



Introduction to the Brehon Laws of Early Ireland Lesson Transcript

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This area is a personal favourite of mine and it's really the reason why I'm doing what I'm doing now. And that's to promote the awareness of the Brehon laws of early Ireland. I have been mentioning these all throughout the course in relation to other topics, but now I'd like to outline some of the key features of this justice system and what made it so great. First of all, it was a polycentric system. This meant that the law rested with the people. Kings could not make laws. There was no state controlled legal system, no prisons or sheriffs.

But still the laws worked. Why? Because they were the laws of the people, not on the people. Today, we fear the law. This idea of don't get on the wrong side of the law, something to be avoided. But to the early Irish, the law was something to be loved. They carried it with them into their homes and into the marketplace.

The laws did not seek to punish people for crimes. Rather, they were there to compensate an injured party for a loss. In today's legal system, a crime is defined not as an injury against an individual, as you might think, but actually a crime is defined as a wrong against society as a whole. A crime occurs when somebody breaks a piece of legislation that has been made by the government or the state.

But this concept would have been completely alien to the early Irish. The idea that a third party, whether it be a king or a state, can make a law, first of all, was alien to them, and second of all, that this king or third party could then claim compensation when an injury had occurred would have been completely alien to them also. But in early Ireland a crime was defined differently. There had to be an injured party in order for a crime to have occurred, and it was simply defined as: "A lapse in the standards of personal honour and brotherly kindness." These Brehon laws never went out of use because they were obsolete or unworkable.

They went out of use because they were eventually stamped out by the oppressive penal laws of the British Crown, introduced around the 17th century for this very purpose. In fact, earlier, in 1367, King Edward III passed his law called the Statutes of Kilkenny, which was aimed towards the Anglo Norman settlers who had moved away from their own customs and began speaking Irish, wearing Irish clothes and haircuts, riding their horses with no saddles. And worst of all for the king, going to the brehons for justice and not the king's magistrates. One has to wonder why would these Anglo Norman nobles turn away from



their own ways and become *Níos Gaeilí ná na Gaeil féin*, 'More Irish than the Irish themselves,' to embrace Irish laws and justice instead? Is this proof for just how good this system was?

So if the kings couldn't make laws and there was no state, how did the rules of society come about? Well, when you allow free agents to interact with each other in an open, free society, engaging in trade, enterprise and business, certain practises begin to arise naturally, and over time, they become the norm. Over even more time, these norms and practises become expected standards, until they have been around for so long they are perceived to be a law and no good man should deviate from it.

These laws were considered to be as 'old as the rocks' or as 'old as the hills'. Or another way to describe them was to say that they were around since time immemorial. But really, all "time immemorial" meant was three generations, because by the time the third generation was born, the law would have been around for as long as anyone living could remember.

There were two primary types of law, the Cáin law and the Urradhus.

The Cáin law related to the customs and principles that were recognised all over the island. These are the big issues that were seen to be universal and still are. Don't cause harm, loss or injury. Don't be fraudulent, honour your contracts.

The Urradhus was a lesser law that related specifically to the local practises and modes of doing things.

The laws were kept by a skilled professional class called the *breitheamh*, a word used today to mean a judge. It has been anglicised to the word 'brehon', from which we get the term 'brehon law'; but it was not known as the brehon law to the early Irish. The Brehons did not make the law, and it was not theirs. They just kept a record of it and imparted their knowledge of it when requested.

To the early Irish, the laws were named after the body of people they came from. So the most commonly known body of law was the *Fénechas*, the law of the free land, tillers. But we also have the *Filidheacht* as a body of law relating to the poets and the nobles.

These brehons were not the same as our modern judges. They had no inherent right to hear a case. They could not create law, nor had they any authority to enforce their judgments. Rather, the brehons were more like wise mediators who could be sought out for assistance in settling disputes.

In the pre-Christian time, the legal tradition was entirely oral. Students had to undergo a rigorous and comprehensive education that required them to commit the entire body of law



to memory. The belief was that students should be taught by imparting knowledge and understanding directly to them, as the written word can be misconstrued or misinterpreted.

So when we see the lawyer's office of today, with his walls adorned with a library of law books for reference, we must really appreciate just how brilliant these early brehons must have been to be able to learn and remember so much without the reliance on written materials.

That's not to say we don't have legal manuscripts. We do. The brehons love to write and engage in intellectual exercises, pondering all the legal issues and the influence that variable factors have on the outcomes.

We have legal texts covering a whole array of subjects, but these texts were more guidebooks than manuals, and they are written in such archaic Irish that even scholars hundreds of years ago had difficulty with the translations.

This is why, within the texts, we find glosses and commentaries added at later stages, though still in the distant past for us, by brehons and legal scholars wanting to clarify and give modern context to the earlier principles. And I really have to say that I think the Brehon Laws are a fascinating area of study, not just in a historical sense, but for trying to understand and deal with issues that arise today in society. And it's such a vast and interesting and somewhat complicated topic that it requires a whole course just for itself.

That's going to be the next course that I do here. And it's actually the reason why I started doing this in the first place. This course that we're doing now, "Early Irish Culture and Society," is really a foundation and an introduction for approaching the much more interesting and in depth subject of the Brehon Laws.

Now, I'd like to give you an example of the Brehon Law in action by giving you a summary of a legal manuscript called: The Bechbretha, the Judgments of the Bees.

A new beekeeper had to be aware of the fact that his bees would leave the hive and travel into his neighbour's lands in search of honey. This amounted to animal trespass under the Brehon Law. As each man's home was his castle and the fruits of his lands belonged to him, including the nectar of the flowers. The new beekeeper would give a financial forepledge to his five closest neighbours, thus forming a bond between them. In exchange for this pledge, his neighbours would waive their right to sue him for restitution and grant his bees free roam over their lands for a period of five years. At the end of each year, the beekeeper would give a portion of the yield to his neighbours, signifying their contribution. At the end of five years, the beekeeper was to give each of his five neighbours their own swarm of bees so that they could become beekeepers too. And they also returned the forepledges that he had originally given to them. Now, the bees of one neighbour



taking nectar made up for the bees of another and cancelled out any need to sue for animal trespass. From one man's initiative, an entire community becomes empowered.