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Lingua Franca Legalis? A French Vernacular Legal Culture from England to the Levant

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The history of European law is generally written as a series of oppositions. There is the 'common law' of the Church and of university Roman law, as opposed to the various 'particular' laws divided by polity. Within these particular laws, there is yet another division that is seen to form by the end of the twelfth century, the one between English Common Law and continental legal culture, whether the latter was defined as a patchwork of custom or as a unified block through the influence of the *ius commune*. These are not just descriptions of legal geographies; rather, these divisions are of key importance because they encode identity both in terms of internal development and in opposition to one another. They are important, furthermore, because they not only describe the shape of medieval legal identity but they also serve to herald the form that legal culture will take in later nascent nation states.

Within the field of medieval studies more generally there has been a push to look beyond traditional borders to see whether and what kinds of connections can be made across traditionally assumed boundaries.[1] This move has been much slower to influence the writing of legal history, especially when it comes to the 'particular' or customary laws outside of the *ius commune*. Paul Hyams is one of few scholars who has looked at these sorts of connections, notably discussing the similarities in early legal-treatise writing in England and France in his 'The Common Law and the French Connection' and more recently evaluating the 'Frenchness' that underlay the constructive thinking of the early Common Law of England in his article 'Thinking English Law in French: The Angevins and the Common Law'.[2] As Hyams noted there, 'it was the French hexagon [...] that set the fashions' in this time of burgeoning polities, princes interested in law, and jurists exerting themselves in developing new literatures devoted to law.[3] This 'French hexagon', or the 'French global' as others might dub it, is the subject of the present paper.[4]

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1   Paul Hyams, 'The Common Law and the French Connection', in *Proceedings of the Battle Conference on Anglo-Norman Studies IV, 1981*, ed. by R. Allen Brown (Woodbridge: Boydell, 1982), pp. 77-92.

2   Hyams, 'The Common Law and the French Connection'.

3   Paul R. Hyams, 'Thinking English Law in French: The Angevins and the Common Law', in *Feud, Violence and Practice: Essays in Medieval Studies in Honor of Stephen D. White*, ed. by Belle S. Tuten and Tracey L. Billado (Farnham: Ashgate, 2010), pp. 175-96 (at p. 175).

4   *French Global: A New Approach to Literary History*, ed. by Christie McDonald and Susan Rubin Suleiman (New York: Columbia University Press, 2011).

The symbiotic relationship between language, borders and identity generated in the enthusiasm of nineteenth-century nationalisms, and perceived as an aspect of the state in the contemporary world, does not accurately reflect the situation in medieval Europe. Borders were not as exact as they are today, nor did they exclude and define as they do now, and language certainly was not confined to them. The limits of culture in the Middle Ages were often broadened by conquest and resettlement, and one of the consequences of this was a francophone culture that extended geographically from England, through France, into the maritime world and down into the crusader-occupied Levant. Notably, when this medieval *francophonie*, if you will, began formalizing and textualizing its juridical notions in the second half of the thirteenth century, it was part of a wave that was abandoning Latin in favor of French as its language of expression. Of course, this move was by no means even or complete. As Serge Lusignan explained more generally, the move to the vernacular is one that extended from the eleventh to the fifteenth centuries and never neatly excluded Latin.[5]

Nonetheless, it must be noteworthy that from the English moors to the Atlantic waters and down into the sands of Cyprus, where the displaced Kingdom of Jerusalem relocated after the crusaders lost the Holy City, various authors made the decision to describe the dispute-resolution customs of their lay courts in French. In other words, they chose not to write in the established 'international' language of Latin, and in the case of colonial lands also chose not to write in the language spoken by most of the inhabitants, but in French. If we draw a map of the ambit of this *lingua franca legalis* we see that it covers a huge swath of territory. It is not quite as large a realm as that of the *ius commune*, but it is large enough that we should be asking ourselves whether and to what extent we can speak of an autonomous and transnational legal culture that was francophone and customary. And if there was such a legal culture, united by vernacular language but not based on the territorial bounds of a specific kingdom, then what does that say about the relationship between law, language and identity in the later Middle Ages? This paper aims at setting out some preliminary ideas in relation to these questions with the intention of opening up future research considerations, first by discussing the cultural presence of the medieval *francophonie*, and then examining how it might resonate in the legal literature of the thirteenth and fourteenth centuries.

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5   See generally, Serge Lusignan, *La langue des rois au Moyen Âge: le français en France et en Angleterre* (Paris: Presses Universitaires de France, 2004).

The Vernacular Turn and Medieval *Francophonie*

Twelfth-century Europe witnessed the beginning of a great cultural transformation that saw the shift from 'a culture dominated by monastic and dynastic concerns to those of a vernacular-speaking, married, commercial and professional laity'.[6] The importance of the rise of the vernacular, both as a vehicle and a corollary of that shift, has largely been recognized and studied in a diversity of fields, from literature to diplomatics. These studies, however, generally contain themselves to the boundaries of a particular kingdom and in so doing serve to define these entities rather than see commonalities between them. As Thomas Brunner recently noted, while the shift from Latin to the vernacular languages is one of the momentous events of the Middle Ages, studies of Europe-wide vernacularization remain in their infancy.[7]

As Patrick Geary has shown, Latin had become the language of communication for an extreme minority by the end of the Middle Ages.[8] By then, it had taken on an ideological role increasingly connected to the Church and the clergy and had become primarily their language, one that was seen from the outside as secret, complicated and even a tool for deception.[9] By the end of the thirteenth century, French had largely replaced Latin as the international language of communication and diplomacy.[10] The study of French was eagerly recommended in various quarters due to a number of factors — the Crusades, the spread of French chivalrous culture and literature, and the importance of France in trade, notably in the fairs of Champagne.[11]

The thirteenth century was the great watershed moment for the French vernacular. As Jan Ziolkowski remarked, there was a real 'cultural exuberance' that led to confidence in and the refinement of vernacular language and the culture it represented.[12] The result was

6   Mary Carruthers and Jan M. Ziolkowski, 'Introduction', in *The Medieval Craft of Memory: An Anthology of Texts and Pictures*, ed. by Carruthers and Ziolkowski (Philadelphia: University of Pennsylvania Press, 2002), p. 24.

7   Thomas Brunner, 'Le passage aux langues vernaculaires dans les actes de la pratique en Occident', *Le Moyen Age*, cxv (2009): 29-72 (at p. 29).

