



The Customary Atlas of Ancien Régime France

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Abstract

Customary law regulated most European societies during the middle ages and the early modern period. To better understand the roots of legal customs and their implications for long-run development, we introduce an atlas of customary regions of Ancien Régime France. We also describe the historical origins of French customs, their role as source of law, and their legal content. We then provide various insights into avenues of research opened by this database.

Keywords Customary law, Custom, Institution, Legal origin, Ancien Régime, France.

JEL codes K00, N43, P48

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1. Introduction

A large literature argues that historical customs matter for long-run development (Acemoglu, Johnson and Robinson, 2005; Nunn, 2009; Nunn, 2020). This consensus primarily relies on evidence drawn from pre-industrial Africa, in part due to the availability of comprehensive databases such as Murdock’s (1957; 1967) Ethnographic Atlas and Standard Cross Cultural Survey (Murdock and White, 1969).¹ In contrast, empirical evidence drawing on Europe remains scarce.² This gap is especially problematic as important economic processes – the Industrial Revolution and the Demographic Transition – originated in Europe at a time when customs were still a prevalent source of law. Yet, we still know relatively little about how customs interacted with these processes. A primary reason for this gap in knowledge is the unavailability of a “Murdock” counterpart for pre-industrial Europe.³ Indeed, the territorial extent of European historical customary regions is generally unknown to us as these were eliminated during the nineteenth century as a result of the transition toward modern states, the introduction of civil codes, and the development of alternative judicial organizations (Padoa-Schioppa, 1997). Accurate knowledge of their spatial distribution is however crucial to properly study the role of customs in Europe’s long-run development.

In this article, we introduce the *Customary Atlas of Ancien Régime France*. This original atlas maps boundaries of the customary regions that were prevalent in early-modern France from the mid-fifteenth century and the recording of customs to the late-eighteenth century and the advent of the Civil Code following

¹See Lowes (2021, Table 1) for a list of studies in economics using these datasets to infer the causal relationship between ancestral factors and contemporary outcomes.

²An exception concerns inheritance customs in mid-nineteenth and early twentieth century Baden-Württemberg. In particular, Hager and Hilbig (2019) investigate how inheritance customs therein affected long-run political and social inequality; Huning and Wahl (2021), regional development; Bartels, Jäger and Obergruber (2020), the distribution of income; Süß (2023), household formation and gender disparities. In contrast to this literature, we focus on customary rules over an entire polity and that predate the nineteenth century.

³Giuliano and Nunn (2018) attempt to correct the under-representation of Europe in the Ethnographic Atlas by adding 17 ethnolinguistic groups from Europe. In contrast, our Customary Atlas delimits 141 historical customary boundaries within France, illustrating that customs also varied within ethnolinguistic groups in pre-industrial Europe.

the French Revolution (Chénon, 1926, p. 7–9). In particular, building on Gay, Gobbi and Goñi’s (2023a) *Atlas of Local Jurisdictions of Ancien Régime France* as well as a host of archival and secondary sources, we construct a shapefile of the 141 customary regions that existed during the early modern period and make it openly available for further research (Gay, Gobbi and Goñi, 2023c).

The case of France is paradigmatic of pre-industrial Europe, most of which was under customary law. Customs therein first developed among tribes that populated France’s territory upon the fall of the Western Roman Empire. The expansion of feudalism during the Medieval period further reinforced the territoriality of customs, which evolved along the specificities of local contexts. Then, in the mid-fifteenth century, the monarchy initiated a century-long process of recording of customs that fixed both their content and territoriality (Grinberg, 2006). Customs were eventually abolished during the French Revolution and replaced by the Civil Code in 1804.

The Customary Atlas we propose is the first of its kind for Europe as it covers an entire polity and is disseminated as a historical geographic information system (GIS). Prior to our work, legal historians had sketched (paper) maps of historical customs covering a few European regions, e.g., the German state of Baden-Württemberg (Krafft, 1930; Röhm, 1957), Romandy in French-speaking Switzerland (Poudret, 1998), Belgium and Northern France (Gilissen, 1958; 1979), Lorraine (Joignon, 1989), or South-West France (Zink, 1993). Related to our work, Klimrath (1843) proposed a map of general customs in Ancien Régime France, which we reproduce in Appendix Figure A.1. In contrast to this early work, the Customary Atlas maps both general and local customs, relies on a host of archival and secondary sources, and leverages GIS techniques, making it readily usable for further research.⁴

Customs regulated many dimensions of people’s lifeways, from the legal status of individuals to marital rules, parental authority, inheritance, economic transactions, or punishments for crimes. Given the substantial spatial variability of customs territorial boundaries resulting from their complex history, our

⁴General customs specified a set of rules that were enforced throughout a judicial district. In contrast, local customs specified deviations from specific rules of the general custom in given locations. We provide further details on this distinction in Section 2.

Customary Atlas can be used to study the implications of any of these customary dimensions for long-run outcomes by leveraging local variation for causal identification. For instance, Gay, Gobbi and Goñi (2023*d*) use data from this atlas to study how inheritance customs affected fertility in late eighteenth-century France, finding that locations under egalitarian inheritance exhibited lower fertility than those under which a single heir received most of the inheritance. In addition, the Customary Atlas will also contribute to law and economics literature studying the impact of legal origins on financial and economic development outcomes (La Porta, López-de Silanes and Shleifer, 2008). For instance, it will help improve our understanding of the historical origins and consequences of the French civil law tradition and the legacies of customary and Roman written law (Le Bris, 2019).

2. The History of Customary Law in France

Origins. Initially, customs encompassed a set of non-written rules that regulated people’s lifeways in a given locality with an authority equal to that of formal laws (Gilissen, 1979, p. 27).⁵ During the middle ages and the early modern period, most of occidental Europe was under customary law (Gilissen, 1962*b*; Grinberg, 2006).⁶ In France, customs originated from the laws of the tribes that populated its territory upon the fall of the Western Roman Empire—the Burgundians, the Visigoths, the Salian Franks, and the Ripuarian Franks. Initially, these were *personal* rather than *territorial* laws, that is, they applied to a given group of people rather than to the residents of a given locality.⁷ Starting in

⁵Canonists require two elements for a custom to have the force of law: repetition by people of the same behavior since time immemorial and popular belief of the binding force of the custom (Kim, 2021, p. 44). For instance, the custom of Normandy (1510) defined the criteria for establishing a custom as the combination of the consent of the people subject to the custom, the custom being observed and regarded as the law, the frequency and habitual nature of this way of life, its long-standing notoriety, and its usefulness to the people of the locality (Grinberg, 2006, p. 127).

⁶See Table B.1 for a list of historical customs in occidental Europe along with their publication date.

⁷For instance, Ripuarian law specified that residents of Ripurian territory who belonged to other tribes should be judged based on laws of their tribes of origin rather than based on Ripuarian law (*Lex Ripuaria*, tit. XXXI, art. 3–4, cited in Chénon, 1926, p. 124).

the ninth century, these laws acquired a territorial dimension. This shift that was driven by the increasing blend of groups with diverse origins, making it challenging to differentiate between the appropriate laws that applied to specific individuals (Chénon, 1926, p. 128). The expansion of feudalism during the Medieval period further reinforced the territoriality of these laws, as residents of a territory under a feudal lord had to abide by the laws emanating from that ruler.

The initial variety of tribes that populated France’s territory contributed to the wide heterogeneity of customs. As northern regions were dominated by the Salian and Ripuarian Franks, the *Salic Law* and the *Lex Ripuaria* became the basis for the development of customs therein. In contrast, southern regions were dominated by the Burgundians and the Visigoths, whose laws consisted in the *Lex romana Burgundionum*, the *Lex Theodosii*, and the *corpus iuris civilis* Justinian—all based on principles emanating from Roman law. Hence, legal rules there evolved toward written law. As a result, France was soon split into a customary-law country (*pays de droit coutumier*) in the North and a written-law country (*pays de droit écrit*) in the South, a disparity that lasted until the Revolution—although by Philip IV’s ordinance of 1312, Roman law was to be received as customary law where it was the source of law (Olivier-Martin, 1948, p. 122).⁸

Besides the North-South divide between customary and written law, a mosaic of customs emerged during the Medieval period (Kim, 2021, p. 29–63). As customs shifted from personal to territorial, the local variations in geography and the decentralized nature of feudalism contributed to the growing fragmentation of customary rules across the territory (Chénon, 1926, p. 487).

Early-stage writing of customs. Once feudalism had consolidated and the territorial limits of France’s royal domain had stabilized, customs regulated territorial jurisdictions known as *districtus*, whereby their residents had to abide by the single custom of their jurisdiction. However, customs were not entirely static

⁸Formally, this disparity resulted from Louis IX’s ordinance of Vincennes in April 1251, which separated the area of the *consuetudo gallicana* from that of *jus scriptum* (Hilaire and Terré, 1994, 101–3). Klimrath’s (1837) original map is displayed in Appendix Figure A.1 and the resulting partition of France in Appendix Figure A.2. See also Figure 2 for a map based on data in our Customary Atlas.

and the frontier between customs as representing people's behavior and customs as regulating them was still blurry. In fact, customs could still evolve along local uses, especially because they were passed down orally from one generation to the next. Such uncertainty resulted in a proliferation of lawsuits and in cumbersome and time-consuming court rulings as judges had to navigate the intricacies of gathering evidence, seeking testimonies, and analyzing historical precedents to establish the validity of a given custom in a locality—a lengthy and costly process known as *enquêtes par turbe* and formalized in 1270 by an ordinance of Louis XI (Kim, 2021, p. 41). Altogether, this fed into demands for the written documentation of customs as early as the late-twelfth century (Chénon, 1926, p. 491).

Writing customs effectively reduced uncertainty about both their content and territoriality. The earliest written customs were compiled into books called *coutumiers* produced by law practitioners who were primarily motivated by the practicality and usefulness of such texts for court rulings. They first appeared in early thirteenth-century Normandy with the *Grand Coutumier de Normandie*, first in Latin (1200–45) then in French (1270–80). Other customs soon followed: the custom of Vermandois (c. 1253), the *Livre de Justice et de Plet* (1260–70) and the *Établissements de Saint Louis* (1272–3) for the customs of Orléanais, Paris, Touraine, Anjou, and Maine, the custom of Beauvaisis (1283), and the custom of Champagne (1289) (Chénon, 1926, p. 553–7). Over the fourteenth century, customary texts continued to proliferate with e.g., the custom of Brittany (1312–25), leading to a first compilation in the *Grand Coutumier de France* in 1519 (Laboulaye and Dareste, 1868). However, these early manuscripts were not legal texts with the force of the law, but rather reference material used by lawyers to facilitate litigation—though some *coutumiers* had a quasi-official nature, e.g., those of the customs of Normandy and Brittany (Kim, 2021, p. 43–4).

