

## AN ANALYSIS OF ISRAEL'S ATTACKS ON PALESTINE (7 OCTOBER 2023- 7 OCTOBER 2024): IS A JUST WAR POSSIBLE?

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### *Abstract*

Historically and politically the issue between Israel and Palestine has manifested itself from time to time as conflict and sometimes as war. The ongoing unresolved conflict between the two sides led to the war that finally broke out in October 2023. The Israeli side declared a war against the attack from Hamas. This study analyzes the Israeli-Palestinian War through the jus ad bello and jus in bellum criteria of just war theory. Jus ad bellum is based on the cause of the outbreak of war. Accordingly, when a state is under armed attack, it can resort to self-defense. However, self-defense must be aimed at the establishment of justice and the force used in war must be proportionate to self-defense. The second principle is jus in bello. Jus in bello is based on the distinction between civilians and combatants during war and the proportionate use of force. This study examines Israel's attacks on Palestine in the one-year period from October 7, 2023 to October 7, 2024 in terms of just cause, proportionality, civilian deaths and injuries, destruction of civilian areas and the appropriateness of the weapons used, and discusses whether Israel's war was justified or not.

**Keywords:** Israel, Palestine, Just War, Jus ad Bellum, Jus in Bello.

**Jel Codes:** H56, K33, N45.

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## İSRAİL'İN FİLİSTİN'E YÖNELİK SALDIRILARININ (7 EKİM 2023- 7 EKİM 2024) İNCELENMESİ: HAKLI BİR SAVAŞ MÜMKÜN MÜ?

### Öz

Tarihsel ve siyasi süreç içinde İsrail ve Filistin arasındaki mesele zaman zaman çatışma zaman zaman da savaş olarak kendini göstermiştir. İki taraf arasında süregelen çözümsüzlük son olarak Ekim 2023'te başlayan savaşa neden olmuştur. İsrail tarafı Hamas'tan gelen saldırıya karşı bir savaş ilan etmiştir. Bu çalışma İsrail-Filistin Savaşı'nı haklı savaş kuramının jus ad bello ve jus in bellum kriterleri ile ele almaktadır. Jus ad bellum savaşın başlama nedenine dayanmaktadır. Buna göre bir devlet silahlı saldırı altında kaldığında meşru müdafaaya başvurabilmektedir. Ancak meşru müdafaanın adaletin tesisine yönelik olması ve savaşta kullanılan gücün meşru müdafa ile orantılı olması gerekmektedir. İkinci prensip jus in bello'dur. Jus in bello savaş esnasında sivil-savaşan ayrımı yapılmasını ve orantılı güç kullanımını esas almaktadır. Bu çalışma 7 Ekim 2023'ten 7 Ekim 2024'e kadar geçen bir yıllık süreçte İsrail'in Filistinli sivillere yönelik saldırılarını haklı neden, orantılılık, sivillerin ölümü-yaralanması, sivil alanların tahrip edilmesi ve kullanılan silahların uygunluğu açısından incelemekte ve İsrail'in açtığı savaşın ne kadar haklı olup olmadığını tartışmaktadır.

**Anahtar Kelimeler:** İsrail, Filistin, Haklı Savaş, Jus ad Bellum, Jus in Bello.

**Jel Kodları:** H56, K33, N45.

### 1. INTRODUCTION

War is a concept that determines the survival of tribes, cities, empires and states since the existence of humanity. For this reason, various theories and ideas have been developed about war (Ağaoğulları, 2009, pp. 25-26). Thucydides, who recorded the Peloponnesian Wars between Sparta and Athens, is one of the first war theorists. Based on his observations in the Peloponnesian Wars, he put forward the hegemonic war theory, which emphasized the characteristics of human nature and the importance of international law/relations. According to him, human nature is dominated by self-interest, pride and fear. These three emotions encourage people to increase power over other people, and as long as people remain slaves to their emotions, they will cause great wars. He analyzed the international dimension of war on the basis of continuity. If the distribution of power in international relations is continuous, the power hierarchy among states is rigid and hegemonic. If the distribution of power is not continuous and the hierarchy is eroding, the hegemonic power is also shaken. In other words, when the power of a dependent-weak state increases, that state comes into conflict with the hegemonic power in the system (Gözlü & Efe, 2023, pp. 403-405).

