

The Doctrine of Military Necessity under Customary International Law: A Breach of International Humanitarian Law

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Abstract : This paper examines an essential and complex part of International humanitarian law standards of military necessity. Military necessity is an unpredictable phenomenon. The unpredictability of this regulation likewise originates from the fact that is one of the most fundamental, yet most misjudged and distorted standards of international law of armed conflict. This rule has been censured as essentially wrong in light of its non-compliance with the principles of international humanitarian law in recent past. The author noted in this study that military necessity runs counter to humanitarian exigencies. These have generated debate among researchers for them to propose that for international law to be considered more important, it is indispensable that the procedures and substance of custom be illuminated and made accessible to every one of the individuals who may utilize it or be influenced by it. However, a significant number of analysts have attributed particular weaknesses to this doctrine. This study relied on both primary and secondary sources of data collection. Significantly, the recommendation made in this paper, if completely adopted, shall go a long way in guaranteeing a better application of the principles of international humanitarian law.

Keywords : military necessity, international law, international humanitarian law, customary law

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