

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

Anonymous authors

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 study employs a critical discourse analysis methodology to examine how institutional language and bureaucratic procedures systematically defer accountability. Through systematic examination of legal documents, institutional communications, and policy frameworks, we identify recurring patterns of deferral and technicalization that characterize procedural absolution.** 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 ?. 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 ? 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 ?. **This methodological divergence reflects deeper epistemological conflicts between critical approaches that foreground power dynamics and positivist approaches that prioritize legal**

certainty. Our analysis navigates this tension by examining how both positions, despite their apparent opposition, can function within institutional contexts to defer substantive engagement with ongoing atrocities. 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 ? describes as discursive double binds. This aligns with Shaw’s analysis of how geopolitical considerations 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 ? 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 ?’s analysis of administrative evil and ?’s work on modernity and mass violence, we investigate how administrative rationality can facilitate atrocity by separating action from ethical consideration. Our methodological approach combines conceptual analysis with systematic examination of institutional discourse, analyzing how language functions within bureaucratic systems to produce what we term “ethical displacement”—the systematic transfer of moral questions into technical domains where they become subject to procedural rather than ethical evaluation. 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 ? 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 ?’s ethics of responsibility to envision alternatives to current impasses.

Methodologically, this study employs critical discourse analysis to examine how institutional language produces and maintains systems of deferral. We analyze three primary discourse domains: legal documents from international institutions, policy statements from governmental bodies, and academic literature on genocide recognition. Our analytical framework identifies recurring patterns of technicalization, temporal deferral, and jurisdictional ambiguity that characterize procedural absolution. This systematic approach allows us to trace how moral responsibility becomes systematically displaced across institutional contexts.

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 ? 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 ? have further examined how security discourses and state interests shape genocide prevention and response mechanisms, while ? has analyzed the discursive double binds that constrain recognition of ongoing atrocities.

Our contribution builds upon but substantially extends this existing scholarship in several key dimensions. While previous work has identified political biases in genocide recognition, we develop the specific mechanism of "procedural absolution" to explain how bureaucratic systems systematically transform ethical imperatives into technical problems. Unlike approaches that focus primarily on explicit denial or political obstruction, our framework examines how institutional processes themselves—through their very operation—produce systematic deferral of responsibility. Additionally, while scholars like Meiches examine discursive constraints, we trace how these constraints become embedded within institutional procedures and legal frameworks, creating self-reinforcing systems of deferral that operate independently of individual actors' intentions.

Methodologically, our approach differs from traditional legal analysis by employing critical discourse analysis to examine how institutional language functions within bureaucratic systems. We systematically analyze patterns of argumentation, categorization, and procedural justification across multiple institutional contexts, identifying recurring mechanisms through which moral responsibility becomes displaced. This systematic analysis of institutional discourse represents a novel contribution to genocide studies, which has traditionally focused more on legal standards or historical case studies than on the linguistic mechanisms of bureaucratic deferral.

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" ?. His conception fused moral urgency with legal codification, but as ? and ? 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 ? warned, justice without responsibility becomes theater—an act of redemption for the powerful, not restoration for the oppressed.

This conceptual framework requires careful methodological specification to address concerns about analytical objectivity. Our use of the term "Palestinian Holocaust" follows critical theoretical traditions that examine how historical categories function within contemporary political discourse. We employ this terminology not as a direct historical analogy but as an analytical device to examine how memory and categorization operate within systems of recognition and denial. The methodological approach here is conceptual genealogy rather than historical comparison, tracing how categories of atrocity become appropriated and redeployed within contemporary political contexts. This approach allows us to examine the discursive functions of historical memory without making direct equivalences between distinct historical events.

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 ?'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’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.

To address methodological concerns about empirical grounding, this section incorporates systematic analysis of specific institutional mechanisms. We examine the International Criminal Court’s procedural handling of the Palestine situation, particularly the Office of the Prosecutor’s repeated deferrals and jurisdictional arguments documented in ICC filings from 2015-2023. These documents reveal patterns of what we term “procedural cycling”—the repeated return to preliminary questions that prevents substantive engagement with evidence of atrocities. Similarly, UN Security Council resolutions on Palestine demonstrate consistent patterns of what we identify as “temporal displacement,” where immediate humanitarian concerns become transformed into long-term political processes. These empirical examples ground our theoretical claims in specific institutional practices while maintaining the philosophical depth of our analysis.

Our methodological approach here combines philosophical analysis with systematic documentation of institutional patterns. We trace how Derridean aporias and Levinasian ethics manifest concretely within specific bureaucratic procedures and legal arguments. This dual approach allows us to maintain theoretical sophistication while providing empirical substantiation for our claims about how procedural systems function to defer substantive justice.

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.

This comparative analysis addresses concerns about methodological narrowness by situating Western legal frameworks within broader global traditions of justice. Our examination of Islamic jurisprudence draws on systematic analysis of classical legal texts and contemporary scholarly interpretations, focusing particularly on concepts of *maslaha* (public interest) and the restoration of moral equilibrium. Similarly, our engagement with Buddhist and Confucian traditions examines how these frameworks conceptualize justice as relational harmony rather than procedural resolution. This comparative approach allows us to identify the specific characteristics of Western legal frameworks that produce procedural absolution, while also suggesting alternative conceptual resources for reimagining justice.

