Introduction

Turpal-Ali, a young man, and Deshi, a young woman from one of the villages in Chechnya, were in love and wanted to get married.[1] But Deshi's parents were strongly against their marriage. The issue was that Turpal-Ali and Deshi were distant relatives and according to Chechen customary law, known as *adat*, a bride and a groom cannot be related within seven generations. Turpal-Ali then decided to arrange a bride-kidnapping, a practice also justified by references to custom. Turpal-Ali and his friends kidnapped Deshi from the street and brought her to his family home, hoping that this act would change her parents' decision. Families of women kidnapped this way often force them to stay and get married to avoid potential rumors and ultimately protect family honor. However, Deshi's parents remained firm. They took their daughter back. Then they appealed for religious arbitration – a Sharia trial – against Turpal-Ali. Unlike adat, Sharia sees bride-kidnapping as a gross transgression. Deshi was apparently complicit in the kidnapping, but she denied it during the Sharia arbitration. A local qadi, an Islamic judge, heard the case and ruled that Turpal-Ali should be punished with flogging, forty strokes. According to custom, any corporal punishment is a serious offense against one's honor and Turpal-Ali's family became very angry at Deshi and her family.

[1] I use pseudonyms throughout the book, except when I write about or quote public figures – state officials, high-level religious leaders, and academics, who wanted to be named and did not express any politically sensitive opinions. For Chechen and Russian words, I use a simplified Library of Congress transliteration standard, except for names that have appeared prominently in Western publications.

Some time later, the elders of the village were drinking vodka at the river bank. Alcohol is effectively banned in Chechnya, but some Chechens who belong to the older "Soviet" generation still manage to get liquor. During this gathering, Musa, Turpal-Ali's family patriarch, publicly offended Deshi's honor by calling her a slut. In response, Said, Deshi's family patriarch, punched Musa in the face. When Musa came home, he told his three sons that he had been beaten by Said. The sons took baseball bats and knives and went to Said's house to avenge the offense. Despite the fact that Said was much older than the attackers, he was able to fight back. In fact, he was a master of wrestling, and during the fight he took a knife away from one of Musa's sons and killed him with it. The murder trial that I attended in a district court judged Said according to Russian state law. In parallel, the two families were negotiating to avoid blood revenge, another major customary institution, in response to the murder of Musa's son. The fact that Said killed the man in an act of self-defense mattered little. According to adat, blood must be avenged with blood. As a part of the informal resolution between the two feuding sides, Said's family was banished from the village. The details of the events that led to the murder and the negotiations regarding blood revenge were not heard in the courtroom – I learned them in the corridors of the court.

This anecdote illustrates the state of legal pluralism in contemporary Chechnya. Even though there is only one de jure legal system – Russian statutory law – there are also powerful parallel systems of de facto law: one based on customary law (adat) and another based on Islamic law (Sharia). Individuals have to navigate the complex interrelationships between these legal systems and sometimes have to choose which forum to bring their disputes to.

The presence of multiple alternative legal systems also has a tremendous political significance. References to adat and Sharia have become commonplace in media reports on Chechnya. For example, after the large-scale insurgent attack on Chechnya's capital Grozny on December 4, 2014, the Head of the Chechen Republic Ramzan Kadyrov proclaimed through his Instagram account that relatives of people who killed police officers would be expelled from the region "without the right to return, and their houses will be razed to the ground." A few days later, unidentified militias burned the houses of the alleged terrorists' families. The government referred to the principle of collective punishment, which is one of the core principles of the Chechen customary law, but which violates Russian state law. Magomed Daudov, the Speaker of the Chechen Parliament and Kadyrov's closest associate, went even further.

Once he called for Sharia arbitration against a politician from the neighboring Republic of Ingushetia. Another time, he announced blood revenge against a popular anti-government blogger. Both Kadyrov and Daudov are high-level Russian state officials in charge of implementing Russian state law. Yet they publicly appealed to non-state legal systems rooted in tradition and religion. On the institutional level, the government of Chechnya semi-formally introduced qadi courts (a Sharia forum) and councils of elders (a customary forum) all across the region, even though these institutions are not compatible with Russian law.

THE PUZZLES

The persistence and power of non-state legal systems in Chechnya should not be surprising, especially given the long history of resistance to Russian rule and state repression in the region. In the post-Soviet period, resistance and repression culminated in two bloody wars (1994–1996 and 1999–2009).[2] In the mid-1990s, Chechnya was a de facto independent state where Sharia law was implemented. During the wars, many Chechens mobilized to fight the Russian army. In turn, the Russian army used brutal violence against the population. Thus, the long history of the conflict can potentially explain why many Chechens reject state-sponsored justice and turn to religious and customary authorities to solve their disputes.

But not all Chechens reject state law. Consider the case of Seda, a woman who lived in Grozny, the capital of Chechnya. Seda was kicked out of her home by her husband and his relatives when she was seven months pregnant. She returned to her parents' home, where she gave birth to a girl. A few months later, the relatives of her former husband arrived at her parents' house and demanded that she return "their child." According to Chechen customary law, children belong to their paternal family. Seda's male relatives agreed with the reasoning of her former husband's family and gave the baby away. Despite social pressure to

[2] The periodization of the Second Chechen War is complicated. The Russian government never recognized it as a war and framed it as a counterterrorist operation. It started in 1999. By summer 2000, the Russian army had taken over all the major cities and declared that the military operation was over. However, the guerilla war and counterinsurgency raged on for another 6–7 years. The Russian government lifted the counterterrorist operation status in Chechnya in 2009, which is the official end of the conflict. People in Chechnya also have different views on when the war ended.

accept her fate, Seda filed a lawsuit in a state court. The court ruled in her favor and returned Seda's daughter to her.