Official writing of customs. In April 1454, Charles VII's ordinance of Montils-lès-Tours launched the royal campaign to record the customs of the realm. This ordinance explicitly stated the kings' motives: by putting customs into writing, customary law would achieve greater certainty, stability, and

uniformity, and therefore, legitimacy (Kim, 2021, p. 64–91). More broadly, his objective was to create a uniform body of customs throughout the realm to consolidate the authority of the monarchy over the mosaic of feudal powers in the aftermath of the Hundred Years War (Grinberg, 1997).⁹

Five key elements initiated this codification process over the fifteenth and sixteenth centuries (Gilissen, 1962*a*; 1962*b*; Grinberg, 2006). First, written documents brought about some degree of certainty about the content and territoriality of customs to judicial authorities. In addition, it enabled these authorities to clearly delineate customary law from rules emanating from other authorities, such as the Church. Second, the king was known as the “guardian of customs,” so their writing contributed to the consolidation of the monarchy. Third, the monarchy had long been trying to unify the legal system within its realm, starting with the royal domain.¹⁰ In fact, several smaller customs were absorbed by broader customs during the writing process. Fourth, Roman law was the sole source of law taught in universities in the fifteenth and sixteenth centuries. Judges, who were increasingly educated in universities, were therefore becoming relatively unaware of local customs as they were passed down orally (Gilissen, 1962*b*, p. 86). The writing of customs therefore helped limiting the expansion of Roman law into customary-law country. Finally, the writing of customs contributed to abolishing the most unreasonable ones.¹¹ All these factors led to an official mandate that would make customary law resemble civil law. Upon their recording, customs stopped evolving and became the pillar of the monarchic law in France until the Revolution.

While in practice, few customs were initially written and promulgated under Charles VII and Charles VIII, most ended up being codified after Louis XII reiterated the demand to record customs in his edict of March 1505 (Klimrath, 1837, p. 10). By and large, this initial codification process was completed by the

⁹Appendix C provides further details on this process of recording of customs.

¹⁰An early attempt at unification is the *Lex Saxonum* of the late-eighth century under the reign of Charlemagne.

¹¹In fact, prior to the fourteenth century, the king – as guardian of customs – had intervened on several occasions to eradicate customs that were deemed either iniquitous, unreasonable, or perverse—a kingly right that had been unchallenged since the eleventh century (Olivier-Martin, 1938).

late-sixteenth century.

General and local customs. While uniformity was a primary objective of the codification of customs, it was not achieved entirely. Indeed, this process gave rise to the distinction between *general* and *local* customs. General customs provided a set of rules that were enforced throughout a judicial district. In contrast, local customs specified deviations from articles of their general custom in given locations (Grinberg, 2006). This typically concerned a few articles, though some local customs were more comprehensive than others. The success of the harmonization process varied across the territory. For instance, in Normandy and Brittany, general customs covered wide areas but included many local customs within. In contrast, in the North-East, the territorial coverage of general customs was smaller but less subject to local deviations.

Most customs, either general or local, were revised in the late sixteenth century (Kim, 2021, p. 92–115).¹² However, their content was seldom modified, only the clarity of their writing in French vernacular (Grinberg, 2006, p. 79–80). Hence, the content of most customs remained stable until the French Revolution. In 1804, the law of Ventôse 30, year XII (art. 7) repealed general and local customs related to matters covered by the Civil Code (Gilissen, 1979, p. 250).¹³

3. The Content of Customs

The content of most customs resulting from the codification process described above was compiled in the *Nouveau Coutumier Général* (Bourdot de Richebourg, 1724). Despite their diversity, some common themes emerge among the vast number of customs: the status of individuals and goods, marital rules, parental authority, illegitimacy, inheritance, economic transactions, and crimes.¹⁴ Succinctly, customs could differ on how they defined movable and

¹²The official motivation for the revision of many published customs was that their original minutes (*procès-verbaux*) were lost, making it necessary to resort again to the costly process of proving the existence of a contested custom (Kim, 2021, p. 90).

¹³Previous revolutionary laws had already abolished some parts of customary law. For instance, the law 17 Nivôse, year II (January 6, 1794) abolished customary inheritance laws.

¹⁴We provide further details on each of these common themes in Appendix D.

non-movable goods, or on the rights of different types of individuals (nobles, commoners, minors, illegitimate children, etc.). Marital customary rules differed with respect to the validity of marriages, the rights of married women and those of husbands over their spouses' assets, dowries, and punishments for adultery. As mortality rates were high, customary rights of widows were thoroughly defined, with variation in their rights over their deceased husbands' assets. The timing and extent of parental authority were also regulated. In customs closer to Roman law, the strict authority of the *patria potestas* prevailed, while in others, parental authority was limited to the duty of raising children. Economic transactions related to taxes, prescriptions (claims), obligations, contracts, and financing (rents, loans, debts, etc.) were also regulated in different ways.

To illustrate the diversity of customary rules, Appendix Figure A.3 exhibits the heterogeneity among inheritance rules, a theme of substantial interest to economists (Hager and Hilbig, 2019; Huning and Wahl, 2021; Bartels, Jäger and Obergruber, 2020; Süß, 2023; Fontenay, Gobbi and Goñi, 2023; Gay, Gobbi and Goñi, 2023*d*). This map shows that there were more than ten different ways to regulate inheritance under customary law: areas under partible inheritance could follow strict partibility or partibility with option; areas under impartible inheritance could follow primogeniture, unigeniture, or ultimogeniture; and both partible and impartible areas could include or exclude women from inheritance.

4. Mapping Methodology

To help researchers better understand the roots and implications of customs, we propose a historical GIS of their spatial distribution across France during the early modern period: the *Customary Atlas of Ancien Régime France*.

To construct this Customary Atlas, we start with the geography of judicial districts in which customs were enforced: *bailliages*.¹⁵ We rely on Gay, Gobbi and Goñi's (2023*a*) *Atlas of Local Jurisdictions of Ancien Régime France*, a shapefile

¹⁵The ordinance of Charles VIII of January 2, 1493, specified that these were the relevant jurisdictions for the enforcement of customary law (Isambert, Jourdan and Decrusy, 1825). These jurisdictions were also called *sénéchaussées* in the southern parts of the realm.

of the 435 judicial districts that existed before the Revolution (see Figure 1).¹⁶ We then match each judicial district to the custom that applied therein. Our primary source is Brette’s (1904b; 1915) *Recueil de Documents Relatifs à la Convocation des États Généraux de 1789*, which reports the specific customs that applied in about half of the realm’s judicial districts. Unfortunately, Armand Brette could only cover half of the territory by the time of his death in 1912. For most of the remaining parts of the territory, we resort to the original source used by Brette: the *Nouveau coutumier général* (Bourdot de Richebourg, 1724), which provides the original texts of most customs together with their associated judicial district. To cover the few remaining judicial districts, we use Zink (1993) for the South-West, Joignon (1989) for Lorraine, and additional archival sources – listed in Appendix Table B.2 – drawn from Gouron and Terrin’s (1975) seminal bibliography of customs. The output of this task is a correspondence table between the 435 judicial districts that existed in Ancien Régime France and the 141 customs included in our Customary Atlas. Finally, we aggregate judicial districts with the same custom into single customary regions. On average, a customary region comprises three judicial districts, although some regions comprise many more, with up to 22 judicial districts for the custom of Normandy.¹⁷

We further record which judicial districts were under written law. As highlighted by the historiography, the increasing interest in the study of Roman law after the twelfth century led to the coexistence of both customary and written law in many regions (Olivier-Martin, 1948, p. 111). In particular, some judicial districts located in written-law country also had a custom, e.g., in the Basque country, Provence, or Dauphiné (Poumarède, 1972; Zink, 1993). Likewise, some judicial districts in Lorraine and Alsace also followed written law, albeit being located in customary-law country (Ganghofer and Levresse, 1977; Joignon, 1989). In practice, however, written law was often only supplementary to customary law in these areas and applied only when a relevant customary rule was absent. In Figure 2, we display the distribution of written-law and customary-law areas

¹⁶This work is based on Brette’s (1904a) *Atlas des Bailliages et Juridictions Assimilées*, which draws on the minutes of bailliage electoral assemblies summoned for the Estates General of 1789.

¹⁷If we exclude local customs and attribute their general custom instead, customary regions comprise four judicial districts on average with up to 45 for the custom of Normandy.

per our Customary Atlas along with areas where both systems were present, which we denominate as “mixed” (Fourniel and Vendrand-Voyer, 2017). As can be seen on this map, Klimrath’s (1843) approach was not entirely accurate and the traditional division of Ancien Régime France between a written-law and a customary-law country along a North-South divide is less clear-cut than previously assumed (Hilaire and Terré, 1994, p. 157–84).

In addition, while Klimrath’s (1843) map only focuses on general customs, we consider both general and local customs. This is important for two reasons. First, a crucial feature of customary law is that it was inherently local. Hence, the boundaries of a given customary region ultimately depended on local customs. Second, some general customs included several local ones, while others included no such deviation within their midst—this was generally the case for general customs covering a relatively small area, e.g., the custom of Dourdan. As a result, the distinction between general and local customs was a matter of spatial and administrative organization rather than differences across customary content.¹⁸ Hence, relying on judicial district boundaries has the advantage of mapping more customs that was previously done. Finally, our Customary Atlas includes local customs only insofar as their extent correspond to at least one judicial district. This implies that several local customs – those smaller than a district, e.g., enforced only in a given town – are not accounted for.¹⁹ We leave the construction of an atlas of city-level customs for future work. We display the spatial distribution of customary regions per our Customary Atlas in Figure 2. Figure 3 displays the same distribution when dropping the distinction between local and general customs and instead focusing on general customs only.

Overall, our map of customs advances on Klimrath’s (1843) in terms of precision, as it characterizes the territoriality of 141 customs rather than 52—for instance, Klimrath (1843) exhibits a single custom for the *généralité* of Nor-

¹⁸We do not make subjective choices as to which custom should be classified as general or local. Rather, we follow the classification that is provided in the *Nouveau Coutumier Général* (Bourdot de Richebourg, 1724).

