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SHAME AND REPARATION; WOMAN'S PLACE IN THE KIN¹

IN A society dominated by kin groups of male agnates, as was that of medieval Wales, the position of woman was inevitably one of juridical inferiority and dual ties. The juridical inferiority sprang from the fact that, in most legal institutions, she, like the dumb and the mad,² was regarded as a non-person recognised by society only as an appendage to some male with whom she was connected by ties of blood or by bonds of marriage. Her links were dual. They lay both with the kin into which she was born and with the kin with which she was associated through her husband after marriage. Despite, or because of, this her rôle in society was an important and delicately balanced one, governed by subtle conventions of behaviour, for she was the genetrix in whose person lay the future of her husband's kin, and her own kin was well aware of this rôle and conscious of the need to preserve her honour. She served also as a unifying force between kins.

These aspects of the position of woman are high-lighted by the rules of *galanas* and *sarhaed*.³ *Galanas* (life price) and *sarhaed* (insult price) are terms frequently coupled by commentators on Welsh law because they are used together for the two payments made when a homicide was committed in medieval Wales. Both terms have in fact a wide range of meanings and legal implications. I propose, in this paper, to deal with some of the rules concerning *galanas* and *sarhaed* as they affect women. First, I shall consider the status of woman as revealed by her *sarhaed* and *galanas* price; secondly, the place of compensation in the Law of Women and its implications for social attitudes in Welsh society towards what was considered shameful and honourable to woman in marriage; and finally, the light thrown on the place of woman in the kin by the rules for homicide.

The law of *galanas* is an immensely complicated mixture of elements, some of which derive from a common Celtic source and are paralleled by features in the laws of Ireland, while others are later innovations.⁴ In the law texts of the thirteenth century, *galanas* is the usual word for homicide, normally compensated by the payment of composition also known as *galanas* or alternatively as *gwerth*; this payment varied according to the status of the victim. The original meaning of *galanas* was, however, feud or enmity, and this meaning is well attested in the literature and to a lesser extent in the law books. A state of enmity between kins could originally be created by various actions other than killing, as is suggested by the evidence of *Naw Affaiñ Galanas herwydd Gwŷr Powys*⁵ preserved in Redaction B of the Latin texts. According to this list, land dispute, woman dispute, treachery, and insult were among the actions that could provoke feud between the kins of the offender and the victim. This enmity was perpetuated by *dial* (vengeance) until terminated by payment of composition (*diwyn*).⁶ The composition was probably originally an amount settled by bargaining. By the thirteenth century and for some considerable period before, it was a standard sum whose amount was governed by the *braint* (status) of the victim and bore a fixed relation to the *sarhaed* (or insult price) which also varied according to the status of the victim.⁷ The laws of *galanas* are therefore concerned with the status of individuals and the structure of the kin involved in the payment of composition.

Sarhaed, however, has as a payment wider implications than *galanas*, for it is usually payable as an addition to the compensation due for physical damage. Since any physical assault is damaging to the honour of the victim, *sarhaed* has come by the thirteenth century to function as a payment for intentional harm.⁸ In homicide, where unintended killing is compensated by *galanas* alone, intent attracts *sarhaed* as well. The underlying idea behind *sarhaed* is very ancient, concerned with honour and shame, and corresponds to similar notions among other Celtic peoples, and in many primitive societies, an aspect to which we shall return later.

¹ This paper is a developed version of material presented at the fourth Conference on Welsh Medieval Law in 1974.

² cf. *Tres sunt homines quorum quisque a rege debet habere pretioctorem, id est, tanodyan, versus alios in curia, quem rex sibi met eligat, quia rex est solus homo cuius est eligere sibi pretioctorem de suis pre omnibus. Primus est raucus, id est cryc. Secundus est femina. Tercius, exil qui nesciat recte loqui Walensice.* Lat D 354.16 and also Lat E 504.7.

³ Dafydd Jenkins, *Cyfraith Hywel* (1976), Pennod VI, 60-80.

⁴ T. M. Charles-Edwards, "Kinship, Status and the Origins of the Hide", (1973) 56, *Past and Present*, 26-33.

⁵ Excursus I.

⁶ Excursus II; T. M. Charles-Edwards, "The Seven Bishop Houses of Dyfed", (1970) 24 *BBCS* 247-262.

⁷ On the principle "Amod a dyrr ddeddf", a contract breaks the law, the compensation might be negotiable (even at the time of the law books).

⁸ DwCol §§169, 170. Distinctions between intent and non-intent are late in all legal systems.

A. Status

There are two chief sources in the law texts for knowledge of comparative status as reflected in *galanas* and *sarhaed* prices. The one is the Laws of Court which is basically a tract on status and may be compared with the Irish *Crith Gablach* and *Uraicecht Becc*.⁹ Unlike the Irish tracts, however, it is concerned only with the members of the king's family and household and may derive as a specific section of the law books from the time of Hywel Dda.¹⁰ The second Welsh source is a tract on *sarhaed*¹¹ which, in the Blegwyrd text, follows significantly a list of values for compensation for damage to parts of the human body, a tractate primarily concerned with physical assault. In the Iorwerth text, it is annexed to the treatise on *galanas*. This tractate again enumerates the *galanas* and *sarhaed* of the king and queen and of the officials of the country including this time, the *maer* and *cynghellor* and the other members of medieval Welsh society, the *penenedl* (chief of kin), the *breyr* (a free Welshman who has succeeded to his patrimony), the *bonheddig canhwynol* (the ordinary native freeman), the *bilain* (villein), the *alltud* (alien) and the *caeth* (slave). With the exception of the *galanas* and *sarhaed* of the king and his family, the value of the *galanas* is expressed in cattle and of the *sarhaed* in cattle and silver, in both these lists.

The following table shows the comparative values of *sarhaed* and *galanas* from the tractate on *sarhaed*. (Bleg 57-60).¹²

	GALANAS		SARHAED	
penenedl	3 × 9 + 3	× 9 × 20 kine	3 × 9	kine + 9 × 20 silver
breyr	6	+ 6 × 20 kine	6	kine + 6 × 20 silver
bonheddig	3	+ 3 × 20 kine	3	kine + 3 × 20 silver
king's bilain	3	+ 3 × 20 kine	3	kine + 3 × 20 silver
breyr's bilain	1½	+ 1½ × 20 kine	1½	kine + 1½ × 20 silver
king's alltud	3	+ 3 × 20 kine	3	kine + 3 × 20 silver
breyr's alltud	1½	+ 1½ × 20 kine	1½	kine + 1½ × 20 silver
bilain's alltud	¾	+ ¾ × 20 kine	¾	kine + 1½ × 20 silver
caeth overseas	(Price £1 ½)		12d	
native caeth	(Price £1)		12d	

⁹ D. A. Binchy, *Crith Gablach*, (Dublin, 1970); Eóin Mac Neill, "The Law of Status or Franchise", (1923) 36 PRLA 281-306.

¹⁰ J. G. Edwards, "The Royal Household and the Welsh Lawbooks", 13 TRHS/V 163-76; D. A. Binchy, *Anglo-Saxon and Celtic Kingship*, (Oxford, 1970).

¹¹ Bleg 57-60; for §110.

¹² The values given in Ior §110 are similar to these, but Ior uses the term *uchelwr* where Bleg uses *breyr*. The values given in the list are the basic values of *sarhaed* and *galanas* which could be increased by augmentation (*dyrchfael*).

The king's *sarhaed* is a symbolic one, a golden plate as broad as his face, the symbol of his face value or honour, the silver rod of kingship and a cup of plenty.¹³ The members of the lists can be divided into those who are free and have a place in society in their own right and the unfree whose dependence on another is essential to their status in society, like the *bilain* (villein) or the *alltud* (alien) who has no kin, the slave whose life has a price on it like an animal but who has no *galanas* and whose death does not cause feud; compensation for it is paid to his owner rather than to any blood relatives.

In both lists, no woman, not even the females who are officials of the king's court, is afforded both a *galanas* and *sarhaed* in her own right. With one exception a woman's *sarhaed* is half that of her brother before marriage when she is a *morwyn* and a third that of her husband when she is a *gwraig*.¹⁴ The exception to this rule is a female slave, whose *sarhaed* depends on the nature of her occupation. If she is a sewing woman, her *sarhaed* is twenty four pence, otherwise her *sarhaed* is twelve pence. The *galanas* of all women except that of a queen is equal to half that of their brothers both before and after marriage. A female slave, like her male counterpart, has only a price. Thus, the *galanas* of a *bonheddig* is given as 63 kine, his sister's would then be 31½ kine; his *sarhaed* was 3 kine and 60d., his sister's 1½ kine and 30d.; his wife's *sarhaed* would be 1 cow and 20d.; her *galanas*, if she were the sister of a *bonheddig*, would be the same as his sister's. Should the *bonheddig* attain the status of *breyr*, the *galanas* of his sister would immediately rise in value, as would the *sarhaed* of his wife. These material manifestations of status, therefore, link a woman closely with the men with whom she is connected by ties of either blood or marriage. The reflected status of a married woman is shown in other ways, particularly in her right to make gifts, since whereas the king's wife may give away her share of the king's casual acquisitions, *dofofod*, a villein's wife may only give her head-dress

¹³ J. Loth "Un Genre Particulier de Compensation pour Crimes et Offences chez les Celtes Insulaires", (1931) 48 *Revue Celtique* 332-351, deals with the significance of the golden plate citing many parallels in Welsh and Irish literature. G. Dumézil, *Mythe et Épopée I*, (1973) 189, calls attention to the importance of the rod as a symbol of kingship originally possessing superhuman powers and compares Math and his rod in PKM with the rod bearer or *dandavara* of Indian tradition whose power was also closely connected with virgins. Possibly it is some such myth which underlies the nature of the *sarhaed* due to the king when a virgin is raped. In some texts, the king's *sarhaed* for this offence consists solely of a silver rod. For goblets as symbols of sovereignty, see Glenns Goetinck, *Peregrin, A Study of Welsh Tradition in the Grail Legends*, (Cardiff, 1957) 182; T. F. O'Riain, "On the Origin of the Names, Eirann and Eriu", (1946) 14 *Eriu* 14.

