BAD SUBJECTS

LIBERTINE LIVES IN THE

FRENCH ATLANTIC, 1619–1814
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Libertine Lives in the French Atlantic, 1619–1814

JENNIFER J. DAVIS

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Introduction
Bad Subjects in the French Atlantic World

The twenty-first-century transatlantic trials of Dominque Strauss-Kahn, the prominent French politician and former head of the International Monetary Fund, momentarily rekindled our interest in libertines. Tried for the sexual assault and attempted rape of a hotel employee in the state of New York and for aggravated pimping at the Carlton hotel in the French city of Lille, Strauss-Kahn’s court cases attracted sustained media coverage and inspired far-ranging conversations about sexual assault and solicitation in France and the United States. While prosecutors in both countries represented Strauss-Kahn’s actions as crimes, the defendant swatted away such accusations. He was no criminal, he maintained. What the prosecution called sexual assault in New York, Strauss-Kahn termed “inappropriate” and a misunderstanding. What the prosecution called pimping and assault in Lille, Strauss-Kahn characterized with equanimity as libertine evenings. Sex acts between consenting adults, he reminded judges during testimony in the Carlton Case, were not illegal. If some of the women attending these gatherings had been prostitutes, he claimed not to have known it, thus undercutting the French state’s central charge. Several of the women testified that Strauss-Kahn’s behavior at these gatherings amounted to “butchery” and “slaughter,” addressing both the violence of his copulation technique and his refusal to wear a condom to reduce the risk of venereal disease. But the courts’ decisions in both France and the United States indicate that Strauss-Kahn’s defense worked. In the United States, Strauss-Kahn settled out
of court with Nafissatou Diallo, the woman who had accused him of attempted rape. And in France Strauss-Kahn was ultimately acquitted on all charges. The prosecutor Frédéric Fèvre concurred that the state had failed to demonstrate that Strauss-Kahn had materially benefited from the prostitution of these women. At the end of the day, the prosecutor’s goal was to enforce the law, not a moral code. Fèvre acknowledged that “everyone is allowed to lead the sexual life they wish so long as that remains within the boundaries of the law.”

So within months, predictably, legislators and prosecutors took steps to criminalize the actions of which Strauss-Kahn had been accused. As this book goes to press, the French state now outlaws brothels and paying for sex, but these laws did not take effect until 2016. Charges of pimping, rape, and sexual assault—all of which were illegal and had occurred in the regular sex parties attended by Strauss-Kahn—could not be substantiated against the defendant. In the end the French magistrates convicted only one individual: René Kojifer, head of public relations at the Carlton Hotel in Lille, who served one year in prison on the charge of pimping for his role coordinating the evenings. Despite multiple accusations, chains of corroborating text messages, and explicit witness testimony, enough doubt remained regarding Strauss-Kahn’s own role in organizing or commissioning these gatherings that he evaded criminal sentencing and ultimately eluded civil fines.

Strauss-Kahn’s characterization of his behavior as libertine struck some contemporary observers as anachronistic. It is, after all, a term that we more typically associate with the vanished world of the eighteenth-century European aristocracy than today’s jet set. Why the fascination with the libertine as a character? Whether we imagine the diamond-draped heaving bosoms of Dangerous Liaisons, apply the name of “Casanova” to a sexual adventurer, or invoke the Marquis de Sade to commingle one’s torturous pain with another’s sexual pleasure, visions of vanished decadence dominate our understanding of the term today. Libertines were sex crazed. Pornographers. Deviants. And, in a world of strict social hierarchy, only members of the nobility could indulge in such perverse fantasies without fear of punishment from church or royal authorities. However, something pathetic lurks in the figure as well. Thomas Wynn
explains that it was because elite Frenchmen had been “reduced by royal absolutism to a parody of the warrior, the aristocratic libertine achieves renown through the conquest of women.” A man whose social purpose had evaporated, the libertine drifted aimless and impotent vis-à-vis the French Crown, seeking consolation in more intimate combat against a reliably weaker foe. This formula presumes that sexual conquest compensated for aristocrats’ eroding political and social power under absolutism. The challenge of seduction and the thrill of physical pleasure motivated the avowed libertine, who required no higher purpose from life than self-satisfaction.

The libertine’s excesses also made a profound impact on the society around him, one that has not always been construed as a negative force. Scholars have documented the political and cultural significance of libertine literature, connecting the ethos communicated in these works to core ideals—including the rise of individualism and the separation of church and state—that shaped the contours of democratic politics and the modern state. In eighteenth-century France, the libertine novel represented both a symptom of and the potential cure for the disease of royal absolutism. Those characters who claimed the freedom to engage in sexual behavior outside of the narrow confines of monogamous reproductive relations paved the way to contemporary civil rights for all.

