

# Democracy, Judicial Attitudes and Heterogeneity: the Civil Versus Common Law Tradition.

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## Abstract

A key issue in the design of a legal system is the degree of centralization of the mechanism aggregating heterogeneous preferences over legal rules. Here, I compare a central fictional legislator selecting the organized cultural group to praise and a decentralized judicial authority concerned by possible reversion by a different-concerned judge. Due to the statistical incentives faced by the decision makers, the latter (common law) out-performs the former (civil law) when cultural heterogeneity becomes sufficiently high. Besides, the social welfare under civil law strictly increases with the quality of the political process—democracy—and bright line as opposed to flexible rules as a complement to the centralized system. To test the model, I devise, for a cross section of 156 ex-colonies, a measure of centralism of the legal system for the year in which a country became independent and for the year 2000. Consistent with the model's predictions, reforms toward institutions entrusting a broader legislative power to independent judges are significantly associated with higher cultural heterogeneity and lower constraints on the executive. Historical evidence on reforms in European regions during the Roman Empire and the Moyen Age confirm the findings of the empirical exercise. *Keywords:* legal origins, economic development, property rights. *JEL classification:* H11; K4; O10; P16.

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