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Hervé Leuwers, *L'invention du barreau français, 1660-1830: La construction nationale d'un groupe professionnel*. Paris: Éditions de l'École des hautes études en sciences sociales, 2006. 446 pp. Maps, tables, figures, notes, bibliography, and index. \$22.00 (pb) ISBN 2-7132-2106-4 and (cl) ISBN-13 978-2-7132-2106-4.

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At the heart of the burgeoning early modern European legal world — the subject of considerable historical scrutiny in recent decades — was the advocate. By training and professional activity, advocates served as mediators between the state and the populace who increasingly utilized the courts. The profession was one of the period's leading avenues of social mobility, attracting talented young men seeking to improve their status and that of their descendants. Propertied, highly educated, and respected individuals who nonetheless generally did not belong to early modern Europe's elite, advocates, like other men of the law were, as William Bouwsma noted more than thirty years ago, both transformative and conservative figures — challenging traditional authorities and hierarchies while at the same time using law, custom, and tradition to promote social order in an unstable, conflict-ridden world.[1]

Despite the recent “legal turn” in historical scholarship, however, the careers, activities, and attitudes of early modern French *avocats* remain considerably understudied. Recent scholarship has demonstrated that *avocats* were particularly prominent in many of the major political and cultural controversies of the eighteenth century and the Revolution.[2] Historians have also long recognized that *avocats* were significant actors during the Wars of Religion, that they were among the Old Regime's leading political theorists, that they dominated many municipal regimes and local institutions, and that they were otherwise well-represented in the intellectual and cultural life of the period.[3] Nonetheless, when compared with the attention received by their counterparts *outré manche*, the limited scholarship on French *avocats* remains quite striking.[4]

Hervé Leuwers's *L'invention du barreau français, 1660-1830* is a welcome attempt to address this shortcoming. Concentrating on the profession's historical development from the reign of Louis XIV through the Restoration, Leuwers analyzes “la manière dont les porteurs d'un titre, insensiblement, définissent les contours sociaux, les droits ou la représentation de leur groupe dans les différents espaces où il lui reconnaissent une existence” (p. 10). Drawing on research into the records of sixteen bars (from different types of jurisdiction), nineteen departmental archives, and the findings of several secondary studies, Leuwers traces institutional developments and the emergence of a professional discourse that increasingly stressed the *avocat's* honor, his independence from court and client, and the bar's autonomy in determining its composition and disciplining its members. Over time, he argues, the notion of an abstract “Order of *Avocats*” incorporating all who held the title (including the large majority who never practiced) evolved first into a diverse group of professional and confraternal organizations centered around individual tribunals — seventy-six during the eighteenth century by one count — and eventually into a single, unified “barreau français” that came into being alongside new conceptions of the “nation” in the Old Regime's final decades.

The unifying thread of Leuwers's analysis is the increasing professionalization of those who called themselves “*avocats*.” Driven by both the state and the Orders of *Avocats* themselves, this process was “plus que l'affirmation d'une activité.” It was, he argues, “la naissance d'une profession...c'est-à-dire d'une activité savante, disposant d'un domaine d'action réservé, qui s'exerce librement et s'organise en unités

disposant d'une forte autonomie" (p. 332). Prior to the second half of the seventeenth century, Leuwers notes, the title *avocat* essentially designated the honorable *état* or "personal nobility" of all who held a *licence en loix* and had taken the appropriate oath before a royal tribunal. Most who bore the title had no intention of practicing law in any form. This began to change under Louis XIV, however, as a series of royal ordinances and judicial *arrêts de règlement* increased the emphasis on *avocats'* legal activity and competence, while the transformation of *procureurs* into venal officers sharpened distinctions between the two types of practitioners. At same time, Orders of *Avocats* across France increasingly sought to promote *avocats'* economic interests and to elevate their social status and the profession's exclusivity. While the speed and extent of developments varied, Leuwers argues, important trends nevertheless emerged, especially as the Parisian bar exercised increased moral authority over its provincial counterparts. Orders of *Avocats* (many of which were founded as confraternities) became more developed institutionally, increasingly secular, and more involved with professional and ethical training. Several began to require aspiring *avocats* to complete multi-year apprenticeships (*stages*) and some established libraries for *avocats'* (and in some cases the public's) use. Legal issues were debated in *conférences* for the training of younger members, and charitable legal services were provided. Perhaps the most significant development, however, was the increased care that Orders devoted to keeping lists of active members. Indeed, authority over these *tableaux* became a source of considerable conflict between tribunals and their bars, as the latter sought to establish their control over access to the profession and to discipline wayward colleagues. While few bars gained complete power over their *tableaux*, these nonetheless became public indicators of those *avocats* who met certain professional standards (including residence in the same town as the court) and enjoyed the confidence of their colleagues. As French bars became more professionalized and regulated, they also became more exclusive, resulting in a sharp decline in their sizes which did not recover until the well-known upsurge in the late eighteenth century.