This book demonstrates that the portrait sketched above represents a partisan caricature that has obscured the contours of the libertine as a category in early modern legal, literary, and social registers. We mistake the libertine if we think it concerns only sex, and we err if we presume that the term describes only social elites, or only men. We lose the force that the term marshaled centuries ago and neglect how its meanings have changed over time. Strauss-Kahn’s trials have the potential to restore one of the central features of the libertine category because he used it to assert the fundamental legality of his actions. Perhaps, he acknowledged, his was a “rude sexuality, rougher than most men.” Scrambling to salvage his career, his reputation, and his fortune, the defendant testified frankly to participation in behavior deemed immoral by the mainstream of his society, but, he insisted, all the sex acts described in the Carlton Case were lawful, between consenting adults. Strauss-Kahn claimed an identity
as a libertine precisely because it signaled the fundamental legality of his actions. Libertines admitted to being a “bad subject” of royal, church, or parental authority, but leaned heavily on defenses that their actions did not constitute crimes.\textsuperscript{15}

In discussions of libertine behavior, whose liberty was at stake? To do what? And at whose expense? Modern legal codes enshrine individual liberties, but nearly three centuries of case law demonstrate that individuals’ rights exist in dynamic tension with the rights of other individuals and require consideration of the collective rights of our communities at local, state, and transnational levels. In Strauss-Kahn’s portrayal all individuals who attended the \textit{soirées libertines} were equally free to express their sexuality within the bounds of the law. However, feminist legal theories from the past century that highlight the gender and wealth hierarchies that structure social and legal systems provide methods to interrogate that claim.\textsuperscript{16} How did economic, social, and cultural forces unite to legitimate Strauss-Kahn’s sexual liberty?\textsuperscript{217} How did those same forces strip individual liberty from the women who accused him of sexual violence and solicitation? In their testimony they made clear that Strauss-Kahn’s “liberty” in fact constituted abuse of their bodies and violations of their wills. Do these women cede their rights to health and safety standards simply by engaging in sex work, which was itself legal? This case reveals why any analysis of the libertine must ask, first, who can claim liberty and, second, at whose expense that liberty is claimed.

Finally, Strauss-Kahn’s cases emphasize the importance of adopting an international frame to assess prosecutorial tactics. Throughout the Strauss-Kahn trials, jurists and journalists shuttled between French and American laws, cultural norms, and prosecutorial strategies in defining and charging assault, attempted rape, and pimping. In his Carlton Case testimony, Strauss-Kahn gestured to the deep roots of libertine masculinity among France’s ruling elite, positioning himself and his countrymen against the puritanical Anglo-Americans whose legal pincers he had escaped months earlier.\textsuperscript{18} The Atlantic context lent enduring consequence to the Strauss-Kahn trials in both nations, as journalists, politicians, and lawyers published exposés to explain critical discrepancies in the legal and media cultures between the two nations.
In early modern France and its Atlantic colonies, as in this twenty-first-century example, the libertine life was not merely a subject for fiction, nor a topos against which to play out potential revolutions. It was an available concept deployed around the Francophone world to navigate the system of legal pluralism resulting in cultural and legal gaps between ecclesiastical, metropolitan, and colonial jurisdictions.\(^{19}\) The term identified a category proximate to crime and infused with profound social weight, analogous to present-day applications of “deadbeat,” “rabble,” or “thug.”\(^{20}\) A quasi-criminal accusation that took shape over centuries and across oceans, this shorthand signaled an individual had as yet broken no laws, but engaged in behavior that threatened families, communities, and the realm. In the French language, the term is gendered: \textit{libertin} in the masculine, and \textit{libertine} in the feminine. These gendered forms connoted different shades of scarcely tolerated wrongdoing that did not always reference sexual conduct. Parents decried their \textit{libertin} sons who left the family home without permission, secretly married against parental wishes, gambled, engaged in extramarital sexual behavior, or spent family funds profligately. When used against daughters, \textit{libertine} almost always condemned individuals’ sexual conduct. But an important element complicated the feminine form: a young woman need not have engaged in extramarital sex to be tagged as a libertine. Slanderous talk sufficed.

When families and prosecutors resorted to the libertine accusation, they mobilized gendered strategies of prosecution and punishment.\(^{21}\) The term typically indicated that an individual’s autonomy menaced the collective of family, neighborhood, city, or state. But, because it was not a criminal charge, it proved nearly impossible for the accused to contest such characterizations. One did not need to have committed an identifiable crime to be perceived as disregarding authority and thereby endangering families and social institutions. Relying on the French Crown’s power of arbitrary detention, strengthened by a set of laws passed in 1684 and 1700, state and parental authorities agreed that when an individual subverted social hierarchy, he or she could be detained on the charge of engaging in libertine behavior. But, time and again, defendants acknowledged that, while they may have engaged in actions that could qualify as unsocial or immoral, their accusers’ reliance on the
libertine category confirmed that no crime had been committed, and therefore no lasting damage had been done to the social order.

