

Women and Slavery in the Early Irish Laws

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Abstract: As stated by Fergus Kelly (*Early Irish Farming*, 438), the numerous ‘references to slavery in law-tracts, wisdom-texts, saints’ Lives, annals, and sagas’ attest to the ‘considerable importance [of slavery] in early Irish Society’. Yet, despite these numerous references to slavery, only a handful of scholars to date have undertaken the task of researching this subject: Paul Holm has analyzed the slave trade of Dublin; Niall Brady has looked at labor and agriculture; and Fergus Kelly has described slavery in general and slave labor as represented by the early Irish law-tracts. This paper builds upon the work of previous scholars and, in particular, focuses on women and slavery as represented in the early Irish laws. This paper will discuss, from a legal standpoint, the specific law-tracts in which women and slavery are mentioned, the legal contexts of such references, and possible interpretations of the material.

For scholars of medieval Ireland, it is common knowledge that slaves formed an important part of the economy and the labor force in any wealthy household.¹ Fergus Kelly has remarked that the numerous ‘references to slavery in law-tracts, wisdom-texts, saints’ Lives, annals, and sagas’ attest to the ‘considerable importance [of slavery] in early Irish society’ (1998, 438). Yet, despite these numerous references to slavery, only a handful of scholars to date have undertaken research on the subject, among whom are Paul Holm, who has analyzed the slave trade of Dublin (1986); Niall Brady, who has looked at labor and agriculture (1994); and Fergus Kelly, who has described slavery in general and slave labor as represented in the early Irish law-tracts (1988, 95–98 and 1998, 438–42). So far no one has undertaken a study that focuses specifically on the representation of female slaves in the early Irish law codes. In this article, after providing an overview of the early Irish law codes and the other sources for slavery in medieval Ireland, I shall focus specifically on what the law codes can tell us about women and slavery. Finally, I shall also discuss a passage in the legal text *Bretha im Fhuillemu Gell* ‘Judgments Regarding Pledge-Interests’ which attempts to explain the reason why the word *cumal* is used to refer to the female slave.

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Like the Anglo-Saxon law codes, the early Irish secular law codes were written in the vernacular. In fact, the earliest Irish law codes date to about fifty years after the earliest Anglo-Saxon codes. The bulk of the Irish texts were written between *c.* 650 and 800 based on linguistic evidence, but most survive in manuscripts of the fourteenth through sixteenth centuries (Kelly 1988, 1). Many of these texts are found with extensive glosses and legal commentary, some of which span a linguistic range of 1,000 years, i.e. the seventh through the sixteenth centuries, attesting to continued interest and use by lawyers and legal scholars. Like law codes the world over, the Irish legal texts legislate matters of everyday life. What is important to bear in mind when dealing with these codes is the fact that not only do we not have any surviving case law, but also that these 1,000 years saw both the Viking and the Norman invasions of Ireland. Changes in the legal system are not seen for the most part in the codes themselves, but rather in the accompanying legal commentary, when such changes are noted at all.

Aside from the law codes, saints' lives are another important source for slavery. Almost all of the Latin saints' lives are preserved in three collections that date from the thirteenth and fourteenth centuries, but internal evidence suggests that some were written in the late eleventh and twelfth centuries (Heist 1965, xi; and Sharpe 1991, 3–38). Notably earlier Lives include those of Columba (*c.* 697 for Adomnán's *Vita Columbae*) (Anderson 1991, xlii), Bridget (*c.* 680 for the *Life of Brigit* by Cogitosus) (Sharpe 1991, 13), and Patrick (Muirchú's *Vita S. Patricii* and Tírechán's *Collectanea*).² The most famous of all Irish saints, Patrick, was captured during raids on his native Britain (Patrick, *Confessio* 53). Some of the sources for St. Bridget present her as the daughter of the wealthy Dubthach and one of his slaves, Broicsech (*Bethu Brigitte*, §12 and *Vita Prima Sanctae Brigidae*, §1). St. Fintan was betrayed by enemies to the Vikings in the 840s and promptly sold numerous times before settling in Rheinau in 851 (*Vita Findani*).³ From sources such as these, we learn that slaves were common figures in wealthy households and were involved in such activities as milking (*Bethu Brigitte*, §1), cooking (§7), making butter (§12), tending cattle (*Vita Prima Sanctae Brigidae*, §§7 and 16), and herding pigs (*Bethu Brigitte*, §9). We also learn that female slaves were frequently sexually exploited, as in the case with Bridget's mother as portrayed in *Bethu Brigitte* and the *Vita Prima Sanctae Brigidae*.⁴

