

A Comparative Analysis of Irish Laws and Viking Laws and How They Have Assimilated

Keegan Oldham
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List of Abbreviations

AFM	Annals of the Four Masters
AU	Annals of Ulster
CG	Crith Gablach
CS	Cronicum Scottorum
FA	Fragmentary Annals of Ireland

Ireland is a country with a rich history and past. From the Christianization of the country in the 430s via St. Patrick, to the Viking raids in the 800s, and the assimilation of cultures afterwards, Ireland is a treasure trove of information. The aspect of law has seen changes throughout Ireland's history; once as a territory of class systems and then the introduction of outside legal customs. From early Brehon law to common law, and after with the introduction of Viking laws, Irish law has seen some changes throughout the years. The comparisons and contrasts that can be made between Brehon law, early Irish law, and Viking laws will allow scholars to better understand the progression of Irish law as a whole. Using an anthropological perspective to conduct a comparative analysis of early Irish laws and Viking politics, there is evidence of assimilation between the two cultures in terms of politics.

This paper is aimed at taking an anthropological approach to how laws change with the arrival of different cultures and how they are potentially assimilated into the previous culture. By looking at law codes from ancient Ireland, annals that provide a timeline of Viking invasions, and law codes from Iceland, a comparative analysis can be made between the two codes of laws and look at their similarities and differences. A look into newer Irish laws after the landing of the Vikings and the acculturation of cultures can help make an argument that potentially laws also saw a change. Many of the works that will be used in this paper are law codes from Ireland that date back to the seventh century – namely those within the *Senchas Már*, *Uraicecht Brecc*, *Corpus Iuris Hibernici*, and the *Crith Gablach*. Other resources such as the annals will provide a timeline for Viking invasion and the spread of Viking influence on Ireland. Other legal works include the *Grágás* which are a code of Icelandic law that will be used when discussing the laws of Iceland at the time of the late 900s and early 1000s, which would have carried over to Ireland when the Vikings started making settlements.

For historical context, it is best to start with the transformation of Brehon law into what scholars now know as early Irish law. Before the arrival of St. Patrick to Ireland in the 430s, early Irish law, also known as Brehon laws, was prevalent throughout Ireland. Brehon law was not yet written down so families would have it memorized and pass it down from generation to generation.¹ With the introduction of Saint Patrick to Ireland in the 430s, the Brehon laws underwent a revision via an assembly. The assembly was made up of bishops, kings, and Brehons who knew the dialect in which the laws were spoken. Many of the laws were considered outdated or pertaining to Pagan rituals. The remaining laws that were kept and revised were then written into what is known today as the *Senchas Már*.² The SM is the first written addition of early Irish law that dates back to the seventh century. Many of the laws within the SM pertain to civil matters whereas in later editions, such as the Book of Aicill, criminal law is discussed. One of the first law tracts that is present in the SM has to deal with the laws of status; this tract is also referred to as the *Uraicecht Becc*.³ These texts are the oldest surviving records that tell scholars about the legal codes in early medieval Ireland. These works are primarily coded in a Christian ideation, however some of them can date back to previous years when it was passed down orally. The annals were written predominantly in monasteries where the monks who resided there would keep a record of what occurred when in Ireland. This helps provide a coherent timeline of events that scholars can use to trace the invasion of the Vikings as well as settlements and acculturation into Ireland.

Many of the laws that are written in these works pertain to what are called *nemeth*⁴, which is all persons of free status. Ireland at the time had a class system that recognized the

¹ M. J. Gorman, "The Ancient Brehon Laws of Ireland," *University of Pennsylvania Law Review and American Law Register* 61, no. 4 (1913): 219.

² Referred to as SM hereon.

³ Eoin MacNeill, "Ancient Irish Law: The Law of Status or Franchise," *Proceedings of the Royal Irish Academy, Section C: Archaeology, Celtic Studies, History, Linguistics, Literature* 36 (1921): 265.

⁴ Ibid 266.

aristocrats, the common folk, and slaves.⁵ The main distinction between the classes is that slaves had essentially no rights. Many of these laws come from the *Corpus Iuris Hibernici*⁶ which is a collection of the surviving legal documents that have been composed into editions published by the Dublin Institute of Advanced Studies. Other manuscripts can help with distinguishing between the classes such as the *Crith Gablach*.⁷ The manuscript offers a total of fourteen different class statuses that are present in early Ireland – each individual status group has another layer of subdivisions that divides the groups even further. The subdivision is pivotal in understanding the social context of Ireland at the time in which the laws were active.

