

Jean-François Lyotard's *Différand*: Ethics in Political Disputes

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Abstract:

The concept of the differend signals the *problématique* of ethics in the linguistically ill-represented legal and political disputes where the victims lack the means of self-expression that guarantee repairing the wrong they suffered beforehand, or their phrase is not accompanied by a clear referent that convinces the tribunal to judge for their sake. Auschwitz, for Lyotard, is an example of the differend exercise in Nazi Europe which, he thought, could only be rectified in the declaration of what is called 'the State of Israel.' He neglects the fact that the Auschwitz descendants, who arise as a result of postmodern discourses on the failure of grand narratives to achieve justice, betrayed these discursive tools in their production of a 'Jewish State' that repeats the *Holocaust* trauma in Gaza Strip and Palestine in general. The focus of this paper is to examine the post-7 October Gaza as a Lyotardian *reading dossier*, or a reading case of differend whose main thesis is that, due to its insistence on silencing the brutal extermination of the Arabs in Gaza, Zionism continues to be a moral challenge to the 'civilized world,' a test to its hypothetical debt to the Other. Hence, critical theory should draw the readers' attention to the danger of naturalizing crimes of genocide or reducing personal responsibility to them. It has to represent Gaza in litigious terms rather than taking it as a differend.

Key Words: Lyotard; differend; Auschwitz; Gaza; ethics; politics.

الاختلاف عند جان-فرانسوا ليوتار: الأخلاق في الصراعات السياسية

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الملخص:

يشير مصطلح "الاختلاف" إلى انعدام الأخلاق في النزاعات القانونية والسياسية الممثلة لغوياً بشكل سيء، لأن الضحايا يفتقرون إلى وسائل التعبير عن الذات التي تضمن إصلاح الظلم الذي تعرضوا له مسبقاً، أو أن عبارتهم لا تكون مصحوبة بدليل حقيقي واضح يقنع قضاة المحكمة ليحكموا من أجلهم. أوشفيتز، بالنسبة لليوتار، هو مثال على ممارسة "الاختلاف" في أوروبا النازية، والتي كان يعتقد أنه لا يمكن تصحيح أخطاءها التاريخية إلا من خلال إعلان ما يسمى "دولة إسرائيل". إنه في حكمه الظالم هذا يتجاهل حقيقة أن أحفاد اليهود الذين اضطهدهوا في أوشفيتز، والذين نشأوا نتيجة لخطابات ما بعد الحادثة حول فشل الروايات الكبرى في تحقيق العدالة، قد خانوا هذه الأدوات الخطابية في إنتاجهم لـ "دولة يهودية" تكرر صدمة المحرقة في قطاع غزة وفلسطين كلها. تركز هذه الورقة على دراسة غزة ما بعد ٧ أكتوبر باعتبارها ملف قراءة ليوتاردي، أو قضية قانونية مختلفة تتمثل أطروحتها الرئيسية في أن الصهيونية التي تجبر الضحايا الفلسطينيين على الصمت بالقوة لا تزال تمثل تحدياً أخلاقياً للعالم المتحضر، واختباراً لأخلاقه المزعومة. ومن ثم، ينبغي للنظرية النقدية أن تلفت انتباه القراء إلى خطر تطبيع جرائم الإبادة الجماعية أو تقليل المسؤولية الشخصية تجاهها في عالم اليوم.

الكلمات المفتاحية: (ليوتار، الاختلاف، معسكر أوشفيتز، غزة، الأخلاق، السياسة).