Plato, like Thucydides, witnessed the Peloponnesian Wars and acquired his ideas about war largely through observation. According to him, war is an inevitable characteristic of societies living together. Plato, who was affected by the collapse of Athens after the Peloponnesian Wars, focused on the qualities and duties of a well-organized, virtuous state in his dialogue *Politeia*. According to Plato, one of the main goals of a virtuous state is to establish peace, but in cases

where war is inevitable, it is possible to fight on the basis of justice and ethics (Demir, 2018, pp. 274-275).

In Plato's dialogues on the *Politeia* it is seen that his ideas on war are compatible with the just order and organic social structure. According to him, the gradual growth of societies leads to an increase in property greed over resources. He argued that in order to establish peace and ensure the continuity of the state, everyone should do their own profession and that only in this way can a just order be achieved. He said that wars are caused by the desire to own more property (Plato, 2008, p. 373b, 373e). At this point, he introduces the class of protectors. Protectors should be philosophers, strong and educated. From a young age, they should be both theoretically trained and taken to war to receive practical training (Ağaoğulları, 2009, pp. 246-250). With these ideas, Plato defends professional military service and thinks that the stability of the police will be ensured through professionalism.

Since for Niccoló Machiavelli, one of the Renaissance thinkers, war is the constitutive element of having power (the political), in *The Prince* he focused on how the prince can manage war properly. Accordingly, war is an ordinary situation that leads the state to salvation and the necessary war is just (Kardeş, 2017, p. 339). However, Machiavelli is against the idea of professional army in Plato. He thinks that civilian forces should be used in war. He cites the Romans as an example for this and says that the disarmament of the people played a role in the fall of Rome (Machiavelli, 1999, pp. 95-100). Again in *The Prince*, while describing the virtue of the prophet Moses, he states that all armed prophets conquered, while the unarmed ones failed. According to him, the prophet Moses won the support of his followers because he was armed (Machiavelli, 1994, p. 60). Arnhart (2018, pp. 149-150) characterizes Machiavelli's explanation as the virtue of Machiavellianism. He criticizes Machiavelli's praise of Moses' armed wars and his description of these historical events as the glorification of ancestral lands and the establishment of happiness.

In his *On War*, Carl von Clausewitz defines war in two basic ways. The first is that war is an act of violence aimed at establishing superiority of will between opponents. This is absolute war. In absolute war, the historical and political context is not taken into account because the aim of absolute war is to crush or eliminate the enemy (Von Clausewitz, 1989, p. 75). The second is real war, which takes place within a historical and political context. Real war includes the elements and possibilities of a war turning into an absolute war. For example, the political purpose of war is the subject of real war (Karaosmanoğlu, 2011, pp. 9-10). Clausewitz considered war as the continuation of politics by other means. Based on this assumption, he

developed the concepts of fog of war, friction and trilemma. While he drew attention to the differences between the army, planning and reality with friction, he emphasized the unknowability of the war environment with the fog of war (Yalçınkaya, 2019, p. 2). His triad is the people, the army and the government. He completed the outlines of his theory by adding the elements of primordial violence, contingency/coincidence and political means to his formula. Here, primitive violence is associated with the people, contingency with the army and political means with the government. For Clausewitz, this trilogy determines the fate of war (Jablonsky, 2012, p. 5).

Samuel P. Huntington (2017, pp. 26-27, 31-36) argued that with the end of the Cold War, civilizations will clash between/within societies. According to him, the basis of the conflict lies in the fact that societies have different languages, histories, cultures, traditions and religions. These civilizational differences are much more fundamental than ideological and regime differences. With these ideas, Huntington points to the possible other of the West (Islam) in general and to the politics of religious identity in particular. He defines religious and sectarian differences as fault lines between civilizations and encourages the adoption of radical attitudes towards those seen as religiously other.