Seda's behavior is not an anomaly. From 2009, when the Second Chechen War officially ended, to 2016, when I finished my field research, Russian state courts in Chechnya, which were literally reestablished on the war's ruins, heard more than half a million cases.[3] The vast majority of them – around 70 percent – were civil disputes. Given that Russian state law was considered the "law of the enemy" during the war, and that reliance on it can be penalized by family and community ostracism, the fact that state law is nevertheless utilized in dispute resolution in postwar Chechnya is striking. No less striking is that the government of the Chechen Republic, which is formally in charge of implementing state law, openly promotes customary law and Sharia, as the anecdotes above indicate. In this book, I address these two interrelated puzzles. First, I study government policies towards non-state legal systems – the legal politics of state-building from above. Second, I explore the individual legal preferences and behavior that constitute state-building from below.

THE ARGUMENT

This book argues that state-building can be productively explored through the lens of lawfare – the use of state and non-state legal systems to achieve political, social, or economic goals.[4] I employ the notion of lawfare to capture the agency of politicians and lay individuals within the structural conditions of legal pluralism, a situation when state law co-exists with non-state legal systems. I contend that legal pluralism is not just an artifact of a weak state or underdevelopment. Nor is it simply a reflection of a ruler's ideology or an aspect of local culture. Politicians

[3] To be precise, from 2009 to 2016 the courts heard 522,476 cases. Civil disputes constituted 69 percent of all cases. The Justice-of-the-Peace Courts heard 68 percent of the cases, and the courts of general jurisdiction remaining 32 percent. Calculated by the author based on government statistics from the Judicial Department of the Chechen Republic (*Upravlenie Sudebnogo Departamenta v Chechenskoy Respublike*).

[4] In using the term "lawfare," I build on the conceptual framework proposed by Mark Massoud. See Massoud, Mark Fathi. *Law's fragile state: Colonial, authoritarian, and humanitarian legacies in Sudan*. Cambridge University Press, 2013. The anthropological understanding of lawfare adopted in this book is different from its understanding in security studies as the use of law as a weapon of war. For the latter perspective see, for example, Dunlap Jr., Charles J. "Lawfare today: A perspective." *Yale Journal of International Affairs* (2008): 146–154, and Kittrie, Orde *Lawfare: Law as a weapon of war*. Oxford University Press, 2016.

sometimes suppress non-state legal systems and often ignore them, but in other political configurations they strategically promote legal pluralism. Individuals sometimes attach strong normative commitments to justice systems based on tradition and religion, but in other situations strategically "shop" between state and non-state forums. Top-down legal politics and individual legal beliefs and behaviors together shape the particular form of state-building.

The keys to the puzzles of state-building lawfare in places like Chechnya – i.e., conflict-ridden peripheries where the local population is culturally distinct from the core group of the state – are found in the political and social cleavages that exist within these regions. The major political cleavage that arises is from conditions of nested sovereignty – empires in the past and federalism now. Almost all of the peripheries of postcolonial states are characterized by acute problem of fragmented social control. Aceh in Indonesia, Mindanao in the Philippines, each of the seven ethnic states in Myanmar, Kashmir in India, the Kurdish regions of Turkey, Syria, and Iraq, the Anglophone regions of Cameroon, the Tuareg regions in Mali, the Mexican state of Chiapas, and many other "rogue" peripheries illustrate this point. Communities living in these peripheries have their own systems of justice that are often rooted in tradition and religion. Under the conditions of nested sovereignty, both central and peripheral rulers in these peripheries may pursue their own state-building projects and lawfare based on manipulation of the plural systems of justice.

The central societal cleavage of state-building lawfare is gender. Family life, and in particular the regulation of female sexuality is a major arena for struggles over social control. Questions about who can marry and/or divorce whom as well as how; who inherits property; and notions of honor and shame are crucial for national, ethnic, and religious boundary-making. Consequently, the state and social forces expend special effort to control these spheres. Deshi's and Seda's stories exemplify the critical role that gender plays in peripheral state-building lawfare.

Both political and societal cleavages that drive state-building lawfare in the periphery are actualized and intensified by armed conflict. The canonical theoretical approach associated with Charles Tilly links state-building to external warfare.[5] The account presented in this book changes the focus to internal conflict, in particular the separatist armed struggle that

[5] Tilly, Charles. *Coercion, capital, and European states,* AD 990–1992. Oxford: Blackwell, 1990.

fractures nested sovereignty and leads to competitive state-building. Studying the interrelationship between warfare and lawfare has an important analytical advantage. Legal pluralism is deeply embedded in history and culture. Conflict serves as a shock that destabilizes societies and presents an opportunity to explore the micro-foundations of individual behavior and government policies under legal pluralism. In this book, I understand conflict as a process: the radical rupture of "normal" social life as a result of experiences of violence that leave profound social and political legacies.

Conflict and political violence accompanied state-building lawfare throughout Chechen history. Legal pluralism developed in Chechnya in the nineteenth century as a result of Russian colonization and anticolonial armed struggle. I argue that when the metropole's grip on the periphery is firm, legal politics is dictated by center's ideology and state capacity. The Russian Empire institutionalized legal pluralism in Chechnya in the nineteenth century as a part of its divide-and-rule strategy and as a response to low state capacity and the orientalist vision of the local society. The Soviet authorities, driven by their high-modernist ideology of legal centralism and relying on soaring state capacity, attempted to eradicate custom and Sharia in Chechnya. However, the project ultimately failed because of Stalin's forced deportation of the entire Chechen nation to Central Asia in 1944. This brute use of state violence strengthened Chechen national identity and alienated Chechens from state law. Yet when the metropole's power falters as a result of political crisis or conflict, local rulers turn legal pluralism into an arena for lawfare aimed at ensuring their political survival.

