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# 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).<sup>1</sup> In contrast, empirical evidence drawing on Europe remains scarce.<sup>2</sup> 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.<sup>3</sup> 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

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<sup>1</sup>See 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.

<sup>2</sup>An 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.

<sup>3</sup>Giuliano 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.<sup>4</sup>

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

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<sup>4</sup>General 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).<sup>5</sup> During the middle ages and the early modern period, most of occidental Europe was under customary law (Gilissen, 1962*b*; Grinberg, 2006).<sup>6</sup> 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.<sup>7</sup> Starting in

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<sup>5</sup>Canonists 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).

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

<sup>7</sup>For 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 Chénou, 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).<sup>8</sup>

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

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<sup>8</sup>Formally, 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 Jostice 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).<sup>9</sup>

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.<sup>10</sup> 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.<sup>11</sup> 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

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<sup>9</sup>Appendix C provides further details on this process of recording of customs.

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

<sup>11</sup>In 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).<sup>12</sup> 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).<sup>13</sup>

### 3. The Content of Customs

The content of most customs resulting from the codification process described above was compiled in the *Nouveau Coutumier Général* (Bourdote 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.<sup>14</sup> Succinctly, customs could differ on how they defined movable and

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<sup>12</sup>The 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).

<sup>13</sup>Previous 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.

<sup>14</sup>We 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*.<sup>15</sup> We rely on Gay, Gobbi and Goñi's (2023*a*) *Atlas of Local Jurisdictions of Ancien Régime France*, a shapefile

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<sup>15</sup>The 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).<sup>16</sup> 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.<sup>17</sup>

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

<sup>16</sup>This 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.

<sup>17</sup>If 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.<sup>18</sup> 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.<sup>19</sup> 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-

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<sup>18</sup>We 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* (Bourdote de Richebourg, 1724).

<sup>19</sup>We refer the interested reader to the bibliography of customs in Gouron and Terrin (1975) and to Bourdote 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.<sup>20</sup>

## 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, Mandeure, Bidache) that were integrated to France soon after the Revolution.<sup>21</sup>

### 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.<sup>22</sup> Similarly,

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<sup>20</sup>In 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.”

<sup>21</sup>We 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.

<sup>22</sup>While 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.<sup>23</sup> 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.

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<sup>23</sup>To 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.<sup>24</sup>

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-

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<sup>24</sup>All 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 negative 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 contemporaneous 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.<sup>25</sup> 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

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<sup>25</sup>In 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.

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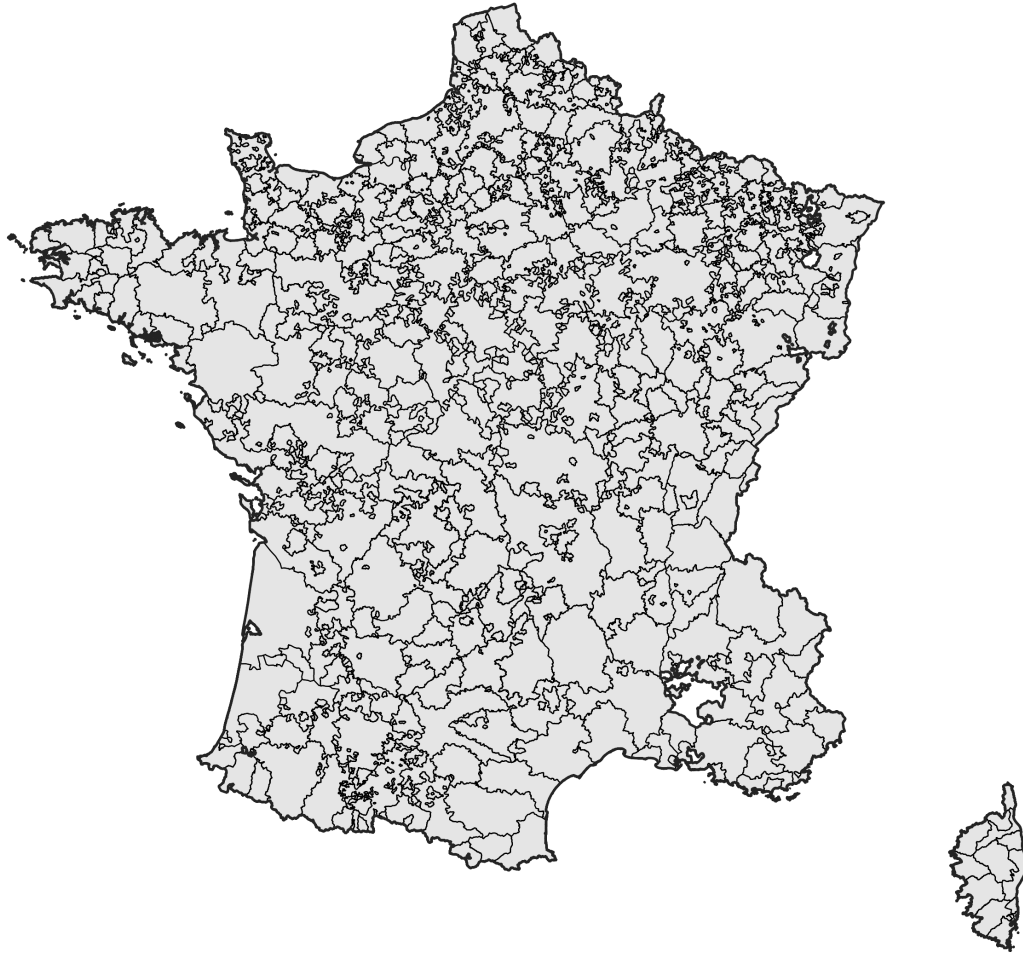


