|  |
| --- |
| **Some Discussions of Various Property Rights Structures in What is Currently Known as New York City**  Peter Walsh, © 2002 [walshpeter@mac.com](mailto:walshpeter@mac.com)  **Native Peoples** - At the time of the first Europeans arrived at what we call Manhattan, the Lenape peoples organized their society through kinship structures that were matrilineal. Families were grouped in clans that traced their descent to a single common female ancestor. Several clans were organized into “phratries;” phratries into a people or tribe. Through this system, particular clans were allowed to hunt, fish, gather and plant within an assigned territory. The Lenapes moved in seasonal patterns that allowed them to make efficient use of natural resources. This made the boundaries of territories more fluid and the accumulation of objects less common - traveling light being the standard. Lenape peoples did not “own” territories in the modern sense of the word; rather they held use rights. On occasion, those rights could be shared through an exchange of gifts, a process that had far ranging legal, social, diplomatic and spiritual ramifications for the Lenape. The idea that such an exchange meant the permanent loss of the use of a particular territory and indeed a forced removal from it was unlikely to have been part of any consensual agreement. Herein lies the crux of the dispute over the legitimacy of the purchase of Manhattan.  **Dutch - 1626-1664** - Dutch colonists brought Holland’s Roman-Dutch legal tradition to the New World. This tradition was different in some keys way from the English common law system. The Dutch used arbitrators and referees rather than juries to settle disputes. Women could own property, do business, and did not take their husbands names. Roman-Dutch mutual or joint wills kept common property intact after the death of either spouse, and inheritance was distributed equally to all children, male and female, regardless of birth order. This equality of inheritance frequently led to family farms being divided into smaller and smaller plots. Slavery of Africans and the indentured servitude of European commoners likely existed from the first moment of European colonization.  **English - 1664-1783** - The Articles of Capitulation agreed to by the Dutch when the English took possession of New Amsterdam honored the property rights and legal traditions of Dutch individuals, although the English model eventually supplanted those traditions. One of the most notable changes was the economic disempowerment of women, who were barred from doing business and took their husband’s names. This nominal loss of identity signaled the relinquishing of their own property and personal rights to their husbands (although the husband could not sell his wife’s real property without her signing off in a release of dower). Inheritance was limited to a “dower’s right” of 1/3 of a husband’s property (including property brought to the marriage by the wife). The English model was designed to maintain vast heritable estates that changed hands from father to eldest son, creating a system of an apparently “natural” aristocracy of power and wealth. This legal commitment to the accumulation of wealth in the hands of a few took the Dutch capitalists one step further, effectively projecting accumulations across time and generations. This accumulation was aided by an ongoing theft of labor, most notably those of slavery and wage slavery.  **United States - 1783-2002** - Modifications to property rights continue. The legal ownership of human beings ended in 1863 after a massive civil war. Political disenfranchisement via property ownership restrictions has ended only slowly. Most property-less working class white males didn’t gain full voting rights until the 1820s - fifty years after the Declaration of Independence. African-American men had to wait for the 14th Amendment in the 1860s and then lost ground for the next hundred years. Women, still the property of their husbands, were forced to wait till 1919. Other changes to property rights include the arrival of copyright laws (designed to encourage innovation by granting time-limited monopoly privileges to creative people, including artists). Growing out of those laws and spurred by rapid cultural and technological change, notions of intellectual property are also in flux. Amazon.com’s ownership of a one-click internet sale “business process” and Disney’s attempt to rewrite U.S. copyright laws to maintain franchise of a cartoon character whose creator is long dead are examples. Patent ownership of genes and other biological tissues and processes brings us back to the problem of the ownership of the human body for purposes of financial gain.  See ***Gotham: A History of New York City to 1898***, Burrows, Edwin G. and Mike Wallace, New York: Oxford University Press, 1999, for a more detailed analysis of property. My thanks to both authors for their diligent work. |