

JUSTICE DEFERRED: THE PARADOX OF RECOGNITION AND RESPONSIBILITY IN THE PALESTINIAN HOLOCAUST

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Paper under double-blind review

ABSTRACT

The precise definition of genocide remains contested within international law and moral philosophy, yet this definitional ambiguity has been strategically deployed to systematically obscure Palestinian suffering. This paper examines the double bind confronting victims of the Palestinian Holocaust: they are caught between demands for recognition within institutional frameworks that presuppose their political illegitimacy, and the epistemic violence of denial that normalizes their ongoing subjugation.

We introduce the concept of “procedural absolution” to analyze how bureaucratic and legal mechanisms transform moral responsibility into technical compliance. Through this lens, we trace how discourse progresses from acknowledging definitional contestations to re-imposing conceptual closure that rationalizes erasure. This communicative framework ensures that Palestinian claims to justice remain perpetually deferred, contained within systems designed to manage rather than substantively address atrocity.

Our analysis demonstrates how Western humanist frameworks, while ostensibly upholding universal values, function to reproduce colonial hierarchies by rendering Palestinian existence as a matter of administrative concern rather than ethical imperative. This paper argues that meaningful justice for the Palestinian Holocaust necessitates transcending the paradoxes of recognition through a Levinasian ethics of infinite responsibility, where bearing witness to persistent suffering takes precedence over procedural finality and institutional validation.

1 INTRODUCTION

The precise definition of genocide remains elusive within both international law and moral philosophy, presenting challenges that extend beyond mere semantics. The 1948 United Nations Genocide Convention established a foundational legal framework, yet persistent debates regarding its scope and application continue to shape its implementation Schabas (2009). This definitional ambiguity creates conditions where political considerations can influence the classification of mass atrocities, often with significant implications for affected populations. The Palestinian situation illustrates this dynamic, occupying a position where suffering is extensively documented yet frequently excluded from formal recognition within dominant legal and political institutions.

Scholarly approaches to genocide reveal a fundamental tension between acknowledging the term’s inherent contestability and advocating for precise, enforceable definitions. While some scholars like Meiches (2017) emphasize how discussions of genocide occur within socio-linguistic fields shaped by power relations, others maintain that rigorous legal standards are essential to preserve the concept’s moral significance Schabas (2009). This theoretical division manifests practically in the Palestinian context, where debates about classification often overshadow substantive responses to ongoing humanitarian crises.

The Palestinian experience thus occupies a paradoxical position within genocide discourse. While extensive evidence documents systematic displacement, blockade, and violence, institutional mechanisms frequently render this suffering legally and politically deniable through what Meiches (2017) describes as discursive double binds. This aligns with Shaw’s analysis of how geopolitical consid-

erations shape genocide recognition, where political interests often override evidentiary criteria ???. Technical arguments, security justifications, and definitional debates transform moral imperatives into procedural obstacles, effectively normalizing conditions that Card (2003) characterizes as social death.

This paper introduces “procedural absolution” as an analytical framework to examine how bureaucratic and legal systems convert questions of moral responsibility into matters of technical compliance. Building on Arendt (1963)’s analysis of administrative evil and Bauman (1989)’s work on modernity and mass violence, we investigate how administrative rationality can facilitate atrocity by separating action from ethical consideration. In the Palestinian context, this manifests through systems of permits, classifications, and legal arguments that systematically undermine Palestinian personhood while maintaining appearances of procedural legitimacy.

Rather than focusing exclusively on whether the term genocide applies to Palestinian experiences, this paper analyzes how discourse about genocide functions within socio-linguistic fields that normalize Palestinian erasure. We examine how language, law, and bureaucracy interact to produce what Butler (2009) identifies as frames determining which lives are grievable. This approach moves beyond definitional debates to expose structural conditions that enable persistent violence despite international oversight mechanisms.

Our analysis unfolds in three parts. First, we examine definitional contestation surrounding genocide and how this instability manifests in academic and legal discourse regarding Palestine. Second, we develop the conceptual framework of procedural absolution and double binds, demonstrating how systems of recognition paradoxically reinforce erasure. Finally, we consider implications for rethinking justice beyond conventional frameworks, drawing on Levinas (1969)’s ethics of responsibility to envision alternatives to current impasses.

