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## The Customary Atlas of Ancien Régime France\*

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### Abstract

Customary law governed most European societies during the Middle Ages and 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 a source of law, and their legal content. We then offer some insights into the research possibilities 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 is based primarily on evidence drawing on pre-industrial Africa, in part because of 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 pre-industrial Europe remains scarce.<sup>2</sup> This gap is particularly problematic as major economic processes – the Industrial Revolution and the Demographic Transition – originated in Europe at a time when customs were still a dominant 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 historical customary regions in Europe is generally unknown to us as they were eliminated during the nineteenth century as a result of the transition to modern states, the introduction of civil codes, and the development of alternative legal organizations (Padoa-Schioppa, 1997). However, an accurate knowledge of their spatial distribution is crucial to properly study the role of customs for Europe’s long-run development.

In this article, we present the *Customary Atlas of Ancien Régime France*. This original atlas maps boundaries of the customary regions prevalent in France from the recording of customs in the mid-fifteenth century to the advent of the Civil Code in the early nineteenth century (Chénon, 1926, p. 7–9). In particular,

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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) examine how inheritance customs there 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, the Customary Atlas delineates 141 historical customary boundaries within France, illustrating that customs also varied within ethnolinguistic groups in pre-industrial Europe.

building on Gay, Gobbi and Goñi's (2023a) *Atlas of Local Jurisdictions of Ancien Régime France* and a variety of archival and secondary sources, we construct a shapefile of the 141 customary regions that existed in the early modern period and make it openly available for further research (Gay, Gobbi and Goñi, 2023b).

Customs regulated many dimensions of people's lives, from the legal status of individuals to marriage rules, parental authority, inheritance, economic transactions, or punishments for crimes. The case of France is paradigmatic of pre-industrial Europe, much of which was under customary law. In France, customs first developed among the tribes that inhabited its territory after the fall of the Western Roman Empire. The expansion of feudalism during the Middle Ages 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 customs, which fixed both their content and their 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, such as 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 southwestern 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 attempt, our Customary Atlas maps both general and local customs, draws on a variety of archival and secondary sources, and uses GIS techniques, making it readily usable for further research.<sup>4</sup>

The Customary Atlas can be used to study the short- and long-term socio-economic implications of different regulations of inheritance, marriage, parental authority, or economic activities. Given the substantial spatial variability in

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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 particular locations. We provide further details on this distinction in Section 2.

the territorial boundaries of customs resulting from their complex histories, the Customary Atlas will allow researchers to exploit local variation for causal identification. For instance, Gay, Gobbi and Goñi (2023*c*) use data from this atlas to study how inheritance customs affected fertility in late eighteenth-century France, finding that locations under egalitarian inheritance had lower fertility than those where a single heir received most of the inheritance. In addition, the Customary Atlas will also contribute to the law and economics literature that examines the impact of legal origins on financial and economic development outcomes (La Porta, López-de Silanes and Shleifer, 2008). Among other potential uses, 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).

The remainder of this article is organized as follows: Section 2 discusses the history of customary law in France, Section 3 explains the mapping methodology we use, Section 4 describes the data files of the Customary Atlas, and Section 5 presents various potential uses of this resource.

## 2. The History of Customary Law in France

**Origins.** Initially, customs encompassed a set of unwritten rules that regulated the lives of people 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 early modern period, most of Western Europe was under customary law (Gilissen, 1962*b*; Grinberg, 2006).<sup>6</sup> In France, customs derived from the laws of the tribes that populated its territory after the fall of the Western Roman Empire—the Burgundians, the Visigoths, the Salian Franks, and the Ripuarian Franks. Originally, these

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<sup>5</sup>Canonists required two elements for a custom to have the force of law: the repetition of the same behavior by people from time immemorial and popular belief in 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 a combination of the consent of the people subject to the custom, the custom being observed and regarded as 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 Appendix Table B.1 for a list of historical customs in Western Europe along with their publication dates.

were *personal* rather than *territorial* laws: they applied to a particular group of people rather than to the inhabitants of a particular locality.<sup>7</sup> From the ninth century on, these laws took on a territorial dimension. This shift – driven by the increasing mixing of groups of different origins – made it difficult to distinguish between the appropriate laws that applied to particular individuals (Chénon, 1926, p. 128). The expansion of feudalism during the Middle Ages further reinforced the territoriality of these laws, as residents of a territory under a feudal lord had to abide by the laws that emanated from that ruler.