¹⁹We refer the interested reader to the bibliography of customs in Gouron and Terrin (1975) and to Bourdot de Richebourg’s (1724) *Nouveau Coutumier Général*, which is composed of four volumes with more than 1,200 pages each and detailing the content of more than 500 customs, general and local.

mandy while we include another 20 within this territory.²⁰

5. Data Description

5.1. *Extent of the Atlas*

The *Customary Atlas of Ancien Régime France* covers the territory of the kingdom of France as of 1789. This broadly corresponds to the current territory of mainland France, barring three main exceptions: the Duchy of Savoy, the County of Nice, and the Comtat Venaissin. Other exceptions include several small principalities (Montbéliard, Salm), independent cities (Avignon, Mulhouse), counties (Saar-Werden, Sault), and lordships (Montjoie, Mandeuire, Bidache) that were integrated to France soon after the Revolution.²¹

5.2. *Customs' Attributes*

Each custom is characterized by several attributes: an identifier, a name, a year of publication, a type, and, for local customs, a general custom of reference.

Identifiers. We create a unique identifier for each custom. To account for the relationship between general and local customs, we use four-digit identifiers whereby the leading two digits identify general customs and the trailing two digits identify local customs. Specifically, we alphabetically sort the 94 general customs in our data and attribute them an identifier ranging from 01 to 94.²² Similarly,

²⁰In this respect, our Customary Atlas is close to Voltaire's (1878, p. 229–30) well known assessment that “[t]here are, it is said, one hundred and forty-four customs in France which have the force of law; these laws are almost all different. A man who travels in this country changes laws almost as many times as he changes horse post.”

²¹We also include Corsica as a decree stipulating that “the island of Corsica is part of the French empire” was voted on November 30, 1789. Furthermore, small portions of the northeastern territory of France were ceded to Prussia per the second treaty of Paris on November 20, 1815—this concerns the entire judicial district of Sarrelouis, part of the district of Bouzonville, and areas around Wissembourg and Landau. These areas are not displayed in our shapefiles.

²²While we have 93 general customs in our final custom-level dataset, we create identifiers for 94 general customs because the general custom of **Artois** (0500), while having its territorial core outside of the kingdom of France, had seven of its local customs therein, ranging from the local custom of **AIRE** (0501) to that of **SAINT-OMER** (0507).

we sort the 48 local customs in our data within their general custom of reference and attribute them an identifier ranging from 01 to 20. We then concatenate these two two-digit identifiers to generate a four-digit identifier, attributing the trailing digits 00 to general customs. For instance, the custom of Normandy – a general custom – has identifier 6400, while the custom of Alençon – a local custom within the general custom of Normandy – has identifier 6401. Finally, we attribute the identifier 0000 to written-law regions.

Names. Customs’ names are provided in both short and long forms. Long forms correspond to original customs’ names found in archival sources. For instance, the long-form name of the general custom of Normandy is *Coutumes du pays de Normandie*, while that of the local custom of Alençon is *Coutumes locales de la châtellenie d’Alençon*. Their short names are *Normandie* and *Alençon*, respectively. Customs’ names usually refer either to a region – a province or *pays*, such as *Normandie*, *Poitou*, or *Touraine* – a bailliage, or a set of bailliages that share a common custom. For instance, the custom of *Péronne, Montdidier et Roye* concerns the three bailliages of the same name.²³ We provide customs’ names in both proper and capitalized forms. Written-law regions hold the name *Droit écrit*.

Year of publication. When available in archival or secondary sources, we also provide customs’ year of publication. This date corresponds to the most recent version of a custom, generally the revised version of the sixteenth century. For customs that were not revised, we provide the year of publication of their original version. Customs in our data were on average published in 1570 with a year of publication ranging from 1455 to 1788. This information is missing for 8 customs.

Types. Customs’ types specify whether they are general or local. Out of 141 customs in the Customary Atlas, 93 are general and 48 are local.

²³To distinguish between the two general customs of Burgundy, we use the short name *Bourgogne (Comté)* for the custom of the county of Burgundy and the short name *Bourgogne (Duché)* for the duchy of Burgundy.

Reference custom. For local customs, we include their general custom of reference along with its identifier.

5.3. Data Files

The Customary Atlas comprises two tabular datasets along with three shapefiles. Their content is detailed in Table 1. The first tabular dataset corresponds to the matching between judicial districts and customs. The second tabular dataset corresponds to the set of customs along with their characteristics described above. These datasets are available in both Stata data format (`dta`) and text delimited format (`txt`).

The three shapefiles are those of the division of France into written-law and customary-law country along with mixed cases as displayed in Figure 2, the spatial distribution of general and local customs as displayed in Figure 2, and the spatial distribution of general customs only as displayed in Figure 3.²⁴

We disseminate shapefiles and associated data files of the Customary Atlas under the CC-BY 4.0 license in the “Customs of Ancien Régime France” repository hosted on the Harvard Dataverse at <https://doi.org/10.7910/DVN/HYE209> (Gay, Gobbi and Goñi, 2023c).

6. Potential Uses

The *Customary Atlas of Ancien Régime France* opens fruitful avenues of research. Similar to Murdock’s (1959) atlas of ethnic homeland boundaries in Africa, our atlas can be used to study how historical customs shaped economic development in the long-run—in our case, in pre-industrial European societies. The Customary Atlas will also contribute to better understand the origins of French civil law legal traditions.

Up to now, the literature studying how historical customs shape economic outcomes has mainly focused on Africa, relying on information available in Mur-

²⁴All three shapefiles use an RGF93 projection based on IGN’s (2021) shapefile of current communes. While data files contain name strings in both capitalized and proper forms, shapefiles’ attribute tables (`dbf` files) contain name strings only in capitalized form to avoid compatibility issues with accentuated letters.

dock’s (1967) Ethnographic Atlas and the related Standard Cross Cultural Survey (Murdock and White, 1969). The Customary Atlas we propose is a first step towards a broader atlas covering pre-industrial Europe as a whole. Hence, it represents a critical stepping stone to understanding how legal institutions affected historical development and whether they played a role in the European Marriage Pattern, the Industrial Revolution, or the Demographic Transition—three processes that brought dramatic economic and demographic changes and that trace their origins in Europe. Moreover, given Europe’s history of mass out-migration to the New World, such an atlas can help better understand the roots of historical migration patterns, whether different customs positively or negatively selected individuals into migration, and how legal institutions of host countries were shaped by those of migrants’ origin countries.

In particular, our Customary Atlas can be used to study how customary rules might have shaped individual behaviors or the economy in the long term. It provides the relevant spatial units of analysis for research on the implications of historical variation in women’s rights (Doepke et al., 2022; Hazan, Weiss and Zoabi, 2019), marital rules (Voena, 2015), inheritance (Bertocchi, 2006; Curtis et al., 2023), widowhood (Lambert and Rossi, 2016; Dillon and Voena, 2018), parenting (Doepke and Zilibotti, 2017), illegitimacy, or the severity of criminal punishment. For instance, Gay, Gobbi and Goñi (2023*d*) use the Customary Atlas to study the effect of inheritance customs on fertility in late eighteenth-century France. They show that, in a context where land was subject to indivisibility constraints, inheritance rules that divided land equally among offspring (partible inheritance) reduced the economic incentives for having children. This resulted in a gap of 0.7 children with respect to historical customary regions where all land could be transmitted to a single heir (impartible inheritance)—a gap that closed shortly after the abolition of impartible inheritance customs during the French Revolution. Additionally, using Murdock’s (1959) atlas of ethnic homeland boundaries in Africa together with Murdock’s (1967) Ethnographic Atlas, Fontenay, Gobbi and Goñi (2023) show that differences in fertility in contemporary Sub-Saharan Africa across partible and impartible ancestral customs are of similar magnitude than those found in late eighteenth-century France by Gay,

Gobbi and Goñi (2023*d*). These examples illustrate how our Customary Atlas feeds into similar research topics as Murdoch’s Ethnographic Atlas, and how lessons from pre-industrial Europe can create bridges between past and present crucial issues, such as demographic transitions in developing countries.

In addition, the Customary Atlas will be a useful tool for research in law and economics on legal origins. Although customary law tradition covered most of pre-modern Europe – and is still currently a prevalent source of law in Sub-Saharan Africa – it has received far less attention in the literature than civil and common law traditions (La Porta, López-de Silanes and Shleifer, 2008). Indeed, the legacies of customary law for modern rules and regulations, as well as for economic outcomes, are relatively unknown. The Customary Atlas will contribute to cover this gap. In particular, a large body of work has analyzed modern commercial laws and shown that French civil law, originating in Roman law, is associated with weaker financial and economic development.²⁵ The reason is that, compared to English common law, it offers weaker protection to outside investors (Porta et al., 1998), regulates labor markets and entry more heavily (Djankov et al., 2002; Botero et al., 2004), increases procedural formalism, and reduces judicial independence (Djankov et al., 2003; Porta et al., 2004). Because the French civil law tradition was transplanted through conquest and colonization, these pervasive effects are visible across the world.

That said, this large literature has not yet reached a consensus on when and why French and English law traditions adopted their distinct traits. Two main theories have been suggested for the French case. The first theory holds that, because the judiciary was largely monarchist, the French Revolution introduced far-reaching codes of law, depriving judges of independence and law-making powers (Merryman and Pérez-Perdomo, 2018; Zweigert and Kötz, 1998; Klerman and Mahoney, 2007). The second theory holds that, from the twelfth and thirteenth centuries, the French monarchy aimed to exercise a larger control over the legal system to unify the country in a struggle between the center and the periphery (Dawson, 1960; Berman, 1983). According to this view, Roman written law provided the backbone of such a system (Glaeser and Shleifer, 2002). By delimiting

²⁵In France, Le Bris (2019) finds that regions with legal institutions that were historically closer to Roman (civil) law developed faster than those under customary law.

the historical customary law regions in Ancien Régime France, our Customary Atlas can shed new light on this legal struggle between the center and the periphery. In addition, it can be used as the underlying geographic frame of reference to precisely delimit the areas of influence, on different law domains, of Roman written law and customary law. Hence, it will be useful to evaluate the extent to which Roman written law provided the backbone of the French legal tradition, or whether customary law also had important legacies on French law. Finally, since customs regulated many aspects of the economic life in pre-industrial France, they can be codified in a similar manner as modern commercial law in order to quantitatively evaluate the influence of legal rules on economic and financial outcomes. In this respect, our Customary Atlas will be a useful tool to study where the French law first adopted its modern, regulation-oriented characteristics, as well as its economic consequences leveraging within-country variation in the law.

7. Conclusion

This article describes the construction and content of the *Customary Atlas of Ancien Régime France*. From the middle ages up to the nineteenth century, most of Europe was characterized by a myriad of heterogeneous customary rules that regulated the lifeways of the population and many aspects of the economy. By providing the specific spatial boundaries of these customary regions for an entire polity, our Customary Atlas opens fruitful avenues of research into a better understanding of the roots and implications of historical legal institutions. It also constitutes a first step toward the construction of a broader European Customary Atlas.