Jean-François Lyotard (1924-1998) launched in the linguistic *turn* of Western philosophy, and the decline of its *grand narratives* (progress, enlightenment, subjectivity, modernity, socialism, ...etc.). The second standpoint marks his philosophical and political conflict with Jürgen Habermas' *communicative rationality*. Although both thinkers give priority to language, the return to pragmatic analysis of linguistic situations and language games exchanged by speakers, Habermas emphasizes the possibility of universal *consensus* as a necessary principle of all speech acts in actual language that claims ultimate truth, justice and beauty, and Lyotard; on the other hand, posits *dissensus* or inevitable disputes in all communicative exchange. For Habermas, the possibility of an ideal speech situation enables the potential of having a free society which is not regulated by 'social position or coercion,' but by free critical views of all parties so that the differences between them would be 'erased in an attempt to attain unity of mind and purpose' (Tomiche, 2017, 30). Habermas anticipates an *evolutionary social leap* into a new rational society when all the participants of a communication crowd 'test the validity claims of norms and, to the extent that they accept them with reasons, arrive at the conviction that in the given circumstances the proposed norms are right' (Jameson, 1979, x). They can enter into an era of a 'domination-free' or 'violence-free' discourse of *justice* (Apel, 1999, 285). This discourse is built on the assumption that there should be mutual understanding in the primordial use of language, 'a transcendental pragmatics of language' (Ibid., 275). For Lyotard, Habermas' thesis is self-contradictory because the consensual communicative discourse does not adhere to the *zero degree* neutral rationality of language-use and meaning comprehension, which means discursive rationality may not suit every interlocutor. Thus, there is no communicative action which is not bound by 'claims to power or appeals to the force of interests' (Ibid., 189). Lyotard's refutation of Habermas' grand narrative of the *legitimation of consensus* is built on two justifications. In the first, he says that 'consensus is a component of the system, which manipulates it in order to maintain and improve its performance' (Lyotard, 1979, 60). Second, if 'consensus is an agreement between men, defined as knowing intellectuals and free wills, and is obtained through dialogue,' there always comes the possibility of having someone who can 'disturb the order of reason,' bringing to the fore unpredictable little narratives (*petit récits*) that destabilize the dominant grand narratives (*grand récits*). Thus, revolting against consensus is necessary for 'the promulgation of new norms for understanding or, if one prefers, in a proposal to establish new rules

circumscribing a new field of research for the language of science' (Ibid., 61). As such, what is applicable to the language of science is relevant to social and political theory, in so far as the validity of little narratives or individual aspirations 'generates blind spots and defers consensus,' and consequently, raises the system performativity. He diagnoses the failure of the *grand narratives* to sketch ultimate truths and advocates a substitutive richness to the arguments at hand by a richly expressive medium. 'Rather than any reductively clear categorization or definition,' or 'final categorical truths,' he resorts to 'testimonies to the need for further varied thoughts eschewing exclusive positions' (Williams, 2019, 133).

Liotard rejects Habermas' claim to *liberatory rhetoric* as an unacceptable *totalizing*, or *terrorist*, myth of legitimation or conformist philosophy. Instead, he elaborates the notion of the *differend*, 'a notion that can be read as the central piece of a philosophical theory of radical disputes, indeed a theory of the radicality of disputes' (Tomiche, 28). The *differend* is based on his *philosophy of phrases*, pragmatic entities that define and defined by 'the situating of its instances with regard to one another' (Ibid., 31). There are not only linguistic phrases, a word or a sentence can be considered as a phrase as well as non-linguistic units like silence, gestures, signs and musical notes. They create a four-pole discursive universe: addresser, addressee, referent, and meaning. The addresser and addressee make the address-axis and the referent and meaning organize the semantic/referential-axis. The phrases, for Lyotard, are *events* that 'happen' (Lyotard, 1983, xii). Like Roland Barthes, Lyotard thinks that the *phrase-events* are independent of the subjects (address-axis), the subjects are situated within the universe created by the phrases; i.e., phrases pre-exist subjects. In a similar way, the referent and meaning (semantic/referential-axis) are also 'effects of certain kind of phrases or grouping of phrases' (Tomiche, 32). There are many possible ways of phrases grouping or linkage, these ways are called *genres* by Lyotard. Different genres of discourse may fall under dispute due to their heterogeneous rules of phrase linkage. The disputes among varied genres of discourse can be either *differend* or *litigation*. A litigation can be settled when a rule of judgement common to all disputed parties is found, but 'as distinguished from a litigation, a *differend* ... would be a case of conflict, between (at least) two parties, that cannot be equitably resolved for lack of a rule of judgement applicable to both parties,' says Lyotard (1983, xi). 'One side's legitimacy,' Lyotard continues, 'does not imply the other's lack of legitimacy' (Ibid.). The attempts to settle disputes may