The initial diversity of tribes that populated the territory of France contributed to the great heterogeneity of customs. Since northern regions were dominated by the Salian and Ripuarian Franks, the *Salic Law* and *Lex Ripuaria* became the basis for the development of customs there. In contrast, southern regions were dominated by the Burgundians and Visigoths, whose laws consisted of the *Lex romana Burgundionum*, *Lex Theodosii*, and *Corpus Juris Civilis*—all based on principles derived from Roman law. Thus legal rules there evolved into written law. As a result, France was soon divided 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 partition that lasted until the Revolution.<sup>8</sup>

In addition to the north-south divide between customary and written law, a mosaic of customs emerged during the Middle Ages (Kim, 2021, p. 29–63). As customs shifted from personal to territorial, local variations in geography and the decentralized nature of feudalism contributed to the increasing fragmentation of customary rules across the territory (Chénon, 1926, p. 487).

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<sup>7</sup>For instance, Ripuarian law stipulated that inhabitants of Ripuarian territory who belonged to other tribes should be judged according to the laws of their tribes of origin rather than according to Ripuarian law (*Lex Ripuaria*, tit. XXXI, art. 3–4, quoted in Chénon, 1926, p. 124).

<sup>8</sup>This division was formally established by Louis IX's ordinance of Vincennes in 1251, which separated the territory of *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 division of France, in Appendix Figure A.2. See also Figure 1 for a map based on data in the Customary Atlas. Note that Philip IV's ordinance of 1312 recognized Roman law as customary law where it was the source of law (Olivier-Martin, 1948, p. 122).

**Early-stage writing of customs.** By the time feudalism had consolidated and the territory of the royal domain of France had stabilized, territorial jurisdictions (*districtus*) were regulated by customs to which inhabitants had to adhere. However, customs were not entirely static, and the line between customs as representing people's behavior and customs as regulating it was still blurred. In fact, customs could still evolve with local usage, especially since they were passed down orally from one generation to the next. Such uncertainty led to a proliferation of lawsuits and to cumbersome and time-consuming court rulings, as judges had to navigate the intricacies of gathering evidence, taking testimony, 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). Overall, this fed into demands for written documentation of customs as early as the late twelfth century (Chénon, 1926, p. 491).

The process of writing customs effectively reduced uncertainty about their content and territoriality. The earliest written customs were compiled in books (*coutumiers*) produced by legal 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); the custom of Champagne (1289) (Chénon, 1926, p. 553–7). Throughout 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 Daresté, 1868). However, these early manuscripts were not legal texts with the force of law, but rather reference material used by lawyers to facilitate litigation—although some *coutumiers* had a quasi-official nature, such as 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 thus legitimacy (Kim, 2021, p. 64–91). More broadly, his aim 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 in the fifteenth and sixteenth centuries (Gilissen, 1962*a*; 1962*b*; Grinberg, 2006). First, written documents provided judicial authorities with a degree of certainty about the content and territoriality of customs. It also enabled these authorities to clearly distinguish 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 sought to unify the legal system within its realm, beginning with the royal domain.<sup>10</sup> In fact, several smaller customs were absorbed into larger ones during the writing process. Fourth, Roman law was the only source of law taught in universities in the fifteenth and sixteenth centuries. Judges, who were increasingly educated in universities, were therefore relatively unaware of local customs as they were passed down orally (Gilissen, 1962*b*, p. 86). The writing of customs therefore helped to limit the expansion of Roman law into customary-law country. Finally, the writing of customs contributed to abolish 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 ceased to evolve and became the pillar of monarchical law in France until the Revolution.