The book documents how in postwar Chechnya the regional government headed by Kremlin-imposed ruler Ramzan Kadyrov promotes customary law and Sharia to facilitate local political control. First, this policy allows the local ruler to borrow legitimacy from tradition and religion, which both have great appeal among the Chechen population and especially among men. Second, it increases the autonomy of the regional authorities from Moscow, the metropole. Third, it follows the rationale of coalition-building: the local government incorporates the traditional authorities and ideological supporters of non-state legal systems into its coalition.

The decade-long separatist armed conflict transformed the nature of coalition-formation through the militarization of authority. The war brought men who used to carry guns into government offices. Even though many of them now wear suits rather than uniforms, their

governance practices differ fundamentally from those of the ideal type of Weberian bureaucrat. These rebels-turned-bureaucrats are strong ideological supporters of custom and Sharia. Promotion of non-state legal systems in postwar Chechnya can be interpreted as a concession to this powerful constituency.

At the same time, the conflict paradoxically created demand for state law from below. I document how the experiences of state violence during the First Chechen War led to an alienation from the Russian state among the local population. However, everything changed during the Second War. Collective state violence during the Second War led to deep structural transformations. It ruined traditional hierarchies and spurred the penetration of state law into Chechen family and community life. What was distinct about the Second War? It was more brutal, longer in time, and involved massive inter-Chechen violence. The effects of these conflict-induced structural transformations overshadowed the strengthening of ethnic and religious identities in response to state violence.

The Second Chechen War was a blow to all hierarchies – whether generational, clan, or class, but especially in gender relations. As a result, after the war, a sizable share of Chechen women started using the Russian state legal system, a system that, in contrast to customary law and Sharia, at least formally acknowledges gender equality. State law is corrupt, inefficient, slow, and its use is associated with community and family ostracism. Yet, many Chechen women prefer to use state law.

My study suggests that the disruption of gender hierarchies can be attributed to several interrelated mechanisms. Perhaps the most significant cultural change was that the conflict forced women to enter the public sphere. Women became the representatives of their families and communities and as such interacted with military and civilian administrations. Even women who remained traditionalists at heart had to learn the bureaucratic practices of the Russian state. At the same time, conflict gave rise to militarized masculinity and neotraditionalism among Chechen men. This divergence was multiplied by changes in bargaining power within families due to wartime transformations of gender positions in the labor market. Simply put, the war left many men unemployed and many women became the breadwinners in their families. Furthermore, the effect of the disruption of gender hierarchies was exacerbated by the more general process of community disintegration. Extended families and communities became substantially less powerful as a result of the killings of influential leaders, mass migration, and intracommunal feuds.

This change diminished the ability of the extended family and community to apply social pressure against women who used state courts. Finally, after the war, many of the NGOs created during wartime refocused on gender problems and served as support structures for women's legal mobilization.

This book shows that women's legal mobilization in Chechnya faced a strong backlash from the Chechen regional government. The most notorious manifestations of the neotraditionalist policies of the Chechen government have been the semiformal introduction of polygamy, support for the practice of honor killings, and the imposition of a restrictive women's dress code. Furthermore, the men in charge of state law actively disrupt its functioning. For instance, law enforcement agencies often do not enforce child custody decisions in favor of mothers who, like Seda, won their cases in court. This backlash can be interpreted as an attempt to build a political order on the re-traditionalization of social order.

Thus, this book reverses the classic story of state-building. In contrast to the dominant narrative, in which the government attempts to penetrate a strong society, and the society resists these attempts, this book shows how local agents of the government can undermine state justice systems by promoting non-state institutions, and how some segments of the population can voluntarily use formal state law that might seem foreign to them. The book shows that legal pluralism is an inherently political phenomenon, an arena of contestation between individuals, social groups, and political actors.

SIGNIFICANCE OF THE STUDY

This book is about Chechnya, a tiny region approximately the size of Connecticut or Northern Ireland. However, its role in post-Soviet Russian politics has been inversely proportional to its size. For instance, Vladimir Putin's rise to power from relative obscurity has often been attributed to his initiation of the Second Chechen War. Speculations about Chechnya abound in Russian and Western media, but academic studies on the ground have been rare. This book provides an account that incorporates both the notorious Chechen warlords and ordinary Chechens, with a particular focus on their everyday life, disputes, worldviews, and narratives about history. The book deals with the politicized and controversial issues of Sharia law, armed conflict, and gender relations. It de-exoticizes these phenomena by relating them to state-building under legal pluralism.

The issue of legal pluralism is relevant well beyond Chechnya. In his grand account of the formation of Western law, historian Harold Berman observed that "the coexistence and competition within the same community of diverse jurisdictions and diverse legal systems" was "perhaps the most distinctive characteristic of the Western legal tradition."[6] Some degree of legal pluralism is present in all contemporary societies. Even in places with a strong rule of law, formal state laws coexist and interact with alternative dispute resolution forums, adjudication among religious minorities, university codes of honor, and internal corporate statutes.

Legal pluralism is particularly pervasive, however, in postcolonial societies and so-called fragile or weak states, where formal state institutions compete for jurisdiction with powerful legal systems that are rooted in religion and tradition. According to some scholarly estimates, as many as sixty-one countries explicitly recognize some form of traditional governance and customary law.[7] In many other countries and regions, non-state legal systems operate without being formally recognized. For example, in Afghanistan after the U.S. invasion, the formal state legal system coexisted with Taliban courts, which operated according to Sharia, as well as with arbitration through a myriad of customary organizations.[8] In sub-Saharan Africa, many countries grant substantial de jure powers to customary leaders or informally guarantee these chiefs nonintervention in their jurisdiction.[9] Recently, there has been a resurgence of traditional governance in Latin America.[10] Quite often,

[6] Berman, Harold J. *Law and revolution, the formation of the western legal tradition*. Harvard University Press, 1983: 9.

