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Nathalie Grogan
SUNY Geneseo

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Going Back in Time: The Rolling Back of Women's Rights in New York, 1650-1680

Nathalie Grogan

Before 1664, women in the Dutch colony of New Netherland lived under conditions that contrasted greatly with those of their sisters, who resided in the remainder of the colonial Atlantic coast. The Dutch Colony of New Netherland eventually became New York after the English takeover in 1664. While under Dutch rule, the English law of coverture which declared women “femme covert” upon marriage and resulted in the loss of their legal identities was not practiced (Narrett, 1992, p. 70). Eighteenth-century English judge Sir William Blackstone (1899) laid out the proper role of married women under English law in his *Commentaries on the Laws of England*:

by marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband, under whose wing, protection, and cover, she performs everything; and is therefore, in our law-French a femme-covert...under the protection of her husband, her baron or lord, and her condition during her marriage is called her coverture. (p. 422)

Roman-Dutch law was the standard previously; it had been imported from the northwestern Dutch provinces of Holland and Friesland, along with elements of Dutch culture, such as the education and occupational training of daughters (Catterall & Campbell, 2012, p. 191). The role of women in Dutch society evolved from the European standard of total subordination during the Late Middle Ages; as the economy of the Netherlands took off, women started to be valued as commercial and economic agents (Narrett, 1992, p. 43). Girls were expected to be schooled by the same standards as their brothers. Parental obligations and responsibilities towards

their children did not vary with gender. In 1643, New Amsterdam residents Claes Janssen and Catelina Pietersen stated, while declaring their duties to their daughter Aelje Claes, that they were “to clothe her, to send her to school, to let her learn reading and writing and a good trade” (Kilpatrick, 1969, p. 218). Under Roman-Dutch law, unmarried women were granted legal civil rights that were nearly equivalent to those of men. Although women were unable to vote for colonial assemblies and legislatures, this was a far cry from the women's status in New England, the Chesapeake Bay, and the southern colonies (Biemer, 1983, p. 211).

Under the influences of English common law, women living in the English colonies of Connecticut, Rhode Island, Massachusetts, and New Hampshire were entirely subordinate in law, religion, and behavior. While the southern and English middle colonies had legal precedent for a married woman's right to her own estate (Narrett, 1992, p. 71), women in New Netherland enjoyed the right to administer their own property, handle legal transactions, represent themselves in court and sign contracts in their own name and that of their husbands (Catterall & Campbell, 2012, p.195). Women took full advantage of their legal rights in New Netherland; on the eve of the English conquest, 195 debt cases were brought before the Dutch colonial court of New Amsterdam in 1663, and 51% of the cases were made by female plaintiffs (Fernow, 1976, p. 21).

Two of the most significant, impactful differences in the treatment of women under Roman-Dutch law as opposed to English law were property and inheritance rights. Under English law, daughters were routinely eliminated from last wills and testaments, and widows were often evicted from their marriage lands to accommodate stepchildren. In New Netherland, women could own property in their own name, and sign joint contracts with their husbands (Goodfriend,



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2005, p. 266). Women generally retained their maiden names upon marriage, in contrast to the English custom (Biemer, 1983, p. 2). In addition, marriage contracts in New Netherland were equal contracts between husband and wife, within which both parties brought assets that remained theirs for the duration of the marriage. Under English rule, the personal affairs of wives were automatically part of the husband's estate (the only estate recognized by the law and authorities). Restrictions surrounding women's activity and legal status tightened in the English charter of 1691 through 1828, when the English concept of coverture was ultimately implemented at its peak (Narrett, 1992, p. 6).

