

ARTICLE

Reproductive Rights, childbearing and motherhood anxieties in Early Medieval Ireland

Direitos reprodutivos e ansiedade materna na Irlanda na Alta Idade Média

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ABSTRACT: This paper falls in the fields of history of women and medical history discussing Early Irish Medieval legal texts, from the seventh and eighth centuries, written in a Christian milieu both in the vernacular and Hiberno-Latin. It analyses information concerned with reproductive and sexual rights. This paper has three parts: the first analyses vernacular texts ruling the rights of married couples to produce heirs. Early Irish vernacular texts list situations that would give the right to spouses to divorce their partner in case they could not have children together. The second part studies texts that discuss the right of pregnant women to access food, and of breastfeeding babies to be accompanied by their mother and maids in case of need of medical care, and if taken out of their own home for this reason. The third part investigates ecclesiastical canons against couples procreating outside wedlock and/or bound to religious vows. The paper highlights the anxieties women may have suffered about producing children when their families decided that their future was to be wives and mothers, and also, the opposite, the anxieties they felt when they produced illegitimate children, enduring social shame, causing abortion, leading to painful emotions of loss and guilt, and not infrequently, leading to the loss of their own lives.

KEYWORDS: sexual and reproductive rights, pregnancy, abortion, legal texts, early medieval Ireland

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RESUMO: Este artigo se insere nos campos da História das Mulheres e História da Medicina discutindo textos legais produzidos na Irlanda Medieval durante os séculos VII-VIII, escritos em um contexto cultural cristão, tanto em língua vernácula, quanto em latim hibernico. Ele analisa informações relacionadas aos direitos sexuais e reprodutivos. O artigo possui três partes: a primeira analisa textos vernáculos regulamentando os direitos de casais em contratos de casamento de produzirem herdeiros. Textos vernáculos irlandeses listam situações nas quais cônjuges poderiam divorciar seus parceiros(as) caso estes não conseguissem produzir filhos juntos. A segunda parte estuda textos que discutem os direitos de mulheres grávidas a acessarem alimentos, e o de bebês em fase de amamentação de serem acompanhados por suas mães e servas caso precisassem se ausentar de seu próprio lar a fins de cuidados médicos. A terceira parte investiga textos eclesiásticos que condenam casais gerando filhos fora do contrato matrimonial e/ou debaixo de voto religioso. O artigo destaca as ansiedades que mulheres talvez tenham sofrido para gerar filhos quando suas famílias decidiam que seus futuros eram como esposas e mães, bem como as ansiedades sofridas por mulheres que, ao contrário, produziam filhos ilegítimos, conseqüentemente tolerando o peso da vergonha social a elas impostas, causando abortos, conduzindo a sentimentos de perda e culpa, e frequentemente à perda de suas próprias vidas.

PALAVRAS-CHAVES: *direitos sexuais e reprodutivos, gravidez, aborto, textos legais, Irlanda Medieval*

Introduction

In the eleventh-century Fragmentary Annals of Ireland we are introduced to two contrasting tales of conception of eighth-century historical kings. In the first story, we are introduced to the daughter of Congal Cennmagar, king of Ireland. The document does not tell us her name, showing the annalists' low level of interest in her, but the focus is on the future of her son. We are told that she was a chaste virgin consecrated to God, and that her father had given much silver, gold and cattle to have her chastity protected. However, Fergal, son of Máel Dúinn, an Uí Neill king, whose death is recorded in 722, crossed her path, they fell in love and developed a sexual relationship. An informer told her father about their affair, and her father almost caught them together, but the story tells us that she was clever, crafty and spiteful, as was her father, and she managed to hide Fergal under her bedsheets so her father did not see him. In the face of such an embarrassment, her father apologised for his offense against her honour. After this event, she was found to be pregnant and when the child was born, she requested two servant women to drown the baby, so her father would not discover the truth about her relationship with Fergal. However, one of the servants felt sorry for the child and quarrelled with the other to keep him alive, and both women decided to raise the baby together. Four years later, Fergal's daughter met the child at the servant's house and felt guilty for having requested that a child of the same age be murdered. The servants revealed to her that they had saved the child's life, and that she did not need to carry that guilt any longer. Then they decided to give the child to his father, Fergal. The child grew under his father's care, but according to the tale, he became a man of an aggressive nature; he was Aéd Alláin, Fergal's older son, who also eventually became king of Ireland.

In the sequence, the story presents another conception story and the birth of yet another son of Fergal. His mother was the daughter of Cían, the king of Cíannachta. She is also unnamed in The Fragmentary Annals, but other documents identify her as Aithechdae. She became Fergal's wife, and is described as fair and beautiful, but remained childless for many years. We are told that she sought the blessing of Luaithrinn, a holy woman, who blessed her, and she conceived a child, Niall Condaill, the Worthy, who died in 778. In contrast to his older brother, he is portrayed as a gentle and pious man, and the story highlights the legitimacy and appropriateness of his conception, since it took place

within wedlock. Niall also became king of Ireland, after his brother. (Radner ed. and tr., 1978, p. 177 [Fragmentary Annals of Ireland year 721]; Connon, 2005, p. 316-319)

This narrative exemplifies two different kinds of anxieties, firstly, that experienced by women who produced children as fruit of relationships that were not acknowledged by society as legitimate, and secondly, that experienced by women who struggled to bear children and produce heirs for their husbands and families. Therefore, the aim of this paper is to analyse these contrasting attitudes and perceptions towards conception. I will analyse legal texts; firstly, canons that advocate for the right of contracted marriage couples to offspring, and, also, the right of pregnant and breastfeeding women to access food, care and protection, and secondly, the negative consequences borne by parents who conceived when they were not expected to do so by society.

