

H-Net Reviews

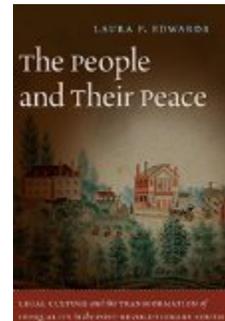
in the Humanities & Social Sciences

Laura F. Edwards. *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South*. Chapel Hill: University of North Carolina Press, 2009. 368 pp. \$39.95 (cloth), ISBN 978-0-8078-3263-9.

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Focusing on the Local

In this ambitious work, Laura F. Edwards attempts to reshape historians' understanding of early nineteenth-century southern legal culture. The dominant narrative of southern legal history, Edwards explains, focuses on state lawmaking and legal institutions—on appellate courts, judges, and judicial decisions, as well as statutes, legal treatises, and the writings of political elites. All of these sources emphasize how the law underwent “reform” during the early nineteenth century, when law became codified and centralized at the state level. Historians, Edwards claims, have eagerly and uncritically repeated the themes evident in these state-focused legal documents. The conventional narrative, Edwards thus warns, contains “strong Whiggish undertones of inevitability,” for the sources imply that “law and government simply assumed the form they were always intended to have” (p. 5).

Edwards offers a counterpoint to this view. Attempting to “excavate localized law” from beneath the existing historiography, she focuses on legal development at the grass roots between 1787 and 1840 (p. 26). Relying on thousands of court records from six jurisdictions (three counties in North Carolina and three districts in South Carolina), Edwards provides a richly textured portrait of a legal culture in which women, African Americans, and the poor played an important part. Even as professionals attempted to standardize and centralize the law during the 1820s and 1830s, Edwards demonstrates, localized legal practice showed a degree of persistence.

The People and Their Peace is divided into three sections: an introductory portion that spells out her approach, a second that delves deeply into the world of localized law, and a third that focuses on developments at the state level. Edwards's primary contribution comes in the second and longest section of the book. Here she centers her analysis on the concept of “the peace,” the idea that everyone had a place in the established social order. The notion of the peace, she writes, “expressed the ideal order of the metaphorical public body, subordinating everyone (in varying ways) within a hierarchical system and emphasizing social order over individual rights” (p. 65). Magistrates (justices of the peace), sheriffs, and constables played significant roles in administering this system of law, especially with regard to minor criminal and civil infractions. Lacking in legal training and usually equipped with no more than a “justice's manual” (privately published catalogs of offenses), magistrates mediated disputes based mostly on their “shared store of common knowledge,” which arose out of their relationships and experiences within the community (p. 71).

Courts developed around magistrates in order to deal with more serious offenses, but Edwards convincingly shows that in the final analysis the people wielded considerable power within this system. Possessing a deep sense of their responsibility to the community, as well as a basic understanding of local legal processes, men and women—whether black or white, rich or poor—

routinely brought complaints against others for breaching the peace. Such complaints empowered individuals at the same time that they preserved existing hierarchy. “Local officials considered complaints on a case-by-case basis, righting specific wrongs done to the metaphorical public body without extending additional rights to any category of dependents,” Edwards explains (p. 110). Thus, local officials responding to complaints could “undercut the domestic authority of one husband or one master” without making any generalized rule that affected husbands or masters (p. 110).

The ability of a wife or a slave to bring a complaint rested on one’s “credit” within the community—one’s reputation as being trustworthy—and relied mostly on networks of association maintained within prescribed roles. Edwards provides several examples of petitions, signed by neighbors, affirming the credit of those who lodged complaints. In any given locality, members of the community relied on each other to enforce local norms and preserve the peace, as law proved nearly indistinguishable from custom.

In the third section of the book, Edwards attempts to trace the shift away from localized law toward the more centralized, state-centered legal system advocated by judges and lawyers. Edwards shows how legal professionals attempted to construct an apparatus of state power in both a literal and figurative sense—by erecting courthouses that dominated the local landscape, by emphasizing state-centered political rhetoric that culminated in South Carolina’s nullification movement, and by establishing standardized legal categories that challenged localized law.

The last of these is particularly significant for Edwards’s analysis. Essentially, she argues that the conception of the peace, which placed a premium on local reputations and circumstances, gradually gave way to a legal system centered on rights, particularly the rights of property-owning white men. Concomitant with the rise of universal white male suffrage in the 1820s and 1830s, legal reformers exalted free white men while denying rights to white women and enslaved people. The new legal order that emerged thus established fixed categories based on gender, race, and status. Such “universalizing conceptions of rights,” she summarizes, “stripped away not only social, economic, and cultural differences, but also personality, family connections, and social networks so as to create faceless, interchangeable units. Decisions about the rights of one freeman applied to all freemen. Decisions about the denial of rights to one slave or one

wife extended to all black persons or to all women” (p. 259). State-prescribed categories, in short, replaced local custom.

Edwards’s bold attempt to rewrite the history of the southern legal system yields mixed results. The book richly describes scores of cases from local records—including magistrates’ trial papers, coroners’ inquests, and criminal court records—that show the significant role that women and African Americans played in the day-to-day operation of the legal system. Her point regarding the shift from localized law to state-centered law, moreover, is an important one. Professionals surely exerted increasing influence by the 1820s and 1830s, as legal education became more systemic, statutory law underwent revision and codification, and appellate courts achieved increased legitimacy and power.

But Edwards’s claim that the rights of white male property holders came to define the work of state appellate courts is problematic. She all but ignores a body of literature on the North Carolina Supreme Court, for example, that shows that its judges were among the most enlightened in the South when it came to the legal rights of slaves.[1] Enslaved African Americans often—ironically, given Edwards’s claim—fared better in state appellate tribunals than in local courts. In *State v. Caesar* (1849), a case that Edwards misreads (she incorrectly states that Judge Thomas Ruffin’s dissent took the side of Caesar, who had been indicted for murdering a white man), the court recognized a series of procedural rights and spared the slave’s life by mitigating the charge from murder to manslaughter.[2] Edwards dismisses such decisions by stating that “appellate courts were careful not to turn procedural rights into broader claims to individual rights,” but the protection of procedural rights, as in this instance, often yielded real benefits for slaves (p. 251). At times, in other words, Edwards’s argument seems a bit forced. Other components of early nineteenth-century southern legal culture, moreover, are missing from her analysis. Edwards scarcely mentions the code of honor and evangelical Christianity, and she neglects to take account of how the popular election of judges fit within the context of the larger developments that she describes.

Despite these shortcomings, Edwards offers an important contribution to the literature on the history of the South. By shedding light on localized law, she succeeds in offering “an important historical counternarrative” to that of early nineteenth-century legal reformers and present-day historians, who have focused on

the rhetoric of individual rights (p. 298). At the local level, Edwards shows, the notion of maintaining “the peace” allowed ordinary men and women—of all sorts and conditions—to have their day in court.

Notes

[1]. See, for example, Reuel E. Schiller, “Conflicting Obligations: Slave Law and the Late Antebellum North

Carolina Supreme Court,” *Virginia Law Review* 78 (1992): 1207-1251.

[2]. Timothy S. Huebner, “The Roots of Fairness: *State v. Caesar* and Slave Justice in Antebellum North Carolina,” in *Local Matters: Race, Crime, and Justice in the Nineteenth-Century South*, ed. Christopher Waldrep and Donald G. Nieman (Athens: University of Georgia Press, 2001), 29-52.

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