produce either damage (*dommage*) or wrong (*tort*). Lyotard differentiates between these terms saying: 'applying a single rule of judgement to both [parties] in order to settle their differend as though it were merely a litigation would wrong (at least) one of them (and both of them if neither side admits this rule)' (Ibid.). Thus, the wrong 'results from the fact that the rules of the genre of discourse by which one judges are not those of the judged genre or genres of discourse.' Damage, on the other hand, results 'from an injury which is inflicted upon the rules of a genre of discourse but which is reparable according to those rules' (Ibid.). In this sense, a wrong is itself a 'damage accompanied by the loss of means to prove the damage,' it is the case of a victim who 'is deprived of life, or of all his or her liberties, or of the freedom to make his or her ideas or opinions public, or simply of the right to testify to the damage, or even more simply if the testifying phrase is itself deprived of authority' (Ibid., 5). It is a discourse which is forced to silence with 'the impossibility of bringing it to the knowledge of the others, and in particular to the knowledge of the tribunal.' However, when the victim is given the ability to testify the wrong done against him/her, his/her testimony would be taken in one of two ways: 'either the damages you complain about never took place, and your testimony is false; or else they took place, and since you are able to testify to them, it is not a wrong that has been done to you, but merely a damage, and your testimony is still false' (Ibid.). For the judges panel, the victim turns to be a plaintiff, 'someone who has suffered damage and possesses means to prove it' (Kwiek, 1979, 78). The plaintiff/litigation symmetry is less tragic than the victim/differend, the latter is non-cathartic because the wrong suffered by the victim is not capable of being re-presented by a clear or accepted discourse: 'a differend between parties takes place when the regulation of the conflict that opposes them is done in the idiom of one of the parties while the wrong suffered by the other is not signified in that idiom' (Lyotard, 1983, 9). The differend is 'a difference or opposition that cannot be bridged on terms that are just towards both sides of an argument.' 'If the views or position defined by one side are imposed on the other, there is in Lyotard's terms a *tort*, a wrong that cannot be rectified according to a system of justice set up by the side that does the wrong,' says Williams (134). Thus, 'the wrong comes partly from the reasonableness of the questions' (Ibid.).

Before the tribunal, the phrase of a differend case has usually no referent (reality). As such, deciding the truth of this phrase is impossible and the judging board cannot come to a decision about it because, historically speaking, the 'phrase is

part of its referent' (Lyotard, 1983, 7). Since the cognitive consideration of reality is not given, the victim's defence is nihilistic in the prosecution and it pleads for existence. The presumed innocence of the victim that cannot be discursively expressed or legally proved results in exclusion and injustice. The victim does not feel himself belonging to the dominant narratives of political communities that are based on ethnicity, gender, religion and other higher values that formulate the citizen identity. This exclusion 'banishes outside the law by denying the right to be heard, for example,' it also involves 'new forms of violence, such as the denial of roots and culture.' Thus, Lyotard's concept of the differend in legal and political disputes finds a gap in the general notion of *human rights*, in so far as these rights ignore some victims deliberately as being less than basic or bare human beings, but only the other-than-human, outside the notions of absolute human identity; such as, the bylaw discourse of the Nazis who overtly 'make laws without having to refer to anyone other than themselves,' banishing the Jews (among others) with no possibility of a tribunal for the deportee to convert the wrong (Lyotard, 1993, 106). Lyotard considers Hitler's *final solution* to the *Jews question* as the greatest disillusionment of European modernism. He makes the Jews, under Nazi Europe, a sort of paradigm of *the forsaken*, in his *Heidegger and 'the jews'* (1990), where he writes their name in the plural, with quotation marks and in the lower case, showing Heidegger's silence to the *Holocaust* as a paradox between his excellent philosophical thought on the phenomenological *being* of beings and demoralized politics of the *forgotten Jew* in Aryan discourse. Such discourses, says Lyotard, are responsible for self-defeating historical and political disputes on Auschwitz concentration camps, extermination camps and gas chambers in which 'a group of Jews immemorial in history, those who should not be forgotten or confused with the Jews in general' was tormented without appropriate hearing or trial. Auschwitz functions 'as the name of an irreducible immemorial that nevertheless demands not to be forgotten and not to be left unrepresented' (Tomiche, 33). Its victimhood, for Lyotard, is a case of differends that 'occur by securing the deafness of judges as much as by silencing witnesses or insinuating the speciousness of testimony..., by creating a situation in which it is as if there were no referent whatsoever, and by implication no author, no authority' (Wortham, 2022, 8-9).