8   Patrick Geary, 'What Happened to Latin?', *Speculum*, 84 (2009): 859-873 (at p. 864).

9   Patrick Geary, *Language and Power in the Early Middle Ages*, Jerusalem: Historical Society of Israel (Lebanon: Brandeis University Press, 2013), pp. 58-9. This can be seen in the pithy expression 'parler en romans sans latin' which, as Geary (at p. 59) noted, meant to speak openly without obfuscation.

10   Geary, 'What Happened to Latin?', p. 864.

11   Bernard Bischoff, 'The Study of Foreign Languages in the Middle Ages', *Speculum*, 36 (1961): 209-224 (at p. 210).

12   Jan M. Ziolkowski, 'Latin and Vernacular Literature', in *The New Cambridge Medieval History*, vol.4 (*c. 1024-1198*), ed. by D. E. Luscombe and Jonathan Riley-Smith (Cambridge: CUP, 2003), p. 664.

not simply the registration of an oral tongue, but the constitution of the vernacular as a 'written tongue'.[13] This, in turn, permitted it to obtain the communicational competence that had been hitherto reserved to Latin, such as expressing law in writing.[14]

French developed into the most influential vernacular in the high and late Middle Ages.[15] As Sharon Kinoshita remarked, 'cultivated outside of the borders of the nation-state that will later lend it its name to both the language and the literature, Old French [was] extra-territorial *avant la lettre*'.[16] This in itself was rather remarkable considering that nothing close to a French nation existed when the French vernacular appears in the twelfth century — Occitan dominated south of the Loire, the French king only controlled his small patch around the Ile-de-France, and his power was dwarfed by the most powerful French-speaking ruler of the day, the Angevin king of England.[17] Thus we have the formation of a supra-national 'imagined community' based on a vernacular but not directly developing concomitantly one particular nation-state.[18] The rise of the French vernacular in Medieval Europe is a wonderful instance of a cultural 'imagined community', one certainly based on the development of centers of power from Westminster to Paris and Cyprus, but not yet defining the identity of any one of them.

Part of what made the French vernacular a great success story was the expansion of the spheres of influence of the two 'French' kings, the King of France and the King of England. Both of these kings had made French their royal language alongside Latin.[19] French radiated out of its traditional enclaves through the activities of these kings and their expansion of their spheres of power. Their military and dynastic interests brought French to Wales, Scotland, Gascony, Flanders, Sicily, the Near East, and parts of Central Europe (Bohemia), all places where French was spoken and written by a wide variety of people with different mother tongues.[20] In many of these places, French became an elite language

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13 Brunner, 'Le passage aux langues vernaculaires', p. 31.

14 Brunner, 'Le passage aux langues vernaculaires', p. 32.

15 Simon Gaunt and Sarah Kay, 'Introduction', in *The Cambridge Companion to Medieval French Literature*, ed. by Gaunt and Kay (Cambridge: CUP, 2008), p.1.

16 Sharon Kinoshita, 'Worlding Medieval French', in *Global French*, ed. by McDonald and Suleiman, p. 6.

17 Kinoshita, 'Worlding Medieval French', p. 6.

18 Benedict Anderson, in his formulation of the 'imagined community', describes the Latin-based imagined community of Christendom being displaced by localized or 'nationalized' vernacular competitors (Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, second edn (New York: Verso, 2003), pp. 41-44).

19 See generally, Lusignan, *La langue des rois*.

20 Gaunt and Kay, 'Introduction', in *The Cambridge Companion to Medieval French Literature*, p. 3; Serge Lusignan, 'French Language in Contact with English: Social Context and Linguistic Change (mid-13th-14th centuries)', in *Language and Culture in Medieval Britain: The French of England c.1100-c.1500*, ed. by Jocelyn Wogan-Browne et al. (Rochester, N. Y.: York Medieval Press, 2009), pp. 23, 29.

connected to ruling groups who controlled the centers of culture and power.

Of course, the French language has a different history in all of these places and develops local particularities in each one. As Simon Gaunt and Sarah Kay have aptly remarked, French was initially less of a language and more of a collection of dialects.[21] There were two main types — the *langue d'oïl* in the Northern part and the *langue d'oc* in Occitania — but both of these were generally referred to as *romans*. Within that, there were various dialects such as *Francien* which centered around the royal court on the Ile de France, or *champenois, franc-comptois, orléanais, poitevin, normand*, etc.[22] Modern scholars like to give some of these dialects particular assignations, such as Anglo-French for the French dialect in England.[23] It is only in the fourteenth century that *françois* began to refer to the vernacular written in the Parisian model, and to eclipse *romans* to designate French in the French kingdom.[24] Since the purpose of the present article is to see the degree to which a mutually intelligible legal literature may have not only been aiming at a local audience but also a larger non-nation-based francophone one, we will be considering French writ large as a unified category including many dialects and focusing on the unifying aspects.

Linked through various networks, writers who chose to write in French were creating a *république européenne des lettres* whose center was the French-speaking world, if without a more precise location at this point.[25] The geographic diffusion of French permitted those writing in that language to reach an international readership and, indeed, many saw themselves as working within an international context.[26] Whether writing in French because of its beauty, because of its prestige, because it would please the right elites, or because it was widespread and could reach an 'international' audience, the undoubted effect was the wider diffusion of Old French.[27]

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21   Gaunt and Kay, 'Introduction', in *The Cambridge Companion to Medieval French Literature*, p. 2.

22   For more on French dialects, *see* Lusignan, *La langue des rois*, pp. 62 ff.

23   Jocelyn Wogan-Brown has pointed out that the choice of the term 'Anglo-Norman' to denote French texts composed in the British Isles from the Conquest to the late Middle Ages, and of 'Anglo-French' for texts imported into England and other continental contacts, have themselves encouraged the impression of discontinuity in the French of post-Conquest England. This is not to completely discount the validity of the terms but to acknowledge the elisions they carry and contain the place of French in England in a way that obfuscates its place in insular culture and its relationship with greater francophone culture. (Wogan-Browne, 'What's in a Name?: The "French" of "England"', in *Language and Culture in Medieval Britain*, pp.1-3)

24   Lusignan, *La langue des rois*, p. 221.

25   Kinoshita, 'Worlding Medieval French', p. 7.

26   Gaunt and Kay, 'Introduction', in *The Cambridge Companion to Medieval French Literature*, p. 1.

27   Kinoshita, 'Worlding Medieval French', p. 7. Kinoshita is speaking of Old French here as a Mediterranean vernacular but her comment holds true beyond there as well.