Sexual exploitation of female slaves is also emphasized in the saga tales. For example, in *Táin Bó Cúailgne*, women and cattle are frequently depicted as the

2 Both texts date to the seventh century, but Tírechán seems to have written the *Collectanea* after 668 but before Muirchú wrote the *Vita S. Patricii*. See Sharpe 1991, 13 for discussion and further references.

3 See also Rodgers 2007, 8–21, Wyatt 2009, and note four below.

4 Although saints' lives contain much information about every-day life, the historicity of the figures presented cannot always be taken at face value.

spoils of war (the annals are full of descriptions of captives being taken during raids), and Cú Chulainn even has a bondmaid set aside for his use while visiting the prophetess, Fedelm (*TBC* I, ll. 222–24). In *Echtra mac nEchach Muigmedóin* ‘The Adventures of the Sons of Eochaid Muigmedón’, Cairenn Casdub, daughter of Scál the Dumb, king of England, is the slave of Eochaid Muigmedón and by him the mother of Níall Noígíallach, the eponymous ancestor of the Uí Néill (*Echtra mac nEchach Muigmedóin*, 190). *The Saga of Fergus mac Léti* relates how Dorn, daughter of Buide mac Ainmirech, was given to Fergus Mac Léti, king of Ulaid, as his slave as part of the compensation for the crime of her son and four brothers; they had killed Eochu Bélbuide, who was under Fergus’ protection (Binchy 1952, 37). Perhaps the most poignant description of the slave’s lot occurs in the story of Cormac and Ciarnat. Ciarnat was Cormac’s slave, whose quern was said to feed ‘many hundreds’. She became pregnant by Cormac and eventually was no longer physically up to the task of heavy grinding. The tale says that out of pity for her, he brought a mill-wright from over the sea and built Ireland’s first water mill (*The Metrical Dindshenchas*, vol. 1, 22 and 23).⁵

This raises the question of how one became a slave in medieval Ireland. If a slave owner begat a child on one of his slave women, the resulting child was also his property. One could be sold into slavery. For example, the *Annals of Ulster* record in the year 964 that there was a great famine in Ireland such that ‘the father was wont to sell his son and daughter for food’. Whether children were sold permanently or into some form of debt servitude is unclear; both scenarios would have been possible. The selling of children in exchange for food is also mentioned in *Chronicon Scotorum* for the year 1116 along with the fact that hunger drove men not only to eat dogs, but one another. The law tract *Uraicecht Becc* ‘Small Primer’ mentions the freeman who sells himself into servitude (*CIH* 1594.15–18; and *AL*, vol. 5, 20). As previously mentioned, one could be captured in a raid, whether within or outside of Ireland; the sagas and annals recount such events repeatedly. Many slaves were exported from and imported into Ireland as part of the Viking Age slave trade (Valante 2008, 122–23), but one should not forget that the Irish themselves previously raided Britain regularly for slaves (Charles-Edwards 1996, 27 and 42). The mid- to late-eleventh-century text *Lebor na Cert* ‘The Book of Rights’ refers a number of times to foreign slaves being paid as the tribute to or stipend for various kings; for example, the stipend given by the king of Ailech to one of his vassal kings includes ‘seven women from over the sea’ (68.1013; and Dillon 1958, 248).⁶ How realistic such tributes were, both in whether they were paid and whether female slaves were actually handed over, is another matter, but the concept of the female slave being considered an item of great value is important.