<sup>9</sup>Appendix C provides further details on the process of recording 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 unjust, unreasonable, or perverse—a royal right that had been unchallenged since the eleventh century (Olivier-Martin, 1938).

While in practice only a few customs were initially written and promulgated under Charles VII and Charles VIII, most were eventually codified after Louis XII reiterated the call for the recording of customs in his edict of March 1505 (Klimrath, 1837, p. 10). By and large, this codification process was completed by the end of the sixteenth century.

**General and local customs.** Although uniformity was a primary goal of the codification of customs, it was not fully achieved. In fact, this process led 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 particular locations (Grinberg, 2006). This usually involved only a few articles, although some local customs were more comprehensive than others. The success of the harmonization process varied across the territory. In Normandy and Brittany, for instance, general customs covered large areas but included many local customs. In contrast, in the northeast, 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 rarely changed, only the clarity of their writing in the French vernacular (Grinberg, 2006, p. 79–80). Thus, 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 relating to matters covered by the Civil Code (Gilissen, 1979, p. 250).<sup>13</sup>

**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 legal status of individuals and goods, marriage rules, parental authority, illegitimacy, inheritance, economic

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

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

transactions, and crimes. We provide further details on each of these common themes in Appendix D. In short, customs could differ in how they defined movable and non-movable goods, or in the rights of different types of individuals (nobles, commoners, minors, illegitimate children, etc.). Customary marriage rules differed with respect to the validity of marriages, the rights of husbands to their wives' assets, dowries, and punishments for adultery. Because mortality rates were high, customary rights of widows were thoroughly defined, with variations in their rights to 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 differently by different customs.

### 3. Mapping Methodology

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

To construct the Customary Atlas, we begin with the geography of judicial districts in which customs were enforced: *bailliages*.<sup>14</sup> We rely on Gay, Gobbi and Goñi's (2023a) *Atlas of Local Jurisdictions of Ancien Régime France*, a shapefile of the 435 judicial districts that existed before the Revolution.<sup>15</sup> We then match each judicial district to the custom that applied there. 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 judicial districts of the realm. Unfortunately, Armand Brette was only able to cover half of the territory by the time of his death in 1912. For most

<sup>14</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.

<sup>15</sup>This work is based on Brette's (1904a) *Atlas des bailliages et juridictions assimilées*, which draws on the minutes of bailliage electoral assemblies convened for the Estates General of 1789. In particular, see Figure 4 in Gay, Gobbi and Goñi's (2023a).

of the rest 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 districts. To cover the few remaining districts, we use Zink (1993) for the Southwest, Joignon (1989) for Lorraine, and additional archival sources 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 the Customary Atlas.<sup>16</sup> Finally, we aggregate judicial districts with the same custom into single customary regions. On average, a customary region includes three judicial districts, although some regions include many more, with up to 22 judicial districts for the custom of Normandy.<sup>17</sup>

We also record which judicial districts were under written law—a distinction that is important in the law and economics literature. As the historiography emphasizes, 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 the Dauphiné (Poumarède, 1972; Zink, 1993). Likewise, some judicial districts in Lorraine and Alsace also followed written law, even though they were located in customary-law country (Ganghofer and Levresse, 1977; Joignon, 1989). In practice, however, written law in these areas was only complementary to customary law and only applied in the absence of a relevant customary rule. In Figure 1, we display the distribution of written- and customary-law areas according to the Customary Atlas, along with areas where both systems were present, which we refer to as “mixed” (Fourniel and Vendrand-Voyer, 2017). As can be seen from this map, Klimrath's (1843) approach was not entirely accurate, and the traditional partition of Ancien Régime France into a written-law and a customary-law country along a north-south divide is less clear-cut than previously thought (Hilaire and Terré, 1994, p. 157–84).

