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المستخلص

تتناول هذه الرسالة أثر انتهاكات النزاعات المسلحة على حقوق الأطفال النازحين داخلياً في العراق. وتنطلق من فرضية أن الأطفال النازحين ليسوا مجرد ضحايا للمصاعب الإنسانية، بل يتمتعون بأوضاع قانونية متداخلة: فهم أطفال يحق لهم التمتع بحماية خاصة بموجب القانون الدولي لحقوق الإنسان، ومدنيون يتمتعون بالحماية بموجب القانون الدولي الإنساني، ونازحون داخلياً تعزز حمايتهم المبادئ التوجيهية بشأن النزوح الداخلي. وفي هذا الإطار، تتناول الرسالة التجربة العراقية منذ عام ٢٠٠٣، مع التركيز بشكل خاص على تصاعد العنف والنزوح الجماعي في أعقاب صعود تنظيم داعش عام ٢٠١٤.

وتتبنى الدراسة نهجاً قانونياً تحليلياً لتقييم الانتهاكات الرئيسية التي يعاني منها الأطفال النازحون، بما في ذلك تجنيدهم واستخدامهم من قبل الجماعات المسلحة، والعنف الجنسي المرتبط بالنزاع، وفصل الأسر، والحرمان من التعليم، وفقدان الوثائق المدنية، وسوء الأحوال المعيشية في أماكن النزوح، ومحدودية الوصول إلى الخدمات الصحية والنفسية والاجتماعية. تتناول هذه الدراسة بالتفصيل العواقب النفسية والاجتماعية لهذه الانتهاكات، ولا سيما اضطراب ما بعد الصدمة، واضطرابات النوم، والتبول اللاإرادي، والسلوك العدواني، وفقدان الروابط الأسرية والاجتماعية، والاضطرابات التعليمية، والعقبات التي تحول دون إعادة الاندماج الاجتماعي.

كما تحلل الدراسة آليات الحماية القانونية الدولية المطبقة على الأطفال النازحين، بما في ذلك اتفاقيات جنيف وبروتوكولاتها الإضافية، واتفاقية حقوق الطفل، والبروتوكول الاختياري بشأن إشراك الأطفال في النزاعات المسلحة، والمبادئ التوجيهية بشأن النزوح الداخلي، والمبادئ ذات الصلة بالقانون الجنائي الدولي. ويؤلي البحث اهتماماً خاصاً لسياسة مكتب المدعي العام للمحكمة الجنائية الدولية بشأن الأطفال، فضلاً عن حدود العدالة الجنائية الدولية في حال ظهور تحديات تتعلق بالأدلة والاختصاص القضائي وإنفاذ القانون.

وتخلص الدراسة إلى أن حماية الأطفال النازحين في العراق لا يمكن تحقيقها من خلال المساعدات الطارئة وحدها. بل يتطلب الأمر نهجاً قانونياً ومؤسسياً متكاملًا يمنع النزوح التعسفي، ويضمن الحماية أثناء النزوح، ويكفل الحصول على الوثائق والتعليم والرعاية الصحية ووحدة الأسرة والتأهيل النفسي والاجتماعي، ويؤمن عودة آمنة وكريمة، وإعادة إدماج، وتعويض، ومساءلة. ويتمثل الاستنتاج الرئيسي في أن حماية الأطفال النازحين يجب أن تُفهم على أنها التزام قانوني مستمر على الدولة والمجتمع الدولي، لا كاستجابة إنسانية مؤقتة تنتهي بوقف الأعمال العدائية أو إغلاق مخيمات النزوح.



جمهورية العراق
وزارة التعليم العالي والبحث
العلمي
معهد العلمين للدراسات العليا
قسم قانون العام

تأثير انتهاكات النزاعات المسلحة على حقوق الأطفال النازحين في العراق

رسالة ماجستير قدمتها الطالبة

بنين حسن واجد

ألى مجلس معهد العلمين للدراسات العليا

وهي جزء من متطلبات نيل درجة الماجستير في القانون الدولي

إشراف

الأستاذ الدكتور

أحمد عبيس نعمة الفتلاوي

أستاذ القانون الدولي العام

كلية القانون – جامعة الكوفة

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