

## GOVERNANCE UNCOVERED EPISODE 56 TRANSCRIPT

### *State-Building as Lawfare: Custom, Sharia, and State Law in Postwar Chechnya*

Thank you, Egor, for joining us today. It's exciting to talk to you about your book and congratulations on it, a very fascinating read actually about what you call state lawfare in Chechnya. So I want to begin by asking you just to give us a sense, first of all of how you became interested in working in Chechnya, and particularly on issues of legal pluralism?

Ellen thank you so much for the invitation. I'm very excited about this conversation and I'm very excited that, you know, you read the book because the authors of academic books, we never know if anyone would read them. So I'm very excited to have such a reader as you. So my interest in the North Caucasus was sparked by reading one book by sociologist Georgi Derluguian, he wrote this book called *Bourdieu's Secret Admirer in the Caucasus*, and I read this book, it's a pretty thick book, and I read it overnight and I was really fascinated by the region, by its ethnic, religious, political complexities and diversities. And decided to go to Republic of Dagestan when I was still in undergrad studying in Saint Petersburg. And so this was the fall of 2010 and it kind of surprised my family and all my friends by going there. I spent a few weeks which were really fascinating. And since then I've been going to the North Caucasus. Repeatedly for many years, I would spend some time doing research in Dagestan, in North Chechnya, comparing the altaria and ultimately decided to do my dissertation work on Chechnya. This was primarily a political decision. I thought that we know very little about this very politically important region, that the representation is really dominated by stereotypes about terrorism, about violence and the society really went through horrific political violence, but we know very little of what is happening on the ground. So I decided to do a study for my initiation, I spent several years studying Chechnya, and when I came to the field, I didn't plan to study legal pluralism or law. If anything, I always thought that law is a very boring subject. So I came to Chechnya to study the politics of Sufi Islam, which I, also discovered while doing research in the North Caucasus and ultimately spent several months talking to Sufi Sheikh, their followers, talking to politicians, and I was totally convinced that they do have a very important political role, but because Sufi Islam has its secretive nature, it was very hard to study it systematically. But while I was studying it, and while I was doing this research, I kind of discovered the topic of legal pluralism in the field. I was interviewing prominent religious authority in the southern Dagestan and I observed, you know, was trying to ask you questions about religion and politics, and he allowed me to sit in his mosque for basically the entire day, and I observed how people would come and go constantly to to him to resolve their disputes related to car accidents, death, family relations. And for me as a political scientist, this was a completely noval thing, I I just was, I had no idea how to think about this. So I came back to work, started reading and discovered this is a very important topic on legal terrorism. So that's how I ended up studying it.

That's great. You're absolutely right. It's both an important topic and one of the things I think that you make the point in the book about is the fact that the reality is that most of us, wherever we are, don't resolve disputes and often don't finalize and adjudicate things within state court. A lot of sort of activity takes place outside of state courts, right. And that in a sense that's more the norm, than it is an exception and in this case you're talking about what you call a ... or a customary law, as well as

about Sharia, or sort of religious law, and then state law. And those are the kind of the three, what I would think of as competing systems or competing legal bases that you're looking at. Can you give us a just a little bit more sense of what each of those looks like, what they're comprised of in Chechnya?

Yes. I mean, first of all, you're absolutely right that going to state courts is a kind of a nuclear option for basically every society. You know, I'm talking to you from the US and you know, there's this image of US as being very litigious society. But even in the US, you know, on the very tiny fraction of disputes end up in state courts. Basically, in the entire post-colonial world, legal pluralism is very much a norm and in many countries, and many social context, there is the same constellation of legal orders, so the state law, religious law, and customary or traditional law. In the context of the North Caucasus, the jury only state law exists and recognized. So this is like a statutory state legal system, very much similar to many other continental legal systems in Europe and elsewhere in the world, affected by European legal tradition. Customary law is indigenous to the North Caucasus, the main principle of customary law is that basically a collective system of responsibility. So the subject of law is not an individual but a family or extended family clan. And so it was developed outside of state regulations. All the regulations are based on this collective relations between families, that's why the ultimate regulator is the custom of blood revenge that, you know, you use violence to resolve dispute, but mostly, the system of regulation of every sphere of life developed in the pre Islamic period in Chechnya and preserved despite the Islamization of the region, and Sharia law emerged obviously with the Islamization of the region and became one of the most important regulator social life during the anti-colonial struggle in the 19th century, during the long Chechen war, when at some point Chechnya was part of the Islamic State, organized by the leader of anti-colonial resistance. And since then, also persisted in different forms in the region. And as a result, yesterday we have this system where the jury is only state law. The Russian state law, but the fact of the legal orders based on custom and religion are very powerful and very much present in everyday life.