Before the English takeover in 1664, it was common for women to appear in courts of their own accord. Prior to the institution of English common law, the Dutch records of Kingston, Ulster County from 1658-1664 demonstrate female participation in the judicial system was rather mundane and expected. In 1663, Kingston resident Geertruyd Andriesen was sued by her neighbor, Roelof Swartwont Schout, for violating the terms of a local ordinance restricting the manner with which one could harvest fields (Oppenheim, 1912, p. 93). Geertruyd's four violations included using additional unauthorized wagons without a guard and the possession of a gun for self-defense while harvesting alone. The Court of Ulster County required Geertruyd to pay a fine to the county, and to pay Schout in wheat and brandy (Oppenheim, 1912, p. 93). This exchange was indistinguishable from any similar violations in which both plaintiff and defendant were men. Geertruyd Andriesen's husband, Jan Andriesen, was not mentioned—a note that likely would have been made after English common law was introduced. Court records after 1674 typically identified women merely as “wife of—” (P. Christoph & F. Christoph, 1983, p. 2).

After 1674, official records that mentioned women by name were nearly always marriage records. Between 1674 and 1688, papers and documents were issued by English governors of New York Edmund Andros (1674-1683) and Thomas Dongan (1683-1688), and on the occasion of their absence, deputy governor, Anthony Brockholls (1681-1683) dealt with a variety of charges, offenses and processes. These documents ranged from trading licenses, deeds of land ownership, theft, arrest warrants, applications for passports,

witness testimony, and civil lawsuits. Ninety percent of the women mentioned in the documents were brides (P. Christoph & F. Christoph, 1983, p. 100-106). In the rare instances that women were mentioned for alternate reasons, such as the accusation of theft for Rebecca Alberts in 1675 (P. Christoph & F. Christoph, 1983, p. 118) and the issue of travel documentation to Elizabeth Arents and Hannah Boons in 1676 (P. Christoph & F. Christoph, 1983, p. 122), women were referred to as “wife of—” (P. Christoph & F. Christoph, 1983, p. 153).

When Richard Nicolls, the first English colonial governor of New York, guaranteed the surrender of New Amsterdam on August 27, 1664, Governor Pieter Stuyvesant negotiated terms favorable to the Dutch citizens, now under English rule (Welling, 1999, p. 17). The peace settlement established the continuation of religious freedom in New Netherland, along with the preservation of Dutch inheritance law in order to avoid confusion (Narrett, 1992, p. 7), but it did not guarantee that women would maintain their legal rights. Once the English solidified their control over the colony, women gradually receded into the private sphere. Through the imposition of English common law, the mobility available to women in society faded away. The 10 year long conquest and final solidification of English rule in 1674 was characterized by piecemeal changes in the status of women (Narrett, 1992, p. 12). During 1665 in the Court of Assize (English-style temporary civil and criminal courts instituted control over the judiciary of New York), a gender-specific pattern developed. From 1665 to 1674, appearances by women in court records under their own names were marginally less than the appearances under Dutch rule. Court records show that incidents of women appearing in court as witnesses, defendants, plaintiffs or through lawsuits dropped only 15% after the initial takeover in 1664 (P. Christoph & F. Christoph, 1983, p. 130). Women still maintained a strong presence in the colonial court at this time (P. Christoph & F. Christoph, 1983, p. 112). However, by 1674 when English rule was solidified women's appearances in court as individuals were cut by 90% (P. Christoph & F. Christoph, 1983, p. 91-102). When women appeared in court after 1674, they were often represented legally by their husbands, such as the case of Elizabeth Appleby's husband, William Appleby, who

represented her as defendant against the lawsuit of Thomas Hunt Jr. in 1675 (P. Christoph & F. Christoph, 1983, p. 185).

