

Landmarks of another kind: carved stones, setting adrift and early Irish law

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This paper departs from the metaphorical 'landmarks in legal history' implied by the conference title to consider some very literal landmarks – early Christian carved stones – and the part they played in a particular legal procedure during the early medieval period in Ireland and Scotland. The procedure in question has been given the title 'setting adrift' by modern scholars. My thesis is that interpreting this procedure as a punishment¹ may be anachronistic and fail to take due account of its context.

Early Irish law, or Brehon law, is the body of laws in use in Ireland and much of Scotland from probably 500 CE or earlier down through the medieval period and in some instances into the early modern period. The core parts of the surviving texts are dated linguistically to the seventh to eighth centuries but are, on the whole, preserved in glossed compilations of the fourteenth to sixteenth centuries, which were probably used as teaching resources. These compilations have generally suffered varying degrees of textual corruption and fragmentation.²

The primary focus of early Irish criminal law was on compensation and restitution, rather than punishment or rehabilitation. Its objective was maintenance of the social order, to keep society running smoothly. Thus, when a person injured another, whether by physical harm, theft, or other means, the law's primary concern was that the injured party and his kin group receive restitution and be compensated for their loss or disadvantage. The law's interest in the offender was primarily to ensure that he and his kin group provided the restitution and compensation. It was arguably only when this process collapsed that early Irish law turned to other outcomes, including putting to death and outlawry.

To date, the most important publication about setting adrift in early Irish law is Mary E Byrne's 1932 article, 'On the punishment of sending adrift'. Byrne asserts that setting adrift 'shows a certain humane shrinking from deliberately taking life, a desire ... to leave the question of guilt and the ultimate decision between life and death in the jurisdiction of God'.³ In my opinion, this assertion raises an important question. Was it indeed a life or death decision that was understood as being left with God, or a decision between other possible outcomes?

The motif of setting adrift in various cultures and time periods was surveyed by J R Reinhard in his article 'Setting adrift in mediaeval law and literature' in 1941. While the article presents an interesting collection of instances of persons being put on the sea, its argument as to the intended outcome of such a process is limited to an observation that 'primitive man' generally 'surrendered his problem to the forces of Nature'.⁴

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¹ See, for example, M E Byrne, 'On the punishment of sending adrift', 97-102 in *Eriu* 11 (1932); F Kelly, *A Guide to Early Irish Law* (Dublin, Dublin Institute for Advanced Studies, 1988) 219-221.

² For a clear overview of the textual transmission of the laws, see Kelly, 225-238.

³ Byrne, 100.

⁴ J R Reinhard, 'Setting adrift in mediaeval law and literature', 33-68 in *Publications of the Modern Language Association* 56/1 (March 1941).

I begin my exploration of the procedure of setting adrift with a fragment of law that describes the process to be applied to children born of incest. It is text and commentary from *Córus Fine*, a tract of which only fragments survive, concerning the regulation of the kin-group:

MAD MAC SCRINE .i. mac so dorinne re coibdelaig ina richt bodein; ⁊ is ed dlegar a cur i scrin lethair ar muir in eret bus leir gelsciath ar muir; acht masin ferann-sin fein dorala aris é, is fognum fuidhre uadha do macaib na primna, ⁊ a beth amal gac mac indligthec isin fine.

‘IF IT BE A SON OF A SHRINE ie it is this son who is begotten on a kinswoman in her own identity, and it is the law that he be put in a leather shrine on the sea as far as a white shield will be visible on the sea; but if it is in that same territory it [the setting adrift] has put him again, it is the service of a *fuidir* [semi-freeman] from him to the sons of the principal wife and he is like every son without certain legal rights in the kin group.’⁵

The text in capitals is from the original law tract; the remaining text is a later commentary on it. The context of the original tract is lost, but the commentary attempts to explain what a ‘son of a shrine’ is. It is not clear from the commentary in its current form whether a son of a shrine is a child who has arrived in the same territory, or a child who has arrived in another territory. In the latter case, which is perhaps more likely, the final sentence would be providing an explanation of the fate of the child who has been set adrift but does not become a son of a shrine. This raises the interesting possibility that the boy might have been realistically expected in some cases to return to his own shores after being set adrift and in others to arrive in another territory.