Although there are various ideas about the emergence of wars, it is possible to summarize war as *intense acts of violence by one state to establish superiority of will over another* due to the commonality of the definitions developed on war. In this vein, the first time tensions between Israel and Palestine were recognized as war was the Six Day War in 1967. Conflicts-military operations between the two administrations continued in various forms until 2023. Finally, the clashes that started on October 7, 2023 soon turned into a war and started to be referred to as the Israeli-Palestinian War both in the media and in the literature. Israeli Prime Minister Binyamin Netanyahu stated that his country has entered a long and difficult war (BBC, 2023a). Therefore, this study considers the events between Israel and Palestine as a war and assumes that the scope and intensity of these events exceed the limits of any conflict.

This study aims to examine Israel's war against Palestine on October 7, 2023 within the framework of just war theory. The concept of just war is a concept that has been discussed and developed in different ways from ancient times to the present day in many aspects, from the initial cause of war to proportionality in the war process. This concept is based on three basic principles. First, *jus ad bellum* refers to the conditions that justify the resort to war and the justness of war. Second, *jus in bello* includes ethical and legal rules that must be applied while the war is ongoing. Finally, *jus post bellum* is the norms that must be followed to ensure justice

after the war (Özdemir, 2022, p. 388). Since this study focuses on the war between Israel and Palestine and the war process is still ongoing, it will examine just war theory especially in terms of *jus ad bellum* and *jus in bello* criteria.

The basic assumption of this study is that Israel has committed war crimes against Palestinian civilians. In order to evaluate this assumption, the situation of Palestinian civilians during the one-year war will be analyzed in the light of *jus ad bellum* and *jus in bello* criteria. This analysis aims to provide a clearer picture of the situation of Palestinian civilians in the context of the law of war and to provide an explanation for the unfairness of Israel's conduct of war.

## **2. METHODOLOGY**

The descriptive analysis method was used to examine the *jus ad bellum* and *jus in bello* criteria of just war theory in terms of the Israeli-Palestinian war that started on October 7, 2023. The descriptive analysis was designed in three stages. In the first stage (in the introduction of the study), the conceptual framework of the ideas on war, law and ethics was determined. In this way, it was analyzed whether Israel's attacks on Palestine fit into any of the ideas in this conceptual framework. In the second stage, the conceptual and historical trajectory of just war theory was analyzed. Thus, the theoretical and legal framework in which the justification dimension of Israel's attacks on Palestine can be discussed was determined. In the final stage of the study, Israel's attacks on Palestine were analyzed according to the criteria of *jus ad bellum* and *jus in bello* by referring to newspaper reports and reports of institutions working in the region. In order to interpret the information obtained at this stage, the policies of international organizations regarding the Israeli-Palestinian conflict were also included. The study is limited to the events that took place in the one-year period between October 7, 2023 and October 7, 2024.

## **3. JUST WAR THEORY**

The fact that war has devastating effects on societies has led to the necessity of thinking about war in terms of morality and law. In this context, it is important to understand the rationality, justification, consequences and responsibilities of a war. Just war theory seeks answers to these questions and argues that a war can be fought on moral grounds and within legal limits (Orend, 2006, pp. 4-5).

There are two different grounds for the legal dimension of war. The first one is Hugo Grotius' *De Jure Belli ac Pacis* (1625), which is considered as the founder of international law. According to Grotius, war is a legal situation that must be declared. War must have a justifiable

cause, such as self-defense, the enforcement of law, or punishment for the violation of law. The second is the United Nations (UN) Charter. The UN Charter does not distinguish between just or unjust war and prefers the concept of the use of force instead of war. Accordingly, states are prohibited from using force except in self-defense and the concept of just war is excluded. The UN explained its purpose here as the maintenance of international peace and security. It does not recognize internal conflicts as a state of war and states that war is valid only between states. Therefore, the UN Charter changed the legal dimension-definition of war, not the existence of war (Keskin Ata, 2014, pp. 83-96).