<sup>16</sup>The list of all sources used is available in Appendix Table B.2.

<sup>17</sup>If we exclude local customs and instead attribute their general custom, customary regions include an average of four judicial districts, with up to 45 for the custom of Normandy.

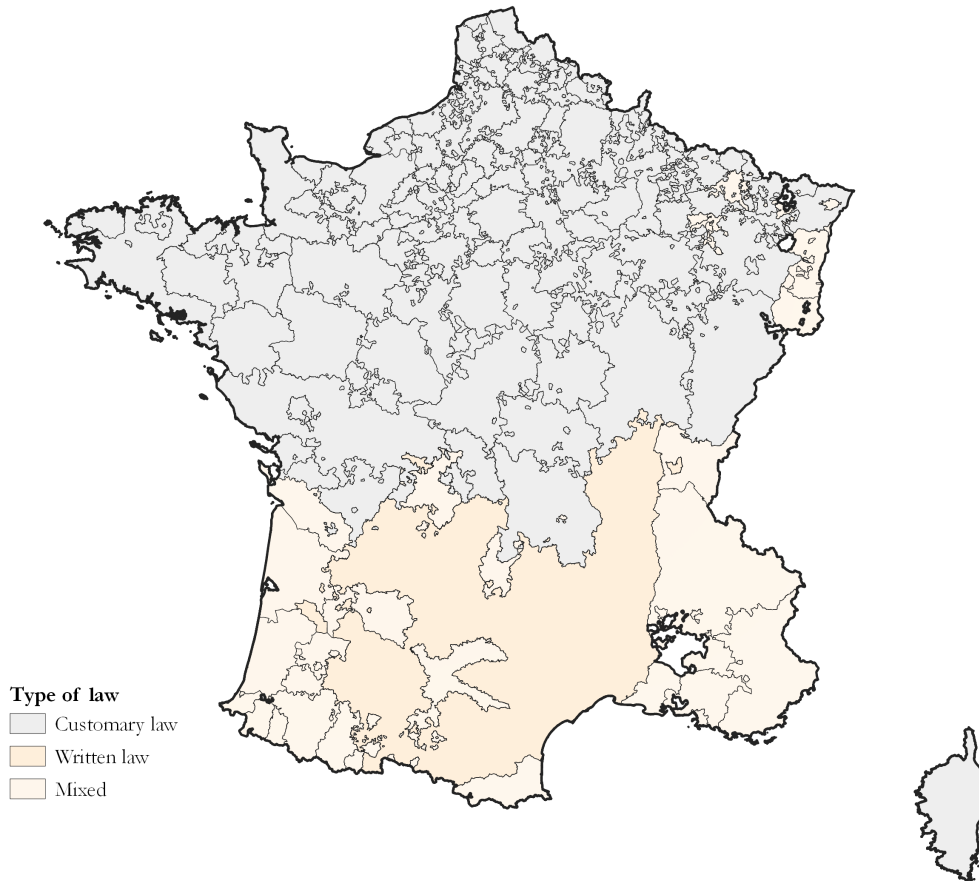


Figure 1. Customary Regions in Ancien Régime France

*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 (2023b).

In addition, while Klimrath’s (1843) map focuses only on general customs, we consider both general and local customs. This is important for two reasons.<sup>18</sup> First, a crucial feature of customary law is that it was inherently local. Thus, the boundaries of a given customary region ultimately depended on local customs. Second, some general customs contained several local customs, while others knew no such deviation—this was generally the case for general customs covering a relatively small area, such as 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 in the content of the custom.<sup>19</sup> Thus, relying on judicial district boundaries has the advantage of mapping more customs than was previously done. Finally, the Customary Atlas includes local customs only insofar as their extent corresponds to at least one judicial district. This implies that some local customs – those smaller than a district, e.g., those enforced only in a particular town – are not accounted for.<sup>20</sup> We leave the construction of an atlas of customs at the city level for future work.

