

# THE EFFECTS OF BRITISH COLONIALISM ON THE IRISH LAW OF SUCCESSION

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## **Abstract**

*Considering the excesses that had been committed over eight centuries, the Anglo-Irish rivalry had reached grotesque proportions over time. The English sought to exercise total control over the British Isles, but the Irish consistently opposed it, which gave rise to a mutual antipathy in the collective psyche.*

*Ireland had, before it came under English rule, its own system of law, dating back to Celtic times and existing until the 17th century, when English common law replaced it. This was Brehon Law, consisting of customs passed down orally from one generation to another and administered by the Brehons, the successors of the Celtic Druids. Although similar to judges, the Brehons were more of an arbiter (Katharine Simms, 2000, p. 79) whose task was to preserve and interpret the law rather than to extend it.*

*In the early 17th century, the military victory against Hugh O'Neill, Earl of Tyrone was decisive, decisive and represented a first stage in the English domination of Ireland. Political consolidation was achieved by legal means and represented the second stage in the process of English domination. These events led to the legislative reform of the early 17th century.<sup>1</sup> Sir John Davies argued that the eradication of Irish Brehon law was justified by the right of conquest and that Brehon law resembled "a barbarous and indecent custom".*

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<sup>1</sup>Sir John Davies, who studied briefly with Paul Merula at Leyden in the Netherlands, was one of the most important Crown lawyers who worked to reform the Irish administration in the early 17th century. He served as Solicitor General and Attorney General and had a significant influence on Irish law, administration and jurisprudence. His legacy is highlighted in his Irish Law Reports.

**Key words:** *Ireland, law, Brehon laws, English legislation, politics, sovereign state.*

## **INTRODUCTION**

In the year the first Universal Exhibition in the world opened, 1851, England was at its peak, being considered the greatest imperial power, enjoying the attention and admiration of the whole world. At the beginning of the 20th century, the British Empire encompassed over 20% of the Earth's land surface, with more than 400 million inhabitants.

From 1169 until 1922, England controlled all or part of Ireland. This brutal process of colonization led not only to the loss of Irish culture, but also to the loss of traditional Irish law, Brehon Law. British colonialism affected Irish law, including inheritance law, over the centuries, with colonial violence leading to a loss of legal identity.

Today, the Republic of Ireland is a sovereign state and occupies five-sixths of the island of Ireland. Ireland gained independence from the United Kingdom in 1922 following the Irish War of Independence.<sup>2</sup>, but official recognition of full legislative independence was only achieved in 1931 when the British Government adopted the Statute of Westminster, the law of the Parliament of the United Kingdom that established the basis of the relationship between the dominions and the Crown.

With the adoption of the Constitution of 1937, the name of the country became Ireland. In 1949, all the duties of the king were removed, duties defined in the Executive Authority Act of 1936, also known as the Foreign Relations Act, this act being one of two acts that were passed in great haste, given the crisis that arose on the occasion of the abdication of King Edward VIII.

Northern Ireland chose to remain, through Ulster Month<sup>3</sup>, part of the United Kingdom. There were only limited formal relations between the two states, Northern Ireland and the Republic of Ireland in the 20th century. It was not until 1999 that the two states began to cooperate in several areas through the North-South Ministerial Council, which had been established by the Good Friday Agreement, this agreement, signed in Belfast on 10 April 1998, representing a landmark moment in the peace process in Northern Ireland.

## **I. BREHON LAWS**

The Brehon Laws, developed from customs passed down orally over many centuries, were written down in the 7th century AD. The Irish legal system dates

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<sup>2</sup>The War of Independence, the Anglo-Irish War (1919–1921) was a guerrilla war between British forces and the Irish Republican Army.

<sup>3</sup>The division of Ireland into two distinct jurisdictions, northern and southern. The division took place on 3 May 1921 under the Government of Ireland Act 1920.

## THE EFFECTS OF BRITISH COLONIALISM ON THE IRISH LAW OF SUCCESSION

back to Celtic times and survived until the 17th century when English common law replaced it (Geoffrey Joseph Hand, 1967, p.1).

