

Control of the Means of Production in Early Irish Law¹

Pamela O'Neill

Abstract

This paper presents a preliminary survey of some evidence presented by early Irish law for changes in the control of the means of production in early medieval Ireland. It tests the hypothesis that early Irish law texts provide evidence that the control of the means of production changed over time. References in law texts to such technological equipment as mills, ploughing equipment and other crucial equipment for the transformation of resources and raw materials into consumable goods are examined, and compared to evidence from archaeology and other historical sources. The paper proposes that what law texts tell us about which social classes or groups exercised effective control over this equipment has the potential to contribute to a discussion of how the social structure of medieval Ireland changed and developed over time.

I would like to set the scene for this paper by saying that, at some point in Irish history, hand querns were the means by which one reduced cereal crops to consumable meal, and could therefore be considered the principal means of production in relation to foodstuffs. I am less interested in absolute dating than in relative dating for this paper, so I do not want to suggest that querns were the primary means of production in the fourth century or the fifth century or the sixth century, but rather that there was a time when this is the kind of equipment we mean when we refer to productive technology. The evidence suggests that, throughout the period when the early Irish legal texts applied, productive technology changed. This paper will take a preliminary look at the extent and nature of that change, and its relationship with the legal texts. During the early medieval period, the means of production developed from tools like the quern, a single-user, labour-intensive, low-output device, into larger-scale, more mechanised tools, which created an environment in which it was possible for control of the means of production to be concentrated in the hands of a smaller number of individuals.

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I begin with an extract from the text *Críth Gablach*, a well-known status text, normally dated around 700 on the basis of an internal reference to *Cáin Adomnáin*, which is known to have been promulgated in 697 (Binchy 1979, xiv).

Ócaire [...] Cethramthu arathair lais – dam, soc, brot, cennose – combi túalaing comse. Cuit i n-áith, i mmuiliunn, i sabull;

Young-noble ... he has a quarter of a ploughing outfit – ox, ploughshare, goad, halter – so that he is competent to be a partner. A share in a kiln, in a mill, in a grain store; (Binchy 1979, 4.87–97).

This particular piece of text refers to a specific social grade, the *ócaire*, and the equipment that he possesses, that pertains to his status. First he has a quarter of a ploughing outfit, that is an ox, a ploughshare, a goad and a halter, so that he is competent to be a partner in ploughing. He also has a share in a kiln, a share in a mill and a share in a grain store. Of particular interest for the purposes of this paper are the kiln, the mill and the grain store, and I am going to look in some detail at these three technological items. It is important to notice in this text that this individual does not own any of these things outright: he owns a share in them, so that by cooperating with three of his neighbours in the case of the plough, possibly an unspecified number of his neighbours in the other cases, he is able to produce what he needs to subsist. It is an important feature that in order to produce what one needs to subsist, and presumably not much more, one needs to be able to cooperate and work together, as a partner as the text says, with one's neighbours.

We will look at those three pieces of technology, the kiln, the mill and the grain store. A kiln is a reasonably small piece of equipment: although the very largest ones may be up to about four metres across, the average one is much smaller than that, less than two metres across. A kiln of this kind is for drying grain that has been harvested. In order for the kiln to be shared between, for example, four farmers, the needs of each of those farmers (and their households) for production have to be reasonably small, I would argue, in order for that kiln to do the job effectively. The season for harvesting grain is limited, and grain cannot be stored for long periods, or ground, unless it is dry. So the material object, the kiln, reinforces to me that the *ócaire* described in *Críth Gablach* is a farmer who produces the subsistence level of product. He does not produce goods for selling on or for sharing amongst large numbers of people. He produces enough product to serve the needs of his household, and each of the partners in the kiln will be producing approximately that same amount.

