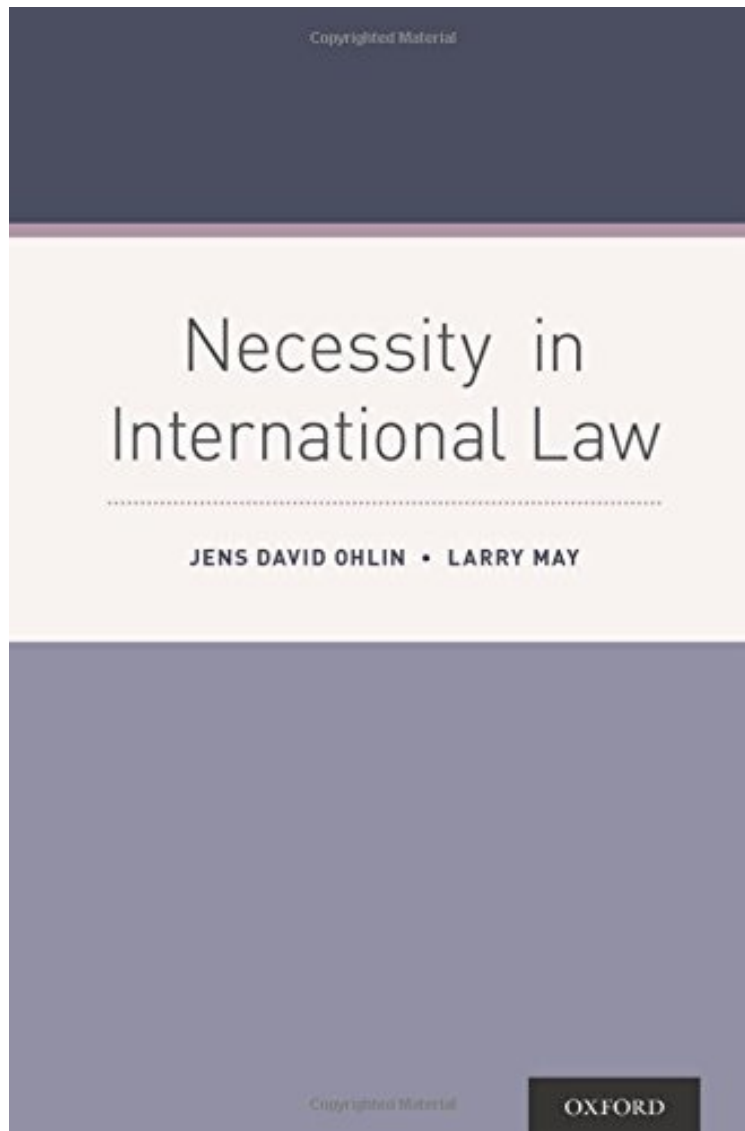


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Necessity in International Law

Jens David Ohlin, Larry May
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Jens David Ohlin, Larry May : Necessity in International Law before purchasing it in order to gage whether or not it would be worth my time, and all praised Necessity in International Law:

Necessity is a notoriously dangerous and slippery concept-dangerous because it contemplates virtually unrestrained killing in warfare and slippery when used in conflicting ways in different areas of international law. Jens David Ohlin

and Larry May untangle these confusing strands and perform a descriptive mapping of the ways that necessity operates in legal and philosophical arguments in jus ad bellum, jus in bello, human rights, and criminal law. Although the term "necessity" is ever-present in discussions regarding the law and ethics of killing, its meaning changes subtly depending on the context. It is sometimes an exception, at other times a constraint on government action, and most frequently a broad license in war that countenances the wholesale killing of enemy soldiers in battle. Is this legal status quo in war morally acceptable? Ohlin and May offer a normative and philosophical critique of international law's prevailing notion of jus in bello necessity and suggest ways that killing in warfare could be made more humane-not just against civilians but soldiers as well. Along the way, the authors apply their analysis to modern asymmetric conflicts with non-state actors and the military techniques most likely to be used against them. Presenting a rich tapestry of arguments from both contemporary and historical Just War theory, *Necessity in International Law* is the first full-length study of necessity as a legal and philosophical concept in international affairs.