Overall, the Customary Atlas 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 Normandy, while we include another 20 within that territory.<sup>21</sup>

<sup>18</sup>In Appendix Figure A.3, we display the spatial distribution of customs when we disregard the distinction between local and general customs and focus only on general customs. We also provide this map as a shapefile because it may be useful to some users.

<sup>19</sup>We do not make subjective decisions about which custom should be classified as general or local. Rather, we follow the classification given in the *Nouveau coutumier général* (Bourdot de Richebourg, 1724).

<sup>20</sup>We 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 comprises four volumes of more than 1,200 pages each and describes the content of more than 500 customs, both general and local.

<sup>21</sup>In this respect, the 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 often as he changes horse post.”

## 4. Data Description

### 4.1. Extent of the Atlas

The *Customary Atlas of Ancien Régime France* covers the territory of the Kingdom of France as of 1789. This corresponds to the current territory of mainland France, with three major 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 incorporated into France soon after the Revolution.<sup>22</sup>

### 4.2. 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, with the leading two digits identifying general customs and the trailing two digits identifying local customs. Specifically, we sort the 94 general customs in our data alphabetically and assign them an identifier ranging from 01 to 94.<sup>23</sup> Similarly, we sort the 48 local customs in our data by general custom of reference and assign them an identifier ranging from 01 to 20—this identifier resets to 01 across general customs.<sup>24</sup> We then concatenate these two two-digit identifiers into four-digit identifiers, assigning the trailing digits 00 to general customs. For

<sup>22</sup>We also include Corsica, as a decree stating that “the island of Corsica is part of the French empire” was passed on November 30, 1789. In addition, small portions of the northeastern territory of France were ceded to Prussia by the Second Treaty of Paris on November 20, 1815—this includes the entire judicial district of Sarrelouis, part of the district of Bouzonville, and areas around Wissembourg and Landau. These areas are not included in our shapefiles.

<sup>23</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 the Kingdom of France, had seven of its local customs within it, ranging from the local custom of **AIRE** (0501) to that of **SAINT-OMER** (0507).

<sup>24</sup>Local custom identifiers range up to 20 because that is the maximum number of local customs a general custom has—namely the custom of Normandy.

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 assign identifier 0000 to written-law regions.

**Names.** Customs names are provided in both short and long forms. Long forms correspond to original the original names of customs 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. The names of customs usually refer to either 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>25</sup> We provide the names of customs in both proper and capitalized forms. Written-law regions have the name *Droit écrit*.

**Year of publication.** When available in archival or secondary sources, we also include the year of publication of the custom. This date corresponds to the most recent version of a custom, usually 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 published on average in 1570, with a year of publication ranging from 1455 to 1788. This information is missing for 8 customs.

**Types.** The types of customs indicate whether they are general or local. Of the 141 customs in the Customary Atlas, 93 are general and 48 are local.

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

<sup>25</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 custom of the Duchy of Burgundy.



### 4.3. Data Files

The Customary Atlas consists of two tabular datasets and three shapefiles. Their contents are 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, the spatial distribution of general and local customs, and the spatial distribution of general customs only. All three shapefiles use an RGF93 projection based on IGN's (2021) shapefile of current communes.<sup>26</sup>

We distribute 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, 2023b).

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<sup>26</sup>More specifically, we use the March 2021 edition of the ADMIN-EXPRESS. These base shapefiles are relatively high resolution, so we advise users who wish to import our shapefiles directly into statistical software such as R or Stata to first simplify their geometries, e.g., by using the commands `rmapshaper` or `simpoly`, respectively. Note also that while data files contain name strings in both upper and lower case, the attribute tables of shapefiles (`dbf` files) contain name strings in upper case only to avoid compatibility issues with accented letters in GIS software.

