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PROCEDURES SPECIALES DU
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UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on people of African descent; the Special Rapporteur in the field of cultural rights; the Independent Expert on minority issues; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

REFERENCE: AL Af. Descent 2012 Cultural rights (2009) Minorities (2005-4) G/SO 214(78-15)
NLD 1/2013

17 January 2013

Excellency,

We have the honour to address you in our capacities as Chair-Rapporteur of the Working Group on people of African descent; Special Rapporteur in the field of cultural rights; Independent Expert on minority issues; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance pursuant to Human Rights Council resolution 18/28, 19/6, 16/6, and 16/33.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the Dutch celebration of Black Pete, also known as "Swarte Piet", which, each year, is part of the Saint Nicholas Event (5 December), and precedes and accompanies the celebration of Santa Claus.**

According to information received:

The character and image of Black Pete perpetuate a stereotyped image of African people and people of African descent as second-class citizens, fostering an underlying sense of inferiority within Dutch society and stirring racial differences as well as racism. During the celebration, numerous people playing the Black Pete figure blacken their faces, wear bright red lipstick as well as afro wigs. The Black Pete figure is to act as a fool and as a servant of Santa Claus. The Black Pete segment of Santa Claus celebrations is experienced by African people and people of African descent as a living trace of past slavery and oppression, tracing back to the country's past involvement in the trade of African slaves in the previous centuries. Reportedly, a growing opposition to the racial profiling of Black Pete within the Dutch society, including by people of non-African origins, is to be noticed. However, it is also alleged that no response has been given to associations defending the rights of African people and people of African descent in the Netherlands, which are asking for dialogue on this issue.

Furthermore, it is reported that in relation to the acceptance of the UNESCO Convention for the Safeguarding of Intangible Cultural Heritage in 2012 by the Netherlands, proposals have been made to declare the Dutch Cultural Historical Tradition “Santa Claus and Black Pete” as Immaterial Cultural Heritage. It is reported that the Dutch authorities have selected the annual Saint Nicolas Event (December 5) as one of the intangible heritages to be submitted for inclusion in the UNESCO list.

While we do not wish to prejudge the accuracy of the facts received, we should like to appeal to Your Excellency’s Government to guarantee the right to equality and non-discrimination of African people and people of African descent in accordance with article 1 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights and article 2 and 26 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which the Netherlands is a party.

We would also like to recall that, according to article 15 of ICESCR, everyone has the right to take part in cultural life. In her report focused on the right of access to and enjoyment of cultural heritage, the Special Rapporteur in the field of cultural rights recommended that concerned communities and relevant individuals should be consulted and invited to actively participate in the whole process of identification, selection, classification, interpretation, preservation/safeguard, stewardship and development of cultural heritage. In particular, no inscription on UNESCO lists relating to cultural heritage or national lists or registers should be requested or granted without the free, prior and informed consent of the concerned communities. The Special rapporteur further stressed that some practices, which are part of cultural heritage, may infringe upon human rights. International instruments clearly state that practices contrary to human rights cannot be justified with a plea for the preservation/safeguard of cultural heritage, cultural diversity or cultural rights (A/HRC/17/38, paras. 74 and 80 c).

Furthermore we wish to draw the attention of your Excellency’s Government to international standards relevant to the protection and promotion of the rights of minorities. Negative media and other cultural, social or traditional portrayals of persons belonging to minorities may constitute racism and may be degrading to members of those communities, in the present case persons belonging to Black populations and people of African descent, and can perpetuate negative stereotypes within society. The 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities provides in article 1.1 that “States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.” Article 1.2 requires that “States shall adopt appropriate legislative and other measures to achieve those ends.” Article 5.1 states that “National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.” A fundamental principle of human and minority rights is consultation with minority communities on issues that affect them and this must be respected in practice and in view of complaints received by members of minority communities.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary accurate?
2. Have complaints been lodged with regard to the alleged situations of racism and racial stereotyping mentioned above?
3. Please indicate to which extent your Government has involved the Dutch society, including African people and people of African descent, in the discussions regarding the choice of “Santa Claus and Black Pete” as expression of cultural significance in the country.
4. Please provide the details, and where available the results, of consultations undertaken prior to the proposal of listing “Santa Claus and Black Pete” as World Intangible Heritage item. If no consultations have taken place, or if they have been inconclusive, please explain why.
5. Please provide information about steps adopted by your Government to address the wider concern expressed by African people and people of African descent regarding the Black Pete figure as a stereotyped image stirring racial differences as well as racism.

We would appreciate a response within sixty days. Your Excellency’s Government’s response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of African people and people of African descent are respected. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Verene Shepherd
Chair-Rapporteur of the Working Group on people of African descent

Farida Shaheed
Special Rapporteur in the field of cultural rights

IZSÁK Rita
Independent Expert on minority issues

Mutuma Ruteere
Special Rapporteur on contemporary forms of racism, racial
discrimination, xenophobia and related intolerance