This paper dialogues with and builds on works that fall under the umbrella of studies concerned with, gender, sexuality, history of woman, history of medicine and reproductive rights. These biological and cultural human concerns have featured frequently in recent scholarship, including in studies of pre-modern societies such as this one (Ní Chonaill, 2007, p. 1-24; Mistry, 2015; Oren-Magidor and Rider, 2016, p. 211-223; Harris, 2017, 131-149; Park, 2018, p.153-166; Mistry, 2020, p. 657-675; Elliot and Rosemary, 2020, p. 509-522). Our interest in the past is often shaped by the dilemmas and questions generated by our own societies. Since (in)fertility has become a major concern to our generation and its counterpoint, contraception and abortion are high on the political agenda, it is hardly surprising that these topics are attracting more scholarly attention. It is thus relevant to investigate if and to what extent previous societies concerned themselves with these issues, and as we shall see below, early medieval Irish jurists did busy themselves with the reproductive health of couples.

‘Reproductive rights’ in early Irish law

The literate elite of Ireland in the middle ages produced a large corpus of legal texts, both in the vernacular and Latin, significantly exceeding that produced in other contemporaneous societies such as the Germanic kingdoms, both in England and on the continent (Ó Cróinín, 2017, p. 23). As Fangzhe Qiu (2021, p. 127) well summarised, ‘the seventh and eighth centuries witnessed an explosion in vernacular text production in Ireland’ and this is the period that is investigated here.¹ Even though the opening scenes were set within a story told in a later document, the text refers to historical kings from the period analysed in this paper and it is a nice narrative that illustrates some of the concerns the laws dealt with. Amongst many other social aspects, early Irish legal texts indicate that the conception of children was perceived as a right to both spouses bonded by a marital contract; it is noticeable particularly in vernacular texts, but also in canon law as demonstrated below. However, a variety of texts, particularly the ones more concerned with ascetic values, such as books of penance, monastic rules, and also canon law, indicate that children were not always perceived as blessings, they could also mean disgrace and hardship to their mothers, and sometimes also to fathers depending on the circumstances (Farrell, 2021, p. 15-19).

In order to analyse the first point, rights of conception, we shall look at a selection of texts ruling on that. First, we will turn our attention to a seventh-century Fragmentary Old Irish Law-Text. For a lack of title, this text was so named, receiving a commentary, edition and translation by Fergus Kelly (ed. and tr., 2014). This document deals with legal disputes that may arise in a contractual marriage, defining the circumstances under which the contract could be dissolved. There are two canons in this text that are related to conception of children. In canon 27, we read that:

Nemcombrac ria In-aimsir comberta; coibche di ann 7.uii. madh na set uriata comberta, mani tarais combert ann.

Not having intercourse with her (the wife) at a time suitable for conception; the bride price goes to her in that case, and one seventh of the chattels, for barring conception, if conception was not achieved in that case. (Kelly ed. and tr., 2014, p. 44-45).

And in canon 31 we read that:

Nemduscu do chomrac fria: .i. nembduscus uil aiscci-sium, 7 secmal caemdha uil aici in bail ata 'in choibhici uaithe'.

Not waking to have intercourse with her: [it is] not waking which he has, and [it is] avoidance of the bed, which she has, where it says, 'the bride-price is due from her'. (Kelly ed. and tr., 2014, p. 46-47)

In this text, the wife retains the bride price (eDIL s.v. 1 *coibche*)² if her husband fails to have reproductive sex with her; the opposite is also valid. Another text that provides rulings justifying divorce under similar reasons is the *Sechtae*, [Heptads, or The Sevens] which is an Old Irish collection of sixty-three entries covering a variety of topics, usually arranged in groups of seven as its name suggests. (Kelly, 2005, p. 266; Kelly ed. and tr., 2014, p. 4-6).

In the Heptad 3 we read about the kind of husband a wife could divorce:

Ata moiserser a tuaith aruscuille coir nurnadma toich tinntat a mna uadaid a lanamnus 7 is diless ni thidnacar doib. fer dibreithe. fer diarm. fer coirthe fear graid fear cagalsa. fear rocollach. fer forinnet coemdai. (Binchy ed., 1978, 4.33-5.32, p. 1823-4 and 1883-4; Hancock ed. and tr., vol. 5, 1901, p. 132-133).