And you give some fascinating examples, right, of where people try to, essentially kind of forced the hand of others by getting them to rely, for example, on customary law, right. And I remember one of the powerful examples for me was where you have somebody who wants to get married, and so they kidnapped the bride, which by customary law in terms of preserving honor would lead to a forced marriage. And then they find that the family actually doesn't force the marriage the way they wanted to and instead actually sort of goes through the through other options. So this idea of people kind of strategizing or second guessing what others would rely on and and therefore what would happen in particular instances, right? Which raises this question of the individual level. What types of, if you have forum shopping with how people often talk about this, right, the individuals know that they can either go to the religious authority or they can use customary law, or they can try to go to the state, in those kinds of contexts, people will make a decision of where to go. What can you tell us about the individual level decision making over what fora people use?

Yeah, when I first started studying this, I thought that this is very interesting because you know, how does society function when there are multiple alternative rules of the game? So again, for social scientists, this creates very interesting puzzle, and for a long time I thought, you know, how can we

study these individual choices, everyday choices that people make. And I thought that the evidence I collected and through kind of, thinking about different theories that might help us to make sense of this, I decided to contrast the normative forces based on ideological identity based attachments to either religion, which is a very powerful factor, or identity based attachments to customary law. As an expression of ethnic identity or national identity. As one force and then as strategic calculation based on expectation of favorability of an outcome as the main kind of counterbalance, that's basically in the decisions about legal systems very much like in other important political decisions, there is always this balance between strategic calculations and normative calculations. But the normative calculations are also connected to what you mentioned about the role of enforcement. That in unlike and state system where there is kind of systematic enforcement, specialized enforcement, in non-state legal systems, in this case customary and Sharia, is very much based on the role of social pressure. And so the social pressure is very strongly connected to this normative attachment and expectations, so it always have to be on people's mind. There are other factors like costs and experience with ... system, but I think in most general terms we can think of it through this normative versus instrumental considerations and factors.

So can you link that for me to the idea that one of the impacts of the conflict has been kind of the disruption of social hierarchies, because you actually, make what I think is a very interesting case, that gender is the main cleavage. We often think of cleavage as around class, but that gender becomes a main cleavage and you describe how the war itself disrupts gender balances and disrupts the balance of power between genders, I should say. So, how has that then affected the extent to which those in Chechnya or those in Dagestan or elsewhere would or would not decide to take things to the state courts versus, for example, Shariah.

Yeah, this line of reasoning about gender and transformation of gender relations in Chechnya became one of the main findings of my study, and my interpretation of what I found is that this conflict, long lasting conflict in Chechnya, led to profound transformation of gender relations. And social hierarchies more generally. So basically, in every sphere in terms of generational hierarchies, social cohesion of communities and all together, this kind of disruption of social hierarchies, diminished effectiveness of social pressure and social pressure does play a truly important role in terms of expectations in terms of actual kind of ostracism or using pressure on those members of communities then decide to go to state courts. And I found that in Chechnya overall, but especially in the most victimized communities, this hierarchies in terms of gender in terms of age, in terms of cohesion of communities and diminished as a result of the Second Chechen War, which created conditions for women or other kind of marginalized member of the communities for whom state law is better, to go to state courts. So it is very much about the role of social pressure and as a factor of enforcement and as a factor in choosing between state and non-state legal systems.