By the end of the thirteenth century many non-natives were choosing French as their language of choice. Brunetto Latini, Dante's famous tutor and author of the *Li Livres dou Trésor* (*c*.1260-1267), probably the most famous encyclopedia of knowledge of the day, chose French as his literary language. Brunetto gave two reasons to explain why he chose to write his book 'in *romanz*, according to the language of the French, since we are Italian' — 'the first, since we are in France, and the other, because this dialect is more delightful and more common to all people (*porce que la parleure est plus delitable et plus commune à toutes gens*)'.[28] Brunetto, then, had both aesthetic and very practical reasons for choosing to write in French.[29] Already in the 1260s, non-native French speakers were lauding and employing French both for its beauty and because they felt that it would attract the largest audience as most people had this language in common.

The idea of the commonness of French spread in the second half of the thirteenth century and continued into the fourteenth. In his essay *On Vernacular Eloquence* (*c*.1302) that he composed in Latin, Dante explained that the language 'of *oïl* alleges for itself, because it is an easier and more pleasant vernacular tongue, whatever has been translated or composed in vernacular prose belongs to it'.[30] *Oïl*, of course, did not have agency outside of those who employed it to compose their texts, and throughout these the widespread nature of French is emphasized. This is especially impressive if one remembers how recent the rise of the vernacular was — Geoffrey of Villehardouin wrote the first vernacular prose history only a little under a century earlier. Within fifty years, it became a 'common' language comparable to Latin. Another Italian, Martin da Canal, wrote his 'History of Venice' (*Estoire de Venise*, 1267-75) in French because the French language runs throughout the world (*lengue franceise cort parmi le monde*).[31] The same notion was repeated a century later by John Gower, who said that a treatise in French would reach 'the whole world' (*en françois a tout le monde*), and this from a trilingual author who wrote in Latin, English and French.[32]

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28 *Li Liures dou trezor a reproduction of ms. français 1110 in the Bibliothèque nationale* (Paris: Imprimerie Impériale, 1863) 1.1.1.

29 The extent of French writing in Italy and its connection to local politics has recently been examined by Laura Moreale in 'French Literature, Florentine Politics, and Vernacular Historical Writing, 1270-1348', *Speculum*, 85 (2010): 868-893.

30 *Allegat ergo pro se lingua oïl quod propter sui faciliorem ac delectabiliorem vulgaritatem quicquid redactum sive inventum est ad vulgare prosaicum, suum est: videlicet Biblia cum Troyanorum Romanorumque gestibus compilata et Arturi regis ambages pulcerrime et quamplures alie ystorie ac doctrine* (Dante, *De vulgari eloquentia*, I.x.2, consulted at Dante Online: <http://www.danteonline.it/english/opere.asp?idope=3&idlang=OR> accessed on 3/9/2014)

31 Jacqueline Cerquiglini-Touret, 'Language, Literature and Identity in the Middle Ages', in *French Global*, ed. by McDonald and Suleiman, p. 342.

32 Ad Putter and Keith Busby, 'Introduction', in *Medieval Multilingualism: The Francophone World and its Neighbours*, ed. by Christopher Kleinhenz and Keith Busby (Turnhout: Brepols, 2010), p. 2.

Perhaps Risticello da Pisa and Marco Polo had similar reasons for their choice to write of the latter's travels in Old French. This was an Old French noted for being 'uncouth' by modern scholars and even occasionally described as puzzling.[33] Yet this Old French seems to have been a marvelous vehicle for transmission and set the stage for such a widespread expansion that it could be matched by few works — it was translated into Tuscan, Venetian, German, Latin, later to Irish.[34] A *'faus franceis'*, as insular French was once dubbed, did not then constitute an impediment to understanding or textual transmission.[35] Indeed, as Serge Lusignan has shown, a long campaign of affirming Parisian French as the superior form of French began in the thirteenth century, to the extent that we even see an author born in Meung-sur-Loire — 150 km from Paris, just outside of Orléans and in the heart of the royal domain of the King of France — excusing himself for his 'crude, wretched and savage' language, because he was not born in Paris.[36]

The spread of 'French global' was acknowledged even outside of the sphere of Romance languages. As early as the twelfth century, we see Danish nobles sending their sons to Paris to become familiar with French language and French literature.[37] By the mid-

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33 As noted by Gang Zhou in 'Small Talk: A New Reading of Marco Polo's Il milione', *MLN* 124 (2009): 1-22 (at p. 3).

34 Zhou, 'Small Talk', p. 3. As Zhou points out (p. 4), the narrative lacks the usual details of a travel narrative, to the extent that 'one can't help but wonder whether the true focus of Marco Polo's book was the journey to the East, or the return to the West, or both'. If it is a narrative of reintegration into the Western world, as Zhou suggests, the choice of Old French as the language of the text is especially interesting. In it, we can see not the desire for reintegration at a local Venetian 'Italian' level, but within the larger world of the West.

35 This expression is used by the narrator of the French life of St Edward the Confessor, who says he learned his French only in England and asks those who learned it elsewhere to correct his text where necessary, and has been studied to gauge the extent to which French was common or actively needed to be learned: see William Rothwell, 'The "faus français d'Angleterre": Later Anglo-Norman', in *Anglo-Norman Anniversary Essays*, ed. by Ian Short (London: Anglo-Norman Text Society, 1993), pp. 309 ff; Ad Putter has a different interpretation; see his 'Multilingualism in England and in Wales, *c*.1200: The Testimony of Gerald of Wales', in *Medieval Multilingalism*, ed. by Kleinhenz and Busby, pp. 88 ff. Commenting on the lack of beauty of one's French is a common trope in vernacular prefaces, continuing the tradition of the unworthy author who writes nonetheless. Comparative evidence (see text related to note 37) from thoroughly French authors makes similar, if not harsher, statements and indicates that it is difficult to gauge how much remarks like this can tell us about the actual level of French in England.

36 Here his anxiety seems to be speaking like a bumpkin: *mon langage/ rude, malostru, et sauvage* in Lusignan, *La langue des rois*, p. 220; see also his other work on the push for the superiority of Parisian French: Lusignan, *Parler vulgairement: les intellectuels et la langue française aux XIIIe et XIVe siècles* (Montréal: Vrin-Presses de l'Université de Montréal, 1986), pp. 67 ff; Lusignan, 'Langue française et société du XIIIe au XVe siècle'. in *Nouvelle histoire de la langue française*, ed. by J. Chaurand (Paris: Éditions du Seuil, 1999), pp. 91-143.