Although the relationship between war and law is determined by these treaties, the ethical factor in war is not. Ethics is more in the realm of theoretical thought (political philosophy) and is not bound by legal or political sanctions. Therefore, when it comes to the ethics of war, communities' own ideals and belonging come to the fore. In Carl Schmitt's view, *there is no correct norm or legality to justify people killing each other. A war cannot be justified by moral or legal norms. His statement that war is politically meaningful only to the extent that it is fought against an existential enemy separates the ethical from the subject of war* (Schmitt, 2006, p. 69). It is also possible to say that Schmitt stands against the just war theory with this view. According to him, it is the political character of war that is decisive, not its justification dimension.

At this point, just war theory appears as the ideas that examine the legal status and ethical nature of wars in the modern period. The traces of just war theory can be traced back to Ancient Greece. The rules determining the boundaries, the purpose and the distinction between soldiers and civilians in wars in the states of the polis are the first nuclei of just war. The determination of self-defense in Roman law, St. Augustine's conditions for the justification of war in early Christianity, Thomas Aquinas' thoughts on the death of civilians are the historical development stops of just war (Aksu Ereker, 2018, pp. 1-4).

While *jus ad bellum*, one of the basic principles of just war, explains the grounds justifying the transition from peace to armed forces, *jus in bello* defines the conduct and responsibilities of belligerent nations in their relations with each other or with civilians (Stahn, 2006, p. 926). *Jus ad bellum* may have different details according to specific situations, but some conditions have been agreed upon. Accordingly, in order to resort to a war, there must be just cause, right intention, and it must be initiated and conducted by a competent authority. Just cause is self-defense; right intention is to establish peace and justice; and competent authority is the initiation of war by public authority. *Jus in bello* is the principle of discrimination. It requires the



distinction between civilians and combatants in a war and prohibits the targeting of civilians. It also places restrictions on the nature of weapons. It prohibits the use of weapons of mass destruction and biological weapons (O'brien & Arend, 2003, pp. 224- 226).

There is no consensus on the proportionality criterion in just war. Some views consider the legality of the force used in the self-defense principle of *jus ad bellum* in terms of proportionality. Proportionality here refers to the proportionality of the force (means) used to the legitimate purposes (self-defense) of using that force. Some consider proportionality as the prohibition of heavy weapons in *jus in bello*. Accordingly, the benefit to be obtained through war must be greater than the harm caused by the means used (Kretzmer, 2013, pp. 238- 240).

According to Walzer, just war is war whose limits are determined by moral ends and means. Since the political authority decides to resort to war, *jus ad bellum* is primarily aimed at holding heads of state accountable. He lists the principles of *jus ad bellum* as just cause (self-defense and protection of innocents), proper authority and publicity, right intention, last resort, high probability of preventing mass violence, and universal benefit being worth the losses (proportionality) (Orend, 2000, pp. 525-526). He explains *jus in bello* as referring to justice in war and finds it more important than *jus ad bellum*. According to him, even if states resort to war justly, they may not continue the war with just means. For this, civilian targets need to be distinguished. However, Walzer offers two exceptions to discrimination. The first one concerns reprisals. Civilians can be retaliated against if retaliation will end unjust acts. The second is the idea that civilians can be stripped of their immunity in times of emergency. What he calls a state of emergency is when the danger is present-real, unusual and terrifying, such as large-scale massacres (Bellamy, 2004, pp. 832-833).

According to McMahan (2005, pp. 5-11), the most important criterion of just war is *jus ad bellum* (the reason for going to war). According to him, elements such as proportionality, justification, good faith, and authoritative decision are secondary in a war that starts without a just cause. This is because it is possible for a war started for a just cause to be conducted in an unjust or disproportionate manner. However, just cause is not limited to self-defense. It considers any action that would cause injustice to a person or a community as just cause. In addition, he considered the second principle of just war, *jus in bello* (the distinction between combatants and civilians), within *jus ad bellum*. He argued that *jus in bello* legitimizes the objective of *jus ad bellum*.

