The court of law in Iron Age Celtic societies

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Zusammenfassung

Umfriedete Hofanlagen sind ein häufig anzutreffendes Element im Siedlungsbefund der europäischen Eisenzeit. Beispiele finden sich in den hallstattzeitlichen "Herrenhöfen" *und latènezeitlichen* "Viereckschanzen" *Deutschlands und anderer Teile Mitteleuropas, den französischen* enclós *und den britischen* enclosed farmsteads*, aber auch den* "ringforts" *des frühmittelalterlichen Irlands. Obgleich sich alle diese Anlagen in mancher Hinsicht deutlich voneinander unterscheiden, gibt es zwischen ihnen auch einige auffällige Ähnlichkeiten, die am besten als Resultat einer gemeinsamen religiösen Ideologie gedeutet werden können: ein Überwiegen von ostwärts orientierten Eingängen, strukturierte Deponierungen im Siedlungsraum und eine ähnliche interne Raumaufteilung, gewöhnlich mit einem Hauptgebäude auf der dem Eingang gegenüberliegenden Seite eines vergleichsweise großen, unverbauten Platzes.*

Linguistische Evidenzen zeigen, dass dieser eingefriedete Siedlungsraum mit verwandten Begriffen bezeichnet wurde: Gallisch lissos *hat Kognaten in Altirisch* les *und Walisisch* llys*, wobei alle diese Worte jeweils unter anderem auch die Bedeutung "Hof" und "Einfriedung" haben. Interessanter Weise haben jedoch der altirische und der walisische Begriff auch weitere parallele Bedeutungen: Altirisch* les *bedeutet auch "Abhilfe, Wiedergutmachung, Rechtsmittel; Wiedergutmachung durch Gerichtsverfahren; Grund, Fall, Angelegenheit, Sache", während Walisisch* llys *auch "Gerichtshof, Rechtsfall oder Gerichtsverfahren" und "Einspruch oder Widerspruch gegen einen Zeugen oder Schöffen" bedeutet. Abgeleitete Begriffe finden sich in Altirisch* lesach *"erfolgreich rechtlich durchgesetzte Wiedergutmachung" und "rechtlicher Vertreter, Anwalt" und Walisisch* llysaf*, "Zeugen oder Schöffen widersprechen oder ablehnen, Einspruch (gegen eine Aussage, Richter etc.)". Wie beim englischen Wort* court*, das ebenfalls "eingefriedeter Bereich, Hof" aber neben vielen anderen Dingen auch "eine Versammlung von Richtern, Gericht" bedeutet, scheint auch in den keltischen Sprachen eine Assoziation zwischen dem Hof, dem eingefriedeten Platz in einem Gehöft, und der Funktion der Durchführung von Gerichtsverfahren zu bestehen.*

Die frühesten Rechtstexte in keltischen Sprachen liefern uns ausführliche Informationen über die Durchführung von Gerichtsverfahren zwischen dem 6. und 13. Jh. n.Chr. Dabei findet besonders die Praxis des Schwörens von Eiden, unterstützt durch Eidhelfer, eine enge Parallele in frühen germanischen Rechten, insbesondere der Lex Ribuaria *aus dem 6. Jh. n.Chr. Sprachliche Evidenzen unterstützen ebenfalls die Ansicht, dass das Schwören von Eiden eine gängige Praxis war, Keltisch* *oitos*, "Eid" findet enge Kognaten in Altirisch* oeth *und Altwalisisch* *ut*, und natürlich auch in Englisch* oath *und Neuhochdeutsch* Eid*. Dass die Beiziehung von Eidhelfern auch vermutlich bereits in der Eisenzeit gängige Praxis war, wird wiederum durch den bekannten Bericht über das (missglückte) Gerichtsverfahren der Helvetier gegen* Orgetorix *nahe gelegt.*

Aufbauend auf diesen Daten wird versucht, einige minimale Aussagen über den Aufbau des Gerichts - sowohl als physischer Raum als auch als soziale Institution - in eisenzeitlichen "keltischen" Gesellschaften zu treffen. Nachdem die Struktur des Gerichts bzw. von Gerichtsverfahren auch soziale Konsequenzen hat, wird auch untersucht, welche Folgen solche gewaltfreien bzw. geregelt gewaltsamen Konfliktlösungsmechanismen für das Verhalten eisenzeitlicher Menschen und Gesellschaften in Mittel- und Nordwesteuropa gehabt haben dürften.

Abstract

Enclosed homesteads are a common feature of the European Iron Age, with examples being the Hallstatt 'Herrenhöfe' *and Latène* 'Viereckschanzen' *in Germany and other parts of Central Europe, the French* enclós*, and the British* enclosed farmsteads*, but also the* 'ringforts' *of early medieval Ireland. While differing considerably in some regards, they also show some striking similarities, which can best be explained as a result of a shared religious ideology: a predominance of east-facing entrances, structured depositions in the settlement, and similar internal organisation, usually with a main building opposite of and facing the entrance across a relatively sizeable open courtyard.*

Linguistic evidence demonstrates that this enclosed settlement space was referred to by a common term: Gaulish lissos *finds cognates in Old Irish* les *and Welsh* llys*, all meaning, amongst other things, 'courtyard' and 'enclosure'. Interestingly, the Old Irish and Welsh terms also have other parallel attested meanings: Old Irish* les *also means 'relief, redress, remedy; redress obtainable through court proceedings; cause, case, affair, matter', while Welsh* llys *also refers to 'a court of law, court case or proceedings' and 'a challenge or objection to a witness or juror'. Derived terms include Old Irish* lesach*, 'successful in obtaining legal remedy' and 'legal representative', and Welsh* llysaf*, 'to object to or challenge a witness or juror; reject (a plea, judge etc.)'. Thus, as with the English word* court*, which also refers to both 'an enclosed area, a yard' and, amongst many other things, 'an assembly of judges', there seems to be a close association between the courtyard, the enclosed space commonly associated with settlements, and legal proceedings in the Celtic languages.*

The earliest law texts in Celtic languages provide us with substantial evidence for court procedure in the period between the 6th and 13th century AD. Particularly the practice of swearing oaths, assisted by oath-helpers or compurgators, finds a close parallel in early Germanic law, especially the 6th century AD lex Ribuaria*. That oath-swearing was a common practice is also supported by linguistic evidence, with Celtic* *oitos*, 'oath' finding close cognates in Old Irish* oeth *and Old Welsh* *ut *as well as in English* oath *and German* Eid*. And that the provision of compurgators for court cases probably was already practice in the Iron Age is made likely by the famous report of the (failed) trial of* Orgetorix *by the Helvetians.*

Based on this evidence, this paper attempts to make some minimum assumptions about the court of law – as both a physical space and a social institution – and legal procedure in Iron Age 'Celtic' societies. As the structure of legal proceedings will also have had social consequences, it also examines the likely effect that such non-violent conflict resolution will have had on the constitution of Iron Age societies in central and north-western Europe.

Our view of Iron Age 'Celtic' populations in Europe is still largely dominated by a 'warrior image', a myth of a 'heroic' society, in which (the) dominant males solved problems and particularly all kinds of disputes mainly, if not only, by brute force. This is particularly true of the public perception, but this view also still holds sway in much of the academic discourse. While I do not wish to argue that the European Iron Age was bloodless (cf. James 2007), I do agree with more recent, and in my opinion more reasonable, ideas that 'the Celtic spirit', and more specifically 'the Celtic warrior spirit', is a modern myth (Hill 1995a; 1995b; 1996; James 1999; Collis 2003). And while the recently published argument of Simon James (2007) that the (Early) Iron Age should be seen as neither 'pacified' nor 'warlike', but perhaps best as a period of 'endemic insecurity' (James 2007: 169) is very attractive at first glance, it may be diverting our focus back to the violent side of Iron Age life too quickly.

Fig. 1: James' '3 states' model of polity relations (James 2007, 168)

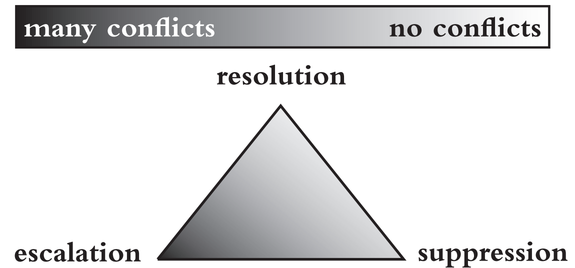


Fig. 2: Presence and absence and resolution, suppression and escalation of conflicts as loosely coupled aspects of what is perceivable as 'war', 'insecurity' and 'peace'

The real issue I think we should consider is neither peace nor insecurity nor war as 'states' of relations between polities or individual persons, but rather the modes of conflict resolution in the Iron Age. In fact, James' '3 states' (James 2007: 168) can be seen as a sliding scale with its both extremes: peace as the absence of insecurity, war as maximum insecurity, with a whole range of greater or lesser insecurity in between (fig. 1). James himself remarks on this quite correctly when he writes that 'war' and 'peace' are distinct conditions requiring active choice: 'War requires that armed forces are marshalled, motivated, supplied and led. Peace requires *active* suppression of violence and 'disorder' within the polity to establish and maintain 'civil order'.' (James 2007: 168; emphasis as in original). Insecurity, however, is an individual's or society's perception of what is really a function of the presence or absence of and the degree of effective resolution, effective suppression or escalation of conflicts within or between polities or societies (fig. 2).

While James remarks that peace often is enshrined in codes of law, he sees 'lawful' behaviour as enforced, and thus as an active suppression of violence. As he puts it: '... the exercise of armed violence is a right increasingly abrogated to central authority and jealously guarded.' (James 2007: 168) – in other words, peace, or if you will, the rule of law, is brought about by the 'state' monopolising the right to exert physical violence. As Iron Age communities, particularly in Britain (Hill 1995a; 1995b; James 1999), but increasingly also across Europe (cf. Burmeister 2000: 208-11; Karl 2006a, 467-90; 2007a; 2007b), are seen as largely lacking such centralised state authorities, either of the extreme 'states' would be pretty much impossible, as James also concludes: 'For egalitarian and other small-scale or loosely organised polities, a simple war : peace opposition may be of little conceptual value since they tended to lack the social institutions which could sustain either state, *sensu stricto*. Insecurity – some risk of physical danger from others in the absence of reliable peace as well as organised warfare – has always been a common experience of human life even in states, and was probably the norm in Earlier Iron Age Britain.' (James 2007: 169; emphasis as in original). According to this model, such societies would essentially be ones where most conflicts would be resolved by interpersonal violence, as they were not sufficiently organised to enforce peaceful co-habitation, even though – luckily, perhaps – they were not sufficiently organised either to engage in full-scale warfare.

Though undoubtedly an important step forward, James model in my opinion obscures the possibility that there might have been a 'third way', that a 'reason-

ably secure', or 'somewhat pacified' state of community relations could have existed in the absence of strong, centralised state institutions. While James quite rightly observes that virtually no truly strife- and violence-free human society is attested, that physical conflict and violence other than *organised* warfare are all but universal (James 2007: 167), he does neglect the fact that laws are also all but a human universal (Murdock 1945: 124), and thus that a rule of law may, at least theoretically, also exist in the absence of a state monopoly on physical violence.

It seems to me that by linking violence with insecurity, James further confuses the issue, rather than clarifying it. While physical violence can be one element contributing to a feeling of insecurity, there are many other factors that can lead to that same feeling and have nothing to do with violence: at a very personal level, whether the person one loves returns the same feelings can be a major source of insecurity, as can the question of whether a partner in any kind of undertaking will satisfy his obligations – e.g in any non-immediate exchange of goods, whether he will deliver his side of the bargain – as can uncertainty of whether a judge or arbitrator will rule in one's favour in a civil law suit. Thus, by linking violence with insecurity, and declaring insecurity to be the 'state' in which (early) Iron Age societies were living, James brings us back full circle to 'the Celts' of old, perceived as stupid barbarians, as too uncivilised to solve any problem without resorting to physical violence.