There are seven men in the community whom the rule of marriage excludes and their wives turn from them out of marriage, and what they [the wives] have received is forfeit to them [the wives]: an infertile husband, an impotent husband, a husband in holy orders, a husband who is a churchman, a husband without assets, an obese husband, a husband who talks about the marriage bed. For an infertile husband has no offspring, an impotent husband cannot have a wife, it is not right that a son should be on the roadside, it is impossible to have equal right with the church, an obese husband is not capable of the sexual act, a man who talks about the marriage bed should not be under the sheets. (Ó Corráin ed. and tr., 2002, p. 28; Mccarthy ed., 2022, p. 116).³

Heptad 53 indicates that a marriage could be dissolved without the payment of any fine 'to seek children if either of the parties are barren'. (Hancock ed. and tr., vol. 5, 1901, p. 296-297). While in canon 44 of *Gúbretha Caratniad*, [The False Judgements of Caratnia], we read about the kind of wife a man could divorce:

Rucus tasec tindscrai iar feiss la fer [BA] deithbir, ar forfaicaib a cele ria re techtai. (Binchy ed., 1978, 47.21-48.26, p. 47, 1848; Hancock ed. and tr., vol. 5, 1901, p. 292-293; Thurneysen, 1930, p. 356).

These are seven offenses that give a man full right to divorce his wife: the betrayal of her husband, persisting in a forbidden relationship, abortion of that which she bears, bringing disgrace upon his honour, infanticide, barrenness because of disease, spoiling everything [in her domestic work]. (Ó Corráin, 2002, p. 28; RAAE, 2013, p. 57, p. 73 footnote 378, p. 261 footnote 1222; Mccarthy, 2022, p. 117)

As we can notice from these examples, miscarriage, abortion, infanticide, impotence, infertility, different sexual orientation, lack of sexual desire, basically anything that could prevent pregnancy for a married couple, was considered grounds for divorce, and was regulated in the vernacular documents, to provide mechanisms and assurance to partners of their rights as spouses to produce children. We may argue that the concern behind these rules was to ultimately secure the right to kin groups to produce heirs, and legitimate ones. In a way, we may consider it a protection to procreation and pregnancy, the perpetuation of their society, and of specific kin groups and dynasties.

Nonetheless, not surprisingly, early Irish society did not legislate protecting all pregnancies; there were lawful pregnancies, and undesired ones (Farrell, 2021, p. 15-19). Ireland in the seventh and eighth century was a Christianised society and the texts produced were written in a Christian milieu under the influence of the church (Bemmer, 2018, p. 11-29). Consequently, the right to divorce was not unquestionable. When the law of matrimony is dealt within a canon law text, the eighth-century *Collectio Canonum Hibernensis*, [The Irish Collection of Canons], we see the right to divorce in order to seek a fertile and willing partner to procreate being more problematized and conflicting rulings being contrasted with each other. A characteristic of the *Hibernensis* is that it weaves together rulings from the Church, meaning here, from different regional churches, (or micro christianities as Peter Brown calls it), both insular and continental, as well as native rulings such as the ones found in the vernacular law texts discussed above (Flechner, 2012, p. 29-48; Qiu, 2021, p. 130). The concern seems to have been more to do with comprehensiveness than with coherence, showing that the Irish Christian literate elite, which engaged in the production of law, had at least an understanding that life is complex and that the new religious ethos had to be negotiated in light of the local practices and expectations. We are dealing here with an intense process of cultural entanglement, where different traditions were combined together.

For instance, in book 45 canon 7 of the *Hibernensis* titled ‘Concerning dissolving a marriage without blame’ we read that:

De solutione coniugii sine culpa. Queritur, si est aliqua causa, qua liceret uxorem alteri uiro coniungi uiuente priore. In qua re III-es causæ sunt: Prima, {qua} coacticia uis, matrimonium non separat. II, si alicuius profectus causa eueniat, sicut Sarra fecit, ne Abraham a rege iniquo occideretur. Siue sicut in nouo factus est. Agustinus hoc dicit: Cum quidam diues nummum auri exigeret ab alio uiro, et ille non haberet quod redderet, dixit quidam diues iuuenis uxori eius, quod si se illi prosterneret, nummum redderet. At illa sciens, se sui corporis non habere potestatem, uiro suo sic locuta est, et ille gracias agens, permisit, iudicans, non adulterium esse, ubi libido nulla. Tertia si sterilis sit, sicut de Abraham et Iacob legitur in Genesi ancillas suas in coniugium accipisse. (Flechner ed., 2019, v.1, 45.7, p. 362).