We have no surviving examples of leather shrines, but one assumes that the leather shrine in this text is either a metaphorical reference to a currach, a traditional boat made of skins, or a literal reference to a container similar to the early medieval house-shaped shrines of wood decorated with precious metal, of which examples do survive. Some of these shrines would be large enough to accommodate a neonatal infant, but I would not like to hazard a guess as to their seaworthiness. The surviving law does not make clear at what age the child is to be set adrift, so it is perhaps more likely that the reference is to a currach.

The passage immediately following this in the *Córus Fine* commentary refers to the perpetrators of negligent crime:

MAD FER A CLIAB AENLUAISTI .i. Duine seo curtar a cliab aenluaiste amach for muir ina cintaib anfoit no inndethbiri torba in airet is leir geilsciath for muir; lon menaidhe aenaidhce lais, ⁊ geann orda tri ndornd ina laim ac dingbail aithide in mara de; s mas isin crich-sin fein dorala é, is a beth amal cach mac ndligthec isin fine.

‘IF IT BE A MAN IN A ONE-PADDLED CURRACH ie it is this person who is put in a one-paddled currach out on the sea for his crimes of carelessness or of injury due to negligence, as far as a white shield is visible on the sea; provision of gruel for one night with him and a hammer [?] of three hands in his hand for repelling winged creatures of the sea from him; and if it is in that same territory it has put him, he is to be like every lawful son in the kin group.’⁶

⁵ *Corpus Iuris Hibernici (CIH)* ed D A Binchy (Dublin, Dublin Institute for Advanced Studies, 1978) vol II, 744.28-31; my translation. I wish to thank Professor Neil McLeod for his generous and patient advice on the translations of several passages in this paper; he cannot of course be held responsible for any errors.

⁶ *CIH* vol II, 744.32-36; corrected in accordance with Kelly, 220 note 33; my translation.

In this section, the person set adrift is given provisions – however unappetising they might seem to the modern reader – and the means of defending himself and his food. In this case also, his fate if he arrives back at home is prescribed. The possibility of him arriving elsewhere is not alluded to. What appears to be essentially the same material occurs in the tract *Bretha for Macshleхтаib*, ‘Judgements on categories of sons’:

A tidhnacul ina cinaidh nó a breith i cliabh aensluaiste .i. IS ed dleghar in duine do chur for muir ina cintaibh anfoit nó indeithbire torbha maine uilet seoit aici ⁊ a chur for muir in airt is leir geilsciath ⁊ lon menaighthe ina ucht ⁊ ordu tri ndornd ina laimh do dingbhail na neathetad de s mas isin fearann cetna rocuired he is a beith amal cach nduine ndligtech isin fine uair is e dia ruccustar breith fair mas a fearann eile dorala he is a dilse daib nó co tucthar cumal dara cheann ⁊ comhraidn bairci dligthighe arin cumail sin.

‘He is to be delivered for his offence or he is to be carried off in a one-paddled currach, ie it is deserved that the person be put on the sea for his crimes of negligence or of carelessness of labour, unless he has sufficient chattels, and he is to be put on the sea as far as a white shield is visible and provision of gruel in the currach and a hammer of three hands in his hand for repelling the winged creatures from him; and if it is in the same territory it has put him he is to be like every lawful person in the kin group because it is God who has passed judgement on him. If it is in another territory it has put him he is forfeit to them until a *cumal* is given on his behalf and a share of the lawful boat in addition to that *cumal*.’⁷

Here again, the person set adrift is given provisions and a weapon. It is clear that two anticipated outcomes of setting adrift are that the person may arrive back in his own territory or that he may arrive in another territory, and legal provisions are made for each contingency. In the latter case, his freedom can be obtained by the payment of a *cumal*,⁸ probably as a form of ransom.

A further instance of setting adrift relates to the crime of kin-slaying:

... uair fíngal indethbiri dogni an duine ann sin; ⁊ is ann is dilis a cur ar muir ⁊ lon meanaigh aonaidheci lais, ⁊ airtim tri ndorn ina laimh do dhicur aithite in aedhair no na mara uaidhe; ⁊ ma ina tir fein dotochra doridhis, is foghnam musaine uadh .i. foghnam fuidhre ...

‘... because the person does unintentional kin-slaying in that case; and in that case it is proper that he be put on the sea and provision of gruel for one night with him, and a hammer of three hands in his hand for driving winged creatures of the air or the sea from him; and if it should fall that he comes in the same land, it is the service of a slave from him, ie the service of a *fuidir* [semi-freeman] ...’⁹

Once again, the law addresses the possibility that the person will return to his own territory, and he is supplied with provisions and a weapon.