In *Le Différand* (1983), Lyotard reacts to Robert Faurisson's denial of the gas chambers, silencing the witnesses by rendering them to the perplexity of the Sophist

logic of double bind. According to this *either/or* logic, the Jew is either a victim of a wrong, or he is not, if he is not, he is deceived (or lying) in testifying that he is. If he is, since he can bear witness to this wrong, it is not a wrong, and he is deceived (or lying) in testifying that he is the victim of a wrong. Logically speaking: 'Let p be: you are the victim of a wrong; $not\ p$: you are not; Tp : phrase p is true; Fp : it is false. The argument is: either p or $not\ p$; if $not\ p$, then Fp ; if p , then $not\ p$, then Fp ' (Lyotard, 1983, 5). This logic disturbs the linking of phrases in Auschwitz litigious discourse: 'It's as if you said both, *either it is white, or it is not white*; and *if it is white, it is not white*' (Ibid., 6). In both cases, the victim cannot prove the wrong done against him so he remains a victim (never a plaintiff) of his case. Hence, in his claim to the gas chambers, Faurisson, says Lyotard, should not say that there are none, but rather the victims 'cannot prove that there are any, and that should have been sufficient to confound the tribunal.' As such, Lyotard writes on Auschwitz in the context of ethical necessity to testify and bear witness to it. Even 'after the differend event' of Auschwitz, past the Allied victory in World War II, when a reparation to the wrongs done against the Jews was attempted by the Nuremberg Trials, they were no more than a representation of vengeful justice that 'recreates the circumstances whereby the judge - being the more fortunate war criminal - is at once author and adjudicator in the case at hand' (Wortham, 9). Still after Nuremberg, Auschwitz remains a sign to be phrased, 'the sign of a wrong that cannot be litigated but must still somehow be addressed, or at any rate must find new addressees, new addressers, new significantions and new referents in order for the wrong to find an expression and for the plaintiff to cease being a victim' (Ibid. 10). Thus, in post-Auschwitz politics, the Europeans, says Lyotard, should abandon the differend that sets the Jews apart from the rest of Europe in the Christian testament, they should understand that new rules are a necessary requirement for the formation and linking of phrases to convert the differend into a litigious thinking, to reunite politics and ethics again. He demands finding new idioms (linking of phrases) that make it possible to find meaning to Auschwitz because 'after Auschwitz the resultant is lacking,' 'it is the proper name of a para-experience, that of the impossibility of a *we*' (Lyotard, 1983, 98-9). It does not mean that Auschwitz is lacking subjects, but they are prohibited by force from being a *we*, prescribed to die by an outside power beyond their control: 'It takes the shape of I order you to die.' Auschwitz is a case of 'a *Die*, that the SS authorities address to the deportee, with no alternative.' (Ibid., 100). Since the Jews found no reason to die in Auschwitz, they lost the subjective *we*. They are situated in a mandatory death,