"L'avocat en exercice" thus became "un expert dont le savoir est en construction perpétuelle; son caractère propre est d'étudier les lois, de se perfectionner constamment dans son art, de ne pas connaître l'oisiveté" (p. 23). Indeed, given the social heterogeneity of those who pursued careers as advocates and the diversity of arrangements among bars (some described their heads as *bâtonniers* while others were led by *syndics*, for instance), the development of some sort of ideology was crucial to the profession's unification. Leuwers notes the myriad ways French bars sought to elevate and reinforce the profession's status. Becoming an *avocat*, for instance, was compared to entering Holy Orders. *Avocats* compared themselves only with magistrates, with whom they shared a disinterested devotion to justice, and never to "lesser" legal officials such as *procureurs* and notaries or to other professionals (i.e., *médecins*) or merchants. Apologists stressed the *avocat's* "personal nobility" and the privileges enjoyed by many members of the bar, with some describing them as "soldiers of justice." History was also invoked to affirm the profession's special character. *Avocats* modeled their profession on the great Roman orators of antiquity (notably Cicero), and pointed wistfully to a mystical Golden Age when members of the bar could readily reach the kingdom's highest charges.

This creation of a common professional culture coincided with the convergence of many local bars around the Parisian Order's model. Leuwers is careful, however, to qualify the limits of this harmonization; the process was less one of imitation than of adapting Parisian practices to local circumstances. These developments, however, provided the momentum behind increasingly forceful claims that a "*droit commun du barreau*" guaranteed the *avocat's* professional liberty *vis-à-vis* both clients and judges. Rooted in historical claims which, Leuwers notes, historians have too often taken at face value, this "*droit commun*" was also invoked to justify the bar's right of self-regulation. Eighteenth century bars increasingly deployed judicial strikes both to enforce these claims and to intervene in political disputes with the monarchy. Rare prior to the death of Louis XIV, judicial strikes took place on average nearly every other year after 1717, Leuwers observes, demonstrating not only *avocats'* growing attachment to their professional independence, but also the Orders' growing capacity to mobilize and act collectively. Increasingly, Leuwers notes, contemporaries began referring not to individual orders but rather to a single "*barreau français*."

Like Lucien Karpik, Leuwers links the *avocats'* rising social and political prominence to their claims of disinterestedness. *Avocats* claimed that they put the good of others over their own and gained glory from serving the public interest. Originally this self-proclaimed disinterestedness served to establish a bond of trust between the *avocat* and both his clients and the judges before whom he practiced. This commitment to the public good manifested itself in other ways as well, including service in municipal government and other civic institutions, charitable legal work on behalf of the poor, and other activities that demonstrated the profession's social utility. Above all, *avocats'* supposed disinterestedness, combined with their ability to circulate their ideas through print, allowed them to take advantage of cultural changes to emerge as spokesmen for "public opinion." Their education and cultural background enabled them to take part in debates over the origins of societies, the nature of governments, and the mounting political conflicts between the monarchy and the parlements. "Politiquement," Leuwers observes, "le nouveau rôle de l'avocat ressucite le modèle de l'orateur romain, simultanément défenseur et homme public, en même temps qu'il donne une apparente cohérence à l'action du groupe des avocats" (p. 216).

While the "barreau français" reached its apogee of power and influence during the final decades of the Old Regime, it was nonetheless more concept than reality when the Revolutionaries abolished the profession in 1791, allowing all citizens to defend others before the newly revamped court system. In a Tocquevillian twist, though, this abolition ultimately promoted and accelerated the bar's professionalization and nationalization in the early nineteenth century, Leuwers argues. Following the profession's restoration in 1804 and the reestablishment of the *barreaux* in 1810, *avocats* no longer looked to the great orators and jurists of antiquity as their models. Rather, they reconstituted themselves along eighteenth century lines, emphasizing their professional "independence" and the bar's autonomy.