Which is especially interesting because, I guess my thinking about it was on the one hand, gender, obviously, gender imbalances and this idea that state courts are often seen as a better fora for women than customary or or religious ones are, that's kind of a long standing set of expectations, right. But then when you really think about that, vis a vis, something like class, I mean, what's interesting to me is that in the gender relations, these are often very within household relations that we're often talking about, right? So the social pressure aspect of it can be arguably even higher than

it can be if we're thinking about cross class cleavages. So this idea that the nature of the cleavage in itself may be, may shape differently, turning to state courts versus others or kind of reliance on the state, I think is a really interesting, interesting concept and worth thinking even more about than the the cases that you have here. Right. I think there's a lot of really interesting lessons and questions that emerge from that. So I was excited to see that I was also really intrigued by your argument that that we have a second level of contestation that that takes place or a second level of decision making, right, which is really about what local leaders are doing. So you basically say, OK, if you're a local leader, you can either try to suppress the non-state systems, or you can try to accommodate it, or else you can actually even at times attempt to promote it. Can you say a little bit more about when leaders take these different decisions and what it looks like when they do?

Yes, I mean, I tried to chase two questions in this study in, in this one book, one about individual choices between state and non-state legal systems, also about politicians with particular focus on local leaders and their policies towards state and non-state legal systems. And in general, it's a terrible idea to pursue two questions in one study in one article or one book. But for me, I always thought that these questions are interrelated and even though it was difficult to try to address them both, I thought I should try to do it. And so the whole process for me was in terms of writing, was how to merge these two perspectives, these two analytical levels. And I was studying why do some local leaders, who are technically representatives of the state promote non-state legal systems. So in the case of Chechnya and some neighboring regions, they were local political leaders who were bureaucrats of the Russian states, the Russian state officials, but they were promoting customary law and Sharia at the expense of state law. And for me, this was one of the major puzzles. In general, we can think of the strategies of local political leaders in terms of their relation to non-state legal systems, either through this promotion suppression or tolerance or kind of non intervention. And I was thinking about different factors that would determine this policy. And I think the most obvious factors, the ones that I also read, insightful analysis about in the literature, work the role of state capacity that in some places, leaders, state officials just don't have resources to regulate everyday life and everyday disputes. And so they don't intervene. There is powerful ideological considerations that some political leaders driven by, for example, communist ideology, want to get rid of non-state legal systems and surveillance of the past, that those are really traditions to get rid of. Or in contrast, they were ideology or multiculturalism and diversity. They tried to promote these different manifestations of culture, for example. And in my analysis, I really emphasized political considerations, considerations of establishing local political control through legitimation, through coalition building, and also through getting autonomy from the metropole, from the center of the state, by promoting legal pluralism and making, basically themselves, indispensable to the center, in this case case of Chechnya, I was studying how local political leaders were promoting non-state legal systems to make this boundary control from Moscow.

I have a question on the boundary control aspect because one way to think about that is that they just want to have more power, so it has the same impact or the same importance as legitimation does in in coalition building cause those are all ways in which the leader gains power vis a vis the center. The other way though, which is a slightly different interpretation, and I'm curious to hear your thought on it, is that there's also translation element. That when it comes to thinking about customs and particularly customary law, that there may be ways in which understanding the local interpretations puts the local leader a particular advantage, vis a vis the Metropole, which they don't

have necessarily if they are thinking about people only engaging with regards to sort of state law. And you could even argue that there's enough variation in terms of way something like Sharia is interpreted, that local knowledge actually makes that much more different. In your view, is this simply another way of gaining support and therefore power? Because you have essentially accommodated or allowed these other interpretations? Or is it also, is there an information and kind of a knowledge and specialization aspect to it that's important?