deprived of the right to command as well as the right to live so they are forbidden from 'the beautiful death,' the sacrificial sublime of *Die in order not to die*, simply because they do not have their life in order to give it. Thus, both the individual and collective *Jew* are killed, and what is considered as more than death is exterminating the Auschwitz-case after the crime, its terror ends up with 'silences, instead of a *Resultat*' (Ibid., 106). Lyotard suggests that unknown genres of discourse and phrase regimens are needed to bear witness to Auschwitz, to hear its testimony. The Europeans, for Lyotard, should always be reminded of their 'ontological debt to the Other,' their incurable ethical obligation to the Jews. Hence, Auschwitz will continue being 'a constant reminder of the impossibility of ever cancelling that debt' (Seymour, 210). It is 'the unidentifiable thorn in the West's flesh,' the sign of Europe's failure of emancipation due to its anti-Semitic practices like Auschwitz. However, Lyotard betrays his after-Auschwitz moral philosophy as he encourages the European relief of the Jewish burden by supporting the declaration of what is called 'the State of Israel' in post-World War II, the survivors of Auschwitz thought that they can compensate for the wrongs done against them by creating a parasite Jewish state in a foreign land (Wortham, 9). In this respect, Lyotard's philosophical project which is built on reading the European Jewish case, absolutely, fails to consider the rights of the Arabs, and overlooks the fact that the Auschwitz trauma is repeated many times against the Palestinians who were either killed or banished out of their lands, then they were silenced by force, deprived of the right to express the wrongs done against them, turning the Arab case into a post-Auschwitz differend. Thus, Lyotard's reading-case is after all no more than a neo-Hegelian 'modernist project of ... highly general theoretical claims' rather than a postmodern concern with the Other; especially, when this Other is a non-Jew (Browning, 2). He obviously betrays his moral political theory of the *differend*.

For Jacques Derrida as for Lyotard, the 'after-Auschwitz Jews' is a reading case more than a litigation. It is a spectral echo roams around 'to haunt our reading,' says Derrida (2000, 30). This reading case 'is left to the addressee, the reader in this case,' whose testament provides endless possibilities to 'the unreparable which no work of mourning will ever mend' (Ibid., 32). He reads Lyotard reading Adorno, saying: 'Death in the Camps is a new kind of horror: since Auschwitz to be afraid of death means to be afraid of something worse than death' (Cited in Lyotard, 1983, 132). This citation has a comparison uttered in *hyperbolic superlative*, 'nothing worse than the

worst;' i.e., there is an experience that hurts more than death. 'The worse,' says Derrida, 'appears a second time, and once again, in relation to the survivors of Auschwitz, the impossibility of bearing witness, of saying *we*, of speaking in the first person plural' (Derrida, 33). Auschwitz, for Derrida as he read Lyotard, is worse than the Jewish Diaspora because the latter is given a national historical proper name, the Jews are still belonging to the Diaspora community, they can still use the pronoun *we/nous*. In Auschwitz, 'there is no plural subject,' it turns to be a shadow-like experience that no plural subject 'is able to name itself through a recalling of such an experience.' The Diaspora Jews 'are gathered together,' says Derrida, 'by this principle of dispersal, the originary exile, the promise, the idea of a return, Jerusalem, if not Israel' (Ibid.). The problematic of 'Israel' emerges again here, but for Derrida it is an historical solution for the Diaspora Jews who suffer from what Hannah Arendt calls 'eternal antisemitism,' and not a remedy for the Auschwitz wrong as Lyotard suggests. Both thinkers do not adhere to the universalism inherent in modern law. David M. Seymour argues that there is a constitutive trauma in law due to its inability 'to reach an adequate judgement' (2010, 206). Because of its limited scope of competence, law loses 'confidence in its basic premises,' and as a consequence, it 'has left the judgement it has needed to make ... to other domains, specifically to morals and ethics' (Ibid.). However, this recourse to ethics is not without risks, notably if we know that ethics are lacking measures of judgement. Seymour's argument is motivated by the countless images and narratives that compare Auschwitz to the conflict of the Arabs in Gaza, saying that 'the insistence [of these images and narratives] on the moral indictment of the Jews (as the people who should know better) is a direct consequence of the *moralizing* of the Holocaust in the face of the absence of law' (Ibid.). The images which compare the genocide in Gaza to Auschwitz invert the case from a moral wrong against the Jews into a moral indictment of the Jews, considering them as new Nazis who kill the innocent Arab civilians. What is at stake here is that the post-Auschwitz Western world denies its legal-rational responsibility to the Arab civilians, turning Gaza into a case of differend, a new Auschwitz where there is a shift from 'legal modes of judgement to that of ethics and morality' (Ibid., 207). Ethics becomes the *Other of Law*, and, consequently, the counter to modernity, though it contains no criteria to measure its faculty of judgement. Gaza can be considered as the last denial of Western civilization to its hypothesized ontological debt to the Other, a renouncement of its presumed ethical obligations.