¹⁴ Ior §46/1; Bleg 61.7; Lat A §51/5. For the slave woman's *sarhaed*, see Bleg 59.25.

and lend a sieve.¹⁵ In the case of a married woman, her dependence, as expressed in terms of *galanas* and *sarhaed*, is ambivalent since her *sarhaed* value reflects that of her husband and her *galanas* that of her natal kin: there is one exception to this rule, namely a queen whose *sarhaed* and *galanas* are always reckoned as a third of those of her husband.¹⁶ The queen's position possibly reflects some privilege accorded to royal blood or it may be a survival from an archaic state in which the woman, who undergoes the most honourable degree of marriage, becomes more completely integrated into her husband's kin than the wives of a more inferior type of union. Rules concerning the king and his family are often notoriously archaic in all legal systems. Other references in Welsh law suggest that the Welsh, like the Irish, did at one stage recognise the different rights of a wife who had undergone the highest grade of marriage. For instance a *gwraig briod*, whatever that means, is the only wife allowed to buy and sell.¹⁷ In Irish law the *cétmuintir*¹⁸ was more firmly integrated into her husband's grade of kin than any other grade of wife.

For most women, however, it is the change in *sarhaed* which is the most obvious sign of the change in status which comes to a woman from union with a man, and in this context it matters not how the union was created, for the adjective used to define the woman is *gwraig* not *priod*.¹⁹ So we turn to examine the concept of *sarhaed*.

B. *Insult and Shame*

The basic meaning of the verb *sarhau* is to insult. *Sarhaed* was originally the act of insult which brings shame and infringes honour, notionally represented among the insular Celtic peoples by the face, Welsh *wyneb*, Breton *eneb* and Irish *enech*.²⁰ Honour and shame are important social

¹⁵ For §51/6-8; Bleg 62.9; WML 91.16, 90.17; Lat B 221.24; Lat D 342.23; Lat E 470.23.

¹⁶ Col §305.

¹⁷ For §53/4; Lat E 475.23.

¹⁸ SEL 182-3.

¹⁹ For §46/1 cf. Bleg 61.7. There is some doubt regarding the exact juncture at which this comes about, since the lawyers seem to disagree as to whether a girl who has been given in marriage, but the union unconsummated should be compensated according to the status of her husband or of her brother: for §55/14, cf. also Lat B 223.6 *Si cum viro alio coierit, et hoc notum fuerit, a suo poterit libere repudiari, nec de iure quinquam habebit preter tria que sibi auferri non possunt. Adulter quidem viro prefato suum sarhaet reddat.*

²⁰ J. Loth supra.

concepts for the understanding of the ethos of any society.²¹ They are the publicly declared valuation put on people by those who know them. The conduct which establishes the reputation of any person depends on the rôle and status of that person in society. In all societies, the rôles of men and women imply different modes of conduct for each sex. A woman, in most traditionalist societies, is dishonoured by the tainting of her sexual purity, whereas a man is not. A man, in turn, is dishonoured if doubt is cast on his virility. Certain patterns of conduct are considered the exclusive virtues of one sex or another. A woman is obliged to preserve her purity, which has a physical basis, whereas a man is obliged to defend his kin, which includes the protection and restraint of the woman dependent upon him. Honour is the aspiration to status and the validation of status, shame is opposed to honour and is the restraint of such an aspiration and the recognition of the loss of status. Thus, just as honour is honour felt, claimed, and accorded, so shame is dishonour imposed, accepted, and felt. Shame, however, has another nuance of meaning. The attributes of this shame are blushing, timidity, shyness and modesty. These attributes are proper to a woman and can be evoked by events which necessarily expose her to sexual contact like the physical consummation of a marriage. This shame has no ethical connotations and does not imply loss of honour. Its sense is well conveyed by the Latin word *pudor*. Yet failure to preserve the bonds of propriety implied by this shame can lead to the shame which is dishonour.

Celtic society shows in its tradition of praise poetry a strong awareness of the importance of the public acclamation of reputation which is honour, it also shows its awareness of honour and shame in that the laws of both Ireland and Wales equate these concepts with a material price which reflects the value of individuals according to their status in the hierarchy of society, and which is paid in compensation when insult is inflicted on them. In this, Celtic law shows a different emphasis from Anglo-Saxon law.²² In Ireland the terms frequently used for this value contain the

²¹ The studies of social anthropologists dealing with the importance of these concepts in Mediterranean societies throw considerable light on the workings of early Welsh society. See especially J. G. Peristiany, *Honour and shame: the Values of Mediterranean Society*, (London, 1965); Julian Pitt-Rivers, *The Fate of Shechem or the Politics of Sex*, (Cambridge, 1977); J. K. Campbell, *Honour, Family and Patronage*, (Oxford, 1976). T. M. Charles-Edwards has recently applied Pitt-Rivers' principles to a study of forms of address used in Welsh and Irish stories as a reflection of relative status. T. M. Charles-Edwards, "Honour and Status in some Irish and Welsh Prose Tales", (1978) 29 *Ériu* 123-141.

²² J. Pitt-Rivers, "Honour and Social Status" in J. G. Peristiany, *Honour and Shame: the Values of Mediterranean Society* (London 1965), 39.

element *enech*, literally face or honour; in Wales, *sarhaed*, a word with a converse meaning, is used, although there is evidence that it has displaced the older word *wynebwerth*, which means face or honour price. Thurneysen many years ago drew attention to the contrast between the Welsh and Irish terminology.²³ The semantic origins of the terms used in the Welsh law books suggest that the rules for the payment of *sarhaed* reflect the concepts of honour and shame held in early medieval Welsh society.

A series of triads define some of the different ways in which the insult which demanded reparation could be brought about:

Val hyn e traethun ny o'r sarhaedau; en gynyaf o sarhaet brenhyn Aberffraw. Sef er edrechus e keureyth pa beth esyd sarhaet, ac ydau ef ac y paub; ac esef neweles e keureyth, nat sarhaet e nep naman un o ry peth en enwedyc: guneythur guaratwyd ydau am e wreyc, neu lad e gennat neu torry e naud.

This is how we treat the *sarhaedau*; first of the *sarhaed* of the King of Aberffraw. Namely the law looked what is *sarhaed* both for him and for everyone; and the law saw, that only three things constituted *sarhaed*, namely to do shame to him concerning his wife or to kill his messenger, or to break his protection.

O teyr ford e serheyr e urenhynes; o torry e naud, neu o'y tharau, neu o grybdeyllau peth o'y llau.

In three ways the queen is insulted, namely by breaking her protection, or by striking her or by snatching something from her hand.

O teyr ford e serheyr pob den en e byt; o tarau a gossol, a duen treys e arnan, ac os gur yd, o bedyr gan e wreyc, sarhaet yu ydau; kenoeit gureyc uo, o cheyff hytheu wreyc gan e gur, sarhaet yu ydy hytheu: ac euely ny dweynep nep hep ford y'u sarhan.

In three ways is everyone in the world insulted: by blow and onslaught and bringing force against him, and if he be a man, if anyone lies with his wife, it is *sarhaed* for him; though she be a wife, if she finds a woman with her husband, it is *sarhaed* for her; and thus no one escapes without some way of being insulted.²⁴

The thirteenth century compiler of the Iorwerth text still regards *sarhaed* as a recompense not merely for physical assault, though that was an obvious cause of its exaction, but also for infringement of the conventions of behaviour; such infringements were considered an insult to

honour and prestige. This insult was felt not only by the individual but also by his kin and originally could cause kin feud. In the case of a woman it immediately affected any male on whom she was dependent. In the case of the king the greatest disgrace that could come to him was the misuse of his wife. One of the redactors of the Iorwerth text in an attempt to rationalise the implications of *sarhaed* when explaining the procedure followed in a case of *sarhaed* interprets the interaction of insult, shame, and reparation in terms which would be familiar to many social anthropologists:

Pwybynnac a dywatto sarhaet, try pung esyd yau ydau y wadu: na wnaeth na meyl na sarhaet ydau nac y'u genedel nac y'u argluyd. Sef paham e guedyr rac er argluyd, rac dyne er argluyd a rac talu ydau enteu e sarhaet a rac dyal e kenedel. Paham e guedyr ef rac e genedel ac na cheyff e genedel dym o'r sarhaet a talher ydau? Llwna er achau: pan sarhaer eu kar guaratwyd yu udunt huy a kyureyth yu udunt huenteu dyal eu guaratwyd; ac urth henne e mae yau guadu radunt na sarhaer eu kar; o thelyr ydau enteu y sarhaet, dywaratwyd yu e'r kenedel, a'r lle ny bo guaratwyd nyl oes haul.