It is thought that mills were probably a reasonably recent introduction into Ireland around the time of *Críth Gablach*. Fergus Kelly lists the tidal mill at Little Island, County Cork, and that at Drumard, County Derry, dated dendrochronologically

to 630 and 782 respectively, and deduces that the water mill was introduced into Ireland in the sixth or early seventh century (1997, 484–485). Killoteran 9 in Waterford is currently thought to be the earliest water-mill in Ireland, with a dendrochronological date of 612/613, supporting Kelly’s deduction (Doolan 2013, 41). If Killoteran and Little Island are the earliest mills in Ireland, then they may have only just been established as standard equipment by the time of *Críth Gablach*. A mill is clearly able to produce a much greater rate of meal than a quern, and indeed would probably have the capacity to grind more grain than could be dried in a single kiln. The group which shared ownership of a mill could potentially have been larger than that sharing ownership of a kiln.

We will now consider the grain store. *Saball* is always, as far as I can see, translated as ‘barn’ (see, for example, Kelly 1997, 243) and indeed in the modern Gaelic languages it means ‘barn’. The *Dictionary of the Irish Language* (S 2.40) gives a derivation from Latin *stabulum*, which tends to confirm that a standing building for agricultural use is meant. We have no remains of anything from the early medieval period in Ireland or Scotland that could be considered a grain storage barn that I have been able to find out about. That does not necessarily mean that there were no grain storage barns in early medieval Ireland or Scotland. Rather, it means that none have been preserved, which is not surprising given that they would probably have been built of organic material and may have disappeared from the landscape effectively without trace.

However, there is a possible alternative explanation, which involves interpreting *saball* as meaning a place where grain is stored, which in more recent times would generally mean a barn. There is an additional Old Irish word for barn or granary, *sciból*, borrowed from British (DIL S 93.61), whose meaning seems to refer more directly to a grain storage facility, rather than necessarily a standing building. Many grain-drying kilns are found directly adjacent to souterrains, and it seems to me that there is a case to be made that a souterrain may be what the word *sciból* refers to, sometimes if not always. I would tentatively suggest that in *Críth Gablach*, the word *saball* may be meant to be interchangeable with *sciból*, and might refer to a grain store in the broader sense, including the possibility of a souterrain. Souterrains are increasingly thought to have been places where grain was stored (eg Simpson et al 2007, 177). Storing grain underground seems to be quite a viable option, particularly suited to the Irish climate, given that anaerobic or near-anaerobic conditions could be maintained more easily under the ground than above it. The possibility that *saball* may in the context of *Críth Gablach*’s list of farmers’ equipment encompass the meaning ‘souterrain’ will be considered further below.

Returning to *Críth Gablach*, moving up the social scale a little brings us to the *bóaire febsa*:

Bóaire febsa [...] Cuit i mmuiliunn co n-airmil a muintir 7 a dáma; áith, saball, lias cáirech, lias lóg, mucfhoil [...] leth n-arathair [...]

Cow-noble of excellence ... a share in a mill so that he grinds for his people and his retainues; a kiln, a grain store, a sheepfold, a calf-fold, a pigsty ... half a ploughing outfit ... (Binchy 1979, 6.152–158).

He owns, just like the *ócaire*, a share in a mill, and *Críth Gablach* specifies that this is so that he can grind for his family and his companies of guests or his *dáma*: essentially his household and his retainues. However, as well as that share, he owns outright a kiln, a grain store, a sheepfold, a calf-fold and a pigsty. This is a quite specific group of buildings that he owns. He also owns half of a ploughing outfit, so that he can cooperate with just one neighbour of equal status (or perhaps two of *ócaire* status) to plough. Owning the kiln and the grain store outright while still only owning a share in a mill is not necessarily surprising. A mill is a more expensive piece of technology and capable of processing at a much faster rate than a kiln, so it would not be necessary to own an entire mill just because he owned an entire kiln and an entire grain storage facility. A shared kiln seems only to be able to serve the needs of the household of each partner, and an outright-owned kiln might only serve the need of a single larger household; the larger size of the *bóaire febsa*'s household is implied by his higher status, greater number of possessions, larger retinue and presumably greater need for farm labourers.

