

State-Building as Lawfare: On Conflict, Interpretation, and Ethics

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State-Building as Lawfare: Custom, Sharia, and State Law in Postwar Chechnya, by Egor Lazarev,
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This is an important book. It is important because it connects the study of internal armed conflict to big questions in comparative politics. It is important because it pays attention to the perspectives of ordinary men and especially women who make complex decisions in the context of legal pluralism. It is also important because it offers a window onto one of the most difficult-to-access settings of state-building on the back of protracted political violence and war. In my commentary, I will highlight these contributions of Egor Lazarev's *State-Building as Lawfare: Custom, Sharia, and State Law in Postwar Chechnya* and areas for further discussion that stem from these contributions.

Internal Armed Conflict and State-Building

That internal armed conflict is intricately related to state-building is not a new argument. Extending Charles Tilly's (1990) classic articulation of the relationship between war-making and state-building from external to internal armed conflict, a number of research programs emerged in the recent decades on questions of rebel governance, wartime political orders, and legacies of wartime rule for postwar societies, including rebel-to-party transformations (see, e.g., Arjona, Kasfir, and Mampilly 2015; Staniland 2021; Huang 2016; Ishiyama 2016). Rebel justice, which encompasses rebel courts and other parallel institutions, has been a particular area of interest within this scholarship (see, e.g., Revkin 2016; Loyle 2021).

State-Building as Lawfare does something different. It draws our attention not to the intersection of prewar and wartime institutions – for example, rejection or co-optation of existing dispute resolution mechanisms by rebel organizations or creation of parallel judicial systems during armed conflict with consequences for postwar arrangements – but to the complex interrelationship between the de facto systems of customary law, adat, and Islamic law, Sharia, and the de jure system of Russian statutory law that have characterized the legal environment in Chechnya from pre- to postwar periods. And it situates legal pluralism in contemporary Chechnya in the context of the Russian imperial, Soviet, and post-Soviet history.

What is the role of internal armed conflict in state-building in this context? Lazarev argues that war intensifies political and social cleavages that drive what he calls “state-building lawfare,” or the use of state and non-state legal systems by local politicians to secure political survival and by lay individuals to contest social control. Separatist war, in particular, fractures nested sovereignty, which allows for political autonomy in the periphery, and traditional social hierarchies. It militarizes authority, creating a constituency of rebels-turned-bureaucrats who reject state law and whom local rulers incorporate into their coalitions by promoting non-state legal systems. Local rulers thus

borrow legitimacy from tradition and religion to maximize political control and prevent internal challengers and intervention from the center. State violence also alienates the local population from the state. Yet transformations especially in gender but also in the ability of extended family and community to apply social pressure enable women to use state law, which acknowledges gender equality. Internal armed conflict thereby shapes state-building both from above and from below.

However, the notion of internal armed conflict could be further advanced in the book. On the one hand, it is conceptualized as “the radical rupture of ‘normal’ social life as a result of experiences of violence that leave profound social and political legacies” (6). Conflict, in this view, “serves as a shock that destabilizes societies” (6). While intuitively appealing, this notion stands in contrast to arguments, particularly in anthropology, that call against “treating war as an interruption of social process” (Lubkemann 2008, 324). On the other hand, the book recognizes that “order exists amidst conflict” and is established and maintained through social and political institutions constructed at the community level (37). What is the relationship between rupture and order in this book? If conflict is indeed understood “as a process,” how do we move from rupture to order in this context (6)? Earlier work addressing this transition has shown that the onset of internal armed conflict disrupts everyday routines and expectations, which are based on preexisting norms, practices, and beliefs (Shesterinina 2021). But people develop new routines and expectations about the occurrence of violence and how to act in response as wartime social orders become normalized (Arjona 2016).

War, furthermore, transforms social actors and structures, but it is also “marked by continuities” – “societies have a history that does not disappear when an internal war breaks out” (Wood 2008; Arjona, Kasfir, and Mampilly 2015, 10). The persistence of legal systems rooted in tradition and religion that are not compatible with state law and use of state law after brutal state violence are among the continuities and discontinuities needed to better understand what remained, what evolved, and what changed altogether in Chechnya beyond the traditional hierarchies that the book emphasizes. This discussion can help articulate how *State-Building as Lawfare* is situated in relation to the literature on internal armed conflict and state-building noted above that centers on rebel institutions and their legacies and what the implications of this study are for this scholarship and for future research in this area.