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	
	custom_name	Custom name (short, upper case)	
	CUSTOMS (tabular)	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)	
reference_custom_name_prop		General custom of reference name (short, proper case)	
WRITTEN_LAW (shapefile)	WRIT_LAW	Indicator for written law (yes; no; mixed)	
CUSTOMS (shapefile)	CUST_ID	Custom identifier	
	CUST_NS	Custom name (short, upper case)	
CUSTOMS_GWL (shapefile)	CUST_G_ID	General custom identifier	
	CUST_G_NS	General custom name (short, upper case)	

## 5. Potential Uses and Avenues for Future Research

The *Customary Atlas of Ancien Régime France* opens up 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 over the long run—in our case, in pre-industrial European societies. The Customary Atlas will also contribute to a better understanding of the origins of the French civil law tradition.

To date, the literature examining how historical customs shape economic outcomes has focused primarily on Africa, relying on information available in Murdock's (1967) *Ethnographic Atlas* and the related *Standard Cross-Cultural Survey* (Murdock and White, 1969). The Customary Atlas we propose is a first step toward a broader atlas covering pre-industrial Europe as a whole. As such, 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 change and that have their origins in Europe. Moreover, given Europe's history of mass emigration to the New World, such an atlas can help to 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' countries of origin.

In particular, the Customary Atlas can be used to study how customary rules may have shaped individual behavior or the economy over 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), marriage 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.<sup>27</sup> We develop below two examples of particular interest to economists of potential applications of the data presented in this article: inheri-

<sup>27</sup>References and links to the original texts of all customs included in the Customary Atlas are provided in Appendix Table B.2.

tance and legal origins.

### **5.1. Inheritance**

The long-run consequences of customary inheritance rules is a topic of growing interest among 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*c*). The case of Ancien Régime France is particularly interesting from this perspective, as customary rules were characterized by considerable heterogeneity, as shown in Figure 2. This map shows that there were (at least) 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.

Specifically, Gay, Gobbi and Goñi (2023*c*) use this map 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 to have children. This resulted in a gap of 0.7 children relative to historical customary regions where all land could be transferred to a single heir (impartible inheritance)—a gap that closed shortly after the abolition of impartible inheritance customs during the French Revolution. In addition, using Murdock's (1959) atlas of ethnic homeland boundaries in Africa along 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 to those found in late eighteenth-century France by Gay, Gobbi and Goñi (2023*c*). These examples illustrate how the Customary Atlas feeds into similar research themes as Murdock's *Ethnographic Atlas*, and how lessons from pre-industrial Europe can bridge past and present crucial issues, such as demographic transitions in developing countries.