Looking through the recorded archaeological sites for a site that evidences the sorts of equipment that are described as belonging to a *bóaire febsa*, I was struck by Bray Head on Valentia Island in County Kerry. The site is described as an enclosed early medieval farm (Hayden 1999): it certainly has an enclosure. It contains a kiln, a souterrain, pens – possibly for sheep and calves and pigs – it has clear field divisions where a soil test has revealed traces of cereal pollens, so growing of grains took place. It seems to me that this site very closely equates to the description in *Críth Gablach* of what a *bóaire febsa* should have on his farm. What is notably missing is the mill, and that is probably in keeping with the fact that a mill would be shared, so we can postulate a mill at another site on Valentia Island, that was being shared by this farmer. (Indeed, there is a possible mill situated between this site and another apparent farm site, but radiocarbon dating suggests that it is early modern: Kerr et al 2009, 285.) So what we have here seems to be a confirmation in the material record that what is described in *Críth Gablach* actually was a real situation where the farmer had this technology, these means of production, under his control.

A slight digression, it seems to me, occurs in *Críth Gablach* when we get this outline of what happens when someone uses a mill without permission:

Mleth díchmairc i mmuiliunn mruigfhir, cóic shéoit 7 dílse mine melar díchmairc, 7 lóg a enech dia toichnea a dáim. Diam a bronnad aineclann cháich as a aí 7 aithgein la tairgell mlethe. Mad a áith robronntar díchmairc, bó co ndairt a ddiré 7 aithgein. Díles ní bronntar indi acht adra immathuarggar for lár 7 a sretha sét fadessne.

Grinding without permission in the mill of a *mruigfher*, five *séts* and forfeiture of the meal ground without permission, and his honour-price for his denying of food to his retinue. If it is broken, honour-price to each person who owns it and restitution with a forepledge of grinding. If it is his kiln that has been broken without permission, a cow with a heifer in its first year is the fine and restitution. Anything which is broken is unactionable except ?grain which is threshed on the floor and its appropriate objects themselves (Binchy 1979, 9.238–10.244).

Even without doing damage, just using the mill without permission is enough to incur a penalty: a sizeable fine, as well as forfeiture of the ground material. If there is damage done, then there are additional penalties: the honour-price of each of the mill's owners is to be paid to him (and given that the mill probably has several owners, this could be quite expensive). The text then goes on to tell us that if a kiln is used without permission and damaged, then restitution and a fine are payable. Interestingly, there is no mention of honour price here, so it is possible that damage to a kiln did not incur payment of honour price. This adds to the impression that a mill is a much more valuable piece of property and a much more valuable tool than a kiln. It is also interesting to note that, in the case of a kiln, if one damages anything in it, then one is not liable, because there should not be anything in it, apart from grain. If one damages grain that is in the kiln, or its proper implements, then one is liable for damage to those as well.

We shall move on now to another law text, *Coibnes Uisci Thairidne*. This text is about watercourses which have been diverted, basically for milling purposes. Its similarity to *Bechbretha* 'Bee Judgements' has often been remarked, and it has been postulated that they perhaps have a common author (Charles-Edwards & Kelly 1983, 27). It seems to me that they reflect common concerns at the very least, and that they also reflect a common social background: that they are operating within the same social structure as each other, whereas some of the law texts appear to be operating in social structures that are different, not in broad terms, but different in their particulars. This impression is based on such features as the emphasis on kin relationships in conceptualising obligations and the relative frequency of payments in kind and as shares of benefits as opposed to outright or up-front payments.

The following extract from *Coibnes Uisci Thairidne* illustrates the latter point:

Dligid cach comaithech diarailiu tuididin usci thairidne tara chrich i neoch ma fo-crether a fochraic téchta [...] Alailiu is lá cacha tire do-tét dlegar aire

Each neighbour has a right from the others to conduct water across his boundary if its lawful recompense is paid ... Otherwise a day for every piece of land to which it comes is owed for it (Binchy 1955, 68–70 §10).

This extract shows that there is, to put it in modern legal terms, a presumption of entitlement to have what we might call an easement across someone's land. In other words, one may divert a stream across someone's land to get one's mill working, as long as one compensates them appropriately. The two ways of compensating for taking a mill stream across someone's land are either to pay them a proper fee or to give them a day's use of the mill. Thus, for each piece of land that the diverted stream crosses, that land's owner has a right to use the mill. This idea of sharing resources and cooperatively operating the mill rather than making an outright payment suggests the idea of sharing or pooling resources rather than of engaging in much more formal inflexible lump-sum payments. One characteristic of making a payment is that in order to do so one has to have an excess of goods or disposable wealth, whereas once one has a mill, allowing someone to use it for a day does not involve an up-front outlay, so I think that this feature is perhaps reflective of the society from which this text originates.