The libertine category, although deployed in starkly different ways around the French Atlantic, served to bridge shifting jurisdictions between Church and Crown, and between metropolitan and colonial judicial systems. Over three centuries France forged an overseas empire rooted in the fiction of a common faith, law, and language. Legal personnel and institutions proved central to the project of expansion; the colonial conseils supérieurs “formed a global network of legal entrepôts, sites for legal services, that allowed subjects around the world to access French law and judicial processes.” It was in the space between royal directives, colonial judges’ proposals, church authorities’ practices, and imperial subjects’ petitions that the early modern empire took shape. Following the insights of a generation of historians, this study considers law to be a negotiated set of social and political practices rather than a static list of prohibitions and punishments. Over decades, in extensive correspondence and ministerial directives, royal, church, and colonial officials could agree that a libertine was a “bad subject.” But everything else they disputed.

What actions made someone a bad subject? That depended on the time and the place. Under this heading authorities identified a startling array of behaviors, including religious skepticism, gambling, selling alcohol to Native Americans, interracial sex, or salt smuggling. The different definitions, standards, and punishments assigned to male and female libertines revealed key challenges to extend French laws across the seas that remained attuned to local customs, was flexible in application, and swiftly delivered the king’s justice. In the contemporary imagination, the French Atlantic empire emerged as the ideal destination for France’s libertines, if only such individuals could be trusted to advance the kingdom’s goals. The tales of these men and women illuminate the cracks in authority that plagued the French monarchy as it cultivated imperial ambitions through the extension of legal regimes and the Catholic faith.

In casting the French Atlantic as the frame for this inquiry, I bring the insights of decades of scholarship emphasizing the economic, personal, and legal ties that bound together peoples in France, West Africa, North America, the Caribbean and South America. R. R. Palmer and Jacques
Godechot theorize a French Atlantic context that facilitated the exchange of political ideals and military aid throughout the revolutionary era. Sylvia Marzagalli, James Pritchard, Lorelle Semley, and Jessica Marie Johnson have each emphasized the economic, military, commercial, and family ties that spanned France, Africa, and the Americas from the seventeenth through the nineteenth centuries. Research by Sue Peabody, Malick Ghachem, Fréderic Régent, Marcel Dorginy, and Yves Benot, among many others, examines the ways the laws of slavery and racial policing bound the French state to its imperial subjects. Overwhelming evidence documents how legal personnel and practices bound together Francophone communities across the Atlantic Ocean, transforming laws and legal ideals. I argue that libertines reveal the gaps and challenges in that process of forging a coherent royal and imperial legal system.

DEFINING THE LIBERTINE

The word “libertine” as used across Europe derives from the Latin libertus (masc. sing.; liberta, fem. sing.; liberti, masc. pl.), a word that signified the legal category of freed slaves and indicated that even after an individual left the condition of slavery, a measure of social stigma and dependence remained. A freed slave in ancient Rome belonged to the legal class of the libertinus. A radical shift in meaning occurred in the sixteenth century, when a libertine came to be defined as an individual who exhibited excessive freedom of thought by failing to conform to religious teachings or divine laws. “Libertine” emerged as a keyword of the European reformations and counterreformations that delineated the boundaries of orthodoxy.

In 1525 the first French-language edition of the New Testament was published in Paris. Several scholars identify the following passage from Acts 6:9–10 as formative in the transition of libertine from freedman to freethinker. In the Acts of the Apostles, the disciples of Jesus recognized that they needed to identify the movement’s next generation of leaders to resolve disputes within the community of believers. The community identified seven new leaders, including the Apostle Stephen, who “was filled with grace and power and began to work miracles and great signs among the people. Certain members of the so-called Synagogue of Libertines
(Freedmen), Cyrenians and Alexandrians, and people from Cilicia and Asia, came forward and debated with Stephen, [10] but they could not withstand the wisdom and the spirit with which he spoke.” These lines refer to a quarrel that arose between members of the wider Greek-speaking Jewish diaspora community from which the Apostle Stephen likely came, and the followers of Jesus of Nazareth from the province of Judea. Members of the Libertines’ synagogue—indicating the members were freed slaves—charged Stephen with blasphemy against God, the Temple, and Moses. The quarrel was brought before the rabbinical high court of the Sanhedrin for judgment, where Stephen made a lengthy speech in which he contended that the life and teachings of Jesus fulfilled the Jewish scriptures rather than subverted them. This passage seems to have lent the term a connotation of theological disputation and associated it with opposition to the message of Jesus and his disciples. Religious reformers fruitfully deployed it against their rivals, and it was eventually adopted by Catholics to impugn all varieties of religious dissenters. As a term of polemic and invective, libertines animated the culture wars of the Reformation.

In 1545 John Calvin denounced as libertine a sect of reformers in Geneva who called themselves the “spirituals.” In Calvin’s estimation this group ranked worse than the despised Anabaptists, who rejected both the authority of religious leaders and the Bible, entrusting instead the Holy Spirit as a guide to future revelation. One of many indictments he leveled against this sect, “libertine” conveyed Calvin’s derision for a group unmoored from authority that spouted heretical theology as opposed to the discipline and order that would be provided by following his own rigorous strictures of faith. Calvin charged that they confused Christian liberty with physical license, even preaching a community of goods and women. But the term was not always clearly tied to specific sects or identifiable liberties; across Europe individuals used it to delineate doctrinal disputes and to identify their opponents in the debates surrounding reformed religions.