The legal text which is of particular interest for this paper is from the ecclesiastical law *Cáin Adomnáin*, also known as *Lex Innocentium* or the Law of Innocents. It was first promulgated in 697 throughout most, if not all, of Ireland and Scotland. Evidence for this is supplied by a long list of guarantors, many of whom have been identified as historical figures associated with various

⁷ *CIH* vol I, 109.9-16; my translation.

⁸ *Cumal* is a unit of value, originally a female slave.

⁹ *CIH* vol IV, 1301.39-1302.1; my translation.

places in both countries. Two manuscript versions survive, neither of which is earlier than the fifteenth century.¹⁰ The passage which is of interest here is:

Ar is ed bás dlegair do banscáil nó dia marbad fir nó mná, nó di thabairt neime dia-n-abbalar, nó di loscad, nó di fochlaid ecalse, .i. cor i nnói oinshluaisti for murchreth hi fairrge do techt le gaeth di thír. Long menathcha do breith lee. La dia brithimnacht furi i sin.

‘For it is death that is deserved by a woman for killing a man or a woman, or for giving poison from which death comes, or for arson, or for undermining a church; that is to be put in a one-paddled currach on a *muirchrech* in the ocean to go with the wind from the land. A vessel of gruel to be carried with her. It is with God that discretion in that rests.’¹¹

I shall return briefly to the curious list of crimes, but first I want to look into a few other phrases of interest from this passage. Here, as in the *Córus Fine* passage, a one-paddled currach is specified as the vessel in which the offender is to be put on the sea. The currach is typically a small round shallow boat made of a single animal skin stretched over a wicker frame. It is traditionally steered using a single oar. It is unlikely ever to have been the ocean-going vessel of choice, but boats of a similar construction are certainly capable of surviving at sea, as was amply demonstrated by Tim Severin, who sailed from Ireland to America in a slightly larger version in 1976.¹²

The phrase ‘on a *muirchrech*’ sheds some light on whether or not setting adrift actually involved the open ocean. It appears in several Old Irish literary texts. Commenting on the tale *Scéla Cano meic Gartnáin*, D A Binchy says that ‘[*Muirchrech*] apparently stands for the distance out at sea beyond which the departing envoys would cease to enjoy the protection of the kings to whom they had been sent.’¹³ This distance was presumably one which could be identified by mariners whilst on the sea, in order for it to be an effective measure in these circumstances.

‘*Muirchrech*’ occurs again in the saga *Echtra Fergusa maic Léti*:

chotacertmáim id laim lether co .iii. mara muircrecha ar is frit forruich

‘I decide her case thus: that she be left in thy hand as far as three *muircrecha* out to sea, for it is against thee she has offended.’¹⁴

In this fictional context, the measure is multiplied, but it remains clearly a measure of distance. The extent of that distance can be assessed by reference to a partially legible gloss on *Cáin Adomnáin*:

... isi imurro muirchreth in airet is leir for muir sciath gel for tir

‘... a *muirchrech* is as far out to sea as a white shield will be visible on land’¹⁵

¹⁰ See M Ní Dhonnchadha, ‘Birr and the Law of the Innocents’, 13-32 in T O’Loughlin (ed), *Adomnán at Birr, AD 697* (Dublin, Four Courts Press, 2001); for a translation of the entire tract, see M Ní Dhonnchadha, ‘The Law of Adomnán: a translation’, 53-68 in the same collection.

¹¹ *Cáin Adomnáin* ed P P Ó Néill and D N Dumville (Cambridge, Department of Anglo-Saxon, Norse and Celtic, University of Cambridge, 2003) 45 §45; my translation.

¹² T Severin, *The Brendan Voyage* (London, Hutchinson, 1978).

¹³ D A Binchy, ‘The saga of Fergus mac Léti’, 33-48 in *Ériu* 16 (1952) 40.

¹⁴ D A Binchy, ‘The saga of Fergus mac Léti’, 33-48 in *Ériu* 16 (1952) 37, 39.

¹⁵ C Plummer, cited in Byrne, 98; my translation.