By examining these discursive and structural mechanisms, we argue that addressing Palestinian suffering requires not merely additional evidence, but critical engagement with the interpretive frameworks through which evidence is evaluated. The normalization of Palestinian suffering occurs not only through explicit denial, but through sophisticated systems of qualification and deferral operating within ostensibly neutral institutions. Understanding these mechanisms is essential for developing more effective approaches to justice and solidarity.

2 RELATED WORK

Scholarly debates surrounding genocide definition have long acknowledged the political dimensions inherent in classification. While legal scholars like Schabas (2009) emphasize precise legal definitions, critical genocide studies scholars have highlighted how political considerations inevitably shape which atrocities receive recognition. Martin Shaw’s work has been particularly influential in analyzing how genocide discourse functions within geopolitical power structures, arguing that the concept’s application often reflects international power dynamics rather than objective criteria ???. His analysis in *The Politics of Genocide* examines how political considerations shape recognition of mass atrocities, while *Genocide and International Relations* explores how changing global power structures influence responses to genocide. This political dimension creates conditions where certain populations, particularly those challenging dominant geopolitical interests, face systematic exclusion from genocide recognition despite meeting substantive criteria. Building on this critical tradition, scholars like Moses (2021) have further examined how security discourses and state interests shape genocide prevention and response mechanisms, while Meiches (2017) has analyzed the discursive double binds that constrain recognition of ongoing atrocities.

3 CONCEPTUAL BACKGROUND: FROM LEMKIN TO THE LAW OF FORGETTING

Raphael Lemkin conceived genocide as the destruction of a people’s “essential foundations of life” (Lemkin (1944)). His conception fused moral urgency with legal codification, but as Moses (2021) and Meiches (2017) argue, the legal abstraction of genocide—through the 1948 UN Convention—reduced it to a problem of definition rather than responsibility. The genealogy of post-Holocaust justice thus bears a paradox. Nuremberg established accountability through individual criminality—a moral atomism that displaced the collective and structural nature of atrocity. The world celebrated a moment

of moral reckoning, yet simultaneously instituted the geopolitical hierarchy that would enable new genocides under the rhetoric of security, modernization, and self-defense. In the Palestinian context, this genealogy becomes tragically inverted. The colonizer invokes the Holocaust to justify its own genocidal violence, while the victim of that violence is denied even the name of genocide. The Holocaust as moral capital becomes the very instrument of Palestinian dehumanization. As Arendt (1963) warned, justice without responsibility becomes theater—an act of redemption for the powerful, not restoration for the oppressed.

4 ANALYTICAL CORE: THE PARADOX OF RECOGNITION

Justice in the international order presupposes recognition—of statehood, sovereignty, victimhood. Yet recognition itself is a colonial act. To be recognized, one must be made legible within the moral lexicon of the West. The Palestinian, however, exists outside this lexicon: at once visible through suffering and invisible in personhood. Drawing from Derrida (1990)'s *Force of Law*, justice operates as an aporia—a demand that cannot be fulfilled without reproducing violence. In Gaza, every legal statement of “self-defense” becomes an erasure of the Palestinian's right to exist. Every call for “peace” presupposes the legitimacy of the occupier. The International Criminal Court's inertia is not a failure of law but its essence: the law's complicity in maintaining the moral order of empire. Levinas (1969)'s ethics of the Other provides a counterpoint. Responsibility, he argues, precedes law; it is infinite, asymmetrical, and unchosen. Justice, therefore, cannot emerge from procedural equality but from the unconditional obligation to the face of the Other. In the Palestinian genocide, the face of the child buried beneath rubble indicts the world—not through legal petition but through moral revelation. This Levinasian reading challenges the post-Holocaust consensus: justice is not retribution, but remembrance; not verdict, but vigilance. Yet remembrance, when institutionalized, risks becoming anesthetic. Museums, archives, and educational curricula convert atrocity into moral capital, neutralizing its radical demand for transformation. Gaza reopens that wound. It reveals that reconciliation without restitution is betrayal disguised as healing.