In the 17th century, marriages in New Netherland were egalitarian. Marriage customs in New Netherland were brought over from the provinces of Holland and Friesland (Biemer, 1983, p. 1). Dutch women had long had the option of choosing between two different concepts of marriage. The *manus* form of marriage necessitated a subordinate wife who would stay under the guardianship of her husband and lose her legal identity; *Usus* marriages, on the other hand, guaranteed married women the same rights as unmarried women (Biemer, 1983, p. 5). In *usus* marriages, joint wills were the norm. Since unmarried men and women in the Netherlands enjoyed the same civil and legal rights, *usus* marriages guaranteed no change in status after marriage. The contract between Brant Peelen and Marritje Pieters in 1643 is a prime example. Both spouses, in this case, had been previously married and widowed. The bride retained her maiden name of Pieters through her first marriage, widowhood, and her second marriage to Brand Peelen. The family name, Pieters, was based off of the father's first name, as was traditional in Dutch law and culture (Narrett, 1992, p. 46). The contract specifies that in case of the death, the surviving spouse is to be granted full use of the marital assets, and upon the death of the surviving spouse, the marital assets are to be distributed equally to sons and daughters resulting from their marriage (*Translation of the Marriage Contract*, n.d.). Marritje Pieters made sure to safeguard the inheritance received by her children from their deceased father. She required that her current husband pay his stepchildren interest on any property that he borrowed for longer than four years (*Translation of the Marriage Contract*, n.d.). The property brought into the marriage by each spouse became marital property during the lifetime of each spouse. After the death of both husband and wife, the heirs of each individual inherit from their birth parent (*Translation of the Marriage Contract*, n.d.).

While it was not widespread for women to own land in their own right prior to the English takeover, it was not rare either. New Amsterdam resident Jane Forbus, was granted a land patent and property ownership by the Dutch colonial director of New Netherland, Willem Kieft, in 1647 (Gehring, 1980, p. 61). This ac-

tion was at odds with the change in inheritance and family law that followed after the implementation of English common law. Under English rule, upon marriage, the property of wives became the property of husbands and was liable to be inherited by the husband's heirs when he died. This situation could cause a widow to be bankrupted by her stepchildren, an incident which was avoided by the careful contract brought up and signed by Brant Peelen and Marritje Pieters in 1643. Wives also maintained the right to distance themselves from their husbands' debts, both during their marriage and after a divorce or death.

Under Roman-Dutch law, wives were never held responsible for repaying their husband's debts regardless of the personal financial relations between husband and wife within marriage; Gravesend resident Sarah Davis was granted "a warrant to protect and keep her harmless from any arrest or trouble upon her husband's account" (P. Christoph & F. Christoph, 1982, p. 526).

By the turn of the century, the rights of married women in New York had been stripped away. Under the English common law precept of coverture, women's identities became one with their husbands, and the husband became the legal representative for their union. The colonial laws of 1710 solidified women's status as on par with that of minors and insane individuals (*Chapter 216*, n.d.). Married women were categorized with "persons under the age of one and twenty years, persons not of sound mind, persons imprisoned or those beyond the seas" (*Chapter 216*, n.d.). All of these classes of people were barred from owning property in their own name, with their assets and property requiring a guardian to make legal decisions. In addition, women, the insane, and prisoners were not permitted to make legal documents or contracts under their own name, thus relegating them all as perpetual children (*Chapter 216*, n.d.). In the case that women maintained their own personal property through antenuptial agreements, English law forbade wives from passing on real estate through a last will and testament; husbands held final consent over the inheritance of his wife's personal belongings (Narrett, 1992, p. 17). As a result of English common law, women lost their adulthood and autonomy upon marriage.

During Dutch rule, women were granted the ability to rise to prominent places in the New Netherland society. For women residing in any of the other Atlantic colonies, the ability to rise was nearly impossible. Businesswomen in New Netherland thrived by expanding commercial empires, facilitating enterprise across the Atlantic, and acting as partners to their husbands. The lives of wealthy white women such as Deborah Moody (1586-1659), Margaret Hardenbroeck (1631-1691), Maria van Renssalaer (1645-1689), and Alida Schuyler Livingston (1656-1727) were atypical of average women in the colony by dint of their opportunities and resources. However, women's positions at the helm of key industries and political dynasties served as a message about the value of women in New Netherland. The presence of women such as Margaret Hardenbroeck was indicative of a society in which women were expected and welcomed in the business world. Lady Hardenbroeck was able to rise in the communities of New Netherland and New York because of her wealth, but the society that allows women to be business tycoons is built on small businesses of middle-class women. Political dynasties and leaders such as Maria van Renssalaer, Alida Schuyler Livingston, and Deborah Moody were out of the reach of average women and men in the colony but were envisioned by a society in which women and men were permitted to exercise their talents to improve their lives and standing (Biemer, 1983, p. 85-90).