37 Bischoff, 'The Study of Foreign Languages in the Middle Ages', p. 210.

thirteenth century, the anonymous *Konungs skuggsjá* ('King's Mirror') advised that, 'if you wish to become perfect in knowledge, you must learn all languages, first of all Latin and French, for these idioms are most widely used; and yet, do not neglect your native tongue or speech'.[38] This was a guide for merchants and seafarers written in Norwegian, suggesting the reader learn French alongside Latin to be able to communicate most widely. In the thirteenth century, the great European fairs and markets were still in France and contributing to the spread of the language. The crusaders' Levant was also a center of diffusion of Old French, and it was there that many Scandinavian warriors came in contact with the French language and customs.[39]

From Brunetto's Italy to this author's Norway, French was clearly seen as a common tongue and the language of choice for a wide audience in the thirteenth century. The medieval *francophonie*, or French global, clearly had a strong cultural presence from the thirteenth century on. It was kaleidoscopic in nature and colored in various dialects, but it provided a common, mutually-intelligible language over a vast expanse of space covering many kingdoms and communities.

Law French

Literature, one might say, is different from law. F. Scott Fitzgerald once noted that part of the beauty of all literature was that 'you discover that your longings are universal longings, that you're not lonely and isolated from anyone'.[40] Law, on the other hand, is most often represented in its space of operation. One might see these universal longings in the law of nature, and to some extent in the *ius commune*, but is there something in this for vernacular, secular, customary law as well? Literary scholars have been much more ready to examine commonalities and influences between things local than legal historians. In medieval legal history, the universal as expressed by Common Law and the *ius commune* is directly opposed to local customs and other *leges particulares*. These seem firmly grounded in their local cultural settings, bathed in distinct local terminology and practice that make them idiosyncratic and occasionally to the point of being unintelligible to the outsider. To a certain extent this is undoubtedly true, but there is also reason to believe that the wave of French *lingua franca* may have also washed over the world of legal professionals.

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38   *The King's Mirror: Speculum Regale - Konungs Skuggsjá*, trans. by Laurence Marcellus Larson (New York: OUP for The American-Scandinavian Foundation, 1917), iii, p. 81.

39   *The King's Mirror*, p. 28.

40   *F. Scott Fitzgerald on Writing*, ed. by Larry W. Phillips (New York: Scribner, 1985), p. 10.

The new work on medieval *francophonie* shows convincingly that this was a cultural fact at the forefront of contemporary minds and one that influenced authors' choice of language when they set out to write. It was variously a local language, the language of ruling elites, and a prestige language. It was constitutive of 'imagined communities' on a number of levels including the supra-'national'. The question is whether French legal writing was in any sense participating in something common and can be seen as part of this larger medieval *francophonie*, namely, whether seemingly localized legal literature also could have had an outward turn.

The language of law can be very instructive here. Starting with David Mellinkoff, the language of law has been studied to trace the development of a language particular to the law, one with a separate identity that was outside of everyday parlance.[41] More recently, scholars have evaluated the extent of its use in court and what that might mean conceptually. Serge Lusignan's comparative study of the rise of French as the language of law and power in the royal courts of France and England from the thirteenth to the fifteenth century provides a seminal understanding not only of the rise of the vernacular in legal culture but also its relation to politics and authority.[42] Much work has been done by scholars of England, where notably there were three competing languages. Paul Brand, for instance, has shown that though Latin continued to be the language of formal record, the spoken language and language of pleading of the secular courts was French in the city, borough, county and royal courts of England.[43] It was the language in which legislation was drafted and discussed, the language of oral instruction and so of the legal literature that grew out of that instruction.[44]

Paul Hyams approached legal language from a different perspective by examining the place of the French language as the conceptual backbone of basic legal concepts in England.[45] As he noted, the basic essential pleaders' language is French and arose out of lay pleading before the age of lawyers.[46] The *conte*, for instance, was a tale that became in the

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41   David Mellinkoff, *The Language of the Law* (Boston: Little, Brown & Co, 1963), pp. 3 ff. See also Paul Brand, 'The Language of the English Legal Profession: The Emergence of a Distinctive Legal Lexicon in Insular French', in *The Anglo-Norman Language and its Contexts*, ed. by Richard P. Ingham (Rochester, NY: Boydell & Brewer, 2010), pp. 94–101.

42   See Lusignan, *La langue des rois*.

43   Paul Brand, 'The Languages of the Law in Later Medieval England', in *Multilingualism in Later Medieval Britain*, ed. by D. A. Trotter (Rochester, NY: D. S. Brewer, 2000), pp. 66-67, 75.

44   Brand, 'The Languages of the Law', pp. 73, 75.

45   Hyams, 'Thinking Law in French', pp. 175-197.

46   Hyams, 'Thinking Law in French', p. 182.

legal context the tale of allegation told in court and survived in English as the *count*, or specific charge.[47] Even if some terms were originally drawn from Latin, English lawyers understood and spoke the Common Law almost entirely in French.[48]

The reason for this is that the concepts that formed the 'legal register' of the language were drawn from and still part of everyday French vernacular.[49] This is something that brought together the 'Law French' from England to Outremer. While there are important differences between the legal cultures from the Levant to the British Isles, perhaps most notably the writs in England, the common language also provided a common legal lexicon. Thus, the common French legal lexicon shared by France and England pointed out by Hyams also appears in the French texts of the Levant, in words such as *conte* (charge), *gage* (surety), *pledge* (surety), or *essoin* (legal excuse). Other familiar words appear throughout the texts, such as *assise, apel, usage, destraindre, esgart, lei/loi, sergent, requeste, bailli/bailiff, saisine* and its obverse *desaisine*, to name a few.[50] In other words, it does not seem that English, French, or Levantine lawyers would have too much difficulty reading each other's procedural pleaders' legal literature, or hearing it read.

Indeed, one of the most remarkable aspects of this literature when taken together is that it appears at the same time. Perhaps the most convincing suggestion that something common is happening is that from around 1250 onward French legal writing nearly simultaneously springs up in France, England and in the Kingdom of Jerusalem (now seated in Cyprus). Before this time, French does appear as the language of law in the context of city and borough customs. However, legal writing in French veritably explodes in the second half of the thirteenth century — the same time period where we see French being referred to as the other 'common' language alongside Latin, a prestige language preferred for its beauty and association with many centers of power, and being used as a preferred language over Latin or an author's native tongue irrespective of what may have been more traditional or more natural.

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47   Hyams, 'Thinking Law in French'.

48   Hyams, 'Thinking Law in French', p. 184.

49   William Rothwell, 'The Trial Scene in Lanval and the Development of the Legal Register in Anglo-Norman', *Neuphilologische Mitteilungen*, 101 (2000): 17-36; Hyams, 'Thinking English Law in French', p. 181 and *passim*.