Today, Article 51 of the United Nations (UN) Charter regulates the use of self-defense. According to Article 51, if a member of the United Nations is subjected to an armed attack, the attacked state has the right of self-defense until the Security Council takes the necessary measures. However, the attacked state must notify the Security Council of the attack. The term “armed attack” in the article refers to the armed forces of one state invading, occupying, bombing, blockading the coasts and ports of another state, attacking its land-sea-air forces, attacking with gangs, and the abuse of the legal rights of one state by another even if there is a treaty between the two states (Ulaş, 2016, pp. 175-176). In addition, Protocol II of the Convention on Certain Conventional Weapons stipulates that self-defense must be proportionate in order to be considered legitimate. Accordingly, if an attack causes accidental death or injury to civilians, the limits of self-defense are considered to have been exceeded and a war crime is considered to have been committed (IHL:4). The proportionality of self-defense takes into account the degree of the attack, the type of weapons and the extent of the damage. This is because self-defense is a measure taken against an attack. Therefore, there must be a proportionality between the actions that cause damage and the measures that eliminate the damage. Moreover, the application of self-defense provisions against possible attacks is a controversial issue. Self-defense is a rule that is clearly valid for attacks that have already occurred. For this reason, the UN Charter takes into account the current situation of states, not their assumptions (Dost, 2018, pp. 371-374).

Based on the theoretical approaches of just war, it is necessary to specify the criteria by which *jus ad bellum* and *jus in bello* will be addressed in this study. The study accepts the criterion of self-defense for *jus ad bellum*. It evaluates whether Israel's attacks against Palestine are within the limits of self-defense according to the principles of right intention, necessity, last resort and proportionality/properness of the force used for self-defense. *Jus in bello*, on the other hand, is assessed according to the civilian-combatant distinction and proportionality/the nature of the weapons used.

#### **4. EVALUATION OF THE ISRAELI- PALESTINE WAR ACCORDING TO THE JUST WAR THEORY**

The last war between Israel and Palestine took place after the Hamas attack in October 2023. In terms of conflict intensity, Hamas' attack started as a unilateral action and can be categorized as a medium-intensity conflict. However, Israel's military operations in response escalated over time, reaching the level of high-intensity conflict with the systematic use of weapons and the declaration of open war. Some authors in the literature state that this situation brought the



genocide debate to the agenda (Daban, 2024, p. 1638). This escalation of the war was evaluated within the framework of the principles of *jus ad bellum* (the right to wage war) and *jus in bello* (the manner of waging war). The study questions the extent to which high-intensity military intervention in response to a medium-intensity attack is compatible with the principles of proportionality and necessity.

McMahan (2024, pp. 394-405) analyzes the two basic elements of just war theory, necessity and proportionality, according to the time dimension. According to him, necessity requires an evaluation of the past, while proportionality requires an evaluation of the future. In this framework, the situation of Gaza before October 2023 was analyzed. Developments such as the prolonged blockade of the territory, the serious deterioration of living conditions and the expansion of settlement policies towards Gaza shaped the environment prior to the war. There were calls by members of the Israeli Parliament to turn Gaza into a Jewish enclave (Babahanoğlu, 2024, pp. 186-191). Such calls and practices led to an increase in the number of Palestinian refugees, and this led to the globalization of the refugee crisis that started at the regional level (Yiğit, 2024, p. 216). The refugee crisis caused by Israel shows that just war does not fulfill the condition of necessity and expands the scale of the problem.

The study also includes the historical background of the Israeli-Palestinian conflict. The occupation of the Palestinian territories from 1947 onwards and Israel's failure to comply with the UN General Assembly resolution on the return of the territories in 1967 are considered as an important element in the retrospective evaluation of the necessity of war principle. In addition, the fact that Israel did not implement the UN Security Council resolutions after October 7, 2023 and that these resolutions did not have binding consequences shows that an effective sanction mechanism at the international level was not activated (Daban, 2024, pp. 1644-1645).

The globalization of the Palestinian issue has also revealed the limits of the European Union's policies towards the region. These limits are evaluated under three headings: The continuation of Israel's settlement policies, the US support for Israel and the close relations that some EU member states maintain with Israel. These factors limit the viability of the two-state solution proposed under the European Union Foreign and Security Policy (EUFSP). Especially after October 7, 2023, Israel's disproportionate response and the deaths of civilians point to the dysfunctionality of international regional policies and make it important to develop different sanctions (Akgül-Açıkmeşe & Özel, 2024, pp. 73-74).

