

# Humanity, Necessity, and the Rights of Soldiers

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## Abstract

In this essay, I will argue that we need to give more attention to, and support for, an expanded range of the rights of soldiers. In both morality and law, it is still common to say that soldiers' lives do not count for very much in assessments of whether or not a particular war or armed conflict is justifiably initiated and conducted. Even for those philosophers and lawyers who believe that soldiers forfeit some of their most basic rights, such as the right to life, the humanitarian rights of soldiers should be seen as nearly as strong as those of civilians. Specifically, I argue that soldiers should be acknowledged to have the humanitarian right not to be killed unnecessarily. Such a right is granted in many domestic contexts, even to those who are criminals. Yet there is an oddity in that many moral and legal theorists grant greater rights to fleeing bank robbers than to soldiers who are simply trying to do their jobs.

I will reflect on what the categories of humanitarianism and dignity entail when understood in the context of armed conflict – where taking a soldier-centered perspective is the overarching viewpoint since soldiers are the one's most directly affected by armed conflict. Also, I will argue that military necessity is best conceived as a form of practical necessity. I will argue for a strengthening of the principle of military necessity, so that a soldier's life can only be taken if it is practically necessary to achieve a needed military objective. If during armed conflict civilians have very extensive rights, qua civilians, it would be odd, I shall argue, that soldiers, qua soldiers, do not have extensive rights in armed conflict as well. I will then set out a new way to understand humanitarian norms that is in keeping with the idea that the humans who are soldiers should be treated with at least minimal dignity. But the rights of soldiers may not be properly human rights, or at least not understood in the unrestricted way that human rights often are understood. Instead, I shall support the need for an expanded view of humanitarian rights that takes account of the unique vulnerabilities that soldiers have.