However, on the other hand, there is a reference to skilled labour in this commentary on *Coibnes Uisci Thairidne*:

Trian da thir [...], 7 trian do eladhain shair, 7 trian do biud 7 do borbhrichnum.

A third to the land ..., and a third to the skilled labour of the wright, and a third to the food and to the unskilled labour. (Binchy 1955, 72)

The notion of skilled labour is very important when considering a society that might exist partially on a subsistence level. Highly skilled labour is reflective of another model of social structure. In this extract, the commentator discusses how the work of the mill will be allocated, so there is one third for the land, that is the people whose land the stream has been diverted across, one third for the skilled labour of the wright, and then one third for the feeding of workers and the unskilled work, which presumably refers to anyone, without particular skills, who gives their labour to assist with the mill's construction. The third for the skilled labour of the wright refers very definitely to a particular person who is a skilled millwright and knows how to build a mill. This is evidently not something that everybody knows, and so there is the concept of specialisation. If the millwright is away building mills for other people every day, he is not doing a great deal of farming for himself, which means that we have a society where some trade in services for goods must be taking place. Even if the wright is only away from time to time, building say one or two mills in a year, it is still likely that his farm work will suffer, and his

share of the mill's work is a means of compensating him for this. The same idea is reflected in *Uraicecht Becc*, where there are comparisons of various social grades and where they fit into a structure that is essentially based around farmers:

Saer drondurraigi, comsaire do fri hairig ndesa. Saer lerring ocus baircc ocus curach ocus lestra, dorrana and so uile, a cumut na sairsi-sin do. Sair muilind a cumut ...

The wright of solid oaken houses, he has equal franchise with the *aire deso*. The wright of ships and barques and currachs and vessels, who makes all of these, the equivalent of that wright to him. The wright of a mill the equivalent (CIH 1615.22–35, CIH 2279.36–2280.9, CIH 2332.8–21 = AL V 102–104).

The wright of oaken houses (possibly churches) has an equivalent franchise to an *aire deso*. People who build with particular skill line up with this reasonably high level of social grade, and millwrights fit into this section of society. Thus, *Uraicecht Becc* seems to reflect a society where specialisation is acknowledged, it is expected and it has its place, so that these specialists who build houses and ships and mills are recognised as practitioners of that art. They do not primarily farm. Other people concentrate on farming, and the wrights trade their services for other peoples' goods. So it seems to me that, in some sense, this small passage of *Uraicecht Becc* reflects a slightly different social expectation from what is seen in most social grades in *Críth Gablach*, where people are working in cooperation and there do not seem to be many specialists (or if there are, then there is not much juridical interest in them). *Críth Gablach* is much more a case of sharing resources and of subsistence-level farm work. To what extent the two kinds of social expectations might have coexisted in time and place is not entirely clear.

A significant point about the situation that seems to be represented in *Críth Gablach* is that if the lower levels in free society have shares in mills, and the means to produce what they need, then there should be no demand for someone who has the ability to produce much more than he needs. If everybody is already getting what they need, there is no market. No-one wants to buy someone else's meal if they are all milling their own. Working out exactly what circumstances are required for it to become convenient to mill extra meal so that one can sell it and amass disposable wealth would be a worthwhile exercise, and should theoretically be possible.