Whosoever may wish to deny *sarhaed*, it is right that he denies on three points: that he did no blemish or insult to him or his kin or his lord. It is denied before the lord, because of the lord's *dirwy* and lest *sarhaed* be paid to him and lest the kin take vengeance. Why is it denied before the kin and the kin receives none of the *sarhaed* which may be paid to him? This is the reason: when their kinsman is insulted, it is shame for them and it is law that they should avenge their shame; and so it is right to deny before them that their kinsman has not been insulted; if his *sarhaed* is paid to him, the kin is free from shame, and where there is no shame there is no claim.²⁵

Insult (*sarhaed*) implies blemish (*meff*) and *sarhaed* to kin as well as individual, such blemish (*meff*) can only be removed by *sarhaed* (reparation) or otherwise vengeance (*dial*) will arise; once reparation is made by payment of *sarhaed*, shame (*gwaradwydd*) is removed, and the kin is shamefree (*diwaradwydd*).

Two of the triads cited above refer to the insult brought about by the infringement of the conventions of relationships between man and woman, and no sections of the law texts as they exist preserve old concepts of honour and shame so well as those which concern woman and marriage. In an age when sexual offences were generally part of the jurisdiction of the church, the sections of the Welsh laws dealing with both marriage and such offences are singularly free from ecclesiastical influence. Terms like *sarhaed* (insult price), *wynebwerth* ('face' price),

²³ R. Thurneysen, *Celtic Law*, in CLP 67, originally published as *Das keltische Recht*, (1935) 55 ZRG 81-104.

²⁴ For §110/1-10. The *sarhaed* for misuse of a king's wife is augmented by a half: cf. Ior §3/1.

²⁵ For §110/19-22.

and *gowyn*²⁶ (offence payment) are used most often with material connotations and are equated with fixed payments made in compensation for specific offences within marriage. Others like *cywilydd*, *gwarthrudd* and *gwardwydd* are used almost exclusively in a conceptual sense, sometimes with no ethical or legal implication. *Sarhaed* is translated in the Latin texts by *iniuria*, and the shame words, *cywilydd*, *gwarthrudd* and *gwardwydd* sometimes by the Latin *iniuria*, more often by "*pudor*", a word which conveys the non-ethical sense somewhat better than English *shame*, which I shall use for convenience. The rules for the exaction of specific payments and the use of abstract terms are bound up with the value placed on preserving the sexual purity of a girl before marriage as one of the assets of kin and lord; the preservation of her chastity and her reputation for chastity within marriage; the deference which she owes her husband and the respect to her person which he owes to her.

In the rules for compensation, in aphorism and triad, there emerges time and again an awareness of what is honourable and conversely what brings shame and of what exactly is the nature of the rôle of both husband and wife. This can be seen at all stages of the woman's life from the onset of the *menarche* which was regarded by the lawyers as taking place at twelve years; between twelve and fourteen a girl²⁷ was not expected to bear children and care seems to have been taken at this time to preserve her virginity²⁸ and to instil in her some idea of the behaviour that was fitting: for, when she was given in marriage, her kin was required to vouch for her virginity and according to the Colan text, her husband could take a surety from her parents "*na wnel hytheu ydau ef kywlyt o'y corff, ac na bo gegus urthau*",²⁹ (that she cause him no shame by her body nor be offensive to him). A girl given in marriage as a virgin and discovered to be a *twyllforwyn*³⁰ merits a greased tail as her *agweddi*, for already, at the giving, surety had been placed on her virginity. One triad attempts to rationalise the three exchanges of property which accompany a marriage of *rhodd* and *estyn* in terms of reparation for the shame (*pudor*) felt by a girl at the loss of her virginity when she is given in marriage, shame felt in the first place at the mere prospect of close contact with a man:

Try kywlyt morryn: pan deweto y tai 'A uorryn, neu rodet ty y vr'. Eyl yu pan el y'r guely ar y gur en kynlaf. Trydy yu pan geuoto o'r guely a dyuot y plyth e dynyon. Am rod y telr amobr; am y gueryndaut y chowyll; am y chywlyt y aguedy.

The three shames of a girl are: One is that her father tells her, 'I have given you to a husband', the second is, when she first goes to bed to her husband, the third is when she first rises from the bed to the midst of people. For the giving, her *amobr* is paid. For her virginity her *cowyll*, for her shame her *egweddi*.³¹

Failure to save her from abduction and to cherish her for a marriage of *rhodd* and *estyn* was regarded as one of the shames of her kin.

The most extreme violation a girl might suffer was the forcible termination of her virginity by rape, an offence which could also be committed against a married woman but with different consequences, both physical and legal. If a woman, who is a virgin, be raped, her attacker is expected to pay *amobr* to the lord, *egweddi*, *dilyswydd* or *diweirdeb*,³² and *cowyll* to the girl as well as her *sarhaed* or *wyneberth* and a fine, *dirwy trais* to the king. Three of these payments are identical with the payments involved when a girl is given in marriage, namely the *amobr*, the *cowyll* and the *egweddi*. The explanation for this is that *trais*, according to Charles-Edwards's theory, was perhaps at one stage a legally recognised union. The offensiveness of the action of rape and the dishonour, that it brings, is acknowledged in the exaction of *sarhaed* or *wyneberth* which is paid to the girl. The *dilyswydd*, *dilystod* or *diweirdeb*, if it was a payment, seem to be an acknowledgement of her free state even if the physical condition of virginity is irrestorable. The last payment exacted as compensation for rape is the *dirwy* payable to the king. In the Iorwerth text this is specified as being twelve kine but elsewhere in terms which make it virtually identical with the king's *sarhaed*; according to these texts it consists either of a silver rod, a golden plate and cup or of the silver rod alone.³³ The implication of this rule is that the safe keeping of virgins lay within the king's *nawdd* or protection. They, like some land, are classified as the *diffaith* or waste which belongs to him. *Nawdd* like Irish *snáddud* was the ability of individuals to afford protection from all legal processes within a fixed area or fixed period of

²⁶ Excursus II.

²⁷ Col §54, lor §55/4.

²⁸ Lat B 224.14. *Si filia alicuius vel nepis vel alia quam pater debuerat custodire non custodivit, quod mulier ante stupratu fuerit, reddat ei qui reputit ei qui custodire debuit.*

²⁹ Col §66. Glossary gw6; Excursus II.

³⁰ Lat A §52/25; Lat B 224.3-13; lor §47/2-5; WML 132.10-19; Bleg 116.29-117. 6 = Lat D 374.26-32; Bleg 61.27-31 = Lat D 342.13-16.

³¹ Col §42. It is significant that the Breton word *enebuarz*, the cognate of Welsh *wyneberth*, has developed a restricted meaning equivalent to the meaning of Welsh *cowyll*, and is used to gloss *dotatione*, see Loth, 48 RC 331 and also M. Planiol, *Histoire des Institutions de la Bretagne* (Rennes, 1953) ii. 237.

³² lor §50/4, where the *dirwy* is twelve kine.

³³ WML 92.10; Bleg 63.23; Lat A 52/39; B 224.21.

time.³⁴ Infringement of the king's *nawdd* constituted a *sarhaed* to him. The rape of a married woman is of no concern to the king, for he owes her no special protection. The married woman is under the lordship of her husband. Nor does it attract the payments to the victim which are associated with the creation or termination of marital union, for the woman's union with her husband is unaffected by it. Hence the offence calls for the payment of her *sarhaed* alone to her husband and herself. It is a particularly high *sarhaed*, paid with three augments since such a rape could give rise to kin enmity but we shall return to that later when dealing with *sarhaed* in marriage.

Once given in marriage, both man and wife are expected to maintain certain standards of physical fitness or behaviour. A woman may justifiably leave her husband without losing any of her rights, if he suffer from leprosy, bad breath or impotence.³⁵ Infringements of the proprieties of behaviour can likewise lead to termination of the union or to the exaction of the payment of compensation or to both. The rules illustrate that the lawyers try to distinguish the infringements by using different technical terms; *sarhaed*; *wynebwerth* and *gowyn*; and *camlwyrw*. These they use for the compensation appropriate to different offences. We have to consider in legal terms:

- (a) offences by a third party against either husband or wife;
- (b) offences by the husband against the wife;
- (c) offences by the wife against the husband.

Offences by a third party are primarily offences against the husband since any physical assault on the husband is regarded as *sarhaed* and any physical assault on the wife is an infringement of his protection and dishonour to him. If she is struck by another man, a compensation equal to half the husband's *sarhaed* is called for.³⁶ In the case of *galanas*, *sarhaed* for either husband or wife is paid into the husband's estate. Most of the references to third party insult are, however, found in rules dealing with sexual contact which involve one or other of the partners in marriage.

³⁴ CG *snáduat*, cf. Anglo-Saxon *fríd*: PM i. 44; the king's peace in early England was not the prerogative of everyone and the *nawdd* of Welsh law involves a limited protection. ³⁵ Bleg 64.1. *O tri achaws ny chyll gwreic y heguedi kyi adawho y gwr: o glafri ac eissen kyi a dryc anadyf* = Lat A §52.54 = Lat B 222.3 = Lat E 471.4 = Lat D 343.28; cf. also the lists of the "teithi" in WML 80.21: *Teithi gôr yô gallu kyi a gôrreic a bot yn gyfan y aelodeu oll. Teithi gôrreic yô dyuot arôyd etiuedu idi: a bot yn gyfan y holl aelodeu*.