In 1573 Geoffrey Vallée circulated The Beatitude of Christians, offering a tongue-in-cheek guide to the flavors of Christianities that one might encounter in France. After introducing his reader to the papist, the
Huguenot, and the Anabaptist, Vallée distinguished the libertine from those coherent confessional identities, explaining that “the Libertine neither believes nor denies, neither has faith nor doubts entirely, which renders him always skeptical.” But by 1598 such forms of religious heterodoxy were also newly legal, at least within the narrow confines established by the Edict of Nantes. According to some members of the clergy, libertines posed a threat because they sought liberty from the institutional hierarchy and the dogma of both the Catholic and the Reformed Churches.

Over the following century, the French Crown painstakingly negotiated the parameters of licit faith; the category of the libertine registered these struggles. Throughout the seventeenth century, the term indicated impiety when used by either Protestants or Catholics and was at times conflated with Epicureanism, connoting a resolutely materialist prioritization of pleasure and a self-conscious sympathy with ancient paganism.

However, “libertine” also signaled freedoms other than the theological. Renowned correspondent, devoted mother, and keen observer of the French court Madame de Sévigné, writing to the Count de Bussy in 1679, refers to her free-wheeling style as “libertine.” The 1694 dictionary of the Académie Française sheds some light on the elasticity of the term, clarifying that both the masculine libertin and the feminine libertine describe an individual “who takes too much liberty and does not assiduously do his duty.” Therefore, it could seem to serve as a general term for excessive freedom, but as the entry progresses, it becomes clear that religious liberties constitute its central object. The dictionary identifies a libertine as an individual who is “licentious in matters of Religion, either in professing to not believe what must be believed, or in condemning pious customs, or in not observing the commandments of God, the Church, or superiors. In this sense it is only used in the substantive form: He is a libertine, he mocks holy things. He is a libertine, he eats meat during Lent.” While ridicule or resistance to religious orthodoxy might occur for a number of reasons in seventeenth-century France, the libertine category flattened that variety to render suspect all forms of religious dissent, regardless of intent or circumstances.

After 1714 dictionary definitions of “libertine” increasingly connected the term with moral laxity, particularly with sexual licentiousness. The
1762 dictionary of the Académie Française identified the adjective as describing anyone “who loved their liberty and independence too much.” What constituted an excessive love of liberty, however, varied a great deal across time and space. To this the editors added that it was said “of a person with disordered conduct. She leads a libertin life.”

Here is an important hint that the word might take on different connotations in the masculine or feminine forms. Artfully vague, the definition obliquely indicates sexual behavior by adopting a feminine subject. Earlier examples of the substantive form in which libertine signified a religious skeptic remained. By 1787 the dictionary editors again revised the entry, noting that use of the term to indicate a general spirit of independence and refusal to submit to authority were only appropriate for children, as in “This student [masc.] has become very libertin.” When used in the substantive form, it referred to an individual who “led a disordered life.” And the conclusion confirmed a continued link to religious skeptics: “Strong spirits, incredulous. The impious and the libertines.” In these entries French grammarians provide some clues to track how quickly connotations of the category morphed over these decades. Throughout the seventeenth and eighteenth centuries, the word “libertine” might be used as an adjective or a noun, each signifying different kinds of subversive behavior, identifying an individual who seized excessive freedoms in religious thought, speech, or sexual behavior. But, of course, the dictionaries provide only the first step of our transatlantic journey.

Scholars of libertine literature have emphasized the period after Louis XIV’s death as formative in moving taboo forms of skepticism and sexuality into the public forum, highlighting the term’s connection to the Regency’s notable forms of license. By the era of the French Revolution, both masculine and feminine forms of libertin/e became synonymous with sexual promiscuity, particularly those forms of errant sexuality associated with noble privilege and power. But attention to these two moments has obscured the transition that took place in the multiple meanings and applications of the term between 1619 and 1814. Although French authorities would have agreed that they had a libertine problem throughout these two centuries, it was not conceived of as a dilemma peculiar to the Second Estate until the outbreak of the French Revolution. Insufficient
obedience plagued authorities throughout the French kingdom and colonies; whether they concluded that this widespread waywardness should be reformed primarily through the Church, the family, or the state depended on the time and place. In period literature, police records, family petitions, and judicial documents—all of which deployed the term—“libertine” marked shifting edges of the law in personal faith, family order, and sexuality, alerting us to enduring disputes over legal reforms. This book recovers the cosmopolitan and capacious nature of the term as employed by authorities in France, Canada, Louisiana, and the Caribbean in the seventeenth and eighteenth centuries. The libertine category in law emerges as particularly central to efforts to forge a multiethnic empire across the Americas.

