

# H-Net Reviews

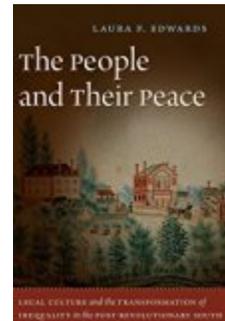
in the Humanities & Social Sciences

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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## Peace v. Law

We are so accustomed to thinking about human rights and the relations between state and local levels of government as they have been understood in the last 150 years that it is hard even for historians of the era to recognize that there was an earlier mind-set, one that prevailed from the American Revolutionary era until about 1840. Focusing largely on state governments, historians have traced a line of progress in individual rights from colonial times to the present, while giving little attention to what lay off this path. Now, Laura F. Edwards, professor of history at Duke University, takes a different, bottom-up approach.

By focusing on the actual workings of the justice system at the local level, Edwards has produced an important and profound reexamination of the legal culture of the 1789-1840 era. Edwards begins her study in a time when the resolution of legal disputes, both civil and criminal, was principally concerned with maintaining “the peace.” This was a concept of law in which local magistrates strove to maintain order and calm in their communities while preserving the traditional social order. Decisions did not follow grand concepts of universal law or the rules of precedent. The magistrates, not trained lawyers for the most part, were only concerned with sorting out the problem before them. Their decisions were based on intimate knowledge of the people involved, and testimony was weighed according to the known character of the witnesses. Dependents—slaves, children, white women, and often poor white men—could have their tes-

timony considered and even seek justice for themselves.

Ranged against this concept was that of the lawyers and state political leaders, promoters of universal standards of law and rights. Certainly, the local “peace” model was not satisfactory for issues of national and international trade, which of necessity concerned state legislators. These men sought to build and impose on all levels of government a practice of law based on affirming the rights of freemen, a designation restricted to adult white males. The local preservers of the peace were a threat to this concept. In the state courts, the rule of precedence applied. If dependents could testify in court or seek justice there, that implied that they had rights. If they had rights, then they could not even be denied voting and office-holding privileges, and the very foundation of society would crumble. In the rights model, only freemen had rights. Others were dependents without any rights bound to be recognized by the courts.

Over the first half century of governance under the Constitution, lawyers and legislators conducted a successful struggle to standardize the law and force the rights approach on all levels of the administration of justice. Early on, they came to dominate civil law, but the local peace approach proved much more resilient in criminal law, although even there the rights model increasingly dominated. As the rights model grew in strength, dependents lost the ability to find justice for themselves without the intercession of their freeman family heads

or masters. This perspective challenges the traditional depiction of the growth of rights as a steady and positive progression.

To show how the struggle played out, Edwards examined local records that continued unbroken during the period of her study. She found this resource in three North Carolina counties—Chowan, Granville, and Orange—and three South Carolina districts—Kershaw, Spartanburg, and Pendleton (which split during the study period creating a fourth district, Anderson). Edwards made an exhaustive examination of these records, and the depth of this research is supplemented by an extremely wide-ranging examination of both primary sources and the work of other historians, such as William J. Novak and Hendrik Hartog, for their studies of local law and the position of dependents in other parts of the country.

All this has some important implications for other areas of historiography. Southern exceptionalism has long been an orthodox belief among American historians, but Edwards finds that the same movement from peace to rights existed nationwide and that in many ways the South exemplified national trends. In the South, as elsewhere, Jacksonian democracy extended rights to propertyless white men. The South, as the rest of the nation, continued to deny rights to black Americans both slave and free as well as to all women. Southern legislators' tightening down on slaves was done in the name of protecting the property rights of freemen.

As Edwards shows, the trend from the local emphasis on maintaining the peace to the emphasis on the rights of freemen paralleled a movement to set the law apart from the lives and influence of ordinary people. The visible representation of this was the construction of grand courthouses in the neoclassical style. Previously, justice was rendered wherever the magistrate found room in such places as private homes, store buildings, and mills. Even the earliest purpose-built courts were unremarkable buildings architecturally indistinguishable from neighboring stores. The shift to centralized legal authority was marked by the construction of grand state capitols and local courthouses that intim-

idated ordinary people and drew a sharp line between them and the institutions of justice. Increasingly, law protected the rights of propertied white men and left their dependents without an independent means of seeking justice.

By 1820, state legislatures had laid a foundation for a centralized structure to oversee state law. Appellate courts that could overrule local decisions were in place. The Nullification Crisis of the 1830s provided a great opportunity for state leaders to persuade the people to look to the state as the defender of their rights. Even as the law came to accept all white men as rights-bearing freemen who stood on an equal footing, it consolidated their authority over their subordinates. Freemen came to consider their rights a form of property, which they jealously guarded. In their minds, any threat to any form of property, such as abolition, became a threat to all their rights. To a considerable extent, resolving issues involving subordinates was left with the local level in order to avoid accepting the subordinates as people with rights.

Edwards's arguments are convincing and enlightening. She spent fourteen years researching the subject, and the book's 112 pages of notes and bibliography attest to her prodigious research and documentation. In addition to the court records of the counties of the research area, she delved deeply into family papers, church records, newspapers, legal archives, and period legal commentaries. She also broadly incorporated the perspectives of other historians.

Edwards's writing styles conveys her excitement at revealing this new perspective on legal history. Anecdotes illustrate her points, showing how the legal changes affected real people's lives and holding the reader's interest.

More work following this model is needed. How did this struggle play out in New England or the Middle Atlantic states? What about new states being formed during the period? *The People and Their Peace* is a seminal work that should stimulate further work and a new school of interpretation of American history.

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