



Early Irish Law as Historiography

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DR. FANGZHE QIU

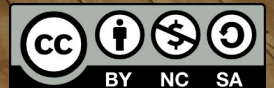
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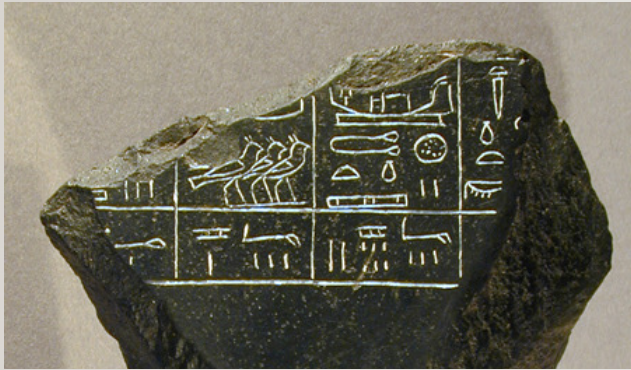
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Representations of history



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Preamble of the Constitution of France, 1958

- ‘The French people solemnly proclaim their attachment to the Rights of Man and the principles of national sovereignty as defined by the Declaration of 1789, confirmed and complemented by the Preamble to the Constitution of 1946, and to the rights and duties as defined in the Charter for the Environment of 2004.’ (<https://www.conseil-constitutionnel.fr/en/constitution-of-4-october-1958>)

Prologue to Law of Hywel Dda

- ‘The king of Wales, Hywel Dda, son of Cadell, by the grace of God through prayer and fasting...took six men from each commote in Wales and brought them to him at the White House and one hundred and forty men entitled to hold a staff of office from among the bishops and archbishops and abbots and good teachers. And from that number the twelve wisest laymen and the wisest scholar were chosen to make the laws. Good laws were made, and the bad ones which there had been before him were rejected and good ones made in their place, and his own name was strengthened.’ (Russell 2004, 4)

Early Irish law

- 'Brehon law'
 - Old Irish 'canonical' tracts (7th - 8th centuries CE), around 80 tracts
 - glosses and commentaries
 - other derivative texts: legal glossaries, moot pleadings and thematic digests
 - Manuscripts mostly 14th – 16th century

‘Introduction’ to the Senchas Már (‘Great Tradition’)

- ‘The tradition of the men of Ireland, what has preserved it? Joint recollection of two elders, transmission from one ear to another, chanting of poets, augmentation from the Law of Scripture, reliance on the Law of Nature. For those are the firm foundations on which the judgments of the world are fixed...For the world had been in [a state of] equality until Senchas Már came to it.’ (Breatnach 2011: 5)

‘Introduction’ to the Senchas Már (‘Great Tradition’)

- Glosses:
 - “**Joint recollection of two elders**”, that is, of the two sages, that is, each elder delivering it to the other, that is, as it is said: “an elder bestows it to an elder”. Or, “two elders”, that is, Sen son of Áig and Senchae son of Ailill from Dumbarton, although others say that it should be Sen son of Cúl Clain. That is not easy, so that the ‘Shroud of Judgements’ reveals by saying... [followed by a roscad (alliterative rhetorical passage)].’
(Translated from CIH 877.9-12)

‘Introduction’ to the Senchas Már (‘Great Tradition’)

- Commentary:
 - ‘Túathal Techtmar has chanted this roscad on the flagstone at which Senchae son of Ailill was found, when the Ulaid submitted a pledge concerning a land worth 30 cumals to be adjudged to them [in exchange] for one cow at a time of great famine which has come to them; the heirs of the land then sought that land afterwards, and they submitted the case to Túathal Techtmar concerning it; and it was not easy for him to adjudge until Sencha came from the Ulaid, and he chanted this roscad...’ (Translated from CIH 877.16-28)

Medieval European historiography

- The *grammatica* tradition
 - *Historia* refers firstly to the narrative elements in poems (Irvine 1994, 45)
 - Isidore of Seville: prose narratives that 'are called monuments (*monumenta*) because they bestow the memory (*memoriam*) of things done' (Etymologiae 1.41.2, quoted in Irvine 1994, 240)
 - Greek grammarians: between *historia* (which is true), *mythos* (legendary) and *plasma* (fictional) (Irvine 1994, 47)
 - Isidore: between *historia* (account of events that actually happened), *argumentum* (probable events that could have happened), and *fabula* (matters which neither happened nor could have happened) (Irvine 1994, 237)

Medieval Irish narratives as historiography

- Táin Bó Cúailnge ‘Cattle-raid of Cooley’ as historiography (Toner 2000)
- Togail Bruidne Da Derga ‘The destruction of Da Derga’s Hostel’ (West 1999, O’Connor 2013)
- Dindshenchas ‘Tradition of prominent places’
- ‘other books say’ (*dicunt alii libri*) and ‘a different version here’ (*slicht sain so síis*)
- section titles, metatextual comments and visual signs

Medieval Irish narratives as historiography

- *Accessus ad auctores* schema
 - *locus, tempus, persona* and *causa scribendi*,
 - Irish *locc* ‘place’, *aimser* ‘time’, *persa* ‘person’ and *tucait scríbindi* ‘reason of writing’ or *fáth airicc* ‘reason of obtaining’

Prologue to Bretha Étgid 'Judgments on Inadvertence'