References

- Acemoglu, Daron, Simon Johnson, and James A. Robinson.** 2005. “Institutions as a Fundamental Cause of Long-Run Growth.” In *Handbook of Economic Growth*, edited by Philippe Aghion and Steven N. Durlauf, 385–472. Amsterdam: Elsevier Academic Press.
- Bartels, Charlotte, Simon Jäger, and Natalie Obergruber.** 2020. “Long-Term Effects of Equal Sharing: Evidence from Inheritance Rules for Land.” NBER Working Paper 28230.
- Berman, Harold J.** 1983. *Law and Revolution: The Formation of the Western Legal Tradition*. Cambridge: Harvard University Press.
- Bertocchi, Graziella.** 2006. “The Law of Primogeniture and the Transition from Landed Aristocracy to Industrial Democracy.” *Journal of Economic Growth*, 11(1): 43–70.
- Botero, Juan C., Simeon Djankov, Rafael La Porta, Florencio López de Silanes, and Andrei Shleifer.** 2004. “The Regulation of Labor.” *The Quarterly Journal of Economics*, 119(4): 1339–82.
- Bourdot de Richebourg, Charles-Antoine.** 1724. *Nouveau Coutumier Général ou Corps des Coutumes Générales et Particulières de France, et des Provinces Connues sous le Nom des Gaules*. Paris: Michel Brunet.
- Brette, Armand.** 1904a. *Atlas des Bailliages ou Juridictions Assimilées Ayant Formé Unité Électorale en 1789 Dressé d’après les Actes de la Convocation Conservés aux Archives nationales*. Paris: Imprimerie Nationale.
- Brette, Armand.** 1904b. *Recueil de Documents Relatifs à la Convocation des États Généraux de 1789, Tome Troisième*. Paris: Imprimerie Nationale.
- Brette, Armand.** 1915. *Recueil de Documents Relatifs à la Convocation des États Généraux de 1789, Tome Quatrième*. Paris: Imprimerie Nationale.
- Chénon, Émile.** 1926. *Histoire Générale du Droit Français Public et Privé des Origines à 1815, Volume 1*. Paris: Recueil Sirey.
- Curtis, Matthew, Paula E. Gobbi, Marc Goñi, and Joanne Haddad.** 2023. “Inheritance Customs, the European Marriage Pattern and Female Empowerment.” Unpublished.
- Dawson, John P.** 1960. *A History of Lay Judges*. Cambridge: Harvard University Press.
- Dillon, Brian, and Alessandra Voena.** 2018. “Widows’ Land Rights and Agricultural Investment.” *Journal of Development Economics*, 135: 449–60.
- Djankov, Simeon, Rafael La Porta, Florencio López-de Silanes, and Andrei Shleifer.** 2002. “The Regulation of Entry.” *The Quarterly Journal of Economics*, 117(1): 1–37.

- Djankov, Simeon, Rafael La Porta, Florencio López-de Silanes, and Andrei Shleifer.** 2003. “Courts.” *The Quarterly Journal of Economics*, 118(2): 453–517.
- Doepke, Matthias, and Fabrizio Zilibotti.** 2017. “Parenting with Style: Altruism and Paternalism in Intergenerational Preference Transmission.” *Econometrica*, 85(5): 1331–71.
- Doepke, Matthias, Anne Hannusch, Laura Montenbruck, and Michèle Tertilt.** 2022. “The Economics of Women’s Rights.” *Journal of the European Economic Association*, 20(6): 2271–316.
- Fontenay, Sébastien, Paula E. Gobbi, and Marc Goñi.** 2023. “Fertility in Sub-Saharan Africa: The Role of Inheritance.” CEPR Discussion Paper.
- Fourniel, Béatrice, and Jacqueline Vendrand-Voyer.** 2017. “Une ‘Bigarrure de Loix dans une même Province.’” In *Atlas Historique: Auvergne, Bourbonnais, Velay*, edited by Stéphane Gomis. Clermont-Ferrand: Université Clermont Auvergne.
- Ganghofer, Roland, and Pierre Levresse.** 1977. *Le Droit Romain en Alsace du XIIe au XVIe Siècle*. Milan: Giuffrè.
- Gay, Victor, Paula E. Gobbi, and Marc Goñi.** 2023a. “The Atlas of Local Jurisdictions of Ancien Régime France.” CEPR Discussion Paper.
- Gay, Victor, Paula E. Gobbi, and Marc Goñi.** 2023b. *Bailliages in 1789 France [database]*. Harvard Dataverse. <https://doi.org/10.7910/DVN/T8UXHK>.
- Gay, Victor, Paula E. Gobbi, and Marc Goñi.** 2023c. *Customs in Ancien Régime France [database]*. Harvard Dataverse. <https://doi.org/10.7910/DVN/HYE209>.
- Gay, Victor, Paula E. Gobbi, and Marc Goñi.** 2023d. “Revolutionary Transition: Inheritance Change and Fertility Decline.” CEPR Discussion Paper.
- Gilissen, John.** 1958. *Une Commune de l’Agglomération Bruxelloise: Uccle*. Bruxelles: Éditions de l’Institut de Sociologie.
- Gilissen, John.** 1962a. *La Rédaction des Coutumes dans le Passé et dans le Présent*. Bruxelles: Éditions de l’Institut de Sociologie.
- Gilissen, John.** 1962b. *Rapports Généraux au VIe Congrès International de Droit Comparé*. Bruxelles: Centre Inter-Universitaire de Droit Comparé.
- Gilissen, John.** 1979. *Introduction Historique au Droit*. Bruxelles: Établissements Emile Bruylant.
- Giuliano, Paola, and Nathan Nunn.** 2018. “Ancestral Characteristics of Modern Populations.” *Economic History of Developing Regions*, 33(1): 1–17.

- Glaeser, Edward L., and Andrei Shleifer.** 2002. “Legal origins.” *The Quarterly Journal of Economics*, 117(4): 1193–229.
- Gouron, André, and Odile Terrin.** 1975. *Bibliographie des Coutumes de France. Éditions Antérieures à la Révolution*. Genève: Droz.
- Grinberg, Martine.** 1997. “La Rédaction des Coutumes et les Droits Seigneuriaux: Nommer, Classer, Exclure.” *Annales*, 52(5): 1017–38.
- Grinberg, Martine.** 2006. *Écrire les Coutumes. Les Droits Seigneuriaux en France*. Paris: Presses Universitaires de France.
- Hager, Anselm, and Hanno Hilbig.** 2019. “Do Inheritance Customs Affect Political and Social Inequality?” *American Journal of Political Science*, 63(4): 758–73.
- Hazan, Moshe, David Weiss, and Hosny Zoabi.** 2019. “Women’s Liberation as a Financial Innovation.” *The Journal of Finance*, 74(6): 2915–56.
- Hilaire, Jean, and François Terré.** 1994. *La Vie du Droit: Coutumes et Droit Écrit*. Paris: Presses Universitaires de France.
- Huning, Thilo R., and Fabian Wahl.** 2021. “The Fetters of Inheritance? Equal Partition and Regional Economic Development.” *European Economic Review*, 136: 103776.
- IGN.** 2021. *ADMIN-EXPRESS Édition Mars 2021 par Territoire France Métropolitaine [database]*. Paris: IGN. <https://geoservices.ign.fr/adminexpress>.
- Isambert, François-André, Athanase-Jean-Léger Jourdan, and Nicolas Decrusy.** 1825. *Recueil Général des Anciennes Lois Françaises depuis l’An 420 jusqu’à la Révolution de 1789, Tome XI*. Paris: Belin-Leprieur.
- Joignon, Laurence.** 1989. “Coutumes, Familles, Successions et Alliances en Lorraine: 1670–1900.” PhD diss. Paris: EHESS.
- Kim, Marie Seong-Hak.** 2021. *Custom, Law, and Monarchy: A Legal History of Early Modern France*. Oxford: Oxford University Press.
- Klerman, Daniel, and Paul G. Mahoney.** 2007. “Legal Origin?” *Journal of Comparative Economics*, 35(2): 278–93.
- Klimrath, Henri.** 1837. *Études sur les Coutumes*. Paris: Levraud.
- Klimrath, Henri.** 1843. *L’Histoire du Droit Français, Tome Second*. Paris: Levraud.
- Krafft, Karl.** 1930. *Anerbensitte und Anerbenrecht in Württemberg unter Besonderer Berücksichtigung von Württembergisch-Franken*. Stuttgart: Kohlhammer.
- Laboulaye, Édouard, and Rodolphe Dareste.** 1868. *Le Grand Coutumier de France, Nouvelle Édition*. Paris: Auguste Durand and Pedone-Lauriet.
- Lambert, Sylvie, and Pauline Rossi.** 2016. “Sons as Widowhood Insurance: Evidence from Senegal.” *Journal of Development Economics*, 120: 113–27.

- La Porta, Rafael, Florencio López-de Silanes, and Andrei Shleifer.** 2008. “The Economic Consequences of Legal Origins.” *Journal of Economic Literature*, 46(2): 285–332.
- Le Bris, David.** 2019. “Testing Legal Origins Theory Within France: Customary Laws Versus Roman Code.” *Journal of Comparative Economics*, 47(1): 1–30.
- Lowes, Sara.** 2021. “The Handbook of Historical Economics.” , edited by Alberto Bisin and Giovanni Federico, Chapter Ethnographic and Field Data in Historical Economics, 147–77. Amsterdam: Elsevier Academic Press.
- Merryman, John, and Rogelio Pérez-Perdomo.** 2018. *The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America*. Redwood City: Stanford University Press.
- Murdock, George Peter.** 1957. “World Ethnographic Sample.” *Ethnology*, 59(4): 664–87.
- Murdock, George Peter.** 1959. *Africa: Its Peoples and their Culture History*. New York: McGraw-Hill Book Company.
- Murdock, George Peter.** 1967. *Ethnographic Atlas*. Pittsburgh: University of Pittsburgh Press.
- Murdock, George Peter, and Douglas R. White.** 1969. “Standard Cross-Cultural Sample.” *Ehtnology*, 8(4): 329–69.
- Nunn, Nathan.** 2009. “The Importance of History for Economic Development.” *Annual Review of Economics*, 1(1): 65–92.
- Nunn, Nathan.** 2020. “The Historical Roots of Economic Development.” *Science*, 367: 6485.
- Olivier-Martin, François.** 1938. “Le Roi de France et les Mauvaises Coutumes au Moyen Age.” *Zeitschrift der Savigny-Stiftung für Rechts Geschichte, Germanistische Abteilung*, 58(1): 108–37.
- Olivier-Martin, François.** 1948. *Histoire du Droit Français des Origines à la Révolution*. Paris: Domat Montchrestien.
- Padoa-Schioppa, Antonio,** ed. 1997. *Legislation and Justice*. Oxford: Clarendon Press; New York: Oxford University Press.
- Porta, Rafael La, Florencio López-de-Silanes, Andrei Shleifer, and Robert W. Vishny.** 1998. “Law and Finance.” *Journal of Political Economy*, 106(6): 1113–55.
- Porta, Rafael La, Florencio López-de-Silanes, Cristian Pop-Eleches, and Andrei Shleifer.** 2004. “Judicial Checks and Balances.” *Journal of Political Economy*, 112(2): 445–470.
- Poudret, Jean-François.** 1998. *Coutumes et Coutumier*. Berne: Staempfli Editions.

