



جامعة الموصل
كلية العلوم الإسلامية
قسم الشريعة

**الجنايات الناجمة عن المخلفات الحربية ضمن الحدود
الإدارية لحافظة نينوى في منظور الفقه الإسلامي - دراسة
فقهية تأصيلية**

رسالة تقدم بها الطالب

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إلى

مجلس كلية العلوم الإسلامية / جامعة الموصل وهي جزء من متطلبات
نيل شهادة الماجستير في الفقه وأصوله

إشراف

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المستخلص بلغة الرسالة

تُعنى هذه الدراسة بالجنايات الناجمة عن المخلفات الحربية بمختلف صورها سواء كانت الجناية مزهقةً للنفس أو كانت على ما دون النفس من خلال بيان الاحكام الفقهية التي تترتب على هذه

الجنايات

وبناءً عليه: اشتملت الخطة على أربعة فصول، مسبوقة بالآلية والإهداء والفهارس والمقدمة، وملحقة بالخاتمة والتوصيات والملاحق، ويتكون الفصل الأول، تمهيد للرسالة ويتألف من ثلاثة مباحث. أما الفصل الثاني، المخلفات الحربية، استخداماتها وضوابط التعامل معها ويتألف من مبحثين. والفصل الثالث، الأحكام المترتبة على المخلفات الحربية في منظور الشريعة والقانون، ويتألف من أربعة مباحث. والفصل الرابع، نظرة مقاصدية معاصرة في التعامل مع الجنايات الناجمة عن هذه المخلفات ويتألف من ثلاثة مباحث.

ثم بينت في الخاتمة أهم النتائج التي توصلت إليها الرسالة والتوصيات التي يوصي بها الباحث

Abstract

The first crime known to mankind was the killing of one of the two sons of Adam, his brother, then he became one of the remorse. As in His Almighty saying ¹

Then the means of felony developed, and the sword, spear, arrows and catapult were made in the early ages, and then what is known as fireballs and dynamite appeared in the Middle Ages, then developed and the means of combat and self-defense became diverse, and aircraft, intercontinental missiles, giant cannons, biological, chemical, nuclear and atomic weapons were used. . These weapons and the remnants they leave on the ground have caused the loss of many innocent lives, as well as the disabled among those warring countries. Therefore, the message came to shed light on the effects of war remnants in Nineveh Governorate, and the deaths or disabilities caused by these remnants among civilians.

What is this waste? And what are its types? What is the reason to use it? And the criminal responsibility for its use and on whom lies? What is the position of Sharia regarding the crimes resulting from them, and the legal responsibility to use and remove them? What is the mechanism of criminal proof against the crimes resulting from it? The title of the thesis was ((felonies resulting from war remnants within the administrative borders of Nineveh Governorate in the perspective of Islamic jurisprudence - an authentic jurisprudential study)).

Reason for choosing the topic:

The research aims to shed light on the large number of accidents as a result of war remnants that caused the loss of many innocent lives, and caused disability for many people, especially children, as a result of

tampering with them and their lack of knowledge of its damage, so I decided to research this topic.

The importance of researching it:

Research on this subject is very important because it highlights the provisions and purposes of Islamic law that regulate the consequences of these events.

As for the main benefit, it is a statement of the jurisprudential rulings with their evidence, which focuses on preserving people's lives and the safety of their bodies, which harms them, and it has been proven in reality that these types of waste are more harmful to humans, and therefore we aspire in this research to provide doctrinal solutions to crimes that are among the calamities of our contemporary reality according to An authentic jurisprudence study.

The importance of the topic is highlighted in the following:

This study contributes to clarifying the greatness of Islam, and that it is a religion that is valid for every time and place, and it is able to explain the appropriate solutions to all the issues and problems that societies raise, so that no calamity descends on any of the people of God's religion except in the Book of God, the evidence for the path of guidance in it.

2. The lack of dealing with this subject with an independent legal legal study that deals with it despite its importance and the need for it, according to the studies and research that I examined on it.
3. The service of Islamic jurisprudence is a duty for students of knowledge to address the provisions of this part, and to study it in an in-depth comparative study compared to international law.

4. This subject touches the lives of contemporary people, and is close to them in their reality and observation.

As for the research method, it was as follows:

1- Accurately depicting the issue to be studied before stating its ruling, so that the purpose of its study becomes clear.

2- Focus on the topic of research and avoid digression.

3- Take care of real examples.

4- Relying on the descriptive and inductive-analytical-comparative approach.

5- Refer to the original sources and the most important books, especially in taking opinions from the schools, by taking the opinion of each school from its approved sources with mentioning their evidence from their books, with the discussion and weighting based on the strength of the evidence and its safety from opposition.

6- Paying attention to attributing the Qur'anic verses to their places in the Holy Book, and extracting the honorable hadiths of the Prophet, and judging them as much as possible, unless the hadith is in the two Sahihs or one of them.

Previous studies:

1- Compensation for damages of anti-personnel landmines in armed conflicts between Islamic jurisprudence and international humanitarian law, Suhail Muhammad Taher Al-Ahmad, Palestinian National University College, Bethlehem - Palestine, Journal of Al-Azhar University in Gaza, Humanities Series 2012, Volume 14, Issue 2 .

2- Explosive remnants of war arising from the use of weapons prohibited in the light of international humanitarian law, m. M. Samir Burhan Rashid (Master of International Law), University of Kirkuk, College of Nursing.

Search Plan:

The research is divided into an introduction, four chapters, and a conclusion. The introduction shows the importance of the topic, the reason for choosing it, and the study methodology.

The first chapter: it is a prelude to the research and consists of three sections.

The first topic - defining crimes, linguistically and idiomatically, in two demands.

The second topic - war remnants, their reality, images, and types, in two demands.

The third topic - the reality of these wastes in Nineveh Governorate, in two demands.

The second chapter: It consists of two sections:

The first topic - its military uses and justification from the perspective of jurisprudence and law, in four demands.

The second topic - the controls of dealing with these wastes after they are no longer needed, in three demands.

Chapter Three: Provisions of the Remnants of War in the Perspective of Sharia and Law.

It consists of four sections:

The first topic - felony and crime and the basis of the dispute between them in Sharia and law, in two demands.

The second topic - criminal intent in the felony of war remnants and responsibility for it, in two demands.

The third topic - the criminal intent in the crime of war remnants, "intentionally or unintentionally".

The fourth topic - felonies caused by war remnants on the lower self.

Chapter Four: A contemporary intentional view of dealing with felonies resulting from these remnants, and it consists of three sections.

The first topic - criminal evidence in the felonies resulting from these war remnants, in five demands.

The second topic - the role of slanderers in dealing with such crimes, in two demands.

The third topic - the mechanism of fulfilling the rights resulting from these crimes, in three demands.

The most important sources are:

Islamic jurisprudence and jurisprudence books.

Contemporary legal sources.

As well as indispensable sources in interpretation and dictionaries.

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administrative borders of Nineveh Governorate
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original jurisprudential study**

Khaled Mahmoud Awad Hamadeh

**Master's thesis in
Fiqh and its foundations**

**Supervised by
Assistant Professor Dr.
Firas Saadoun Fadel**