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**Between Accountability and Denial: The U.S., South Africa, and Their Divergent Paths in
Domestic and Global Human Rights**

Daniella Scott

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Prof. Deepa Iyer, J.D.

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INTRODUCTION

In December 2023, the South African government filed a case at the International Court of Justice accusing Israel of genocide in Gaza— an act that attracted international attention not just for its legal significance, but for the moral clarity of a state once torn by apartheid.

Meanwhile, the United States, a long-time ally of Israel, rejected the framing and legitimacy of the proceedings altogether. This divergence between the two states is not new, it reflects a fundamental difference in how each state confronts racial injustice— both at home and abroad.

While South Africa’s post-apartheid government has embraced international mechanisms as tools for reckoning and redress, the U.S. has often avoided such commitments, fearing the domestic implications of accountability.

South Africa and the U.S. stand in stark contrast— both in how they reckon with that past, and in how they fight for the human rights of others. The key difference lies in the relationship between the state and public: in the U.S., exemplified by the inaction following the Tulsa Race Massacre, racial injustice persists in a self-perpetuating cycle in which historical erasure has weakened public calls for justice, allowing the government to evade domestic and international accountability. In contrast, as seen in the response to the Sharpeville Massacre, South Africa’s public demands for justice and accountability have pressured the state to engage with and embrace international human rights law.

THE UNITED STATES

The U.S.'s deliberate erasure of the Tulsa Race Massacre has fostered public amnesia about racial injustice, muting public demands for accountability. In the absence of internal pressure, disregarding international human rights obligations becomes politically feasible.

I. The Tulsa Race Massacre

On the evening of May 30, 1921, a white mob, enraged by allegations that a Black teenager had assaulted a White elevator worker, descended on Greenwood— an affluent Black neighborhood in Tulsa, Oklahoma. Over the course of eighteen hours, White Tulsans murdered 300 Greenwood residents, burned 35-40 city blocks, and left around 10,000 members of Greenwood homeless. By the morning, Oklahoma's governor had deployed the National Guard and declared martial law, but these actions could not reverse the destruction. Deeming the event a “riot”, local authorities denied hundreds of Black Tulsans' insurance claims and placed approximately 5,000 of them in internment camps for up to a month.¹

What followed the Tulsa Race Massacre was a century-long campaign of silence, obstruction, and neglect. Despite being one of the most egregious acts of domestic terrorism in U.S. history, the event has been largely excluded from textbooks and national conversations. Although Oklahoma made the massacre part of its public education curriculum in 2002, vague guidelines and inconsistent implementation have left many students unaware of the event until adulthood.

¹ *5,000 Negroes Held in Fairgrounds Camp*, Tulsa Daily World, Jun. 2, 1921, <https://chroniclingamerica.loc.gov/lccn/sn85042345/1921-06-02/ed-1/seq-2/>.

Legal efforts seeking reparations have also failed. In 2023, a lawsuit filed by the last two survivors of the massacre was dismissed by the Oklahoma Supreme Court who claimed that though the massacre's impacts were devastating, they did not "fall within the scope of [Oklahoma]'s public nuisance statute."² Because the case was filed in a state court, the decision cannot be appealed to the U.S. Supreme Court—effectively eliminating any possibility of redress or widespread outrage that might have launched a fading memory to the national spotlight.

While the massacre gained renewed attention during its 2021 centennial amid national resurgence of the Black Lives Matter movement, no federal reparations have been granted, and survivors' legal losses reflect a broader pattern of U.S. inaction in the face of historical racial violence. Some local initiatives have emerged to address Tulsa's past, but these efforts are in vain without broader legal recognition or restitution.

II. Circumventing International Law

U.S. engagement with international law is selective and increasingly symbolic, generally signing treaties but failing to ever ratify them. This reluctance seems almost paradoxical when contrasted with the U.S.'s historic role in shaping international legal order. Following World War II, the U.S. championed the formation of the United Nations (UN), played a pivotal role in drafting the Charter of the UN in 1945, and engineered the Third Geneva Convention. In the following decades, the U.S. signed multiple UN treaties, positioning itself as a leader in international human rights. However, the U.S.'s image of international activism is fading as global concerns have risen over the government's reluctance to implement international treaties into their domestic policy. For example, of the UN's 18 international human rights treaties, the

² Randle v. City of Tulsa, 2024 OK 40 (Okla. June 12, 2024).

U.S. has signed nine and only ratified five— frequently attaching reservations that neutralize their domestic impact.