This echoes the reference to the white shield in the first three legal texts above. I contend that this reference could make the identification of a *muirchrech* much clearer if we take the measure as relating to the numerous cross-marked stones of the period which are found around the coastlines of Ireland and Scotland.¹⁶

At about 100 coastal sites in Scotland and Ireland, cross-marked stones can still be found in sheltered landing places. Typically, the cross-marked stone stands close to the shore on or near a smooth, shallow, and therefore very tidal, beach. The beach is often contained within a sheltered, rounded bay or cove. In a great many cases, the side of the stone facing the land is unembellished. The side facing the water bears sculpture ranging from fairly plain relief crosses to elaborate decoration. That the sculpture faces the water suggests to me that it is intended to be viewed primarily from the beach or the sea. The stones are generally of considerable size, ranging from over one metre to about two and a half metres in height, and clearly visible from the water. It is well established that some early medieval stone sculpture was originally painted, and the addition of bright white paint to these cross-marked stones would undoubtedly have made them visible from the sea beyond the beach.

The word that is translated as shield, *sciath*, also has a more general meaning of protection. One might think here of other metaphorical allusions to armour, like the famous Breastplate or Lorica of St Patrick, which is not a piece of physical armour but an invocation of Christ. I would argue that in a similar way a cross carved on a stone is a shield, a protective invocation of Christ. Thus we are not considering the distance out to sea from which one can see a piece of armour, but rather the distance from which one can see a firmly planted, large carved stone, about the height of a person, painted bright white and probably embellished with coloured decoration, permanently positioned at the bay from which one set off. This could, then, be a fixed measure of distance which was common to most or all of the settled coastal areas of Ireland and Scotland. Given that most of the coastlines in question are made up of peninsulas and islands, I would suggest that a *muirchrech* from the shore would not normally take one onto the open ocean, but more commonly into sheltered waters amongst the land masses.

Once the offender has been placed on the sea, the *Cáin Adomnáin* passage describes what is to happen next. She is to be taken by the wind ‘*di thir*’. This is sometimes translated ‘ashore’,¹⁷ but the preposition is clearly *di*, meaning ‘from’, and the meaning is clearly that the offender is to be taken away from the land. *Tir* also has a wider meaning than merely the physical land mass. It can refer to the community that inhabits a particular piece of land, the territory or province.¹⁸ Thus the intention of this passage may be that the offender is to be carried away from the community in which she has hitherto lived.

I have drawn attention to the expected outcomes of setting adrift in relation to the passages I cited earlier. I will now turn to examples from literature that seem to describe possible outcomes of the process of setting adrift.

In *The Martyrology of Oengus*, a text dating from around 830, we find the passage:

¹⁶ See further P O’Neill, ‘Reading cross-marked stones in Scottish Dalriada’, 195-208 in *Journal of the Australian Early Medieval Association* 2 (2006).

¹⁷ For example, Ó Néill and Dumville, 44.

¹⁸ See *Dictionary of the Irish Language* (Dublin, Royal Irish Academy, 1983) 187.27.

ro triallad a ernaidm do fir, ⁊ o'tcuála-si sin ro ling il-loch n-erne, ⁊ ro imthig fon usci, itir firusci ⁊ muir, co tuarcaib a cenn a n-inis clothrann conas-tarla do diarmait, co ror-iarfaig di cia imthus forsa raibe. Indisid dó a scéla, ⁊ is amlaid bui ⁊ sliceda ⁊ turscair muiride ina lenmain.

'They sought to wed her to a husband, and when she heard of that she sprang into Lough Erne, and passed under water, both freshwater and sea, till she appeared at Inis Clothrann, and came to Diarmait, who asked her on what business she was bound. Then she tells him her tales, and thus was she, with shells and sea-slime cleaving to her.'¹⁹

In this passage, we have a woman appearing from the sea in a community that is new to her. It appears from the tale she tells to Diarmait that she was not set adrift, but chose to enter the water. However, this may be a confused rendition of the story of a woman who has been set adrift, possibly for an offence against her kin or her intended husband. It is also unlikely, if Diarmait was unable to discern that she had been set adrift, that she would voluntarily divulge that information, which would scarcely be to her credit.

