

“Individual Rights and the Transformation of Slave Law, 1787-1860”
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This paper focuses on the trajectory of slave law, particularly regulation of slaves and masters, from a locally based system based in a range of legal sources, including local custom, to a definitive body of law at the state level, based in written authorities that emphasized individual rights. In the locally based system, which was designed to maintain the collective order of the peace, slaves were treated as subjects, mostly disciplined to keep local order, but sometimes protected as well. The organization of the system also meant that they contributed to the maintenance of community order to some extent. As lawmakers extended the reach of state law in the 1820s and 1830s, they imposed the rubric of individual rights on matters formerly governed by collective conceptions of the peace, as defined in local contexts. The logic behind the developing body of state law turned white men’s patriarchal authority and civic participation into individual rights, akin to their already established property rights. White men’s rights thus expanded at this level of the legal system, increasing their claims on the legal system and to state protection of their interests. In the political rhetoric of the 1830s, they became “freemen,” legally recognized individuals who were the paradigmatic citizens, at least within the realm of state law. At the same time, dependents’ legal status, particularly their lack of rights, became the rationale for their exclusion from law and government. State law defined them as altogether different categories of people and subordinated them according to the abstract categories of race, class, and/or gender. White women, African Americans, and the poor found it difficult to make themselves heard and their concerns visible within the body of state law, because they were excluded from the category of people with rights the state was designed to protect. The development of slave law is thus marked by a dramatic transformation in this period,

one in which conceptions of individual rights--usually associated with states outside the slave South--played a crucial role.