The bar's post-Revolutionary revival was marked by a second wave of professionalization. As under the Old Regime, the state was once again crucial to the process. While the profession itself was restored in March 1804, bar organizations were not reauthorized until December 1810, as the Napoleonic state sought to assert its control over professional organizations even as *avocats* clamored for control over their membership and professional discipline. Indeed, while Old Regime *avocats* comprised a minority, they quickly emerged as leaders of the newly refounded institutions. "Les usages de l'Ancien Régime" ne sont pas rétablis," Leuwers writes, "mais réinventés; il s'agit de puiser dans le passé pour construire des pratiques nouvelles, dans un contexte judiciaire et politique différent. Aux yeux des avocats, pourtant, la continuité l'emporte de loin, et ils ne pensent pas tant la réorganisation des ordres comme une 'recomposition' que comme 'renaissance'" (p. 279). The edict of 1810 and Louis XVIII's ordinance of November 1822 not only promoted the restoration of bar organizations along eighteenth-century lines, they also furthered the *barreau français's* standardization by imposing a uniform structure and set of disciplinary practices on bars with more than twenty members. While the state fostered the profession's rebirth, however, *avocats* worked to emancipate themselves from any external oversight and judicial control. In contrast with their eighteenth-century models, however, post-Revolutionary *avocats* did not invoke honor or "personal nobility" to justify their professional independence, nor did they utilize the *grèves* that their predecessors had used so effectively. Instead, they relied on Liberal arguments stressing the individual's freedom, implicitly comparing themselves to doctors, artists, and other professionals from whom *avocats* had previously sought to distinguish themselves. This process culminated in the Ordinance of 27 August–10 September 1830, which recognized the *avocat's* liberty and the Order's autonomy in matters of membership and discipline. It also established a uniform structure for the kingdom's bars, regardless of size and jurisdiction, and authorized any *avocat* registered with an Order to plead before any tribunal in France without special authorization. From the remnants of the Old Regime profession thus emerged the modern, national "*profession libérale*."

Many aspects of Leuwers' argument will come as little surprise to those familiar with the work of Lenard Berlanstein, David Bell, and others (including myself) on the social, professional, and political

histories of individual bars. His analysis also consciously downplays important elements of *avocats'* lives and careers that took place outside of the realm of professional institutions, including the roles played by familial ties, patronage, social networks and other informal relationships. Given the permeability of the social and informal on the one hand and the professional and institutional on the other, one might have wished for more from Leuwers here, though his decision is certainly understandable, and even justified, in light of his project's scope. Indeed, the real value of Leuwers's book, however, is its impressive geographical breadth and chronological scope. Leuwers has conducted an immense amount of research into a wide range of sources from across France and at different levels of the legal system. This, along with his efforts to resist the temptation to generalize from the Parisian model—a criticism he levels (fairly) at Karpik's magisterial work — provides him with a depth of knowledge and a synthetic perspective that enables him alternately to confirm what other historians have uncovered in more limited contexts and, when appropriate, to challenge their findings.

Leuwers, for instance, questions important distinctions other historians have drawn between *avocats* and other Old Regime professions. Bell, for instance, stressed the significance of the Parisian bar's organization as a free association of individuals rather than a typical Old Regime *corporation* to explain *avocats'* ability to maintain their independence and political efficacy in the eighteenth century. Karpik, meanwhile, stressed the *avocats'* ability to free themselves from both the state and the market.^[6] Leuwers downplays these distinctions, writing that the Orders' existence “s'insère dans un mode d'organisation du travail qui, inévitablement, leur fait partager de mêmes caractères” (p. 83). While there is undoubtedly some merit to this claim, it nonetheless strikes me as rather overstated. Leuwers himself points out that the Parisian bar ceased holding *conférences de discipline* and discontinued keeping a register of deliberations out of fear that it was becoming too much of a professional *communauté*. Other bars, he notes, also ceased keeping registers or never undertook the practice in order to affirm the profession's independence (pp. 83-84). And Old Regime *avocats*, as noted earlier, rejected any comparisons with other professionals, describing themselves instead as exercising a “ministry” akin to that of judges.

Much more compelling is Leuwers' critique of Karpik's claim (echoed by scholars studying advocates elsewhere in Europe) that members of the bar embraced a Liberal political agenda as early as the eighteenth century.^[5] Even at the end of the Old Regime, Leuwers stresses, *avocats* held a range of political views despite their shared culture, intellectual interests, and social environment. While some criticized the government vocally, others defended it or remained largely apolitical. Indeed, Leuwers claims, most *avocats* remained committed to a traditional submission to king and Church and had no interest whatsoever in undertaking Liberal political reforms. The Liberalism of the eighteenth-century bar, Leuwers maintains, was a myth created by the Orléanist bar during its own struggles for autonomy from state oversight. Even as “la profession se fait, libérale” in the nineteenth century, Leuwers concludes, it by no means became unified around “une quelconque adhésion collective aux idées de liberté civile et politique” (p. 324).