5 See also Mac Eoin 1981, 13–19.

6 See also Kelly 1998, 440.

According to the eighth-century law tract *Uraicecht Becc* (Breatnach 2005, 316), foreign slaves were worth more than native Irish slaves because they were less likely to run away (*CIH* 1617.29–32; and *AL*, vol. 5, 110). Furthermore, one could be reduced to servitude if one could not pay a debt or fine. The early Irish legal system was based on compensation rather than punishment, so, if one was not able to pay the fine associated with a particular crime, one could become the property of the person to whom the fine was owed (Kelly 1988, 95; and Adomnán, §84b). An adage in *Bretha Éitgid* ‘Judgments of Inadvertence’ states that one should not kill a captive until he is one’s property (*CIH*, 328.7, with commentary 328.7–29; *AL*, vol. 3, 484 and 486; and Breatnach 2005, 176–82); ‘captive’ here refers to someone who owed compensation for a crime, but could not pay it. In a section of commentary relating to §19 of the tract *Cáin Lánamma* ‘The Law of Couples’, a primary wife and a secondary wife with sons are allowed to give all of their excess wealth to free their friends from imprisonment or chains (186).

According to the *Fuidir*-tract, a slave had no honor-price (except the male slave in respect to sexual crimes committed against his wife) (*CIH* 248.5–7; and *AL* vol. 5, 513), was not allowed to make contracts without his master’s permission, and could not act as a witness. His master was entitled to compensation should any crime be committed against him, and the master was allowed to do whatever he liked with his slaves; killing your slave was not a crime in medieval Ireland (Kelly 1988, 95 and references therein). Although I use ‘he’ here for convenience when referring to a slave’s master, there is nothing that suggests that women did not own slaves as well. In terms of the division of labor between male and female slaves, male slaves did most of the menial agricultural work such as herding livestock and chopping wood, while female slaves were more often associated with working at the quern, kneading slab and trough, sieve, and other domestic tasks (Kelly 1988, 96 and references therein).

As already mentioned above, there are numerous references to slaves in general in the law tracts and literature, but when we look for references to female slaves in particular, one finds that there are surprisingly few explicit mentions of them in the law tracts. We do need to take into account, though, the fact that in the many general references to slaves the words *mug* ‘male slave; servant’ or *dóer* ‘unfree’ are what we find.⁷ Instances where the law codes refer specifically to female slaves are as follows (this list is not exhaustive, but it is representative of the references that exist, which are few when one notes the vast corpus of surviving law codes):

7 This is perhaps more a function of the Old Irish feature of grammatical masculine default rather than that the laws discussed apply only to male slaves.

- *Cethairshlicht Athgabálae* ‘The Four Paths of Distraint’ lists distraint of three days for stealing someone’s bondmaid (*CIH* 383.34 and 384.7–8; and *AL*, vol. 1, 163 and 167)
- *Bretha Éitgid* ‘Judgments of Inadvertence’ states that a bondmaid is not liable for injury to idlers and unprofitable workers that results from her working at her kneading trough or slab or using other household implements⁸ (*CIH* 285.36–286.4; and *AL*, vol. 3, 275 and 277)
- Heptad 21 tells us that any free man who secretly impregnates another man’s bondmaid is solely responsible for the cost of raising the child (*CIH* 20.28; and *AL*, vol. 5, 199)
- According to Heptad 22, a free woman who secretly bears the child of a slave is solely responsible for raising the child (*CIH* 21.27–28; and *AL*, vol. 5, 203)
- Heptad 29 tells us that a chief should not give a bondmaid as a *rath* ‘fief of base clientship’ (Kelly 1988, 319, Index 1, *s.v.* *rath*) to one of his clients (*CIH* 27.9; and *AL*, vol. 5, 223)
- *Di Astud Chirt 7 Dligid* ‘On the Establishing of Right and Entitlement’ states that the son of a bondmaid can never achieve the status of a lord (*CIH* 233.4 and 233.10–12; and *AL*, vol. 5, 457)
- *Di Astud Chirt 7 Dligid* also says that a bondmaid does not have the right to bring a suit against her master (*CIH* 240.34–35; and *AL*, vol. 5, 481)
- In the *Fuidir*-tract on the ‘semi-freeman’, (*Fuidir*-tract, 60–83; and Charles-Edwards 1993, 307–36) a bondman is entitled to compensation if sexual crimes are committed against his wife provided she is also a slave, but not for any other type of injury; in those cases the compensation is paid to her owner⁹ (*CIH* 247.28, 248.12–15, and 248.26–27; and *AL*, vol. 5, 515).