The Brehons, successors of the Celtic Druids, were the ones who administered Brehon law and although they were similar to judges, they had more of the powers of an arbitrator. Their role was to preserve and interpret the law, not to expand it.

We can say that the Brehon Laws were progressive in nature because, in addition to recognizing divorce, equality between the sexes, there were concerns for the environment. In terms of criminal law, crimes and their penalties were defined in detail. Restitution was provided for unlawful acts and cases of bodily harm and homicide were punishable by a fine of eric, with a scale determining the fine. There was no capital punishment. Historians say that people had a strong respect for the law given the fact that there was no judicial system or police force.

The Mac Egan family was one of seven prominent Irish families of their time who practiced Brehon law (Conor Mac Hale, 1990, p. 6). Of the seven families, five served a ruling family, one family served five high lords, and members of the Mac Egan clan were chief advisors to all thirteen high lords. The position of brehon was extremely important, as a prime minister to the lord, and they functioned as chief advisors in legal matters and beyond. Furthermore, they also served as ambassadors and negotiators, brokering treaties and agreements between feudal lords in medieval Ireland, and were highly respected. They were treated as neutrals in any conflict<sup>4</sup>.

The Brehon courts, in which the Brehons judged, came into conflict with the English common law system which, theoretically, was the only legal system.

Brehon courts were usually held in the open air so that large numbers of people could attend to see the proceedings, the vast majority of cases, regardless of the charges, being resolved by the imposition of fines (C. Mac Hale, 1990, pp. 13–14). Only in exceptional cases, when the victim's family was not satisfied with a fine, considering it insufficient, and demanded revenge, were the punishments harsher.

The Brehons were paid for their services. Their fees created a lot of disputes with English officials.

The great Brehon families only became prominent after 1200, and the general opinion of experts is that the need to mediate between the native inhabitants of Ireland and the Anglo-Norman invaders was the basis of this importance (C. Mac Hale, 1990, p. 8). Another reason for the demand for Brehons was that many Anglo-Norman families disappeared and vast areas of land were returned to their Gaelic tenants.

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<sup>4</sup>There is only one record of a Brehon being killed by an Irish chieftain but it was a case of mistaken identity.

Brehon families, such as the Mac Egans, had a duty, in addition to practicing the Brehon Laws, to teach them to the next generation. The Mac Egans established a school of history and law at Redwood Castle, with the aim of maintaining and transmitting the native legal traditions that had gone back centuries. They believed that history and law were inseparable. In many ways, the Brehon Laws were based on precedent, as was the English legislation that replaced them.

## **II. THE GAVELKIND CUSTOM, A UNIQUE FEATURE OF THE BREHON LAWS**

Concubines had legal status under this law, which allowed all illegitimate children to inherit from their father. This was not unprecedented in Europe. Bastard feudalism, as this legal practice was called, was known in many countries. The uniqueness of the Gavelkind custom was that all male descendants received an equal share of the inheritance left by their father. The Gavelkind custom stood in stark contrast to English and continental tradition. In English common law, the custom called primogeniture<sup>5</sup>, benefited the eldest male heir, who automatically received the bulk of his father's inheritance. Furthermore, the English system granted the widow one-third of the deceased husband's estate.

Under the Brehon Laws, there was an exception in the case where the deceased had been a chieftain, because certain goods and estates were associated with the position of chieftain and upon his death, the goods and estates in question passed undivided to the next chieftain. Only the inheritance remaining after this operation was divided, according to custom, among his heirs. In 1606, the English judiciary condemned this procedure. Two years later, in 1608, the English judiciary also condemned the process of choosing heirs, known as Tanistry (Ibidem p. 15).

In the event that the father died and had no male heirs, women could not inherit, being completely excluded from their father's inheritance.

Although they met with hostility from the English, the Brehon Laws defined Irish society, playing a decisive role in the administration of Ireland. The English common law system relies on precedent in decision-making, as it did then. It is understandable what a difficult task it was for the English colonists to govern Ireland without reference to the previous system of native law.<sup>6</sup> The Brehons were valued for their detailed knowledge of ancient Irish laws and customs and, as we have already shown, were in demand for their legal knowledge to help resolve disputes over property and land.