- Poumarède, Jacques.** 1972. *Les Successions dans le Sud-Ouest de la France au Moyen Âge*. Paris: Presses Universitaires de France.
- Röhm, Helmut.** 1957. *Die Vererbung des Landwirtschaftlichen Grundeigentums in Baden-Württemberg*. Bonn: Selbstverlag der Bundesanstalt für Landeskunde.
- Süß, Karolin.** 2023. “Long-Term Effects of Historical Inheritance Customs on Household Formation and Gender Disparities.” Ruhr Economic Paper 1038.
- Voena, Alessandra.** 2015. “Yours, Mine, and Ours: Do Divorce Laws Affect the Intertemporal Behavior of Married Couples?” *American Economic Review*, 105(8): 2295–332.
- Voltaire.** 1878. “Coutumes.” In *Dictionnaire Philosophique*. Paris: Garnier.
- Zink, Anne.** 1993. *L’Héritier de la Maison. Géographie Coutumière du Sud-Ouest de la France sous l’Ancien Régime*. Paris: EHESS.
- Zweigert, Konrad, and Hein Kötz.** 1998. *An Introduction to Comparative Law*. Oxford: Oxford University Press; New York: Clarendon Press.

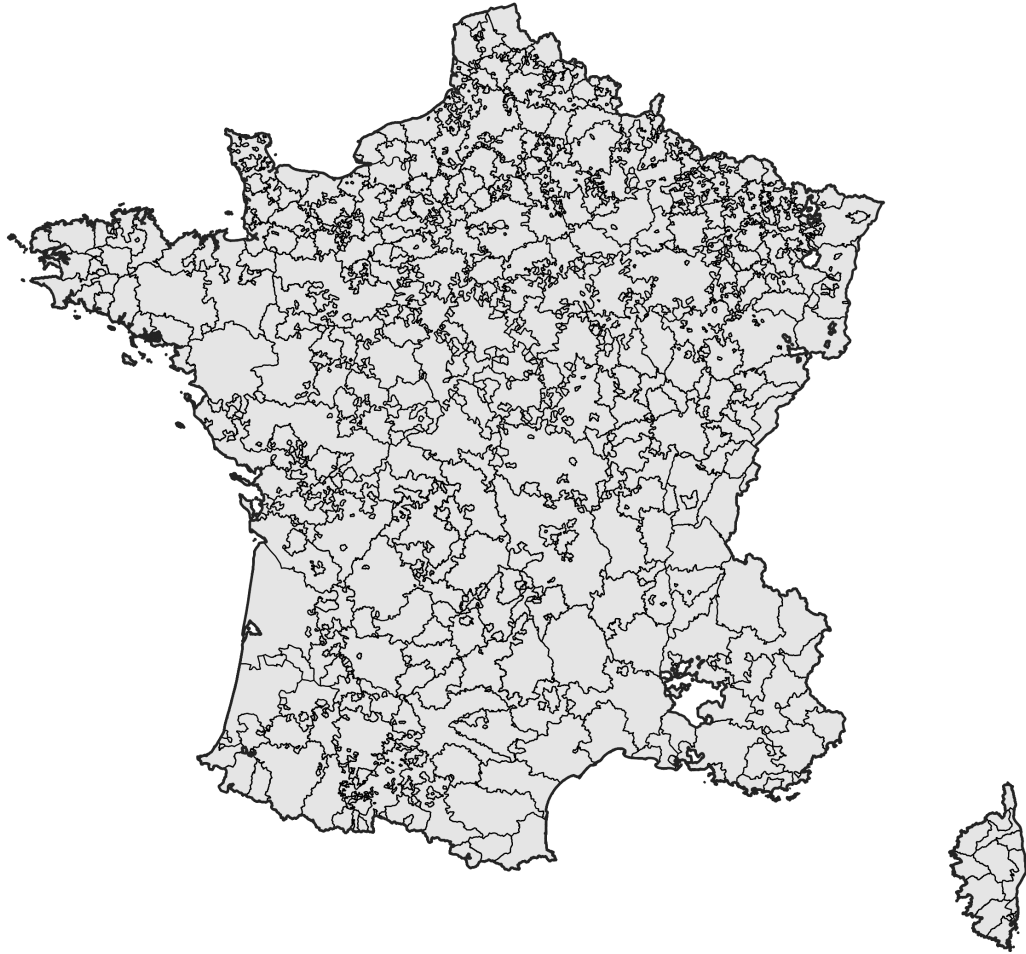


Figure 1. Judicial Districts in Ancien Régime France

Notes. This figure displays the spatial distribution of judicial districts (bailliages and sénéchaussées) in Ancien Régime France based on Gay, Gobbi and Goñi's (2023a) *Atlas of Local Jurisdictions of Ancien Régime France*. The corresponding shapefile is available from Gay, Gobbi and Goñi (2023b).

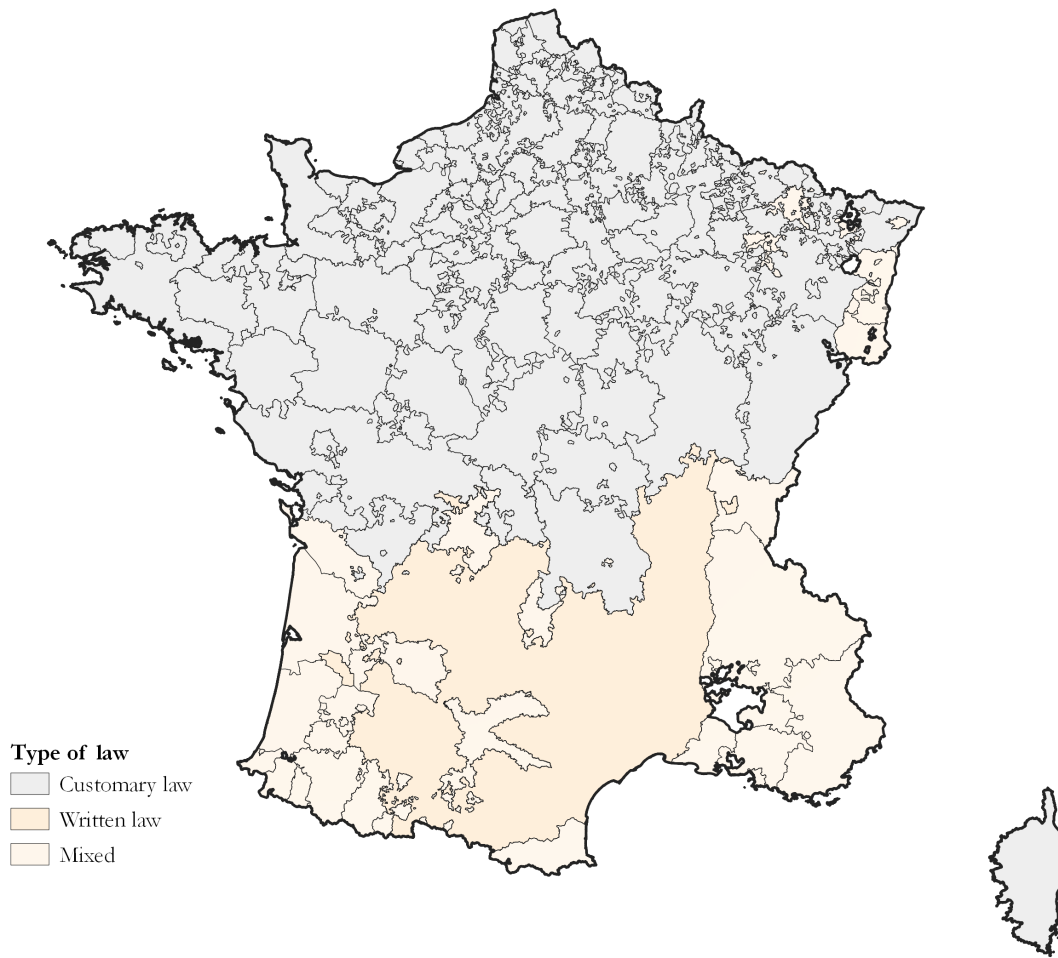


Figure 2. Customary Regions in Ancien Régime France

Notes. This figure displays the spatial distribution of customary regions in Ancien Régime France together with the division into customary-law and written-law country, along with mixed areas where both types of law co-existed. The corresponding shapefile is available from Gay, Gobbi and Goñi (2023c).