In an array of policies, the Crown and royal ministers provided powerful statements about which liberties were productive and which were destructive, and how these might differ in France versus the colonies. Churchmen often contested royal statements with their own arguments regarding imminent threats to authority in France and its empire, and their assertions were met with equally robust claims from colonial administrators, governors, military officers, and judges, sometimes extending but often challenging metropolitan ideals. As French colonial administrations moved from policies of alliance and adaptation to policies of assimilation or segregation from indigenous populations, the parameters delimiting libertine behavior changed. What had once been asserted as a necessary colonial liberty officials redefined as illegitimate and libertine. Occasionally the accused speak from the judicial record to point out the shortcomings in royal, colonial, or Church conceptions of liberty and obedience. The variety of uses employed by the people who resided in and governed France and its Atlantic colonies enable us to chart perceptions of what were the most significant liberties taken by residents and which posed the greatest threats to political and social order. In this manner the French empire operated as a laboratory of liberties.

Jean-Pierre Cavaillé reminds us that, since historians tend to find libertines in the words of their opponents, we risk falling “victim to the propagandas of the past.” There can be no question about it: the libertine life was a subject of obsessive concern for French men and
women in the early modern era. But previous studies have missed the crux of what made these individuals significant to their societies. It was not specifically religious dissent, nor sexual deviance, but an individual’s relationship to the law that characterized the libertine. In the early modern era, the category of the libertine identified the gray area between the legal and illegal. This zone was extensive, and it might change substantially from one community to another, as we learn from historians of law and society in early modern France and its colonies. Authorities used the term to indicate behavior that should be more systematically surveilled, laying the groundwork for more formal legislation. Or an action might be libertine if it ranked as a minor crime (crime léger) that was no longer subject to vigorous prosecution. But whether it indicated a former or future transgression, the libertine had engaged in behavior that was emphatically not criminal.

The legal systems that organized France and its early modern empire underwent dramatic reforms that splintered the foundations of the social and political order. Over the seventeenth and eighteenth centuries, ecclesiastical courts ceded tremendous powers to municipal and provincial courts in France, while the provincial parlements wrestled the Crown for autonomy. Simultaneously, certain actions crossed the boundary between licit and illicit, especially those that revealed heterodox religious beliefs or challenged Catholic orthodoxy in sexual conduct, family order, or social hierarchy. For example, the legal historian Benoît Garnot documents that those sexual activities long condemned by the Catholic Church—including masturbation, adultery, clerical sexuality, extramarital intercourse, and sodomy—remained illegal offenses condemned by the French state throughout this period. Garnot points to the steady decline in the prosecution of these types of offenses during the eighteenth century, even as authors including Jean-Jacques Rousseau publicly admitted in their memoirs or correspondence to engaging in these activities. We know with the greatest possible certainty that masturbation and adultery did not decline as practices in the eighteenth century. In France, Garnot argues, “a relative amorous liberty (young people hoping to marry, adulterers, concubines, but also homosexuals) though partially limited by convention, remained a constant throughout the Old Regime, even
if it was a little more obvious in the eighteenth century than in the sev-
enteenth century.”  

However, Garnot ignores the fact that those same activities in Québec remained subject to charges in ecclesiastical or city courts, resulting in fines, corporal punishment, or even exile from the colony. As a result of these shifting jurisdictions and wide variations in regional and colonial law codes, it would have been hard in 1700 for a French subject to know if an amorous liaison with a neighbor was an illegal or immoral act, or a private matter of little consequence to the state. What is more, legal reforms proceeded at very different paces in different places and among the diverse populations under French law. In many regions of France, the Church ceded the authority to police canon law on sexual activities to an increasingly muscular state, while in Québec Church authorities and ecclesiastical courts retained substantial powers to surveil morality. The early modern fiction of “one king, one faith, one law” fractured along these fault lines. Rather than supporting Garnot’s secularization thesis, which traces a steady decline in the prosecution of sexual behavior, the evidence from across the French Atlantic world leans toward an oscillation principle of law in which periods of targeted repression followed periods of relative permissiveness on the part of state authorities.

Across France and those Atlantic colonies subject to French law, author-
ities strove to reconcile existing civil codes with new ideals of human nature and the natural order of the universe. One might write a law requiring water to run uphill, but that code would not make it happen. Just so, legal theorists advised against civil and criminal laws that contra-
dicted human nature. Natural law theory emerged over the eighteenth century as a powerful alternative to the theories of law dependent on monarchical and Church authority. Intellectuals within the judiciary advocated measures to rationalize laws in accordance with these Enlightenment ideals. The resulting reforms meant that last year’s criminal act might rank as this year’s minor transgression; alternatively, a condoned activity might now draw harsh criminal penalties. Contemporaries in France perceived a strong state with increasing police powers. This era was defined not by a general slackening of laws regulating religion, sexual conduct, or economic transactions, but a remarkable instability of the law
in those arenas as deployed by competing authorities. Libertine literature performed important cultural work, staking out this ground and voicing opposition to laws that criminalized core elements of human nature, particularly those laws focused on regulating sexual behavior. Authors placed contemporary legal inconsistencies and reversals of criminal sexuality at the center of literary plotlines in novels that often relied on exotic settings or characters to highlight the culturally constructed nature of law codes and to call out legal discrepancies between the metropole and colonies.69 For this reason scholars will continue to misunderstand the libertine category if analysis remains located in metropolitan France alone. Imperial rivals—Spain, Britain, and the Netherlands—induced French authorities to reconsider social ideals and revise laws. Non-Catholic subjects—particularly Protestants, Jews, Indigenous Americans, and Muslims and Hindus from Africa and South Asia—posed unique challenges to a French state premised on the principle of one king, one faith, one law. For that reason this book examines the transnational context of the laws and literature constructing the meaning of libertine in the French Atlantic, defined here as the French colonies in North America, South America, the Caribbean, and Africa, from 1619 to 1814.