³⁶ *Si sine causa a viro suo mulier vulpulerit, secundum dignitatem suam ei iniuriam vir suis reddat. Quisquis coniugem alius verberaverit, vir eius habeat dimidium sarhaed*. Lat A §52/44, 45.

Sarhaed (eo nomine) is payable by the husband when he unjustifiably beats his wife; he is justified in beating her if she gives away goods which she is not entitled to give, if he finds her with a man, or if she uses insulting language to him. The measure of the *sarhaed* would be a third of her husband's. If he is unfaithful to her or banishes her from the marriage bed, the compensation is more frequently called *gowyn* or *wynebwerth*³⁷ and both these names reflect a more archaic terminology. This compensation is specified as being 120d. for the first offence, £1 for the second.³⁸ The third offence entitled the wife to leave her husband without forfeiting any rights and indeed she was expected to leave him or be branded as a wife without shame (*pudor*). Any blow that she might strike her concubine, even if it results in death, is without redress. Her *wynebwerth* could even be called for after the union had ended if the husband allowed another woman to sleep on the bedclothes retained in accordance with the rules for sharing. This reflects a sanctity of the marital bed also seen in one of the many triads which express social principles rather than legal rules, where expulsion from the marriage bed is regarded as one of the three shames of a wife.³⁹ In another triad, bringing a mistress into the home is regarded as one of the three things that bring shame to a wife's kin.⁴⁰ If a wife be driven from the marital bed for any reason, she is required to raise two witnesses from among the household, a further two if she is driven from the home, and before returning can demand a full *wynebwerth* from her husband.⁴¹

If the rules for compensation due for offences to the wife on the part of the husband reflect the respect due to the wife, the reparation called

³⁷ The clearest example of an attempt to draw a distinction between *gowyn* and *sarhaed* is found in the commentary on the triad *Tri phryfai gwrtaig* for §51.3. *Seŷ yô y sarhaed pob maedu a wnel y gôr arnel. Eithyr am tri pheth, sarhaet yô idi. Seŷ yô y tri pheth hynny y dyly y maedu: am rodi peth ny dylyho y rodi, ac am y chafel gan ôr, ac am unaô meiel ar y uwyr. Ac os am y chafel gan vr y maed, ny dyly o diuog nannyn hynny, kany dylyr diuogyn a diel am un gyflaun. Seŷ yô y gowyn: o cheŷŷ y gôr gan wreic arall, llaet y gôr idi y treigyl kynaf chweigeint, a'r eil treigyl punt. Os keŷŷ y tryded [weith], ysgar a eil heb golli dim o'r eidi.*

³⁸ Col §1; Bleg 64.3; Lat A §52/60; Lat B 222.14; Lat C 288.16; Lat D 343.31; Lat D adds the clause: *Redwii dicit quod tercio xxx solidos: quarto libera cum toto iure suo abeat. Si pacienter sustineat, de cetero wynebwerth non habebit*, which suggests that it is after the third incident that the wife was free to leave her husband.

³⁹ Lat B 242.33 = Lat E 494.2 *Tres sunt guarthrud mulieris: scilicet falsa impositio criminis, id est, enllib, et reith; et de lecto expelli*.

⁴⁰ Lat D 371.28. *Tri chywilyr keneŷŷl ynt, ac o achaws gwreic y maeri: llathrudaw gwreic oe hanuot; eil yw dwyn oe gwr gwreic arall ar y phen yr ty; y trydyt yw y hyspetlaw*. Lat E 475.26 has *Tres sunt iniurie generis ex femina with iniuria corresponding to the cywilydd of Lat D*.

⁴¹ Lat B 225.8; Lat E 474.2.

for a wife's misdemeanours emphasise the fact that her husband's position is that of her lord. Here again, special emphasis is put on the marital bed. If a wife leaves her husband's bed and fails to allow him his conjugal rights she has to pay him a minor fine or *camlwrw*⁴² before she is allowed to return *quia dominus eius est*. Likewise, the uttering of shameful words makes a wife liable to *camlwrw*.⁴³ *Camlwrw* is the minor fine, specified as consisting of three kine, which is normally paid to the king or territorial lord. The husband could accept this payment of *camlwrw* or take revenge for his wife's behaviour by striking her three times with a rod as long as a man's forearm and as thick as his middle finger on any part of the body except the head.⁴⁴ If he took revenge in this way, he could not exact his fine; for revenge and compensation were not allowed for the same offence in Welsh law. The shameful words that a woman was not allowed to utter are specified in another triad: a woman was not allowed to wish a blemish on his beard (to cast aspersions on his virility), wish dirt on his teeth, or call him a cur.⁴⁵ Wrongfully giving away property was also a beatable offence, since the kind of property a wife is allowed to part with is specified and determined by the actual status of the husband.⁴⁶

The ultimate shame that a woman could bring on herself and her kin, and the ultimate insult that she could impose on her husband, was to have consort with another man. Even a scandal of this, an *enllb*, was regarded as a *gwarthrud* (shame) which needed to be refuted by an oath supported by compurgators (*rhaiith*).⁴⁷ A *rhaiith* of seven women was required by the woman to deny the first scandal, twenty-four the second, and fifty the third.⁴⁸ The necessity to raise such a *rhaiith* was considered to be a shame in itself. A scandal was confirmed and made a *cadarn enllb* by three things, namely that the woman be seen coming from behind a bush with a man, or beneath the same mantle, and or with a man between her thighs.⁴⁹ The wife required a *rhaiith* of fifty women to deny the adultery, just as the adulterer required a *rhaiith* of fifty men. If the accusation were a valid one, the wife was considered to have committed

ted a *cyflafan ddrydd*⁵⁰ or shameful offence, her husband might reject her, and she lost all her rights. The lawbooks distinguish three degrees of such a *cyflafan*: *rhoddi cusan* (kiss), *gojysio* (finger) glossed in Lat D as *pallatio manuum in vulva*, and *ymrain* (copulate). Kissing and fingering were not punishable if they occurred when playing *rhaflan*,⁵¹ or in *cyfeddach*, or when someone returned from a long journey. The texts disagree as to the actual amounts of compensation due to the husband for these acts. One rule makes full *sarhaed* the compensation for *ymrain* and a quarter *sarhaed* the compensation for *cusanu* and *gojysio*.⁵² Other sources make the compensation for *ymrain* a *sarhaed* augmented by a half or two thirds or even three thirds with the additional note that such an action could bring feud between kins (*cenedi elyniaeth*) presumably between the kin of the adulterer and the kin of the husband.⁵³ This feud could be the *gweictra* of the *Naw Affaith Galanas* according to the Men of Powys and the *gweictra* which if it were not settled could be raised as a legal objection to the competence of a witness.

The wife's kin was not completely free from involvement in her adulterous acts since, if the woman wished to deny the charge of a kissing, she needed to be vindicated by an oath of seven people from among the members of her immediate family, *y am tat a mam a brodyr a chuyoryd*.⁵⁴ A *rhaiith*, in any case, always involved the natal kin of the principal. A woman's association with another man could be of her own free will or against her will. The law texts again offer variant opinions as to the person responsible for paying the *sarhaed* when the wife is the willing party to the adultery. The opinion of lawyer Goronwy ap Moriddig is quoted that, when this happens, the adulterer is not under an obligation to pay the husband's *sarhaed* and that the onus for the payment lies entirely with the wife, who, if she does not pay, is rejected by the husband. Nothing is known of the lawyer Goronwy ap Moriddig⁵⁵ and it is hard to believe that originally the adulterer would not have been considered "guilty" of insult towards the husband. The texts are clear as to the

⁴² Bleg 61.20.

⁴³ Bleg 61.15; Lat A §52/43; Lat D 341.37; Lat B 223.10.

⁴⁴ Bleg 61.17.

⁴⁵ Ior §51/3.

⁴⁶ Ior §51/6-8.

⁴⁷ Lat B 242.32; Lat E 494.2; Ior §55/7.

⁴⁸ Bleg 64.25; Ior §55/7; Lat A §52/51; Lat B 222.21; Lat E 471.19.

⁴⁹ Col §29; Bleg 111.24-8; WML 127.7-11.

⁵⁰ Bleg 66.18 (*achaws dybryd*); Ior §46/5.

⁵¹ LW 581b has a note on *gware rhafflan*:

Ludi genus . . . qualis vero non satis liquet: Frequens autem in omnibus fere Codd. occurrit. Versiones Latinae Ludum junicularem vocant, a Rhaffl; Funs: Plures sunt id genus ludi rusticis non ignoti: Crediderim hunc esse ludum, quem nos vocamus Anglice

Swinging

⁵² Lat A §52/46; Lat B 223.21; Lat E 472.11.

⁵³ Lat D 345.20; Bleg 66.28. Lat D quotes two rules side by side acknowledging the conflict between them: *sic dicunt quidem: alii vero ut non . . .*

⁵⁴ Ior §46/11 (B).

⁵⁵ The name Goronwy ap Moriddig occurs in Llyfr Coch Asaph but the context of the reference suggests a later date than that of the lawbooks.

responsibility of the man who forces his attentions on another man's wife, for this brings us to the province of rape and (as we have seen) the rapist is obliged to pay a heavily augmented *sarhaed* to both wife and husband or bear the consequences of feud.⁵⁶ Such a rape was also considered an insult to her natal kin.