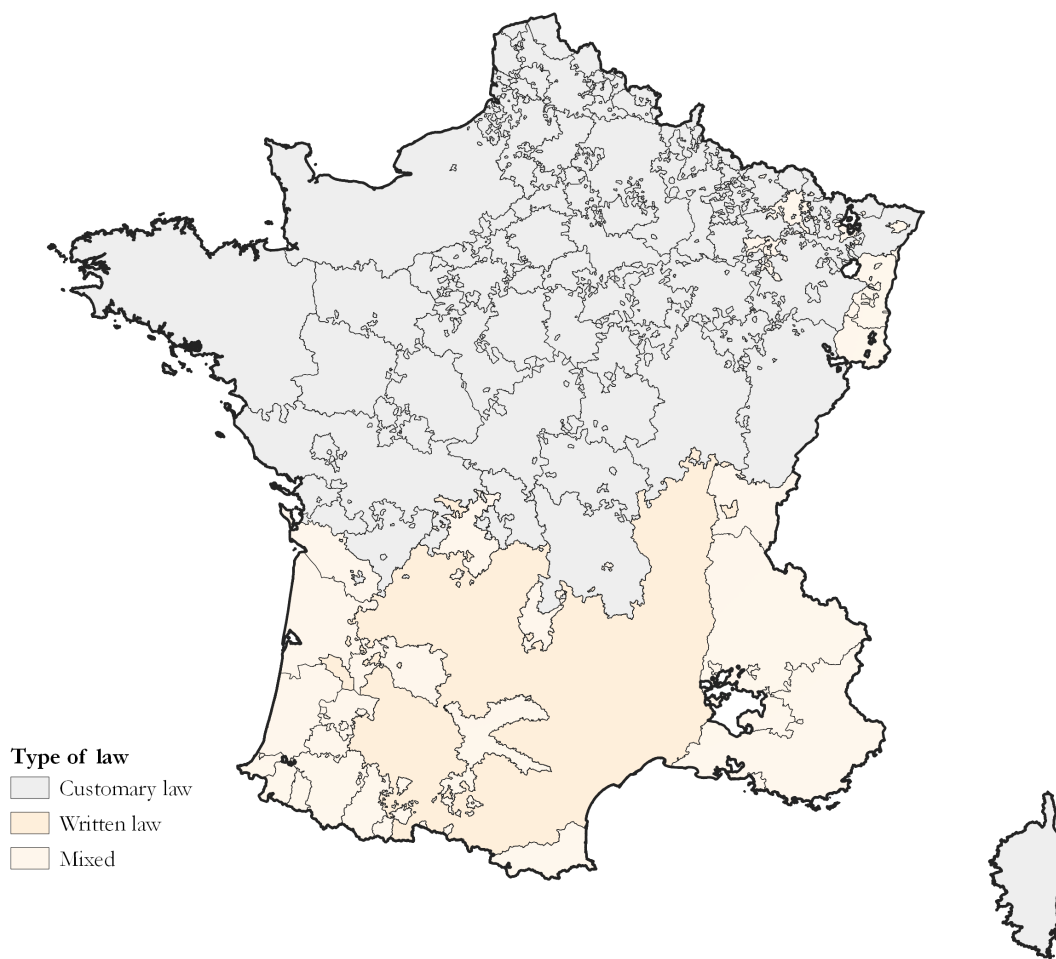


Figure 3. General Customary Regions in Ancien Régime France

Notes. This figure displays the spatial distribution of general customary regions in Ancien Régime France. Brown areas correspond to written-law country. The corresponding shapefile is available from Gay, Gobbi and Goñi (2023c).

Table 1. Variables in the *Customary Atlas* Data Files

Data file	Variable	Description
BAILLIAGES_CUSTOMS (tabular)	generalite_name	Généralité name (upper case)
	bailliage	Bailliage identifier
	bailliage_name	Bailliage name (upper case)
	written_law	Indicator for written or customary law
	custom	Custom identifier
CUSTOMS (tabular)	custom_name	Custom name (short, upper case)
	custom_name_prop	Custom name (short, upper case)
	custom_name_long	Custom name (long, upper case)
	custom_name_long_prop	Custom name (long, proper case)
	publication	Publication year
	type	Type of custom (local or general)
	reference_custom	General custom of reference identifier
	reference_custom_name	General custom of reference name (short, upper case)
	reference_custom_name_prop	General custom of reference name (short, proper case)
	WRITTEN_LAW (shapefile)	WRIT_LAW
CUSTOMS (shapefile)	CUST_ID	Custom identifier
	CUST_NS	Custom name (short, upper case)
CUSTOMS_GNL (shapefile)	CUST_G_ID	General custom identifier
	CUST_G_NS	General custom name (short, upper case)

The Customary Atlas of Ancien Régime France

Online Appendix

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A. Appendix Figures



Figure A.1. Customary Boundaries based on Klimrath (1843)

Notes. This figure reproduces Klimrath's (1843) original map of customary boundaries. It is available from Fourniel and Vendrand-Voyer (2017).

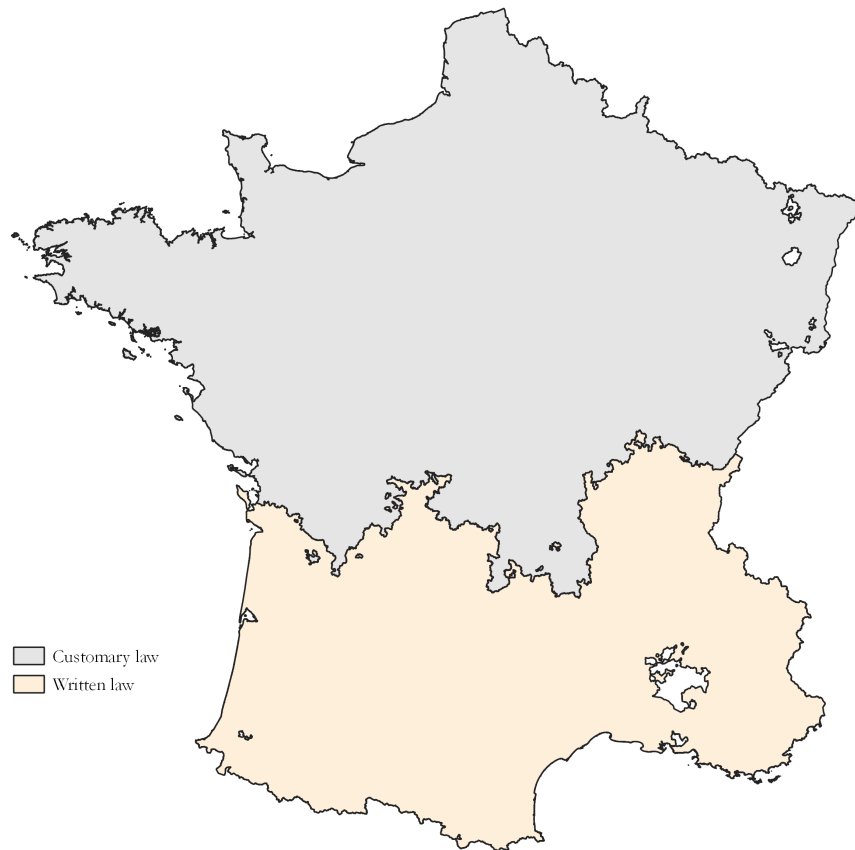


Figure A.2. Written-Law and Customary-Law Country per Klimrath (1843)

Notes. This figure displays Klimrath's (1843) division of France into written-law (brown) and customary-law country (gray). The shapefile of the boundaries of France in 1789 is from Gay, Gobbi and Goñi (2023a).

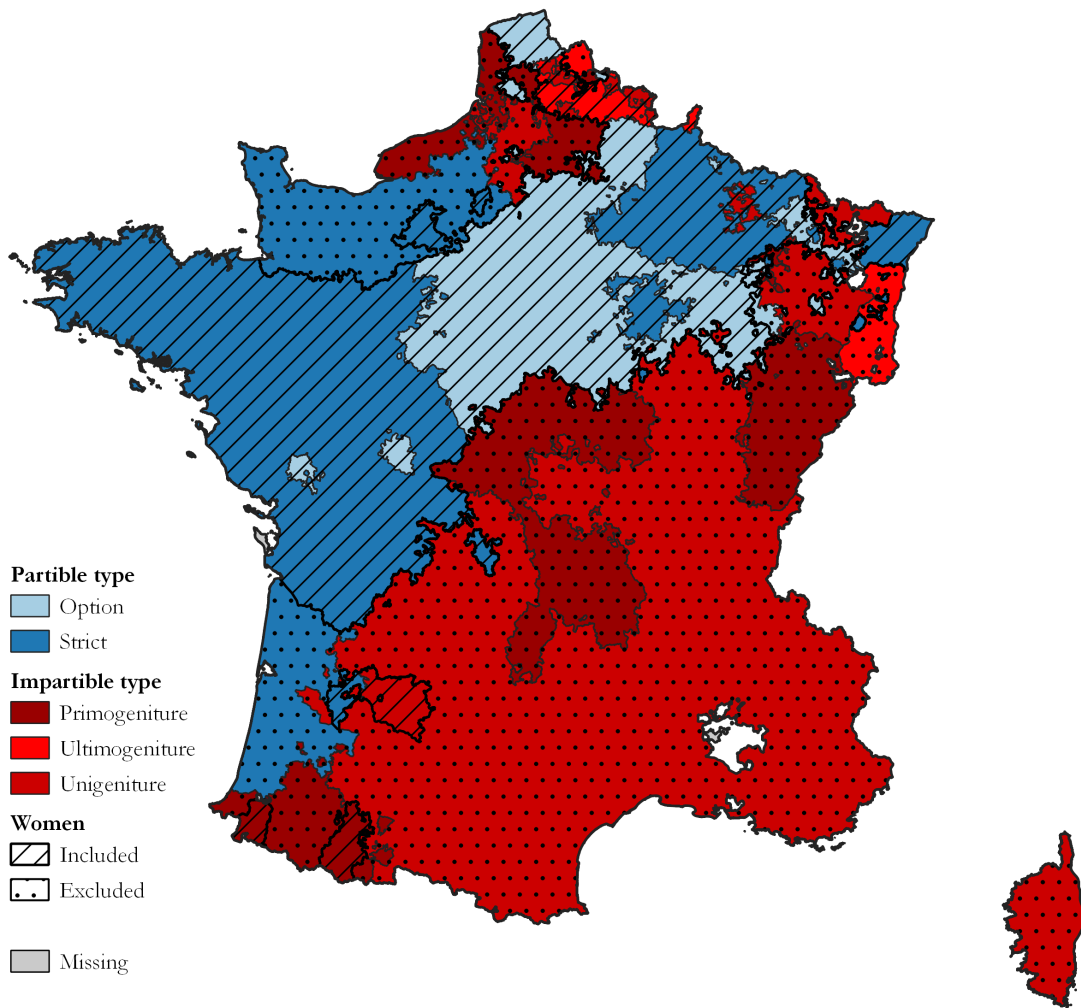


Figure A.3. Variation in Inheritance Customs in Ancien Régime France

Notes. This figure displays the spatial distribution of inheritance customs in Ancien Régime France. Partible inheritance customs (blue) could be either strict or with option. Under strict partible inheritance, heirs had to share equally the inheritance, including all *intra-vivos* transfers. Under partible with option, heirs could opt-out of the succession and instead keep all *intra-vivos* transfers they had received from the deceased. Impartible inheritance customs (red) could either favor the first born (primogeniture), the last born (ultimogeniture), or anyone of the offspring (unigeniture). Women could either be included (lines) or excluded from inheritance (dots). Shapefile based on Gay, Gobbi and Goñi (2023b).