It is asked whether there are circumstances in which a wife may unite with another man, while the former [husband] is alive. Concerning this matter, there are three such circumstances. The first, coercive force, does not break the marriage. The second, if there happens to be a need to depart to another, as Sarah did, lest Abraham be slain by the wicked king. Or as it has been done in the New Testament. Augustine says this: When a certain rich man exacted a payment in gold from another man, and the latter did not have the means to repay him, the rich young man told the other man’s wife that if she gave herself to him, the debt would be repaid. And she, knowing she had no power over her own body, consulted her husband, who, giving thanks, gave her permission, saying that there is no adultery where there is no lust. The third, if she is sterile, as one reads in Genesis of Abraham and Jacob marrying their slave-women. (Flechner tr., 2019, v.2, 45.7, p. 745).⁴

In this canon citing biblical instructions about divorce and sex outside wedlock we see first of all, that the focus is not exactly on dissolving a marriage and divorce, or the right of women to do so. It is in fact about the rights of men to decide over the destiny and bodies of their wives. Also, the last clause, which is the most relevant to us in this study, is about the husband's right to have sex with his female slaves (*ancellas = ancillas*) in order to produce an heir, in case his wife is barren as in the biblical story of Sarah and Abraham. In theory, there is a provision in vernacular law that a wife could also have reproductive sex with a man other than her supposedly infertile husband to produce a child. As Fergus Kelly indicates, that would be an alternative to divorce authorised by the Heptads (Kelly, 2005, p. 75; Bitel, 1992, p. 193; Wycherley, 2021, p. 37).

In the same book 45 of *Hibernensis*, however, in canon 10, it quotes the sixth-century Spanish church father Isidore of Seville by asking:

De eo quod non repudianda pro his causis. Isidorus dicit: Quid ergo, si sterilis, si deformis est, si ætate uetula, si foetida, si temulenta, si iracunda, si malis operibus, si luxoriosa, si gulosa, si iurgatrix, et maledica, tenenda sit uel tradenda sit? Velis nolis, qualiscumque accepta habenda sit. (Flechner ed., 2019, v.1, 45.10, p. 364).

Well then, if she is barren, or deformed, or of advanced age, or smelly, or a drunk, or irascible, or [given to] wicked deeds, or immoderate, or a glutton, or quarrelsome, or slanderous, should she be kept or sent away? Whether you like it or not, she must be kept just as she was received. (Flechner ed., 2019, v.2, 45.10, p. 746-747).

This clause indicates that there was a debate among church authorities, both in Ireland and elsewhere regarding the challenges of enforcing the maintenance of marriage contracts when a couple could not conceive children, as well as due to other issues, but in the case above, the preferred approach is the maintenance of the marital agreement.

Rights of expectant mothers and lactating women

In addition to protecting the right to becoming pregnant and protecting fetuses from being intentionally rejected by their mothers or external agents, early Irish law discussed the care towards expectant and breastfeeding women. *Bretha Éitgid*, [Judgments of Inadvertence]⁵ 'deals with accidental death or injury where no liability is attached to the perpetrator' as described by Kelly (2005, p. 272, number 33). This text has a few entries concerned with food cravings of an expectant mother. The compilers of this document allow a pregnant woman to eat three full meals from her husband's portions or from somebody else's. She is only culpable for theft if she exceeds this extra allowance and eats more than these three portions. It provides further guarantees to ensure her access to the necessary amount of food by legislating against the possibility of her husband denying food to her. A husband would owe compensation to a pregnant wife if he fails to provide her extra food due to negligence, hardship, avarice, or with the intention of killing them both, mother and child. However, if the expectant mother fails to request food, either due to shame, or negligence or with the intention of killing herself with the child, she is responsible for compensation. (Binchy ed., 1978, 250.1-337.36; Hancock ed. and tr., vol. 3, 1873, p. 83-547).

Niamh Wycherley (2012, p. 36-39) has commented on these rules and related ones highlighting that the primary concern was with the child, and securing the offspring and inheritance of the husband and child's father, and less so with the pregnant women and mother herself. As she points out, we are dealing with a patriarchal and patrilineal society, concerned with rank, status, honour, liability and compensation.

Ultimately, men were entitled to higher compensation; female compensation was calculated based on the value of her husband, meaning that her honour price, paid when someone injured her or offended her honour was worth half that of her husband. (Eska, 2010, p. 3).

In addition to feeling additional hunger and needing extra portions and meals due to the pregnancy, the early texts also mention cravings for specific types of foods. It is worth considering that the text is most certainly concerned with well-off families who had access to a variety of foodstuffs. It is known according to modern medicine and nutritional studies, that people, including expectant women, may crave for specific foods that contain the vitamins and minerals that their bodies may need. When the cravings are for non-foodstuffs, or things that may be considered food in some cultures, but not in the culture of the specific individual, it is classified as pica (Pereira, 2019, p. 1). Donnacha Ó Corráin (1995, p. 33-34) edited and translated a small selection of Irish sources that tell stories of intense craving from expectant women. Cherie Peters (2015, p. 13) and Wycherley (2012, p. 37) commented on some of these texts, such as *Bretha Éitgid* in which a woman craved for malt, and the tenth century Life of St Patrick, in which he turned *lúachair* [rushes] into *foltchép* [chives] to satisfy an expectant mother. When dealing with regulations prohibiting the denial of food to expectant women, we are overlooking a wider problem of starvation and malnourishment, which surely was a significant problem in medieval societies, as it can still be in modern societies. (Ó Corráin, 1995, p. 33; Wycherley, 2021, p. 38-39). To intentionally deny access to food in a criminal fashion is clearly distinct from pregnant women starving for lack of access to food due to low social status, slavery, poverty or climate and environmental disturbances to production and distribution of food.