An exceptional woman from New Netherland of English nobility was Deborah Moody, née Dunch. Born in 1585 to wealthy parents in Wiltshire, England, Deborah Dunch married Henry Moody in 1606. As the wife of a Member of Parliament, she became an influential and well-respected woman, in spite of her devout Anabaptist faith (Biemer, 1983, p. 11). Moody was widowed in 1629, and emigrated to and settled in Massachusetts Bay Colony in 1639 after being driven out of London and her native England by religious persecution from the government. Due to her social status and her friendship with Governor John Winthrop, she was awarded 400 acres of land. However, once again, she found herself in the religious minority in the pious puritan community of Lynn, Massachusetts. In 1643 Moody settled in New Netherland because of the colony's tolerant nature (Biemer, 1983, p. 13). She became the only 17th cen-

tury European woman to found a town as the leader of Gravesend, on present-day Long Island. A lifetime of religious persecution prompted Moody to insert as much religious freedom and liberty of conscience as possible into the charter of Gravesend, which persisted until her death in 1659 (Biemer, 1983, p. 31). Even in the relatively liberal New Netherland, Moody's leadership in her community, regardless of her inability to vote for the councilors she presided over, was unique. Moody's opportunity to live independently and manage the affairs of a town was only made possible because she resided in New Netherland and under Roman-Dutch Law.

Margaret Hardenbroeck, a remarkable woman of New Netherland, established herself as a trader and businesswoman in her own right under Roman-Dutch law. After the death of her first husband Pieter deVries in 1661, Margaret inherited his business. She made many transatlantic voyages, dealing primarily with furs and finished products, as part of her work in trading and business (Catterall & Campbell, 2012, p. 183). After her remarriage to Frederick Philipse in 1663, Margaret continued her business until she was phased out of control by the implementation of English common law in 1674. Within five years of the English takeover, the ability of wives to grant power of attorney to their husbands was abolished, eliminating the business partnership Margaret and her husband had built throughout their marriage (Biemer, 1983, p. 37). Margaret remained a key figure in trading until her death in 1691, but her later years (1674-1691) were ones during which her husband was able to assert control over her affairs (Biemer, 1983, p. 6). Margaret's career is a prime example of the consequences of English law; it showed the rise and fall of women's rights in New Netherland and New York.

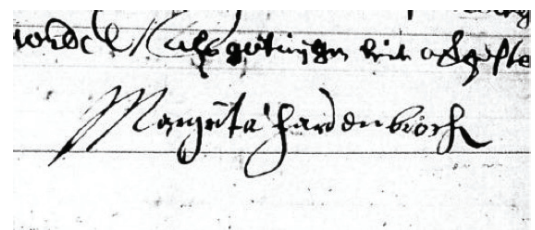


Figure 1: Official signature of Margaret Hardenbroeck to acknowledge personal debt in 1664. (Zimmerman, 2006)

Maria van Renssalaer, née van Cortlandt, was notable as a distinguished administrator of the patroonship (manorial landholding) of Renssalaerswyck, New Netherland, after the English takeover. Born to a prominent and wealthy family of colonial traders and politicians, young Maria learned to manage her father's brewery at an early age. Her marriage in 1662 to Jeremias van Renssalaer—the director of Renssalaerswyck and a member of the high profile Renssalaer dynasty—was a partnership within which she was an active player (Biemer, 1983, p. 46). Maria's business experience managed to save the familial and neglected Renssalaerswyck Manor from bankruptcy (Biemer, 1983, p. 47). However, the gradual introduction of English law meant that as a married woman—and eventually a widow—Maria was barred from assuming traditional directing roles for the patroonship. Her brother, Stephanus van Cortlandt, ran the manor in name following the death of his brother-in-law, Jeremias, in 1674. The 10 years between the initial English takeover and the solidification of their rule in 1674 emphasized a clear loss of Maria's powers over the estate (Biemer, 1983, p. 50). Nevertheless, while Maria was not director of the manor in name, she was courted by New York political leaders for patronage and favors, and was widely recognized as the force behind the manor (Biemer, 1983, p. 52). Visitors to the manor referred to Maria as “Madam Renssalaer” (Renssalaer, 1935). She presided over the most prosperous years of the Renssalaerswyck manor and defied the expected role of women under the restrictive English laws (Biemer, 1983, p. 53).