8 In other words, if someone trips over her kneading slab while she is kneading dough, neither she nor her master is in any way legally responsible if that person should be injured as a result. See also Bitel 1996, 151.

9 If the bondman has a free wife, he is entitled to compensation for any type of crime committed against her. A woman’s honor-price is calculated as being half that of her male guardian. If she is unmarried, her legal guardian is usually her father or brother. Once she marries, legal guardianship passes to her husband, entitling him to receive compensation for any injury done to her. If she is a slave, she has no honor-price and her owner is in the position of being her legal guardian. The exception to this is cited above in cases where sexual crimes are committed against a married woman; regardless of her status as free or unfree, her husband is entitled to compensation. For an overview of early Irish marriage law, see Kelly 1998, 70–73 and Eska 2010. For a discussion of the legal rights of Irish women in comparison with the Continent, see Jaski 1996, 16–42 and Swartz 1993.

In medieval law codes in general, it is not surprising to find so few references to female slaves, except in sections that discuss their progeny. It is rather surprising, though, for the early Irish codes because of the terms used to refer to slaves generally and female slaves in particular. The following table lists some of the words one finds to refer to the unfree in medieval Ireland.

<i>fuidir</i>	‘semi-freeman’ or ‘tenant at will’
<i>bothach</i>	‘cottier, one who lives in a <i>both</i> ‘hut’
<i>senchléithe</i>	‘ancient dwelling’
<i>cimbid</i>	‘captive’
<i>riascaire/ráthmug</i>	‘ráth-serf’
<i>mug</i>	‘male slave; servant’
<i>cumal</i>	‘female slave’

The term *fuidir* ‘semi-freeman’ refers to the man who, although he can leave his lord at any time, cannot enter into legal contracts without his lord’s permission (Kelly 1988, 33–35; and Charles-Edwards 1993, 307–36). Next is the *bothach*, the ‘cottier’; the distinction between the *fuidir* and the *bothach* is not at all clear (Kelly 1988, 35; and Charles-Edwards 1993, 308–9 and 338); any *fuidir* or *bothach* whose family remains with the same lord for three generations becomes a *senchléithe*, and, although not a slave, becomes bound to his lord. If the lord should sell the land the *senchléithe* inhabits, the *senchléithe* is part of the purchase (Kelly 1988, 35–36; and Charles-Edwards 1993, 308–9 and 330). The *cimbid* ‘captive’ is one who has committed a serious offense and owes compensation which has not been paid (he is owned by those to whom compensation is owed). The *cimbid* can be freed if his crime is paid for by a kinsman, or he could be ransomed by a non-kinsman (Kelly 1988, 97–98; and Charles-Edwards 1993, 317). The *riascaire* or *ráthmug* is one who is enslaved either to a lord or the church for the purpose of building a *ráth*.¹⁰ *Mug* is the ‘male slave’ and also the generic word for ‘servant’; and finally, there is *cumal* ‘female slave’ (Kelly 1988, 95–97).¹¹

It is worthwhile to pause over the words *mug* and *cumal*. The word *mug* does not have a certain etymology. It appears only in Celtic and in Germanic in forms such as Gothic *magus* and Old Norse *mōgr* with the meaning ‘servant,’ ‘young man,’ or ‘son,’ but the vowel in the root rules out a common Indo-European etymology.

