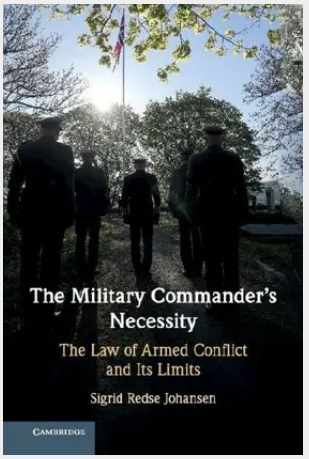
Johansen

The Military Commander's Necessity

The idea of military necessity lies at the centre of the law of armed conflict and yet it is less than fully understood. This book analyses which legal limits govern the commander's assessment of military necessity, and argues that military necessity itself is not a limitation. Military necessity calls for a highly discretionary exercise: the assessment. Yet, there is little guidance as to how this discretionary process should be exercised, apart from the notions of 'a reasonable military commander'. A reasonable assessment of 'excessive' civilian losses are presumed to be almost intuitive. Objective standards for determining excessive civilian losses are difficult to identify, particularly when that 'excessiveness' will be understood in relative terms. The perpetual question arises: are civilian losses acceptable if the war can be won? The result is a heavy burden of assessment placed on the shoulders of the military commander.

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