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### Military necessity : a fundamental "principle" fallen into oblivion / Robin Geiss

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Abstract:	<p>This contribution seeks to reassess military necessity's contemporary scope and role. It aims to demonstrate that our understanding of military necessity has a far-ranging impact on such timely issues as IHL's interrelation with human rights law, the permissibility of targeted killings and the operation of IHL in asymmetric conflict scenarios. To this end, the analysis pursues two basic questions. Firstly, does contemporary IHL leave room for recourse to military necessity's restrictive aspects in order to close potential loopholes in the legal framework? IHL, for example, makes no provision with regard to the degree of force permissible against unprotected persons, combatants and civilians directly participating in hostilities. Secondly, the question is raised whether military necessity is reconcilable with today's increasingly soft continuum of war and peace. These two questions touch upon the two distinctive components of military necessity: the necessity component, which naturally begs the question "necessary for what", and the "military component", which answers this question, because it encapsulates those aims that may legitimately be pursued in the conduct of hostilities.</p>
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