In his work *A Guide to Ancient Irish Law*, Fergus Kelly points out that traditionally kings did not make the laws with which to govern the tuath; instead, it was the job of the legal class with some form of clerical connection.⁸ While the kings were never the ones to propose laws on a daily basis, there has been an instance where an overking, which is uncommon at this point in Ireland's history, could issue an ordinance in times of emergency. Kings were also held under the same laws and were expected to obey them as well.⁹ This goes to show that while kings still held authority in terms of hierarchy, they still had limitations. Court proceedings typically involved the sixteen separate parties plus the two parties involved. Court procedures are meticulously thought out and must follow eight stages in order for it to be considered a legal proceeding. The date must be set for a hearing, choosing the path of judgement for the plaintiff, oath swearing, pleading, rejoinder, judgement, promulgation, and a conclusion.¹⁰ The use of an extensive court proceeding predates the arrival of the Vikings, who also had a meticulous court system. The main difference between the two resides in the hierarchical status of individuals and who was

⁵ T. M. Charles-Edwards, *Early Christian Ireland*. (Cambridge: Cambridge University Press, 2000), 90.

⁶ Referred to as CIH hereon.

⁷ Referred to as CG hereon.

⁸ Kelly Fergus, "A Guide to Early Irish Law," *Dublin Institute of Advanced Studies*: 21.

⁹ *CG 4.334-123*.

¹⁰ Fergus, "A Guide to Early Irish Law," 191.

considered to be of higher societal value. It is also easy to see how religion plays a role in the legal proceedings of early Ireland with one of the presiding individuals being a bishop that would offer blessings to the defendant and plaintiff as well as offer judgements with the king or chief poet.¹¹

With a bishop helping in presiding over the judicial proceedings, it can be concluded that they were very much in charge of writing down the happenings of the court as well as their other duties within the proceeding. Many of the manuscripts that the laws were written on are of monastic origin. Kelly again points out that the manuscripts follow a Latin grammarian influence with the use of question-and-answer techniques.¹² By introducing Christianity in the fifth century, the influences of monastic proceedings dictated that monasteries would write down in the traditional Latin alphabet at the time. This in turn formed a trickle-down effect in Ireland and caused law schools to start documenting their laws.¹³ Before this, it was custom to simply pass the knowledge down orally. The monasteries were in charge of protecting and preserving many of the written manuscripts that they kept there. Many of the manuscripts that have survived are those pertaining to record keeping of events that happened within any given year. Many of these events have to do with the raids and invasions of the Vikings near the end of the eighth century and early into the ninth century.

The recordings of invasion and plundering are scattered throughout the Annals, primarily the *Annals of Ulster*¹⁴, the *Annals of the Four Masters*¹⁵, the *Annals of Inisfallen*¹⁶, and the *Chronicon Scotorum*.¹⁷ The first recorded contact with what we now know as the Vikings was in

¹¹ Ibid 195.

¹² CG 4.298-61.

¹³ D. A. Binchy, "ANCIENT IRISH LAW," *Irish Jurist* 1, no. 1 (1966): 88.

¹⁴ Referred to as AU hereon.

¹⁵ REferred to as AFM hereon.

¹⁶ Referred to as AI hereon.

¹⁷ Referred to as CS hereon.

794 when AU noted that the islands of Britain were raided. The documentation of the raids by the Vikings can be seen in a chronological order when cross referencing these works. The first written account in many of the other annals occur shortly after the recorded incident in AU, with AI taking place in the record at 796.1, AFM in 790.6, and CS in 806. Across all of the annals there appears to be a massive influx of what the annals call heathens at the time in the 820s.¹⁸ With the Viking's consistent invasions happening in a condensed amount of time, from 820s to the early 830s according to the annals, Viking settlements are imminent.

When the Vikings decided to settle in Ireland, they brought with them their own legal and political systems. According to AU, foreigners from outside Ireland started to make encampments around Áth Cliath, which is now known as Dublin, around the mid 800s.¹⁹ AFM describes the first time the foreigners took possession of Áth Cliath in 836.²⁰ The Vikings first started raiding on the outskirts of Ireland, primarily around the islands. The first recordings that scholars have of the Vikings plundering a settlement is Reachrainn, which is an island off the coast of Ireland that is right by what is now Dublin.²¹ The Vikings kept mostly to the islands on the coast of Ireland until 811 when they eventually found themselves on the mainland in Ulster, which is Northern Ireland today.²² After their invasion on the mainland, the Irish were met with an extreme force of violence by the Vikings. From the initial invasion in Ulster, the Vikings found their way south into other territories and continued to pillage and plunder. Their most common victims were those of monasteries and shrines in which they would make sure to break or loot relics from them. The Vikings main motivation for burning and pillaging the coast of Ireland before starting settlements can be traced back to their own ideology and spirituality.