Intellectual debates are also important in the context of just war theory. Michael Walzer characterized the October 2023 attack as a just war from the Israeli perspective. According to him, civilian casualties in Gaza are largely due to Hamas' use of civilians as a tactic of war. Walzer argues that in the past, the principle of proportionality was used to justify killings, whereas today it is used to condemn Israel. Therefore, proportionality is not a valid criterion (Walzer, 2023).

On the other hand, Jeff McMahan criticizes Walzer's views. McMahan argues that the principle of proportionality should be the decisive criterion in the war in Gaza. He argues that Gazan civilians cannot be held responsible for the actions of Hamas and cites polls conducted in 2023 as an example, stating that public support for Hamas is limited. McMahan finds Israel's operations that cause civilian casualties contrary to the principle of proportionality and argues that Israel should develop alternative solutions (such as lifting the blockade, supporting peaceful organizations) instead of occupying Gaza. Therefore, he argues that Israel has not fully complied with both the principles of necessity and proportionality (McMahan, 2024, pp. 390-405).

#### **4.1. Jus ad Bellum: On the Legitimacy of War**

Following the Hamas offensive in October 2023, the Israeli military operations in Gaza have led to the deaths of Palestinian civilians and serious humanitarian crises. Living spaces in Gaza have been largely destroyed and the population has been deprived of basic necessities of life. These attacks have sparked debates on the legitimacy of the war. In particular, major powers such as the US, the UK, Germany, Italy and France supported Israel's right to self-defense (AA, 2024a), arguing that Israel's attacks were within the scope of self-defense. However, Israel's continued aggression and expansion of the battlefield exceeded the limits of self-defense, and some countries, especially Bolivia, Turkey, Jordan and South Africa, called for a ceasefire and deemed Israel's attacks on Gaza illegitimate (BBC, 2023c).

In addition to the states that do not recognize Israel's war as legitimate, the increase in civilian deaths in Gaza, the worsening living conditions of the surviving civilians and the demographic destruction of the region have led to popular protests around the world. Large-scale protests were organized in countries such as Turkey, the UK, Italy, France, Sweden, Sweden, the Netherlands, the United States, South Africa and Indonesia, with some Israeli citizens taking to the streets demanding the resignation of the Netanyahu government, a ceasefire and the release of hostages (BBC, 2024a). Such protests can be considered as an important sign that Israel has

violated the principle of *jus ad bellum*. The principle of *jus ad bellum* also provides a criterion for states and citizens to justify a war.

Another dimension of the principle of *jus ad bellum* involves the intent of war and the proportionality of the force used. War is justified only if it is waged for the purpose of establishing justice. Israeli Prime Minister Netanyahu has justified the war as demonstrating the eternity of the Jewish people and the prophecy of Isaiah. He also encouraged Jewish citizens to take up arms by procuring weapons from abroad (AA, 2023). However, the use of a religious narrative as a justification for war falls outside the scope of the principle of *jus ad bellum*. A war based on a religious doctrine cannot be considered as a war waged to achieve justice. Moreover, the arming of citizens indicates that the war is intended to exceed the limits of self-defense. In this context, Israel's justification for starting the war does not fall within the scope of the principle of self-defense, and this situation reveals that the war was not launched for the purpose of establishing justice, but rather for a strategic and ideological purpose. This makes the relevance of the *jus ad bellum* criterion for Israel questionable.

#### **4.2. Jus in Bello: Discrimination in War**

In order to analyze the principle of *jus in bello*, another pillar of just war theory, it is necessary to look at the situation of civilians-living spaces and the weapons used in the war. On October 9, 2023, at least 14 children and 11 women were killed in an explosion in Jabalya Market (OHCHR, 2024). On October 17, 2023, approximately 500 civilians were killed in the bombing of Al-Ahli Hospital (The Guardian, 2023). On October 20, 2023, the Greek Orthodox Church of St. Porphyrius was bombed, killing at least 16 Christian Palestinians (Aljazeera, 2023).