Thus, I think we need to decouple violence and insecurity, and particularly violence and 'Iron Age societies' or, if you prefer, 'the Celts'. Not because 'the Celts' or 'Iron Age societies' were totally 'pacified' or generally non-violent: without any reasonable doubt, interpersonal violence was one mode of conflict resolution in Iron Age Europe – any, even the most superficial glance at the evidence, even from allegedly 'peaceful' Iron Age communities anywhere in Iron Age Europe reveals this quite clearly, as does James' short overview of the British evidence (James 2007: 162-6). Rather, we need to decouple them because this automatic link between 'primitive', 'pre-state' Iron Age societies and 'violence' is seriously hampering our understanding about how Iron Age societies may actually have functioned.

Definitions and preliminary remarks

To achieve this decoupling, some definitions and preliminary remarks are required.

Insecurity, as I have already hinted at above, in my view is a state of feeling, a subjective perception of real or imaginary dangers the future may hold. These dangers may be some kind of physical harm, possibly even imminent death, but may equally be emotional, spiritual or any other kind of potential harm. I may very well feel insecurity about whether what I write here is total nonsense, even though that puts me in no real danger of physical harm – even if it is, it remains highly unlikely that anyone will try to hurt me by subjecting me to physical violence because of this, nor am I very likely to die, or loose a limb, just because what I wrote is flawed. As I also have already hinted above, insecurity is a function of the presence or absence of, and the degree of effective resolution, effective suppression or escalation of conflicts (fig. 2). These conflicts may be between me and other people, or me and my physical environment, or may be just between other people or between other people and their physical environment, but nonetheless have the potential to affect me as an 'innocent bystander'. I may be surrounded by and involved in a million of conflicts, but may feel entirely secure (for instance, if I trust that there is a solid system in place to resolve all of these conflicts in a way that they will not adversely affect me), or may live in blissful harmony with my social and physical environment, and nonetheless feel exceedingly insecure, if the only conflict there is is the one with the guy right in front of me, pointing a loaded gun at my head and just starting to squeeze the trigger (in other words, the conflict is just about to escalate to a level that could very easily be lethal for me). As such, insecurity is not a very useful concept in my opinion: two people standing next to each other can feel exactly the opposite where insecurity is concerned, regardless of the reality of the situation they are in – in that sense, insecurity is in the eye of the beholder. Seeing the Iron Age as a period of 'endemic insecurity' (James 2007: 169) is therefore of limited usefulness in explaining it.

War may be a more useful concept, as being at war is not a totally subjective feeling (although there is an element of subjectivity to it, too), but can be reason-

ably clearly defined: as organised acts of communally sanctioned physical violence inflicted by one group of people onto another group of people (however these groups are defined, and however large or small they are) in the absence of other mechanisms of conflict resolution (cf. Ferguson 1984: 5 for a slightly different definition). That these acts are organised distinguishes war from sudden communal acts of physical violence that start by accident or in the heat of the moment, e.g. when two groups of people meet, by pure chance, in the middle of nowhere and lash out at each other because of some real or perceived slight, threat or some kind of accident (a gun in one party accidentally going off and hitting somebody in the other one). That it is groups who act distinguishes wars from individual acts of violence like violent crimes or individual heroic (or just plainly stupid) forays into 'enemy territory'. That it is communally sanctioned distinguishes war from other organised group violence, e.g. bands of criminals systematically pillaging the countryside, who are not part of a wider community who has sanctioned their actions. And that war only happens in the absence of other mechanisms of conflict resolution distinguishes it from internal strife within a community, like riots or 'rebellions', whose perpetrators have other mechanisms of conflict resolutions at their hands, to which they should have resorted according to the rules of the community they are part of.

While war does require some degree of social organisation, if we remember that according to the late 7th century AD laws of Ine, a *here*, an 'army', was defined as having more than 35 members (Lupoi 2000: 178 FN 45), a community need not be particularly large to engage in warfare. While an 'army' of 35 members would probably be too much to expect to be fielded by a single British Early Iron Age household, at least some Early Iron Age hillfort communities in Britain, e.g. the community living in the relatively densely settled hillfort of *Moel y Gaer* (Guilbert 1976), would have been very well able to marshal, motivate and supply such a force. As such, I would by no means rule out war as a possible means of conflict resolution even in 'egalitarian' Early Iron Age Britain.

Peace on the other hand, has hardly been defined in the past. I agree here with James (2007: 166) that 'recent discourse seems to me to constitute a simple back-projection of our own cultural expectations; that the default state of society is peace, sometimes punctuated by episodes of an abnormal alternate state called war'. Much like James I think that this is not a good definition (cf. Karl 2008: 110-1), and agree with him (James 2007: 168) that peace is a distinct condition requiring active choice, and that it is often codified through some form of law. However, in opposition to James (2007: 168) I would not see peace necessarily as an enforced state of community interactions, nor that it necessarily requires active suppression of violence and 'disorder' within the polity by a centralised state authority having monopolised the right to exert physical violence within the community.

Rather, I would see peace as an ideal state (and as such, a state that is never *fully* achievable) of 'order', a state in which everyone and everything behaves according to pre-established and communally agreed (or at least communally accepted) rules. Or, in other terms, where everything and everyone behaves lawfully – which is why peace is not just often, but usually, codified through some sort of law. I agree here with Maurizio Lupoi (2000: 381) that the ancient concept of peace was as both the object and the objective of the law. Of course, this state must be actively maintained (James 2007: 168), and must – on occasion – even be violently enforced against those bent on breaking it. This may have been particularly true in western Indo-European societies (as which probably most Iron Age societies in western and central Europe can be classified), where the concept of 'peace' may have had an immense religious importance based on a shared myth of 'creation' as the act of establishing a 'divine' order, or in other words 'peace', where there had only been chaos before (cf. Karl 2008: 110-2). Peace, therefore, is not a state of absence of violence, but can well be very violent, if it's defence requires the active removal of something or someone threatening it.

That said, there is no need that this state is enforced, at least no more than any other kind of 'normal' social behaviour is 'enforced', e.g. by social practice (Bourdieu 1977). Even less is there a necessity that 'peace' be enforced by a monopolization of physical violence by a central state authority. Today, most people do not abstain from physical violence because they feel threatened by the legal sanctions associated with its use, but

rather out of simple self-interest: they don't want to get hurt, and the easiest way to avoid that is to not engage in it in the first place. There is no need to assume that Iron Age people in Europe were much different in that regard, unless one starts out with either the bias that violent solutions were the only available solutions to Iron Age people, or with the bias that Iron Age people had a more 'heroic' spirit than most people today and thus resorted to violence as their preferred means of resolving conflicts. That is of course not to say that violence was not certainly less restricted in the Iron Age than it is today, and thus resorting to it will have been a more viable solution than it is today. But it is to say – assuming for a moment that Iron Age people frequently had a choice of different means of conflict resolution – that many of them may have chosen to behave 'lawfully', and in that sense also 'peacefully', by their own choice. Even in relatively egalitarian societies, as we now think that Early Iron Age British societies were, such choices may well lead to quite 'peaceful' behaviour, at least by and large. As such, I would also not rule out 'peace' as a possible state of community relations in Early Iron Age Britain and in Iron Age Europe more generally. Much of the rest of this paper will look at possibly 'peaceful' means of conflict solution in the European Iron Age.

Suppression (fig. 2, 3) is one of the ways one can deal with conflicts. Simply said, suppression simply keeps a lid on any given conflict, preventing it from escalating (from boiling over), but also (in its own right) not resolving the conflict. Suppression as a strategy is open both to parties involved in the conflict and outside parties. A party involved can simply chose to refrain from further escalating a conflict, but at the same time refuse to resolve it. A good example is a simmering quarrel between two parties concerning the ownership of a certain piece of land: both may maintain their claim to it, but chose not to act on that claim by not using it in any way. A third, outside party can also suppress a conflict, by threatening (and enforcing) sanctions if the conflict should ever escalate. To remain with the example just given, a third party may decide to threaten both parties with some kind of punishment if their quarrel about the piece of land should ever escalate beyond a certain limit (e.g. should they ever come to blows over it), but otherwise lets the parties get on with their conflicting claims in whatever way they like. Suppression can lead to a resolution, for instance if the conflict is suppressed long enough that all involved parties forget about it altogether. But it can also lead to escalation; if the simmering conflict leads to too much pressure building up, the lid may suddenly be violently blown off.

Escalation is another way to deal with conflicts. It means that increased pressure is being put on the other parties involved in a conflict to accept what the party increasing the pressure 'wants' (even though the increasing pressure may be a result of natural forces that cannot literally 'want' anything, e.g. water breaking through a previously only slightly leaking dam and flooding an area). Usually, the ultimate escalation is the application of lethal physical violence. Again to return to the competed claim on a piece of land used as an example above, if the two parties involved, rather than suppressing the conflict, escalate it ever further, the escalation will ultimately reach a level where one kills the other. Escalating a conflict is something only parties involved in it can really do, but they can – as one strategy of escalation – try to bring in additional parties to assist them in piling on added pressure on their opponent(s). Escalating a conflict can lead to its suppression, because third parties may become concerned about the fallout from the conflict and decide to step in to put a lid on it. But it can also lead to the resolution of a conflict, not least if one party kills all the other parties involved and as the 'last man standing' has thus resolved the conflict, but also by removing an obstacle to a resolution, or by enticing an external arbitrator to step in and resolve the conflict for the parties involved (as far as that is possible).

Resolution is the third way of dealing with a conflict, and in a way it is the only one that really deals with it, because it removes it (as such, it includes substitution, i.e. the replacement of one conflict with another). A resolution can only be achieved by the parties involved in a conflict, but it can be facilitated by an arbitrator or judge. It is also noteworthy that if two parties have a conflict with each other, one party can see a certain course of action as a resolution of a conflict, while the other party need not necessarily do so: again to remain with the example of the competed claim on land, an arbitrator's decision that party A is the own-

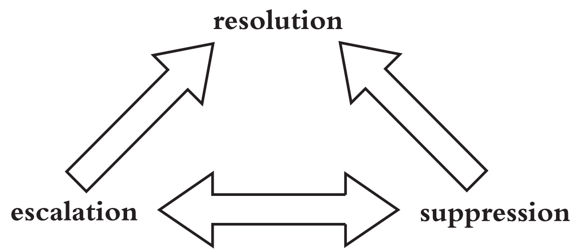


Fig. 3: Suppression, escalation and resolution of conflicts

er of the competed land will probably be seen as a resolution of the conflict by party A, but not necessarily by party B. Thus, a resolution can be partial or complete. As mentioned above, both suppression and escalation of a conflict can lead to its resolution, either by both parties forgetting about the original conflict, or the original conflict being replaced by another conflict (e.g. with a third party who suppresses the original conflict by claiming the land for itself), or by one of the parties involved being removed by becoming extinct as a result of a lethal escalation of the conflict. Of course, even if a conflict has been temporarily resolved, it can develop anew, particularly if circumstances change – but such a reemerged conflict I would consider a new conflict.

Conflicts I have intentionally left as the last element to define, because I expect this has created a conflict for you, which I now hope to resolve. As a conflict, I would define every situation where the intentions or actions of one or more parties are not perfectly aligned. Life, as such, can be seen as a never ending stream of conflicts. If you are hungry, you are facing a conflict, as food will not fly into your mouth on its own volition. As such, you will have to resolve this conflict by finding something to eat, as if you don't, the conflict will escalate until ultimately, you will starve and thus die. Finding food will resolve this conflict, but may open up numerous additional conflicts: you may need to prepare the food (unless you eat it raw), somebody else might want to eat the same thing that you want to eat, and so on. The overwhelming majority of all conflicts we daily face we resolve perfectly peacefully (even if we have to resort to violence, as in the case of preparing or eating food, which will most likely kill something), i.e. without breaching any rules of accepted, orderly behaviour. The same we can assume was true, as a norm, for Iron Age people in Europe: most conflicts they encountered in their daily lives were resolved in a routine and perfectly orderly, and as such perfectly 'peaceful', manner.

