opinions and life choices.

The first article of the Constitution promises that all people, no matter

how different they are or what different opinions they hold, will be treated equally by the state. In the articles that follow, the Constitution states, among other things, that citizens have the right to practice their own religion, the right to exchange ideas with one another; and the right to express their opinions in public.

The state can only restrict such rights – like freedom of worship and freedom of speech – if it is absolutely necessary. For example, someone’s freedom may be restricted if that person presents a danger to others. In such instances the state may act, but only in accordance with the law.

No Constitution existed in the Netherlands in the Middle Ages. The ruler had the power and did not have to conform to the law. In later times, some groups of people did gain rights in respect of their ruler, but it was only from the eighteenth century onwards that everyone had rights and that every institution entitled to exercise power was obliged to obey the law. This was set down in a Constitution in the

Netherlands in 1798. The “Constitution of the Kingdom of the Netherlands” that still applies today was drafted in 1815.

It is easier to change other laws than it is to change the Constitution. However, significant amendments to the Constitution have been made. In 1848 King William II agreed to amend the Constitution so that the monarch would have less power and the people more. This amendment was so dramatic that the “Constitution of 1848”, drafted by constitutional law expert Thorbecke, is regarded as the beginning of democracy in the Netherlands. Nonetheless, it was only in 1917 that the right to vote was extended to include all men. Women were granted the passive right to vote at the same time. In 1922, the active right to vote for women – that was introduced in 1919 – was finally set down in the Constitution.



Sub-topics

Primary education sector

Equality and non-discrimination
Freedom of speech and freedom of worship
The duties of the monarch

Secondary education sector

Separation of powers: the division of power across various state bodies
The difference between classic basic rights and social basic rights
Constitutional conflict: for example between freedom of worship and freedom of speech
The non-discrimination principle of Article 1 of the Dutch Constitution. Equality under the law guarantees citizens the freedom to be different and still be treated equally by the state.
Relationship to international law: constitutional freedoms guaranteed under human rights treaties

Past and Present

Forming a government today after elections
In what kind of discussions do people still invoke the Constitution?
The Universal Declaration of the Rights of Man

In the Treasure Chest

A copy of the current Constitution

References

Places to Go

Visit to the Lower House of the Dutch Parliament
Visit to a Court
Visit to a municipal council

Background literature

Jan Drentje, “Den Haag: het Plein. De grondwetswijziging van 1848, liberaal onder Oranjes hoede” in Jan Bank and Marita Mathijssen, *Plaatsen van herinnering. Nederland in de negentiende eeuw*, Amsterdam 2006
De Grondwet van Nederland, with a foreword by H.D. Tjeenk Willink and an introduction by Henk te Velde

Websites

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