50   The words listed here as appearing in the legal texts of the Levant are drawn from Philip of Novara's *Livre*.

Sets of customs of the lay courts that focus on procedure and pleading sequences written in the vernacular begin to appear in Northern France in the mid-thirteenth century.[51] These are the *Coutumes d'Anjou et du Maine* (1246), which are soon followed by Pierre de Fontaine's *Conseil* (1253), then the *Livre de Jostice et de Plet* in around 1260 (an awkward fit as part of the *coutumiers* because much of it is a French translation of the *Digest* but almost always included as part of them), then the *Etablissements de Saint Louis* (1272/1273), followed by *Le livre des constitutions demenées el Chastelet de Paris* (between 1279 and 1282), Philippe de Beaumanoir's *Coutumes de Beauvaisis* (1283), *L'Ancien Coutumier de Champagne* (around 1295), and the *Coutumier d'Artois* (between 1283 and 1302).[52] The only earlier legal text that can loosely be included in this type in the area was the *Summa de legibus normanniae*, written between 1230 and 1250, and in the second half of the thirteenth century it receives both a translation in French prose and another in French verse.

A similar contemporary movement occurred in England with texts of a similar genre, focused on the procedures of the lay courts. In around 1260, French became the 'the language of a new legal literature' devoted to the art of pleading in court.[53] As G. D. G. Hall noted, despite the first portion of the thirteenth century beginning with many jurists coming together to form the sophisticated and learned composite work attributed to Bracton, it ended with works that were 'insular, lay and French', in which substantive law and principle are heavily masked by procedure and pleading.[54] And so we see the appearance of the Anglo-French *Cas de Demandes* (*Casus Placitorum*) (1250s), *Brevia Pleidez* (*Brevia Placitata*) (*c.* 1260), *Fet Assaver* (*c*.1263), the tracts that come together as *La Court Baron*

51　For the *coutumiers,* see Ada Kuskowski, 'Writing Custom: Juristic Imagination and the Composition of Customary Law in Thirteenth-Century France' (unpublished doctoral dissertation, Cornell University, 2013).

52　*Coutumes d'Anjou et du Maine*, in *Coutumes et institutions de l'Anjou & du Maine: antérieurs au XVIe siècle: textes et documents: avec notes et dissertation. Première partie, Coutumes et styles. T. premier,* ed. by C.-J. Beautemps-Beaupré (Paris: A. Durand et Pedone-Lauriel, 1877); Pierre de Fontaines. *Le Conseil de Pierre de Fontaines ou Traité de l'ancienne jurisprudence française: nouvelle édition publiée d'après un manuscrit du XIII siècle...* , ed. by A. J. Marnier (Paris: Durand: Joubet, 1846); *Les établissements de Saint Louis: accompagnés des textes primitifs et de textes dérivés,* ed. by Paul Viollet, 4 vols (Paris: Renouard, 1881-1886); Philippe de Beaumanoir, *Coutumes de Beauvaisis,* ed. by A. Salmon (Paris: A. et J. Picard, 1970-74); *Le livre des constitutions demenées el Chastelet de Paris,* ed. by C. Mortet, in *Mémoires de la Société de l'histoire de Paris et de l'Ile-de-France,* 10 (1883): 1-99; *L'Ancien Coutumier de Champagne (XIIIe siècle),* ed. by Paulette Portejoie (Poitiers: P. Oudin, 1956); *Coutumier d'Artois: publié d'après les manuscrits 5248 et 5249, fonds français de la Bibliothèque nationale,* ed. by Adolphe Tardif (Paris: A. Picard, 1883).

53　Mellinkoff, *The Language of the Law,* p. 111.

54　G. D. G. Hall, 'Introduction', in *The Treatise on the Laws and Customs of the Realm of England Commonly Called Glanvill,* ed. by Hall (Oxford: OUP, 1993), p. xxx.

(late thirteenth or early fourteenth century), *Le Ple de la Coroune* (1300), and the *Mireur a justices* (*The Mirror of Justices*) (1285-1290).[55] We also see translations of earlier Latin legal texts appearing in the late thirteenth or early fourteenth century, for instance a manuscript containing the *Leges Edwardi Confessoris* translated as *Le livre des leis de engletere* as well as the translation of the *Articuli Willelmi*, both potentially originally translated in the late twelfth century.[56] The title of one rendition of the *Brevia Placitata* is *Ces sunt les brefs e les contes enromancées* (These are the writs and counts rendered in *romanz*), and so the text is emphasizing the linguistic choice.[57]

Just as in France and England, jurists associated with the Kingdom of Jerusalem and its government in exile in Cyprus also began to write a legal literature of a similar genre — devoted to procedure and pleading in the lay courts — in the mid-thirteenth century. The first vernacular legal treatise of the Levant actually appeared earlier, the *Livre au roi* (1189-1200) which was more a justification of royal prerogative as it comes down to us, as the text we have is one pieced together from later texts.[58] The real wave of vernacular legal writing in the French vernacular in the crusader states of *Outremer* began around half a century later: *Livre des Assises de la Cour des Bourgeois* (1229-1244), Philip of Novara's *Livre de forme de plet* (1250s), John of Ibelin's *Livre des Assises* (c.1264), Geoffrey Le Tor's *Livre* (c.1265), *La Clef des Assises* (c.1265-1266), the *Lignages d'Outremer* (c.1270, more a description of lines of succession but usually included in this group) and James of Ibelin's *Livre* (1271-1286).[59] Of these authors, we know that Philip of Novara was an Italian

55 *Fet Assaver* in *Four Thirteenth-Century Law Tracts*, ed. by George Woodbine (Yale: Yale University Press, 1910); *Brevia Placitata*, ed. by G. J. Turner and Theodore F. T. Plucknett (London: Bernard Quaritch for the Selden Society, 66, 1951); *Casus Placitorum and Reports of Cases in the King's Courts 1272-1278*, ed. by William Huse Dunham (London: Bernard Quartich for the Selden Society, 69, 1952); *Le ple de la couronne*, BL, Harley MSS, 6669; *The Court Baron: Being Precedents for Use in Seignorial and Other Local Courts, Together with Select Pleas from the Bishop of Ely's Court of Littleport*, ed. by Frederic William Maitland and William P. Baildon (London: Bernard Quaritch for the Selden Society, 4, 1891); and for a number of the dates above, see Brand, 'The Languages of the Law in Later Medieval England', p. 70.

56 Cambridge, University Library, MS Ee.1.1, fols 3v-8r (Early English Laws, entry by Bruce O'Brian: <http://www.earlyenglishlaws.ac.uk/laws/manuscripts/cu/> and <http://www.earlyenglishlaws.ac.uk/laws/texts/wl-art-fr/> consulted 3/9/2014)

57 J. H. Baker, 'The Three Languages of the Common Law', *McGill Law Journal*, 43 (1998): 5-20 (at p.18).

58 As reconstructed by Myriam Greilsammer: see *Le livre au roi*, ed. by Greilsammer (Paris: Académie des Inscriptions et Belles-Lettres, 1995).