10 *Ráth* is the term for both an earthen rampart surrounding a chief’s residence and the term for the summit of the hill on which the church buildings of Armagh were built. One ought not to forget that the church owned their fair share of slaves too.

11 It should be noted that the original form of Finn mac Cumail’s name is Finn mac Umail. See Meyer 1911, 391.

Eric Hamp (1991, 222), in fact, has provided sound rules that account for the forms of the etymon in both language families.¹² *Cumal*, on the other hand, means not only ‘female slave’, but also is the term for a unit of value, for a unit of area, and can mean ‘payment’ (Kelly 1988, Index 1, *s.v.* *cumal*). It does not seem to have a cognate in any other Indo-European language, and, as is the case with *mug*, it appears to have been borrowed from a substratum language.¹³ In the literature, we occasionally find the compound *banmog* (e.g. *Buile Shuibne*, 104.31), literally ‘female slave’, but we never find compounds using *cumal* to denote a male slave.

By way of comparison, in medieval Iceland female slaves were also used as both a form of payment and as a unit of value (Patterson 1982, 169). Furthermore, we find in Old Norse two terms that are used specifically for the female slave, *þý* and *ambátt*. The former is cognate with Gothic *þiwi* ‘(servant) girl, slave’ (Lehmann 1986, 362) and where both masculine and feminine forms are attested in other Germanic languages, e.g. Old English *þēow* ‘servant, slave’ < *tek-uo- and the feminine form *þēowe* < *tek-u-ih₂, the feminine forms are always derived from the masculine forms. For unknown reasons, Old Norse has lost the masculine form of this word, perhaps because of the existence of *þræll* ‘male slave’. *Ambátt* is a loan word from Celtic; compare Gallo-Latin *ambactus* ‘servant’. It was clearly borrowed into Germanic at an early date since it is attested by Gothic *andbahts*, and all of the Germanic forms are masculine nouns, e.g. Old High German and Old Saxon *ambaht* and Old English *ambiht*. The reason for the noun’s feminine gender in Old Norse is a mystery, but it is surely not, as tentatively suggested by Ruth Mazo Karras (1988, 43), because ‘at some linguistically formative period most of those enslaved in wars or raids were women’.

Returning to medieval Ireland, in *Sanas Cormaic*, an early Irish legal glossary attributed to the king and bishop of Cashel, Cormac mac Cuilennáin (†908) (Russell 1988), we find the following entry:

Cumal .i. cum mola .i. ben bis fri bleith mbron, ar is e mod frisa mbitis cumala doera rinisiu dorontais muilind (Sanais Cormaic, 28)

‘*Cumal* i.e. [from Latin] *cum mola* “with a quern” i.e. the woman who grinds at the quern, for this is the work which female slaves used to do before water-mills were made’ (translation from Kelly 1998, 439).

This Isidorean-style etymology, of course, is hardly correct, but it highlights the medieval association of female slaves and grinding.¹⁴

12 Hamp reconstructs the form as a Northern European *u*-stem **mog^hu*-. See also Boutkan 1998, 121–23 and 2003, 14–16.

13 For other non-Indo-European words borrowed from a substratal language into Irish, see Schrijver 2000 and 2005.

14 Cf. also the explanation given in *Cethairshlicht Athgabálae* ‘The Four Paths of Distraint’; *CIH* 374.30–75.3 and *AL*, vol. 1, 141.

