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### Military necessity and the cultures of military law / David Luban

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Abstract:	Military and humanitarian lawyers approach the laws of war in different ways. For military lawyers, the starting point is military necessity, and the reigning assumption is that legal regulation of war must accommodate military necessity. For humanitarian lawyers, the starting point is human dignity and human rights. The result is two interpretive communities that systematically disagree not only over the meaning of particular law-of-war norms, but also over the sources and methods of law that could be used to resolve the disagreements. That raises the question whether military lawyers' advice should acknowledge any validity to the contrary views of the 'humanitarian' community. The article offers a systematic analysis of the concept of military necessity, showing that civilian interests must figure in assessing military necessity itself. Even on its own terms, the military version of the law of war should seek to accommodate the civilian perspectives featured in the humanitarian version.
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