For the rest of this paper, I do want to focus on a particular subset of conflicts, that is conflicts of interest between two or more human parties. Such conflicts I would like to call *disputes*. ***Disputes*** are characterised by involving at least two humans, whose interests or actions are not perfectly aligned. For instance, ownership of the piece of land used as an example above is disputed, because two different people claim it is theirs. This is a dispute where the interests of two people are actually directly opposed, but direct opposition is not a necessary precondition for a dispute: if I want some milk that you have, this milk is disputed, even if you have no intention to keep that milk to yourself, but are quite happy to give it to anyone (including me) – but have not yet formed an opinion as to whom to give it to. Our intentions or actions are not perfectly aligned, but are by no means diametrically opposed – in fact, they are almost perfectly aligned already, but just not quite perfectly, yet. Of course, this dispute may be easily resolved if I ask you to give it to me, and you decide that I'm as good as anyone but am the first to have asked and thus give it to me – our intentions and actions have become perfectly aligned, and the dispute has been resolved.

Where Iron Age communities in Europe are concerned, we can be pretty sure that what was said above about conflicts, that most were resolved in a routine and perfectly orderly and thus 'peaceful' manner, will also have held true for most disputes. Only a comparatively small number of disputes will have escalated beyond a certain threshold, where their resolution was no longer possible via the routine of everyday life, but where more 'drastic' measures were required to sort them out. Yet, as I will argue below, the next step need not be the direct application of physical violence, but another means of resolving 'extraordinary' disputes.

Resolving 'extraordinary' disputes in medieval 'Celtic' (and 'Germanic') societies

Before I have a look at the resolution of 'extraordinary' disputes in Iron Age European societies, I would like

to take a short look at the resolution of such disputes in (early) medieval societies in western and central Europe, pretty much all of which can either be classified as 'Celtic' or as 'Germanic' on linguistic grounds. I have explained elsewhere in detail why I think that a linguistic link is relevant (Karl 2007a: 155-8), and that nonetheless any interpretation based on e.g. medieval 'Celtic' sources should be seen as no different from any other kind of analogy (Karl 2007c: 325-34, 342-3), and thus will not repeat this here. Suffice to say that I think that there is very good reason to believe that these medieval societies are a very valid and useful source for analogies for the interpretation of Iron Age European societies.

Without any doubt, these (early) medieval societies knew violence in abundance, and as such no reasonable argument can be made that this period was in any way bloodless – historical as well as archaeological evidence makes that more than obvious (cf. Alcock 1987; Davies 1990; Edwards 1990; Ó Cróinín 1995; Charles-Edwards 2000; James 2001; Snyder 2003). At the same time, particularly the societies in the western parts of the British Isles during that period had not yet developed strong centralised state institutions, even though they were in the process of doing so, and the right to exert violence had not yet been (fully) monopolised by the central state, even if there were some attempts to do so, particularly in the High Middle Ages (cf. Jenkins 1990).

Nonetheless, resorting to unsanctioned violence by no means seems to have been the only means to settle disputes within, and sometimes even between different (early) medieval polities (depending on how one wants to define a polity, particularly in early medieval Ireland, cf. Karl 2006b). Rather, the primary means to address 'extraordinary' disputes (cf. Davies 1986: 259) seems to have been through court arbitration (Charles-Edwards et al. 1986; Kelly 1988; Mitteis, Lieberich 1992; Lupoi 2000).

Nowhere in (early) medieval Europe was court arbitration necessarily non-violent, nor was judicial violence necessarily restricted to state authorities, in fact, in most cases, it was not. Both the intiation of a case and possible punishment following judgement could – depending on the nature of the case and its outcome – allow for or even require violent actions by the party who wanted the case to be heard, or who had won it. Even the trial itself could include acts of violence, whether it was trial by combat in the first place, or violent ordeals to prove a case (or the innocence of the accused). However, provided proper procedure was followed, this violence – if it was necessary at all – was sanctioned and as such not a breach of the peace, but rather an act to enforce it.

But before taking a slightly more detailed look at violence in the context of enforcing the peace in the absence of state monopolization of physical violence, let us stay with non-violent resolutions of court cases. The examples used here will be drawn mostly from early Irish law, as it is probably the best or at least most extensively attested early non-Roman law in Europe (cf. Binchy 1978: vii), and as it is the one that is best know to me. However, similar (though frequently not identical) examples can frequently also be found in early Welsh (cf. Kelly 1988; Jenkins 1990) and also in early Germanic laws (cf. Mitteis, Lieberich 1992; Lupoi 2000). Where there are similarities that seem particularly relevant to me, these will be specifically mentioned and discussed.

A court case could be started and carried out in several different ways in early Irish law (and most other attested early European laws), depending on the precise nature and circumstances of the dispute that it sought to resolve. The first step, however, was almost invariably for the plaintiff – usually the aggrieved party or one of its relatives – to publicly indicate that he was seeking redress (Kelly 1988: 190; Charles-Edwards 1989: 54-66; Mitteis, Lieberich 1992: 45, 101; Lupoi 2000: 200-1 and 201 FN 164). In early Irish law, the plaintiff even was required to 'hire an advocate (OIr. *aigne*) to plead on his behalf' (Kelly 1988: 190). This is at least partially the case because court procedure was highly formalised, and any deviance from the 'right', almost ritualistic, pattern of actions and pleadings would result in the party breaching procedural rules either having to pay a hefty fine or even automatically losing the case (cf. Kelly 1988: 191-2; Mitteis, Lieberich 1992: 45; Lupoi 2000: 120-1). In any case, the case would be argued in front of some judges or arbitrators (Kelly 1988: 192-8; Charles-Edwards 1989: 55-66; Mitteis, Lieberich 1992: 45, 101) or even the communal assembly (Davies 1986: 260-1; Lupoi 2000: 118-21), who would,

based on the arguments, find a judgement in line with the law. Somewhere during the trial, whether before any hearing commenced (Kelly 1988: 192) or at the latest after judgement had been pronounced (Mitteis, Lieberich 1992: 46), the parties involved would have been required to either swear an oath and / or give a pledge or provide a surety that they would accept the decision of the court and put its judgement into effect. Refusal to accept due process or the judgement of a proper court may result in what is frequently described as 'the punishment for the most serious crimes', banishment / outlawry (Kelly 1988: 222-4; Mitteis, Lieberich 1992: 40-2; Lupoi 2000: 121, 370-87).

All of this could happen without any party resorting to or even only threatening physical violence, if the circumstances of the case allowed. If the circumstances of a case were different, however, the threat of or actually resorting to physical violence may have been required or even an integral part of court proceedings. Early Irish law for instance allows all kinds of ordeals, including duels, for at least some types of cases (Kelly 1988: 209-3), practices which are also known from early Germanic laws (Mitteis, Lieberich 1992: 47-8; Lupoi 2000: 347-9). Similarly, punishment on conviction can be very violent, including hanging, starving to death in a pit, slaying with a weapon, setting a convict adrift on the sea, mutilation and flogging (Kelly 1988: 216-22), even though the preferred punishment seems to have been the payment of compensation or fines or selling the convict into slavery (Kelly 1988: 214-6), all again with good parallels in Welsh and the early 'Germanic' laws (Jenkins 1990; Mitteis, Lieberich 1992: 38-43; Lupoi 2000). Even to initiate a court case, particularly if the opponent is not willing to submit the matter to arbitration, some form of legal 'violence' is permitted, like distraint of that opponent to 'force' him to submit to arbitration, or 'legal entry' on a piece of land that is disputed. With distraint and 'legal entry' being part of proper judicial process, they were highly formalised and regulated practices, too, not just simple 'theft' of some property or squatting on some piece of disputed land, but they nonetheless require direct and at least potentially violent action by the plaintiff (Kelly 1988: 177-89). While there is less information on distraint in Welsh law, it is noteworthy that the terms used for this legal practice in early Irish and Welsh laws are cognate, oir. *athgabál* and mcy. *adauayl* both being derived from a celt. **ate-gabaglā*, 'distraint, lit. taking back, re-seizure' (Binchy 1973: 27), indicating that the practice may be an old element of medieval Celtic laws. Again, Irish law advises that the plaintiff employs a professional advocate to guide him through the correct process (Kelly 1988: 185-6).

As explained above, much of early medieval court process in most of Europe was highly formalised, including the precise nature and content of pleas, as well as methods of proof. Arguing a case in an early medieval court seems not so much have been about putting forth a legal argument with evidentiary support, as we would nowadays expect, but rather about taking the correct formulaic steps in the right sequence and fulfilling certain more or less firmly set tests (Kelly 1988: 190-213; Mitteis, Lieberich 1992: 46-8; Lupoi 2000: 120-1). Ordeals and duels were such tests, but seemingly more commonly, oaths were the main means of proof. Primarily, these were oaths by the parties involved, but they also frequently required support by oath-helpers or compurgators, who swore either to facts that were common knowledge or alternatively to their belief that the party they were helping was telling the truth. While not all early Germanic laws include oath-helpers (Lupoi 2000: 340-3, who considers compurgation a relatively recent development in European law, 345-8), many and both Irish and Welsh law do, and frequently require substantial numbers of oath-helpers, some laws for some denials by oath requiring as many as 72 (*lex Ribuaria*; Lupoi 2000: 341) and even up to 300 men (Welsh law; Charles-Edwards 1993: 202). Whether with helpers or not, oaths clearly were a central element of early medieval 'Celtic' and 'Germanic' legal practice, which is also confirmed by cognate terms for the oath existing in many Celtic and Germanic languages, oir. *oeth*, cymr. *an-ud-on*, 'perjury' and gaul. *oito-* from celt. **oitos* and got. *aiþs*, on. *eiðr*, ofris. *êth*, ohg. and ger. *Eid* and ags. *aþ*, *aþe* from germ. **aiþa-,* with Kluge (1989: 168) thinking that the Germanic words are unlikely to be a loan from Celtic and Delamarre (2003: 240) taking the opposite view. Both the highly formalised, almost 'ritualised' process of court pleading itself and the importance of the oath indicate quite clearly that they had emerged out of a primarily religious context and were, in a sense, con-

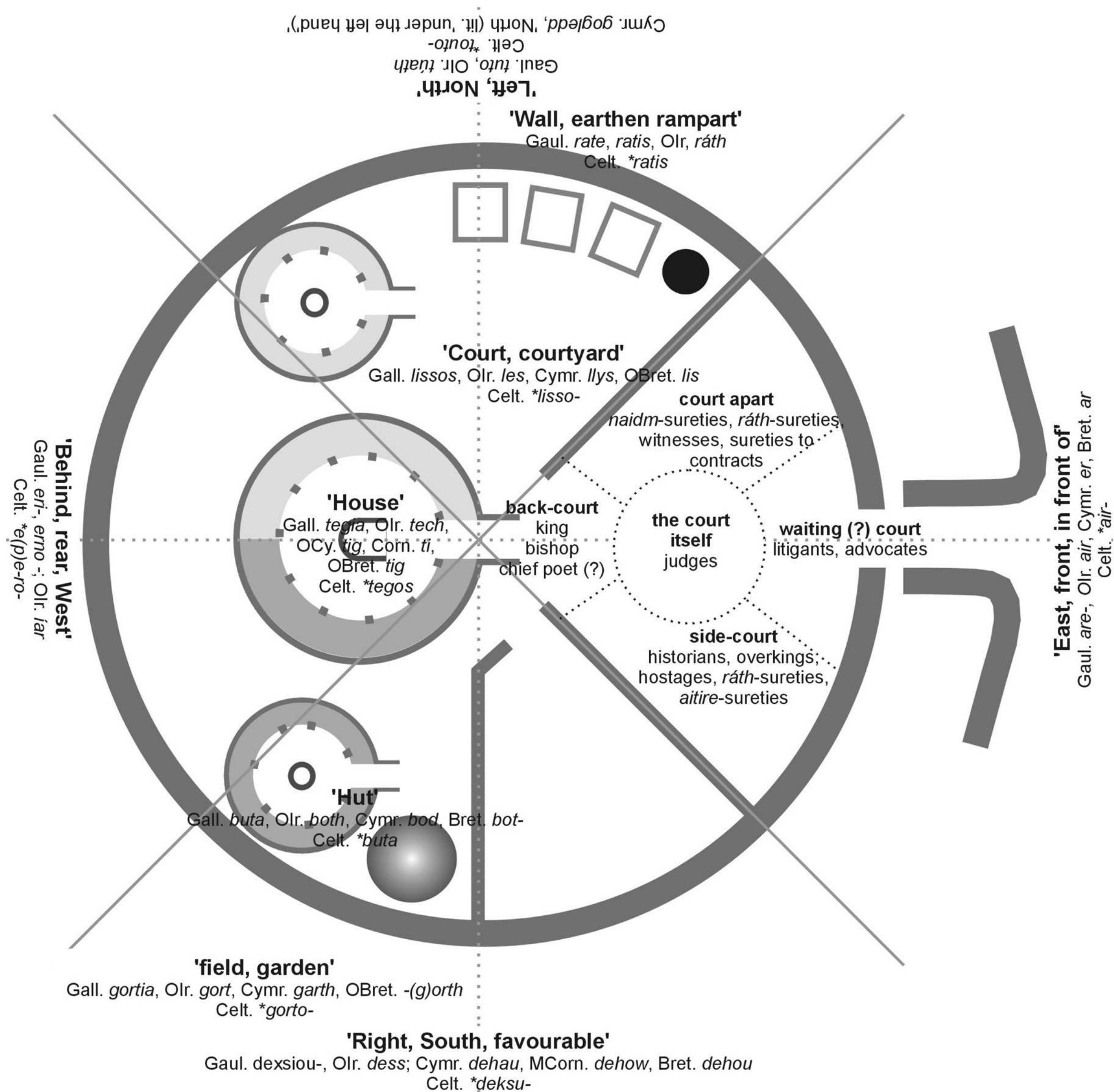


Fig. 4: The 'court of law' in the courtyard of a schematic enclosed settlement of the British Isles