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<sup>5</sup>Primogeniture, also called the Right of the Firstborn, is the principle of inheritance from father to son born first in marriage, which excluded younger sons, daughters, or other relatives.

<sup>6</sup>In 1606, the Lord Chancellor was forced to call in a senior Brehon lawyer to resolve a legal dispute, and in 1612, the Constable of Dublin Castle consulted Brehon manuscripts to determine land boundaries.

## THE EFFECTS OF BRITISH COLONIALISM ON THE IRISH LAW OF SUCCESSION

The first violation of the Brehon laws dates back to 1155. At that time, King Henry II cited the Bull Laudabiliter, a papal bull, considered a forgery, as the basis for plans to conquer Ireland.

In 1171, King Henry II held a Council (Curia Regis/King's Council) in Waterford where he declared that "the laws of England were freely received and confirmed by all". This declaration was in fact an aspiration of his and not a reality. Initially, English law was applied almost throughout the province of Leinster, where the king had granted Strongbow feudal land rights.

The following year, 1172, the king appointed the first Justiciar of Ireland, that is, the king's representative, in the person of Hugh de Lacy, Lord of Meath.<sup>7</sup>

At the beginning of the 13th century, in 1204, King John ordered the Irish courts to apply the common law, authorizing the issuance of warrants, and in 1226, King Henry III imposed on the judiciary the observance of the laws and customs of England. In 1227, a Register of Warrants was sent to Dublin containing copies of all warrants issued by the English courts. In 1221, the first recorded appointment of an Anglo-Norman judge took place. To secure their lands and rights, Anglo-Norman settlers could appeal to Magna Carta.

In the 14th and 15th centuries, the influence of English law declined because, through intermarriage with the native Irish, the Normans became more Irish than the Irish themselves.

In 1366, the Statutes of Kilkenny are testimony to the fact that England did everything possible to reaffirm the supremacy of its Parliament and its own law over any Irish Parliament or legislation.

Following the Statutes, two more Statutes were passed in 1494, known as Poyning's Act, which provided that all laws passed in England would apply to Ireland. The Act also stipulated that an Irish Parliament required the prior consent of the King's Privy Council.

However, English law had a limitation until 1500, in the area known as the Pale.<sup>8</sup>, the Brehon laws continuing to apply beyond this area, the Pale. During the reign of King Henry VIII, English law expanded its applicability. King Henry VIII implemented a scheme of cession and re-grant of the territories held by the original noble families, thus bringing them into the feudal system of land ownership. Furthermore, the monasteries were dissolved and church lands were redistributed, following the rupture that occurred between the king and the Roman Catholic Church.

### III. APPLICATION OF ENGLISH LAW IN IRELAND

The English common law legal system first extended outside England, to Ireland (John Baker, 2003, p. 108).

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<sup>7</sup>It is generally accepted that Hugh de Lacy was, de facto, the first Viceroy of Ireland.

<sup>8</sup>Area consisting of Dublin and the east coast.

Common law was introduced to Ireland with the Anglo-Norman invasion of the 1160s – 1170s (Curtin M, Murphy C, Woods U, Cross C., 2025).

The statutes of Kilkenny condemned for life, as traitors to the king, any person and his family who made any alliance by marriage, concubinage, love or in any other way, persons who, in time of war or peace, gave or sold horses, armor or food to an Irishman.

In the early 17th century, in 1607, following the Flight of the Earls of Ulster, English law gained ground. The further significance of the Flight of the Earls was that it removed the patronage of the Brehon family. The Proclamation of King James I of 1603 announced the end of the authority of the Brehon Laws, a proclamation which brought the entire Irish people under the protection of the king. The country was subsequently divided into counties, and English law was administered throughout the country.

Two decisions dealt a decisive blow to the Brehon Laws when, during the reign of James I, the courts of Ireland rejected the Brehon Laws of succession in the Gavelkind cases in 1605 and the Tanistry case in 1607. In the Tanistry case, the court ruled that the native law did not meet the required requirements, namely, that it was not reasonable, certain, of immemorial use and compatible with the sovereignty of the crown.