Perhaps one of the most striking cases of this is the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Though ratified in 1994, the U.S. declared the treaty “non self-executing”, meaning it carries no domestic legal force without further congressional action, thereby rendering it a hollow commitment.³ This allows the U.S. to appear compliant while shielding its systemic racism from international scrutiny.

This performative approach has not gone unnoticed. During the 2020 UN Human Rights Council’s Universal Periodic Review (UPR), multiple states raised concern over the U.S.’s treatment of racial minorities, specifically citing racial police brutality, its ‘zero tolerance’ policy towards migrants, and structural racism.⁴ The U.S. also routinely notes recommendations rather than accepting them, dodging accountability while preserving its image on the global stage.

Ultimately, this behavior mirrors a broader pattern: just as the U.S. has struggled to reckon with its legacy of domestic racial violence, it has also resisted international mechanisms that demand such a reckoning. In both spheres, the cycle of denial has enabled the U.S. to evade responsibility and prevented the opportunity for impactful redress.

SOUTH AFRICA

³ U.S. Department of State, *United States Reservations, Declarations, and Understandings, International Convention on the Elimination of All Forms of Racial Discrimination*, 140 Cong. Rec. S7634–02 (daily ed. June 24, 1994).

⁴ U.N. Human Rights Council, *Advance Written Questions to the United States of America*, U.N. Doc. (2020).

South Africa's national reckoning with the Sharpeville Massacre demonstrates how international law, when supported by internal political will, can facilitate accountability and honor national memory.

I. The Sharpeville Massacre

Following the adoption of apartheid as a policy in 1948, the South African government implemented various laws aimed at further oppressing its Black population, including pass laws. A widely protested policy, pass laws required Black South Africans to carry identification books, allowing the government to observe and control their movement. On May 21, 1960, the Pan African Congress organized a protest in the Black township of Sharpeville in which participants would march to the local police station without their passbooks in an act of civil disobedience. This peaceful protest quickly became one of the deadliest massacres in South Africa's history after police opened fire on the unarmed crowd, killing 69 civilians and injuring 180 others.

The massacre immediately fueled the outrage of South Africans across the country. Members of the African National Congress, including its president-general Chief Albert Luthuli and anti-apartheid activist Nelson Mandela burned their identification cards in protest. Nine days later, 30,000 protestors marched to Cape Town, demonstrating large-scale resistance. The Sharpeville Massacre soon became a symbol of apartheid's brutalities, summoning international attention and prompting the UN General Assembly to declare apartheid a violation of its charter a month later. As apartheid continued, the international community gradually isolated South Africa, eventually imposing devastating economic sanctions in the 1980s. Increased censorship and the banning of Black liberation groups by the government following the massacre only

encouraged internal resistance and international condemnation, ultimately synergizing apartheid's demise.

In the decades since, South Africa's democratic transformation has kept the memory of Sharpeville central to its legal and moral rebuilding. Beginning with the election of Nelson Mandela as its first president in 1994, South Africans have chosen leaders rooted in the liberation movement to represent their state and carry forward the fight for redress. When South Africa adopted its first democratic constitution, it not only enshrined values of dignity, equality, and freedom in its Bill of Rights, but also honored the victims of the massacre as Mandela signed it into force in Sharpeville.

Globally, the anniversary of the Sharpeville Massacre has been commemorated as International Day for the Elimination of Racial Discrimination since 1967, cementing its place in the worldwide fight against racism. International pressure against apartheid has also instilled a lasting belief in the power of global human rights law. Today, that legacy continues to shape South Africa's pursuit of justice as the country turns both to international norms and collective memory to reckon with the past.

II. A Wavering Commitment to International Law

South Africa has positioned itself as a global leader in championing human rights, grounding its domestic and international policy in the language and tools of international law. Since the end of apartheid, South Africa has signed and ratified 15 of 18 international human

rights treaties, and Section 39(1) of their constitution explicitly requires courts to consider international law when interpreting domestic law.⁵

This commitment is not abstract– it is born from South Africa’s struggle during and following apartheid, making it attuned to issues of racial injustice and state violence. From its vocal support for Palestinian liberation to hosting the 2001 World Conference against Racism in Durban to joining the International Criminal Court (ICC), South Africa has often invoked its own past to pursue justice and participate in international advocacy.

South Africa’s dedication has long been applauded by members of the international community. As it finishes its fourth Universal Periodic Review in 2025, it continues to be praised for its consistent efforts to align domestic policy with international human rights frameworks and treaties, particularly regarding racial equality. Despite the recency of apartheid, more concerns have been raised about gender-based violence, protections for human rights defenders, and LGBTQ+ discrimination rather than structural racism. Notably, South Africa continues its efforts in improving human rights by supporting foreign recommendations.