tinuing this primarily religious and only secondarily legal connotation (Lupoi 2000: 120–1, 256–8, 347), with Christian writers even explicitly opposing, at least the excessive use of, judicial oaths (Lupoi 2000: 347), making it unlikely that this was a Christian influence on early medieval law.

Given that it may have required a considerable number of participants (even if we assume that oaths sworn by 300 compurgators were rare), courts of law will have required considerable space. Fergus Kelly gives a schematics of the setup of an early Irish court as described in the *Airecht*-text (Kelly 1986; 1988: 193–4), which I have adapted slightly for this paper (fig 4.). While large courts may well have been held at large communal events like the *óenach*, the annual 'general assembly' of the *túath*, the 'polity' (Kelly 1988: 4), probably then on some large open field, many less significant, 'ordinary' cases, which did not require several hundred compurgators to swear an oath, will most likely have been heard in the 'court' of the judge or a local 'noble' or 'king'. These 'courts' of early medieval Irish nobles or judges, or in fact pretty much eve-

ry landowning freeman in early medieval Ireland we know very well as the Irish 'ringfort', both from the archaeological record (Edwards 1990: 11-33; Stout 1997) and the law texts (Kelly 1998: 360-97), and in many regards, their arrangements fit the schematic organisation of the idealised court of law very well. Figure 4 shows Kelly's (1988: 194) schematic 'court of law' inscribed into the equally schematic 'ideal model' of enclosed settlement in the British Isles (Karl 2008: 119), a model that also fits the pattern of Irish early medieval ringforts.

The enclosed area that makes up the 'courtyard' of an early medieval Irish ringfort is called oir. *les*, (DIL L 115-6) which finds cognates in cymr. *llys*, 'court, palace; courtyard, enclosed space' (GPC 2276) and gaul. *lissos*, with probably the same meaning (Delamarre 2003: 204). However, in our current context, it is particularly interesting that cymr. *llys* also has a secondary meaning, 'court of law, court case or proceedings; parliament, gathering of nobles etc.', and also 'a challenge or objection to a witness or juror because of some legal impediment, incompetency of a witness' (GPC 2276). The latter is matched by a second oir. term *les*, meaning 'relief, redress, remedy; redress obtainable through court proceedings; cause, case; affair, matter' (DIL L 113-5). In addition, there are also cymr. *llysaf*, 'to reject, repudiate, refuse; except, exempt' and 'to object to or challenge a witness or juror because of some legal impediment, reject (plea, judge etc.)' (GPC 2276-7) and oir. *lesach*, 'successful in obtaining legal remedy' and 'legal representative' (DIL L 117). The 'courtyard' of Irish and Welsh early medieval enclosed settlement and legal pleading are polysemous in both Celtic languages in which we also have extant law texts.

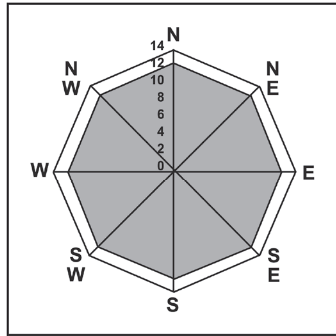
There is a possibility that at first 'noble' courts emerged out of 'ordinary' enclosed settlements, expanding an earlier meaning of 'simple courtyard' with a 'noble' association, from which even later the meanings 'court of law' and 'pleading in a court of law' developed, but given that particularly oir. *les* never seems to have developed any particularly 'noble' associations, this seems a rather unlikely suggestion. It rather seems likely that the enclosed area within the settlement and legal pleading (cf. Karl 2008) became associated rather early, and then developed in parallel. This makes it a distinct possibility that already gaul. *lissos* was not only referring to a courtyard, but also already to a court of law. And that brings us back to the Iron Age.

Iron Age enclosed settlement

It is not only terminology that creates a possible link between the early medieval sources and the Iron Age. An even more obvious link can be found in the archaeological record. Starting in the late Bronze Age or slightly before that, enclosed homesteads, which show many clear architectural similarities to the early medieval 'ringforts' of Ireland, become a common feature in the settlement record of Britain (Parker-Pearson 2005: 25; Cunliffe 2004: 21-36), even though in Ireland, this type of settlement only becomes clearly visible in the early 1st millennium AD (Stout 1997: 22-31).

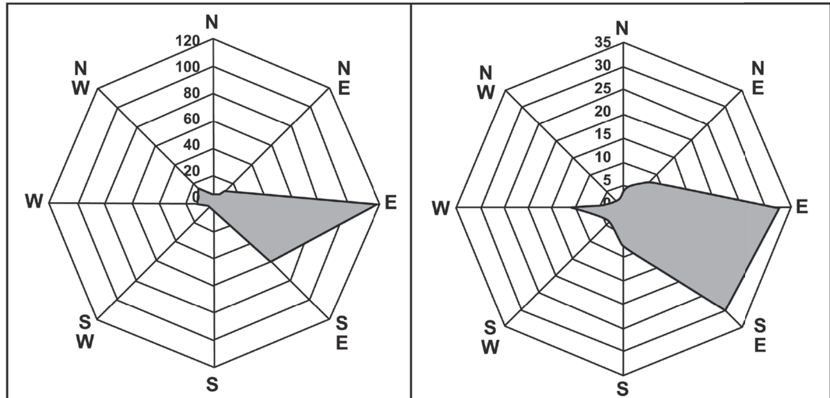
There are a few known earlier sites, mostly late Bronze or early Iron Age 'figure of 8' enclosures, from a number of Irish 'royal' sites like *Tara*, *Dún Ailinne* and *Emain Macha* (Raftery 1994: 65-81; Lynn 2003: 27-50). These share some architectural features (like easterly orientation of entrances, and the existence of a distinct 'courtyard' enclosure) with 'ringfort' and British 'enclosed homestead' sites known from Ireland, but are usually interpreted as some sort of 'communal assembly places' or 'ritual' sites. In our context, this makes them interesting as well, as they may well have been the precursors to the later 'ringforts', but fulfilling more specialised communal ritual and judicial functions. But as these sites are specific to Ireland, they are not the focus of this paper and I will not go into further detail discussing them, but rather will concentrate on the enclosed settlements of Britain and the Continent.

Late Bronze and Iron Age enclosed settlements in Britain – the 'households' of Hill's (1995a; 1 995b) and James' (2007) 'different' and 'egalitarian' Iron Age – display a number of features that connect them to the early medieval Irish 'ringforts'. The same features also connect them to similarly enclosed settlements on the European continent, particularly the 'Herrenhöfe' and 'Viereckschanzen' of southern Germany and neighbouring regions (cf. Reichenberger 1994; Wieland 1999) and the 'enclós' or 'fermes indigenes' of France (von Nicolai 2006: 4-6; Pomepuy et al. 2000; Malrain et al. 2002). The perhaps most prominent of these features is the *orient*ation of entrances into buildings and



Random distribution

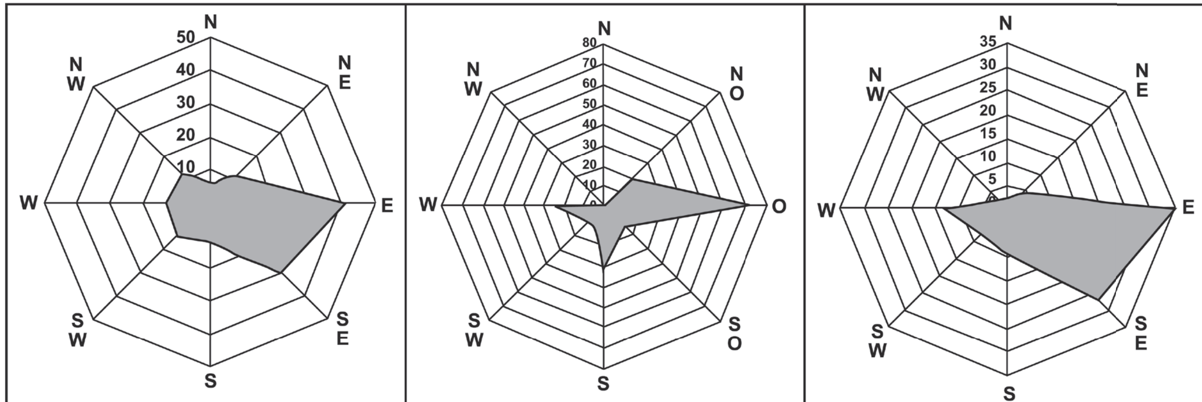
Roundhouses



south-east England

Wales

Enclosed homesteads

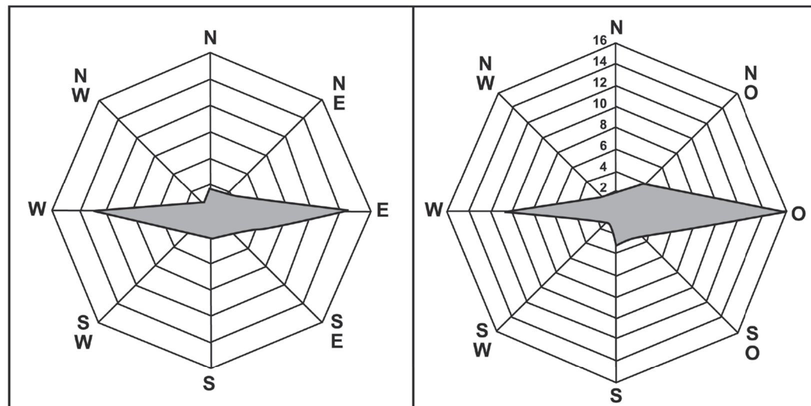


south-east England

southern Germany

early medieval Ireland

Hillforts



south-east England

western Bohemia

Fig. 5: *Orient*ation of Iron Age and Early Medieval enclosed settlement and house entrances

enclosures, which is predominantly a literal *orient*ation, i.e. the majority of these are facing towards the east or south-east (Karl 2008: 97-101; compare fig. 5). Several of these have also produced evidence for structured deposition, possibly as part of some ritual use of these sites, and the deposition of human remains or use of features of these sites as places for secondary or regular burial, at least of some members of society, particularly of infants who may have been too young to have been entitled to burial in the regular cemetery (Karl 2008: 104-7, 112-20).