Further to access to food, early Irish law was concerned with the care of people when sick. The eighth century *Bretha Crólique* [Judgments of blood-lying] deals with the practice of sick-maintenance (*othrus*), that is, the care of an injured wounded person by the attacker (Kelly, 2005, p. 271, n. 29; Peters, 2015, p. 11). In general, a woman on sick maintenance was entitled to half the food (*lethbriathad*) her husband was entitled to (Peters, 2015, p. 12). This text ensures ‘the mother of any child at the breast’ the right to their women-folk accompany them on sick-maintenance. The commentator understands that the afflicted victim is the child, who is still nursing, and therefore, entitled to bring his mother to feed him, consequently, his mother’s women-folk as well:

Ata triar hi tuait tiada(i)t a mna for folac: fer fora llither frocraid netraid, sesmach pecta, mathair cac mic ciche. Glossing 5: .i. bis a notrus .i. ni fetar in mac do breith for othrus can a mathair lais. (Binchy ed. and tr., 1938, canon 29, p. 24).

There are three persons in the territory whom their women-folk accompany on sick-maintenance: a man who is accused of excess of lust, a constant sinner, the mother of every child at the breast. Glossing 5: who is on sick-maintenance: it is impossible to bring the child away on sick-maintenance without its mother going with it. (Binchy ed. and tr., 1938, canon 29, p. 25).

In this case, the latter may have a role in assisting the mother with breastfeeding and with the care of the child. *Bretha Crólique* also has a canon concerned with fertility and conception during sick-maintenance, saying that the:

Ansom i mbreitemnacht otrusa la Fine1 airiadad coimperta2 diam i naimseruib techtuib. ar is di bannoillcib tongatar la Fine tonancatar aimsera techta. (Binchy ed. and tr., 1938, canon 38, p. 30)

Most difficult in the judgment of sick-maintenance is the barring of sexual intercourse if it occurs in the fertile period. For it is one of the oaths that are sworn by women in Irish law that their fertile periods have come (Ó Corráin, 2005, p. 32, n. 10; Raae, 2013, p. 26).

It suggests that to take a woman away from her household for sick-maintenance during her fertile period was not seen positively. These examples are evidence that first of all, childbearing was seen as one of the primary roles of women in society, (Swartz, 1993, p. 113); secondly, that spouses were equally and legally entitled to the right of conception, even if this involved divorce and remarriage, which, in practice, may have been debated due to the influence of the church, as suggested in Hiberno-Latin documents. Yet, even though Irish law protected the rights and privileges of expectant mothers, two aspects need to be highlighted. First, the concern was primarily with the rights of the father of the baby (*a priori* the women's husband) and his kin, then with the mother herself and the mother's kin (Wycherley, 2021, p. 37-38). Secondly, this right applied primarily to women conceiving within legally and socially accepted relationships.

The other side of the coin: unlawful pregnancies

We started our story with the mother of Aéd Alláin, who conceived him in disobedience to her father and in defiance of her vow of chastity, and therefore, the authority of her religious community, offending against their honour. Legal texts also provide instructions to this kind of situation. In the aforementioned book 45 of the *Hibernensis* 'Concerning the law of matrimony', canon 5 is 'About consecrated women who marry' and it suggests that:

De his, que iam consecrate sunt, postea nupserint. Ambigi non potest magnum crimen admitti et ubi propositum deseritur et consecratio uiolatur. Nam si humana facta non possunt impune calcari, quid eas manebit, qui corrumpere tanti federa sacramenti? (Flechner ed., 2019, v.1, 45.5, p. 360).

It cannot be doubted that a great offence is committed, both where one's vocation is forsaken and the consecration violated. For if even things made by humans cannot be trampled on with impunity, what will be of them who shatter the terms of such a sacrament? (Flechner tr., 2019, v. 2, 45.5, p. 744).⁶

Book 44 of the *Hibernensis* is especially concerned with women, and canon 3 discusses 'false virgins and their behaviour' by quoting Saint Jerome:

De simulatis uirginibus et eorum moribus. Hironimus: Pudet dicere, pro nefas, triste, quod uerum est. Alie erecta ceruicæ et ludentibus pedibus incedunt, aliæ uero sterelitatē bibunt, et necdum nati hominis homicidium faciunt. Nonnullæ uero, cum senserint se concepisse, de scelere abortiui uenena meditantur, et frequenter etiam ipse cum mortuæ fuerint, trium criminum reæ ad inferos perducantur: homicidæ sui et Christi, et adultere, necdum nati filii parricidæ. (Flechner ed., 2019, v.1, 44.3, p. 351).

One blushes to say it, for the wickedness of it [and] sadly, it is true. Some walk around with upright necks and playful feet, but others drink sterilising potions, and slay an unborn person. And some, when they sense they are pregnant, contemplate the potions of the offence of abortion, and they frequently also perish, and they are led to the underworld, guilty of three offences: of slaying themselves and Christ, and adultery, and murder of an unborn child. (Flechner tr., 2019, vol. 2, 44.3, p. 736-737).