¹⁸ AU 825.9-825.15, 825.17; AFM 823.13-832.14, 823.17-823.18; AI 824.1, 824.2; CS 824.

¹⁹ AU 845.11.

²⁰ AFM 836.20.

²¹ AFM 790.6.

²² CS 811.1.

Their religious views were different in comparison with the predominantly Christian ideology in which much of Ireland was based at the time. Because of this opposition, as well as the Vikings being a warrior group, it is logical to conclude that the reason why we have records of the Vikings burning down monasteries and plundering religious institutions was because of the religious and ideological differences between the two groups.

Much about Viking law has been lost simply because scholars have no accurate knowledge of laws in Norway in the early tenth century.²³ The early texts that concern laws in Scandinavia are known as *Grágás*, which translates to “grey goose” in English. The name was used in reference to Norwegian laws and by extension Icelandic ones as well. It can be concluded that the Vikings in the ninth century applied themselves to these laws while they were invading Ireland. One of the most famous sections within the *Grágás* is the section which provides assembly procedures and the lawspeaker section. The general assembly was established when the laws were transitioning from Norway to Iceland, and the agreement of meeting at the same time and same place was put in place. The assembly procedure outlines that there will be four quarter courts and that each chieftain is to nominate a man to join the court.²⁴ Applying themselves to these laws, the Vikings would not have a centralized power but a law council that would function with decision making and uniting the factions together.²⁵ The law council was governed by chieftains who were appointed by their own factions and were expected to meet before assembly time, hold formal discussions at the assembly, and interpret the laws that they presided over.²⁶ The Lawspeaker was required to tell the men at the assembly the law and help the Law Council with conducting the assembly. Law Speakers were required to know the law to

²³ Richard Perkins, Peter G. Foote, and Andrew Dennis, *Laws of Early Iceland: Gragas I*, Laws of Early Iceland, (Winnipeg [Man.]:University of Manitoba Press, 2006), 1.

²⁴ Ibid 53.

²⁵ Ibid 189.

²⁶ Ibid 57.

such an extent that they were to recite the laws at the assemblies and if he does not know them is required to consult with other legal experts before the proceedings of the assembly.²⁷ There is not much in regards to laws on status like how there is in the early Irish legal texts, so it can be assumed that the only hierarchy that is present within the society is the one present for the Law Council. This is the only reference to a single organization or person that is held in a higher regard and is in charge of the proceedings.

For the comparative analysis portion of the paper, attention should be drawn to the SM, CG, and the *Grágás*, with help from outside sources that interpret the law and give a modern day verbatim. Emphasis in society was placed in different ways which is prevalent when looking at these legal texts. The Irish valued a hierarchical system that had a complex system of classes in which the king was an essential player in the enforcement of laws. It's apparent in the CG the differences in hierarchical standings that the Irish use to distinguish between the statuses. As mentioned, the CG describes fourteen different class statuses and how they are differentiated on the context of how much land they own, the number of animals, the houses that they have, and other factors. While the CG goes in depth about the differences in class status, the *Grágás* barely has anything in terms of status or class hierarchies. The Scandinavians had more of a democratic tradition when it came to how they structured their politics; in contrast, the Irish had aristocracy.

A few similarities that are prevalent between the two already is that of legal proceedings. The discussion of the limited power of kings in the legislative process have been addressed on the Irish side, and the involvement of chieftains in the legal proceedings for the Norse have been provided. It is easy to see that while these two groups did not interact before the Viking invasions started in the 800s, the legal proceedings share similarities and differences. Both had a complex system in which there was an established order of precedent in which legal action would take

²⁷ Ibid 188.

place. While the limitations on the hierarchical status in the process of legal action has been discussed, it's worth noting that kings were still relevant to the judicial process that occurred in their own regions. This is also true of the Law Council that the Vikings had in place in which the chieftains, mainly the established "kings" at the time, would preside over the judicial process and determine the factors at play. While these practices already existed before contact with the different cultures, it is easy to see how both ethnic groups would be able to join together in working in legal proceedings.

Similarities are also present in the proceedings themselves. While the Vikings had their Thing, the Irish had an assembly called the *airecht*. The *airecht* was an assembly of the *airig*, or the "freeman," which was also presided over by the king.²⁸ With the development of the assembly and as the social structure eventually simplified, the *airecht* developed into a king's council.