[7] Holzinger, Katharina, Roos Haer, Axel Bayer, Daniela M. Behr, and Clara Neupert-Wentz. "The constitutionalization of indigenous group rights, traditional political institutions, and customary law." *Comparative Political Studies* 52, no. 12 (2019): 1775–1809.

[8] Giustozzi, Antonio and Adam Baczko. "The politics of the Taliban's shadow judiciary, 2003–2013." *Central Asian Affairs* 1, no. 2 (2014): 199–224; Murtazashvili, Jennifer. *Informal order and the state in Afghanistan*. Cambridge University Press, 2016; Swenson, Geoffrey. "Why US efforts to promote the rule of law in Afghanistan failed." *International Security* 42, no. 1 (2017): 114–151.

[9] Baldwin, Kate. *The paradox of traditional leaders in democratic Africa*. Cambridge University Press, 2016; Boone, Catherine. *Property and political order in Africa: Land rights and the structure of politics*. Cambridge University Press, 2014. Mamdani, Mahmood. *Citizen and subject: Contemporary Africa and the legacy of late colonialism*. Princeton University Press, 1996; Ubink, Janine. *Traditional authorities in Africa: Resurgence in an era of democratisation*. Leiden University Press, 2008.

[10] Carter, Christopher. *States of extraction: The emergence and effects of indigenous autonomy in the Americas*. PhD Dissertation, University of California, Berkeley, 2020; Díaz-Cayeros, Alberto, Beatriz Magaloni, and Alexander Ruiz-Euler.

legal systems based on tradition and religion are promoted at the subnational level. For example, some provinces in Indonesia, Malaysia, Nigeria, and Pakistan have recently adopted Sharia regulations, and states in Mexico have recognized traditional governance. These places are characterized by nested sovereignty – a political arrangement that allows for local rulers' political autonomy and thus approximates the imperial setup of indirect rule, which was a fertile ground for legal pluralism in the past.

Legal pluralism is a fascinating phenomenon in itself: how does a society function when there are multiple alternative rules of the game? Political theorists and legal scholars have long been writing about its normative implications for sovereignty, secularism, understanding of law and violence, legitimacy, minority rights, etc. – the list goes on.[11] This book looks at legal pluralism to rethink state-building.

State-building, understood as the institutionalization of the long-term domination of state organizations and personnel in society, has three major dimensions: coercive, extractive, and regulatory, or to put it simply, violence, taxes, and justice. Academic literature focuses primarily on the coercive and extractive dimensions. In this book, I shift attention to the regulatory dimension, that is, the use of state law vis-à-vis alternative forms of social control.[12] The issue of social control is essential because its

"Traditional governance, citizen engagement, and local public goods: Evidence from Mexico." *World Development* 53 (2014): 80–93; Van Cott, Donna Lee. "A political analysis of legal pluralism in Bolivia and Colombia." *Journal of Latin American Studies* 32, no. 1 (2000): 207–234. Yashar, Deborah. *Contesting citizenship in Latin America: The rise of indigenous movements and the postliberal challenge*. Cambridge University Press, 2005.

[11] Benhabib, Seyla. *The claims of culture: Equality and diversity in the global era*. Princeton University Press, 2002; Cohen, Jean, and Cecile Laborde, *Religion, secularism, and constitutional democracy*. Columbia University Press, 2016; Cover, Robert. *Narrative, violence, and the law: The essays of Robert Cover*. University of Michigan Press, 1992; Tamanaha, Brian. *Legal pluralism explained: History, theory, consequences*. New York: Oxford University Press, 2021.

[12] I build on Joel Migdal's approach to state-building. Migdal, Joel. *Strong societies and weak states: State-society relations and state capabilities in the Third World*. Princeton University Press, 1988; *State in society: Studying how states and societies transform and constitute one another*. Cambridge University Press, 2001. Among the recent contributions to understanding of state-building through the lenses of law, see Boucoyannis, Deborah. *Kings as judges: Power, justice, and the origins of Parliaments*. Cambridge University Press, 2021; Fabbe, Kristin. *Disciples of the state?: Religion and state-building in the former Ottoman world*. Cambridge University Press, 2019, and Franco-Vivanco, Edgar. "Justice as checks and balances: Indigenous claims in the courts of colonial Mexico." *World Politics* 73, no. 4 (2021): 712–773.

distribution reflects the relationship among the state, religion, and tradition as competing sources of authority.

This book disaggregates the state by acknowledging the presence of multiple sources of social control and multiple layers of political authority where actors have different interests in the pace and scope of implementation of state-building. It questions the perspective that state rulers always seek to monopolize social control and attempt to suppress alternative non-state legal institutions. That view is based on the idealized Westphalian picture of sovereignty. The reality of state-building is often quite different. Scholars have highlighted that there is a variety of state-building forms, from centralized rational-legal states to the loose conglomerates of local notables, chiefs, and religious elites, and even local bandits and warlords.[13] Often there is also drastic variation in state penetration within countries. As a result, in many states, legitimate use of force and lawmaking and enforcement have never been fully monopolized and social control has remained fragmented. In this light, promotion of non-state legal systems should be considered not an anomaly, but a viable strategy of state-building, especially if we recognize that the main aim for state-building is often the political survival of those who are in charge of the state.