Who knows Auschwitz and testify to the world about it better than the Jews? And the Jews themselves have tended, recently, to compare the Zionist war-crimes in Gaza to a new Auschwitz in their interviews and caricatures, making the world admit this comparison unquestionably. Pragmatically speaking, in the statement 'Gaza=Auschwitz,' there is an intended message uttered by some *knowing* senders (Jews whose family members survived Auschwitz termination) to *less-knowing* receivers. The Jewish senders invest with the authority of making interactive utterances about Auschwitz for their being first-hand witnesses of the event. Their utterances, which impose Gaza-Auschwitz analogies on the part of the receivers, are *contractual* because, basically, the comparison cannot be held without admitting unconsciously the legitimation of the first historical event. Thus, comparing the Gazan catastrophic conditions under Zionist war-machine to Auschwitz supplies, discursively speaking, a Jewish long-desired worldwide concession of an historical event called the *Holocaust*. In this sense, the linguistic games in the media are defined by Jewish rules even if they seem to support Arab victims, and even if these messages are uttered sometimes by Arab addressers. The comparison is positive to the Jews more than the Arabs for, unlike Auschwitz lack of witnesses, the scenes that document the Zionist genocide of the Arabs in Gaza are evident everywhere (thanks to social media) and cannot be denied even without this comparison to the Jewish *Holocaust*. The pro-Zionists use the *Holocaust* language literally, and anti-Zionists use the same language metaphorically to re-present the *unsaid wrongs* of the *ghettoized* Gazans under Zionist extermination. There is a persistence to show 'the Holocaust inversion - the claim that Israelis are the new Nazis and Palestinians are the new Jews' (Kramer, 2010). This unnatural *detour* in the Auschwitz discourse sheds light on the Jewish betrayal of their historical saga, making them unworthy of its pity, and the Arabs become the true heirs of its victimhood. Auschwitz, in this sense runs out of its 'original locus,' and goes into an opposite direction. Operating outside its familiar context, the Auschwitz-sign gains a new unknown and unexpected meaning as it is *re-territorialized* in Gaza. In fact, Auschwitz acts as a *différance* rather than *différend*, an arbitrary different and deferred play of signifiers in the linguistic system of signification (Derrida, 1982, 11). It changes its meaning with reference to the new context of atrocities against Gaza. Hence, the whole rhetoric of Auschwitz memory takes a different/deferred or deconstructionist direction.

