****

**Questionnaire: Human Rights Council resolution 38/11 on the promotion and protection of human rights in the context of peaceful demonstrations**

**Introduction**

The Office of the High Commissioner of Human Rights (OHCHR) disseminated a questionnaire in response to Human Rights Council resolution 38/11 on the promotion and protection of human rights in the context of peaceful demonstrations. The OHCHR is requested to prepare a thematic report on new technologies, including information and communication technologies, and their impact on the promotion and protection of human rights in the context of assemblies, including peaceful demonstrations. The Netherlands Institute for Human Rights (Institute) will provide information on some of the questions posed in the questionnaire in relation to the situation in the Netherlands. Unfortunately the Institute is not able to answer all of the questions, because it does not possess the necessary data or detailed information.

1. **Laws, policies and programmes that have been developed to address the impact of new technologies on human rights in the context of assemblies, including peaceful protests**

In the Netherlands there are no specific laws, policies or programmes that address the impact of new technologies on human rights in the context of assemblies in the Netherlands. However, the guidelines on dealing with demonstrations that have been developed by the municipality of Amsterdam and other organisations pays attention to the influence of (social) media and the internet on the organisation and handling of demonstrations.[[1]](#footnote-1) For example, it advises local authorities to keep an eye on social media prior to a demonstration because this can help to indicate the number of persons that intend to participate in the demonstration and that local authorities can use social media to communicate with demonstrators.

1. **Effective uses of such technologies as enablers of the exercise of human rights in the context of assemblies, including peaceful protests**

New technologies, especially social media, can be used as an enabler of the exercise of the right to peaceful demonstration. Social media has made it easier to organise a peaceful demonstration, in particular spontaneous demonstrations.

Because these new technologies have made it easier to organise a spontaneous demonstration, local authorities will most likely not receive a prior notification. This means local authorities have less time to prepare for the demonstration. Furthermore, it will be more difficult for the authorities to discern who is the leader of the demonstration, whereas this is often important for the authorities to know in terms of communication. Nonetheless, spontaneous demonstrations should also be facilitated and protected by local authorities.

In relation to the Netherlands, the Institute is concerned that the Dutch Law on Public Manifestations allows mayors to prohibit a demonstration solely on the ground that there has been no prior notification. This is not in conformity with international human rights law and jurisprudence. As long as there are no serious concerns regarding public disorder, traffic disturbance, or health, spontaneous demonstrations must be facilitated and protected.[[2]](#footnote-2)

1. **The human rights challenges posed by the use of new technologies, including information and communications technology, in the context of assemblies, including peaceful protests**

New technologies, such as social media, also have made it easier to organise counter-demonstrations. Not all participants of such a counter-demonstration will have the intention to demonstrate peacefully. In the Netherlands a tendency can be discerned where local authorities prohibit demonstrations because of the (announced) fierce reactions by opponents. An example is the prohibition of a demonstration against the figure of Black Pete in 2017. When it became clear that the demonstrators intended to demonstrate against Black Pete, opponents called on social media to prevent the protesters from arriving by creating road-blocks. They succeeded, and eventually the planned demonstration against the figure of Black Pete was prohibited.[[3]](#footnote-3) In 2018, the mayor of Nijmegen prohibited a demonstration because opponents had announced, via social media, that they would not tolerate the demonstration.[[4]](#footnote-4) The Institute is concerned with this development. Starting point should be to facilitate demonstrations and to protect demonstrators against a hostile audience.

Another concern of the Institute relates to the use of video surveillance by the police during peaceful demonstrations. These kind of measures can have a chilling effect on persons that want to use their right to peaceful assembly.[[5]](#footnote-5)

Utrecht, the Netherlands, October 15, 2019.

1. Gemeente Amsterdam, Politie, Openbaar Ministerie, *Demonstreren ‘Bijkans Heilig’,* 2018. [↑](#footnote-ref-1)
2. Netherlands Institute for Human Rights, *Annual report of 2017, Human Rights in the Netherlands* [Jaarlijkse rapportage 2017. Mensenrechten in Nederland], 2018. [↑](#footnote-ref-2)
3. <https://www.volkskrant.nl/nieuws-achtergrond/zo-wist-het-friese-anti-anti-zwarte-piet-protest-dat-gedoe-uit-de-randstad-te-weren~b7d61a23/> [↑](#footnote-ref-3)
4. <https://www.volkskrant.nl/nieuws-achtergrond/amnesty-kick-out-zwarte-piet-onvoldoende-beschermd-door-politie-en-burgemeesters~bbd0c86d/> ; <https://www.omroepgelderland.nl/nieuws/2367724/Oproep-tot-pro-Zwarte-Piet-demonstratie-tijdens-intocht-Nijmegen> [↑](#footnote-ref-4)
5. Netherlands Institute for Human Rights, *Report to the 126th session of the Human Rights Committee on the examination of the 5th periodic report of the Kingdom of the Netherlands,* June 2019; <https://www.ed.nl/eindhoven/camera-s-in-omgeving-pegida-demonstratie-eindhoven-ga-er-niet-heen-zonder-specifieke-reden~ad0eaed7/>. [↑](#footnote-ref-5)