59 Maurice Grandclaude, *Étude critique sur les livres des Assises de Jérusalem* ... (Paris: Jouve, 1923); Filip af Novara, *Le Livre de Forme de Plait*, ed. and trans. by Peter Edbury, Texts and Studies in the History of Cyprus, 61 (Nicosia: Cyprus Research Centre, 2009); Edbury, *John of Ibelin and the Kingdom of Jerusalem* (Rochester, NY: Boydell, 1997); *John of Ibelin: Le Livre des Assises*, ed. by Edbury (Leiden: Brill, 2003).

composing in French, much like we saw with Brunetto. This corpus was composed in French, but was then translated into many languages from the Middle Ages onward, most commonly into Italian.[60]

The texts above have quite some range, from a more sophisticated treatise to a shorter terser text. They are united thematically through their discussion of the customs, procedures and pleading instruction in a common language. Outside of subject matter, the pedagogical nature of the texts provides an additional similarity.[61]

An explanation of why a certain language was chosen is not often found in medieval legal texts. Of the French *coutumiers*, only Philippe de Beaumanoir commented on why he chose to write in French in his *Coutumes de Beauvaisis* (1284). As Beaumanoir explained, 'Clerks have a manner of speaking in Latin that is very pretty; but the lay people who have to plead against them in lay court do not even understand the words that they say in French properly, as much as they may be pretty and appropriate to the pleading'.[62] While Beaumanoir acknowledges the beauty of Latin and does not deny that it is appropriate as a language of law, he marginalizes it by declaring that even a spoken French imbued with some Latin is incomprehensible to lay people. For this reason, the Latin language is an awkward fit in the secular courts and in the text he was writing on the custom, procedures and appropriate forms of pleading in the secular courts. This was the reason, he continued to explain, that he would set things out in such a manner as lay people could understand, in everyday vernacular French, albeit in its developing written form. In other words, then, he was intent on tapping into the common legal register.[63]

Beaumanoir's comments appear in a chapter devoted to the topic of complaints, but his comments speak more generally both to language and to the expression of ideas. He is explaining both why he is writing in French and also why he is writing in a simpler French, taking the time to explain certain concepts used by the clerks in ecclesiastical courts that are still useful in secular courts. So in secular courts, complaints are the same thing that the clerks call *libelles*, defenses are the same thing that the clerks call *excepcions*, and defenses

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60 Marie-Adélaïde Nielen-Vandevoorde, 'Un livre méconnu des Assises de Jérusalem: les Lignages d'Outremer', *Bibliothèque de l'école des chartes*, 153 (1995):103-130 (at p. 104).

61 John S. Beckerman, 'Law-Writing and Law-Teaching: Treatise Evidence of the Formal Teaching of English Law in the Late Thirteenth Century', in *Learning the Law: Teaching and the Transmission of Law in England 1150-1900*, ed. by Jonathan A. Bush and Alain Wijffels (London: Hambledon, 1999), pp. 33-50; Brand, 'The Languages of the Law in Later Medieval England', p.70.

62 *Les clercs on une maniere a parler mou bele selonc le Latin; mes li lai qui ont a pliedier contre aus en court laie n'entendent pas bien les mos meismes qu'il dient en François, tout soit il bel et convenable au plet* (Philippe de Beaumanoir, VI.196).

63 *Et pour ce, de ce qui plus souvent est dit en la cour laie et don't plus grant mestiers est, nous traiterons en cest chapitre en tele maniere que li lai puissant entendre* (Philippe de Beaumanoir, VI.196).

to defenses are what the clerks call *replicacions*. He sees many Latin-language concepts used in ecclesiastical courts are similar to those in secular courts, and it might even be argued that Beaumanoir by explaining these terms is endorsing their utility. This is certainly a place we can see Latin being used as a lexicographical source for an evolving professionalizing vernacular. Nonetheless, Beaumanoir is clear that he is matching his language to the audience he desires to reach — the French vernacular is the language of accessibility in lay courts and more generally for lay people.

There is also only one contemporary author who composed legal literature in French in England who explained his choice of language, namely, the truculent author of the *Mireur a justices* (*Mirror of Justices*) (1285-1290).[64] He did not write this in a particularly beautiful French — Maitland, who did not think very highly of the text, suggested that a good editor of the *Mirror* 'ought to know what medieval French would sound like when spoken by a medieval Englishman and listened to by a sleepy clerk'.[65] However, as David Seipp has noted, a source does not necessarily need high standing as a solid legal authority to still provide a lot of historical insight. Notably for us, as *Mireur*'s anonymous author explained, he compiled this summary of the law of persons 'in a language more easily understood, in your aid and in the aid of the commonalty of the people'.[66] The *Mireur* author, same as Beaumanoir, was tapping into a familiar and common reason *qua* topos as explanation of an author's use of the vernacular — the common nature of the language and greater ability to reach a wider audience. The author is probably not referring to the common people, but the greater number of people who he might find important as his audience — we are nowhere here dealing with a language that is available to all people; this is a language for those who are active in the courts and more sophisticated at least in speech if not in writing.[67]

The suggestion has been made for the legal literature of England that the French procedural pleaders' treatises such as *Brevia Placitata* show the necessity of teaching French as a foreign language.[68] It would be worthwhile to compare these to those in France

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64   As D. A. Trotter notes, the English title seems to be a mistranslation (Trotter, 'Language and Law in the Anglo-French Mirror of Justices', in *L'art de la philologie: mélanges en l'honneur de Leena Löfstedt* (Helsinki: Société Néophilogique, 2007), p. 257, n. 1. For dating see David Seipp, 'The Mirror of Justices', in *Learning the Law*, ed. by Bush and Wijffels, pp. 85 ff.

65   Frederic William Maitland, 'Introduction', in *The Mirror of Justices*, ed. by William Joseph Whittaker (London: Bernard Quaritch for the Selden Society, 7, 1895), p. liii.

66   *E en languge plus entendable en eide de vous e del comun del poeple e en vergoigne de faus juges compilai ceste petite summe de la lei des persones, des genz*: *Mirror of Justices*, preface, p. 3.

67   As Eric Hobsbawm noted, 'a single national language only became important when ordinary citizens became an important component of the state' (Hobsbawm, 'Language, Culture and National Identity', *Social Research*, 63 (1996): 1065-1080 (at p. 1068)).