"Necessity, as the authors observe in their opening sentence, is arguably the most powerful concept in the law'. It is of central importance in the law of war, in human rights law, and in both domestic and international criminal law. Yet it is a deeply confusing notion because it can function variously as a justification for harming, an excuse for having engaged in wrongful harming, and as a constraint on harming that is, it can defeat what would otherwise be a justification for harming. In this brilliantly illuminating book, the authors systematically untangle the many ways in which necessity operates in both morality and law, and on the basis of their analyses draw a range of conclusions of considerable significance, particularly for the practice of war. This is a book of great scholarly and practical importance." - Jeff McMahan, Whites Professor of Moral Philosophy, University of Oxford "Necessity is a slippery concept, at once enabling and limiting. Necessity justifies power but also purports to limit its employment. In their characteristic thoughtfulness and erudition, Ohlin and May explore the many uses and abuses of necessity across legal fields, including the use of force, the conduct of hostilities, human rights, and international criminal law. It is a first-of-its-kind study, topical and urgent, a must read not only for students of international law, but also for anyone interested in jurisprudence more broadly." - Gabriella Blum, Rita E. Hauser Professor of Human Rights Humanitarian Law, Harvard Law School "Much mischief is done under the cloak of necessity. This deeply interdisciplinary analysis highlights this cluster concepts dangers while imaginatively exploring its possibilities for modestly constraining the killing of combatants as well as noncombatants." - Henry Shue, Senior Research Fellow at the Centre for International Studies, University of Oxford "What does necessity permit? No concept in the law carries greater moral gravity and few have caused as much moral confusion. Ohlin and May offer a tour de force survey of the conceptual structure of necessity in international law. An indispensable contribution to a long-troubled problem." - John Fabian Witt, Allen H. Duffy Class of 1960 Professor of Law Professor of History, Yale Law School "Jens David Ohlin and Larry May are world-class experts in the laws of armed conflict. Here, they turn their attention to the vexed concept of necessity in wartime . . . using clear language, conceptual analysis, historical reference, and mastery of international law to get at the true sense . . . [They apply] rich reference to the most helpful historical thinkers as well as contemporary legal rulings and cases . . . One arrives at the end with a much better understanding of the idea of military necessity, and of the relevant laws." - Brian Orend, Professor of Philosophy, Director of International Studies, University of Waterloo "Jens David Ohlin's and Larry May's book provides a timely and very important analysis of one of the foundational principles of these bodies of law: necessity. This impressive work provides a unique and fresh perspective. It analyzes the meaning of necessity not just in legal terms, but also deeply probes its moral and normative underpinnings. There has not been sufficient discussion about the degree to which human rights law should or can effectively regulate the violence associated with armed conflict. This work presents an important starting place for any analysis about whether human rights law is up to the task being demanded of it by some in the international legal community. This book should be required reading for anyone seeking to unravel what at times seem to have become intractable ideological debates about how the various bodies of law operate to control the use of force in contemporary conflict." - Ken Watkin, Lawfare About the Author Jens David Ohlin is Professor of Law and Associate Dean for Academic Affairs at Cornell Law School. He specializes in international law and criminal law. He specifically focuses on the laws of war with special emphasis on the effects of new technology on the waging of warfare, including unmanned drones in the strategy of targeted killings, cyber-warfare, and the role of non-state actors in armed conflicts. He authored *The Assault on International Law* (Oxford, 2015). Larry May is the W. Alton Jones Professor of Philosophy, Professor of Law, and Professor of Political Science at Vanderbilt University. He has published over thirty books, including book length studies of each of the four crimes under the ICC's jurisdiction. These books have won awards in philosophy, law, and international relations. He has also published extensively on the history of the just war tradition, especially on the work of Grotius and Hobbes. He co-authored *Proportionality in International Law* (with Michael Newton, Oxford, 2014), and *Limiting Leviathan: Hobbes on Law and International Affairs* (Oxford, 2013).