- 'The place of this book is Aicill in the precinct of Tara, and the time is at the time of Coirpre Lifechar son of Cormac, and the person is Cormac, and the reason of its composition, i.e. the blinding of Cormac by Óengus Gaíbúaidbech after the abduction of the daughter of Solar son of Artchorp by Cellach son of Cormac.'
(Translated from CIH 250.1-3)

commentary to Cáin Fuithirbe 'Legislation of Fuithirbe'

- 'Why is it that 'place' was mentioned first? Not difficult, the order of finding of the creating of elements, since it is the earth and the heaven that were made at first; 'time' was placed in the second place, since time is incorporeal; and 'person' in the third place, since a person consists of body and non-body; [cause of writing is] the fourth at last, for prior testimony is not found before us by the kinsmen of... (?). Or it is this which causes 'place' [to be mentioned] at first, since the earth and the sea were made on Tuesday; and 'time' in the second place, because the sun and the moon were set in course on Wednesday, and it is according to them that time is regulated; 'person', then, in the third place, for Adam and the animals of the earth besides were created on Friday; 'reason of finding' then at last, for God blessed the Creation on Saturday and Adam was placed to rule over them.' (Translated from CIH 688.20-29)

intertextual links

- law texts, sagas, annals, genealogies and place-name lore - *senchas* ‘the learned tradition’ (Byrne 1974)
- Lebor Gabála Éirenn ‘The Book of the Taking of Ireland’
- a distinctive ‘Irish’ identity (*Goídil*)
- the imagined collective memory that ‘intended to preserve the country’s past as narrative history’ (Poppe 2014, 140)
- ‘imagined community’ (Anderson 2006)

St. Patrick, the national legislator

- cultural homogeneity
- nascent 'national' awareness
- promotion of a national saint by Armagh
- St. Patrick confronted the pagan High King of Ireland, Lóegaire mac Néill, and his cohort of wizards and poets
- Book of Armagh (Dublin, Trinity College Library, Manuscript 52)

St. Patrick, the national legislator

- The legal version
- in the 7th-century ‘canonical’ layer of at least six constituent tracts of Senchas Már (Breatnach 2011, 34) and in the later layers in other tracts (Qiu 2013)
- ‘Pseudo-historical prologue to Senchas Már’
- based on the Life of St. Patrick by Muirchú and the Collectanea by Tírechán (Bieler 1979)

St. Patrick, the national legislator

- Inspired by the Holy Spirit, the poet Dubthach recited a verdict
- Nine men were then chosen to review the native law: three bishops, three kings, and three poetic-legal scholars
- ‘there will be no restraint upon plundering, and every man will smite his fellow, for he will have no fear of being blamed for it’
- ‘whatever did not go against God’s word in the law of scripture and in the New Testament, or against the conscience of the faithful, was fixed in the system of judgment by Patrick and the churches and the princes of Ireland severally. The whole law of nature was acceptable, save in what concerns the faith, and its proper dues, and the knitting together of church and kingdom. So that that is the Senchas Már’ (Carey 1994, 17–19)

Córus Bésgnai ‘The arrangement of discipline’

- §26: lords are to pledge on his subjects’ behalf against the church’s claim of tithes and first fruits and alms.
- §§28–9: individuals are tied to (*ad·regar*) their proper superiors, that is, lay communities and churches
 - ‘every kingdom with a king, every king with his kingdom towards the church with its grades’
- §30:
 - ‘each law is to be bound (*árachtaí*); it is in this place that the two laws have been bound together (*con·árrachta*)’
- *ad·rig* ‘to tie to, to bind’

Córus Bésgnai ‘The arrangement of discipline’

- §§30–37: the Patrician legend
- §§38–60: mutual entitlements and obligations of the lay communities and the churches towards each other, such as baptism, burial, tithes, shares in inheritance, etc. (Breatnach 2017)

an appendix to Sechtae ‘Heptads’

- ‘Whence was the discipline of *ráth* (‘paying-surety’) in Irish law established? Since the *ráith* (‘enclosure’) of Amairgen was forfeited. For it is he who first provided back-up paying surety of legal entitlement in Ireland: Amairgen *ráthach* (‘of paying-surety/ of enclosures’), who had seven enclosures. He gave one of his enclosures as a paying-surety on behalf of Conall Echlúath. And it was forfeited to Eógan mac Durthacht, so that it is Conall who has first paid a compensation of paying-surety/enclosure in this island. And such is the compensation that he has paid: two enclosures, consisting of one enclosure on top of the restoration of his [original] enclosure. So that it is from this that a doubling of restitution is taken for anything that is paid [by the surety], in proportion to it, as it should be.’ (Translated from CIH 63.7-64.5)

Hiberno-Latin ‘etymological’ tradition

- ‘the lemma is a nominal...whose *uis* is explained, *exemplo posito*, using phonetically similar and semantically suitable linguistic forms’ (Baumgarten 1983, 226)
- A king’s name Labraid by a verb *labraid* ‘he speaks’ (Green 1955, 19)
- Tír dá Glas ‘Land of Two Streams (*glas*)’ by *glas* ‘lock’ miraculously opened by St. Columb Cille (Baumgarten 2004, 68–72)
- *Temair* ‘Tara’ from *Múr Tea* ‘rampart of Tea’ (Stokes 1894, 277)

Thank you!

- fangzhe.qiu@ucd.ie
- <https://www.ucd.ie/icsf/en/research/europeanresearch/councilprojects/flexi/>