The Cosmopolitan Libertine

For the most part, studies of libertine literature have adopted national frames that ignore the insistent cosmopolitanism of the genre across Europe.70 But modern French literature and law took shape in a global context, defined against powerful rivals and in communication with imperial subjects.71 As a result the legal foundations for family order and sexual relations transformed. By the eighteenth century, those authorities who sought to contain individuals’ sexuality within the bounds of Roman Catholic canon law, which required clerical celibacy, sexual abstinence outside of marriage, monogamy within marriage, and prohibited homosexual relations or masturbation, faced a public aware of broad cultural differences. They knew that their Protestant neighbors approved of clerical marriage, and that some Muslim merchants in the Ottoman Empire practiced polygamy. Informed participants in the Republic of Letters were aware that certain South Asian military allies practiced polyandry,
and that select Native American nations welcomed homosexual relationships within specific circumstances. Travelers and missionaries conveyed this human diversity to French readers in their reports, communicating with each volume that sexual mores resulted from cultural constructs rather than immutable divine laws. Travel literature played a central role displacing European standards of morality and sexuality. Many of the philosophes postulated sexual desire to be a universal feature of all humans, understanding the sex drive as among nature’s most insistent “laws.” Leading intellectuals harnessed this theory to argue that the kingdom’s leaders must acknowledge a certain amount of religious, cultural, and even sexual diversity if the state hoped to solidify France as a global power.

In Francophone settlements across France, Africa, and the Americas, administrators, writers, and subjects relied on the term “libertine” to connote overlapping religious, moral, and economic transgressions. This book restores that cultural diversity and geographic breadth to historical libertines. As the term was applied to individuals engaged in liquor sales in Québec or interracial sex in Louisiana, or was used to characterize the children of European and African parents in the French Caribbean, these mutations reverberated back to France, transforming social, sexual, and political ideals in surprising ways. As a result libertine literature of the eighteenth century became a key forum in which authors gave voice to anxieties regarding the world that might emerge from France’s imperial ambitions.

ORGANIZATION

The following chapters trace libertines in law and literature across the French Atlantic in the seventeenth and eighteenth centuries. But what I have assembled is far from a comprehensive catalog of the term’s usage. Instead this text provides a series of snapshots capturing key elements of the quasi-criminal category of the libertine as it ricocheted between France and the Americas over two hundred years. Chapters 1, 4, 5, and 7 examine the impact of particularly potent court cases in defining the libertine, while chapters 2, 3, 6, and 8 survey ministerial correspondence, edicts, sermons, memoirs, travel literature, and novels to clarify the meanings
and consequences of libertine actions from France to Canada, Louisiana to the Caribbean. Taken together these documents offer fragile bridges to connect a scattered empire. The narrative proceeds chronologically, identifying important moments when the libertine category centered debates about jurisdiction and legal reform in expansionist France and its colonies. The final chapter considers the significance of the libertine as waves of revolutions roiled societies on all sides of the Atlantic, as the term became firmly hitched to denunciations of aristocratic social and economic privileges on the one hand, and revolutionary excesses on the other.

Attentive readers will note that I locate no chapter within Africa. The small French settlement in Saint-Louis (present-day Senegal), served as the seat of a colonial sovereign council like those that dispensed French law in Québec, Louisiana, colonial Haiti, Guadeloupe, and Martinique. But this book focuses on those sites where French settlers and colonial officials made claims of political and economic hegemony over European-, American-, and African-descent subjects through systems of law. The French sovereign council in Senegal made no such claims until the nineteenth century; it adjudicated trade disputes or military infractions among the small population of French soldiers, traders, and their families, but the French officials in Saint-Louis recognized that indigenous legal systems governed most inhabitants within neighboring West African kingdoms. The story of French colonial legal regimes that I trace here relates only part of a broader global history of imperial law and should be read alongside the scholarship documenting the autonomy of African states and leaders from French imperial legal regimes throughout the seventeenth and eighteenth centuries.77