However, South Africa’s relationship with international institutions has not been without strain. In recent years, South African officials have perceived and criticized systemic bias within the UN and ICC, particularly toward countries in the Global South. In 2016, following South Africa’s failure to arrest Sudanese President Omar al-Bashir– who was under an ICC warrant– the government considered withdrawing from the Rome Statute, arguing that the ICC was engaging in selective prosecution. The Democratic Alliance, one of South Africa’s major

⁵ Republic of South Africa, *Constitution of the Republic of South Africa, 1996*, § 39(1).

political parties, warned that withdrawal would send the wrong message, raising that the state did “not want to be lumped together with pariah states who have no respect for human rights and who do not subscribe to accountability.”⁶ Ultimately, domestic pressure to uphold South Africa’s human rights-based foreign policy prevailed. The government reversed course, and South Africa remains an active member of the ICC.

Despite moments of disillusionment, South Africa’s broader legal and societal commitment to international human rights norms remains firm. The legacy of anti-apartheid struggle has instilled a generational belief in the power of international law— not just as an abstract ideal, but as a living tool for justice and accountability.

COMPARATIVE ANALYSIS

I. State Response

Faced with the decision of burying the truth or building from it, the U.S. and South Africa’s divergent paths reflect how state response determines whether a state lays the groundwork for collective memory or enshrines national amnesia.

The U.S. has long maintained a culture of silence around its racial injustices— from the genocide of Indigenous peoples to its imperialistic conquests— rarely pursuing legal accountability or meaningful reparations. The Tulsa Race Massacre fits within this pattern: buried by design, intended to preserve the myth of national innocence and uphold existing racial hierarchies. From the initial neglect to recent failed legal efforts, justice remains elusive. Local

⁶ Friedrich Naumann Foundation for Freedom, “South Africa’s ICC Withdrawal Case Judgement,” *Perspectives – Sub-Saharan Africa* (Feb. 23, 2017), §1–4.

efforts have brought progress: the Greenwood Rising museum, the election of Tulsa’s first black mayor, Monroe Nichols, who has championed reparations. Yet national recognition has remained fruitless as seen with the Department of Justice’s *2025 Review and Evaluation of the Tulsa Race Massacre* declaring that “no avenue of prosecution now exists for these crimes”.⁷ Under the second Trump Administration, even limited accountability measures have been reversed, including legislation supporting diversity, equity, and inclusion. Attempts to further limit national history have thrived as 44 states have enacted or proposed policies restricting the teaching of “critical race theory” in schools. Not only does this minimize historical atrocities and continue diluting the national memory, but it creates a historical disconnect that may prevent newer generations from pinpointing causes of modern racism and inequality. In this landscape, a sustained national reckoning with race— and with the human rights violations it has enabled— remains impossible.

Unlike the Tulsa Race Massacre, Sharpeville marked a turning point in South African history, catalyzing the end of apartheid. Unlike the U.S., South Africa’s oppressed majority gained political power after democratization in 1994, electing leaders who had been victims and activists. The new government pursued redress through a progressive constitution, land reform, desegregation, and economic policies like the Black Economic Empowerment program. One of the most notable efforts was the Truth and Reconciliation Commission, internationally commended for its restorative justice approach. It invited both victims and perpetrators to testify and seek amnesty, helping its people confront its violent past. While it facilitated healing and accountability, its shortcomings— including limited prosecutions and little structural redress— left

⁷ U.S. Department of Justice, *Review and Evaluation of the Tulsa Race Massacre*, Emmett Till Cold Case Unit, Civil Rights Division (January 9 2025), 1.

lasting inequalities. Still, South Africa continues to engage with its past. Educational reforms, museum development, and the creation of social wage packages reflect a sustained commitment to justice even as challenges persist.

South Africa's post apartheid response has been controversial but consistent in its orientation towards redress. In contrast, the U.S.'s response has been characterized by denial and rollback. This distinction was made exceptionally clear during a heated diplomatic exchange on May 21, 2025, when U.S. President Donald Trump accused South African President Cyril Ramaphosa of ignoring a so-called "white genocide".⁸ These allegations followed South Africa's controversial Expropriation Act of 2024, which offered a legal framework for land redistribution to address apartheid-era inequalities. In response, Trump cut off all aid to South Africa and offered refugee status to white South African farmers, framing them as victims of racial discrimination. That South Africa's effort to remedy racial inequality could provoke panic in the U.S. underscores just how fundamentally different their commitments to confronting racial injustice truly are.