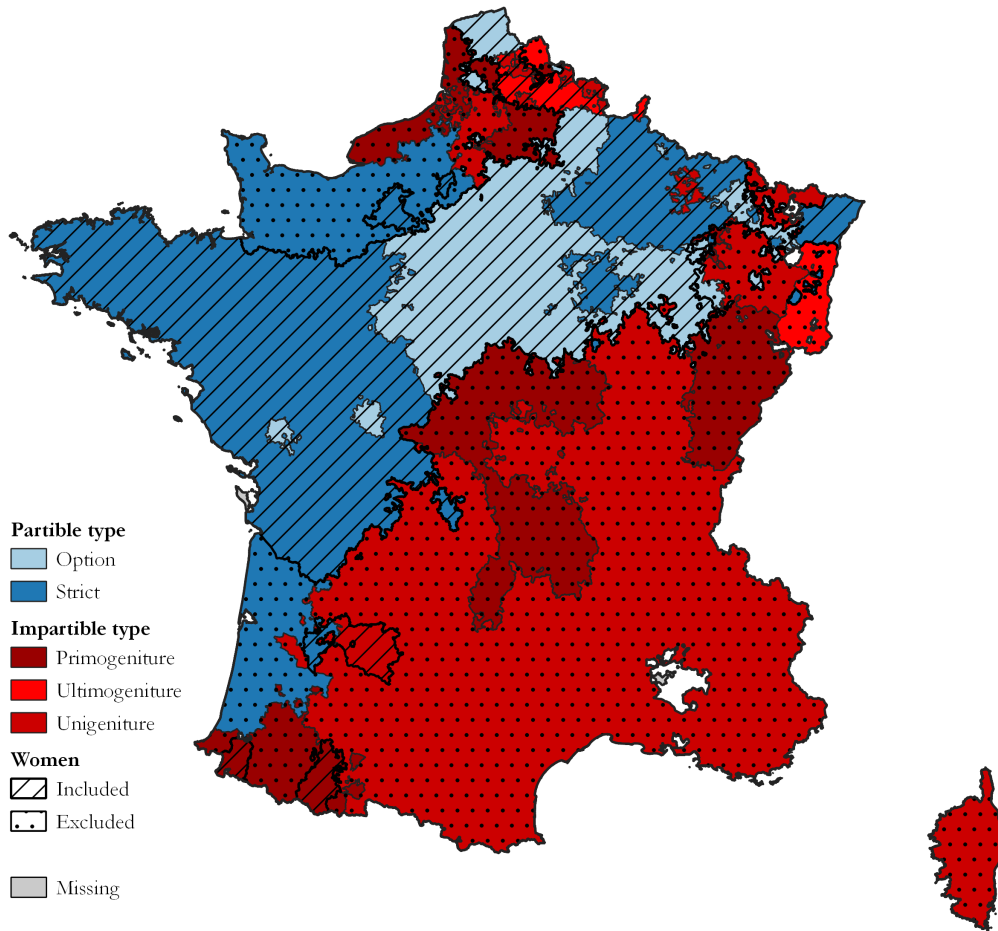


Figure 2. Variation in Inheritance Customs in Ancien Régime France

*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 the inheritance equally, including all *intra-vivos* transfers. Under partible with option, heirs could opt out of the inheritance and instead keep any *intra-vivos* transfers they had received from the deceased. Impartible inheritance customs (red) could favor either the first born (primogeniture), the last born (ultimogeniture), or any of the offspring (unigeniture). Women could either be included (lines) or excluded from inheritance (dots). Shapefile based on Gay, Gobbi and Goñi (2023c).

## 5.2. *Legal Origins*

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 currently still a dominant 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 fill this gap. In particular, a large body of work has analyzed modern commercial law and shown that French civil law – which derives from Roman law – is associated with weaker financial and economic development.<sup>28</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 throughout the world.

However, this vast literature has not yet reached a consensus on when and why the French and English legal traditions acquired their distinctive features. Two main theories have been proposed for the French case. The first theory holds that the French Revolution introduced extensive legal codes that deprived judges of their independence and legislative 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 sought to exercise greater control over the legal system in order 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 delineating the historical regions of customary law in Ancien Régime France, the Customary Atlas can shed new light on this legal struggle between the

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<sup>28</sup>In France, Le Bris (2019) finds that regions with legal institutions historically closer to Roman (civil) law developed faster than those under customary law.

center and the periphery. Moreover, it can be used as an underlying frame of reference to precisely delineate the areas of influence of Roman written law and customary law on different legal domains. Thus, it will be useful to assess 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 economic life in pre-industrial France, they can be codified in a manner similar to modern commercial law in order to quantitatively evaluate the influence of legal rules on economic and financial outcomes. In this respect, the Customary Atlas will be a useful tool for studying where French law first adopted its modern, regulation-oriented characteristics, as well as its economic consequences, taking advantage of within-country variation in the law.

To conclude, this article describes the construction and content of the *Customary Atlas of Ancien Régime France*. From the Middle Ages to the nineteenth century, most of Europe was characterized by a myriad of heterogeneous customary rules that regulated the lives of the population and many aspects of the economy. By providing the specific spatial boundaries of these customary regions for an entire polity, the Customary Atlas opens fruitful avenues of research for a better understanding of the roots and implications of historical legal institutions. It is also a first step in the construction of a broader European Customary Atlas.

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