As I have argued elsewhere (Karl 2008), these features indicate that these sites had both secular (probably mostly as farmsteads) and religious functions (with the 'secular' and 'sacred' spheres being indistinguishable in what could be called 'integrated' thinking in the European Iron Age), at least in what Jürgen Zeidler (2005: 178) has called 'popular' as opposed to 'official/state' religion. This physical and spiritual enclosure and its ritual definition and delimitation in my opinion served the purpose of creating a place of both physical and spiritual 'sanctuary', a space under the permanent 'peace' of the household, a safe (or if you prefer, a secure) place in both a direct physical and a spiritual sense (Karl 2008: 107-12). As such a 'private sanctuary', the enclosed homestead would of course also be ideally suited to carry out quasi-religious judicial 'rituals', much like those that make up the 'formulaic', almost 'ritualistic' and strictly formalistic procedures of early medieval court proceedings.

As I have also argued (Karl 2008: 101-4), these sites are also characterised by yet another feature, their spatial organisation. This usually consists of a relatively large open courtyard, occasionally cobbled in the case of early medieval Irish 'ringforts', usually directly inside of the (main) entrance into the settlement enclosure. Usually, the 'main' building (if the site has an identifiable main building, which is not always the case), normally a large house (which usually is interpreted as the main dwelling on site) near the centre or rear side of the enclosure, is found opposite across the courtyard, with its entrance facing towards the entrance into the enclosure, with other buildings on the site arranged around the open courtyard (Karl 2008: 101-4). In the case of the southern German 'Viereckschanzen' type monuments, this main building occasionally additionally has a porch-like structure attached to it, also facing this courtyard (Wieland 1999: 35), while many of the British roundhouses have an elaborated entrance (e.g. Moore 2007: 271), which may also indicate the existence of a porch-like structure or some kind of architectural features on the first floor above the entrance. While there are good practical reasons for any kind of farm to have a reasonably substantial yard, the architecture of 'typical' enclosed Late Bronze and Iron Age homesteads does betray not only a certain attempt to impress visitors, but also lends itself to communal activities like the 'ritualised' early medieval court proceedings. And given that it is quite likely that these courtyards were – among other things – used to hold courts of law in the early medieval period in Ireland, it does not seem totally unlikely that the courtyards of Late Bronze and Iron Age enclosed farmsteads also already were.

There is yet another feature that does – although not regularly, but also not too infrequently either – appear in the context of Iron Age enclosed settlement, and that are annexes and/or internal divisions of the main enclosure (Wieland 1999: 44; von Nicolai 2006: 4-5; Cunliffe 1991: 240), which don't show any buildings as features within them. It is tempting to see them as particularly 'safe' pens to keep cattle that has been impounded as part of a legal distraint, which under early medieval Irish law requires the plaintiff to keep the cattle in a private 'pound'. As the plaintiff is liable for any injuries the cattle sustains while being driven to and staying in this 'pound', which needs to be well-fenced (Kelly 1988: 178), such annexes or segregated parts of Iron Age enclosed homesteads may well have served as such 'judicial pounds', with the added benefit that the impounded cattle was not only supervised by the 'court' that would rule on the case, but also was immediately available after the decision and under the control of the court to give to whoever had won the case.

Of course, the archaeology of Late Bronze, Iron Age and early medieval enclosed settlement in central and western Europe does not tell us about what actually was going on on the courtyards of these settlements, even though it has been noticed that, particularly where 'Viereckschanzen' are concerned, that these sites were often – but not always – kept surprisingly clean (Wie-

land 1999: 54), which again would fit with the early Irish tradition that the *airdrochat* – the paved courtyard at the entrance of the *les*, where supposedly courts of law could be held – should be kept clean (Kelly 1998: 367). However, given that quite clearly some planning effort was invested into creating an 'impressive' courtyard, and that there is reason to believe that the courtyard was considered a physically and spiritually 'pacified' space where rituals and other similarly 'formalised' activities could and would take place, it offers itself as one logical place for communal assemblies where justice would be dispensed. The archaeology of late Bronze Age, Iron Age and early medieval enclosed settlement can thus be seen as providing a 'theatre' that would have facilitated, among others, the use that this space was associated with in the medieval Celtic languages, as a space where courts of law would be held, and where people would 'plead in the court'.

Iron Age legal practice

Having identified a possible, perhaps even a likely place in the Late Bronze and Iron Age archaeology where courts of law could have been held, we still need to establish whether it is at all likely that European Iron Age societies had a sufficiently developed legal system that such courts could imaginably have been held and provided the 'security' that allowed Iron Age people to solve even many of their 'extraordinary' disputes by 'peaceful' (whether violent or not) means. Here, we do come up against a major obstacle because of lack of evidence except for the very final stages of the Iron Age, where historical records become more detailed and also start to cover aspects of legal practice. And even where we have such historical evidence, it is virtually exclusively limited to latest Iron Age Gaul. As such, saying anything specific about this issue is difficult. However, we may, if we find that what little evidence exists on latest Iron Age Gaulish law matches with some or most of what I have discussed above about legal practice in (early) medieval central and western European ('Celtic' and 'Germanic') societies, assume that we are seeing reasonably stable legal systems which may well have existed more than half a millennium before the first historical attestations in the last centuries BC. After all, there is also more than half a millennium between when early medieval laws are first attested and the latest Iron Age societies in Europe where we at least have some shreds of historical evidence about possible legal practices.

As so often, it is Caesar's description of the Gallic Wars that contains some of the most valuable information on this issue, and particularly his excursus on the Gauls (b.g. 6,11-20). In what is one of the most famous parts in this very well-known passage, Caesar describes as one of the functions of the druids: 'In fact, it is they who decide in almost all disputes, public and private; and if any crime has been committed, or murder done, or there is any dispute about an inheritance, about boundaries, they also decide it, determining rewards and penalties: if any person or people does not abide by their decision, they ban such from sacrifice, which is their heaviest penalty. Those that are so banned are reckoned as impious and criminal; all men move out of their path and shun their approach and conversation, for fear they may get some harm from their contact, and no justice is done if they seek it, no distinctions falls to their share.' (b.g. 6,13.5-7). He then continues regarding the annual meeting of the druids in the territory of the Carnutes: '... and sit in conclave in a consecrated spot. Thither assemble from every side all that have disputes, and they obey the decisions and judgements of the druids.' (b.g. 6,13.10).

These two short passages already and on their own tell us a lot of what we need to know: there obviously are some laws, there obviously are 'courts' that decide disputes, there are specialised judges, and the disputes are what we would understand as legal matters: murder and other crimes, but also the division of assets, particularly land, between heirs. We hear that both matters public and private are matters for these courts, and that they determine 'praemia poenasque' (b.g. 6,13.5), which we can loosely translate as 'compensations and fines' (lat. *praemium*, 'that which is taken first, the pick; a gift, award, reward, recompense', lat. *poena*, 'money paid as atonement, a fine; punishment, penalty'). We even learn that disobedience to the court's decision results in the 'excommunication' of the offender, who, once so banned, will no longer receive any justice even if asking (and presumably having a justified grievance). All of this pretty much perfectly matches what we know from many early medieval Europe-

an laws and court procedures, down to the point that the gravest of all punishments is banishment, which is the punishment for disobeying the court (Mitteis, Lieberich 1992: 44-6; Lupoi 2000: 368-87). Similarly, compensation payments and fines are the main kinds of punishment under both Irish and Welsh Law (Kelly 1988: 214-5; Jenkins 1990). There are specialised judges in Irish and Welsh law, and in Irish law even specialised advocates, all of who are trained (for extensive periods) in the law, usually in specialised law schools run by masters in the subject (Davies 1986; Kelly 1988: 51-7, 185-6, 225-63; Jenkins 1990) – pretty much like Caesar describes for the training of druids a couple of lines after the passage quoted above (b.g. 6,14.2-4).

Several further passages describing aspects of later Iron Age law and court procedure can be found in Caesar's text. For instance on punishment for crimes, he reports in the context of human sacrifices: 'They believe that the execution of those who have been caught in the act of theft or robbery or some crime is more pleasing to the immortal gods; but when the supply of such fail they resort to the execution even of the innocent.' (b.g. 6,16.5). Caesar himself mentions burning as one method of execution (b.g. 6,16.4), while the Berne Scholia on Lucan's Pharsalia mention hanging, burning and drowning (Usener 1967). We hear of Gaulish states having laws that rumours heard should only be reported to magistrates, not to others (b.g. 6,20.1), and that discussing matters of state was not allowed except at assembly (b.g. 6,20.3).

In another context, we learn that the Helvetians had a 'custom' that striving for the kingship was forbidden on pain of death by burning, and that Orgetorix was put on trial for this (b.g. 1,4.1-2). The very fact that he was put on trial tells us a lot about later Iron Age legal practice, and the importance of maintaining 'peace' (as expressed through lawful behaviour), as this must have been as politically charged and high profile a case as they get. Even more significantly, 'in accordance with their custom they compelled Orgetorix to take his trial in bonds.' (b.g. 1,4.1), and Orgetorix seems to have stood for it, as we are also told that 'on the day appointed for his trial, Orgetorix gathered from every quarter to the place of judgement all his retainers, to the number of some ten thousand men, and also assembled there all his clients and debtors, of whom he had a great number, and through their means escaped from the trial.' (b.g. 1,4.2). That Orgetorix was killed shortly afterwards when those who had brought the case against him had also mobilised their supporters, or committed suicide, as Caesar quotes the Helvetians' 'suspicion' (b.g. 1,4.3), adds another quite interesting dimension to the case. Because its facts don't seem to add up.

Let's think about this for a moment. If we suppose that Orgetorix had actually been illegally freed and was running away with his ten thousand and some supporters, why would he commit suicide unless cornered by an army bigger than his own? But if the Helvetian magistrates could mobilise such an army quickly enough to counter his 'surprise escape', how come they failed to mobilise it in time to prevent his army from springing him from his trial in the first place? On the other hand, if we suppose that Orgetorix was fleeing with a much smaller retinue, allowing a much smaller, rapidly mobilised force of the magistrates to corner and prompt him to commit suicide, the question arises why he should have left the safety of his assembled army that had just illegally sprung him from almost certain death? After all, in a highly political case like this, had he illegally escaped, the magistrates were bound to mobilise their own forces to hunt him down. Then again, if Orgetorix had been acquitted in court and was on his way back home with only a handful of retainers accompanying him, and was murdered by his enemies (who had probably indicted him in the first place), the question arises as to why these enemies had not just murdered him right away when they first got hold of him. Either way makes no sense at all.

The whole case becomes a lot clearer if we think about it slightly differently. If we assume that normal Helvetian legal process included compurgatory oaths as normal practice, and that in a case of an offence probably considered to be as severe as high treason a large number of oath-helpers would be required, it becomes entirely logical that the Helvetian magistrates would have allowed Orgetorix to summon his retainers to his trial. While he may have had to appear for his trial in bonds (b.g. 1,4.1), there is no real reason to assume that he was actually held captive. Rather, he may very well have attended the trial willingly, knowing how many oath-helpers he could rely on and that

they would get him acquitted easily enough. His enemies, on the other hand, may very well have hoped he would not find enough oath-helpers to escape the charge, or may just have hoped to force him into a mistake. If then something went wrong at the trial – whether Orgetorix was acquitted, or whether he was sprung by a small group of especially loyal (but somewhat dumb) retainers – the following events also become more credible, whether he was hunted down by a quickly assembled posse because he had run from the trial, or whether he was caught by his enemies by surprise after thinking he had exonerated himself.

Either way, the Orgetorix episode does tell us that at least some of the leading Helvetian politicians trusted the legal system sufficiently to rely on it in even such a highly political case, even if the whole case was perhaps planned by its instigators as a farcical show trial to get Orgetorix out of the way. Nonetheless, should his enemies have wanted to kill him after having already captured him they could have done so without the trial (whether that was planned as a farcical show trial or not), unless there was a very strong public perception that due legal process had to be observed. And had his enemies just charged, but not captured him, the fact that he did show up for it at all (even if he ultimately decided to run rather than stand trial) tells us that he himself trusted the legal system sufficiently to at least show up. Equally, that his retainers were allowed to attend – and ten thousand plus people 'from all quarters' planning to attend can hardly have gone unnoticed before the trial date – indicates that calling upon oath-helpers may very well have been a common practice in 1st century BC Helvetian law.

