# Book Review: Rebel Law, Insurgents, Courts and Justice in Modern Conflict by Frank Ledwidge

*In* **Rebel Law: Insurgents, Courts and Justice in Modern Conflict***,* **Frank Ledwidge** *explores the role of courts and law in insurgencies and civil wars. This is an intriguing, engaging and comprehensive account that is particularly compelling when discussing insurgent justice in the Muslim world, finds* **James Baldwin***, valuably diverging from the tendency to read such phenomena solely through the prism of extremism.*

***Rebel Law: Insurgents, Courts and Justice in Modern Conflict*. Frank Ledwidge. Hurst. 2017.**

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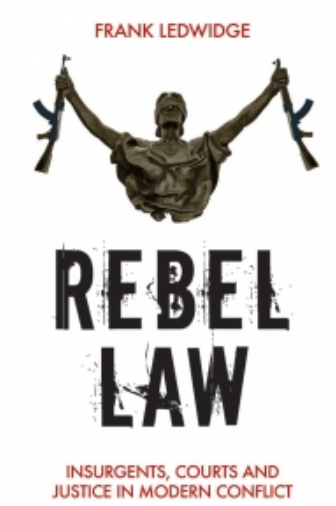


*Rebel Law: Insurgents, Courts and Justice in Modern Conflict* is a fascinating exploration of the role of courts and law in insurgencies and civil wars. The author, Frank Ledwidge, is a barrister and former intelligence officer in the British military who has had a varied career as an advisor in justice-related development projects, including in the British-occupied Helmand province of Afghanistan. The first half of the book examines how a variety of insurgent movements have used courts and law, while the second focuses on the role of law in counterinsurgency strategies, including a critique of British operations in Helmand.

From the perspective of my discipline of Islamic legal studies, the first half of the book is of particular interest. Ledwidge recasts the *sharīʿa*-based justice systems created in recent conflict zones in Afghanistan, Somalia, Syria and Iraq – usually portrayed as reversions to barbaric punishments driven ideologically by militants – as a phenomenon comparable to other insurgencies in non-Muslim countries. Observers of Afghanistan have noted previously that the Taliban built a reputation for providing justice in the context of the rampant warlordism of the 1990s: that their appeal was founded on fairness as much as the specifically Islamic character of their legal regime. But Ledwidge explores this idea at length, and illustrates it by juxtaposing Afghanistan and other Islamic examples against an event central to modern British history: the Irish War of Independence, when Sinn Fein and the IRA set up a network of courts in Ireland as part of their boycott of the British state. Their strategy was, of course, violent: litigants and witnesses were intimidated into not cooperating with the British justice system. But, at the same time, Sinn Fein's courts were widely seen as fair and efficient. Brute force was not sufficient to mount a successful insurgency in Ireland: the republicans also had to offer the Irish people an alternative model of governance that they would accept.

Having presented the Irish case as the paradigm of an insurgent judicial strategy, Ledwidge then explores a series of insurgencies in the Muslim world in which law and courts have played a significant role. Beginning with the Taliban in Afghanistan, he moves on to the Union of Islamic Courts in Somalia, competing courts run by mainstream opposition forces and by the jihadist Jabhat al-Nusra group in rebel-held Aleppo and, finally, the judicial activities of ISIS in Syria and Iraq.

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**Image Credit: Nawa District Justice Centre, Helmand, Afghanistan, 2011 (ResoluteSupportMedia CC BY 2.0)**

These various court systems represent a range of models of justice. The Taliban, Jabhat al-Nusra and ISIS all claimed to 'restore *sharīʿa*' – by which they meant implementing a hardline interpretation of *sharīʿa* complete with harsh corporal punishment and attention to moral infractions. Somalia's Islamic Courts were not driven by such an ideological Islamist agenda: they still relied partly on *sharīʿa*, Somalia's major legal tradition, but were more eclectic in their interpretation of it and also used customary law. Meanwhile, the courts affiliated with Aleppo's mainstream rebels ran the kind of civil law system that is typical of most Arab countries today, using a code of largely European extraction along with elements taken from the *sharīʿa* tradition.