5 COMPARATIVE AND ALTERNATIVE FRAMEWORKS

Western justice seeks closure; Islamic and Eastern paradigms seek balance. In Islamic jurisprudence, justice is inseparable from right—the restoration of divine and human order. Unlike Western legality, which individualizes guilt, Islamic conceptions embed justice within the collective moral fabric. Retributive justice is balanced by reconciliation, yet neither functions without intention: justice must purify, not merely punish. This framework offers a counter-epistemology. Where the ICC seeks to “punish crimes against humanity,” Islamic ethics asks how humanity itself can be restored. Similarly, Buddhist and Confucian traditions locate justice not in judgment but in the rebalancing of relationships disrupted by suffering. These non-Western paradigms remind us that reconciliation is not the aftermath of violence but its transcendence through moral reorientation. The Palestinian call for justice, then, is not vengeance but equilibrium—the reclamation of moral order against the disorder of colonial reason.

6 RECONCILIATION AS FUTURE IMPERATIVE

If justice cannot yet be achieved, it must at least be imagined differently. The Palestinian Holocaust demands a theory of reconciliation that refuses both legal closure and moral fatigue. Reconciliation, in this sense, is neither forgiveness nor forgetting. It is a refusal to normalize the abnormal, to live ethically in the presence of unhealed wounds. Meiches (2017)'s notion of the “conceptual afterlife” of genocide underscores this task: the term itself must evolve to account for ongoingness. The genocide of Palestine is not a historical event but a chronic condition—a structure of annihilation maintained through blockade, hunger, and erasure. To speak of reconciliation without dismantling this structure is to moralize over a corpse. The paradox of justice for genocide lies in its very pronouncement. To declare justice is to imply the crime has ended; yet in Palestine, the crime persists. The world's moral vocabulary—built upon the Holocaust's memory—collapses when faced with its repetition. This paper contends that justice must be reconceived not as verdict but as witnessing. To bear witness is to assume responsibility without authority, to speak against silence while acknowledging complicity. The philosopher's task is not to define justice but to expose its failures, to resist the transformation of

atrocities into abstraction. In the unending genocide of Palestine, justice begins when the world ceases to look for closure—and begins to listen.

7 DISCUSSION

Our analysis demonstrates that definitional debates surrounding genocide function not merely as semantic exercises but as political mechanisms enabling the systematic erasure of Palestinian suffering. The transformation of language from description to destruction manifests through procedural absolution, wherein bureaucratic systems convert moral imperatives into technical compliance. This process operates through discursive double binds Meiches (2017), creating conditions where Palestinian claims to justice remain perpetually deferred while violence continues. The institutional frameworks ostensibly designed to address mass atrocities paradoxically become instruments of their normalization when applied with definitional rigidity that excludes contemporary cases like Palestine.

The theoretical framework integrating Arendt (1963), Bauman (1989), and Butler (2009) illuminates these dynamics. Arendt's analysis of administrative evil elucidates how procedures can facilitate atrocity by separating action from ethical consideration. Bauman's examination of modernity reveals how bureaucratic rationality enables violence through classification systems. Our findings extend Butler's concept of grievability by demonstrating how legal and political institutions actively produce conditions where Palestinian lives remain ungrievable through procedural mechanisms that supplement outright denial.

These findings expose how Western humanist frameworks, despite claims to universality, function to maintain colonial hierarchies. The international legal system's approach to Palestine reveals justice as structurally deferred rather than merely delayed, through mechanisms that appear neutral while systematically excluding certain populations. This suggests conventional legal approaches may be fundamentally inadequate for addressing structural atrocities that resist historical categorization.

Our analysis both confirms and extends existing scholarship. While aligning with Meiches (2017)'s examination of genocide discourse within power-laden socio-linguistic fields, we identify specific mechanisms—procedural absolution and bureaucratic double binds—through which this power operates. Similarly, we extend Card (2003)'s concept of social death by revealing the administrative processes through which it is systematically produced and maintained in the Palestinian context.

A significant finding concerns the inversion of Holocaust memory in the Palestinian case. Rather than serving as a universal warning against genocide, this memory has been appropriated to justify violence through security narratives. This creates a mnemonic double bind where references to past atrocities legitimize present ones, neutralizing their critical potential. This extends Moses (2021)'s analysis of security language by demonstrating how historical memory itself becomes weaponized within these discourses.