C. *Galanas*

The rules for compensation within marriage stress the conventions that both man and wife were expected to observe. They also show the persistent if shadowy involvement of a wife's natal kin in her interests. The rules for homicide as presented in the thirteenth-century texts emphasise the ambivalence of her position between two kins. While the *sarhaed* of a married woman is dependent on her husband's status, her *galanas* price is still linked with that of her natal kin and hence, when (as usually happens) in a case of homicide both *galanas* and *sarhaed* are paid, her position in the kin is ambivalent, for the compensation for homicide is paid in two parts. First the *sarhaed* of the dead man is paid by the homicide to an inner family circle of the victim. If he is married, his wife receives a third of this payment. The second payment, the *galanas*, is made and received by a wider kin-group, and the victim's wife takes none of it. The constitution of the wider kin groups in the payment of *galanas*⁵⁷ is one of the great complexities of the lawbooks, but it is clear

⁵⁶ *Supra*, p. 50.

⁵⁷ The most important discussions of *galanas* are: F. W. Maitland, "The Laws of Wales—the Kindred and the Bloodfeud", *Collected Papers* i, 202-29, first published in *Law Magazine and Review*, August 1881; T. Jones Pierce, "The Laws of Wales—the Kindred and the Bloodfeud", *Medieval Welsh Society*, ed. J. Beverley Smith, (Cardiff, 1972); R. R. Davies, "The Survival of the Bloodfeud in Medieval Wales", (1970) *54 History*, 338-357. The *galanas* kin is discussed by M. Gwyn Jenkins, "Riño Carennydd yng Nghyfreithiau Rhufain, yr Eglwys a Chymru", (1964) 20 *BBCS* 348-373, where the author attributes the discordant evidence of the law texts to the confusion between two methods of reckoning kinship, the ecclesiastical method and the method of late Roman Law. Dafydd Jenkins offers a corrective to M. Gwyn Jenkins in "Camsyniadau F. W. Maitland: Y Genedl Alanas yng Nghyfreithiau Hywel" (1967) 22 *BBCS* 229-336; T. M. Charles-Edwards in "Kinship, Status and the Origins of the Hide" (1973) 56 *Past and Present* 3-33, argues that Anglo-Saxon lineage systems have influenced the pattern of the kin involved in *Galanas*. My own view does not coincide exactly with that of any of these authorities. It is briefly that the expanded kin of *galanas* settlement and the 2:1 proportion of paternal and maternal kin participation owes its origin to Anglo-Saxon influence but since the evidence for the extent of the kin in Anglo-Saxon England is extremely tenuous, one cannot say that any specific description of a seven generation group or a nine grade kin derives from an Anglo-Saxon source. The methods of reckoning to the seventh generation probably are indebted to ecclesiastical influence. The phrase *nawfed ach* is possibly an archaic one and can be compared to the *nomad n-ao* of Irish Law. The kin as described in the South Wales law books represents some lawyer's attempt to make an expanded kin group fit in with this archaic phrase.

that the relatives who pay with the homicide are those who will receive payment if he is killed, and that the amounts involved are graduated according to the closeness of the relationship. The kin groups on each side were both the maternal and paternal kins of the killer and the killed, the paternal kin paying or receiving two-thirds and the maternal kin one-third of the sum left after deducting from the full *galanas* price the homicide's liability for one-third. Since the victim was dead, this one-third was conveniently available as a commission for the king for his help in collecting the payment: it is known as the enforcing third (*traean cymell*).⁵⁸

The people involved in composition were those who would normally have been involved in the feud, sometimes called the avengers (*diadwyr*). A woman is not regarded as a natural participant in feud, since she has no spear except her distaff,⁵⁹ she receives but does not pay "spear penny", and she contributes to the composition on behalf of any children she has or is likely to have, at half the rate of a male of the same degree of kindred as herself. Through her, her children can claim contribution from the kin. The part played by the maternal kin in the law of *galanas* contrasts strongly with their part in other fields of Welsh law, where the predominant kin group seems to be a four-generation agnatic group.⁶⁰ This latter is the group involved in giving a woman in marriage,⁶¹ as it is the group concerned with landholding,⁶² though there is an exception to the rule of agnatic landholding in the right of the children of a Welshwoman by an *alltud* to inherit land from her father in certain circumstances.⁶³

The four-generation agnatic kin of Wales clearly corresponds with the *derbyfine*⁶⁴ of Irish law. In Ireland it is the *derbyfine* of victim and killer which is involved in feud, paying and receiving the fixed compensation (*éraig*) of seven cumals and the status-variable *enech* price.⁶⁵ The maternal kin participates only to the extent of paying or receiving a seventh over and above the *éraig* price, the *cumal aireitir*, and one suspects that the kin groups involved in Wales were originally similar. The descriptions of

⁵⁸ For *traean cymell* see p. 89, *infra*.

⁵⁹ For §55/8; §53/9; Col §58.

⁶⁰ T. M. Charles-Edwards, (1973) cited above.

⁶¹ AL IX. xxx.3, XIV. xlv.11.

⁶² Col §57/8; Bleg 72.26-8; DwCol §§264-7, etc.

⁶³ Col §§601, 602.

⁶⁴ R. Thurneysen, *Jr. Recht* 16 ff.; D. A. Binchy, "The Linguistic and Historical Value of the Irish Law Tracts", John Rhys Memorial Lecture 1943, 31; CLP 223.

⁶⁵ *Jr. Recht* 13, §14.

the *galanas* kins in the Welsh texts are fraught with problems. There are at least two distinct textual traditions. The *Cyfrnerth*, Blegwryd, Latin A and D texts refer to the kin as extending to the *nawfed ach* or *nonus gradus*.⁶⁶ The *Iorwerth* and Latin B texts refer to the kins as being descendants in the *seithfed famwys* or *septima generatio*.⁶⁷ Both traditions agree that the kin involved in *galanas* is more extensive than that involved in some other legal institutions of medieval Wales, and that the maternal kin plays a prominent role. Four elements in the Welsh pattern of *galanas* bear a strong resemblance to what we know of the regulation of feud in Anglo-Saxon England:

- (1) where the woman is always counted as a member of her natal *maegith* in the settlement of feud;⁶⁸
- (2) where both paternal and maternal kins were involved in composition, contributing in the proportion 2:1;⁶⁹
- (3) where the kin involved was a fairly extensive one, although the surviving evidence does not allow any certainty as to its extent;⁷⁰
- (4) where composition for homicide involved more than one payment, the *hedyfång* to an inner group of relatives, the *wergeld* to a more extensive kin.⁷¹

These points of resemblance suggest that the rules regulating *galanas* in Welsh law have been influenced by Anglo-Saxon law and custom, probably during a period when there were reciprocal agreements for composition for homicide between Welsh and Saxon on the English-Welsh border calling for corresponding kin groups.⁷² This influence may explain in part the anomalous position of woman in the Welsh law of *galanas*, where her *galanas* links her closely to her natal kin even after marriage and where the maternal kin is deeply involved in the *galanas* of her children, thus forming a strong bond between two different kins for at least one generation.

These rules as represented in the law books invite a series of questions regarding the part a woman plays in a case of killing. What is the procedure:

- (1) when a woman kills someone?

⁶⁶ Bleg 32.1-7; Lat A 122.5; Lat D 334.13.

⁶⁷ *Ior* §108/7; Col §§8264-5; Lat B 210.5.

⁶⁸ EAST 123, Hn 70.12.

⁶⁹ Hn 75.8,9; Hn 76.1a.

⁷⁰ T. M. Charles-Edwards, "The Origins of the Hide" (1973) 56 *Past and Present* 3-33, B. Philipotts, *Kindred and Clan* (Cambridge 1913) 21-7.

⁷¹ Wer 5

⁷² "In Dunsæte-land gyltige Englische-Wälische Beziehung", Liebertmann i. 374.

- (2) when a woman is killed?
- (3) when a woman's brother kills or is killed?
- (4) when the woman's son kills or is killed?
- (5) when the woman's husband kills or is killed?

(1) When a woman, married or unmarried, kills someone, her own kin, both maternal and paternal, pays the composition or *galanas*. She herself is responsible for paying the *sarhaed*, with her husband, if any.

(2) If a woman is killed, her own kin receives the *galanas* and her inner family group the *sarhaed* if she is unmarried; if she is married, the *sarhaed* goes to her husband.

(3) If the woman's brother kills or is killed, since she is not regarded as a natural avenger, her liability is a limited one. She pays or receives half the amount expected of a male relative in the same degree of kinship, for any children she has or is likely to have. If she has no children and swears she will not have any, she is free from liability.

(4) If the woman's son kills or is killed, she pays or receives part of the *galanas* along with her husband and her kin contributes or receives one third of the remaining payment. If the son is the offspring of the marriage between a Welshwoman and an alien (*alltud*) the mother's kin is responsible for all liabilities and assets.

(5) If a woman's husband kills or is killed, the wife pays and receives none of the *galanas* but has one third of his *sarhaed* if he is killed.

To sum up, in *galanas*, as illustrated by the thirteenth century texts, woman is really a transmitter of liabilities and claims, paying and receiving on behalf of her children rather than being an active participant. A woman is not involved in her husband's liabilities or assets in *galanas*, not being reckoned as one of his kin although her children were. The *sarhaed* implied in his killing was considered *sarhaed* to herself and in this the tie of marriage and the change of status implied by the union are a dominant force. Her position in the kin or between kins is ambivalent, with ties of blood and marriage diverging in different directions but converging on her person and serving to link two kins; this link is strengthened by the fact that, for one generation at least, both those kins could be involved in any *galanas* in which her children participated.