Another similarity that is apparent within the texts of Ireland and Scandinavia is that both are grounded in a Christian ideology. As discussed previously, the Irish laws were reviewed by those appointed by Saint Patrick and were looked at through a Christian-centric view. Those that were deemed pagan or simply too vague were thrown out or revised to fit with the ideology. For the Vikings, it is stated in the *Grágás* that everyone must be a Christian and put their faith in the Christian God.²⁹ This part of the *Grágás* were written in the late 900s and early 1000s, so it was some centuries after the initial institution of the legal codes that ruled the Scandinavian region. There is no doubt that before the recordings of the current edition of the *Grágás* that there were some pagan elements within them. With the introduction of Christianity into the legal sphere, the influence of paganism was no doubt taken out just like those in Ireland. Because of this

²⁸ Dáibhí Ó Crónín, *A New History of Ireland, Volume I: Prehistoric and Early Ireland* (Oxford: Oxford University Press, Incorporated, 2005), 878.

²⁹ Perkins, *Laws of Early Iceland*, 23.

conversion of Vikings to Christianity, the Irish were more willing to accept them into their own societies. With the Irish more willing to accept foreigners into their societies, this sets the group working for the back-and-forth of political ideas that can be shared via networking that is made between both ethnic groups.

Acculturation also gave rise to political ambitions which in turn gave rise to alliances as well.³⁰ One such incident is Cináed, son of Conaing, king of Cianachta and his alliance with the Norwegians. Documented in the annals, Cináed and the Vikings that were with him destroyed monasteries and burned oratories. When asked why he did this, he did not answer, and was put to death by drowning in a stream.³¹ This example of assimilation shows two things: one, that the Irish and the Vikings formed political alliances once the Vikings had settled; and two, that the Irish took some form of inspiration from the Vikings in terms of punishment. Traditionally the Irish's main way of putting someone to death could take one of three forms: hanging, the pit, and slaying.³² Other forms of punishment included being set adrift, mutilation, flogging, and outlawry.³³ Drowning was not a part of the death penalty for the Irish so in order to explain the drowning of Cináed it can be concluded that the Irish took some inspiration from the Norse legal practices.

Acculturation also took the form of marriages between the Vikings and the Irish. The Vikings started to marry into native Irish families after the settlements of their most prominent cities – Dublin, Wexford, and Limerick. Many of the marriages between the two groups started as political marriages between the kings of Ireland and the kings of the Norse for political alliances. Because of these alliances, the influence of both Viking politics and Irish politics were

³⁰ Crónín, *A New History of Ireland*, 616.

³¹ FA 234.

³² Fergus, "A Guide to Early Irish Law," 216.

³³ Ibid 219-224.

able to be shared back and forth between the different ethnic groups. It can be concluded that because of these political alliances via marriage, that influences from both sides would have changed the perspective of laws and legal proceedings in Ireland at the time of the Viking age. If certain pedigrees are to be assumed genuine, the earliest recorded marriage alliance between the Norse and the Irish occurred a little after 833. Genealogists credit Murchad mac Máele Dúin, king of Ailech, with a son who bore the Norse name Olaf, Gaelicised as Amlaib. Another name within the family was a hybrid between the Norse *svart* and Irish *dubdae*, to create the name *Suairtdubdae*.³⁴ An Amlaib, perhaps the same one mentioned previously, is also mentioned in the FA. This Amlaib is described as the son of the king of Norway, and with the annals hinting at a potential marriage between him and a “daughter of Cináed” it furthers the assumption of political marriages between the Norse and Irish.³⁵ In the Irish legal system, marriages were perhaps the best way to gain alliances through political means. The recommended form of marriage was an alliance between persons of the same status.³⁶

By using an anthropological perspective and conducting a comparative analysis of early Irish laws and Viking politics, there is evidence of assimilation between the two cultures in terms of politics. The use of annals to provide a timeline and the legal codes of both Ireland and Iceland to provide context, the argument can be made that because the Irish and Viking cultures combined after the Vikings settled, it can be concluded that their legal practices would also. Based on written work that has survived centuries, scholars are able to see the transformation of Ireland from a pagan institution to a land dominated by Christian ideology, and then the assimilation of Norse culture into their society. This makes Ireland’s history one that is complex

³⁴ Crónín, *A New History of Ireland*, 612.

³⁵ FA 347.

³⁶ Charles-Edwards, *Early Christian Ireland*, 94

and rooted in a continuous onslaught of outsiders who would soon become part of the existing society that was already present.

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