Caesar's text also tells us that oaths were an important part of latest Iron Age Gaulish legal practice, even though they are not specifically mentioned in the context of court procedure. However, contracts and alliances were quite obviously agreed by solemn oaths (cf. b.g. 1,3.8; 7,2.2-3), and it seems to have been common practice to also give pledges (b.g. 1,3.8) or exchange hostages (b.g. 5,27.2; 7,2.2). All these elements are not just a central element of (early) medieval contract laws, particularly in Ireland and Wales (Kelly 1988: 158-76; Jenkins 1990; McLeod 1992; Karl 2006: 202-45), but also are at the heart of all court proceedings (which in a way are hardly more than a contract between two parties that they will accept the judgement of an arbitrator to settle their dispute) in many (early) medieval European laws (Kelly 1988: 164-76, 190-213; Mitteis, Lieberich 1992: 46-7; Lupoi 2000: 339-50). As such, it does not seem unreasonable to assume that oaths, pledges and hostages were also part of the Iron Age court procedure, in all likelihood also including, as the Orgetorix episode indicates, oath-helpers to support the oaths of the parties involved in a court case. In fact, given the attested importance of oaths and hostages in late Iron Age Gaulish societies, and the fact that judgements were seemingly found by druids in what at least was a semi-religious context, it would be very astonishing if oaths were not a major element of court procedure in these societies.

When Caesar discusses Gaulish marriage customs, he makes yet another interesting point when he states: 'Men have the power of life and death over their wives, as over their children; and when a father of a house, who is of distinguished birth, has died, his relatives assemble, and if there be anything suspicious about his death they make inquisition of his wives as they would of slaves, and if discovery is made they put them to death with fire and all manner of excruciating tortures' (b.g. 6,19.3). This, taken together with the report on the druids dispensing justice at their annual gathering in the territory of the Carnutes (b.g. 6,13.10), the fact that the Helvetians obviously had their own court when they attempted to try Orgetorix for treason (b.g. 1,4.1-2), and that the Aeduan *Vergobret*, their highest magistrate, held 'the power of life and death over his fellow countrymen' (b.g. 1,16.5), shows us several different levels at which justice was dispensed. While the reference to the power of men over the lives of their wives and children may be little more than a reference explaining to Caesar's Roman audiences that the Gauls also had a concept akin to the Roman idea of *patria potestas*, the reference to 'trials' of the wives of deceased upper class men implies that some judicial powers rested with the local household itself. Even if married, women were likely to maintain some links with their own relatives (Karl 2006: 73-8, 96-119, 154-9, 409-11), who would most likely want to support them if accused by the relatives of their deceased husband of some wrongdoing, at least to guarantee them reasonably fair treatment. As such, they would most likely in-

sist on some kind of fair representation given to their female relatives in such a situation – which means that some kind of court trial would have had to be held in such a case. Then, some judicial powers seem to have rested with the magistrates at the level of the civitas, who seem to have held what we might call 'regional' courts. And finally, there seems to have been something like a pan-Gaulish court at the annual druid assembly, dispensing justice at what could then perhaps be called a 'national' level.

This again seems to be reasonably well matched with the situation in the (early) medieval Irish and Welsh laws: the south Welsh *Llyfr Blegywryd* recognises three 'levels' of judges, the *brawdwr llys*, the 'court' judge (essentially the 'chief judge' of one of the main Welsh kingdoms in the Middle Ages), the *brawdwr cwmwd neu gantref herwydd swydd*, the official judge in each administrative district, and the *brawdwr o fraint swydd*, the judge in respect of land tenure, being explained as *pob perchennog tir*, 'namely every owner of land' (Davies 1986: 262). Similarly, Irish law recognises different 'grades' of judges, with texts occasionally referring to a *brithem ard*, a 'high judge' (Binchy 1978: 1727 = CIH 1727.35), very regularly to the *brithem túaithe*, 'judge of a *túath'*, who was presumably the official judge of a 'district', also presumably appointed by the 'king' of that community (Kelly 1988: 52-3), but also more 'lowly' judges (Kelly 1988: 51-6). As in early medieval Ireland there exists a 'hierarchy' of 'kings', from the *rí túaithe*, the 'king of one *túath'* over the *rí túath*, 'king of several *túatha'* to the *rí ruirech*, 'king of overkings', with the 'higher' 'kings' presumably having their own judges, who not only were responsible for a single *túath*, we again find similar 'layers' of justice, from the local to the 'national'. While I wouldn't think that this allowed for stages of appeals (even though I would not completely rule out that possibility either), these are similar 'layers' of justice in both Irish and Welsh law as observable in Caesar's text: presumably, members of the same household, for instance two tenants, would go to their landlord to settle their dispute, two landowners in the same district would appeal to the district or 'regional' court for a settlement of their dispute, while disputes between different districts (or their rulers) would be settled in the 'national' court.

That even disputes between polities may have been dealt with in courts of law already in the late 2nd century BC in Gaul can possibly be gathered from a passage in Poseidonios' Gaulish ethnography, describing the influence of the druids: 'For oftentimes as armies approach each other in line of battle with their swords drawn and their spears raised for the charge, these men come forth between them and stop the conflict, as though they had spell-bound some kind of wild animals. Thus even among the most savage barbarians anger yields to wisdom and Ares does homage to the Muses.' (Diod. 5,31.5; transl. Tierney 2007: 85-6; cf. Hofeneder 2005: 147-52). While this can of course be seen as simply describing the influence of religious authorities on superstitious barbarians, it may equally well reflect the judicial function of the druids: by stepping in between two advancing armies and indicating that this dispute should rather be resolved peacefully (in both meanings of the term), that is, in a court of law, they may well have stopped the impending battle. Court settlements may thus have been seen as a viable alternative for conflict resolution even between different polities.

Finally, in another one of the very famous passages of his excursus on the Gauls, Caesar also discusses the role of the *principes*, the leaders of the Gaulish factions: 'In Gaul, not only in every state and every canton and district, but almost in each single household, there are parties; and the leaders of the parties are men who in the judgement of their fellows are deemed to have the highest authority, men to whose decision and judgement in the supreme issue of all cases and counsels may be referred. And this seems to have been an ordinance from ancient days, to the end that no man of the people should lack assistance against a more powerful neighbour; for each man refuses to allow his own folk to be oppressed and defrauded, since otherwise he has no authority among them. The same principle holds in regard to Gaul as a whole taken together; for the whole body of states is divided into two parties.' (b.g. 6,11.2-5). It thus would seem that for any leader, whether that of a household, or a district or canton or even roughly half of Gaul, it was deemed necessary, to maintain his authority, to see justice done. By turning this on its head for a moment, it becomes apparent that if an unjust man was deemed unfit to lead 'his' community, somebody wanting to become or remain a leader

of 'his' community would have to be seen to have seen justice done, or in other words, would have to publicly perform his role as somebody actively maintaining justice. This does, of course, not imply that these leaders would also necessarily be the judges themselves. Rather, as we have seen before, we can at least suspect that there were specialised judges, trained in the law, whether they were druids, magistrates or just unattached 'lowly' judges. More likely, from the *principes* (who Dunham 1995 wants to see as one and the same as the druids, an opinion I do not share) down to the leaders of parties in single households, these leaders are likely to have had a supervisory role in court proceedings, perhaps to confirm a judgement that the judge had pronounced or the community had found.

Again, this seems pretty much identical with what we find in the (early) medieval European, and especially the Irish and Welsh laws: the 'leaders' of the community, whether they be kings or nobles or other kinds of 'leaders', are 'the cliff which is behind (i.e. controlling) the court' (Kelly 1988: 193). These 'leaders' may call the court to session, they provide (the space, 'peace', and whatever else is necessary) for it, and they may pronounce or confirm the judgement of the court, but they do not usually find the judgement: to do so is the task of either the assembly or the judges (Jenkins 1990; Mitteis, Lieberich 1992: 45; Lupoi 2000: 112-21; for a somewhat different view also see Lupoi 2000: 173-223).

In fact, pretty much all of what little historical information we can gleam on the administering of justice in the latest Iron Age is surprisingly similar to what we find in the (early) medieval Irish and Welsh laws, and also in what Maurizio Lupoi (2000) has more generally called the 'European Legal Order', all of which are first attested only more than half a millennium later. While there will undoubtedly have been numerous local and regional as well as chronological differences where the details of the law are concerned, like what was considered illegal and what not, how high the fines were for a particular offence, or what other punishment was appropriate for a certain crime, the fundamental principles by and large seem very similar, if not identical. There seem to have been courts of law, with different 'levels' of responsibility, from the local to the 'national', professional judges backed up by the authority of community leaders, oaths, compurgatory oaths and probably also ordeals are likely to have been the main means of proof, banishment the penalty for disobedience against the court.

It could of course now be argued that the late Iron Age Gaulish societies of Caesar's account were urbanised societies, organised at a much larger scale than the societies of, for instance, early Iron Age Britain (as for instance, John Collis has; Collis 1994: 32), and therefore needed a more complex legal system than the 'egalitarian' societies of the latter (Hill 1995a; 1995b; James 2007). It could also be argued that the late Iron Age Gaulish legal systems may have been strongly influenced by Roman law, and perhaps other laws of Mediterranean societies in Antiquity, with whom they had already had contact for an extended time when we get the first few glimpses about how later Iron Age Gaulish laws might have worked. And both of these arguments do indeed carry some weight: 1st century BC societies in Gaul were undoubtedly much more urbanised than early Iron Age societies in Britain, and equally had most likely been considerably influenced by Mediterranean societies' laws. As such, one might easily think that the information gleamed from sources like Caesar would be inapplicable to other European Iron Age societies like those of e.g. early Iron Age Britain.

But then, the (early) medieval societies of both Ireland and Wales, at the times their law texts were composed, were anything but urbanised societies, and while the medieval Welsh laws were clearly strongly influenced by Roman law, the Irish were much less so. Particularly where the early medieval Irish are concerned, even though they were not left completely untouched by Roman legal ideas either, the evidence makes it very clear that most of their legal system was based on old, indigenous ideas, and had not just been copied from Roman law – especially where the fundamentals of the law were concerned. And where the archaeological record the early medieval Irish and Welsh left behind is concerned, there is little in the evidence that would have us think that their societies were much more highly organised than those of their late Bronze and early Iron Age ancestors (cf. Karl 2006b). Even more, if Caesar was right in his assertion that the Druidic 'faith', which seemingly was closely connected to

the dispensation of justice in Iron Age Gaul, had originated in Britain, and those who wanted to study it most diligently where travelling from Gaul to learn it back where its roots were (b.g. 6,13.10-12), it seems even more unlikely that the 'Gaulish' legal system had only recently developed in Gaul as a response to the increasing urbanisation of that region during the final 2 centuries BC. Rather, if Caesar were right with this, the principles upon which the late Gaulish legal system was built most likely would have emerged considerably earlier, probably even in those late Bronze Age and early Iron Age 'egalitarian' British societies where we see 'enclosed homesteads' becoming one of the, if not the very dominant type of settlement.

The Iron Age court of law and the judicial process

If the above arguments should be reasonably correct, we arrive at a very different Iron Age to the one portrayed in the traditional 'Celtic heroic spirit' narratives. But not just that, we would also have succeeded in decoupling 'primitive' or 'pre-state' societies from being necessarily more 'violent' or 'endemically insecure' than more highly organised 'modern' or 'state' societies, the problem that still was hampering James' (2007) approach to the subject. So let us for a moment assume that my above argument is correct: what do we arrive at, then?

We can conclude that during the late Bronze and Iron Age, new legal systems developed in central and western Europe that allowed communities to resolve – both within and at least partially also between different polities – their disputes 'peacefully', even though 'peacefully' is to be understood primarily as 'lawfully' and 'orderly', not necessarily as 'non-violent'. We can assume that these new systems were not entirely new, at least in the sense that even earlier European societies will almost definitely have had such 'peaceful' mechanisms of conflict resolution available to them. But, probably related to other changes in the constitution of societies that, as I have argued elsewhere (Karl 2007a), where happening at roughly the same time in roughly the same area, they were new in the sense that they were fulfilling the needs of these newly emerging, potentially more complex (or at the very least somewhat differently organised) societies. After this period of rather rapid change, the situation seems to have reasonably stabilised again, for at least 2 millennia, and arguably in parts even until today (at least in the sense that some of the concepts that seemingly were developed at the beginning of this period are still with us today). While during these two millennia (or more), some changes will have happened, most of the fundamentals of the legal system remained mostly unchanged.

