

Until Justice Be Done: America's First Civil Rights Movement, From the Revolution to Reconstruction

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Review

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Masur, Kate. *Until Justice Be Done: America's First Civil Rights Movement, From the Revolution to Reconstruction.* W.W. Norton and Co., 2021. HARDCOVER. \$32.00 ISBN 9781324005933 pp. 456.

In the past few years, scholars have been especially attuned to echoes, resonances, and repetitions in United States history. Manisha Sinha recently wrote of the need for a “Third Reconstruction,” Eric Foner framed the first Reconstruction as the nation’s “Second Founding,” and now Kate Masur has offered an analysis of “the first Civil Rights movement” in her powerful and eminently readable work, *Until Justice Be Done: America's First Civil Rights Movement, From the Revolution to Reconstruction* (2021).

Masur contends that scholars have largely “missed a struggle for racial equality in civil rights that spanned the first eight decades of the nation’s history, a movement that traveled from the margins of American politics to the center and ended up transforming the US constitution” (xiii). By writing about the history of the Fourteenth Amendment and other legal landmarks of equality that defined that Civil War era “forward from the antebellum period,” Masur guides us to a deeper understanding of how antebellum fights influenced the ideas and strategies of Republicans and other advocates for Black freedom in the 1860s (338). Exploring the importance of geographic variation throughout, Masur’s book takes the reader through challenges to racially discriminatory laws that occurred from the 1770s through the post-Civil War period. Out of nine chapters, two focus on Ohio, one on Illinois, and one on Massachusetts, and Masur also gives significant consideration to Washington, D.C., the subject of her previous study, *An Example for All the Land: Emancipation and the Struggle Over Equality in Washington, D.C.* (2010). In attending to geographic specificities, and also to similarities across locations, Masur successfully demonstrates how the tension between ideas of state citizenship and federal citizenship were at the heart of struggles over both slavery and racial equality.

Until Justice Be Done is, among other things, a legal history. Masur notes that defenders of equality regularly quoted the privileges and immunities clause of the Constitution (Article IV, Section 2), and that defenders of racially discriminatory laws often sought recourse in the notion of individual states' "police power," a broad concept related to the idea that individual states were their own best judge as far as questions of public safety went. In exploring these specificities of legal language, *Until Justice Be Done* demonstrates how African American activists and their supporters engaged in a fight for citizenship before the Civil War that they strategically framed around arguments for equal protection under the law. Resistance to these arguments took three main forms: belief in inherent racial differences, the idea that individual rights were secondary to a state's latitude to preserve safety, and notions rooted in poor-laws, regulations stemming from English legal tradition. By arguing for racial equality through newspapers, petitions, and political organizing, African Americans challenged each of these modes of thinking in turn.

In reading *Until Justice Be Done*, I especially appreciated some of the less obvious intersections and overlaps Masur noted between the earlier civil rights struggles and Civil War-era legal changes. For example, Judge John McLean ruled in 1817 that Richard Lunsford, an enslaved man whose master had died after bringing him to Ohio, was free. McLean would go on to author the dissent as a Supreme Court justice in the Dred Scott case of 1857. Jacob Howard, a member of a judiciary committee that proposed eliminating discriminatory statutes in Michigan in 1838, became a framer of the Fourteenth Amendment, as did John A. Bingham, an Ohioan who helped organize for the Liberty Party in 1845. John Jones, an activist who fought to repeal discriminatory laws in Illinois, would go on to be one of thirteen Black men who met with President Andrew Johnson in 1866 to discuss the shape of Reconstruction. Developing strategies throughout the antebellum era, these figures helped to make equality under the law central to emancipation's meanings as they unfolded during and after the Civil War.

Masur's book is part of a larger flourishing of scholarship on Black citizenship and the law in the nineteenth century. In the acknowledgements, she situates her work as part of the legacy of the Freedmen and Southern Society Project, and in a "Note on Historiography" she mentions Martha Jones and Stephen Kantrowitz as scholars building similar frameworks around notions of citizenship. Other recent works along the same lines include scholarship by Christopher Bonner, Derrick Spires, Van Gosse, and P. Gabrielle Foreman. These works together

place Black women and men at the center of questions about what citizenship should and did mean in the United States.

Regarding the subject of this journal, the Civil War is at the heart of Masur's project. *Until Justice Be Done* gives us new insight into the coming of the war, the timeline of emancipation, the legislative opportunities provided by the war, and the circumstances surrounding the writing and ratification of the Thirteenth and Fourteenth Amendments. The war represented an opportunity for the Republican party to, in Masur's words, nationalize "the principles long espoused by the first civil rights movement: that there must be no racial discrimination in citizenship and Civil Rights" (269). Masur makes a particularly striking note of Abraham Lincoln's Attorney General Edward Bates, who argued in December of 1862 that free Black men were national citizens, just as the Emancipation Proclamation was about to allow for the enlistment of Black soldiers.

Until Justice Be Done is necessary reading for any scholar of U.S. history. In addition to the book's important contributions to the historiography of activism, law, race, and the Civil War, the book offers striking methodological insights about centering Black actors in historical study, the chronology of U.S. history, the intersection between law and everyday life, and the distinction between civil and political rights, that will provoke discussion for years to come. I also hope that the work will receive a wide readership beyond academia. It is filled with interesting characters, and it frames the essential question of citizenship in a non-polemical manner that may well challenge those of various political stripes to reexamine their ideas and strategies for honoring, changing, or using the Constitution.

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