Why the word *cumal* came to be used as a term for currency has puzzled medieval and modern scholars alike. Enrico Campanile (1997) has argued, based on Old Irish and ancient Greek evidence, that in Indo-European society slavery was confined to females. Thus, the use of *cumal* in early Irish law is a reflection of Indo-European society. His argument, however, has a variety of problems. It rests upon the assumption that male slaves did not exist before the advent of war, in other words, only when war evolved were male captives taken as slaves. Thus, in Indo-European society, there was no war, hence only female slaves. Unfortunately, his assumptions run counter to what can be reconstructed for Indo-European society, in which warlike behavior was a commonplace (see Mallory and Adams 2006, 277–83 on the reconstructed Indo-European vocabulary for strife and warfare). Furthermore, he never addresses the etymologies of *mug* and *cumal*.

An explanation for *cumal* being both a unit of value and the term for a female slave is given by the early Irish lawyers in the law tract *Bretha im Fhuillemu Gell* ‘Judgments Regarding Pledge-Interests’:

Mesta Mugdornn ingen Moga fri cumail n-uinge, no boin no-da-criad; nocon frith asa ruicctha a mmes tairse; nochis si cetna cumail ceta-ra-gaib broin inna laim la firu Erenn, Mugdornn ingen Moga.

‘Mugdornn ingen Moga was estimated at a *cumal* of an ounce [of silver], or a cow that it would purchase [i.e. or a cow of equal value]; there was nothing found that could carry her value beyond it; and she was the first *cumal* who first took a quern in her hand among the men of Ireland, i.e. Mugdornn ingen Moga’ (*CIH* 467.31–33; cf. text and translation in *AL*, vol. 5, 394 and 395, respectively)

In this law tract, an ounce of silver is the maximum amount a pledge-interest can reach. In fact, *Bretha Crólige* ‘Judgments on Blood-Lyings’ states that a *cumal* is the fine payable for an injury that put a slave in danger of death (*CIH* 2286.36; *Bretha Crólige*, §2; and McLeod 2009, 28–29). In the passage, it is clear that the early Irish lawyers associated *cumal* first in its meaning of ‘value, amount’, and from there what was generally estimated to be worth a *cumal*, that is, the female slave, which, historically, is probably the reverse order of the semantic development of the term. Since female slaves were such a prestige item, we would expect *cumal* to start out as a term for a female slave and then undergo semantic broadening. *Cumal* most likely came to denote a unit of value for a variety of reasons, including the prestige of owning a female slave, the thriving slave market, and the fact that female slaves were a commonplace consequence of war (Charles-Edwards 2000, 68–69).

In conclusion, although slaves are commonly referred to in the early Irish laws, there are very few specific references to female slaves. This is surprising because of the importance of female slaves in the medieval Irish economy. It is also noteworthy that the words for male and female slave, *mug* and *cumal*, respectively,

are etymologically unrelated to each other. These terms are likely of non-Indo-European origin and were adopted from the culture that inhabited northern Europe and Ireland before the expansion of the Celts. The existence of the word *cumal*, then, perhaps tells us more about the pre-Celtic inhabitants of Ireland than the Irish, although it is impossible to rule out a negative semantic shift after the word was borrowed into the language.¹⁵

Abbreviations

<i>AL</i>	<i>Ancient Laws of Ireland</i>
<i>CIH</i>	<i>Corpus Iuris Hibernici</i>
<i>TBC I</i>	<i>Táin Bó Cúailnge, Recension I</i>

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15 For example, the Irish word *inailt* originally meant 'foster-sister, fosterling', but over time came to acquire the negative meaning of 'servant, handmaid, bondmaid'. Máirín Ní Dhonnchadha has suggested that this shift 'can be accounted for by the identification of the practical aspect of the *inailt*'s function, the service she provides, with that of the servant' (1986, 185).

16 When modern editions do not exist for Irish law codes, references are to the versions cited in the body of the paper. For complete references to the law codes, see Breatnach 2005.

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