We could consider other sites which perhaps offer evidence on the question of the production of excess goods. Clonfad in County Westmeath is an ecclesiastical site (Keeley 2004). The site has an enclosure, and it has signs of ironwork, non-ferrous metalwork and bonework; it has a large number of kilns, some of which may not have been for drying grain: some were probably associated with the other sorts of work going on on the site. It clearly reflects a site where there is a concentration

of production beyond what might be needed for subsistence, and so it reflects this other model of social structure that is hinted at in the passage in *Uraicecht Becc*, where there are specialists who do not seem to need to grow their own food (or at any rate, not all of it); they are able to trade their services for goods. This site seems to exist on that principle, and the fact that it has more than it would need to support itself of things like kilns suggests that it operated in a climate where trade in goods and skills occurred. The site at Raystown, County Meath, seems to be on a similar model (Seaver 2006). It has a very large enclosure, which is probably also ecclesiastical. It has signs of metalwork, ironwork and bonework. It has, interestingly, some hearths which are made with broken querns as their base, which may be a sign of discontinued technology, where the querns are no longer being used, presumably because they have been replaced by the mills on the site. It has a large number of kilns. It has eight mills: they were not all being used at the same time, but at least two, it seems, were used at any given time—more than is needed to supply that community, so there is excess production. There are also some finds of higher status goods.

By trying to assess what we see in archaeological sites, and trying to compare that with what we read in the legal texts, it is possible to develop a hypothesis that there were social structures that were different at different times, different places and/or different levels of society. There is one possible social structure where everyone just produces what they need. Of course what they need will vary depending on who they are and what level of society they belong to, but essentially they have the means to produce what they need. And on the other hand, perhaps towards the other end of the chronological spectrum, or perhaps distinguished in other ways, there are sites which show that people are producing much more than they need, and that is supporting specialisation and the trade in skills and goods, and that seems to be what we find reflected in the law texts like *Uraicecht Becc* which talk about very specialised trades and the capacity to obtain a certain social status by exercising a trade rather than as a result of property qualifications. Of course, there are not merely two opposed models, but rather a spectrum between the two extremes, and all of the evidence places early Irish society at some point on that spectrum. Nonetheless, there may be some value in bringing together the evidence of the legal texts and the material record in an attempt to elucidate the nuances of that spectrum and the differences in social structure that they seem to reflect.

Bibliography

- AL = Atkinson, R. et al, edd. 1865–1901. *Ancient Laws of Ireland I–VI*, Dublin: H M Stationery Office.
- Binchy, D. A., ed. 1955. *Coibnes Uisci Thairidne* Dublin: Dublin Institute for Advanced Studies.
- Binchy, D. A., ed. 1979. *Críth Gablach* Dublin: Dublin Institute for Advanced Studies.
- Charles-Edwards, Thomas & Fergus Kelly. 1983. *Bechbretha* Dublin: Dublin Institute for Advanced Studies.
- CIH = Binchy, D. A., ed. 1978. *Corpus Iuris Hibernici* Dublin: Dublin Institute for Advanced Studies.
- DIL = Quin, E. G. et al, edd. 1913–1976. *Dictionary of the Irish Language*, Dublin: Royal Irish Academy [www.dil.ie].
- Doolan, R. 2013. ‘Reflecting a Local Economy? Evidence from Coibnes Uisci Thairidne’, *Medieval Irish Law: Text and Context* edited by Anders Ahlqvist & Pamela O’Neill, University of Sydney, 41–64.
- Hayden, A. 1999. ‘324 Bray Head, Valentia Island’, www.excavations.ie.
- Keeley, V. J. 2004. ‘1724 Clonfad 3, Clonfad’, www.excavations.ie.
- Kelly, F. 1997. *Early Irish Farming* Dublin: Dublin Institute for Advanced Studies.
- Kerr, T. et al. 2009. *Early Medieval Dwellings and Settlements in Ireland, AD 400–1100* Vol 2: A Gazetteer of Site Descriptions Version 1, Early Medieval Archaeology Project Report, www.emap.ie/documents/EMAP_Report_3.2_WEB.pdf.
- Seaver, M. 2006. ‘Through the Mill: Excavation of an Early Medieval Settlement at Raystown, County Meath’, *Settlement Industry and Ritual*, edited by Jerry O’Sullivan & Michael Stanley, Dublin: National Roads Authority 73–87.
- Simpson, D. D. A. et al. 2007. ‘Excavation at Orquil souterrain, St Ola, Orkney’, *Proceedings of the Society of Antiquaries of Scotland* 137, 169–178.