Figure 1. Judicial Districts in Ancien Régime France

*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).



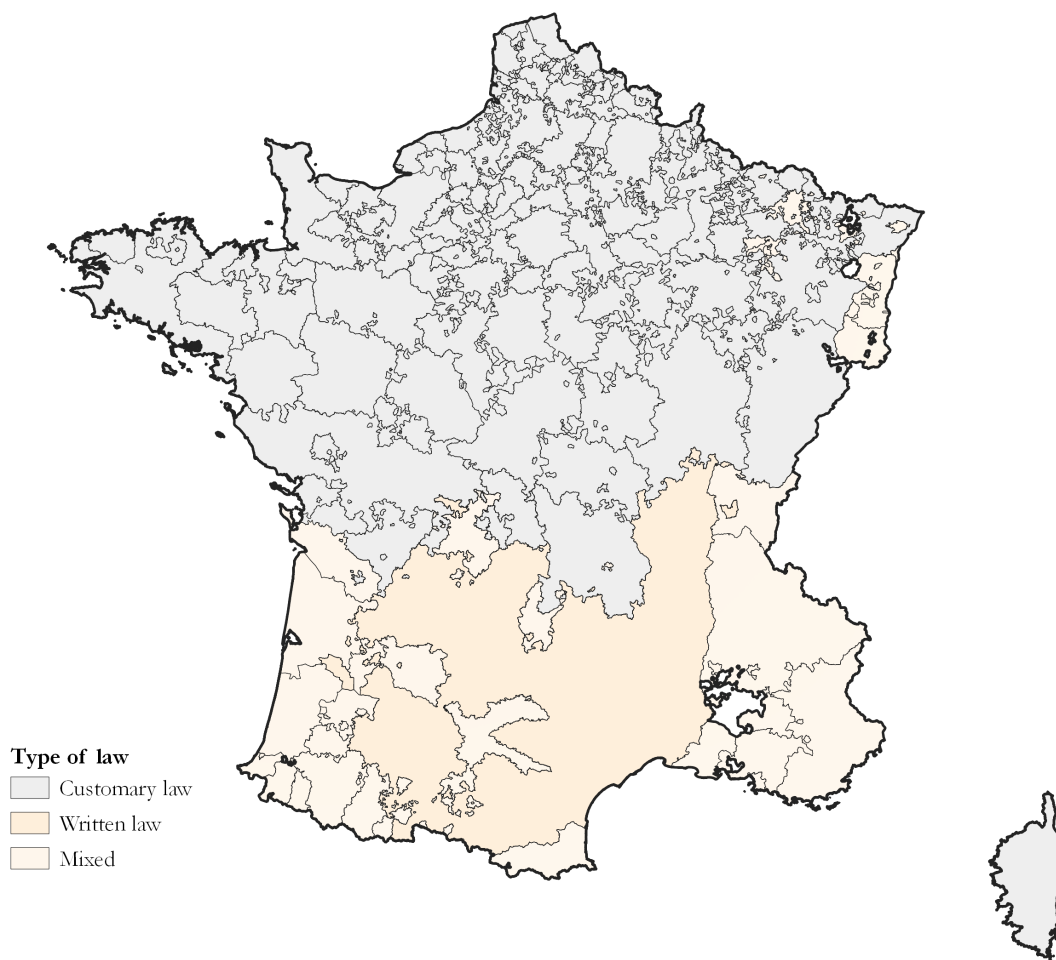


Figure 2. Customary Regions in Ancien Régime France

*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).