The difference between the eleventh century conception tale and the reference to Jerome quoted in the eighth century Irish canon law text, is that in the Fragmentary Annals of Ireland the daughter of Congal Cennmagar waited for the birth of the child and intended infanticide, which was a failed attempt, because the female servants decided to save the child, who grew to become a king. The *Hibernensis*' account supposes that religious women would attempt abortion at an early stage of the pregnancy to hide the evidence that they broke their vow from their communities. When we look at the consequences of their acts, we can notice that while they go beyond direct societal punishments, there are immediate consequences too. In the case of Congal's daughter, the narrative suggests that a mother who committed infanticide would be haunted by the guilt of her murder, supposing emotions and possibly love for the baby, while in Jerome's account the attempt of abortion would frequently lead to the mother's own death as well, in this case, both physically and spiritually.

Books of penance also provide rulings against religious women becoming pregnant and practicing abortion to avoid this becoming known to the community. This is discussed in Ireland as early as the sixth century in a penitential text written by Saint Finnian in which we read that:

Canon 20: *Si mulier maleficio suo partum alicuius perdiderit, dimedium annum cum pane et aqua peniteat per mensura et duobus annis abstineat a uino et a carnibus et sex quadrissimas (ieiunet) cum pane et aqua.* Canon 21: *Si autem genuerit, ut diximus, filium et manifestum peccatum eius fuerit, ui. annis, sicut iudicatum est de clerico, et in septim uestimentum album debere et uirginem nuncupare.*

If a woman by her magic destroys the child she has conceived of somebody, she shall do penance for half a year with an allowance of bread and water and abstain for two years from wine and meat and fast for six forty-day periods with bread and water. But if, as we have said, she bears a child and her sin is manifest, she shall do penance for six years with bread and water, as is the judgment in the case of a cleric, and in the seventh year she shall be joined to the altar; and then we say her honour can be restored and she should don a white robe and be pronounced a virgin. (Bieler ed. and tr., [1963] reprint 1975, p. 78-81).⁷

Finnian's text teaches us that to beget a child within religious communities was a problem not only to holy women, but also to women married to priests. We saw above in *Heptad* 3 that a wife could divorce 'a husband in holy orders and a husband who is a churchman (...) for (...) it is impossible to have equal rights with the church'. (Hancock ed. and tr., vol. 5, 1901, p. 132-133). The *Heptads* does not provide us further explanation, and it surely might have been a problem in practice. As the compilers of the *Hibernensis* demonstrate, even though acknowledging the contradictions between church authorities and vernacular legal texts; the Church tended towards denying the right of divorce to all couples except for adultery, and even this right is granted to husbands only. That means that if a woman's husband decided to take orders after being married, in the eyes of the Church she was not allowed to divorce him, but she was also expected to live in continence and no longer produce children, as per the Penitential of Finnian:

Canon 27: *Si quis fuerit clericus diaconis uel alicuius gradus et laicus ante fuerit et cum filiis et filiabus suis et clentella habitet et redeat ad carnis desiderium et genuerit fillium ex clentella propria sua, ut dicat, sciat, se ruina maxima cecidisse et exurgere debere; non minus peccatum eius est ut esset clericus ex iuuentute sua et ita est ut cum puella aliena peccasset, quia post uotum suum inritum fecerunt. III. annos peniteant cum pane et aqua per mensura et alios .iii. abstineant se a uino et a carne et non peniteant simul sed separantur, et tunc in uii anno iungantur altario et accipiant gradum suum.*

If someone is a cleric of the rank of a deacon or of any rank, and if he formerly was a layman, and if he lives with his sons and daughters and with his mate and if he returns to carnal desire and begets a son with his own mate, and he might say, let him know that he has fallen to the depths of ruin and ought to rise; his sin is not less than it would be if he had been a cleric from his youth and sinned with a strange girl, since they have sinned after their vow and after they were consecrated to God, and then they had made their vow void. They shall do penance for three years on an allowance of bread and water and shall abstain for three years or more from wine and meat, and they shall not do penance together, but separately, and then in the seventh year they shall be joined to the altar and shall receive their rank. (Bieler ed. and tr., [1963] reprint 1975, p. 82-83).⁸

This text also provides an aggravating canon in which not only a cleric begets a child, but also tries to hide the evidence of his offense by killing it:

Canons 12-13: *Si quis autem clericorum ruina maxima ceciderit et genuerit filium et ipsum occiderit, magnum est crimen fornicatio et homicidium, sed redimi potest per penitentiam et misericordium Dei. Tribus annis peniteat cum pane et aqua per mensura in fletu et (lacrimis atque) orationibus die ac nocte et postulet de Domini misericordia si forte habeat remissionem peccatorum et tribus aliis absterneat se a uino et a carnibus sine officio clericatus et quadragisimas in tribus annis nouissimis ieiunet cum pane et aqua (et) extorris existat de patria sua donec impleatur numerus .vii. annorum et ita iudicio episcopi uel sacerdotis suo officio restituatur. Si autem non occiderit filium, minus peccatum sed eadem penitentia.*

But if one of the clerical orders falls to the depths of ruin and begets a son and kills him, great is the crime of fornication with homicide, but it can be expiated through penance and God's mercy. He shall do penance three years with an allowance of bread and water, in weeping and tears, and prayers, by day and night, and shall implore the mercy of the Lord, if he may perchance have remission of sins; and he shall abstain for three more years from wine and meat, deprived of his clerical office, and for forty-day periods in the last three years he shall fast with bread and water; and (he shall) be an exile from his own country, until a period of seven years is completed, and so by the judgment of a bishop or a priest he shall be restored to his office. If however, he has not killed the child, the sin is less, but the penance is the same. (Bieler ed. and tr., [1963] reprint 1975, p. 76-79).