A far more direct reference to setting adrift occurs in Jocelin of Furness's twelfth-century *Life of Saint Kentigern*:

Tandem communi conniventia conventus malignantium, et adversantium nomini Christi, decernitur ut muliercula illa gravida, sola in navicula posita, pelago exponeretur. Ut igitur sententia sancita effectui manciparetur, ministri Regis ascendentes in puppim, illam in altitudinem maris deducunt; ibique eam solam parvissimo lembo de corio, juxta morem Scottorum confecto, impositam, sine omni remigio fortune committentes, remigando littora repetunt ... Mirum dictu, sed Deo nichil impossibile factu. Illa navicella, in qua detinebatur gravidata puella, equoreos vertices fluctuum vertigines, versus litus adversum multo velotiori sulcabat transsitus, quam si velifero veberetur flatu, aut multorum remigantium propellaretur annisu ... Applicuit prenominata mulier super arenam prope locum vocabulo Culenros. Quo in loco illo Sanctus Servanus degens ...

'... it was decreed that the little pregnant woman should be placed alone in a boat and exposed on the sea. In order, therefore, that the sentence thus resolved upon might be carried out, the servants of the King embarked and took her far out to sea, and there, placed alone in a very little boat of hides, put together after the manner of the Irish, they committed her to fortune without a single oar, and then rowed back to the shore ... Wonderful to relate – but with God nothing is impossible – that little boat in which the pregnant girl was detained, ploughed the watery vortices and the eddies of the waves towards the opposite shore in a much swifter course than if it had been borne onward by a wind filling the sails or propelled by the effort of many rowers ... The aforesaid woman landed on the sand near to a place called Culross. In this place Saint Serf was then dwelling ...'²⁰

Jocelin was writing in a British Cistercian monastery, a firmly Latin milieu, some 500 years after *Cáin Adomnáin* was first promulgated. The events he describes took place in a pagan Cumbrian community, with its own legal system. Nonetheless, he makes it clear that he is describing a process 'after the manner of the Irish', carried out with an Irish-style currach. It is clear that this

¹⁹ *Féilire Óengusso Céili Dé* ed and trans W Stokes (London, Henry Bradshaw Society, 1905) 51.

²⁰ Jocelin of Furness, *Vita Kentigerni* ed A P Forbes, *Lives of S Ninian and S Kentigern* (Edinburgh, Edmonston and Douglas, 1874) 167-168; trans W M Metcalfe, *Ancient Lives of Scottish Saints Part Two* (Paisley, 1895) 186-187.

text records an enactment of the Irish legal procedure of setting adrift,²¹ and I suggest that it also records its 'normal' outcome: the arrival of the offender in another community. As we saw in the other passages cited above, an alternative outcome is the return of the offender to the originating community. I suggest that such a return would be the *brithimnacht*, the judgement or intervention of God referred to in the texts, and would have to be accommodated accordingly within the legal and social structures of the society.

I wish to turn now to the question of who was charged with the responsibility for physically setting the offender adrift. We have no direct information on this. Although in Jocelin's account it is the king's servants who carry out the procedure, this may not be the standard Irish implementation of the law, since it takes place amongst Cumbrians, whom Jocelin tells us have their own legal system and would therefore not normally employ Irish legal procedures. Comparative quasi-legal material provides some suggestions as to responsibility for administering procedures prescribed by law. Anglo-Saxon and Irish penitentials make it clear that senior clerics, usually abbots, administered legal procedures involving supernatural determination: trials by ordeal, drawing of lots and the like. Elsewhere in *Cáin Adomnáin*, where suspicion lies between a number of persons, liability is determined by the drawing of lots from a chalice on the altar.²² Handling of a chalice on an altar, even for this non-sacramental purpose, was presumably the business of a consecrated priest. In the Anglo-Saxon context, trials by ordeal were administered by the clergy, frequently by bishops.²³ We have little information about the administration of purely physical ordeals in Ireland, but those with supernatural aspects, such as the administration of water over which a druidic spell has been cast, or in which text from a particular book has been steeped, appear to have been administered by clerics, and to have taken place around the altar.²⁴ There seems to be a strong probability, then, that setting adrift was at least supervised, if not administered, by ecclesiastical officials.

These clerics, and indeed the secular communities in which they worked, lived by the sea. We in modern Australia see land as the place where one lives, works and travels, punctuated from time to time by water, in the form of rivers, lakes and the sea. It is my contention that early medieval inhabitants of a significant part of the British Isles viewed water as the place where one functioned, travelled and, to a large extent, worked, which was punctuated from time to time by land, in the form of islands, peninsulas and so on. On these, one might sleep, build churches, graze animals and harvest crops. These people, with their awareness of wind, tide and weather and their intimate knowledge of the sea, would have been perfectly aware of the natural outcome if a small boat were placed at a particular spot on the sea, still in sight of land. Not only those administering the setting adrift, but also those set adrift, would have known where the boat was likely to arrive, particularly if the oar were wielded in its intended manner.