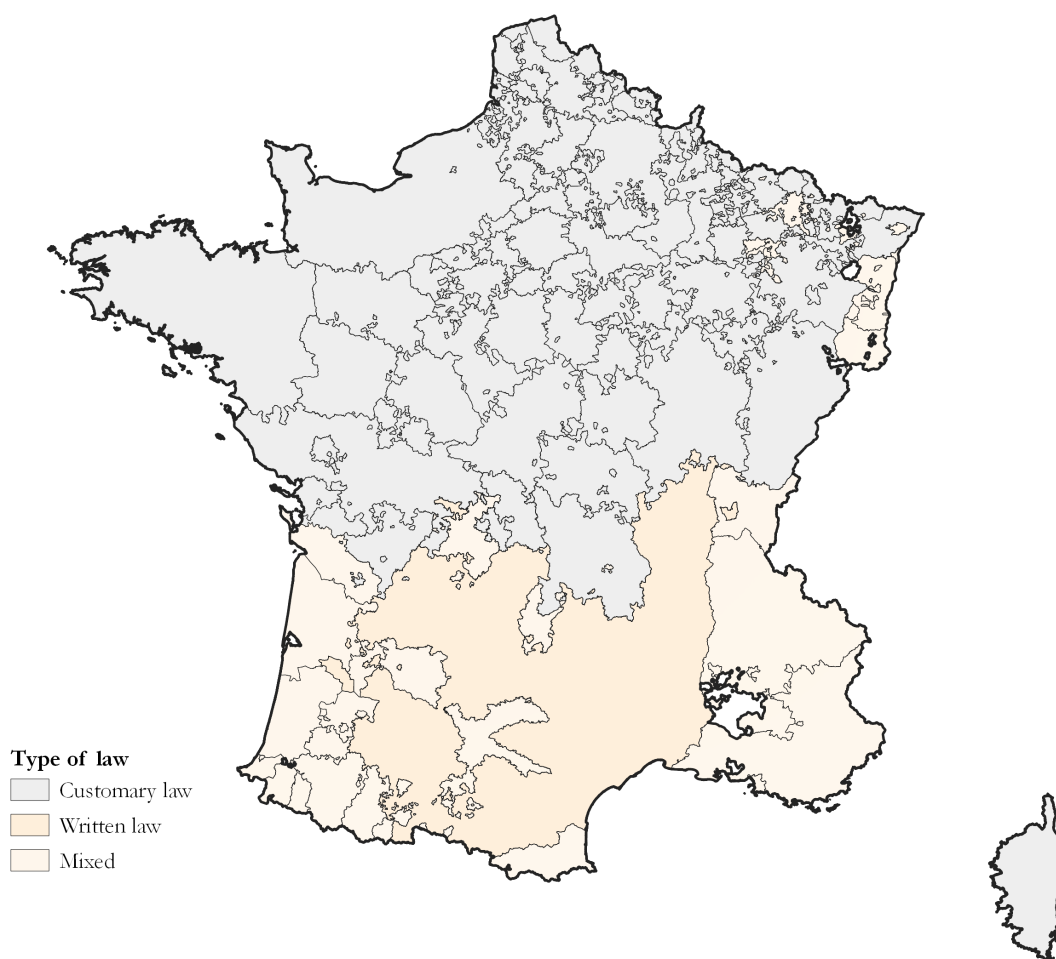


Figure 3. General Customary Regions in Ancien Régime France

*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	Custom identifier
	custom_name	Custom name (short, upper case)
	custom_name_prop	Custom name (short, proper 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)
WRITTEN_LAW (shapefile)	reference_custom_name_prop	General custom of reference name (short, proper case)
	WRIT_LAW	Indicator for written law (yes; no; mixed)
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)