My interpretation is that this story is about power and about autonomy, but I really like your metaphor of translation. You know, I would represent my argument like when actually the absence of translation that political leaders in Chechnya, they all speak Russian, and so imagine a meeting between some kind of Kremlin official and leaders of Chechnya, and they can speak Russian and basically speak in the language of the metropole here, but they can also start conversation in Chechen, and by doing that, completely puzzle these state officials in Moscow, because they don't speak Chechen and so by promoting custom reward Sharia, in effect, if you push this metaphor, they are speaking Chechen to Moscow and making Moscow uncomfortable because you know, Moscow does know how to deal with customary law, with blood revenge, with bride kidnappings. For them, these are like, things that they don't want to think about it. They don't want to hear about them, and so by publicly promoting it and establishing institutions, they're creating this kind of invisible wall between Chechnya and Moscow.

It is fascinating, right? I mean, if you think about what that means and the relative power and how you as a local leader can try to extend it, it's actually really, really fascinating. I'm wondering what we think about if when we're trying to take that to argument to places where we don't have this kind of metropol periphery or metropol local relationship. I mean, you talk about it in times in terms of Empire. How far do you think your argument travels to places where that center and periphery is at least not in the same shape as it is between Chechnya and Russia? Or should we think that that we always have center and peripheries even in the US, for instance?

Yeah, this condition of what they call nested sovereignty kind of empires or kind of new colonial settings, contemporary Chechnya and Russia, I think this stating is quite widespread. And we can think of, you know, many peripheries in the postcolonial world. We think just of a nation state and focus on the nation state, in many post-colonial countries still have this kind of semi-colonial relationship of dependence problem. In this case global center not the center of the country, but the global center, the the West and some of these practices like polygamy or other practices which are seen to be sensitive and where the West for example tries to get rid of them. Or pressures the government to like regulate them differently. There is this bargaining is also present to what degree you want to build your national legal system purely on Western standards. So you want to incorporate digital element religious elements, customary elements and your interpretations of them. Right, because there is wide variety of how can you organize customer and what does it mean? And this variety give this political space for this type of boundary control. There is also this question is relevant for the US actually the concept of boundary control. Was developed by scholar Edward Gibson in studying authoritarian enclaves in Latin America and the US. Like you know, the Deep South. Throughout March of the 20th. And you can also think of indigenous communities in the US and their complex relationship with the US Federal government in terms of the sovereignty,

in terms of autonomy, in terms of the use of legal systems like whether you can use apply criminal law. For example, for non indigenous perpetrators of violence against women. And reservations in in the US, this is a very politically important subject. So this bargaining and establishment of boundary in the context of method sovereignty like the US is, is a very important question that I don't think is restricted to changing at all.

Now, I would fully agree and I'm trying to understand or think through what this means when we're talking about especially authoritarian enclaves. How we should understand our local leaders and their relationship with the state, you're making the argument that what's taking place is State Building. And I told you before, we tape that I wouldn't go all theoretical and jargony on you and and on the listeners. But but I'm so curious to. Think about how do we know whether this is about leaders as leaders simply trying to extend their control or how do we know if if this is about State Building, if we think about the state as some kind of autonomous or as an entity in a field or sphere of activity in itself?

So my thinking of State Building is that's very much a product of different political strategies that I think we can. Think of State Building as deliberate set of strategies that a ruler pursues, and I think this is how we usually think in terms of, you know, ruler needs more taxes or they need more troops and they're trying to kind of devise different policies to strengthen their state. And for sure this is happening and it's happened in the past. But I think to a large degree State Building or state formation emerges through political strategies and individual choices that don't have this goal of State Building in mind. I think that a politician who is. Calling a blood revenge against a political opponent or tells the judge how to make a decision in a particular case and also a regular person who decides to go to state court to solve their dispute with a neighbor about that. These decisions also affect state formation very much like this. You know, general plans of political strategies and rulers.

If I've done that and what it's done is strengthen me, vis a via the Center or vis a vis the Metropole, and help me to either maintain an authoritarian enclave or helped me to limit Russia's extension into Chechnya, which may be a slightly different issue then should I think of this as a way in which I've fended off the state? Paula Jim Scott. Or should I think of this as a way in which I have strengthened the state because ultimately I'm still part of it. Do you follow me? And I'm curious as to how we understand the ultimate impact of these very self interested act.