68   Brand, 'Languages of the Law', pp. 70 ff.

and the Levant, because these also have an instructional nature and include explanations of terminology, not because it is French but because it is a specialized legal language. This is one of the parallels between Beaumanoir's *Coutumes* and the *Mireur*: both of their authors were expanding the ambit of French by supplying terms and their definitions as well as creating both legal and non-legal words.[69] They are part of the process that Thomas Brunner described, of creating a written language out of an oral one.

Outside of Beaumanoir and the *Mireur* author, French-language legal literature of the thirteenth century generally did not explain choice of language. This is not surprising or out of the ordinary. It was not every vernacular text that needed an explanation why it was in the vernacular. While these explanations emerge as prologue topoi with the rise of vernacular writing, they seem to occur most often on two occasions: first, when an author or type of work would be expected to be expressed in a different language, be it Latin or a native tongue, and second, to explain the need for a translation of a Latin text.

There may be no better place to examine the rise of French as a language of law and the transmission and reception of the *ius commune* and other Latin-language legal literature than the study of the translation of Latin legal texts into various vernaculars, and for our purposes French. This subject has, as of yet, received very little attention even though study of the translation of acts of practice such as charters has been both vigorous and highly illuminating.[70]

Yet it must mean something, and something important, that the major Latin legal texts all saw themselves translated into French during the thirteenth century — just as the Bible was translated into French in the 1230s, so were Justinian's *Institutes*, Gratian's *Decretum* and Tancred's *Ordo*.[71] As the century progressed, Justinian's *Institutes* underwent an additional translation into French verse, Azo's *Summa* appeared in French, and as mentioned earlier, the originally Latin *Summa de legibus normanniae* was translated twice, both into prose and into verse.[72]

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69   Trotter, 'Language and Law in the Anglo-French Mirror of Justices', pp. 265-267.

70   The literature on this is much too large to include here, so these are some representative examples.

71   Félix Olivier-Martin, *Les Institutes de Justinien en français: Traduction anonyme du XIIIe siècle, publiée avec une introduction par Félix Olivier-Martin,...* (Paris: Receuil Sirey, 1935); Leena Löfstedt, *Gratiani decretum: la traduction en ancien français du Décret de Gratien. Vol. II, Causae 1-14* (Helsinki: Societas scientiarum fennica, 1993); *Li ordinaire de maistre Tancrez*, Paris, Bibliothèque Nationale, MS. fr. 1073.

72   Claire-Hélène Lavigne, 'La traduction en vers des *Institutes* de Justinien 1er: mythes, réalités et enterprise de versification', *Meta: journal des traducteurs: translators' journal (Canada)*, 49 (2004): 511-525; Hélène Biu, 'La *Somme Acé* : prolégomènes à une étude de la traduction française de la *Summa Azonis* d'après le manuscrit Bibl. Vat., Reg. Lat. 1063', *Bibliothèque de l'École des Chartes*, 167 (2009): 417-464.

This is only a hint at how legal ideas originally developed in Latin were being disseminated, and how legal ideas were being 'vernacularized' or 'Frenched'. A full study of the pace, range, quality and nature of the translation of this legal literature still remains to be achieved, but would be an invaluable contribution to the history of the transmission of ideas. Tracing particular manuscripts might inform us about the geography and trajectory of transmission, and examining the differences between the Latin and vernacular versions would tell us a lot about how ideas remained similar or changed in the transmission from one language to another. Quotations of Latin-language Roman and canon law texts appear in translation in a significant number of vernacular legal texts, and sometimes the translated text can appear as a stand-alone within the same manuscript. They could be studied for the influence or use of Romanist ideas, but the fact of their translation in French is also an essential marker of the rise of the vernacular as a language of law.

The translations are also important because they often offer an explanation for why one might turn to French as the language of inscription of legal ideas. There was a need to explain why one would translate something already available in an 'international' language. Generally they evince not only an interest in pedagogy and the dissemination of ideas but also with learning those ideas quickly and properly. While it may be easy to assume that the translations were aimed at educating a vernacular audience, both the translation of Justinian's *Institutes* and Azo's *Summa* make clear that a common preoccupation for legal translators seems to have been to reach potential students to entice them to university legal studies, or to prepare them for studying the texts in Latin by first learning the more accessible vernacular version.[73] The less *subtile* vernacular was then becoming an entry-point to more complex ideas developed in Latin — this is another place we can see the more accessible and wide-ranging ability of the French vernacular.

It was also something beyond that. Guillaume Chapu, for instance, opened his French verse translation of the *Grand Coutumier de Normandie* with three explanations that addressed why he was taking the time to translate this text. The first is in service of 'current and future lawyers (*avocats qui sont et seront*), who wish to know the text and its contents by heart faster; since we hold that rhymed French is easier to internalize (*conchevoir*) than prose'; the second is because rhymed language is more beautiful than prose; and the third is the common authors' topos of getting readers to pray for their soul.[74] The vernacular, then, is better at facilitating learning, and the rhymed vernacular even more so. The translator is also pursuing aesthetic notions — ones that place legal literature in a wider spectrum, one that reaches out beyond the narrow practical needs of legal professionals.

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73 See generally Biu, 'La *Somme Acé*', pp. 417 ff.

74 See text at Lavigne, 'La traduction en vers des *Institutes* de Justinien', p. 519. According to Lavigne, Guillaume Chapu seems to have done his translation from the Latin text and not the French-prose version.

Furthermore, the use of the term *conchevoir* is important, encompassing acts from conceiving a child to coming to a real internalized conception of an idea, and makes the rhymed vernacular the gateway to true understanding.

In fact, these customary texts that explained local pleading and procedural practices may not have been as local as one might initially imagine. I have argued elsewhere that we can trace the movement and use of legal literature in France outside its designated ambit, so texts that purpose to describe the customs of one region are copied in the service of the composition of a set of customs for another region.[75] This is not only the practice of the legal community in France, but also in the Levant.[76] Currently, I know of two hints that England also participated in the movement of written custom — passages of *Fet Assaver* show up in the *Casus Placitorum* and a manuscript of the *Grand Coutumier de Normandie* recently acquired by Harvard University styled itself as the customs of England (as *liber consuetudinis anglye*, which is a Latin version).[77] Customs, procedures and pleading methods, though not exact replicas transferred from one community to the next, were nonetheless seen as a common pool of knowledge used in common ways throughout these legal communities.