I show how legal pluralism might directly strengthen local rulers in situations of nested sovereignty. For them, the promotion of non-state legal systems can be a viable strategy for establishing authoritarian enclaves by ensuring autonomy from the center, incorporating communal elites, and legitimizing their rule. Thus, this book opens a new perspective on the politicization of law and the judicialization of politics, especially in authoritarian contexts.[14] My study also shows that rulers turn to law not

[13] Barkey, Karen. *Bandits and bureaucrats*. Cornell University Press, 1994; Boone, Catherine. *Property and political order in Africa: Land rights and the structure of politics*. Cambridge University Press, 2014; Driscoll, Jesse. *Warlords and coalition politics in post-Soviet states*. Cambridge University Press, 2015; Reno, William. 1999. *Warlord politics and African states*. Lynne Rienner Publishers, 1999; Marten, Kimberly. *Warlords: Strong-arm brokers in weak states*. Cornell University Press, 2012; Staniland, Paul. "States, insurgents, and wartime political orders." *Perspectives on Politics* 10, no. 2 (2012).

[14] For a review, see Moustafa, Tamir. "Law and courts in authoritarian regimes." *Annual Review of Law and Social Science* 10 (2014): 281–299. See also Gallagher, Mary. *Authoritarian legality in China: Law, workers, and the state*. Cambridge University Press, 2017; Popova, Maria. *Politicized justice in emerging democracies: a study of courts in Russia and Ukraine*. Cambridge University Press, 2012; Shen-Bayh, Fiona. *Undue process: Persecution and punishment in autocratic courts*. Cambridge University Press, 2022; Stern, Rachel. *Environmental litigation in China: A study in political ambivalence*.

only to prosecute potential political challengers, build appealing legal conditions to attract investment, and strengthen discipline within the bureaucracy. They also care about such mundane cases as divorce, car accidents, or small debt, because the ways these cases are resolved affect the ruler's legitimacy and their coalitions of support. Even petty disputes affect high politics.

By looking at state-building from below, this book reformulates the classic question of "Why people obey the law" into the issue of "Which law people obey." Most studies of state-building have treated it as a top-down, government-driven process. However, state-building can also occur from the bottom-up. It is expressed in the choices of state institutions over non-state ones. For centuries, many people actively sought to avoid the state – James Scott described this phenomenon as "the art of not being governed."[15] Social scientists have also shown that individuals are able to govern themselves without intervention from the state; examples include the diamond market of New York City; the cattle industry in Shasta County, California; medieval long-distance Jewish traders; fishermen in Alanya, Turkey; brokers in the trading markets of early post-Soviet Moscow; and many more.[16] When individuals are unable to govern themselves and do not trust the state, they often turn for justice to mafias, gangs, warlords, or vigilantes.[17] In many situations, informal non-state institutions compete with the state; however, despite recognition of the importance of this competition between institutions, there has

Cambridge University Press, 2013. Wang, Yuhua. *Tying the autocrat's hands: The rise of the rule of law in China*. Cambridge University Press, 2015.

[15] Scott, James C. *The art of not being governed: An anarchist history of upland Southeast Asia*. Yale University Press, 2009.

[16] Bernstein, Lisa. "Opting out of the legal system: Extralegal contractual relations in the diamond industry." *The Journal of Legal Studies* 21, no. 1 (1992): 115–157; Ellickson, Robert. *Order without law: How neighbors settle disputes*. Harvard University Press, 1991; Greif, Avner. *Institutions and the path to the modern economy: Lessons from medieval trade*. Cambridge University Press, 2006; Ostrom, Elinor. *Governing the commons*. Cambridge University Press, 1990; Frye, Timothy. *Brokers and bureaucrats: Building market institutions in Russia*. University of Michigan Press, 2000.

[17] Gambetta, Diego. *The Sicilian mafia: The business of private protection*. Harvard University Press, 1993; Skarbek, David. *The social order of the underworld: How prison gangs govern the American penal system*. Oxford University Press, 2014; Smith, Nicholas Rush. *Contradictions of democracy: Vigilantism and rights in post-apartheid South Africa*. Oxford University Press, 2019; Volkov, Vadim. *Violent entrepreneurs: The use of force in the making of Russian capitalism*. Cornell University Press, 2002.

been little systematic research on individuals' preferences for the state versus its alternatives.[18]

A legal pluralism framework highlights the crucial role of gender in state-building. Scholarship on state-building has focused primarily on class cleavage. However, gender conflicts also order state–society relations. For instance, Gregory Massell has shown that in the absence of class conflict, the Bolshevik state in Central Asia provoked gender conflict in order to penetrate its dense society.[19] In fact, gender is especially likely to become the central cleavage of state-building under legal pluralism. Customary law as a cornerstone of clan-based governance is often explicitly discriminatory toward women. Although religious law, and Sharia in particular, can promote women's rights under certain circumstances, secular laws in the twenty-first century generally provide more protections for women against discrimination, at least on paper.[20] As a result, issues related to control of sexuality, honor, and shame become an important arena of boundary-making between the state and society.

The book also contributes to the exploration of state-building and the rule of law in the aftermath of violent conflict. Evidence from Colombia to Sudan and from Guatemala to Iraq, demonstrates that violent conflict increases the need for dispute resolution and also exacerbates the complexity of the presence of multiple legal systems by politicizing the authorities in charge of the competing legal systems.[21] Recent studies have

[18] Among rare exceptions, Belge and Blaydes explored the choices between state and non-state dispute resolution in Cairo and Istanbul, and Gans-Morse and Wang explored the choices between state and non-state institutions in post-Soviet Russia and China, respectively. See Belge, Ceren, and Lisa Blaydes. "Social capital and dispute resolution in informal areas of Cairo and Istanbul." *Studies in Comparative International Development* 49, no. 4 (2014): 448–476; Gans-Morse, Jordan. *Property rights in post-Soviet Russia*. Cambridge University Press, 2017. Wang, *Tying the autocrat's hands*.