This peripatetic approach relies on decades of scholarship documenting distinctive regional developments of French law and society in each of the provinces of France and Québec, the Louisiana territory, and pockets of the Caribbean subject to French law, especially Guadeloupe, colonial Haiti (Saint-Domingue), Martinique, and Désirade. Assessing the libertine as a quasi-criminal category across France and its colonies makes three contributions to the history of early modern France. First, this inquiry establishes the French Atlantic as a unit in which the actions of one part affected other parts.78 People and products churned ceaselessly through
regions that have been assessed in isolation of each other, but hurricanes in Guadeloupe ruined families based in Africa and France. Laws passed in France moved people and property across oceans. Soldiers and merchants in Bordeaux and Loango played roles in enslaving men and women who built Saint-Domingue’s plantation wealth, which enriched France at a staggering cost in human lives and potential. Scholars of Old Regime France have largely ignored the relationships that the kingdom forged through colonial commerce. Decades of research based in the Americas, the Caribbean, and Africa document the centrality of Atlantic exchanges to the development of capitalism in the French economy after the sixteenth century. But this was a trade that plumbed the edges of existing law, and the French state found itself reactively crafting regulations to govern its far-flung territories. For this reason the category of the libertine in law and literature offers crucial insight into the sinews of this empire. Both genres gave voice to the ambitions and frustrations of individuals as they built societies that bound together people and properties across the Atlantic Ocean.

Second, this inquiry restores colonial cosmopolitanism as a central concern of French libertine literature. Here I follow the insights of Joan Dayan and Doris Garraway, both specialists in Francophone Caribbean literature who have advanced compelling analyses of libertine novels as responses to contemporary debates over the violence and sexual terror at the heart of chattel slavery, which played a central role organizing relationships in the French Atlantic. My research demonstrates that such conversations about colonial commerce and slavery did not remain cordoned off in the French Caribbean. Violence, sexual terror, and preferential applications of the law were factors constitutive of settler colonialism throughout the French Atlantic, and libertine authors found parallels from Québec to Quimper, Guadeloupe to Gorée. Many novels that constitute the libertine genre adopted an exotic setting or characters from the Americas or Africa, India, Japan, or the South Pacific. But even novels set within an aristocratic household in Paris articulated the perspective that, although human sexual desire might be universal, human societies varied widely in the most basic customs and mores regarding sexual activity.
Finally, my study concludes that libertines—better understood as transgressors whose acts confronted the flux of law codes than as criminals—provide a critical perspective from which to reassess the relationship between the French and Haitian revolutions. In response to a series of military reversals, colonial officials and then revolutionary legislators identified libertines as among the central threats to French ambitions of Atlantic empire. Authorities in both France and the colonies revised and even reversed laws on race, sex, family, commerce, and slavery dramatically in the period from 1763 to 1804. Seeking to stabilize combustible colonial communities, newly enfranchised citizens ultimately upended traditional hierarchies. One unified law code with clear and stable jurisdictions became the central promise made by the legislators of the French and Haitian revolutions across the Atlantic, in repudiation of the judicial inequities built into Old Regime systems. Along the way France gained a continental empire, and the Caribbean colony of Saint-Domingue became the Kingdom of Ayiti when its inhabitants proclaimed themselves to be free and independent of colonial rule. By 1814 legislators, magistrates, and Francophone populations across the Atlantic had challenged the legal basis for aristocracy, monarchy, patriarchy, monopoly, slavery, and the place of the Catholic Church in the French and colonial states. This book explains how France’s Atlantic libertines set the stage to imagine revolutionary liberties and framed the debates over who could claim such freedoms.
Exiled from the French court in 1619, the poet and dramatist Théophile de Viau portrayed his narrator as a civilized man “among the s*v*ges,” but whether he imagined himself to be surrounded by American warriors, Catholic fanatics, Dutch burghers, or rural Gascon peasants remains anyone’s guess. Such slippage seemed to be the point—after all, what mattered superficial differences in climate, customs, theology, or geography? In the eyes of this loyal courtier, all was wilderness beyond the king’s person, his court, and his good city of Paris.

Any account of French libertines must begin with the formative case of Théophile de Viau. A celebrity poet of the age, he won acclaim from both contemporaries and successive generations for his witty and ribald verses. His trial from 1623 to 1625 stands as one of the most important judicial
events in early modern French literary and political history. However, scholars have ignored the way Théophile’s work and trial referenced the relationship between religious evangelism and the laws regulating colonial expansion in the French Atlantic, although this dimension clearly mobilized Théophile as well as his critics; both sides contended that the consequences of this trial predicted France’s fate as an imperial power. Both in the court of public opinion and in the court of law, his accusers agreed that the poet was a libertine, although the term corresponded to no specific crime. The king’s prosecutor initially charged Théophile and several of his coauthors with the crime of lèse-majesté-divine, or treason against God’s authority, for publishing verses in a collection of profane poetry, Le Parnasse satyrique (1622). But when it became clear that Théophile’s authorship of the offending verses could not be substantiated, the prosecution resorted to presenting character witnesses who relied on hearsay to defame Théophile’s personal piety and sexual conduct. In response Théophile and his lawyers mounted a successful defense of both the poet’s theological beliefs and sexual behavior, refuting tangential allegations that the author engaged in sodomy, heresy, or corruption of youth, and securing his release from prison.