This was followed by the military campaign led by Oliver Cromwell from 1649 to 1652, a campaign that consolidated the dominance of English law and forced many Irish landowners to settle in Connaught.

In 1691, following the Battle of the Boyne, when William of Orange won against the Catholic King James II, Catholics were brutally repressed under the Penal Laws, the most infamous laws ever enacted (Fitzpatrick R, 2020, pp. 224 – 226). The purpose of the Penal Laws was to exclude Catholics from political and economic life, while also denying them access to education. Their property rights were also restricted.

In 1703, the Act for the Prevention of the Spread of Catholicism was passed, a law that imposed major prohibitions on the rights of Catholics, as follows: marriages between Protestants and Catholics, seducing, attracting or persuading a person to convert to the Catholic religion, called the Papist religion, sending children under 21 to Catholic countries, which was conditional on obtaining a permit granted by the king, the governor or their advisors, with the exception of sailors, their apprentices and apprentices of merchants who carried out commercial activities. Regarding the relations between Catholic parents and children who chose the Protestant religion, the law obliged them to provide maintenance for their children according to the rank and capacity of the child and his age. In the case of inheritance, children of Catholic parents who had chosen the Protestant religion had increased rights during the life of their parents. If the first-born Protestant, called the primogenitor, registered with the High Court of Chancery a certificate obtained from the bishop of the diocese in which he

## THE EFFECTS OF BRITISH COLONIALISM ON THE IRISH LAW OF SUCCESSION

resided, which attested to his Protestant status and the fact that he complied with the law of Ireland, the Catholic father became a tenant for life of his real estate, being sequestered in his property rights and subject to paying maintenance and portions for the other children, Protestant or Catholic, as ordered by the said Court of Chancery, to the eldest son, being assigned the reversion in rights, being Protestant. The certificates were publicly displayed or in certain offices or public places belonging to the court, so that they could be consulted and so that other persons could also have recourse to such legal operations.

Furthermore, it was forbidden for Catholics to be guardians or to have custody of orphans under the age of 21. In such cases where Catholics already had guardianship rights over orphans, the High Court of Chancery would entrust them to the orphans' close relatives who were of the Protestant religion and respected the laws of the Church of Ireland. If there was no close relative of the Protestant religion, the children were raised by other Protestants who were required to educate the orphaned children with great care in the Protestant religion until the age of 21. The Court of Chancery was obliged and empowered to issue orders for the education of the children of any Catholic in the Protestant religion, if the mother or father of the children was or was to become Protestant by the age of 18 of each such child. The parent of the child/children was obliged to pay the expenses of the education, as determined by the court. According to this order, the child/children could be taken from Catholic parents to be educated in the spirit of Protestantism. If Catholics did not comply with the orders, they were sanctioned with the sum of 500 pounds sterling, an amount that was recovered by any means (by action for debt recovery, seizure of goods worth 500 pounds sterling, complaint or criminal complaint brought by a prosecutor). The benefit of the confiscations was granted to a school (boarding school) called Blue-Coat in Dublin<sup>9</sup>.

From March 24, 1703, Catholics could not purchase for themselves or for another person, estates, lands, properties or inheritances, could not rent or benefit from the profits of rents, except for any term of years not exceeding 31 years, and if it happened that such prohibited operations had ended, they were completely null, produced no effect and were without purpose, according to the legislation in force at that time (Walsh, R., & Fox O'Mahony, L., 2018, p. 8).

The legislation prohibited Catholics, starting with 01.02.1703, from the benefits of the right of descent, donation or by virtue of a covenant, the benefits of any trust of land, property or inheritance, if they did not convert to the Protestant religion within a period of six months. If the Catholic did not convert to Protestantism, they lost the right to inherit the goods or profits for their entire life

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<sup>9</sup>This school is one of the oldest educational institutions in Ireland, having been founded in 1669, called the Free School of King Charles II. Between the 18th and 20th centuries, it was the headquarters of the Law Society of Ireland and today it operates as a pre-university educational institution.

or until the time of conversion. In such cases, the closest relatives of the Protestant religion or any other Protestant with a succession vocation benefited from the respective benefits as if all the Catholic heirs had died at that time. In the situation where an heir had not reached the age of 18, he was considered Catholic until the confirmation of the Protestant religion. He was placed under the protection of a Protestant guardian, who was appointed by the High Court of Chancery, who had the obligation to educate the child in the spirit of Protestantism. In return, in order to inherit, the minor was required to convert to the Protestant religion, six months before reaching the age of 18.