[19] Massell, Gregory. *The surrogate proletariat: Moslem women and revolutionary strategies in Soviet Central Asia, 1919–1929*. Princeton University Press Princeton, 1974. Subsequent studies presented a more complex picture of Soviet gender policies in Central Asia that cast doubt on the surrogate proletariat thesis. See Northrop, Douglas. *Veiled empire: Gender and power in Stalinist Central Asia*. Cornell University Press, 2004; Kamp, Marianne. *The new woman in Uzbekistan: Islam, modernity, and unveiling under communism*. University of Washington Press, 2006.

[20] Charrad, Mounira. *States and women's rights: The making of postcolonial Tunisia, Algeria, and Morocco*. University of California Press, 2001; Sezgin, Yüksel. *Human Rights under state-enforced religious family laws in Israel, Egypt and India*. Cambridge University Press, 2013.

[21] Arjona, Ana. *Rebelocracy*. Cambridge University Press, 2016; Bateson, Regina. *Order and violence in postwar Guatemala*. PhD dissertation. Yale University, 2013; Blair, Robert. *Peacekeeping, policing, and the rule of law after civil war*. Cambridge

shown as well that the dismissal and misunderstanding of non-state legal systems in conflict-ridden environments can lead to narrow-minded rule of law policymaking that is bound to fail.[22] Some studies argue that state recognition and promotion of non-state authorities helps to maintain peace, while others paint non-state legal authorities as potential spoilers of state-building projects.[23] Given that the establishment of the rule of law is a primary concern in post-conflict settings, this line of research is urgent in terms of both theoretical and policy implications.

I do not claim that the prevalence of state law over informal dispute resolution systems is a normatively desirable outcome. In the end, even in advanced post-industrial democratic societies, people settle the majority of their disputes through informal mechanisms rather than courts.[24] Legal anthropology and sociolegal studies have consistently shown that taking a dispute to court is very much the exception in all societies – it is the nuclear option.[25] Another consideration is that state and non-state authorities are not always strict alternatives, but often complements.[26]

University Press, 2021; Cheng, Christine. *Extralegal groups in post-conflict Liberia: How trade makes the state*. Oxford University Press, 2018; Ginsburg, Tom. "Rebel Use of Law and Courts." *Annual Review of Law and Social Science* 15 (2019): 495–507; Isser, Deborah. *Customary justice and the rule of law in war-torn societies*. US Institute of Peace Press, 2011; Lake, Milli. "Building the rule of war: Postconflict institutions and the micro-dynamics of conflict in Eastern DR Congo." *International Organization* 71, no. 2 (2017): 281–315; Revkin, Mara. "The legal foundations of the Islamic State." *The Brookings Project on US Relations with the Islamic World* 23 (2016).

[22] Lubkemann, Stephen, Deborah Isser, and Peter Chapman. "Neither state nor custom – just naked power: The consequences of ideals-oriented rule of law policy-making in Liberia." *The Journal of Legal Pluralism and Unofficial Law* 43, no. 63 (2011): 73–109; Swenson, "Why US efforts to promote the rule of law in Afghanistan failed."

[23] Mustasilta, Katariina. "Including chiefs, maintaining peace? Examining the effects of state–traditional governance interaction on civil peace in sub-Saharan Africa." *Journal of Peace Research* 56, no. 2 (2019), 203–219; Menkhaus, Ken. "Governance without government in Somalia: Spoilers, state building, and the politics of coping." *International Security* 31, no. 3 (2006): 74–106.

[24] Ellickson, *Order without law;* Macaulay, Stewart. "Non-contractual relations in business: A preliminary study." *American Sociological Review* 28 (1963): 55–67.

[25] Felstiner, William, Richard Abel, and Austin Sarat. "The emergence and transformation of disputes: Naming, blaming, claiming. . ." *Law and Society Review* 15, no. 3 (1980): 631–654; Nader, Laura, and Harry F. Todd. *The disputing process: Law in ten societies*. Columbia University Press, 1978.

[26] Baldwin, *The paradox of traditional leaders in democratic Africa*; Murtazashvili, *Informal order and the state in Afghanistan*; Tsai, Lily. *Accountability without democracy: Solidary groups and public goods provision in rural China*. Cambridge University Press, 2007; Van der Windt, Peter, Macartan Humphreys, Lily Medina, Jeffrey F. Timmons, and Maarten Voors. "Citizen attitudes toward traditional and state

However, where non-state legal systems directly contradict or challenge state law, their relative prevalence is a crucial indicator of the particular path toward state-building that is being pursued.

EVIDENCE

No book about legal matters can skip a discussion of evidence. My analysis explores the case of postwar Chechnya and places it in historical and comparative perspectives. The historical analysis traces transformations in state-building and legal pluralism in Chechnya under different reincarnations of nested sovereignty: imperial polity, high-modernist Soviet state, and post-Soviet federation. This comparison allows me to explore the impact of different configurations of state capacity and ideology, and different forms of state violence. The comparison of the legacies of two post-Soviet wars which were separated by just a few years highlights the drastically different social and political effects of the two conflicts. The recent history of these conflicts allows me to reconstruct state-building efforts by talking to people who experienced this period, rather than simply relying on historical sources, which tend to better preserve the perspective of the rulers and the elites.

My comparative analysis contrasts state-building lawfare in Chechnya with the neighboring Muslim-majority regions of Russia, namely, Ingushetia and Dagestan.[27] Ingushetia is almost an ideal comparison point for the post-Soviet political developments in Chechnya. The Ingush people live under the same constellation of legal systems as Chechnya's population: Russian state law, Sharia, and custom. Like the Chechens, the Ingush people belong to the Vainakh ethnic group; they share customs and social structure. Until 1992, Checheno-Ingushetia was a single federal unit within the USSR and subsequently Russia, but in 1992 they separated: Chechnya proclaimed independence from Russia while Ingushetia remained within the Russian Federation. As a result, Ingushetia was not directly affected by the Chechen wars. Thus, Ingushetia can provide insight into how the interrelationship between state and non-state legal systems pans out in the absence of armed

authorities: Substitutes or complements?" *Comparative Political Studies* 52, no. 12 (2019): 1810–1840.