The rules relating to *galanas* stress the conduit, non-participant, function of woman in a particular institution. The rules relating to *sarhaed* in the Law of Women give another perspective to her rôle in family and marriage. The law books give us the rules which form the framework of society, to see them operating we have to look elsewhere.

The *Four Branches of the Mabinogi* have proved themselves a rich repository for students of early Welsh Society. The second Branch, the only one of the stories which has a woman's name as its title, shows itself as particularly sensitive to the delicately balanced position of a woman. For the central theme of *Branwen*, *daughter of Llŷr* is the relationship between two kins and the way in which the infringement of honour determines the course of that relationship which pivots on Branwen herself. The text contains constant echoes of the vocabulary and terminology of those sections of the law books with which we have been concerned.

The first of these comes in the explanation given by Matholwch king of Ireland for his coming to Britain to seek Branwen sister of the king Bendigeidfran as his wife because "he wishes to bind together the Island of the Mighty and Ireland that they be the stronger."⁷³ These words contain the most explicit expression in Welsh literature of the idea that the rôle of the wife is that of a link between kins, a peace weaver, the *frísktole*, a rôle which is a familiar one for the heroines of Germanic and Anglo-Saxon saga. After consultation with his men, Bendigeidfran agrees to give his treasured sister "one of the Three Matriarchs" and the "fairest maiden in the World"⁷⁴ (words which are echoed again and again in the following paragraphs) to Matholwch and a time is appointed for the consummation of the union at Aberffraw, the ancient caput of Gwynedd. Before this, the Irish and the Welsh join in a feast where Bendigeidfran and his men sit on one side and Branwen with Matholwch on the other: for although the union has not yet been consummated she has already been given in marriage. On the morrow of the wedding feast there is an incident which echoes a different legal concept. Branwen's half-brother, Efnisien, (the Welsh Bricriu) discovers that his sister has been given in marriage and has slept with Matholwch without his being consulted; "that a girl as good as that one and a sister of mine"⁷⁵ should have been handed over in this way is intolerable: "they could not inflict a greater disgrace on me".⁷⁶ He reacts by mutilating the horses of Matholwch and his company. This insult shames Matholwch and it astonishes him "that Branwen, daughter of Llŷr, one of the three chief Matriarchs of the Island of Britain, daughter of the king of the Island of

the Mighty be given to me and should sleep with me, and after that, that I be shamed. And it was strange to me that such a shame was not inflicted before a girl as good as that one was given to me rather than afterwards".⁷⁷ Bendigeidfran for his part is on the horns of a dilemma. Efnisien's action is insult to him also as a breach of his protection but he cannot take vengeance on his own half-brother for vengeance within the kin is forbidden. He offers Matholwch compensation in the form, specified in the lawbooks for injuries to animals,⁷⁸ and also for the *sarhaed* of the king. The Irish accept the compensation, recognising that if they do not, they "are more likely to suffer greater disgrace than to receive greater compensation".⁷⁹

Branwen goes to Ireland with Matholwch and behaving as befits a queen bestows gifts on all who visit her, "No great man nor noble lady came to visit Branwen save that she gave them a brooch or a ring or a precious royal jewel outstanding to behold."⁸⁰ Despite the reconciliation, after Branwen has borne him a son, Matholwch, stirred up by his men to new resentment, expels her from his bed (one of the three shames of a wife and of her kin, according to the lawbooks) and banishes her to the kitchen, there to work and to suffer a daily blow from the butcher—a very obvious example of one kind of *sarhaed*.

Cut off from all other communication with Britain, Branwen spends three years preparing a starling to carry a message to Bendigeidfran who at once, on receiving it, invades Ireland. A frightened Matholwch attempts to make amends by abdicating and offering the kingdom to Gwern, his son, the tangible seal of the union between the two kins, "your nephew, your sister's son, investing him in your presence, in place of the wrong and the harm that has been done to Branwen".⁸¹ The terms are accepted and peace is made. The Irish and Welsh congregate together

⁷⁷ PKM 32.26-33.4. "Rodi Bronwen uchwr Lŷr ym, yn trydyd prif rieni yr ynys honn, ac yn uchwr y urethin Ynys y Kedeirn, a chyscu genthi, a gwedy hynny uy gwardwyddaw. A ryued oed genhyf, nat kyn rodi morwyn gystal a honno ym, y gwneit y gwardwyd a wneit ym."

This whole passage revolves around the use of the words *gwardwydd* and *diwardwydd*.

⁷⁸ PKM 33.14-22. A similar mutilation of horses is recorded in the *Vita Cadoci*, A. W. Wade Evans. *Vita Sanctorum Britanniae et Genealogiae*, (Cardiff, 1944), 58, 59.

⁷⁹ PKM 33.29-34.2 sef kynghor a uedyllyssant, —os gwrthot hynny a wneilynt, bot yn tebygach gantunt cael kywllid a uei uwy, no chael iawn a uei uwy.

⁸⁰ PKM 37.9-13. Ny doey wr mawr, na gwreic da yn Iwerdon, e ym w[el]et a Branwen, ni rodel hi ae cae, ae modrwy, ae teyrndiws cadwedie ydau, a uei arbennic y wetet yn mynet e ymdeith.

⁸¹ PKM 41.9-15. "Ac y mae Matholwch yn rodi brenhiniaeth Iwerdon y Wern uab Matholwch, dy nei dithen, uab dy chwaer, ac yn y ysitynnu y'rh wyd di, yn lle y cam a'r codiant a wnaethpwyd y Ubranwen."

⁷³ PKM 30.19. Y erchi Branwen uchwr Lŷr y doeth, ac os da genhyt ti, ef a uyn ymrymaw ynys y Kedeirn ac Iwerdon y gyl, ual y bydynt gadarnach.

⁷⁴ PKM 30.29-31.2. A honno oed trydyd prif rieni yn yr ynys honn; teccaf morwyn yn y byt oed.

⁷⁵ PKM 31.26-28. "Ay yuelly y gwneachant wy am uorwyn kystal a honno ac yn chwaer y minheu, y rodi heb uyghanyat i?"

⁷⁶ PKM 31.28-32.1. "Ny ellynt wy tremic uwy arnaf i."

in a special house where the Irish plan a trick, foiled by Efnisien. Discord arises again when Efnisien, seeing the child Gwern playing with Bendigeidfran and his uncles senses yet another slight, takes vengeance by throwing the child into the fire and with that act, the tangible link which unites the people of Matholwch and the kin of Bendigeidfran is destroyed and all hell is let loose. Branwen survives the holocaust to return to Britain and dies heartbroken at the destruction which has come about through her person:

"Woe, O son of God! Woe is me from my birth!
The wealth of two kingdoms destroyed because of me."⁸²

In a paper on Women in Archaic Society,⁸³ Jean Poirier summarised certain things which he considered to be common to archaic societies in their attitude to women; among them were the following points:

(1) Woman bears a fault-bearing role and lives in a condition of perpetual alienation, never completely integrated into her husband's family.

(2) She never has complete juridical power, being considered by the law as an object of law. She is throughout her life in a position of judicial minority despite the fact that socially speaking she pays an eminent role.

(3) Woman is impure, dangerous to the group, this danger is the consequence of the inherent servitude of the physiological order of her nature. Preserving her purity is therefore important and virginity a power to be guarded.

(4) It is important that she fills the function of genetrix and failure to fulfil this function is sanctioned. Marriage, because of this role, is the essential part of a vast social network, the married couple is not separated from society but controlled by the group or kin in which they live.

Some of these attitudes are implicit in the story of Branwen as it is found in the second Branch of the Mabinogi: most of them also seem to me to underlie many of the rules found in the Law of Women, which stress her dependent status, the value placed on her chastity and her ambivalent position between two kins.

⁸² PKM 45.16-18. "Oy a uab Duw," heb hi, "guae ui o'm ganediggaeth. Da a dwy ymys a diffethwyi o'm achaws i."

⁸³ Jean Poirier, "La Statut de la Femme dans les Sociétés Archaïques", *La Femme, Recueilles de la Société Jean Bodin XI*, (Bruxelles, 1959), 1ff.

EXCURSUS I:

*Tres sunt columpne iuris herwid guyr Powys.*⁸⁴

The text of Latin Redaction B is the unique witness to a set of three enneads which begins with the rubric:

Tres sunt columpne iuris herwid guyr Powys: nau affeith galanas, nau affeith tan, nau affeith lledrat.

We should expect these enneads to correspond to the enneads of the Tair Colofn Cyfraith found in the other Latin and Welsh redactions.⁸⁵ There is, indeed, a close relationship between *nau affeith lledrat* of Lat B and the corresponding *nau affeith* in the standard version of the text. There, the *nau affeith* are the nine accessories who aid and abet the principal in cases of theft, arson and homicide. The *nau affeith galanas* and the *nau affeith tan* of the Lat B lists preserve a different meaning of the word *affeith* and offer classifications which have a different legal significance. It is the *nau affeith galanas* which is of interest for the present paper but since a brief examination of the *nau affeith tan* throws some light on the other list and is a help to define the meaning of *affeith*, we shall start by looking at that list; The *nau affeith tan* are:

- | | |
|--------------------------------|-------------------------------|
| [1] <i>tan geneil</i> | the fire of a smithy |
| [2] <i>tan y ty nesaſ</i> | the fire of the next house |
| [3] <i>dwyn tan heb wybod</i> | taking fire without knowledge |
| [4] <i>lad tan</i> | striking a fire |
| [5] <i>paratoi tyssu</i> | preparing ----- |
| [6] <i>gwascaru moch y tan</i> | pigs scattering the fire |
| [7] <i>y emdwyn</i> | carrying it |
| [8] <i>tan yr odin</i> | the fire of a kiln |
| [9] <i>loggi</i> | burning |

The text is not without its problems. The word *tyssu* does not occur elsewhere and it is difficult to put a precise meaning to phrases like *y emdwyn*. The translation "pigs scattering the fire" is not a syntactically satisfactory one for *gwascaru moch y tan*. The list, however, seems to refer to the things which could be causes of fire, or which represent categories of fire.