As early as 2014, Hamid Dabashi describes Gaza Strip as a new ghetto saying: 'we are here in a hall of mirrors, where culture and cultural criticism keep reflecting each other, generating the illusion of defiance, consolation, liberation – but in effect plunging us ever deeper into the abyss.' The Zionists turn Gaza into 'an open-air prison,' one of the latest concentration camps where the innocent Palestinians are forced into a suffocative siege. Non-humanitarian assaults were escalated almost every day till the final explosion of Hamas combatants took place on the 7th of October 2023, and its aftermath is Zionist brutal revenge in mass murder of the civilians. The Gaza catastrophe is shockingly reported by *The Newyorker* journalist, Masha Gessen (2023), saying: 'all Gazans have suffered from the barely interrupted onslaught of ... [Zionist] forces. Thousands have died. On average, a child is killed in Gaza every ten minutes.' Severe bombardment and airstrikes 'have targeted civilians and densely populated areas including markets, schools, hospitals, mosques and civilian convoys' (Ibid.). The retaliating military operations result in large damage to humanitarian services and infrastructure essential to maintaining life in Gaza. Zionism considers all the Palestinians responsible for the 7th-October attack, 'the entire nation is responsible,' says Isaac Herzog, the Zionist President. The whole Zionist governing board uses provocative language against the people of Gaza. Major General Ghassan Alian says: 'Human animals must be treated as such. There will be no electricity and no water, there will only be destruction. You wanted hell, you will get hell.' Yoav Gallant, the Zionist Defence Minister uses highly aggressive language too: 'We are fighting human animals and we act accordingly.' The Zionists use over-power in Gaza and there is a general Western political consensus to support this violence or at least to stay silent in relation to it. The liberal democratic West considers itself responsible for 'the security of Israel' while the rest of the world, basically human rights organizations, celebrities and academic figures deem 'Israel as a parasite state' that commits crimes against humanity. Hence, the world is divided in its attitude to Gaza: the political West against the ethical Other. The most dangerous issue in the sabotage of Gaza is that, apart from the legal case raised by South Africa to the International Criminal Court (ICC) accusing Zionism of committing genocide, the Zionists push Gaza deliberately to be a case of differend rather than a litigation, concerning 'the unstable state of language wherein something which must be able to be put into phrases cannot yet be,' with reference to a group of Arab victims 'suffering where an injustice cannot find a space to make itself heard, where an injury is silenced and become a wrong' (Lyotard, 1983, 13). The Palestinians are forbidden

from retaining their right of speaking in front of international tribunal, they are intended to remain an open unsettled case overwhelmed by a general feeling of *injustice* and *wrong*. Nevertheless, Gaza itself becomes a new sign after the 7th of October, its referent is the only semiotic ingredient present now, it is awaiting to be phrased in original Palestinian terms, in Arabic rules of discourse, not Jewish rules, not only in linguistic phrases but in non-linguistic units as well; like photography, painting, musical notes or even indicative silence. Gaza is a sign of a wrong which could not be expressed until now. Only the referents (realities) of the wrongs against Gaza are present everywhere on news channels and social media, but these atrocities and non-human practices are not addressed or well-represented by linguistic tools. They must find expressions, idioms and litigious discourse other than comparing Gaza to Auschwitz. This comparative discourse will do Gaza another wrong because in such comparison, we are applying the rules of the Jewish genre of discourse, we judge by the other side's genre or genres of discourse. Gaza's wrong is not repairable by Auschwitz discourse, it is deprived in this unfair comparison from the right of expressing itself freely in its own terms, of testifying of the damages done against it. Gaza must be able to make itself be acknowledged in public, to let itself be heard before an international court. It must be a litigation and not a mere differend.

As a critique of the post-Auschwitz shift into the 'Jewish State' solution in Jean-François Lyotard's politico-ethical theory of the differend, and to attract the attention to the deliberately *forgotten* Arab victims in his theory, this paper criticizes the Zionist organized neo-colonial policies of exile and mass killing of the Arabs in Palestine and rejects recycling the Auschwitz discourse with reference to it. It seeks to adhere to an altruistic postmodern philosophy of the Other, which is born from the ashes of absolutism and modernism. In opposition to totalitarian grand narratives, Lyotard suggests the differend as an essential linguistic phenomenon with all its assumptions of 'the singularity and contingency of phrases' (Browning, 2023, 1). On this cornerstone, he builds a large-scale social and political theory that finds its gestures, not only in Auschwitz equivocal issue, but also in the unrepresented brutal Zionist hostility against the civilians in Gaza Strip. In this inferno, human life has no value, death is developed into a macabre dance relish without distinction between combatants and civilians. The traumatized living suffer from awful nutritive and heath conditions with the Zionist impeding the passage of humanitarian relief for the civilians. Consequently, critical theory has to play its combative role in directing the

rhetoric that criminales the Zionist conduct of 'collective punishment' in Gaza to guarantee that they will pay back for their crimes in front of the ICC in relation to crimes against humanity, war crimes and genocide.

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