Early Irish law

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Early Irish law [1] is the collective term for the laws of the Celtic people in Ireland, as recorded in the 7th and 8th centuries AD and subsequently in Middle Irish and Early Modern Irish. The earliest Brehon law manuscript is the Senchas Mór, which was compiled by the Brehon Council of Ireland, and which was commissioned by King Laoghaire in the 13th and the 14th centuries. The Senchas Mór is a collection of the Brehon laws, which were in use in Ireland before the Christian period. The Senchas Mór is a collection of the Brehon laws, which were in use in Ireland before the Christian period. These laws were created in pagan, and occasionally in pagan, pre-Christian times. [2] [3] [4] [5] [6] [7] [8] [9] [10] [11] [12] [13] [14] [15] [16] [17] [18] [19] [20] [21] [22] [23] [24] [25] [26] [27] [28] [29] [30] [31] [32] [33] [34] [35] [36] [37] [38] [39] [40] [41]

Case law [edit]

Early Irish Law is almost completely lacking in case law. What exists are a few brief references in a number of texts, both legal and non-legal, which reference the laws in action. For instance *Bechbretha* mentions the case of a king who lost his throne because he was blinded by a bee.[109] Additionally, the Latin Life of St. Columba refers to the case of a man who killed another and the subsequent punishment he was to endure.[110]

Decline of the Brehon laws [edit]

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The first attempt to encroach on Brehon law in Ireland came in 1155 when the English pope Adrian IV issued the papal bull *Laudabiliter*, which sanctioned the Norman Invasion of Ireland.[111] Following the Norman invasion (from 1171), areas under Anglo-Norman control were subject to English law. One of the first changes came with the Synod of Cashel in 1172, which required single marriages to partners that were not closely related, and exempted clergy from paying their share of a family's eraic payments.

Henry II, who created the Lordship of Ireland, was also a legal reformer within his empire, and started to centralise the administration of justice and abolish local customary laws. Strongbow was assigned large parts of Leinster in 1170 under the Brehon law by his new father-in-law Dermot McMurrough that were then regranted by Henry. Landowners such as the Earl of Kildare could claim a continuous title that just predated the Lordship itself.

In the centuries that followed, a cultural and military "Gaelic revival" eventually came to cover the larger portion of the island. The majority of Norman barons eventually adopted Irish culture and language, married in with the native Irish, and adopted Irish legal custom. By the 15th century, in the areas outside of the English controlled Pale around Dublin, and some notable areas of joint tradition in northern and eastern Munster, Brehon law became the de facto legal writ.

Nevertheless, the Brehon Laws could never be adopted on an official basis by the English-controlled government of the Lordship of Ireland, although some modernised concepts have been readopted in the laws of the Republic of Ireland.[citation needed] The imposition of the Statutes of Kilkenny in 1367 and the policy of Surrender and regrant effectively outlawed Brehon Law. In one exceptional case, vestigial rights have been recognised in recent Irish case law, in reference to the survival of Brehon law-governed customary local fishery rights in Tyrconnell, but these also amounted to an easement under Common Law.

The Tudor conquest of Ireland in the mid-16th century, ending in the Nine Years' War (1594–1603), caused Tanistry and Gavelkind, two cornerstones of the Brehon Laws, to be specifically outlawed in 1600. The extension of English law into Ulster became possible and led in part to the Flight of the Earls in 1607.

Elements of Brehon law operated in dwindling remnants in the Gaeltacht in the west of Ireland and in the Scottish Isles, notable on the isle of Lewis. On Lewis, the chiefs of the Morrison clan (earlier, Clann mhic Amhlaigh (Macaulays) of Uig in Lewis,[citation needed] and Sliochd a' Bhreitheimh, later Morrison) continued to hold office as hereditary brieves (Scots *for bretheamh or brehon*) or judges of the MacLeod clan of Lewis into the 17th century.

> ... the location of the Morrisons was at Ness in Lewis, where the head of the Clan was Britheamh or Hereditary Judge long before Fitheshire colonists were heard of. It is not likely, as the late Captain Thomas put it, that any of the Brieves ever understood a word of English, and as the Scotch laws were never translated into Gaelic, it seems that the native or Brehon Laws must have been administered in this part of Scotland as late as the 17th century.
>
> — *Dan Iain Ghobha: The poems of John Morrison*, cit. – Arch. Scot., Vol. V., p. 366

The last Morrison to exercise the office was put down with Letter of Fire and Sword in about 1619. It is probable that it was the last operative in Lewis by about 1595 or so. See the table history of Clan Morrison.

Fictional references and Ulster cycle of legends [edit]

The Brehon laws play a large role in the Sister Fidelma series of historical (7th century AD) crime books by Peter Tremayne, and in those of Cora Harrison's Mara, Brehon (investigating judge) of the Burren (early 16th century).[112] They are also the underlying principles seen in such Irish sagas as Táin Bó Flidhais and Táin Bó Cuailnge

March law [edit]

Main article: March law (Ireland)

March law was a set of laws and customs obtaining in the border areas of the Lordship of Ireland during the Middle Ages. These regions were ruled by Anglo-Irish lords between The Pale, which was the portion of Ireland ruled directly by the English crown, and Gaelic Ireland, which was still under the rule of native kings. It came into being in the late 13th century, when King Edward I of England drained resources from Ireland to fund his conquest of Wales and his wars in Scotland. Since the two areas were often intermingled in the border regions, as in the Wicklow Mountains, the applicability and content of march law varied widely.[113]

See also [edit]

- Category:Customary legal systems
- Kritarchy
- William Ó Deoráidhain (15th century), Professor of Jurisprudence

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- The Brehon Laws ↗ – Catholic Encyclopedia article
- Brehon Law Manuscripts ↗ held at the Library of Trinity College Dublin

Wikisource has the text of the 1911 Encyclopædia Britannica article "Brehon Laws".

v · t · e **Gaels** [hide]

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