Théophile’s acquittal constituted a watershed moment in which the jurists of the Parlement of Paris established important standards for reliable witness testimony, freedom of expression, and the criminal limits of heterodoxy as France groped toward its new status as a multiconfessional state. But this is no tale of triumph. Although Théophile won the judgment, he died within a year of his release, his health having been so compromised by the rigors of prison and interrogation. Friends mourned his passing, but quietly and in private. Fellow poets preferred to censor themselves rather than risk similar treatment from Théophile’s still-active enemies in the Church and the royal court. Despite the acquittal the world of French literature sustained a powerful blow to the liberty of personal expression in the wake of the Théophile de Viau trial. Recognized as the standard-setter for a “modern style” of French literature in the centuries after his death, Théophile’s work continues to be standard examination fare on the French baccalauréat examination. But the impact of his example extends far beyond the realm of letters.
In this chapter I contend that the trial of Théophile de Viau constituted the first public debate over the libertine category in both literature and law, setting the terms for future contestations between individual liberties and the social good. Moreover, Théophile’s trial provides a thoroughly documented case study that traces mutual influences across literature and legal briefs. In poems and novellas, Théophile championed the liberty of thought that could be preserved by a strong monarch, and he argued forcefully that royal edicts transcended theological inconsistencies and contested points of Catholic teaching. In protecting individuals’ religious liberties, Théophile suggested, the king’s law rose above petty confessional squabbles to unite all subjects. In a flurry of publications, both Théophile and his antagonists made clear the global consequences of charting the space between law and liberty to their readers. This was no small affair. All sides agreed that the Théophile de Viau case would determine the limits of religious tolerance and the nature of kingship within France and beyond.

In voluminous published attacks on the poet and his friends in the French court, Théophile’s enemies, particularly the Jesuit priest François Garasse, imagined that libertines posed a diabolical challenge to established authorities. Garasse’s collaboration and correspondence with the state’s lead prosecutor, Mathieu Molé, brought these accusations into the law courts. In characterizations of Théophile—nearly always referred to by his first rather than family name in contemporary publications—Garasse used the word “libertine” not to identify a coherent group of individuals as John Calvin had in 1525, nor to condemn a particular theological argument. Instead, he employed it to indicate an ill-defined religious deviance that rejected all forms of orthodoxy, either Catholic or Protestant. Incoherence was the point, asserted Garasse when he published the following definition in 1622: “By the word libertine I mean not a Huguenot, nor an Atheist, nor a Catholic, nor a heretic, nor a Politique, but an individual comprising all of these qualities.” In a Europe riven by confessional conflict, the libertines were those who refused to take a side. The following year, in a work that explicitly denounced Théophile as the ringleader of a dangerous circle of libertine courtiers, Garasse clarified what he meant. There were two types of artistic skeptics that went by the name of the “beautiful souls” (beaux esprits), he advised his readers:
the Libertines and the Impious. “The first,” he wrote, “are just taking shape, the second are perfected. The first are caterpillars, the second are butterflies. The first are apprentices, the second are masters of malice.” Through these naturalistic metaphors, Garasse depicted a spectrum of irreligiosity, but deemed all stages as equally threatening to civil and moral order. Libertines were drunks and gourmands, “with no other god than their stomach.” But, because they were not yet committed atheists, hope remained for their souls if they could find their way back to the Church and orthodox Catholic practice. By making an example of Théophile, Garasse contended, the monarch acted as the moral protector of his subjects, rooting out both the fully fledged and the emergent skeptics.

However, Garasse did not have a monopoly on defining and applying the libertine label. In fact, even as the Jesuit published his polemical indictments, Théophile had recognized the power in the term and sought to reclaim it from the religious zealots by placing it in the mouths of his poetic narrators and prose characters. These characters were men of the world, proud participants in building a global France engaged in long-distance trade, colonies, learning, and art. When Théophile’s characters spoke of libertine conduct, they transformed the charge of the term, invoking broader liberties of thought, speech, and action for some people in limited times and places. The poet’s narrators valorized individual liberties as fundamental rights that could only be guaranteed by a powerful and capable monarch. In return for the Crown’s protection, artists and scholars, explorers and courtiers, Catholics and Calvinists would freely choose to promote and praise the ruler.

Théophile’s poems and prose alongside his trial demonstrate how the libertine became a quasi-criminal category attuned to the gray areas in French law governing individual liberties in thought and public expression. This chapter documents how men of letters and the law adopted tactics to challenge this characterization of libertine behavior, here primarily defined as questioning Catholic teachings and engaging in sodomy. Second, I demonstrate that the case had global consequences according to both Théophile and his antagonists. The debate over religious liberty in thought and speech proved critical to those who risked lives and fortunes—particularly Huguenot merchants, sailors, or soldiers—to