

Wars Make Laws and Laws Make States

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State Building as Lawfare: Custom, Sharia, and State Law in Postwar Chechnya, by Egor Lazarev.
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Egor Lazarev has given his readers more of an epic story than a grand theory, and everyone who reads *State Building as Lawfare* will be the richer for it. The setting for this riveting tale is the war-torn Russian province of Chechnya. We quickly learn from Lazarev's *mise-en-scene* that Chechnya's famously mountainous terrain is as choppy and uneven legally as it is topographically. Three separate legal systems coexist and commingle in this single subnational domain: 1) customary law, or *adat*; 2) Islamic law, or Sharia; and almost as an afterthought, 3) state law, "courtesy" of Russian central authorities in Moscow.

Lazarev's primary purpose is to conduct a deep, historically informed ethnographic study of how the two brutal recent Chechen Wars — "First" from 1994-1996 and "Second" from 1999-2009 — have reshaped the everyday practice and politics of law in contemporary Chechnya. Because family law (for example, marriage, divorce, inheritance) constitutes such a giant portion of everyday legal disputes, and since women represent the lioness's share of claimants in family cases, gender comes to play a starring role in Lazarev's gripping account. Wars (plural), laws (also plural), gender (mostly just women), and an ethnographic commitment to examining their complex historical interactions at a close and intimate range — these are not the usual stuff of the stories we tell in today's American political science.

And American political science could use a lot more books like Lazarev's, hackneyed though it sounds to say. His is first and foremost a work of personal courage and, as Lazarev openly admits, "ethnographic serendipity" (76). The stories from his fieldwork need to be read to be appreciated and in many cases, even believed. Rarely does the accumulation of descriptive data through interviews generate so much original and substantive insight in a discipline that tends to treat the method as one for confirming theories already refined rather than for locating phenomena yet to be discovered. "Through these interviews," Lazarev signals at the outset, "I aimed to reconstruct the history of individual and community victimization, wartime governance, and politics" (16). The end result is "a richly descriptive account of legal pluralism in Chechnya" (17).

It is the power of Lazarev's particular descriptive approach more than the persuasiveness of his specific causal arguments that makes his book so memorable. Yet there is much at stake theoretically in *State-Building as Lawfare* as well. Although the word "war" appears nowhere in Lazarev's title, war suffuses his entire book. All three legal systems in Chechnya play the roles they do in large measure because of how wars in Chechnya have been fought and resolved.

Legal development has generally followed the rhythms of warfare. This has been true since the imposition and negotiation of multiple legal orders by conquering imperial and Soviet authorities and their local Chechen compradors in the 19th and early 20th centuries (Chapter 3). It remained true with the reemergence of Sharia during the First Chechen War. As one of Lazarev's respondents

vividly expressed the linkage from war to support for Sharia: “it is hard to remain an atheist under the bombs that fall on your head” (133). And in the final stage in Lazarev’s account, Russian state law has made an unexpected comeback after the Second Chechen War, after being deeply discredited by its association with violent imperialism in the First. This has transpired through the bottom-up efforts of women to pick the legal system that best protects their most desperate material needs.

No straightforward bellicist account of state-building can capture these complicated, cross-cutting consequences. Unlike many analyses of war and state-building, Lazarev fully appreciates that war’s most immediate effects on governance tend to be devastating rather than galvanizing. “The war that broke out between the federal center and Chechen separatists in 1994 reduced state capacity to rubble” (141), he reports. Yet from these ashes rose a constellation of transformative effects. These legal transformations sharply differentiate war-torn Chechnya from its war-spurred neighboring Muslim-majority Russian provinces: Dagestan, where Sharia did not receive the same kind of political boost that warfare gave it in Chechnya (168), and Ingushetia, where adat law retains greater sway than in Chechnya because no war meant no destruction of the traditional hierarchies most tightly wedded to its norms and practices (236). “I focus on the transformative effects of conflict,” Lazarev announces in an analytical move that fellow bellicists will find both familiar and agreeable. “Conflict presents a shock to entrenched political systems” (47)

Wars have made laws and laws have made the state in Chechnya, to be sure, but the mechanisms have been multiple and the causal pathways circuitous. Disentangling these mechanisms and pathways is no small feat, and all the legal and political dust kicked up by Chechnya’s wars could never possibly settle into any tidy theoretical pile. As Lazarev notes in one of his book’s most arresting phrases: “the state is an internally contradictory entity” (30)

Still, Lazarev makes valiant stabs at a theoretical synthesis that offers new insights into how war makes the state: “To summarize, the analysis of the political topography of postwar Chechnya highlighted two principal mechanisms behind divergent post-conflict social orders: (1) collective identity formation, which was more prominent in the aftermath of violence during the First War and (2) community fragmentation and disruption of traditional hierarchies, which were common results of the violence of the Second War” (232).

