

COMMENTS FOR CONSIDERATION BY THE SPECIAL RAPPORTEUR ON THE PROMOTION OF TRUTH, JUSTICE, REPARATION AND GUARANTEES OF NON-RECURRENCE, ON THE OCCASION OF THE REPORT ENTITLED "MEMORIALIZATION PROCESSES IN THE CONTEXT OF SERIOUS VIOLATIONS OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW: THE FIFTH PILLAR OF TRANSITIONAL JUSTICE"

WHEREAS the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non - recurrence has prepared a report entitled "Memorialization processes in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice" addressing, among other things, transitional justice with respect to past crimes committed "by a repressive regime." Report (dated July 9, 2020) at page 4;

WHEREAS the June 19, 2020 oral revision of the resolution entitled "The promotion and protection of the human rights and fundamental freedoms of Africans and people of African descent" makes the following request, among others:

Requests the High Commissioner for Human Rights, with the assistance of relevant Special Mandate Holders, to prepare a report on systemic racism, violations of international human rights law against Africans and people of African descent by law enforcement agencies, especially those incidents that resulted in the death of George Floyd and other Africans and people of African descent, to contribute to accountability and redress for victims . . . .

June 19, 2020 resolution at paragraph 3;

We respectfully submit the following comments concerning the murder of Ahmaud Arbery in Glynn County, State of Georgia, USA on February 23, 2020 and efforts concerning memorialization and the guarantee of non-recurrence:

COMMENTS

*BACKGROUND as we understand it so far.* Mr. Arbery was on a jog in the early afternoon of Sunday, February 23, 2020, in the Satilla Shores neighborhood of Glynn County, Georgia, USA. Members of the Satilla Shores neighborhood patrol, including recently retired law enforcement, began pursuing Mr. Arbery with their pickup trucks and guns, including a government - issued gun issued to the retired law enforcement member of the patrol. Mr. Arbery was pursued and terrorized throughout the neighborhood and ultimately shot to death in a public street. Mr. Arbery was unarmed, wearing a t-shirt and jogging shorts. Law enforcement came to the scene of the killing, but no arrests were made. For weeks thereafter, no arrests were made. Eventually, a State of Georgia prosecutor, citing Georgia's citizen's arrest statute dating back to 1863, determined the killing of Mr. Arbery to have been a justifiable homicide.

*Suspect origins of Georgia's citizen's arrest law.* The State of Georgia seceded from the United States on January 19, 1861. Later in 1861, the State of Georgia codified for the first time its laws. That codification did *not* include the citizen's arrest law. President Lincoln issued the final Emancipation Proclamation on January 1, 1863. Later in 1863, the State of Georgia went back to the 1861 codification of its laws and added in the citizen's arrest law. Was the citizen's arrest law added, in 1863, to enhance the authority of slave patrols in anticipation of a wave of fugitives from slavery claiming their liberty after the proclamation of emancipation?

MEMORIALIZATION *project.* The Center for Jubilee, Reconciliation, and Healing of Coastal Georgia and the Georgia chapter of the Fellowship of Reconciliation USA, the USA branch of the global Fellowship of Reconciliation are together working to organize a Community Remembrance Project with respect to all the lynchings in Glynn County, Georgia (where Mr. Arbery was murdered) and, possibly, other nearby counties. Part of the remembrance project would be a community forum to seek answers to questions that are going unaddressed. For instance:

- How long has the Satilla Shores citizen patrol that murdered Mr. Arbery been active?
- Was the patrol formed in response to advocacy, in the 2018 Georgia gubernatorial campaign, of private citizen "rounding up" of people?
- How is it that one of the members of the Satilla Shores citizens patrol was allowed to use his service weapon, from a career in law enforcement, to terrorize Mr. Arbery?
- Are there other citizen patrols operating in the local community?
- When did local law enforcement begin referring requests for police help to the Satilla Shores citizen patrol?
- Does law enforcement refer such requests, for police help, to other citizen patrols that may be operating in the community?
- How many times has law enforcement (officers and State prosecutors) declined to arrest and charge, as they did in the Arbery case, on the grounds that the perpetrator of violence was conducting a citizen's arrest?

*Efforts toward GUARANTEE OF NON-RECURRENCE.* Concerning the guarantee of non-recurrence, we separately (i) attach comments regarding efforts to abolish citizen's arrest in the State of Georgia and in jurisdictions throughout the United States and (ii) attach a proposed bill to do the same, as filed in the Georgia General Assembly.

Attachments:

- 1) Statement of Georgia State representative Carl Scott Gilliard, District 162
- 2) State of Georgia House Bill 1203 & Draft letter inviting resolutions in support of House Bill 1203