Other notable attacks included an attack on the Taj-3 Tower on October 25, 2023, killing 32 women and 47 children, and an attack on the Jabalia Refugee Camp on October 31, 2023, killing 12 women and 23 children (MEE, 2024). On November 2, 2023, it was reported that 5 women and 9 children were killed in an attack on Al Bureij camp, and on November 10, 2023, it was reported that 34 people were killed in the bombing of Al Buraq school where civilians took shelter (OHCHR, 2024).

On November 18, 2023, 50 Palestinian civilians were killed in the bombing of the UN Al-Fakhoura School (Daily Sabah, 2023). On 2 December 2023, a bombing in the Ash Shujai'yeh neighborhood reportedly killed 60 people and destroyed 15 buildings (OHCHR, 2024). On February 29, 2024, an attack at Nablusi Junction killed over 100 civilians waiting for humanitarian aid (AA, 2024b).

On March 8 and April 1, 2024, Al-Shifa Hospital was besieged, killing 21 patients (BBC, 2024b). On May 26, 2024, an airstrike was launched on the Tal al-Sultan camp for displaced Palestinians in Rafah, causing a large fire and killing at least 45 civilians. Experts stated that an unpredictable substance was used in this attack (NBC News, 2024).

On June 6, 2024, a UN-run school in Nuseirat refugee camp was bombed, killing at least 70 civilians (BBC, 2024c). On July 6, 2024, an airstrike hit the UN Al-Jaouni School in Gaza, killing 16 people (BBC, 2024d). On July 12, 2024, Israel attacked the Al-Mawasi area, which was declared a safe zone, killing around 90 civilians (Aljazeera, 2024). On August 10, 2024, Al-Tabi'in school was bombed and the death toll was reported as 20 by Israel and 100 by Palestinian officials (MEM, 2024).

On August 27, 2024, UN officials announced that there was a polio outbreak in Gaza and that patients were constantly being relocated due to Israeli evacuation orders (BBC, 2024e). On September 10-11, 2024, 64 Palestinian civilians were killed and 104 injured in Gaza (AA, 2024c).

In these attacks, Israel's targeting of civilian settlements and the widespread civilian casualties, demonstrates a violation of the principle of *jus in bello*. In most of the attacks, aerial bombardments were carried out without targeting or warning to civilians, violating the principles of proportionality and discrimination in warfare.

The report prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) also states that the weapons used by Israel violate the principles of discrimination and proportionality. It was emphasized that in the first four months of the war in Gaza, between 29,000 and 38,000 Palestinians lost their lives, hundreds of thousands of people were left homeless and there was massive destruction of infrastructure. In addition, the use of powerful explosives without targeting during the attacks is considered as a violation of the principle of discrimination in *jus in bello*. The report examines 6 incidents to analyze the destruction caused to civilians by Israel's use of powerful explosive weapons. These incidents are the explosion at the Jabalya market on October 9, 2023, the attack on the Taj-3 Tower on October 25, 2023, the attack on the Jabalya refugee camp on October 31, 2023, the attack on the Al Bureij camp on November 2, 2023, the bombing of the Al Buraq school on November 10, 2023, and the bombing in the Ash Shujai'yeh neighborhood on December 2, 2023. The report estimates that the explosives used by Israel in these attacks were GB-31s, GB-32s and GB-39s (OHCHR, 2024).

According to the UN report of March 12, 2024, 13,000 children, 9,000 women and 31,184 Palestinians were killed during the Israeli offensive. A third of Gaza's hospitals have ceased to function, 2.2 million people lack access to food and the number of children dying from malnutrition is rising. Access to clean water and sanitation has also been denied ((UN, 2024). These conditions reveal discrimination against civilians and violations of the principle of proportionality.

The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) report emphasizes that Israeli attacks on Gaza from land, air and sea have prevented civilians from accessing health and humanitarian assistance. More than 75% of Gaza's population has been repeatedly displaced and the majority of civilian casualties are children (UNRWA, 2024). UNRWA data clearly demonstrates the war's discrimination against civilians and human rights violations.

Humanitarian organizations such as the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) and UNICEF have also drawn attention to the health crisis of children in Gaza, stating that basic needs such as water, food and medicine are not being met (OCHA, 2024). They also emphasized the vulnerability of children displaced by the war and left without families (UNICEF, 2024). These conditions are contrary to the principle of *jus in bello* and show that Israel is not discriminatory towards civilians.

