

# Remarks at the Welcome Reception of the 17th ESIL Annual Conference

Alfred Soons\*

When I was asked to deliver a few remarks at this welcome reception, I thought I should try to make a connection between the *venue* of the reception and the *theme* of the conference: ‘in- and ex-clusiveness’ of international law.

The conference *theme*, as we have already discussed this afternoon, essentially raises questions as to the openness of international law to the interests and experiences of various people and peoples over time: Who have been, are now, or should be, represented in the making of international law, or its application and adjudication? When we look back at the formation of modern international law since the 17th century, it is obvious that most people(s) of the world were excluded from this process, although they were certainly subject to its application. Current international law reflects the enduring effects of this development.

Now, about this *venue*.

We are here in the ‘Aula’, the University Hall, of Utrecht University; now mostly used for ceremonial events, such as inaugural lectures and the awarding of diplomas. This Hall was built in 1462 as the meeting hall for the cathedral ‘chapter’, the governing board of the cathedral church – the church (*Domkerk*) you may have seen on your left before entering this building.

This Hall was also used for other occasions, and in 1579 it was the venue for a historic meeting of the representatives of the various territories of the so-called ‘Low Countries’ (*les Pays Bas*, the Netherlands) who had risen against their ruler, the then sovereign of this part of the world, the King of Spain. The King of Spain (of the House of Habsburg) had become the sovereign of all these territories as a result of a series of marriages and inheritances during the preceding century. During the reign of King (later also Emperor of the Holy Roman Empire) Charles V (1515–1550), power was gradually devolved to the regional authorities. But this changed after Charles V

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\* Emeritus professor of public international law, Utrecht University School of Law, Utrecht, The Netherlands; member of the *Institut de Droit International*. Email: [A.H.A.Soons@uu.nl](mailto:A.H.A.Soons@uu.nl).

abdicated in favour of his son. King Philip II then started a process to centralize administrative power around him (through his viceroy in the Low Countries), severely restricting the autonomy of the territories, which was generally not appreciated by the local nobility and the administrators of the towns and cities. In addition, the strong growth of Protestantism in many parts of the region created additional tensions with the Roman Catholic King and the Catholic parts of the population. Freedom of religion became an important issue. In 1568 an uprising against the Spanish authorities started under the leadership of William the Silent (the prince of Orange), which the Dutch now call the ‘Eighty Years War’,<sup>1</sup> since it lasted until 1648. At the Peace of Westphalia, Spain finally recognized the independence of the Republic of the United Netherlands.

The meeting in this Hall in 1579 was an important first step in the coordination of the armed struggles against the King of Spain of the seven northernmost territories of the Low Countries, of which the province of Utrecht was one: their representatives signed an agreement establishing the so-called ‘Union of Utrecht’, a confederation of the territories allied in their struggle against Spanish authority but formally still recognizing the King of Spain as the sovereign. Only a few years later did they renounce their allegiance to the King of Spain (the 1581 Act of Abjuration). And again, after some years they established the Republic of the United Netherlands, a confederation of the seven sovereign provinces with a common foreign policy and common army and navy. This confederation eventually developed into a federal state, with a *Stadholder* as head of state (a hereditary position held by the princes of Orange-Nassau). After the invasion by France in 1795, the Republic of the United Netherlands became the Batavian Republic, and between 1806 and 1810 it even became the Kingdom of Holland (with Napoleon Bonaparte’s brother Louis as king), both as vassal states of France. Only after the integration of the country into Napoleonic France, which ended in 1813, did the Netherlands become a kingdom (but then comprising a much larger territory, including present-day Belgium which, in 1830, seceded from the United Kingdom of the Netherlands).

Thus, this Hall in 1579 witnessed a momentous step in what one may call the Netherlands peoples’ ‘war of national liberation’, in effect a struggle for self-determination *avant la lettre*. It was an act of rejection of autocratic rule, of despotic authority without the consent of the governed – you might call it a struggle for ‘inclusion’. This all happened at the dawn of modern international law, which is often associated with the Peace of Westphalia with its emphasis on the sovereign equality of states. An *exclusive* European event.

But in the history of international law, Utrecht is mainly associated with the peace treaties concluded here in 1713, the so-called ‘Peace of Utrecht’.<sup>2</sup> These treaties brought an end to the War of the Spanish Succession, a 12-year war that could be

<sup>1</sup> Or, in English, the ‘Dutch Revolt’. On this period see P. Groen (ed.), *The Eighty Years War, From Revolt to Regular War* (2019).

<sup>2</sup> On the Peace of Utrecht, see the various contributions in A.H.A. Soons (ed.), *The 1713 Peace of Utrecht and Its Enduring Effects* (2019).

regarded as the first world war since it manifested itself all over the world.<sup>3</sup> The treaties concluded here covered an enormous range of issues, apart from settling the issue of the Spanish throne: from security arrangements (creating the ‘European balance of power’), to territorial settlements in Europe and north America (e.g., the eastern boundary between Canada and the USA), and global trade (including the regulation of transatlantic slavery) – many with enduring effects.

During those negotiations in Utrecht, this Hall is likely to have been used for some of the many meetings of the representatives of all the states involved in the peace talks. Again, an *exclusive* European affair, but heavily affecting peoples all over the world.

Finally, I should mention that when in 1636 Utrecht University was established, this Hall became the main lecture hall of the university and served in that capacity until the end of the 19th century; thus, it must have witnessed many lectures on international law, where, I am afraid, the theme of in- or ex-clusiveness will not have figured much, if at all – something, I am sure, that is now quite different, and is also remedied by our conference.

<sup>3</sup> Meerts and Beeuwkes, ‘Behaviour of Negotiators’, in Soons, *supra* note 21.