The rulings provided in the books of penance and the ones provided in the *Heptads* are again conflicting. In line with Saint Finnian, the wife of a cleric should remain bound to him as a companion (*clentella*), but in chastity. The use of the *clentella* in this context instead of *uxor* or *mulier*, terms more commonly used to refer to wife, was probably carefully chosen; she is not a wife, not a former wife, but a companion. Would she have to take up vows of chastity as well? The closing clause of the canon 27 suggests so: "and they shall not do penance together, but separately, and then in the seventh year they shall be joined to the altar and shall receive their rank". Analysing this and other ecclesiastical canons with the employment of similar terms such as *glantella*, *clientella*, and *cohabitatrix*, Cólman Etchingam⁹ and Alexandra Bergholm, have suggested the idea that in Early Ireland there was a category of 'a female repentant spouse', wives that joined the church with their husbands. (Etchingam, [1999] 2002, p. 308-310; Bergholm, 2021, p. 8-9). This could happen for a number of reasons, either because the husband became a cleric as in the penitential, or because they became church tenants, with their entire kinfolk, or because the husband decided voluntarily to become a penitent towards the end of his life.

Finnian paints a scenario in which the couple had children prior to the husband deciding on taking clerical office, however, we might imagine also a situation in which the couple would not have produced children yet, and the wife would be bound to a childless and religious life due to the decision of her husband, consequently losing her right to procreation. Furthermore, it appears that despite of the rulings in the *Heptads* and Fragmentary Old Irish Law-Text, conforming to the penitential literature, she was not entitled to compensation, by divorcing and recovering her bride-price for her husband taking up ecclesiastical vows and denying her rights to bearing children. This suggests, perhaps, that a woman bound to a religious community would enjoy fewer legal rights in this regard than a woman in a secular setting, perceived as a potential mother.

The early penitential literature draws a distinction between the situation of priests, their wives', of religious women, and that of lay folk engaging in sex outside of wedlock. A lay person would need to offer compensation to the family whose honour was offended. As for example, in the sixth-century Excerpts from a Book of David a layman who has sex 'with a virgin or a widow not yet betrothed, shall pay the bride price to her parents and do penance for a year. If he does not have the bride-price, he shall do penance for three years' (Bieler ed. and tr., [1963] reprint 1975, p. 71).¹⁰ Columbanus included this clause in his penitential, making a distinction of two years of penance if a layman had sex with a young virgin, but only one year if he had sex with a widow, however, in addition to this, as in the Excerpts of David, he would need to pay compensation to the woman's family. Columbanus further advises that if it was a relationship between two single virgins, they should get married if the woman's family consents (Bieler ed. and tr., [1963] reprint 1975, p. 103).¹¹ This canon is also included in the seventh-century Penitential of Cummean, but in his ruling Cummean does not include any form of compensation. It is followed by a canon in which a layman produces a child with a religious woman, and the focus is on his penance, not hers. Cummean used the Penitential of Finnian as one of his sources, but decided not to discuss the consequences for holy virgins and clerics producing children. He may have made this exclusion because the focus of his penitential is more on lay people than on religious ones, but we may only speculate about his reasoning and choices. (Bieler ed. and tr., [1963] reprint 1975, p. 117).¹²

Final Considerations

In conclusion, even though conception, pregnancies and children were protected by early Irish law when they were desired by those in power, the abundant rules against abortion may suggest that people, both men and women, lay and religious, attempted to interrupt pregnancy or kill infants relatively often, in most cases, due to the social pressure against children produced in non-recognized relationships or by couples in conflict. Women and mothers experienced hardships and anxieties. Their status was dependent on that of the man legally responsible for them, be that their father, husband, son or close relative. Their lives, bodily integrity, access to food, honour, and pregnancies were protected under the law, but ultimately because they belonged to some kinsman whose honour had to be protected.

We dealt here with conflicting rules that paint a picture of a cultural environment that was complex and diverse, combining different, and not uncommonly, conflicting Christian traditions and local worldviews. We can only have an impressionistic idea on how all these contrasting rules were negotiated in daily life and how these laws might have been enforced. It probably depended on each individual situation and community, and how much power and protection each person could rely on. Lay people clearly enjoyed more privileges regarding the right to conception than religious people, and perhaps would be more protected by their relatives in this regard.

Religious women seem to have been more exposed to shame and criticism, coming under greater pressure against the practice of sex and bearing of children, but surely that pressure was not exclusive to them, it must have affected secular individuals as well.