In its broad outlines, then, *L'invention du barreau français*, provides a well-researched and convincing portrait of the gradual professionalization, institutionalization, and unification of French *avocats* as a distinct socio-professional group from the late seventeenth through the early nineteenth centuries. At the same time, it tries to remain sensitive to the wide range of local differences and the uneven pace of developments across France. On occasions, this results in some unfortunate vagueness and confusion that diffuses the force of Leuwers's synthesis. Some errors of detail also creep into the picture (for example, Leuwers claims that almanacs started publishing *tableaux* after 1720, but in Dijon this was already occurring by the 1680s). Such missteps, however, are generally minor, especially given the scope of Leuwers' research, and detract little from the overall force of the analysis. Leuwers' book is a solid, thoughtful and impressive work that will prompt historians to reevaluate both the historical development of the advocate's profession in France and its crucial role in the social, cultural, and professional changes taking place in eighteenth and early nineteenth-century France.

NOTES

[1] William Bouwsma, "Lawyers and Early Modern Culture" *American Historical Review*, 78 (1973): 303-27.

[2] David A. Bell, *Lawyers and Citizens: The Making of a Political Elite in Old Regime France* (Oxford: Oxford University Press, 1994); Sara Maza, *Private Lives and Public Affairs: The Causes Célèbres of Pre-Revolutionary France* (Berkeley: University of California Press, 1993); Lucien Karpik, *Les avocats: Entre l'état, le public et le marché, (XIIIe-XXe siècles)* (Paris: Gallimard, 1995); Hilton Root, *Peasants and King in Burgundy: The Agrarian Foundations of French Absolutism* (Berkeley: University of California Press, 1987); Michael Fitzsimmons, *The Parisian Order of Barristers and the French Revolution* (Cambridge, Mass.: Harvard University Press, 1987).

[3] Donald Kelley, *The Foundations of Modern Historical Scholarship: Language, Law, and History in the French Renaissance* (New York: Columbia University Press, 1970); idem, *The Beginning of Ideology: Consciousness and Society in the French Reformation* (Cambridge: Cambridge University Press, 1981); William F. Church, "The Decline of the French Jurists as Political Theorists, 1660-1789," *French Historical Studies* 5 (1967): 1-40; Lenard Berlanstein, *The Barristers of Toulouse in the Eighteenth Century (1740-1793)* (Baltimore, Md.: Johns Hopkins University Press, 1975); Lucien Coste, *Mille avocats du Grand Siècle* (Bordeaux: SAHCC, 2003); Ugo Bellagamba, *Les avocats à Marseille: praticiens du droit et acteurs politiques (XVIIIe-XIXe siècles)* (Aix-en-Provence: PUAM, 2001); Michael P. Breen, *Law, City, and King: Legal Culture, Municipal Politics, and State Formation in Early Modern Dijon* (Rochester N.Y.: University of Rochester Press, 2007).

[4] See, for instance, Paul Brand, *The Origins of the English Legal Profession* (Oxford: Oxford University Press, 1992); Wilfrid R. Prest, ed., *Lawyers in Early Modern Europe and America* (New York: Holmes & Meier, 1981); idem, *The Rise of the Barristers: A Social History of the Bar in Early Modern England* (Oxford: Oxford University Press, 1986); C. W. Brooks, *Lawyers, Litigation, and English Society Since 1450* (London: Hambledon Press, 1998); David Lemmings, *Gentlemen and Barristers: The Inns of Court and the English Bar, 1680-1730* (Oxford: Oxford University Press, 1990); idem, *Professors of the Law: Barristers and English Legal Culture in the Eighteenth Century* (Oxford: Oxford University Press, 2000); Brian P. Levack, *The Civil Lawyers in England, 1603-1641: A Political Study* (Oxford: Clarendon Press, 1973); Allyson N. May, *The Bar and The Old Bailey, 1750-1850* (Chapel Hill: University of North Carolina Press, 2003).

[5] Karpik p. 92. A more general connection between lawyers and the rise of political liberalism can be seen in Terrence C. Halliday and Lucien Karpik, eds., *Lawyers and the Rise of Western Political Liberalism: Europe and North America from the 18th to 20th Centuries* (Oxford: Oxford University Press, 1997).

[6] Bell, chap. 1; Karpik, p. 87.

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