Alida Schuyler Livingston was born in 1656 at Fort Orange. She was a uniquely influential woman in New Netherland. As daughter of recent Dutch immigrants and prominent fur traders Philip Peterse Schuyler and Margareta Van Schlechtenhorst, Alida Schuyler knew of the power women held in New Netherland firsthand; her mother Margareta managed the family estate from her widowhood in 1683 until her death in 1701 (Biemer, 1982, p. 184). Alida Schuyler married Robert Livingston in 1679 and entered, as was close as possible in 17th century New Netherland, into an equal marriage (Biemer, 1982, p. 185). The Livingston business of land, public office, and textile trade propelled the couple to be considered the elite of New York by the 1720s (Biemer, 1982, p. 187). Correspondence between Alida and

Robert Livingston over the course of the 48 year-long marriage indicates that theirs was a partnership. Letters from Alida to Robert indicate affection as well as business inquiries and transactional details from merchants and clients, including exact figures, quantities, and prices (Biemer, 1982, p.189). In a letter dated August 25, 1698, well after the English takeover of New Netherland, Alida instructed her husband to check the list of available goods from Holland and warned him about a poor crop of wheat due to heavy rains. In addition, the letter informed her husband that she had taken it upon herself to negotiate business for him with the current recorder of Albany (Biemer, 1982, p. 194).

Deborah Moody, Margaret Hardenbroeck, Maria van Renssalaer, and Alida Schuyler Livingston enjoyed recognition far beyond what was extended to women across the Atlantic coast. However, middle-class and working-class women in New Netherland also benefited from Roman–Dutch law. Teuntje Straatmans was born in the Netherlands in 1616. She briefly ruled the colony of New Holland in present-day Brazil before settling in New Amsterdam during the year of 1655 (Cramer van der Bogaart, 2003, p. 40). Upon her wedding to Belgian merchant Gabriel Corbesij in 1657, Teuntje agreed to the *usus* form of marriage, retained her maiden name, and signed an antenuptial agreement detailing her legal and civil rights (Cramer van der Bogaart, 2003, p. 42). Following her marriage, Teuntje Straatmans appears in the records of New Amsterdam several times, in civil lawsuits and property disputes among neighbors. In 1658 she was obliged to defend herself in court against accusations of belligerence from her neighbor Pieter Jansen, and she was subsequently fined by the local court (Cramer van der Bogaart, 2003, p. 43). Their family home on the island of present-day Manhattan was recorded as “owned by Teuntje Straatmans and her husband” (Cramer van der Bogaart, 2003), a note which revealed that the property was under her name. Her ability to move through society and her lifetime independently, regardless of her marital status, was not due to her socioeconomic status but the legal code of her community.

The shift in women's status and rights in colonial New Netherland and New York challenges the historical narrative of civil rights as a progressive force. Throughout history, the franchise and civil rights

have been expanded slowly but clearly. Very rarely have rights been rolled back. The change in power and authority in New York brought in a new monarch, new representatives of the royal authority, new councils and judicial systems, and a new legal basis for legislation. Additionally, it becomes clear that cultural views regarding individuals roles in society vary in accordance with which nation is the colonizer. The standards of gender equality present in New Netherland had a source: the cultural norms of their country of origin, the Netherlands. In 17th century Amsterdam, girls were educated to the same degree as their brothers, with the expectation of learning a trade, completing an apprenticeship and contributing to the family income through outside work and businesses. In contrast, prior to the Industrial Revolution in England, women were primarily charged with domestic work. Lower-income women in England certainly worked for wages in order to keep their families afloat, but it was middle-class women in the Netherlands who drove for the education of daughters.