Ethnography in Chechnya

Centering the very actors who make decisions about alternative legal systems is a particular strength of the book that permits analysis of complex social processes in postwar Chechnya. Indeed, Lazarev states that his seven-month ethnography, understood as “immersion in Chechen social life,” which is rare in this challenging research context, was “not just a method of data gathering, but a constitutive element of [the] study” (19, 60). It helped ground the theory of state-building lawfare in people’s “perspectives on history, conflict, and state-society relations” and “informed all the methods of the study” (96). For example, vignettes of disputes underlying the attitudinal survey were “uncovered in [the] interviews and observations” (18). Behavioral data from state courts were supplemented with informal conversations, such as “in the corridors of the court” (2). Ethnography also helped Lazarev evaluate risk in different field sites and “determine what questions to ask” and how (91).

It is clear that the interpretations presented in *State-Building as Lawfare* would have been different had this research been based on statistical data, formal interviews, or court observations only. The pervasive nature of adat and Sharia could have been overlooked since “non-state justice authorities do not record arbitration” due to potential criminal charges (191). Likewise, women’s use of state law could have been attributed to women’s empowerment without the broader picture of wartime disruption of traditional hierarchies or the backlash that followed. The differences in the legacies of the First and the Second Chechen Wars for individual legal preferences could also have been missed. The key elements of the theory – the existence of legal pluralism, the relationship

between political and social orders, and the role of armed conflict – thus emerged in interaction with field insights.

What could be further clarified is how the book arrives at these interpretations and how it bridges “positivist and interpretivist approaches” (96). “What I have borrowed from [existing research] was to a large degree shaped by what I experienced in the field,” writes Lazarev (58). But what did a focus on “sense-making” entail in this study (96)? What “ethnographic narratives” were included in the analysis and how were these narratives interpreted (59)? What did the “metadata... reveal” that other sources did not (66)? How did the “ambiguous identity,” being affiliated with American and Russian universities, translate into “local legitimacy to carry out the study” and how did power and emotional dynamics of fieldwork shape the quality of data (69)? Finally, how did field insights modify the research design beyond the change of the subject from “the politics of Sufism” to legal pluralism (75; Fujii 2018)? For example, how did “the heterogene[ity] in women’s legal consciousness and behavior,” uncovered through close interaction with one of the main interlocutors, alter the initial assumptions in this study (65)? Discussing these questions in greater detail can help the reader reconcile the emphasis on ambiguities, contradictions, and multiplicities of meanings in interpretive research with that on strategic choices of local politicians and lay individuals alike in this book. This discussion can also clarify what role disciplinary training plays in these conclusions and at what point interpretation ends and the positivist mode of inquiry starts in this work, particularly in light of caution that is required in merging the two approaches because of their fundamentally different ontological, epistemological, and methodological underpinnings (Schwartz-Shea and Yanow 2012).

Questions of research ethics also remain. *State-Building as Lawfare* is based on careful field protocols that prioritize research participants’ safety. In addition, reliance on trusted networks formed a solid foundation for gauging “specific manifestations of danger” and broader sensitivities surrounding this research (95). Yet safety would benefit from further discussion. While Lazarev suggests that “risks for my study participants were relatively clear,” risks could differ across participant groups and evolve (92). Hence, pseudonyms are used except “when quoting the respondents in official positions who wanted to be named and did not express any politically sensitive information” (92). But political circumstances in contexts of violent conflict and authoritarianism often change unpredictably and what appears not to be sensitive at one time can become sensitive at another, even for seemingly protected elite actors (Parkinson and Wood 2015). These considerations also apply to the researcher whose safety can come under threat for previously unaccounted reasons. Research assistants are another group whose safety is part of ethical research practices (Cronin-Furman and Lake 2018). Enumerators’ safety thus required attention in the book, especially given that “women were the[ir] absolute majority” and this book demonstrates the intricacies of gender relations in contemporary Chechnya (74). How did the study draw on local knowledge to protect these individuals – the various research participants, researcher, and local interviewers – in an ongoing way (Fujii 2012)?

These areas for further discussion – from rupture and order in internal armed conflict to continuities and discontinuities across conflict histories to the nature of interpretation and its intersection with positivist analysis to safety considerations for different people involved in the research – point to the complexity of issues, methods, and materials covered in *State-Building as Lawfare*. Having spurred these questions, the book will undoubtedly continue to animate studies of legal pluralism and state-building in challenging contexts.

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