As of October 7, 2024, the Ministry of Health in Gaza announced that approximately 42,000 Palestinians had lost their lives (AA, 2024d). However, according to some assessments, this number may be much higher, including deaths under the rubble (Rasha et al., 2024, pp. 237-238). This data reveals that Israel used destructive force in its attacks in areas where civilians were concentrated, rather than in its efforts to open humanitarian corridors for civilians. Therefore, it is possible to say that Israel is waging a war that violates all the criteria of the *jus in bello* principle.

## **5. CONCLUSION**

This study aims to examine Israel's military operations against Palestine between October 7, 2023 and October 7, 2024 within the framework of just war theory. In particular, the analysis is based on the principles of *jus ad bellum* (the legitimacy of waging war) and *jus in bello* (the manner in which war is conducted). The first part of the study focuses on the intellectual grounding of war in international relations theories. Thucydides' theory of balance of power and hegemony, particularly the view that dependent states tend to challenge the existing order

as they gain power, provides a framework that can be observed in the recent conflict between Palestine and Israel. The historical context of the prolonged occupation of Palestine suggests that the war is not only territorial, but also political and identity-based. In this respect, the war has been linked to Clausewitz's definition of war.

It was also observed that the conflict was shaped by religious and cultural references. Quotations from the Tanakh and emphasis on identity in Israel's discourse are discussed in the context of Huntington's clash of civilizations theory. There are evaluations that the identity differences between the two sides are effective in the continuation of the conflict.

Another part of the study analyzes Israel's military intervention within the framework of *jus ad bellum* criteria. In this context, the following questions were focused on:

- Does the justification for the intervention fall within the scope of self-defense?
- Is the force used proportionate to self-defense?
- Was the operation carried out as a last resort?

In the study, the analysis conducted within the scope of the *jus in bello* principle was based on factors such as the distinction between civilians and combatants during the war, the targeting of living spaces and the impact of the weapons used. The assessment process was based on the reports of international organizations operating in the region, media reports, public statements by the Ministry of Health in Gaza and the Israeli government. The figures on civilian casualties reported by the Government of Israel do not coincide with some independent sources. However, the *jus in bello* assessment is based not only on quantitative data, but also on the nature and effects of military actions. Israeli operations have reportedly been concentrated in areas with a high concentration of civilians, such as places of worship, residential areas, public buildings, marketplaces and bazaars. This violates the principle under the international law of war that prior warning is usually given before attacking civilian areas, or that the target is chosen in such a way that civilians are not harmed. Therefore, it raises serious questions about the legitimacy of the war and leads to debates within the framework of international law.

Israel cites Hamas' attacks on October 7, 2023 as justification for the war. However, it is questioned whether the large-scale operation carried out in response to these attacks can be considered within the scope of self-defense. Netanyahu's statements and religious references were among the discursive elements used to justify the military intervention. Moreover, the extent to which the resort to large-scale military intervention in response to the attacks complied with the principle of last resort has been found controversial in line with some expert reports.



These debates have been joined by thinkers such as Walzer and McMahan, who have contributed to just war theory. While Walzer represents the view that Hamas initiated the attacks and therefore Israel acted in self-defense, McMahan represents the view that the moral legitimacy of the war is more important than Hamas' legitimacy arguments. O'brien, on the other hand, does not explicitly express an opinion on the Israel-Hamas conflict, but he is close to Walzer in his assessment of the jus ad bellum criteria for just war and to McMahan in his assessment of jus in bello. This divergence between the thinkers points to differences of interpretation on which principle is important in just war. It has also opened a new door for possible studies to assess Hamas' legitimacy for war.

### **Declaration of Research and Publication Ethics**

This study, which does not require ethics committee approval and/or legal/special permission, complies with research and publication ethics.

### **Researcher's Contribution Rate Statement**

Since the author is the sole author of the article, the contribution rate is 100%.

### **Declaration of Researcher's Conflict of Interest**

There are no potential conflicts of interest in this study.

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