Let us now turn to the items in the *Galanas* list. They read:

- | | |
|----------------------|---|
| [1] <i>tirdra</i> | [6] <i>gorduy</i> |
| [2] <i>guereicra</i> | [7] <i>brat</i> |
| [3] <i>sarhael</i> | [8] <i>kennadwri y rung bratwyr ay elin</i> |
| [4] <i>teuessiau</i> | [9] <i>guthareith</i> |
| [5] <i>cerh</i> | [10] <i>lad y gelein</i> |

⁸⁴ The text has been published twice in L.T.W.L. 250.35 and A.L. ii. 881. It deserves a much fuller treatment than I am able to give it within the compass of this excursus.

⁸⁵ for §104; Bleg 29.26; WML. 37.4.

There are again problems of interpretation in this list. The first and most obvious is that the list as it stands consists of ten not nine items, suggesting that one of the items is an addition to the original ennead. We have no other text to use as a corrective. Most of the terms, are however, known either from other parts of the law text or from the literature; we will look at them in the order in which they occur.

1. *Tirdra*⁸⁶ occurs only in the law texts and there mainly in the legal triads as a word referring to an unsettled dispute about land. In one triad,⁸⁷ it is listed with *galanas*, (here clearly meaning dispute over homicide), and *gwreictra* as one of three sets of circumstances which could invalidate the competence of a witness. The triad grouping suggests that these three things had some element common to them. The *locus classicus* for a record of dispute over land between kins in early Welsh society outside the law books is the *Surexit Memorandum* of the Lichfield Gospels, where the final words of the settlement, which it records, confirm the establishment of concord between the two kins at the end of a period of animosity or feud.⁸⁸

2. *Gwreictra*, "gureictra" is translated in a Latin version of the triad cited above as *abusio uxoris*, one Bleg version of the triad has *godineb* (adultery),⁸⁹ instead of *gwreictra*, another Bleg version of the triad replaces it with *kamarietu o un ohonynt wreic y llall*, (one of them abusing the wife of the other), and the Colan text refers to *gwreictra* as an act which belongs to the area of *cednyl elenyaeih* or kin feud.⁹⁰ *Gwreictra* therefore seems to be a case of unsettled kin feud roused by adultery or misuse of a woman.

3. *Sarhaet*, the third item in the list, has been dealt with in the main text of this paper as the compensation for assault and for insult. It was an action which involved the participation of the kin of the victim and the offender and could give rise to kin feud if reparation were not made.

⁸⁶ H. D. Emanuel had amended the form to *dirdra* on the basis of a note to a triad found in Bleg (234, note to 128.28). I prefer to retain the MS. reading.
⁸⁷ cf. Bleg 37.11.

⁸⁸ *Tri achwys yssyd y llysu tyston. Yn yw galanas heb yndliuyn. Eil yw o vot dady! am ttr yrydant heb teruyn. Tryded yw kamarietu o vn ohonant o wreic y llall.*

⁸⁹ *Ouy dychawn ef eu gwrthneu wy yn gyfreithawl, gwedy hymny llysser wynt megys tyston, ae o elynyaeih, ae o odineb, ae o tirtta, megys y dywetpwytyr yw yn y llysser.* with Col §531

⁹⁰ *Hyn o llesoet esyt en keureyth Hewel herwyd gweythre: sef ev e rey henny dirdra, a galanas a gureyctra, a'r deu henny en lle un llys, canys gureyctra a henny o genedyt elenyaeih.*

⁸⁸ Morfydd E. Owen. "Y Cyfreithiau: Natur y Testunau," in Geraint Bowen (ed.), *Y Traddodiadau Rhyddiaith yn yr Oesau Canol* (Llandysul, 1974), LL xliii.

⁸⁹ See n.81 above.

4. *Tewessiau*, "tywysio" is not a word generally used in the law texts, although familiar enough from the literature where it has the meaning lead or conduct. The renaissance lexicographers sometimes give it a pejorative meaning like *abducere*.⁹⁰ We should perhaps bear in mind the fact that this list has one item too many and consider coupling *tewessiau* with the next word in the list namely *cerh*.

5. *Cerh*, "cyrch" is well known from the law texts as a word for assault sometimes found in the phrase *cyrch cyhoeddog*⁹¹ or public assault. For an assault to constitute a *cyrch* it needed to be made by at least nine men. In the thirteenth century lawbooks a *cyrch* is one of the offences for which a double *galanas* is paid by the offender and his kin.⁹² If we couple *Tewessiau* and *Cerh* we could understand the pair as meaning to lead an assault, not necessarily an assault which has resulted in a homicide.

6. *Gordwy*, "gorddwy" occurs infrequently in the laws in the phrase *teir bu gorddwy*⁹³ used for the kine paid by a man who stands by and does nothing, allowing a homicide to be committed. It occurs also in the standard version of the *Tair Colofn Cyfraith* in the compound *porth orddwy*,⁹⁴ the term for the accessory to *galanas* who helps the slayer by detaining and holding the victim while he attacks. *Gorddwy* is a fairly common word in the literature for onslaught or oppression: it is the word used in *Culhwch and Olwen* when referring to the forcible abduction of the wife of King Doged, *am rydyallas yg gorddy*⁹⁵—(who captured me by force). Although it is difficult to extract a precise technical meaning for *gorddwy* from the surviving evidence, it is clear that it implies some violent action, an action which is considered in the thirteenth century law texts to belong to the province of *galanas* or homicide.

7. *Brat*, "brad", treachery or treason is coupled with *cynllwyn* or secret killing in the text as an offence for which a double *galanas* may be exacted unless the traitor is executed;⁹⁶ the payment of this composition involves the kin of the traitor.

8. *Kennadwri y rung bratwyr ay elin*, (taking messages between traitors and his enemy) could again be attributed to the province of *brad*. Perhaps it is at this juncture (rather than at 5 and 6) that we see the

⁹⁰ Thomas Willems, MS. Peniarth 228, s.v. *Abduco*.

⁹¹ WML 46.20.

⁹² Bleg 36.6.

⁹³ Col §278.

⁹⁴ Lat E 448.22; Col §249; lor §104/13.

⁹⁵ WM 453.32.
⁹⁶ Col §283-7.

expansion in the ennead which increases the number of items to ten and that we should understand 8 as a gloss on 7.

9. *Gwrthareith* is a unique form and as such difficult to interpret. The prefix *gwrth* adds a negative or opposing sense to the word to which it is prefixed. *Areith*, if that is the second element of the word, means language or speech; if this is so, a possible meaning of the compound might be "defamation". We could alternatively understand the second element as *rhait*. This word has important cognates in many western European languages, like the German *recht*, Latin *rectus*, and Old Irish *recht*. Its generalised meaning of right or law is seen in the compound *cyfraith* (the usual word for law), and in the negative form *anrhaith*, (the abuse of right, or plunder). In Welsh it is regularly used in the lawbooks for the body of purgators who support the oath of a principal in various contexts. *Gwrthreith* could mean opposition to a law or opposition to a *rhait*. The word remains a puzzle.

10. *Lad y gelein*, the last item in the list, means the killing of the body and takes us once again into the world of the thirteenth century *galanas*.⁹⁷

On the analogy of the *nau affeith tan*, we should expect this list to contain a classification of the nine types or nine causes of *galanas*. If this is so, it cannot be *galanas* in the restricted thirteenth century sense of composition for homicide. We must look for another meaning of the term.

Items 5 (*certh*), 6 (*gorday*), 7 (*brad*) and 8 (*kennadwri y rung bratwyr ay elin*) belong to the area of *galanas* and the rules for composition for homicide found in the thirteenth century lawbooks. Items 2 (*gweictra*) and 3 (*sarhaet*) on some evidence were matters which could give rise to kin feud, item 1 (*tirdra*) is grouped with items 2 and 10 (*lad y gelein*) in some triads as though they have some common feature. The evidence of the *Surexit Memorandum* also suggests that land dispute could be a source of kin animosity.

The original meaning of *galanas* was enmity or kin feud, and the list would seem to contain a classification of the actions that might raise a feud.⁹⁸ If this interpretation is correct, it constitutes one of the few pieces of evidence for the feud in early Wales. It is impossible to offer a dating for the text as it stands. Lat B as Charles-Edwards has shown in his discussion of the Naw Cynwrededi contains more than one legal fossil. If our ennead is a legal fossil, it is difficult to date. The only orthographic

forms found in the list which might be considered early are *tewessiau*, *cerh* and *elin*. *Tewessiau* and *cerh* show the use of *e* for /*a*/ and /*i*/ but this orthography (though it is a feature of Old Welsh), is not uncommon in Middle Welsh. *Elin* has *i* for /*i*/, *cerh* has again *h* for /*x*/ but that again is a feature of Middle Welsh texts like the Black Book of Chirk, as much as of the Old Welsh Memoranda of the Lichfield Gospels.