The basis for the unique situation of women in New Netherland evolved from the cultural understanding that women and girls were equally capable of business work and of understanding laws. This cultural attitude towards women extended towards property ownership and marriage rights. New Netherland, as a society which valued the contribution of women to the local economy, had laid the foundations for the legal and civil rights enjoyed by female residents. Based off of the cultural narrative of the Netherlands, women participated as full economic actors. It was beneficial for the colony to allow women social and civil opportunities which worked to enrich the community.

Influential women such as Alida Schuyler Livingston, Maria van Renssalaer, Margaret Hardenbroeck, and Deborah Moody are representative of the freedoms women enjoyed in New Netherland and New York. The English takeover in 1664 and the final implementation of English common law in 1674 worked towards rolling back women's participation in the community as individuals, and while women such as the aforementioned leaders managed to hold on to their current businesses, younger women were denied the opportunity to polish their business ac-

men and engage themselves. This fact created disastrous results for themselves and the community.

The change of rule from Dutch to English caused women to be shut out of the legal economy, pushing many to illegal means as a way of supporting themselves and their families. In New Amsterdam Dutch women committed 0.664% of crimes from the years 1640-1670, but in the years of solid English rule from 1691-1776, women accounted for 16.3% of all crimes committed (Biemer, 1983, p. 3). The rise of women involved in the black market of prostitution or smuggling in New York was not unexpected after it was established that women were unable to secure business or trading licenses from the English governor. As the population of New Netherland and New York had been mostly made up of working-class immigrants, the cultural tradition of women owning businesses did not contribute to a uniquely wealthy colony. Tellingly, once women were barred under English common law from obtaining many of the trading licenses available to them under the Dutch, average family incomes plummeted (Biemer, 1983, p. 52).

However, not every aspect of radical Dutch thought and behavior was eradicated upon the English conquest. Girls were still routinely educated alongside boys after 1674; the education of daughters was often included in family directives and wills. Albany resident Cornelius von Bursam wrote to his wife on his deathbed in 1680 about his daughter (her step-daughter): "She is to maintain my daughter Anna decently, and cause her, being taught reading and writing and a trade by which she may live" (Kilpatrick, 1969, p. 219). Although the colonial government of New York was opposed to reinstating the rights of women to represent themselves in court, participate in the local economy, and own property, the cultural landscape of New York remained built on legal and civil rights.

The narrative of women's rights in New York does not follow the standard map towards social change. The advancement of Dutch culture contributed to the progression of civil rights for women, and was exported through colonialism into New Netherland. During Dutch rule, New Netherland displayed countless examples of women participating in the local economy and judicial system, with cases rang-

ing from self-defense, civil lawsuits, widowhood, and land ownership. The rejection of standard Western European systems of coverture left Dutch women free to assume and develop legal identities independent of their husbands, families or marital status. The accomplishments and power of influential leaders such as Deborah Moody, Alida Schuyler Livingston, Margaret Hardenbroeck, and Maria van Renssalaer demonstrated the capabilities of women to use their legal freedoms to build careers and rise to prominence. Restrictions placed upon Maria Van Renssalaer's ability to manage her familial estate once English common law was established exposed the consequences of the regime change on prominent women. The life of Teuntje Straatsmans highlights the significance of a judicial and legal system that aims to empower citizens rather than restrict their lives. The regime change in 1664 brought a new monarch in King Charles II, and relatively few internal political changes due to the negotiations of Pieter Stuyvesant. However, the lives of the women in the colony, and the make-up of New Netherland and New York, were altered by the English takeover. Married women, subsumed into the identity of their husbands, gradually lost their cherished rights. Their opportunities to manage their own affairs, properties, and businesses were taken away and they themselves shut out of the developing economy that was run under the control of the English.

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