One of the fundamental changes seems to have been an increased importance of the role of the individual household, mainly to be understood here as a community of people inhabiting the same 'homestead' (Hill 1995a; 1995b), even though by extension (at least sometime after the initial period of change) also applicable to all people under the control of a single person, usually the one 'owning' the land on which the community lived (cf. Karl 2008).

It is these landowners, these 'heads of a household', who as I have also argued elsewhere (Karl 2007a; 2007d) performed their status by delimiting their homestead with a more substantial enclosure, who became the lowest rung on a ladder of 'judges', arbitrating in disputes between members of their 'own' household. As different households (perhaps mainly represented by their respective 'heads') also interacted and occasionally had to settle disputes, their 'heads' will in turn have approached particularly highly respected or authoritative members (who themselves were heads of their own households) of their wider community to assist them with negotiating contracts (Karl 2006a: 202-45; 2007c: 334-8) and to arbitrate between them to settle disputes (Karl forthc.). These 'authoritative' members of the community, who as a result of this became not only the 'regional judges' but also an emerging elite (or 'nobility'), also will probably have arbitrated in their own respective 'courtyards', which again will have been their own 'enclosed homesteads'. The same process was repeated at yet one higher level as well, leading to emerging 'kings' (Karl 2007a; 2007b; forthc.) who saw justice done on a 'national' level, again with hearings taking place in their respective 'enclosures'. These enclosed 'courtyards', celt. **lissos*, thus generally became the arena for the arbitration of disputes, with the word acquiring a secondary meaning as 'a place for arbitration, court of law', with derived terms mean-

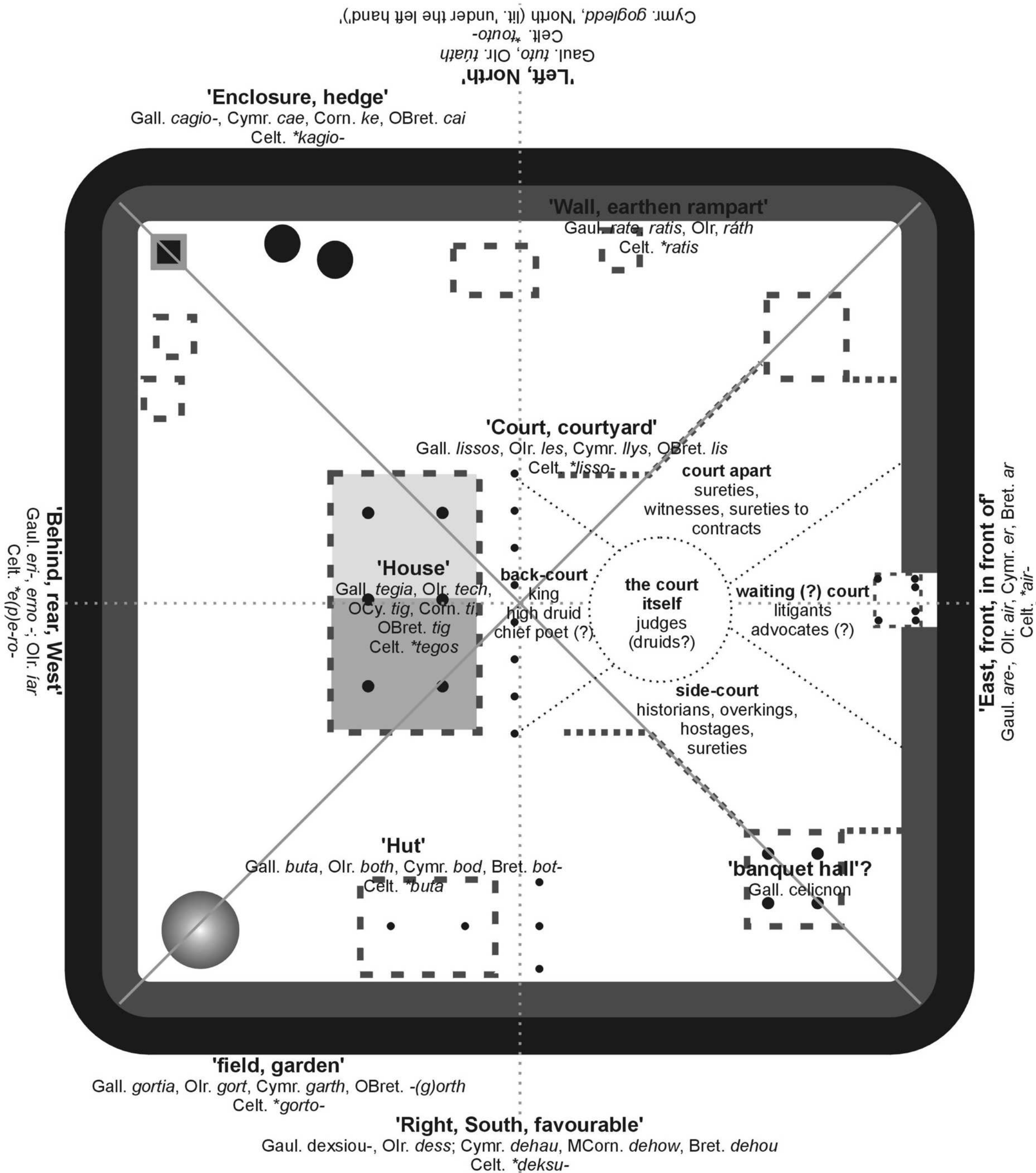


Fig. 6: The 'court of law' in the courtyard of a schematic enclosed settlement of the Continent

ing 'pleading in a court of law' or 'redress achievable through court proceedings' also developing.

That it is the 'courtyards' of the 'heads of households' that were chosen for such arbitrations is, besides practical reasons, also due to two additional, interrelated reasons. The first of these is that the object of the law (and thus of proceedings to uphold it) was to maintain (or re-establish, after it had been breached,) 'peace', with 'peace' to be understood here not as the absence of violence, but as (the divinely preordained) 'order', where everyone and everything behaved as they should. The second is that to do so, judgements – who in a sense

were the means to establish or maintain this divinely inspired 'order' – would have to be passed in a 'pacified', 'orderly' space. As such, the enclosed settlements, which as I have argued elsewhere were consciously laid out architecturally to follow or 'copy' the 'divine order of the world' (Karl 2008), where not only readily and conveniently available, but were such 'permanently pacified' places, and thus supremely suited to serve as a place for judgements. Even more conveniently, their architectural layout also provided for a 'theatrical' space for communal assemblies in which justice could be publicly seen and recognised to have been done (see fig. 4 for a model of the 'British' and fig. 6 for a model of the 'Continental' layout of such sites with the 'order of the court' inscribed).

While the objective of the law was to maintain the 'peace', that 'peace' was not 'enforced' by, nor had the application of violence been monopolised or restricted by central state authorities (in contrast to James' 2007: 168-9 argument that such state enforcement and monopolization of violence is a necessary precondition for the maintenance of 'peace'). Rather, it was left to individual members of society to voluntarily maintain and where necessary act to 'enforce' the 'peace' against those who they perceived were breaching it. This included, if and where necessary, the right – and probably even the responsibility – of every member (at least every fully legally competent member; cf. Kelly 1988: 17-68, esp. 68) of the community to use legally sanctioned violence in accordance with the law.

Given that the right and responsibility to maintain the 'peace' seems to still have rested exclusively with the individual rather than any central state authorities, legal cases will only have been heard when an individual, whether a wronged party or its relatives, acted to initiate proceedings (even though this may have already been different in late Iron Age Gaul where, perhaps influenced by contact with Roman and other Mediterranean 'Classical' societies and their laws, or perhaps simply by further 'native' legal and social evolution, such central state authorities may have been in the process of emerging or may already have had emerged, and may have already had acquired the right to initiate legal cases on behalf of the state). This will usually have meant, as a first step, that the aggrieved party publicly proclaimed that it had been wronged, and accused another party that it was responsible for some breach of the 'peace' (cf. b.g. 1,4.1-2). That other party then probably had the chance to agree to settle the matter in a court of law voluntarily. If the accused party refused to voluntarily agree to resolve the matter in court, the aggrieved party then probably was allowed to 'enforce' a resolution by legally sanctioned violence, which was primarily aimed at 'forcing' the accused party to agree to a 'peaceful' resolution of the dispute in court.

In most cases, distraint, celt. **ate-gabaglā* (lit. 're-seizure, taking back') will have been the legally sanctioned means of violence to 'force' the accused party to agree to a court hearing. This will usually have meant that the aggrieved party will have forcefully seized some property (possibly primarily cattle) of the accused party and deposited it in a safe place, to be returned to the accused party if it submitted itself to court arbitration. If the accused party still did not submit to arbitration, the seized property would be kept by the aggrieved party in lieu of compensation, so in effect not submitting to court arbitration after having been distrained amounted to an admission of guilt. However, other, more symbolic means of distraint may also have been possible, particularly where professionals who did not primarily depend on farming (or cattle rearing) for their subsistence were concerned, e.g. distraining a professional blacksmith by tying a ribbon around his anvil (Kelly 1988: 181). In cases regarding disputes about the ownership of land (cf. b.g. 6,13.5), distraint may have been replaced by another process called 'legal entry' (Kelly 1988: 186-9), which did however fulfil the same purpose, that is to 'force' the accused party to submit to court arbitration.

Once proceedings had been initiated (whether by agreement between the litigants or 'enforced' by distraint or 'legal entry'), a court session would have been arranged. In the 'lower', local courts, this may have been on an ad hoc basis, whenever the need arose to hear a case. The 'higher' (regional and 'national') courts on the other hand will probably only have assembled on certain dates, whether annually (cf. b.g. 6,13.10; Kelly 1988: 4) or more regularly, perhaps called individually depending on the 'usual' case load in a certain region at any given time, or perhaps simply regularly on 'public holidays'. Given that in pre-literate societies

(or at least societies where literacy is very limited and perhaps even culturally or religiously restricted, b.g. 6,14.3-4), the only way to ensure that judgements are actually remembered and adhered to is to make them as publicly known as possible, court sessions will have been public assemblies, and judgements will have to have been arrived at more or less consensual (Lupoi 2000: 173-231).

Court procedure itself will probably have been guided by druids (b.g. 6,13.5-7; 6,13.10) or other similarly legally trained 'specialists', and is likely to have been highly formalised, perhaps even 'ritualised', even though probably not as much as is occasionally assumed for earliest medieval courts (Mitteis, Lieberich 1992: 44-8; for a criticism of such views see Lupoi 2000: 339-50). There is no reason to assume that all legal procedure was simply based on ritualised swearing of oaths or proof by ordeals, and that evidence, where it existed, was ignored. Given the likely importance of witnesses, celt.sing. _*u̯ei̯dos_ (Karl 2006a: 207-9), and all kinds of sureties and pledges (Karl 2006a: 209-18) in contracts, whose only real purpose is to provide both material evidence for and witnesses who can testify to the facts of a case in a court of law, it would seem exceedingly unlikely that proceedings in an Iron Age court of law did not include an evaluation of the factual evidence. Nonetheless, it is likely that witnesses were required to testify under oath (as is still the case today), and that other forms of proof were required where no or only insufficient evidence (whether material or given by witnesses) was available. These other forms of proof were probably mainly oaths sworn by the parties involved and possibly supported by compurgatory oaths of oath-helpers (cf. b.g. 1,4.2; Kelly 1988: 200-2; Mitteis, Lieberich 1992: 47-8; Lupoi 2000: 339-50), or different kinds of ordeals, including duels (Kelly 1988: 209-13). Interlinked with, but mostly independent of this, court procedures nonetheless were most likely highly formalised, after all, their purpose was to maintain or re-establish a divinely preordained order, and as such, they are a ritual in their own right, which, like most rituals, will have had to strictly follow a certain, 'orderly' pattern (Turner 1969).