The Catholic Prevention of the Growth of Catholicism Act of 1704 prohibited Catholics from using the English model of primogeniture inheritance. The law reintroduced the Gavelkind model, which required Catholic fathers to divide their inheritance equally among all their male children. The reason why the English legal rules governing inheritance were no longer applicable was the desire of the English authorities to prevent the development of large Irish fortunes or businesses.<sup>10</sup>.

In the event that there were no male heirs, the patrimony went to the daughter or daughters, equally, and if there were none, the collaterals came to the inheritance depending on the line they came from. Patrilineal collaterals had priority, and in their absence, matrilineal collaterals. If the deceased left a will in which the division of the patrimony did not comply with the conditions imposed by law, it had no legal effects. The deceased could, however, dispose by will that his daughters receive maintenance pensions.

Art. 12 of the law shows that, in the situation where the eldest son of the deceased was of Protestant religion, he would skip all these legal inconveniences, inheriting the entire estate of the deceased Catholic father. In order to benefit from this right, the Protestant son had to, as we have shown above, present the certificate proving his membership in Protestantism, issued by the priest of the church he attended, within 3 months from the date of the father's death. In the case of assets encumbered by any type of obligations, these were transmitted together with the transfer of the inheritance.

In the situation where the son of the deceased was of the Catholic religion at the time of his father's death, but converted to Protestantism, he could still claim the rights of primogeniture, as follows: if the primogeniture was over 21 years old, he had a period of one year from the father's death to convert, and if the primogeniture had not reached the age of 21, he had to convert by the time he reached the age of 22, following the same procedure for registering the certificate at the Court of Chancery.

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<sup>10</sup>By permanently and continuously dividing the original patrimony, regardless of its nature, the creation of Irish economic power was avoided. Instead of businesses or large estates managed by primogeniture with the help of the family, each descendant had the full share that was due to him, thus preventing the Irish heir from increasing the inherited capital.

## THE EFFECTS OF BRITISH COLONIALISM ON THE IRISH LAW OF SUCCESSION

In the situation where the inheritance had already been divided among all the sons of the deceased Catholic, and the eldest son claimed the privilege of primogeniture, by converting to Protestantism, all the assets of the inheritance were restored to their original form, in order to grant primogeniture the benefit of the entire inheritance. In favor of younger sisters and brothers, the Court of Chancery established a maintenance pension that came from the deceased's estate but could not exceed one third of the estate.

The coup de grace given to Catholic believers consisted in prohibiting them from holding important public positions that, by their nature, would have increased their capital and social status. Catholics were also prohibited from gathering, meeting or organizing pilgrimages or celebrations of St. Patrick, the gathering of several believers in places they considered holy, being assimilated to riots, because the authorities considered that they disturbed the public peace and seriously endangered the security of the government.

In the 19th century, following the great industrial revolution and the writings of Bentham and Mill, the reform of legal institutions became evident.<sup>11</sup>.

The Supreme Court of Justice Act 1873 introduced the new Reforms and Ireland in 1877. The Acts merged the administration of common law and equity with the aim of creating a unified judicial system. During this period the Supreme Court of Justice was established, consisting of the High Court of Justice and the Court of Appeal. The Supreme Court of Appeal for Ireland remained the Judicial Committee of the House of Lords. The various courts that had developed over the centuries, such as the Court of Probate and the Court of Exchequer, were divided into separate divisions of the High Court.