B. Appendix Tables

Table B.1. Customary Laws in Occidental Europe

Region	Custom	Publication date
Venice	<i>Slendor consuetudinum civitatis Venetorum</i>	c. 1200s
Pisa	<i>Constitutum usus</i>	1230
Milan	<i>Liber consuetudinum</i>	1216
Naples	<i>Consuetudines Neapolitanae</i>	1306
Aragon	<i>Codigo de Huesca</i>	1247
Catalonia	<i>Consuetudines Ilerdenses of Lerida</i>	1228
England	<i>Tractatus de legibus et consuetudinibus regni Angliae</i>	1187–9
Scotland	<i>Leges quator burgorum</i>	Late 1200s
Denmark	<i>Jydske Lov</i>	1241
Sweden, Norway	<i>Landslag</i>	c. 1347
Poland	<i>Najstarszy Zwód Prawa Polskiego</i>	1300s
Bohemia	<i>Kniha rozmberska</i>	early 1300s
Bavaria	<i>Landrechtreformation</i>	1518
Saxony	<i>Sachsenspiegel</i>	1220–35

Table B.2. Additional Sources for Ancien Régime Customs

Custom	Source
Bazas	<i>Coutumes de Bazas</i> in <i>Recueil de coutumes, en langue provençale et en latin</i> . Manuscrit français 5361. Paris: Bibliothèque Nationale de France, 1481.
Bidache	<i>Coutume de Bidache</i> , Archives départementales des Pyrénées Atlantiques, Série 1 J, 60–1.
Blamont	<i>Coutumes du Comté de Blâmont</i> in <i>Coutumes générales du marquisat de Hatonchatel</i> . Nancy: Haener, 1788.
Bresse	<i>L’usage des pays de Bresse, Bugey, Valromey et Gex, leurs statuts, stils et édits</i> . Bourg-en-Bresse: Ravoux, 1729.
Colmar	<i>Ancien statutaire d’Alsace</i> . Colmar: Decker, 1825.
Corse	<i>Statuti civili et criminali dell’isola di Corsica</i> . Genova: Bellone, 1751.
Dauphiné	<i>Statuta Delphinalia novissime facta</i> . Grenoble: Balsarin, 1531.
Ferrette	<i>Coutumes De La Haute-Alsace Dites De Ferrette</i> . Colmar: Barth et Held-Baltzinger, 1870.
Forcalquier	<i>Délibérations de la ville, comté et viguerie de Forcalquier</i> . Aix: Mouret, 1788.
Marseille	<i>Les status municipaux et coutumes anciennes de la ville de Marseille</i> . Marseille: Garcin, 1656.
Navarre	<i>Les Fors et Costumas Deu Royaume de Navarre</i> . Pau: Desbaratz, 1681.
Orange	<i>Ordonnances, lois et statuts faits pour le règlement de la justice dans la principauté d’Orange</i> . Lyon, 1522.
Perpignan	<i>Libre de privilégie, usos, stils, ordinacions del Consolat de Mar de la fidelissima vila de Perpynià</i> . Perpignan: Barrau, 1651.
Petit-Pierre	<i>Ancien statutaire d’Alsace</i> . Colmar: Decker, 1825.
Provence	<i>Les statuts et coutumes de Provence</i> . Aix: David, 1658.
Quatre Vallées	Marsan (abbé), “Les coutumes de la vallée d’Aure,” <i>Bulletin de la Société Archéologique du Midi de la France</i> , 1898, 17, 48–56.
Saint-Amand	Meijers, E. M. and Salverda de Grave, J. J, <i>Des lois et coutumes de Saint-Amand</i> , 1934.
Strasbourg	<i>Urkundenbuch der Stadt Straßburg</i> . Strasbourg; Trübner, 1888.
Toul	<i>Usages locaux de la ville de Toul et du Pays Toulais</i> , 1747.
Toulouse	<i>Coutume de la ville, gardiage et viguerie de Toulouse</i> . Toulouse: Duplex, 1770.
Vaudémont	Coudert, Jean, <i>La coutume de Vaudémont</i> . Nancy: Berger-Levrault, 1970.
Wissembourg	<i>Ancien statutaire d’Alsace</i> . Colmar: Decker, 1825.

Notes: These sources complement the list of customs included in Bourdot de Richebourg (1724). Titles are abbreviated for readability.

C. Details on the Process of Customs Codification

The royal campaign to record customs was launched by Charles VII's ordinance of Montils-lès-Tours dated of April 1454 (Isambert, Jourdan and Decrusy, 1825).¹ In particular, the key section of art. 125 of the ordinance is as follows (Kim, 2021, p. 66–7):

Thus the parties in judgment, both in our Court of Parlement and before other judges of our kingdom, both ours and others, propose and allege several usages, procedures, styles, and customs, which are various due to the diversity of the pays of our kingdom, and then they prove them, and in consequence lawsuits are often very long and the parties are subject to large fees and expenses; if customs, usages, and styles of the pays of our kingdom were written down, trials would be much shorter, and the parties would be spared the expenses and outlays, and also judges could adjudicate cases better and with greater certainty (because often it happens that the parties claim contrary customs in the same pays, and often customs mutate and vary to their liking, from where great damages and inconveniences occur to our subjects).

We, wishing to abbreviate lawsuits and disputes between our subjects, to relieve them from the outlays and expenses, to bring certainty to judgments as much as possible, and to remove all manners of variations and contradictions, order, decree, declare, and state that customs, usages, and styles of all the pays of our kingdom be drawn up and put into writing, accorded to by the coutumiers, practitioners, and people of each of the so-called pays of our kingdom, and that customs, usages, and styles so accorded to be laid down and written in books, which will then be brought to us, so as to be seen and visited by the members of our Grand Conseil or our Court of Parlement, and for us to decree and confirm them; and these usages,

¹There were several (failed) attempts to codify customs prior to that of Charles VII. A notorious attempt was that of Charlemagne, right after his coronation as Emperor, and the resulting *capitula legibus addita* (Gilissen, 1962, p. 60–1).

customs, and styles thus decreed and confirmed will be observed and maintained in the pays where they exist and also in our Court of Parlement which has jurisdiction over proceedings from those pays; and judges in our kingdom of our Court of Parlement as well as our bailis, sénéchaux, and other judges will judge in accordance with those usages, customs, and procedures, without allowing any proof other than what will be written in the said book; and we want those customs, styles, and usages thus written, granted, and confirmed, as has been said, to be maintained and observed in judgment and outside the courtroom. But we do not intend any change in the procedures at our Court of Parlement. And we prohibit and forbid all lawyers of our kingdom from alleging or proposing customs, usages, and styles other than those which will be written, accorded to, and decreed as it has been said; and we enjoin the said judges to punish and correct those who do the opposite, and not to hear or receive any person alleging, proposing, or saying otherwise.

In practice, however, few customs were written at first (Kim, 2021, p. 68). Moreover, while written and published, they were not officially promulgated: the customs Burgundy in 1459, Touraine in 1462, Anjou in 1463, Mehun-sur-Yèvre and Troyes in 1481. In 1494, Charles VIII renewed the order to push the campaign to record customs. He also modified the existing recording procedures, making them more participatory for all three estates—Louis XII further improved this procedure in 1505.

In particular, the process of codification of customs involved customary practitioners and representatives of the three orders—the clergy, the nobility, and the Third Estate (Grinberg, 2006; Grinberg, Geoffroy-Poisson and Laclau, 2012). Assembled at the seat of the judicial district on a specific day (*assemblée bailliagère*), these representatives had to approve the content of each article of the written custom by way of majority within each order and unanimity across all three. Should unanimity not be reached on a given article, the Parliament had the authority to accept or reject the article, and even to modify its content

(Chénon, 1929, p. 296).² The final text of the custom then had to be approved by two commissions: one composed of eight magistrates and presided by the President of the Parliament of Paris and another composed of advisers of the Parliament that superseded the judicial district. Once this process was completed, the custom was recorded with the court registry and made public through a letter patent by the King.

Several customs were written under this process: Bourbonnais in 1500; Perche in 1505; Bar, Melun, and Sens in 1506; Auxerre, Touraine, Péronne, and Amiens in 1507; Anjou, Maine, Chartres, and Dreux in 1508; Troyes, Orléans, Artois, Vitry-en-Perthois, Chaumont, and Meaux in 1509; Paris and Auvergne in 1510, Angoumois, Poitou, Dax, Bayonne, and La Rochelle in 1514 (Kim, 2021, p. 75). This campaign continued under Francis I with the customs of Loudunois in 1518, Bordeaux in 1521, Nivernais in 1534, and Senlis, Brittany, and Berry in 1539. By and large, this initial codification process was complete by the late sixteenth century.

²Parliaments were at the apex of Ancien Régime's judicial system. While there was a single Parliament starting in the mid-thirteenth century with jurisdiction over the entire royal domain, their number expanded to 13 parliaments by the Revolution.

D. The Content of Customs

In this section, we provide a summary of common themes that emerge among the vast number of customs across the territory: the status of individuals and goods, marital rules, parental authority, illegitimacy, inheritance, economic transactions, and crimes—see Giraud (1852) for an extensive discussion. Examples below were drawn directly from the original texts of customs available in Bourdot de Richebourg’s (1724) *Nouveau Coutumier Général* or from the sources listed in Table B.2.

Status of individuals and goods. Individuals’ customary rights and duties depended on their legal status and that of the goods considered. Customs therefore generally started with a description of how individuals and goods were to be classified.

The legal status of individuals depended on their social and demographic status: whether they were nobles or commoners, freemen or serfs, men or women, married, remarried, or never married, legitimate or illegitimate, and emancipated or not. Rights associated to their legal status at birth were further subject to their spouse’s upon marriage. For instance, the custom of Vermandois (art. 15–6) specified that a commoner woman married to a noble man would benefit from rights associated to the nobility, while a noble woman married to a commoner man would lose her rights as a noble.

The legal status of goods depended on their nature, origin, and quality. For the nature of goods, customs distinguished between movable and non-movable goods—some customs were very specific while others were more generic.³ Some customs also considered an intermediate category, cattels, for goods that could be alternatively be classified as non-movable or movable depending on their state, e.g., wheat over harvesting stages. For the origin of goods, customs distinguished between those transmitted through inheritance and those acquired over

³The custom of Vermandois (art. 99–100) stated that goods that could be moved from one place to another were to be classified as movable while goods attached to a wall by a nail were to be classified as non-movable. In contrast, the customs of Paris (art. 91) and of Calais (art. 4) specified the nature of goods in excruciating details, e.g., when a fish was to be classified as a movable good.

the lifetime of an individual. Such distinction was especially important for non-movable goods, and in particular, for land. Finally, for the quality of (mostly non-movable) goods, customs distinguished whether they were associated to a nobility title or not, e.g., fiefs.