Several limitations warrant acknowledgment. As a philosophical examination, this analysis relies on conceptual rather than empirical methods, potentially limiting practical applicability. The focus on Western frameworks, while necessary for critiquing dominant systems, may overlook insights from non-Western justice traditions. Additionally, engagement with ongoing politicized events presents challenges for maintaining analytical distance while addressing urgent moral concerns.

Future research should pursue several directions. Comparative studies could examine whether procedural absolution operates similarly in other contexts of structural violence. Investigation of alternative justice frameworks from Islamic, Indigenous, or Global South traditions could provide resources beyond Western legal paradigms. Research into counter-discourses that successfully challenge these double binds could offer pathways for transformative change.

The broader implications extend beyond Palestine to challenge fundamental assumptions in genocide studies. Our findings suggest the field must develop conceptual tools adequate to addressing ongoing rather than historical atrocities and confront how its categories may inadvertently reinforce the power dynamics they seek to critique. This requires a deconstructive approach to justice Derrida (1990) that remains vigilant about its own limitations.

Our analysis challenges the presumption that legal recognition necessarily advances justice. While scholars like Schabas (2009) emphasize precise legal definitions, our findings suggest this precision can become exclusionary when applied to cases that resist established paradigms. Similarly, we extend

Levinas (1969)'s ethics of responsibility by showing how institutional frameworks systematically evade the face-to-face encounter that grounds ethical response.

Synthesizing our argument, we contend that the Palestinian case reveals fundamental limitations in contemporary approaches to mass atrocity. The paradox emerges when systems designed to prevent genocide become complicit in its perpetuation by prioritizing procedural correctness over moral responsiveness. This necessitates reorientation from a jurisprudence of classification to an ethics of encounter, where the primary question shifts from definition to response.

The implications for theory and practice are substantial. Theoretically, this calls for frameworks addressing what might be termed chronic genocide—atrocities persisting through structural violence. Practically, it suggests justice efforts must challenge the bureaucratic and discursive mechanisms enabling ongoing violence, rather than pursuing legal recognition within systems that may be fundamentally incapable of delivering meaningful justice for perpetually deferred populations.

8 CONCLUSIONS AND FUTURE WORK

This paper has established that definitional debates surrounding genocide function as political mechanisms enabling the systematic erasure of Palestinian suffering. Through the analytical framework of procedural absolution, we have demonstrated how bureaucratic and legal systems transform moral responsibility into technical compliance, creating conditions where justice remains perpetually deferred. The discursive double binds identified by Meiches (2017) manifest in institutional frameworks that simultaneously acknowledge and deny atrocity, rendering Palestinian lives ungrievable within dominant systems of recognition Butler (2009). Our analysis reveals how Western humanist frameworks, despite claims to universality, maintain colonial hierarchies by converting ethical imperatives into administrative problems.

The significance of this research lies in exposing how language, law, and bureaucracy interact to enable mass atrocity to persist despite international oversight. By examining the mechanisms that systematically obscure Palestinian suffering, we have shown that the core challenge is epistemological rather than evidentiary—rooted in the interpretive frameworks through which evidence is evaluated and acted upon. This suggests conventional legal approaches may be fundamentally inadequate for addressing structural atrocities that resist historical categorization and procedural closure.

Theoretically, this analysis necessitates reorientation from a jurisprudence of classification toward an ethics of encounter, drawing on Levinas (1969)'s conception of infinite responsibility. Practically, it indicates that meaningful justice requires challenging the bureaucratic and discursive mechanisms enabling ongoing violence, rather than pursuing recognition within systems structurally incapable of delivering justice for perpetually deferred populations. This demands solidarity approaches that prioritize bearing witness to suffering over achieving procedural finality.

Future research should investigate alternative justice frameworks beyond Western legal paradigms, particularly those from Islamic, Indigenous, and Global South traditions that may offer resources for reimagining justice. Comparative studies examining procedural absolution in other contexts of structural violence could determine whether these mechanisms represent broader patterns or specific colonial configurations. As we confront the ongoing Palestinian Holocaust, we must recognize that true justice begins not with institutional verdicts, but with the unwavering commitment to acknowledge humanity in those rendered invisible by systemic erasure, and to respond ethically to suffering that institutional frameworks have taught us to disregard.

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