Once we are discussing contradictory and conflicting regulations and practices, and the enforcement of law, even more antagonistic to prescribed ecclesiastical laws are annalist records. There are a few examples in the annals in the tenth and eleventh centuries that indicate bishops and abbots having sons who managed to inherit their office. There are at least four examples that could be mentioned: Cormac son of Aedán, Bishop of Cluain Ferta Brénainn, has an entry in the Annals of Innisfallen in 922; Aéd son of Cellach, abbot of Cluain Ferta Brénainn, Annals of Innisfallen 958.4; Maenach son of Cormac, abbot of Les Mór, Annals of Innisfallen 959.2, Flaithbertach, son of the bishop Ua Brolchain, Annals of Ulster 1163.4 and 1164.6. However, it is unlikely that female holy women enjoyed the same good fortune; in the best case scenario, they may have managed to hide their babies from society like the conception tale of the unnamed woman narrated at the beginning of this paper. Reality is always more complex than any law which societies attempt to write. However, they provide us an insight into their concerns, the problems they expected to face and they indicate the mechanisms they created to mitigate these conflicts. In Early Ireland, both the system of compensation, and with the introduction of Christianity, penances, were the means of restoring the peace between spouses, families, communities, men and God.

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Notas

¹For audiences unfamiliar with Irish legal sources and willing to have a gentle introduction, I highly recommend hearing the conversations of Professor Robin Chapman Stacey about [Early Irish Law](#) and of Professor Liam Breatnach about [Law and Society](#) with Dr Niamh Wycherley at the [Medieval Irish History Podcast](#).

²Electronic Dictionary of Irish Language, available at dil.ie/9985 accessed on 15th August 2024.

³Note that the translations are different publications to the editions with the original language, this occurs also in a few other citations below. Besides, the translations into English quite often are much longer than the original text in Old Irish. Further to this, early medieval normative texts are quite often too simplistic and concise, limiting our contemporary understandings of their meanings. Only a handful of the vast amount of Irish sources are translated to modern language, consequently, on occasion, I cite sources that do not accompany modern translations, and I mention the contents in my text body only, without providing a translation.

⁴However, *Hibernensis* Book 31 canon 11 differentiates between Isaac, the son of Sarah, the legitimate wife, and the sons of concubines. They were separated, the first inherited, and the later received gifts (FLECHNER, v.1, p. 220 and v. 2, p. 635).

⁵Incorrectly translated under the title *Lebar Aicle*, 'The Book of Aicill' at HANCOCK ed. and tr., vol. 3, 1873, p. 83-547; see KELLY, 2005, p. 272, number 33.

⁶A similar ruling is found on the text known as First Synod of Patrick, canon 17: *Uirgo quae uerit Deo permanere kasta et postea nubserit carnalem sponsum exommonis sit donec conuertatur; si conuersa fuerit et dimiserit adulter[i]um penitentiam agat et postea non in una domo nec in una uilla habitent. A virgin who has made a vow to God to remain chaste and afterwards has taken a spouse in the flesh, shall be excommunicated until she changes her ways; if she converts and dismisses the adulterer, she shall do penance; and afterwards they shall not live in the same house or in the same village. (BIELER ed. and tr., [1963] reprint 1975, p. 56-57).*

⁷The Penitential of Cummean has a similar canon II:17 (BIELER ed. and tr., [1963] reprint 1975, p. 114-115).

⁸This canon was included in the Penitential of Columbanus B 8 (BIELER ed. and tr., [1963] reprint 1975, p. 100-101). It is worthy to highlight that Columbanus did not include the references to the wife/companion (*clentela*) and to her penitent status. This tendency in the penitential attributed to him of reducing the length of the canons, the information provided, and omitting references to women is analysed in FARRELL, 2022, p. 49-62.

⁹He sadly passed away on 06th June 2023, may he rest in peace.

¹⁰Canon 6: *Qui autem cum uirgine uel uidua necdum disponsata peccauerit, dotem det parentibus eius et anno uno peniteat. Si non habuerit dotem, .iii. annis peniteat.* ((BIELER ed. and tr., 1975, p. 70-71); see also the Penitential of Finnian canon 36, (BIELER ed. and tr., [1963] reprint 1975, p. 87).

¹¹Canon 16: *Si quis autem fornicauerit de laicis cum mulieribus a coniungio liberis, id est uiduis uel puellis, si cum uidua, uno anno, si cum puella, duobus annis, reddito tamen humiliationis eius praetio parentibus eius, paeniteat; si aurem uxorem non habuit, sed uirgo urigini coniunctus est, si uolunt parentes eius, ipsa sit uxor eius, ita tamen ut unno ante paeniteant ambo et ita sint coniugales.* (BIELER ed. and tr., [1963] reprint 1975, p. 102).

¹²Canons II: 25: *Laicus maculans uxorem uel uirginem proximi sui,.i. anno cum pane et aqua sine uxore propria peniteat. Si autem puellam Dei maculauerit et genuerit ex ea filium, tribus annis inermis, in primo cum pane et aqua, in aliis uero sine uino carneque. Si uero non genuit sed polluit, .i. annum et dimidio sine diliciis, sine uxore peniteat.* (BIELER ed. and tr., [1963] reprint 1975, p. 116)

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