Marital rules. The celebration and validity of marriages were regulated by canon law. However, the legal consequences of a marriage for spouses were regulated by customary law. Specifically, customs regulated spouses' common property rights, the types of goods subject to these rights, and the moment from which these rights were applicable.⁴ In general, wives were the legal dependents of their husbands and under their authority. Moreover, husbands had legal rights over their wives' assets (Giraud, 1852, p. 16). For instance, in most customs, wives could not sell their non-movable assets without the consent of their husbands, as in the custom of Brittany (art. 429).

Customs also differed regarding the rights of married women to sign a contract or to write a will. They further had different rules regarding dowries: their composition, the rights of husbands over it, and its restitution after the dissolution of the marriage. In case of remarriage, customs regulated the rights of the second wife and those of the children to come relative to the rights of the first wife and children. Customs also regulated the custody of children in case of the death of a spouse, as in the custom of Poitou (art. 304–9).

In addition, customary law established penalties for adultery. For instance, the custom of Agen (art. 5) specified both a physical and a pecuniary fine; the custom of Bayonne (art. 1, title 25) had first-time adulterers sentenced to run through the town—a common form of customary punishment. Second-time offenders were sometimes sentenced to public flogging and perpetual banishment.

The rights of surviving spouses had an important place in customary law given the high mortality rates in Ancien Régime France. Widows were generally entitled to a *douaire*, which was either a property right or a right of usufruct. For instance, the custom of Paris (art. 247–9) specified that widows would acquire

⁴For example, the custom of Paris (art. 220) specified that common property applied to movable and non-movable goods acquired during the marriage, starting from the wedding blessing. See also the custom of Péronne (art. 112).

half of their deceased husbands' assets while the remaining half would go to their offspring. However, widows could not sell such assets, which were to be bequeathed to the couple's heirs upon death. In contrast, in the custom of Normandy (art. 367–74), widows were only entitled usufruct of a maximum of one third of their deceased husbands' non-movable goods.

Parental authority. In areas closest to written-law country under Roman law, parental authority followed the strict authority of the *patria potestas*. It entitled fathers (*pater familias*) to extensive rights, from that of physically punishing their children to excluding them from the inheritance or denying them marriage. Some customs even allowed them to sell their children in cases of extreme poverty (Chénon, 1929, p. 129).

In most customs, however, parental authority was relatively weak.⁵ Parents – including mothers – usually had the duty of raising their children in their best interest. In general, they were also legally responsible for the crimes committed by their minor children and subject to the associated fines, as in the custom of Brittany (art. 656). Weak or strong, parental authority lasted until the child's emancipation, i.e., when the child reached the age of majority – specified by customs separately for boys and girls – or at the child's marriage.

Illegitimacy. The rights of illegitimate children varied across customs. Under some customs, illegitimate children had no other right than a subsistence alimony, for instance in the custom of Brittany (art. 476). Under other customs, illegitimate children had broader rights. For instance, they held the right to inherit their mothers' assets in the custom of Valenciennes (art. 152). Illegitimate children's rights to testate also varied across customs and depended on the type of goods involved.

Inheritance. In pre-industrial societies, wealth and status were closely tied to the ownership of land. Because land markets were generally not developed, inheritance of land was central to individuals' lifeways as one of the few means of

⁵Some even explicitly prohibited full parental authority rights. For instance, the custom of Senlis (art. 221) stipulated that “[t]he right of paternal authority has no place in this bailliage.”

obtaining or expanding one's landholdings. Inheritance was therefore carefully regulated by customs, either through marital rules, donations, testaments, or intestate successions. In contrast to Roman law – which gave almost complete freedom to testators – customary law restricted testators and designated the heir(s).

Following Yver's (1966) classification – itself building on Klimrath's (1843) – customary inheritance rules belonged to one of three systems: systems of strict equality, systems of option, or liberal systems (*coutumes préciputaires*). Under strict equality, heirs had to share equally the inheritance left by the *de cuius*, including all *intra-vivos* transfers. Strict division was for instance applied in the customs of Alençon, Brittany, La Rochelle, and Normandy. In contrast, under systems of option, heirs could opt-out of the succession and instead keep all *intra-vivos* transfers they had received from the *de cuius*—generally transfers that occurred at marriage. Should heirs choose to take part in the succession, all *intra-vivos* transfers had to be returned and accounted for during the (equal) division of the beholding. The customs of Bassigny, Dourdan, Hesdin, and Paris regulated inheritance under this system of option. Finally, under liberal systems, parents were explicitly allowed to favor one or several children over the rest. This encompassed rules of primogeniture, ultimogeniture, and unigeniture, in which most of the inheritance was received by a single heir, the first born, last born, or one offspring regardless of birth order, respectively. Favoritism was however never absolute, and customs also defined the legitimate amount that each child was entitled to at the death of a parent (*réserve coutumière*). Liberal systems were in place in the customs of Amiens, Artois, Berry, and Lorraine. In some cases, customs also mentioned the circumstances that allowed parents to exclude a child from inheritance.

More broadly, customs further distinguished gender-specific rights to inherit, and in particular, women's rights. For instance, the custom of Normandy (art. 249) specified that daughters could not claim any portion of the inheritance against their brothers but could ask for a marriage settlement instead. In contrast, the custom of Lavedan endorsed strict primogeniture where a first-born daughter would be the sole heir. Appendix Figure A.3 illustrates the wide heterogeneity in inheritance customs across customary regions in France.

Finally, most customs protected families' patrimony from being diluted and sold outside the family. They did so by providing blood heirs the right of ancestral withdrawal (*retrait lignager*). This right entitled blood heirs to buy back their family's assets at the price paid by non-family buyers—the time window to exercise this right varied across customs.

Economic transactions. Customs regulated many types of economic transactions. The main areas covered by customary law were similar to those covered by current commercial laws. Among others, these included taxes, prescriptions (claims), obligations, contracts, and financing (rents, loans, debts, etc.). In detail, customs specified rules over several existing taxes. For example, the custom of Paris (title 2) regulated taxes on real property to be paid to the local lord — the *cens* or *censive*. In addition, it fixed the fine for not paying this tax (art. 85). More generally, taxes on commodities—the *champart* or *torsage* — and taxes on real estate transactions were also regulated by various customs. For instance, the custom of Boulenois (art. 34) specified the amount to be given to the local lord by both the seller and the buyer of cattle. Art. 50 of this custom also specified the taxes related to a real estate transaction. Customs also prescribed the acquisition of rights by the owner of the property. For instance, the custom of Melun (art. 169) prescribed that a person could claim to own a movable good after publicly possessing it for three years. In contrast, most customs prescribed that feudal taxes could not be claimed, as in the custom of Melun (art. 173). With respect to obligations and contracts, Roman law took over customary law in several places (Giraud, 1852, p. 61). That said, many customs did provide explicit regulations on it. For example, the custom of Toulouse (art. V of part II) specified that the landlord of a shop or house could expel a tenant in case of non-payment of the rent and keep the movable goods that were inside. Customary law also provided a regulatory framework for several sources of financing, e.g., mortgages, as in the custom of Ponthieu, which mentioned that any non-movable good could be mortgaged (art. 121) and provided three different ways of getting a mortgage (art. 122–4).

Crimes. Besides civil law, customs also regulated criminal law. They provided sanctions the severity of which depended on the nature and gravity of the crime, but also on the legal status of the perpetrator. For instance, the custom of Agen (art. 6) specified that a “false witness must have their tongue pierced, run through the city, and have their assets confiscated.” The custom of Bayonne (art. 4, title 25) sentenced prostitutes’ procurers to death. The custom of Labourd provisioned that any man who killed another man other than in self-defense was sentenced to beheading (art. 2, title 29). The custom of Brittany specified that a man who injured another man who survived 40 days was exempted from the death penalty (art. 620). In the custom of Corsica (chap. 33), poisoned-induced death or invalidity was punished by beheading and the confiscation of the property of the perpetrator. Finally, suicide was sometimes forbidden, as in the custom of Brittany (art. 631).

References

- Bourdot de Richebourg, Charles-Antoine.** 1724. *Nouveau Coutumier Général ou Corps des Coutumes Générales et Particulières de France, et des Provinces Connues sous le Nom des Gaules*. Paris: Michel Brunet.
- Chénon, Émile.** 1929. *Histoire Générale du Droit Français Public et Privé des Origines à 1815, Volume 2*. Paris: Recueil Sirey.
- Fourniel, Béatrice, and Jacqueline Vendrand-Voyer.** 2017. “Une ‘Bigarrure de Loix dans une même Province’” In *Atlas Historique: Auvergne, Bourbonnais, Velay*, edited by Stéphane Gomis. Clermont-Ferrand: Université Clermont Auvergne.
- Gay, Victor, Paula E. Gobbi, and Marc Goñi.** 2023a. *Bailliages in 1789 France [database]*. Harvard Dataverse. <https://doi.org/10.7910/DVN/T8UXHK>.
- Gay, Victor, Paula E. Gobbi, and Marc Goñi.** 2023b. “Revolutionary Transition: Inheritance Change and Fertility Decline.” CEPR Discussion Paper.
- Gilissen, John.** 1962. *Rapports Généraux au VIe Congrès International de Droit Comparé*. Bruxelles: Centre Inter-Universitaire de Droit Comparé.
- Giraud, Charles.** 1852. *Précis de l’Ancien Droit Coutumier Français*. Paris: A. Durand.
- Grinberg, Martine.** 2006. *Écrire les Coutumes. Les Droits Seigneuriaux en France*. Paris: Presses Universitaires de France.
- Grinberg, Martine, Simone Geoffroy-Poisson, and Alexandra Laclau.** 2012. “Rédaction des Coutumes et Territoires au XVIe Siècle: Paris et Montfort-L’Amaury.” *Revue d’Histoire Moderne & Contemporaine*, 59(2): 7–55.
- Isambert, François-André, Athanase-Jean-Léger Jourdan, and Nicolas Decrusy.** 1825. *Recueil Général des Anciennes Lois Françaises depuis l’An 420 jusqu’à la Révolution de 1789, Tome IX*. Paris: Belin-Leprieur.
- Kim, Marie Seong-Hak.** 2021. *Custom, Law, and Monarchy: A Legal History of Early Modern France*. Oxford: Oxford University Press.
- Klimrath, Henri.** 1843. *L’Histoire du Droit Français, Tome Second*. Paris: Levraud.
- Yver, Jean.** 1966. *Égalité entre Héritiers et Exclusion des Enfants Dotés. Essai de Géographie Coutumière*. Paris: Sirey.