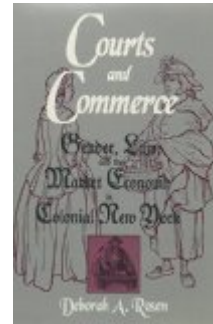


# H-Net Reviews

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Deborah A. Rosen. *Courts and Commerce: Gender, Law, and the Market Economy in Colonial New York*. Columbus: Ohio State University Press, 1997. xvi + 232 pp. \$45.00 (cloth), ISBN 978-0-8142-0737-6; \$49.95 (cloth), ISBN 978-0-8142-0736-9.

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## Seeking the Market Revolution

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In this study of colonial New York City and Dutchess County, Deborah Rosen analyzes the intersections between the law and the economy. Employing legal documents to study economic behavior, she focuses particularly on the rise of debt litigation and the decline of jury use in civil trials. Because both can be seen as measures of “a rational, impersonal market economy” (p. 72), she finds that legal change facilitated economic change. “It was the legal system that provided the foundation for economic integration,” Rosen writes; “law was one of the most important factors that permitted New Yorkers to become engaged in market relationships” (pp. 7-8). Moreover, because those legal changes took place in the eighteenth century, historians have seriously misstated the timing of the “transition to capitalism” in the post-Revolutionary North, and misunderstood the relative impact of that transition on men and women. When capitalism came to New York, Rosen states, “women were largely excluded” (p. 132), because they had little legal standing to perform as independent economic actors. These are large claims, and indeed throughout *Courts and Commerce* sweeping judgments coexist uneasily with detailed research. The result is an uneven book, one that makes its most useful contributions in carefully formed factual building blocks, not in the interpretive mortar that attempts to hold them together. Rosen is unlikely to convince scholars of economic transition and of gender relations that they have built their interpretive structures all wrong and will need to remake them according

to her design. But her book includes enough interesting research to make it worth consulting.

The best sections of *Courts and Commerce* reflect Rosen’s familiarity with legal history and her immersion in primary documents. Her intensive study of probate inventories confirms what historians such as Carole Shammas, T. H. Breen, Gloria Main, and others have noted, that as eighteenth-century Americans became increasingly immersed in a “world of goods,” wealth stratification sharpened.[1] Rosen adds an extra dimension to that finding by comparing city and county, in the process demonstrating a narrowing gap between urban and rural areas in the consumption of luxury goods, and comparable degrees of wealth stratification in both. Rural New Yorkers experienced “a significant polarization of wealth” during the eighteenth century; it was “not just an urban phenomenon” (p. 33). Similarly, by studying merchants’ account ledgers and mortgage-lending practices, Rosen shows that eighteenth-century New Yorkers were increasingly willing to go into debt in order to finance their acquisitive and accumulative economic behavior. And by carefully scrutinizing extant minutebooks from the New York Mayor’s Court and the Dutchess County Court of Common Pleas, she chronicles a rapid upward rise in debt litigation in both town and country as well as a “drastic decrease in the percentage of (civil) cases resolved by jury trial” (p. 62). Finally, by tracing women’s declining involvement in formal legal actions, and their growing invisibility in the courtroom, Rosen provides data for New York that confirm Cornelia Hughes Day-

ton's findings for Connecticut.[2] Rosen's effort to hitch these findings to that all-purpose interpretive wagon labeled "The Market Revolution" or "the transition to capitalism" is problematic on several planes. One is definitional. Although half-way through the book (p. 74) Rosen acknowledges that other historians define both "the market" and "capitalism" differently, much of her criticism of the existing historiography ignores that key point. Whereas most scholars see the Market Revolution as a complex set of new economic and social relationships revolving around capital accumulation, credit formation, the sale and purchase of labor-power, and new forms of inheritable wealth, Rosen sees market economies simply as those characterized by cash transactions, "the development of commodities markets and a capital market" (p. 76), and the charging of interest. By employing a definition that would fit seventeenth-century Amsterdam as well as New Amsterdam, Rosen does little to sharpen or clarify the historians' debates.

Moreover, Rosen enters parts of those debates by fencing with straw figures. Especially on the question of how economic changes shaped gender relations, unnamed "historians" and "scholars" (pp. 11, 131, 132) take such untenable positions that Rosen ends up thrusting and parrying with ghosts. One such chimera is the assertion that some "historians, seeming eager to blame gender inequalities on capitalism, industrialization, and domesticity, have simply presumed that in the colonial world...men and women must have lived together as equals" (p. 11). Another is the suggestion that "scholars attribute women's past and present economic and legal behavior to their natural qualities as women" (p. 131). A check of the footnotes reveals Rosen's real adversaries: the psychologist Carol Gilligan and legal scholars such as Carrie Menkel-Meadow. Although both would reject the argument that their work naturalizes feminine or masculine qualities, it has been read (or mis-read) that way. But surely recent historians of women, who have worked so diligently to demonstrate that gender is a social and cultural category, deserve more nuanced renditions of their arguments.

In her discussion of economic history, Rosen is similarly prone to bleach out the vivid complexities of interpretive patterns in favor of monochromatic or dichotomous versions. Thus, after surveying a quarter-century of historical work on the colonial economy, she makes the rather astonishing claim that an "idealized image of

a communal colonial society remains in, even dominates, current historiography" (p. 3). In Rosen's universe, "economic relationships" are either "arm's length business arrangements" or else "familial or communal in nature" (p. 8). There is no room for economic behaviors that are both businesslike and familial. The prevalence of such false oppositions in *Courts and Commerce* is likely to make readers skeptical of the book's broader interpretations, especially the argument that legal changes predated and facilitated economic transformations. Without some discussion of Dutch legal precedent or the economic underpinnings of English common law, that position seems asserted more than demonstrated.

If the larger claims of *Courts and Commerce* remain unconvincing, the book nevertheless provides useful legal and economic data on consumption patterns and court practices in eighteenth-century New York. Students of business will find interesting and well-presented information on subjects such as mortgage-lending, debt litigation, and wealth distribution in both the city and Dutchess County. The appendix summarizes Rosen's findings in these areas clearly and directly. Likewise, scholars of gender issues will be interested in Rosen's conclusion that common law rules weighed heavily upon married women in colonial New York, and that, contrary to what Marylynn Salmon discovered, wives' resort to equity courts was quite uncommon.[3] It is in specific findings like these, rather than in matters of general interpretation, that *Courts and Commerce* makes its contributions to historical understanding.

#### Notes

[1]. Carole Shammas, *The Pre-Industrial Consumer in England and America* (New York: Cambridge University Press, 1990); T. H. Breen, "'Baubles of Britain': The American and Consumer Revolutions of the Eighteenth Century," *Past and Present* 119 (1988): 73-104; Gloria L. Main, "The Standard of Living in Southern New England, 1640-1773," *William and Mary Quarterly* 45 (1988): 124-134; John Brewer and Roy Porter, eds., *Consumption and the World of Goods* (New York: Routledge, 1993).

[2]. Cornelia Hughes Dayton, *Women Before the Bar: Gender, Law and Society in Connecticut, 1639-1789* (Chapel Hill: University of North Carolina Press, 1995).

[3]. Marylynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill: University of North Carolina Press, 1986): 11, 28-30.

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