But even in the most ideological of these insurgencies, the *sharīʿa* element was incidental to the courts' appeal and success. What mattered was their efficiency and fairness, in the sense of procedural regularity and refusal to accept bribes. What made these courts effective tools of insurgency was that they brought order and stability where previously there had been chaos, and that their procedural standards compared favourably with the alternatives. The courts were a key component of the insurgents' pitch to local populations. Not only did they focus on preventing the kind of crimes that plague communities after the breakdown of the state – kidnapping, robbery, extortion and so on – they also sought to prevent corruption among their own judges.

The second half of the book provides a critique of the 'rule of law' model of nation-building that the US and its allies have pursued in Afghanistan since the 2001 invasion. Ledwidge begins this section by discussing how older empires attempted to stabilise remote and volatile regions, exploring the strategies pursued by the Ottoman and British empires in Albania, Yemen, India's North West Frontier Province and southern Sudan in the late nineteenth and twentieth centuries. Ledwidge claims that both Ottoman and British imperial elites recognised that engagement with local institutions and practices was crucial to success. He believes that US and British forces today have forgotten this lesson, insisting instead on the centralised state as the solution in unstable countries, even though such states often have little legitimacy and few ways to build it.

Ledwidge's treatment of the British empire sometimes seems uncomfortably nostalgic: on page 125 he quotes, apparently approvingly, Charles Napier bemoaning that 'so perverse is mankind that every nation prefers to be misgoverned by its own people than to be well ruled by another'. Ledwidge argues, based on military manuals, that British counterinsurgency doctrine in the mid-twentieth century emphasised the use of the minimum necessary force in order not to alienate the population. But he doesn't do much to explore whether the British response to insurgencies lived up to the theory: the example of the Mau Mau rebellion in Kenya suggests not.

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Ledwidge's criticism of the British intervention in Helmand is much sharper. He reflects candidly on his own experience: at the time of his posting in 2007, Ledwidge writes that he 'had never been to Afghanistan, spoke none of the languages and had but the haziest idea of how justice was provided in the country' (140). His background was typical of those involved in 'rule of law' development projects, and Ledwidge argues that the resulting lack of local knowledge is one of the key reasons why most have failed. In the place of deep engagement with local networks and cultural traditions, British and US forces adopted a 'cookie-cutter' approach, transposing institutions and practices based on western models. Ledwidge argues that such projects are doomed to failure because they rely on an authority and credibility that the Afghan state lacks.

Ledwidge describes the judicial terrain in Helmand during 2006-14 as a situation of legal pluralism, with five options for resolving disputes: the formal judicial system; government officials acting informally; tribal elders; religious mullahs; and the Taliban. Litigants responded by forum-shopping, although their choices were often constrained by fear of violence. Within this range of options, the formal judicial system was not only ineffective and corrupt, but litigants often came under considerable pressure not to use it. In such circumstances, investment in the formal judicial system typically resulted in white elephants, such as the expensive but empty Justice Center built by the US in Khost, which Ledwidge claims failed to attract any litigants.

Ledwidge readily concedes that the alternatives to state-centric solutions – engaging with local and traditional practices of justice – also raise problems, in particular the lack of respect for gender equality and human rights norms among many local figures of authority. He doesn't offer a solution to this dilemma. In places, he seems to be leading towards the suggestion that concerns about gender and human rights must be jettisoned if such projects are to succeed; but he backs away from this stark conclusion, citing an example when the mission successfully secured the installation of women members on a local judicial council. His ultimate conclusion is more modest: that just as development officials should be candid about the human rights failings of traditional practices, so they should be honest about the Afghan state's lack of capacity and legitimacy.

*Rebel Law* is an intriguing and engaging book that covers a lot of ground. Ledwidge's criticisms of the nation-building project in Afghanistan are broadly familiar, but they are presented with fresh details and anecdotes from his personal experience there. Meanwhile, Ledwidge's approach to insurgent justice in the Muslim world is compelling: he brings a much-needed comparative perspective that serves as an antidote to the tendency to read such phenomena only through the lens of extremist ideology.

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*Note: This review gives the views of the author, and not the position of the LSE Review of Books blog, or of the London School of Economics.*

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