EXCURSUS II:

Prifai Gwraig

The triad, pentad or hexad, *prifai gwraig*,⁹⁹ raises problems of language. The practical effect of the rules the numerical lists summarise is reasonably clear from reference to other sections of the law texts. The difficulty arises because the lists preserve a number of archaic terms. The way in which these terms are interchangeable suggests that their original significance has been partly if not entirely obscured for the compilers of the thirteenth century texts. These words are often better understood by reference to Irish sources and the history of some of them leads us into the world of primitive feud.

The triad refers to the property to which a wife has exclusive right within marriage. The triad in Ior (G) specifies the *privei* as

*y chowyll a'e gowyn a'e sarhaet*¹⁰⁰
her cowyll, and her gowyn and her sarhaed

The amplification of this triad in the same text glosses *sarhaed* and gowyn thus:

*sef y6 y sarhaet pob maedu a wnel y 66r arnei . . . sef y6 e gowyn o cheiff y 66r gan wreic arall.*¹⁰¹

sarhaed is every blow which her husband strikes her; her gowyn is if she finds her husband with another woman.

The Ior (B) version gives

*Tri pryfurey gureyc e chowyll a'e haguety ae sarhaet.*¹⁰²

The three privities of a woman are her cowyll, her *agweddi* and her *sarhaed*.

The version of the triad found in Danweiniau Colan reads:

*Ty pryuey gureyc eu y cowyll ay guardrut ay sarhaet.*¹⁰³

The three privities of a woman are her cowyll and her *gwarthrud* and her *sarhaed*.

⁹⁹ The *prifai* are dealt with by Dafydd Jenkins *infra*, pp. 76, 81-3.

¹⁰⁰ Ior (G) §51/1.

¹⁰¹ Ior (G) §51/3, 4.

¹⁰² Ior (B) §51/1.

¹⁰³ DwCol §180.

⁹⁷ Bleg 82.4 Pwy byrhac a omedho sefyll wrth gyfreith yn llys yg gwyd y brenhin, anreith odeli vya. Eili dyn anreith odeli yssyd: ffennawr. Trydyd yw dyn a latho kelein kywlat ac ef.

⁹⁸ Bleg 116.1-2; 110.1-5.

where *guardrut* is defined in the same way as *gowyn* in G. The *pimp priuei gureic* found in Lat B and Lat E defines the *prifai* as:

*aguedi, amobyr, argyureu, gouin, sarhaet; sextum puellae: scilicet, cowyl.*¹⁰⁴

A triad found in the Bleg, Cyf and the Latin texts corresponds to the Iorwerth triad but it is introduced by a different key phrase:

*Tri pheth ny dygir rac gureic kyt gatter am y cham, y chowyll, ae hargyfreu ae hoyneberth pan gytyto y gor a gureic arall.*¹⁰⁵

Three things which cannot be taken from a woman though she be left for her wrongdoing, her *cowyll*, her *argyfreu* and her *wyneberth* when her husband has intercourse with another woman.

We can tabulate the items of the lists in the follow manner:

Ior (B)	Ior (G)	DwCol	Bleg	Lat B, E
1. <i>cowyll</i>	1. <i>cowyll</i>	1. <i>cowyll</i>	1. <i>cowyll</i>	6. <i>cowyl</i>
2. <i>aguedy</i>	2. <i>gouyn</i>	2. <i>guardrut</i>	3. <i>wyneberth</i>	4. <i>gouin</i>
3. <i>sarhaet</i>	3. <i>sarhaet</i>	3. <i>sarhaet</i>	2. <i>argyureu</i>	5. <i>sarhaet</i>
				3. <i>argyureu</i>
				1. <i>aguedi</i>
				2. <i>amobyr</i>

The *wyneberth* of the Bleg text, corresponds with the *gwarthrudd* and *gowyn* of Col and G—and possibly the *sarhaed* of Ior B. The *pum prifai* shows an attempt to add to the list, items which cannot be properly regarded as *prifai* e.g. *amobyr*. Items 3, 4 and 5 of this *pum prifai* list are identical with the G triad. 1, is found in the Ior triad. The items of interest for this excursus are *gowyn/gwarthrudd/wyneberth* and *sarhaed*. *Gwarthrudd* is a term usually used in moral or social triads and there alternates with words like *cywilydd* and *gwaradwydd*. It is not generally used in the rules for specific payments, where the terms used are *sarhaed*, *wyneberth* and *gowyn*, although it is sometimes translated by *iniuria* in the Latin texts. The triads found in Ior and Bleg can be read in conjunction with another clause found in Ior §45/4.

*Ac os kyn e seythuet wlueden ed eden hy e gur kubel o henne a kyll, eythyr e kowyll a'e huneberth a'e gowyn.*¹⁰⁶

And if it be before the seventh year, she leave her husband, she will lose the whole of that save her *cowyll* and her *wyneberth* and her *gowyn*.

The G manuscript reading of the final clause of this text reads:

*eythyr y chowyll a'e hoyneberth.*¹⁰⁷
save her *cowyll* and her *wyneberth*

¹⁰⁴ Lat B 243.17; Lat E 494.25.

¹⁰⁵ WML 93.2.

¹⁰⁶ Ior (B) 45/3.

¹⁰⁷ Ior (G) 45/3.

The Chirk Codex version reads:

*eythyr e kowyll a'e huneberth am e goouyn.*¹⁰⁸
save her *cowyll* and her *wyneberth* for her *gowyn*.

The Chirk Codex version of the rule suggests that the *wyneberth* is the composition for the *gowyn* and not a different payment. The Bleg triad cited above suggests that Ior is making a false distinction between *wyneberth* and *gowyn*. The third item listed in the Ior triad is *sarhaed*. In other sections of the lawbooks the offence specified in the G and Bleg triad as calling for *wyneberth* or *gowyn* is also called *sarhaed*.¹⁰⁹

In the Law of Women, the editors of the Iorwerth texts would seem to be trying to use a series of terms in a specialised and restricted meaning. Cross-references suggest that some of these terms were in fact synonymous and that all in fact were some form of *sarhaed*.

J. Lloyd-Jones has described *gowyn*¹¹⁰ as the verbal noun of a verb ‘*gwygaf*’ which is represented in Welsh by the unique form ‘*goygwy*’ found in the work of the earliest of the Gogynfeirdd. This verb he links with a verb *gwygaf* represented by the form *gwygid*. *Gwygaf* and *gowygaf* are paralleled in Irish by the verbs *fichid* and *fo-fich* though the correspondence between the Irish and Welsh forms is not a simple one. *Fichid* in Old Irish has the meaning fight and *fo-fich* the meaning offend or injure. In the Chirk Codex example of the word *gowyn*, the word has retained the meaning of insult or injure. Two other nouns found in the Law of Women are connected by Lloyd-Jones with *gowygaf* and *gwygaf*, they are *gowg* and *gwg*. Both are used for the offence committed by a woman who after betrothal to one man is found to have had intercourse with another.¹¹¹ Col uses the adjective *gegus* (*gygus*) for such a woman.¹¹² *Gwg* also occurs in the more generalised sense of a blow particularly clearly evidenced in the triad which has the alternating key phrases:

*Tri gog ni diwygir*¹¹³

The three blows for which reparation is not made

*Tri gwh ni diwygir*¹¹⁴ / *Tri hwd ni diwygir*¹¹⁵

The three thrusts for which reparation is not made

¹⁰⁸ Chirk Codex 34. 7-9.

¹⁰⁹ Ior §110/10.

¹¹⁰ Geirfa s.v. *go-wyn*.

¹¹¹ Bleg 67.21; Lat D 346.19.

¹¹² Col §66.

¹¹³ WML 137.16.

¹¹⁴ Lat A 128, Lat B 242, Lat E 494.

¹¹⁵ Bleg 116.24.

Gowyn as a verbal noun is paralleled by another noun formation found in the laws, the verbal noun *diwryn*,¹¹⁶ the verb noun of the verb *diwygaf*. This verb is used in the lawbooks for the act of paying compensation or making reparation. It is the act that averts the *gowg*, *gwg* or *gowyn*. *Diwygaf* has a parallel formation in Irish in the verb *do-fich* meaning to avenge. The verbal noun of *do-fich* is *di-gal* paralleled in Welsh by the noun or verb noun *dial* which means to avenge or vengeance normally retained for the act of pursuit of feud or galanas though there are one or two instances where *dial* is used for the reparation which is made to ward off the feud as in the text of *Saith Esgoply Dyfed*.

The verb used in Old Irish for paying composition is *do-ren*. The noun *dire* from the same root is one of the words used for honour price. In Welsh, the word which corresponds to Irish *dire*, Welsh *dirwy*, has developed the restricted meaning of the compensation or fine paid to the king. We perhaps see the survival of a meaning akin to that of the Irish *dire* in the phrase *difwyn dirwy* used notably when describing the compensation due to the kin when a virgin is raped, a compensation commensurate with the honour price of the king.

These words then which originally from the Irish evidence were connected with insult, feud, reparation have in the hands of the Welsh lawyers of the thirteenth century developed specialised meanings considerably removed from their original function.

MORFYDD E. OWEN

¹¹⁶ All these terms based on variant forms of the root **weik* deserve detailed phonological and morphological analysis. See the items *do-fich*, *fichid*, *fo-fich*, *dire*, *do-ren* in *Contributions to a Dictionary of the Irish Language*. This Excursus is much indebted to T. M. Charles-Edwards and Gareth Bevan, both of whom are better qualified than I am to deal with the philological problems.