Irish politics focused heavily on the campaign for land reform following the Irish Famine of 1845–1850, a painful period in Irish history. During the famine of 1845–1850, 30% of the island's population of 8 million disappeared. One million people died of starvation and disease, and another 1.5 million

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<sup>11</sup>Utilitarianism, the conventionalist theory, is the ethical theory of Jeremy Bentham (1748 – 1832), "An Introduction to the Principles of Morals and Legislation) and John Stuart Mill (1806 – 1873), On Liberty. Utilitarianism. The two thinkers considered that an action is good or right if happiness (pleasure) is maximized and suffering (pain) is minimized, for the greatest number of individuals. For utilitarians, the individual's goal becomes the supreme moral duty to himself to seek his own happiness and to facilitate happiness for other individuals. Unlike Aristotle, utilitarians stated that happiness means avoiding suffering and acquiring pleasure, based on the principle of the greatest happiness, namely that actions are right only when they produce happiness. An action is considered moral, according to them, even if the individual pursues his personal interests, if the general good also increases. An act worthy of condemnation is moral, if brings good to the majority. For example, with regard to business ethics, Kant showed that, in a situation where the businessman acts only in his own interests, the action is immoral. Utilitarians, on the other hand, show that in a situation where the businessman seeks to maximize his own income, and benefits are also produced for the employees of society as a whole, his actions are moral.

emigrated to the United States. The emigration trend lasted a century and resulted in a steady decline in the population until 1960 (Holohan C, O'Connell S, Savage RJ, 2021, p. 287). In 1881, the Land Act was passed, which led to the establishment of the Irish Land Commission, granting Irish tenant farmers three important principles: fair rent, freedom to sell, and strengthening the right to property. Further, the laws adopted favored tenants in the purchase of land through advantageous long-term loans for those who wanted to become owners of the land they leased.

Although important laws were adopted, the so-called legislative reform long desired by the Irish was achieved, their objective was the repeal of the Act of Union, local autonomy.

From January 1, 1801 to December 6, 1922, the island of Ireland was part of the United Kingdom of Great Britain. It was a period of great turmoil and attempts to break free from English rule and gain independence.

#### **IV. EXIT FROM THE UNITED KINGDOM**

Irish home rule was only possible through the passage of the Government of Ireland Act of 1914. The Act was postponed for the duration of World War I, but was overtaken by subsequent events, with the British responding harshly to the 1916 rebellion and the 1918 elections resulting in a landslide victory for Sinn Fein.

Sinn Fein MPs held the first sitting of the Dail Eireann in January 1919, approving the Declaration of Independence, adopting the Provisional Constitution and establishing a new judicial system. The British, of course, tried to suppress all these movements but were met with armed nationalist resistance in the War of Independence. Westminster, in an attempt to resolve the Irish question, passed the Government of Ireland Act 1920, which divided Ireland into Northern Ireland and Southern Ireland, each with its own parliament and both parliaments subject to the English Parliament. Both parliaments were also required to send members to Westminster. The Act reorganised the judicial system in each jurisdiction to include a High Court, a Court of Appeal and a High Court of Appeal for Ireland, which would hear appeals from the respective Courts of Appeal.

In 1921, an armistice was agreed with Great Britain. Peace negotiations followed, which culminated in the signing of the Irish Free State, with the clause renouncing Northern Ireland. Northern Ireland opted to remain part of the United Kingdom.

In 1922, the Constitution of the Republic of Ireland was adopted. It underwent numerous amendments until 1936. The oath of allegiance was eliminated, the right of appeal to the Privy Council was abolished, all references that included the Crown were removed, etc.

In 1937, a new constitution was drafted, subject to a referendum, and approved by the electorate. In broad terms, this constitution retained the 1922

## THE EFFECTS OF BRITISH COLONIALISM ON THE IRISH LAW OF SUCCESSION

constitution, but upheld the republican character of its chief architect, Eamon de Valera, by claiming sovereignty over Northern Ireland, establishing a president as head of state, and renaming the state Ireland. The Republic of Ireland Act 1948 completed the final break with Great Britain. This Act provided that the state would be the Republic of Ireland and withdrew it from the Commonwealth.

Today, Ireland's justice system is based on common law, with a constitution that makes the country function as a parliamentary democracy.

As for inheritance law today, it is governed by Irish law, mainly with influences from common law but also from statutory law. As in our law, the distribution of a deceased person's estate can be done by legal succession or testamentary succession.