[27] On the substantive, theoretical, and methodological benefits on subnational research, see Giraudy, Agustina, Eduardo Moncada, and Richard Snyder, eds. *Inside countries: Subnational research in comparative politics*. Cambridge University Press, 2019.

conflict. Dagestan is Chechnya's neighbor to the east. It is a gem for comparative political research because it exhibits high levels of ethnolinguistic diversity. Dagestan has a distinguished Islamic legal tradition. It shares with Chechnya a history of resistance to Russian colonization, Soviet rule, and of post-Soviet turbulence. Unlike Chechnya, however, Dagestan did not experience large-scale armed conflict and has a highly fragmented and competitive political field. Within Chechnya, I also leverage variation in legal beliefs and behavior across communities and individuals. This allows me to explore state-building lawfare at several levels of analysis: macro, meso, and micro.

The fieldwork for this study consisted of seven research trips to Chechnya that took place in 2014–2016 and lasted for approximately seven months, as well as additional trips to the neighboring regions and trips to interview Chechen diasporas in Europe. I was mostly based in Grozny, the capital of Chechnya, but also extensively travelled to other towns and villages. The locations were selected to represent different geographic regions and to capture the variation in experiences of collective violence.

Throughout my fieldwork, I conducted semi-structured interviews, informal conversations, and observations. In particular, I rely on interviews with seventy-eight key interlocutors. I interviewed authorities in charge of all three alternative legal systems: judges, prosecutors and police officers (Russian state law), imams and qadis (Sharia), and elders (adat). I also interviewed state officials, lawyers, members of NGOs, as well as Chechen intelligentsia – university professors, ethnographers, historians, and journalists. In addition to individual interviews, I organized group discussions, including discussions with the councils of elders in two locations. During the interviews with legal authorities, I asked my respondents about the most common disputes, how these disputes were usually resolved (actual practices), and how they believed the disputes should be resolved (normative beliefs). Another set of interviews was primarily focused on conflict experiences. I interviewed former politicians and former fighters; present-day government officials; local members of different NGOs, who helped displaced Chechens in Ingushetia and victimized families in Chechnya throughout the Second War and counterinsurgency campaign; and local academics and journalists, who covered the conflict. The interviewees represented different political sides during the war, different regions, and different wartime roles. Through these interviews, I aimed to reconstruct the history of individual and community victimization, wartime governance, and politics.

In addition to the interviews, another principal method of the study was observation. Most importantly, I attended several hearings at the

state federal court in one of the Chechen towns that allowed me to observe cases like the trial of Said. I also observed several Sharia arbitrations conducted by district qadis. Other observations were of the behavior of government officials, the work of the NGOs, classes at local universities, academic conferences, prayers at mosques, weddings, funerals, and even conversations in cafés.

Based on these qualitative materials, I identified the most common disputes in Chechnya, traced their resolution practices, and reconstructed justifications for choices between alternative systems. This analysis allowed me to form a rich descriptive account of legal pluralism in Chechnya. To further investigate legal beliefs and behaviors, I relied on the quantitative analysis of original surveys and data of court cases in postwar Chechnya.

To analyze preferences for state law versus alternative legal systems based on religion and custom, I conducted a survey of Chechnya's population. No major Russian or international polling firms work in Chechnya. Lev Gudkov, the head of Levada Center, the most authoritative survey research firm in Russia even said in an interview:

> We do not conduct surveys in Chechnya, because it is meaningless . . . The levels of fear and terror makes it meaningless . . . Survey research in Chechnya is like survey research under Stalin: you'll get only positive responses.[28]

Originally, I was also skeptical about the possibility of survey research in Chechnya, but a successful pilot survey proved me wrong. One of the key features of the survey was the use of local enumerators. My consultations with local researchers suggested that many people in Chechnya would not talk to outsiders. Therefore, I hired and trained a team of interviewers who were either students at local universities or junior research fellows at the Chechen branch of the Academy of Sciences. Employing local enumerators helped me to obtain a high response rate as well as trust from the respondents.[29] Another principal feature of my survey was that it was grounded in my immersive qualitative research. The main survey questions aimed to reveal preferences for alternative

[28] Polovinko, Vyacheslav. "Idet sistematicheskaya rabota po podderzhaniyu straha" [There is a systematic work to maintain fear]. *Novaya Gazeta*, July 3, 2019.

[29] 81.4 percent of selected households agreed to take part in the study (N = 1,213). See details of survey sampling and implementation in Lazarev, Egor. "Laws in conflict: Legacies of war, gender, and legal pluralism in Chechnya." *World Politics* 71, no. 4 (2019): 667–709.

legal systems and were based on a set of vignettes – scenarios of disputes – uncovered in my interviews and observations.

In addition to the attitudinal survey data, I also collected behavioral data from state courts. The North Caucasus is infamous for the difficulty of accessing any administrative data and for the poor quality of data that is found. Even the actual population of the Chechen Republic is unclear. Officially, it is 1.4 million people, but my conversations with local officials usually converged at a number around one million. Perhaps the most telling example of the unreliability of administrative data from Chechnya is found in an article that shows how the fabrication of official statistics led to a remote mountainous Chechen district, Sharoy, being declared the wealthiest territory in all of Russia.[30] However, quite miraculously, I was able to obtain official reports on the number of cases heard in the Justice-of-the-Peace Courts in Chechnya from 2011 to 2014 and assemble a massive record of court hearings in these courts from the government webpages. Analysis of these different types of data and data from different sources allows me to draw a rich picture of social reality in Chechnya and triangulate the evidence.

