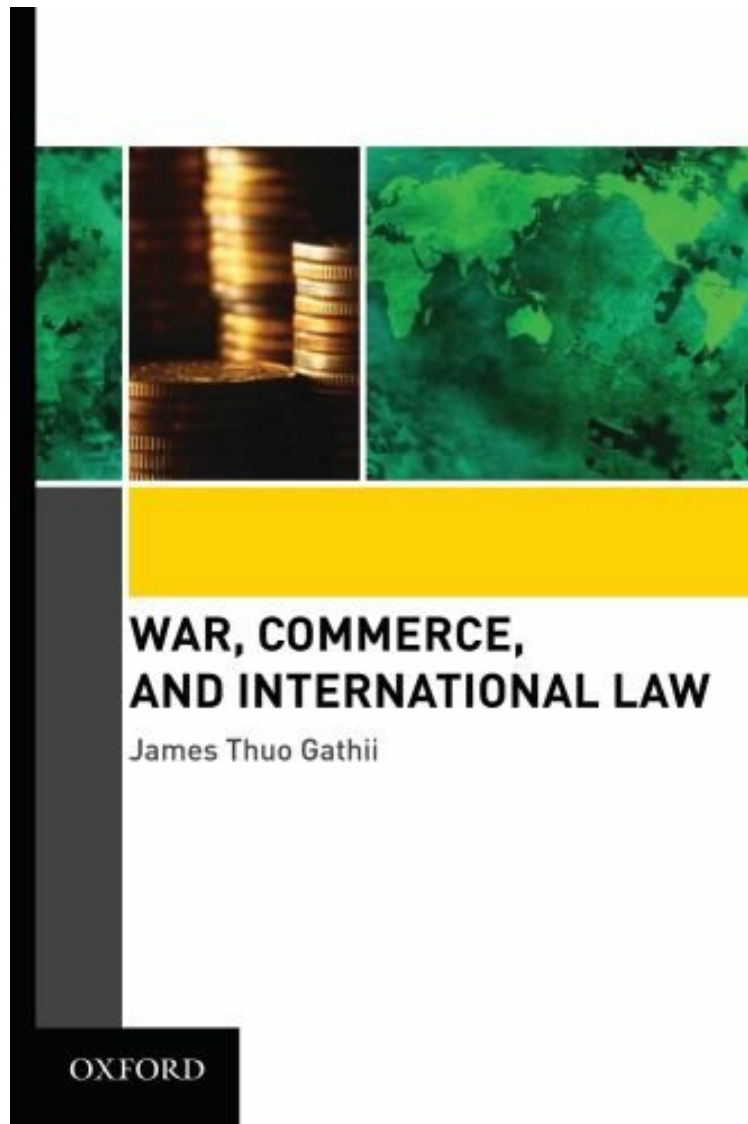


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War, Commerce, and International Law

James Thuo Gathii

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James Thuo Gathii : War, Commerce, and International Law before purchasing it in order to gage whether or not it would be worth my time, and all praised War, Commerce, and International Law:

3 of 3 people found the following review helpful. A Compelling Critique of U.S. Foreign PolicyBy Timothy D. LyttonRight out of the starting gate, this book embraces the central ambiguities and tensions in the legal relationship between war and commerce that are then artfully exposed and analyzed throughout the book. The book employs sophisticated theories of hard and soft norms, the relationship of power to law, public/private distinctions, and the legacy of colonialism to explain just how weak the laws of war are and why it is so important to expose the weakness

and commit ourselves to a more principled, multilateral rule of law to regulate conflict. The book uses legal history to expose not only the roots but also the conceptual framework of the regime we live in today, and then uses that analysis to explain what is really going on behind the news we read about Iraq or Sierra Leone. The book's critique is clear and compelling, and the tone is calm and passionate, not at all angry or shrill. It argues in terms that are completely comprehensible to non-specialists. For critics of U.S. foreign policy in the Middle East, this book is an essential resource.

Recent wars and conflicts, the 'blood diamond' wars in the Democratic Republic of the Congo, and the wars in Iraq and Afghanistan, as well as asset freezing and blocking in the so called war against terrorism have more than ever before raised questions about the status of private property and contract rights after the outbreak of war. Do invading and occupying powers have the right to destroy and confiscate private property and ignore contract rights? Are residents of a war-torn countries and foreign investors alike protected by international laws that uphold commercial freedom? Who, and on what legal authority, decides cases over contested resources during or after war? As globalization and armed conflicts continue to grow and co-exist, these questions are increasingly in the international spotlight. *War, Commerce, and International Law* authoritatively explores these questions in the context of the relationship between war and commerce, on one hand, and international law, on the other. This book also places these questions in a historical context. Professor Gathii argues that there are continuities and discontinuities in the ways in which these rules were applied in colonial acquisitions of territory and in the protection of the rights of bond holders in the period before the twentieth century, and the manner in which private property and contract rights are being treated under occupation and during wartime in the contemporary period. This book also offers an original and authoritative framework for appreciating relations between powerful and less powerful States and entities and between public and private power, as well as between peoples from vastly different cultural and racial backgrounds, in the context of war and commerce. It presents authoritative comparisons and contrasts between the protection of rights of foreign and domestic investors under international law in the context of war. In so doing, it debunks the story that commerce has prevailed over wartime deprivations and destructions of private property and contract rights. It shows how wartime effects on private property are a constitutive component of war rather than an aberration of it. Professor Gathii demonstrates that while international legal prohibitions against destruction and confiscation of private property during wartime are important, they have often been disregarded or sacrificed at the alter of claims of liberty and freedom historically as well as in the contemporary period. Most importantly, *War, Commerce, and International Law* shows that although the doctrines and rules of international law relating to war and commerce guarantee fairness between all states, their application, interpretation, and adjudication in a variety of contexts nevertheless simultaneously carry forward within them the legacy of imperialism and colonial conquest. However, while international law carries within it this legacy, its guarantees of the equality of all states and of the human rights of all individuals, continue to offer hope for poor and weak states and individuals everywhere.

About the Author James Thuo Gathii is the Associate Dean for Research and Scholarship and the Governor George E. Pataki Professor of International Commercial Law at Albany Law School, where he has been on the faculty since 2001. His research and expertise is in the areas of public international law, international economic law including law and development, international trade law as well as on issues of good governance and legal reform as they relate to the third world and sub-Saharan Africa in particular. Before joining Albany Law School, Professor Gathii taught at the Rutgers Business School. He was also a Crowe and Dunlevy Visiting International Law Professor at the University of Oklahoma's College of Law. Professor Gathii received his LL.B. from the University of Nairobi and his S.J.D. from Harvard Law School.