Thus we should assume that when a person was set adrift under the provisions of early Irish law, those who set them adrift had reasonable expectations as to the outcome of the procedure. The

²¹ This parallel was noted by J R Reinhard in his article 'Setting adrift in mediaeval law and literature', 33-68 in *Publications of the Modern Language Association* 56/1 (March 1941). Reinhard incorrectly asserted that Kentigern's mother and grandfather were of the Scotti; the text identifies them as Cumbrian. It is presumably for this reason that Jocelin emphasises the recourse to an Irish solution after the procedure prescribed by native Cumbrian law failed to solve the problem.

²² *Cáin Adomnáin* §46.

²³ S L Keefer, 'Ut in onibus honorificetur Deus: the *corsnaed* ordeal in Anglo-Saxon England', 237-264 in J Hill and M Swan (ed), *The Community, the Family and the Saint: Patterns of Power in Early Medieval Europe* (Turnhout, Brepols, 1998).

²⁴ Kelly, 210-211.

reasonable expectations can be seen both in the legislation and in literature. The person was expected either to come ashore in another community, or to return home. Both outcomes clearly happened frequently enough to require further instructions to be included in the law tracts. I contend that drowning, which was doubtless also an occasional outcome, could be seen as another form of intervention by God, somewhat more drastic than merely returning the offender to their community of origin. The procedure was primarily intended to send the offender to another community.

What I suggest was occurring in the process of setting adrift is that individuals who were considered dangerous to their community, but not necessarily to other communities, were being sent away: exiled. Consideration of the classes of persons to whom setting adrift primarily applied tends to support this interpretation. Children of incest, although innocent, are hazardous to the gene pool of a relatively small and close-knit community, whereas removal from the community would reduce the danger of further genetic concentration. Kin-slayers might perhaps be categorised as hazardous to their own kin group but not to people to whom they are unrelated, and removal from the community was effectively removal from the kin group. Of the list of crimes by women specified in *Cáin Adomnáin*, the most straightforward are murder and poisoning. Although murderers are arguably dangerous anywhere, it is possible that in early Irish society, where they had little power over their own destinies, women were more likely to turn to murder in response to problems relating specifically to their place in their community, particularly with regard to marriage and reproduction. A more obscure crime for which women were set adrift was ‘undermining a church’. The precise meaning of this is not clear either, and we cannot be certain whether it refers to literally digging under a church (the usual translation) or to metaphorical undermining, such as accusations of impropriety. Churches were specific to communities, and clergy were not celibate, and so women might commit an offence in this category also in response to problems concerning control of their marital or reproductive status. The underlying cause of this crime might not be so different from the others for which women were set adrift. These offences are all peculiar to the community in which they take place. By removing the offender from the community, the problems caused by the offender are resolved. In the case of persons who had committed unintentional or negligent crimes, the connection is not so clear, but removal might perhaps have reduced the likelihood of a further offence.

I contend, then, that ‘setting adrift’ is somewhat of a misnomer for the early Irish legal procedure under discussion here. The person put on the sea under the provisions of early Irish law was not sent out in a ‘more or less unseaworthy boat ... with little or no provision against hunger, thirst, or other calamity’.²⁵ This description applies rather to a practice which was widespread throughout the classical and medieval worlds, and had its roots in ancient Greece. By contrast, the Irish offender was placed in a vessel which was in all probability familiar to him or her, with the means of steering (as opposed to propulsion, which in a currach was more probably dependent on current and wind), with provisions against hunger, thirst and the attacks of birds, in waters which were probably reasonably sheltered. The survival of the offender was contemplated and provided for by law, and such survivals are described in literary texts. Survival in another community was not necessarily a desirable outcome for the individual concerned – life without kin or property was doubtless unpleasant to say the least – but it was probably preferable to the drowning which some commentators imply was an intended or expected outcome of ‘setting adrift’.²⁶ I contend that rather than a punishment, ‘setting adrift’ in early Irish law was a practical means of solving a social problem and minimising negative repercussions.

²⁵ Reinhard, 35.

²⁶ For example, Kelly, 221; Byrne, 100.