Irish law provides protection for surviving spouses and children in inheritance cases, to ensure that they are not left without support.

Regarding testamentary succession in Ireland, citizens are free to draw up a will to determine how their assets will be distributed after death. As in Romanian law, the legislator imposes certain limitations, restrictions to ensure that certain family members will be supported even if the deceased intended to disinherit them.

For a will to be legally valid in Ireland, the testator must be of legal age, at least 18 years of age, and of sound mind. A will must be in writing, signed by the testator and two witnesses. Witnesses cannot be beneficiaries of the will as they may be disqualified from receiving donations. The will may include the manner of distribution of the estate, may appoint an executor who is responsible for administering the estate, and any other wishes of the testator. Irish succession law provides for compulsory inheritance rights for spouses and children, the institution of the reserve in Romanian law. According to the Succession Act 1965, even if a person wants to disinherit their spouse or children, they benefit from a share of the deceased's estate. Even if they are not included in the will, children, including adopted children, are entitled to a share of the deceased's estate.

In the event that a person dies without leaving a will, the estate will be distributed according to the rules set out in the Succession Act of 1965. The distribution of the deceased's estate depends on the deceased's relationship with the potential heirs.

In terms of the order of inheritance under current Irish law, the surviving spouse/partner will receive one-third of the estate if there are children. What remains is divided equally between the children. If there are no children, the surviving spouse/partner will receive two-thirds of the estate, and the remaining third is distributed among the parents if they are alive. If the parents of the deceased spouse are no longer alive, the remaining estate is distributed to other relatives, such as brothers and sisters.

If the deceased has no surviving spouse or children, the estate will be divided equally between the deceased's parents, and if one of the parents is

deceased, the other parent will inherit the entire estate. If both parents are deceased, the estate will be divided between the deceased's brothers and sisters, and if they are also absent, other heirs from the extended family, such as grandchildren and other relatives, come. If the deceased has no living relatives, the estate can be claimed by the state.

Even if the deceased left a will, the surviving spouse/partner is entitled to the deceased's inheritance. Likewise, children, including adopted children, will inherit a portion of the deceased parent's estate, even if the parent has tried to disinherit them. Children can seek compensation if the will does not adequately address their needs.

Like other countries, Ireland imposes an inheritance tax called Capital Acquisitions Tax, or CAT. This is paid by the beneficiaries of the estate, not by the estate itself.

In Ireland, the amount of inheritance tax is related to both the relationship between the deceased and the beneficiaries and the value of the inheritance.

Children, including adopted children, do not pay tax if their inheritance does not exceed 335,000 euros. Grandchildren, brothers and sisters will not pay tax if their inheritance does not exceed 32,000 euros, and friends and more distant relatives do not pay tax if they inherit up to 16,250 euros.

All inheritances exceeding these thresholds are taxed, starting in 2025, at 33% applied to the value exceeding the threshold.

The surviving spouse/partner is exempt from paying inheritance tax regardless of the amount.

We note that Irish succession laws allow the testator to distribute his or her estate during his or her lifetime, subject to any limitations imposed by the state to provide for the surviving spouse/partner and children. Clear laws have been enacted through the Succession Act 1965 and related laws setting out the rules by which an intestate estate will be divided. Inheritance taxes are also set out, with exemptions and thresholds depending on the relationship between the deceased and the heirs.

## **CONCLUSION**

*Although Ireland had been invaded and colonized for centuries, the Irish could not accept the idea of foreign domination. The Irish were not only fierce patriots but also bearers of sacred traditions. Patriotism and sacred traditions have strengthened over time the spirit of this determined and courageous people.*

*Colonization radically changed the history of the Irish.*

*As early as the 5th century AD, the Celts conquered Ireland, and the Celtic language, culture, and way of life survived for centuries. This was followed by the Vikings, who founded important cities in Ireland, such as Dublin, Waterford, and Limerick, and later by the Normans from England, who helped an Irish king and eventually settled and took control.*

## THE EFFECTS OF BRITISH COLONIALISM ON THE IRISH LAW OF SUCCESSION

*They were converted to Christianity in the 5th century, mainly thanks to St. Patrick.*