So my response will be probably that you know the state. We can talk about it in plural or we can kind of emphasize that states often fragment it and you might weaken the central state, but you might strengthen your local state and it's not necessarily kind of similar process that goes in the same direction. That, especially in this context of what they call mastered sovereignty, the state is fragmented and the policies and politics of the centre and the periphery might very much be at odds. And it creates this complexity of State Building process that strengthening of the local state that's not necessarily means strengthening of the central state. And vice versa, that the center might still ability to. So we can the data at the local level because you know there is a conflict between different segments of the state.



So I think that actually will help me to make sense of the ways in which you might also think about these attempts to try to strengthen the state by eliminating or strengthening state courts and state institutions. Visa V customary ones, or Visa V religious ones. So we know that there's a lot of efforts development. Efforts that try to to do that and and you in a sense are making the case that you think that at least women may be better off with the state courts than they are with some of the customary and religious courts, even in Chechnya. What do you think about these attempts? What do you think about the ideas that what you ultimately want to do? If you're trying to improve people's basic welfare is to limit their use of other options and to focus their attention into state institutions.

Well, I think I have to preview the answer by saying that in my study and you know, research was still colored by my kind of baseline socialization and thinking about kind of you know more liberal tradition that you know I when I came to the field of course for me this was in natural that you should solve the disputes according to state law and that's why I was so puzzled and. Fascinated by. People going to customer loan, Sharia. And I do make a case that despite the fact that Russian state legal system in Chechnya is very corrupt, slow and many people, you know, I I never found people who were enthusiastic about Russian state law in Chechnya. I do make an argument that for women and for kind of weaker. Actors in social life more generally, state legal system is better because it's more rigid, kind of more bureaucratic in a way that it still follows. Some kind of bureaucratic inertia. While stronger actors Canmore easily bend non state legal system in this context customer loan Sharia and impose restrictive conservative interpretations of custom and Sharia. I do not claim that in general all interpretations of customer and Sharia are better for men and women. In fact I. Did find some women who large segments of women were still in. Using a customer, I want Sharia for ideological reasons or they were strong believers in it. So in terms of thinking about this developmental projects, I think strengthening state law in general is a good idea. That's the area where these international experts I think are most at ease. So there's a more understanding. But this also should be recognition that large part of the world still leaves and will continue to live under legal pluralism, and they should be in kind of deep understanding of how these systems function in order not to disrupt the balance by doing some kind of developmental projects to create more tensions or create political conflict. Because I think the. The most important lesson from my work is that use of state courts and non state legal systems. By politicians and by individuals have very important political implications, so any intervention that will reshuffle these ballots will also change politics and distribution of power at the very local level, including in families.

It's an excellent point and I think one that extends beyond this particular issue in this particular study, right to be a more general issue that development specialists and those. Who have often very good intentions, but you know some ways kind of lack the complexity or an understanding of the full complexity of systems can overlook. I'm curious, what did you find the most surprising or the most interesting finding that you had when you were in the field?

I mean for me, if we in in this study almost everything was very exciting again because, you know, I was an outsider. I was loading about a different society living in a society. It's here, so I think basically every element from learning about patient history, learning how, how much people care about this history, how much people care about language, and trying to explain with some of the linguistic contracts, for example, this always was native, but the most important part for me was to

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get to know people, the families. They lived with together local social scientists, who I learned. Bought from. So I think these were the most valuable things I don't have. I don't think I have like 1 silver bullet finding that I'm super excited about retrospectively thinking about it. I think I most value and cherish these relationships I built in the field.

And I think that comes through beautifully in the book. It's both extremely well written and and really interesting, but it's also very clear how much you not only care, but how much you learned from others. And I think you do a wonderful job of being very respectful. Full of the sources of knowledge and questions of your own positionality and and others, I think it's a it's a real model for taking those things into account and really considering who we are as researchers, how we engage with others and really very respectfully learning from others. So again, congratulations. It's a great piece of work and it's very fun to read and fun to talk to you. About it, I really appreciate it.

Thank you so much, Ellen.