The movement of legal literature and the sourcing of legal knowledge from outside local communities was already a common practice with city and borough customs. Mary Bateson has shown how the Norman customs of Breteuil were brought across the Channel and used to compose the customs of many other boroughs ('affiliation').[78] The *Establissements de Rouen* (1160-1170), while meant to describe the organization and nature of Rouen's government, became the basis for many other collections of city and borough customs — a number of these adopting the customs in French rather than Latin.[79]

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75 Kuskowski, 'Writing Custom and 'Inventing Legal Space: From Regional Custom to Common Law in the *Coutumiers* of Medieval France', in *Medieval Constructions of Space: Practice, Place, and Territory from the 9th to the 15th Century*, ed. by Meredith Cohen and Fanny Madeleine (Farnham: Ashgate, forthcoming 2014).

76 Kuskowski, 'Writing custom'.

77 Woodbine, 'Introduction', in *Four Thirteenth-Century Law Tracts*, p. 14; Harvard Law School Library: <http://etseq.law.harvard.edu/2011/11/852-rare-the-weekly-special-a-new-acquisition-summa-de-legibus-normanniae/> consulted on 3/10/2014)

78 *Borough Customs*, ed. by Mary Bateson (London: Bernard Quaritch for the Selden Society, 18 and 21, 1904-06).

79 Few municipal charters can compete with this one in terms of fame and spread; some other notable examples are the Laws of Breteuil, whose adoption was so well documented by Mary Bateson, and the customs of Magdeburg. The *Etablissments de Rouen* extended throughout English holdings on the Continent from Rouen to Bayonne, which is in south-western Gascony at the foot of the Pyranees. Cities that adopted these customs included Niort, Poitiers, Saint-Jean-d'Angély, Angoulême, Bayonne, Oléron (see 'Introduction' in *Les Etablissements de Rouen: études sur l'histoire des institutions municipales de Rouen, Falaise, Pont-Audemer, Verneuil, La Rochelle, Saintes, Oleron, Bayonne, Tours, Niort, Cognac, Sain-Jean-d'Angély, Angoulême, Poitiers, etc.*, ed. by Arthur Giry, 3 vols. (Paris: F. Vieweg, 1883-85).

Sometimes the city and borough customs were written in French for cultural reasons. In Flanders, the *Livre Roisin* (1267) described the customs of Lille in the French vernacular because French thrived as a prestige vernacular there.[80]

Also, the importance of French to the development of maritime law should not be forgotten. As Maryanne Kowaleski has shown, French was the common language of maritime activity.[81] Like Hyams, Kowaleski found a French lexicon at the base of maritime activity, from sea terms to the names of ships — for example, the 'lodeman' or ship's guide (pilot) in treacherous waters came from the (Norman) French *loman/lodman* used to designate a skilled navigator who knew how to work estuaries and ports.[82] Beyond language, it is also significant that borough customs of ports in England were all in Anglo-French which points to the importance of French in yet another type of legal literature and legal thinking.[83] Texts like the *Rolls of Oléron* and other expressions of maritime law were composed in the French vernacular, and we also see them moving around (perhaps more obvious for maritime law); for instance, a copy of the laws of Oléron were kept by many port towns in England.[84]

Conclusion: *Lingua Franca Legalis?*

It is well known that the *ius commune* provided medieval Christendom with a common conception of law and common legal language that transcended the boundaries of European polities and vanquished the vernacular tower of Babel. The development of medieval kingdoms in the high and late Middle Ages with a machinery that foreshadows the modern state, the later conception of law and language as a part of national identity, and the current scholarly tendency to evaluate the *ius commune* as the common and the vernacular, practical and customary as local and unique have led to the obfuscation of commonalities that can occur outside of the *ius commune* and between legal communities that may at first glance seem disparate.

This contribution has raised the question of what it meant to be part of the 'French hexagon', and to think law in French in the thirteenth century. From the Levant to the British Isles, legal literature was being composed in French for the services of lay courts

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80 *Le Livre Roisin*.

81 Maryanne Kowaleski, 'The French of England: A Maritime *lingua franca?*', in *Language and Culture in Medieval Britain: The French of England, c.1100-c.1500*, ed. by Jocelyn Wogan-Browne et al. (Woodbridge: Boydell for York Medieval Press, 2009), pp. 103-17.

82 Kowaleski, 'The French of England', p. 114.

83 Kowaleski, 'The French of England', p. 108.

84 Kowaleski, 'The French of England', p. 117.

and those who attended them. It is remarkable that this legal literature appears throughout the wider *francophonie* nearly simultaneously around 1250, and that the second half of the thirteenth century marks a moment of efflorescence in French legal writing in all of these areas — incidentally at the same time as we see a multiplication of references to French as a common language in a manner akin to Latin.

Legal history had been focused along national lines until Francesco Calasso exhumed the idea of the *ius commune* a little over half a century ago.[85] Since then, the movement of scholars, dissemination of manuscripts, and use of and references to the *ius commune* have been studied to assess the manner, nature and extent of its spread through medieval Christendom. A comprehensive survey of French vernacular legal writing of the thirteenth and fourteenth centuries remains to be achieved, so more specific results or observations must wait. Nonetheless, the preliminary observations above do seem to indicate that it may be worth taking a closer look at the 'common' in French vernacular legal texts beyond traditional boundaries.

If a French language, literature and culture existed beyond borders and waters, then it is quite likely that those legal professionals milling around lay courts might have wanted to participate in it — they notably had those essential proficiencies in reading and writing that would permit them to do so. Texts like Pierre de Fontaine's *Conseil*, *Britton*, or Philip of Novara's *Livre* were undoubtedly meant for a local audience, but there is also reason to think they were also tapping into something larger through the international language of vernacular secular authority and culture. Whether they actually expected or aimed to be read by a wider audience remains to be studied, but it is at the very least difficult to imagine that they did not see themselves as part of the nexus of power and culture represented by *francophonie*.

If all of this came together to form an 'imagined community', what was it that they were imagining? Choice of language, as Patrick Geary noted, had an ideological or propagandistic significance in itself that did not depend on the actual content of the writing.[86] The choice of French, at the very least, was a comment on the nature of power and authority in the thirteenth century and into the fourteenth. It tapped into not only the power of a local elite or the king of one kingdom, but was also connecting to a larger ideology of authority that surrounded secular power, proved by the geographical expanse, beauty and commonness of its representative language. Unlike how we might *imagine* an 'imagined community', this was an extra-territorial culture of power and beauty that permitted a francophone and customary legal culture to rise beyond the local and territorial and provide a bridge between legal communities previously not possible.

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85 Francesco Calasso, *Introduzione al diritto comune* (Milan: Giuffrè, 1951).

86 Geary, *Language and Power in the Early Middle Ages*, p. 59.