*The story of how English law spread to Ireland and how it replaced the ancient Celtic traditions, which were still found in the Brehon Laws, is a truly fascinating historical journey.*

*The Brehon Laws, the early legal system of Ireland, was a sophisticated system that dealt with what we today consider crimes, in a manner similar to tort law. It was a civil legal system, with no criminal law (John Biggins, 2024, pp. 24–27).*

*After Henry VIII's decision to break with the Catholic Church and establish the Church of England, the religious division between Ireland and England deepened. The division fueled centuries of conflict between Irish Catholics and the English government, with the monarchy's encouragement of Protestant rule becoming a major issue in Irish politics.*

*Ethnic and religious conflicts between displaced Catholics and settlers deeply and continuously divided Protestants and Catholics in Ireland.*

*After James II, a staunch Catholic, ascended to the throne in 1685, the Irish began to hope because the king strengthened the positions of the great landowners and aristocrats. Hopes were dashed very early, in 1688, when William of Orange, a Dutch monarch and a staunch supporter of Protestantism, ascended to the throne. The times that followed were harsh, with the indigenous population constantly harassed and humiliated.*

*All these events and many others that followed, could not defeat the resistance of the Irish people who were moving from one phase of resistance to another. They founded secret societies and several revolutionary organizations, such as the Defenders, the Threshers, the United Irishmen, the Little St. Patrick's or the Hearts of Steel. The Little St. Patrick's was one of the most powerful secret societies.*

*The culmination of the tragedy of this stubborn people was the Great Famine of 1847, when the potato, the staple food of the population, was contaminated. This led to the death of a million people and the expulsion of others from the country.*

*The result of colonization from the 12th to 18th centuries was the adoption of repressive anti-Catholic laws, the indigenous population being completely deprived of their own lands (, the Protestants being the ones who represented the new ruling class. As a rule, they were originally from Scotland and England. Irish peasants received as rent the estates in Ireland that belonged to the landowners who lived in Britain, having long-term prohibitions on buying or selling them. Their rents were so high that they lived in conditions of extreme poverty, and the disappearance of food hit hard on simple people, workers and peasants.*

*At the beginning of the 19th century, Ireland became the source of enrichment for the English commercial aristocracy because it had become the raw material for the development of English industry.*

*Many and difficult are the events that the Irish have had to face over the centuries. They have had to submit to laws that did not belong to them, the Brehon laws being constantly removed until their abolition, they have been subject to repressive laws that imposed numerous prohibitions on them, but they have fought, they have suffered, they have been stubborn in their continuous struggle for independence and, in the end, they have ended relations with the British monarchy, they have regained their identity and independence.*

#### **BIBLIOGRAFIE**

1. John Baker, Oxford History of the Laws of England, vol. VI: 1483 – 1558, Oxford: Oxford University Press, 2003;
2. Geoffrey Joseph Hand, English Law in Ireland, 1290 – 1324, Dublin: Cambridge University Press, 1967;
3. John Biggins, AFTERLIVES OF THE BREHON LAWS, History Ireland, vol. 32, no. 4 JULY/AUGUST, Wordwell Ltd, 2024, <https://www.jstor.org/stable/27390332>;
4. Connor Mac Hale, Annals of the Clan Egan, Westprint Ltd, Enniscrone, 1990;
5. Holohan C, O'Connell S, Savage RJ., Rediscovering poverty: moneylending in the Republic of Ireland in the 1960s. Irish Historical Studies. 2021;45(168):282-302. doi:10.1017/ih.2021.56;
6. Fitzpatrick R. Catholic inheritance under the penal laws in Ireland. Irish Historical Studies. 2020;44(166):224-247. doi:10.1017/ih.2020.41;
7. Curtin M, Murphy C, Woods U, Cross C. The legacy of history: women and the ownership of land in Ireland. Rural History. 2025;36(2):337-350. doi:10.1017/S0956793325000032;
8. Walsh, R., & Fox O'Mahony, L. (2018). Land law, property ideologies and the British–Irish relationship. Common Law World Review, 47(1), 7-34. <https://doi.org/10.1177/1473779518773641>.



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