Once all parties involved had pleaded their case, all witnesses had been heard, evidence presented etc., judgment would be reached. It is not perfectly clear who actually would have 'found' the judgement, whether the assembled community, some professional judges (e.g. the druid or druids guiding the proceedings, cf. b.g. 6,13.5), or perhaps even the 'head of the household' in whose 'court' the proceedings were held. This may very well have differed both regionally and chronologically, as well as possibly depending on the 'level' of the court (i.e. whether the court was 'local', regional or 'national'). In a 'Celtic' context, it is of course tempting to assume that it was always a druid (or several druids) who would actually find the judgement (in line with b.g. 6,13.5), with the *princeps* or 'head' (b.g. 6,11.2-4) who provided the 'court' perhaps only confirming or pronouncing it. But if only because it is anything but clear that all 'Celtic' societies actually had druids (or a social function akin to what would be called a druid in those areas where the term is actually attested), this cannot be confidently assumed.

The litigants, if they had not already been required to do so at an earlier stage of the procedure, will then have had to swear another oath, that they would uphold and put into effect the judgement. Refusal to do so, seemingly, will have resulted in the banishment of that party (b.g. 6,13.6-7; cf. Lupoi 2000: 368-87), 'their heaviest penalty'. The actual putting into effect of the judgement then again seems to have been left to the individual(s), whether this was the collection of a fine from / the payment of a fine by the convicted party (or its relatives), or the carrying out of the sentence (which will usually have been a violent one), and not carried out by the court, even though it is possible that death sentences were removed to a religious, 'sacrificial' context (b.g. 6,16.4; also see the remark that much more emphasis is placed on the death penalty in early Irish canon law than in the secular laws in Kelly 1988: 216-7). Refusal by a convicted party to put the judgement into effect after it had publicly sworn an oath to do so is virtually impossible: after all, the community knows about the judgement and the oath that the convicted party swore to put the judgement into effect. Refusal to carry out the judgement would thus constitute a new and probably even more serious breach of the 'peace', and the recalcitrant convict, by his own actions, put himself 'outside the law', he becomes an *outlaw* (Mitteis, Lieberich 1992: 40-2, 46; Lupoi 2000: 368-87). That, of course, will have also meant that if

such a fractious convict were to resist an attempt by the victorious plaintiff to assert his rights and collect his compensation, that the latter would be entirely legally entitled to inflict whatever violence necessary on the convict to ensure he would get what he was due.
This gives us a likely Iron Age court of law, and a legal procedure, that would have allowed disputes to be settled 'peacefully', even if not necessarily without resorting to – but in this case, legally sanctioned – violence.

Conclusions

'Enforcement' of the 'peace' in such societies as we can imagine to have inhabited the (early) European Iron Age thus was not (necessarily) a function of a threat of violence by some central state authority, but rather of the 'voluntary' choice of individuals to comply with judgements and to uphold the law, because, by and large, they *wanted* to remain part of their community, rather than to exclude themselves from it through their own, anti-social actions. A legal system like the one described above creates a strong incentive for each individual member of a society to behave according to the communally agreed rules, as expressed in customary laws and court judgements. Where the resolution of disputes is concerned, it probably provided a viable 'third way' for European Iron Age societies to arrive at a 'reasonably peaceful' state of community relations, that was neither totally strife- or violence-free (James 2007: 167) or 'bloodless', to use James (2007) very emotive term, nor characterised by 'endemic insecurity' (James 2007: 169) or constant warfare either. This is not meant to say that all Iron Age European societies will have been inherently 'lawful' and thus inherently 'reasonably peaceful'. Of course, there will have been periods and regions where the 'rule of law' (if you will) had broken down for whatever reasons (be it endemic brigandage, internal unrest or external strife, or whatever other reason one can think of), where the law was not even worth the non-existing paper it had not been printed on. If and when that happened – and it may well have happened quite frequently, if we are to believe Caesar's account (b.g. 6,15.1) – James' (2007: 169) characterisation of the 'state' that such societies were in as one of 'endemic insecurity' may well be very accurate – even though I do believe that he rules out organised warfare much too quickly for even early Iron Age British societies (cf. Finney 2006 for the middle Iron Age in Britain, which may well have been different to the early Iron Age, but whether sufficiently to totally invalidate his observations is doubtful). But I see no reason why the very possibility that many, if not most periods and areas of the European Iron Age were, by and large, 'reasonably peaceful', should a priori be ruled out.

Equally, this is not meant to say that all or even only many (or in fact, any) European Iron Age societies were inherently 'non-violent' or in any way 'bloodless', even when and where the 'rule of law' prevailed. For one, as I have tried to demonstrate above, even within the boundaries of the law there were probably many possibilities, resting with each individual member of the community, to exert violence where appropriate and necessary. There is even the distinct possibility that, at least in cases that could not be settled based on evidence, (mortal) combat was one of the means of ascertaining the truth or falsehood of an allegation. And it would also be ridiculous to believe that even where the rule of law prevailed, every member of every society was equally enthusiastic to uphold the law. As in any other society, some people will have been sticklers for red tape, most will have obeyed the law where it suited or at least didn't bother them too much to do so, but will have tried to get away with the odd minor infraction where they thought they could or where they simply couldn't be bothered, while some will have been more than happy to habitually break it as long as they had reasonable chances to get away with it. And depending on local historical circumstances, what one could reasonably expect to get away with (whether a drunken punch-up in front of one's favourite watering hole or outright murder), and how many people would regularly try to do so (whether just a few hardened criminals or pretty much everyone), will also have considerably differed. So yes, there will have been brigands in the Iron Age forests, the question is only how many, when, and in which particular Iron Age forest – and quite probably considerably more than we nowadays would expect to find in any forest (at least in the western world).

Neither of these two caveats, however, makes the European Iron Age necessarily a period of 'endem-

ic insecurity' (James 2007: 169), at least no more than virtually any other period of recorded human history with perhaps the single exception of the last couple of decades in the western world. And especially not so simply because (early) Iron Age (British) societies lacked the degree of social sophistication and the allegedly necessary complexity of social organisation to maintain any other state of affairs: many much more complex and highly socially sophisticated societies went through extended periods of 'endemic insecurity', indeed, pretty much every military dictatorship of the past and present, even though almost invariably more complex and more sophisticated than the societies of the European Iron Age, would seem much more 'endemically insecure' to me.

Thus, my argument would be that we should see the Iron Age as neither characteristically 'endemically insecure', nor as 'pacified' either, but rather see it as equally patterned than we would see our present, with perhaps the one difference – but that mainly or perhaps even exclusively relates only to the western world since WW II – that the general level of violence within and between societies will have been somewhat higher on average, and that may be saying too much. Even today in the almost completely 'pacified' western world, violence is not as uncommon as we would like to think (just think about the use of guns in the USA or the currently frequently reported proliferation of knife crime in some British cities). And even today in the almost completely 'pacified' western world, feeling almost totally secure, or very insecure, not only strongly depends on the person you ask, but also on where that person lives: where I live, I can and do frequently leave the door of my house unlocked, even standing wide open, whenever somebody is at home, with most of my neighbours doing the same, and nothing has ever happened in the past 5 years. Only some 2 miles down the road, however, hardly anyone does, and they seem well advised to do so, because there are relatively frequent incidents that make the precaution of locking one's door seem quite reasonable. Thus, even today in the western world, havens of almost total safety, and zones of relatively high 'insecurity', may not be all too far apart. I don't think that we should, in that regard, see the European Iron Age as much different.

As I have demonstrated above, it seems reasonable to assume that a legal system existed in European Iron Age societies that allowed members of a community, and perhaps even different polities, to resolve their disputes without necessarily having to resort to random violence. How the legal system was precisely organised, and how efficiently and effectively it was executed, will have varied from region to region, and from time to time, even though it is likely that across wide areas of Europe and for a quite extensive period of time, the basic fundamentals of the different local and regional legal systems were quite similar to each other. The spectrum of community interactions, both within and between polities, will most likely have ranged from almost perfectly 'peaceful' and 'non-violent', past 'reasonably peaceful' with mostly only 'legally sanctioned violence', and past 'somewhat insecure', to almost completely 'insecure' and very randomly violent. In all likelihood, most of the time, in most of the regions, 'security levels' will have oscillated somewhere around the middle ground, between 'reasonably peaceful' and 'somewhat insecure'.

In the same line of reason, most of the Iron Age inhabitants of central and western Europe, or 'Celts', as they are occasionally referred to, most of the time will neither have sorted all their problems according to the demands of a 'Celtic heroic warrior spirit' by simple application of brute force. Nor will they have lived happily ever after in a bloodless, 'pacified' la-la-land of eternal egalitarian bliss and happy 'negotiations' of everything, from social roles to who gets the scarce food after a bad year. For most of them, most of the time, life will have been tough, but somewhere in between those two extremes, as it is for all of us, too, with different kinds of problems and conflicts, that could be solved in several different ways. And most of the time, they probably were quite successful at solving them reasonably peacefully.

Abbreviations

b.g. Ewards, H.G. (ed. & trans.) (1917), Caesar. The Gallic War. Loeb Classical Library 72, Cambridge/Mass.: Harvard University Press.

CIH Binchy, D.A. (1978), Corpus Iuris Hibernici. 6 vols. Dublin: Institute of Advanced Studies.

DIL Dictionary of the Irish Language, compact edition. Dublin: Royal Irish Academy.

Diod. Oldfather, C.H. (ed. & trans.) (1939), Diodorus of Sicily III. The Library of History, Books IV.59-VIII. Loeb Classical Library 340, Cambridge/Mass.: Harvard University Press.

GPC Geiriadur Prifysgol Cymru – Dictionary of the Welsh Language. Caerdydd: Gwasg Prifysgol Cymru.

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Zusammenfassung der Diskussion

(Beiträge von Collis, Stifter, Wendling und Lucianu)

The expected objection to the use of the word „Celtic“ in this context is duly voiced. There still is danger perceived in connecting people that speak a similar language, assuming they do the same things. One example here is the Irish society: the one of the medieval period is very distinctive of the one in the iron age, even in the same region.

The generalisation about how societies function is approved of - to get an even better feel of it, it is proposed to look at e.g. Icelandic sagas, which depict kind of ‚iron-age-like‘ court scenes.

However, there is violent conflict as well - for example ending only when the chief of group A is killed by group B. There are still general rules like „you must take revenge“ that have to be resolved by other rules like „practice hospitality - go and talk it over“.

The new interpretation for the use of Viereckschanzen seems intriguing, but does not apply to many other iron age societies, without those sort of structures.

This research has aimed at giving one model of problem-resolving without using the barbarian cliche of physical violence as only means. It should not apply to all Celtic societies and is at the same time not limited to only Celtic societies - similar practices exist in e.g. ‚Germanic‘ (to mention an - to them - equally uncomfortable term) societies. The model is intended to be seen as midway between the ideal „warrior-society“ and „peaceful egalitarian society“; so not to stick to one of the extremes of conflict resolution.

‚Celtic‘ here is used in the same-language sense, because the argument uses lingistics as one of its points.

It is pointed out, that the terms for the legal procedures linguistically are mostly reconstructions not of ‚Celtic language‘ but of an insular Celtic variety.

The problem of the christian writers who gave us the written sources about Irish, Germanic, etc. laws and culture might have tinted the reports with their christian views is mentioned. The pre-christian concepts might be altered or concealed behind the christian ideals.

But does the fact, that the written sources are produced inside the cultural framework of the time of writing, preclude, that a similar system has been working / has been in use earlier? Is it perhaps originally a nonchristian concept that has been adopted in the christian ideology of the 8. and 9.th century? Could it be the other way round, because this concept of „peaceful space“ for example doesn‘t show dominantly in early christianity?

Additionally the procedures which include accepting witnesses and evidence might forge a community spirit, while forcing the persons involved to find a common ground on what to believe, what to agree upon as to be (to prove) the truth. So the convenient proceedings might be formed to create or promote social cohesion. However, judgement by peers needs not be a base for a democratic society.

An example for the limitations of interpretation is given: the modern Swiss society - contemporaries perceive it as very peaceful, but „archaeologically“ you would find a military assault rifle in at least every second houshold. This emphasises very well that the perception of security/insecurity needs not be directly proportional to the level of visible violence.