II. Public Memory

The Tulsa Race Massacre and Sharpeville Massacre reveal that what a state chooses to confront— or suppress— reverberates far beyond legislation or state redress. Nowhere is this more evident than in public memory— where education, commemoration, and collective awareness determine the legacy of justice or silence.

⁸ "Trump confronts South African president with video, defends Afrikaner resettlement," YouTube video, 8:11, posted by PBS NewsHour, May 21, 2025, <https://youtu.be/ZA18I5Q3IjY>.

Despite South Africa's national efforts to memorialize Sharpeville, ongoing inequities in its education system demonstrate how even ongoing efforts are vulnerable to the erosion of that memory. A 2020-2021 Human Sciences Research Council's survey revealed that only 19% of South Africans felt they knew enough about it to explain Sharpeville to a friend; among youth and rural populations, awareness was even lower.⁹ While those with access to higher education were more likely to know of it, the failure to make Sharpeville's history broadly accessible reflects a generational breakdown connecting past to present— raising concerns that even transformative moments in South Africa's history are vulnerable to being forgotten.

Meanwhile, despite the Tulsa Race Massacre having been part of Oklahoma's curriculum since 2002, vague guidelines and a contentious political climate have left teachers unsure of how— or whether— to incorporate it. Elected officials like Joy Hofmeister, Oklahoma's former Superintendent of Public Instruction, have admitted that they had never learned about the massacre until adulthood. Hofmeister's experience is not unique, and in fact, a survey by Education Weekly revealed that 83% of residents claimed they were never taught it in school.¹⁰ Even Linda McMahon, the current U.S. Secretary of Education, was unsure of what the massacre was.¹¹ When even political leaders remain unaware, it becomes clear that national silence is not coincidental— it is patterned, systemic, and sustained.

⁹ Zac Botha, "Survey Shows Ignorance about Big Moments in South Africa's History – Like the Sharpeville Massacre", *The Conversation*, March 23, 2021, <https://theconversation.com/survey-shows-ignorance-about-big-moments-in-south-africas-history-like-the-sharpeville-massacre-157513>.

¹⁰ Nuria Martinez-Keel, "'A Conspiracy of Silence': Tulsa Race Massacre Was Absent From Schools for Generations," *Education Week*, May 26, 2021, <https://www.edweek.org/teaching-learning/a-conspiracy-of-silence-tulsa-race-massacre-was-absent-from-schools-for-generations/2021/05>.

¹¹ Robert Tait, "Linda McMahon Unsure if Teaching Black History Flouts Trump's Anti-DEI Policy," *The Guardian*, June 4, 2025 (updated June 23, 2025), <https://www.theguardian.com/us-news/2025/jun/04/linda-mcmahon-black-history-dei-policy>.

Yet public memory lives beyond classrooms— in museums, national holidays, and the collective curiosity about a nation’s past. Where blood once stained the pavement on one of South Africa’s darkest days now stands the Sharpeville Human Rights Precinct, a memorial to resistance and the pursuit of justice. Every March 21, national and international holidays commemorate the massacre and call for vigilance in protecting civil rights. But this vivid symbol of resilience has slowly begun to fade— dimmed by inequality, generational distance, and the very forces it once defied. Even a tragedy that reshaped South Africa’s course can be obscured with time— just as Greenwood was from the start.

In Tulsa, it could be assumed— whether from a lack of education, an absent national discussion, or the mere inability to see Greenwood— that the district no longer exists. Yet, it does. Obscured by Interstate 244, which was completed in 1975— just as Greenwood saw glimpses of revival— and surrounded by a raucous minor league stadium, bustling bars, and an always-buzzing entertainment arena, the horrors from a century ago become nearly unimaginable. Greenwood was destroyed, glossed over, and forgotten— standing today as a living metaphor for the U.S.’s most enduring practice: the systematic erasure of racial injustice to preserve its image as a beacon of moral superiority.

CONCLUSION

South Africa and the United States’ divergent paths to racial justice reflect the difference between fighting for a national reckoning and intentional erasure. Patterns such as failed accountability and contested memory help explain each state’s position on international human

rights law. From the refusal to join or recognize the International Criminal Court to its human rights abuses in Abu Ghraib, the U.S. has demonstrated that these choices are not simply political decisions, but symptoms of a longstanding national unwillingness to confront its own past. Meanwhile, South Africa's largely consistent engagement with international human rights law reflects the political will of a majority that demanded– and still demands– accountability, both at home and abroad. International legal frameworks cannot enforce justice alone, but they reveal a deeper truth: justice is only possible when nations are willing to reckon with the systems they have built, the violence they have condoned, and the histories they have tried to forget.

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