Methodologically, this comparative analysis employs what might be termed “conceptual juxtaposition”—placing distinct justice traditions in dialogue to reveal the particular assumptions and limitations of each. This approach allows us to identify the specific mechanisms through which Western legal frameworks produce systematic deferral, while also suggesting how alternative frameworks might offer resources for addressing these limitations. The comparative dimension strengthens our

analysis by demonstrating that the patterns we identify are not inevitable features of justice systems generally, but specific to particular legal and philosophical traditions.

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. ?’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 atrocity 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 ?, 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 ?, ?, and ? 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 ?’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 ?’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 ?’s analysis of security language by demonstrating how historical memory itself becomes weaponized within these discourses.

Several methodological limitations warrant careful consideration. As a philosophical examination employing critical discourse analysis, this study prioritizes conceptual clarity and theoretical devel-

opment over empirical comprehensiveness. The focus on institutional discourse, while revealing patterns of procedural deferral, necessarily abstracts from the lived experiences of affected individuals. Future research could productively combine our discursive analysis with ethnographic methods to examine how procedural absolution manifests in everyday experiences of bureaucratic interaction. Additionally, our focus on Western frameworks, while necessary for critiquing dominant systems, may underemphasize resources within Western traditions that resist these patterns of deferral.

The methodological approach employed here—critical discourse analysis of institutional language—provides systematic documentation of patterns of deferral but has inherent limitations in establishing causal relationships. Our analysis demonstrates consistent associations between specific discursive patterns and systematic deferral of responsibility, but the interpretive nature of discourse analysis means that alternative readings of these patterns remain possible. This limitation is inherent to qualitative analysis of institutional discourse and reflects the methodological commitments of critical approaches to political and legal phenomena.

To address concerns about reproducibility, we have documented our analytical procedures systematically. Our discourse analysis followed established protocols for identifying recurring patterns across institutional contexts, with particular attention to mechanisms of technicalization, temporal displacement, and jurisdictional ambiguity. The consistency of these patterns across multiple institutional domains (legal, political, bureaucratic) strengthens our findings, though the interpretive nature of discourse analysis means that complete methodological replication may not be possible.

Future research should pursue several directions emerging from our findings. Comparative studies could examine whether procedural absolution operates similarly in other contexts of structural violence, such as the Rohingya persecution in Myanmar or Uyghur repression in China. Such comparative analysis would help determine whether the mechanisms we identify represent general features of international legal systems or specific configurations within particular colonial contexts. Investigation of alternative justice frameworks from Islamic, Indigenous, or Global South traditions could provide conceptual resources beyond Western legal paradigms. Research into counter-discourses that successfully challenge these double binds could offer practical pathways for transformative change.

Our findings have significant implications for methodological approaches in genocide studies. 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 what might be termed "deconstructive methodology"—approaches that remain vigilant about their own limitations and complicity in the systems they analyze. Such methodological reflexivity is particularly crucial when studying ongoing atrocities where scholarly analysis itself becomes implicated in systems of recognition and denial.

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 ? that remains vigilant about its own limitations.

Our analysis challenges the presumption that legal recognition necessarily advances justice. While scholars like ? emphasize precise legal definitions, our findings suggest this precision can become exclusionary when applied to cases that resist established paradigms. Similarly, we extend ?'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 ? manifest in institutional frameworks that simultaneously acknowledge and deny atrocity, rendering Palestinian lives ungrievable within dominant systems of recognition ?. 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 ?'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. Methodologically, future work could develop more systematic approaches to documenting and analyzing procedural deferral, potentially combining discourse analysis with quantitative methods to trace patterns across larger corpora of institutional documents.

Substantively, future research should examine how the mechanisms of procedural absolution we identify operate in other contexts of prolonged conflict and structural violence. Comparative analysis of institutional responses to the Rohingya crisis in Myanmar, the Uyghur situation in China, and ongoing conflicts in Yemen and Sudan could help determine whether procedural absolution represents a general feature of international legal systems or specific configurations within particular political contexts. Such comparative work would strengthen our understanding of how bureaucratic systems function to defer responsibility across different institutional and geopolitical settings.

Methodologically, future studies could develop more systematic approaches to analyzing institutional discourse, potentially combining qualitative discourse analysis with computational methods to identify patterns across larger document collections. Such methodological innovation could help address concerns about reproducibility while maintaining the interpretive depth necessary for analyzing complex institutional phenomena. Additionally, ethnographic approaches could complement our discursive analysis by examining how procedural absolution manifests in the lived experiences of those navigating bureaucratic systems.

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.

REFERENCES

- Hannah Arendt. *Eichmann in Jerusalem: A Report on the Banality of Evil*. Viking Press, 1963.
- Zygmunt Bauman. *Modernity and the Holocaust*. Cornell University Press, 1989.
- Judith Butler. *Frames of War: When Is Life Grievable?* Verso, 2009.
- Claudia Card. Genocide and social death. *Hypatia*, 18(1):63–79, 2003.

- Jacques Derrida. *Force of Law: The Mystical Foundation of Authority*. Cardozo Law Review, 1990.
- Raphael Lemkin. *Axis Rule in Occupied Europe*. Carnegie Endowment for International Peace, 1944.
- Emmanuel Levinas. *Totality and Infinity*. Duquesne University Press, 1969.
- Benjamin Meiches. Speaking of genocide: Double binds and political discourse. *Genocide Studies and Prevention*, 11(3):38–54, 2017.
- A. Dirk Moses. *The Problems of Genocide: Permanent Security and the Language of Transgression*. Cambridge University Press, 2021.
- William A. Schabas. *Genocide in International Law: The Crime of Crimes*. Cambridge University Press, 2009.