Lazarev distills these dueling bellicist effects into dual causal logic. One is “*the logic of alienation*: individuals who experience violence become alienated from the perpetrators of the violence.” This helps illuminate why Chechens rejected state law and embraced Sharia, at the level of individual political attitudes in reaction to the First War. The second logic, attending the Second War, was “*the logic of disruption of social hierarchies*” (54, emphasizes in original). Here the effects of war are structural rather than attitudinal: another point that most studies of war and state-building tend to minimize or neglect. “The logic of alienation postulates that individuals and communities who experience state violence in the course of a separatist conflict will heighten their commitment to religion and tradition and ultimately reject state law,” Lazarev summarizes. “The logic of disrupted hierarchies states the opposite: experiences of conflict will weaken non-state social control and thus lead to an unintentional state-building from below driven by those who benefit from state law” (58).

One potential way to fuse these logics and to connect Lazarev’s insights more tightly to existing bellicist understandings of state formation would be to highlight the point that the effects of warfare are not only attitudinal (that is, alienation) and structural (that is, disruption), but *coalitional*. When the alienated and disrupted remain alienated and disrupted alone as individuals and not as any kind of political collective with a shared purpose (that is, a coalition), the effects on state-building are likely to be more attenuated.

War’s impact on state-building coalitions is evident after both the First and Second Wars, albeit through empirical glimpses rather than sustained theoretical attention. In the mid-1990s, for instance, “President Yandarbiyev’s promotion of Sharia law was an attempt to win the support of two powerful constituencies: war veterans, the rebels who had just won the war against Russia, and foreign fighters and foreign donors from the Gulf” (134). More recently, Ramzan Kadyrov has

consolidated his “sultanistic” power (146), not only by manipulating legal pluralism to his own benefit — as Lazarev expertly shows — but by deploying law in ways that generate active elite support. “Law enforcement cadres, many of whom were former rebels, constitute the core of Ramzan Kadyrov’s coalition of support” (161).

A sharpened focus on the coalitional politics of legal pluralism in Chechnya, above and beyond its attitudinal microfoundations (which Lazarev exhaustively and fascinatingly traces in his book’s Part III), could lead our collective gaze in important new directions. Where there are coalitions for political change, after all, there are typically counter-coalitions digging in their heels to protect their power. This is especially the case when marginalized and vulnerable actors begin challenging the status quo and run afoul of dangerous powerholders facing few constraints against violently repelling the challenge.

For while we learn that Chechen women have taken advantage of war’s structural disruptions to pursue their individual legal claims in state courts rather than adat or Sharia courts, where the patriarchy has historically channeled them, we gain little sense of whether and how legal consciousness might be translating into legal mobilization by feminist coalitions. Nor do we gain a deep appreciation of how to understand the violent backlash from anti-feminist coalitions that surely accompany it. We should all certainly take Lazarev at his word when he proclaims that “tracing changes in gender relations in the [Second] postwar period suggests a true cultural revolution” (258). But is Chechnya not also experiencing a cultural counterrevolution as backlashes against cultural equality — not least gender equality — have metastasized across the globe?

Such a backlash against progressive movements might be better conceived as a slingshot effect — even a slight tug in a liberating direction prompts a far more powerful, disproportionate over-reaction against the claims of the newly assertive. This slingshot effect against women is anything but hypothetical in today’s Chechnya. I became all too tragically aware of the vicious and violent potential of a slingshot effect against politically assertive women just before starting to read Lazarev’s pages. On July 4, 2023, courageous award-winning journalist Elena Milashina, a former visiting fellow at the center I direct at the University of Michigan, was brutally maimed and physically disfigured in a Chechen courtroom by a band of Kadyrov supporters. If feminist coalitions are actively pursuing legal mobilization in Chechnya today, this horrifying incident offers just a rancid taste of what they are up against.

Herein lies perhaps the most important global implication of Lazarev’s analysis, as we all look forward. Young men across the world appear to be even less supportive of women’s rights than older men. When anti-feminist coalitions seize state power — as they can, sometimes even do, through fully democratic elections, as in contemporary South Korea — the potential for a slingshot effect is all too evident. “Lawfare” may be defined by leading scholars as both the bottom-up and top-down use of law for strategic ends (29), but in the real world of politics, power, and the stubborn chauvinism of empowered majorities, lawfare looks a lot more like warfare when it flows from the top than when it flows from the bottom.