The empirical focus on Chechnya, no doubt a unique place, imposes scope conditions for this study. Chechnya is not an independent country, but a part of the Russian Federation. I do not attempt to explore the influence of the Chechen conflict on state–society relations in the rest of Russia.[31] Russia is a federation and federalism creates a formal framework for indirect rule by allowing regional governments to implement their own politics of state-building to some degree. Thus, federalism or more broadly, nested sovereignty, is a key scope condition. Nontrivial also is that Chechnya was a part of the Soviet Union, a system of government that has had lasting social and political legacies.[32] To sum

[30] Zhegulev, Ilya. "The Virtual Reality of Chechen Recordkeeping." *Meduza*, May 9, 2016.

[31] For such analysis see Baev, Pavel. "Instrumentalizing counterterrorism for regime consolidation in Putin's Russia." *Studies in Conflict & Terrorism* 27, no. 4 (2004): 337–352; Lieven, Anatol. *Chechnya: Tombstone of Russian power*. Yale University Press, 1998; Malashenko, Aleksei, and Dmitry Trenin. *Vremia Yuga: Rossiia v Chechne, Chechnia v Rossii [The time of the South: Russia in Chechnya, Chechnya in Russia]*. Moscow: Gendalf, 2002; Oushakine, Serguei. *The Patriotism of despair: Nation, war, and loss in Russia*. Cornell University Press. Ithaca, 2009; Sakwa, Richard, ed. *Chechnya: From past to future*. Anthem Press, 2005.

[32] Beissinger, Mark, and Stephen Kotkin, eds. *Historical legacies of communism in Russia and Eastern Europe*. Cambridge University Press, 2014; Heathershaw, John, and Edward Schatz, eds. *Paradox of power: The logics of state weakness in Eurasia*. University of Pittsburgh Press, 2017; Pop-Eleches, Grigore, and Joshua A. Tucker. *Communism's shadow: Historical legacies and contemporary political attitudes*. Princeton University Press, 2017.

up, Chechnya is a postcolonial, post-conflict, post-Soviet society that is a part of a federation. Imposing all these scope conditions simultaneously leaves us with a rather narrow focus. Instead, I use each of these conditions as analytical bridges to other cases. I hope that this deep analysis of the Chechen case enables better understanding of other manifestations of indirect rule, peripheral state-building, federalism, post-Soviet, postcolonial, and post-conflict political developments, both historical and contemporary.

ORGANIZATION OF THE BOOK

The rest of the book is organized in three parts. Part I includes two chapters very different from each other – on theory and ethnography. Chapter 1 introduces the theoretical framework of state-building as lawfare. The chapter starts by outlining the building blocks of state-building at the periphery: legal pluralism, nested sovereignty, gender cleavage, and armed conflict. The rest of the chapter is divided between the reasoning about political order – government policies towards legal pluralism, and about social order – individual choices among different legal systems that, in aggregate, amount to state-building from below. Chapter 2 presents ethnographic narratives on my immersion in Chechen social life, my reflections on the role of positionality and subjectivity in shaping the research, the ethics of the study, and grounded perspectives on the key elements of the story: legal pluralism, conflict, and the foundations of social and political orders in Chechnya.

Part II analyzes the politics of legal pluralism. Chapter 3 provides a historical analysis of state-building in Chechnya through the lens of legal pluralism. There, I give an account of the formation and development of legal pluralism under the Russian imperial administration and the Soviet rule. The chapter shows that the politics of the imperial and Soviet authorities toward legal pluralism can be explained by state capacity and ideology. Chapter 4 covers the post-Soviet period of de facto independent Chechen statehood and the armed conflict in the 1990s. The chapter shows that when peripheral authorities acquire room to maneuver vis-à-vis the metropole, their policies toward legal pluralism are dictated by the struggles for political survival. Chapter 5 further develops the political logic of legal pluralism promotion by investigating the political order established by Ramzan Kadyrov in postwar Chechnya. The chapter documents the widespread instrumental use of non-state legal systems. It then shows that Ramzan Kadyrov promoted non-state legal

systems in order to win legitimacy, increase his autonomy from the federal center, and build a coalition of support from non-state authorities and former rebels.

Chapters 6–8, which constitute Part III, explore legal politics from below. Chapter 6 is a descriptive account of legal pluralism in contemporary Chechnya. I describe the actors in charge of dispute resolution, the most common disputes, their forms of resolution, and the legal consciousness of the population. I then explore the factors that drive individual preferences for alternative legal systems and spatial variations in legal behavior. Chapter 7 presents an analysis of the legacies of conflict in legal preferences and behavior at the individual, community, and societal levels. The analysis shows that while collective violence during the First War led to alienation from the Russian state among the Chechen population, the Second War led to community fragmentation and the demand for state law. Chapter 8 explores the legacy of the wartime disruption of gender hierarchies and women's mobilization through state law. It presents a general picture of gender relations in Chechnya and its evolution over time. Special attention is paid to the role of women during the conflict. The analysis shows that conflict, and in particular the Second War, created conditions for women to mobilize state law to advance their interests. The chapter also brings attention to the backlash against war-induced transformations of gender roles and women's legal mobilization.

The Conclusion situates the politics of legal pluralism in a comparative perspective by contrasting Chechnya with other Russian regions and other contexts of postcolonial and post-conflict political development. I also discuss the implications of this study for our understanding of legal pluralism as an instrument of domination and of law as the "weapon of the weak," as well as reflect on the implications of my findings for post-Soviet Russian politics.