

## The Brehon Laws

The beginning of the 17th Century saw English law and rule prevail in Ireland and the Irish laws outlawed and declared barbarous. These "barbarous" laws had been what had kept the English from implanting its feudal system in Ireland and from completing its conquest of Ireland for four centuries. These ancient "barbarous" laws of Ireland have since been recognized as the most advanced system of jurisprudence in the ancient world, a system under which the doctrine of the equality of man was understood and under which a deeply humane and cultured society flourished.

These ancient Irish laws have come to be called The Brehon Laws from the Irish term "Brehon" which was applied to the official lawgiver. They were transmitted orally and with extreme accuracy from generation to generation by a special class of professional jurists called [Brithem](#) (judge in early Gaelic). These laws are of great antiquity and may antedate the coming of the Celts to Ireland. St. Patrick is credited with codifying these laws in the 5th Century. His efforts fill five volumes and are known as the [Senchus Mor](#). Its ordinances are named [C'ain Padraic](#) after St. Patrick. These five volumes which have come down to us, however, are only a small portion of the old Irish laws which covered almost every relationship and every fine shade of relationship, social and moral, between man and man.

While the Brehon, or lawgiver, administered the law, the aggregate wisdom of nine leading representatives was necessary to originate a law or to abolish it. The nine needed for the making of a law were the chief, poet, historian, landowner, bishop, professor of literature, professor of law, a noble, and a lay vicar. Impartiality is the salient characteristic of all the laws for all the ranks. The king himself was bound by law to do justice to his meanest subject. The king's rights are acknowledged but his duties are also enumerated. The democracy of these laws is shown in dozens of ways. For example, a king carrying building material to his castle had the same and only the same claim for right of way as the miller carrying material to build his mill; the poorest man in the land could compel payment of a debt from a noble or could levy a distress upon the king himself; the man who stole the needle of a poor embroidery woman was compelled to pay a far higher fine than the man who stole the queen's needle.

The Brehon Law was based on an individual's identity, defined in terms of clan and personal wealth. Honor was evaluated in terms of personal wealth and each person's wealth or honor price reflected his legal status in the community. In the sight of the law, the bishop, king, chief poet, and public hospitaller (person who owned and operated guest houses for no fee) were in the same rank and a like fine or honor price was payable for the killing of any of the four. The Irish law expected most from those who had received the most from God. For example, a member of the clergy might be fined double that of a lay person for the same offense. For certain offenses, lay people of rank were deprived of half their honor price for the first offense and all their honor price for the third offense. Clerics, on the other hand, would not only lose all their honor price for the first offense, but would be degraded as well. An ordinary cleric could, by doing penance and suffering punishment, win back his grade; a cleric of higher rank, such as a bishop, however, not only lost his honor price and was degraded for the first offense, but he could never again regain his position.

The Brehon Law applied to all areas of life and reflects the values of the people. In education, the rule was "instruction without reservation, correctness without harshness are due from the master to the pupil." The master was also expected to feed and clothe his student. The student, in turn, was indebted to his instructor whom he was expected to

support in his old age if the instructor was incapacitated or had no clan to care for him. Under the law, anyone who insulted or assaulted a student was guilty of insult or assault to the teacher. It was, therefore, to the teacher that a fine was paid. It was also the law that a student pay to his teacher the first fee earned by him when he graduated into a profession. Even though the mass of the people was not educated, all, including women, who desired an education could get one under the law.

While women in the Western World have been emancipated for less than a century, women in ancient Ireland were nearly on an equal footing with men. They were queens in their own right and led troops into battle. Women always held a place of respect in Celtic society and were accorded their rights as well. It took English law and civilization "to put women in their place." Ironically, the stamping out of the Brehon Laws, and with them the rights of women, was finally accomplished under Queen Elizabeth of England.

In ancient Ireland, under Brehon Law, the lowest clansman stood on an equal footing with his chieftain. For example, it is recorded that when several Irish Kings visited Richard II in Dublin, the Irish kings sat down to dinner with their minstrels and entire retinue as was their custom. The English were appalled by such a display of egalitarianism and soon rearranged things so that the Irish royalty ate separately from the rest of their attendants. The Irish gave in to this demand of the English in order to be courteous guests even though it went very much against their inclination and custom.

It should not be surprising that it was in this race of Gaels, where the equality of man was so well understood and practiced, that woman stood emancipated from the remotest time. Indeed, women in ancient Ireland were often eligible for the professions, and for rank and fame. They were druidesses, poets, physicians, sages, and lawgivers. Bridget was not only the name of the ancient Irish goddess who represented poetry and wisdom, and of the later saint who helped to spread Christianity throughout Ireland, but was also the name of an Irish lawgiver, Brigid Brethra, or Brigid of the Judgments, who lived about the time of Christ. It is this Brigid who is responsible for granting the right to women to inherit the land from their fathers in the absence of sons.

Under Brehon Law women were equal to men with regard to education and property. After marriage, the woman was a partner with, and not the property of, her husband. She remained the sole owner of property that had been hers prior to marriage. Property jointly owned by her and her husband could not be sold without her approval and consent. A married woman retained the right to pursue a case at law as well as recover for debt in her own person. In certain cases of legal separation for good cause, the wife not only took with her all of the marriage portion and gifts, but an amount over and above that for damages.

Because of their equality, or near equality, with men in other realms, women warriors frequently felt it was their duty to take up arms and march into battle with their brothers or husbands. Beginning with the warrior Queen of the Milesians, the [Book of Invasions](#) lists several women leaders. In the Ulster cycle of tales the noblest warrior of Ulster, Cuchulainn, was taught the art of war by a woman warrior named Aoive, and fought his greatest battles against the forces of Queen Maeve of Connacht.

It was only in 697 that women were exempted from warfare. The law exempting them is known as the Cain Adanman after St. Adanman, who, at his mother's behest, fought for this exemption. It seems that St. Adanman's mother, Ronait, was appalled by the barbarity she witnessed of one woman with an iron sickle savagely tearing apart another woman in battle.

Even though women were exempted from warfare in 697, this warrior tradition persisted into the sixteenth century in the person of Grania Uaile ([Grace O'Malley](#)). She was an Irish sea-queen, pirate, who was, if one can believe the accounts written by Sir Richard Bingham in 1593, "the nurse of all rebellions for the last forty years." While the English managed to stamp out the Brehon Law by the sixteenth century, the memory of these laws survived into the nineteenth century and showed itself in the Land League and the people's claims. It is not surprising then that the Brehon Law has excited the wonder and admiration not only of laymen, but of eminent jurists deeply versed in ancient and modern law codes. It is under this ancient, just and beautiful judicial structure that men and women lived in equality and democracy in Ireland. The sense of justice and fair play expressed by the Brehon Law is, and always has been, a source of pride to the Irish as well as a strong part of their heritage.

(written by Loretta Wilson & originally printed in 1989)

© Irish Cultural Society of the Garden City Area