

## Emerging from the Bushes: the Welsh Law of Women in the Legal Triads

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*The Welsh law of women*, published in 1980, was a groundbreaking work in many ways.<sup>1</sup> It was the first full study of an individual tractate of Welsh law, and the first in a series of such studies.<sup>2</sup> Each book brought together the latest research in the field of Welsh law, and presented up-to-date texts with translations for different versions of the tractates. *The Welsh law of women* is the standard work on the subject, and the first point of reference for anyone wishing to look at women in medieval Wales.

Far-reaching as the book is, the volume is a study of the law of women tractate in the Welsh laws, rather than a study of women in the whole corpus of Welsh law. This is an obvious and sensible way of approaching the subject: the lawyers organized their material into separate sections, and the tractate was intended to be the discussion on women in the laws. However, the laws were not a solid, static thing (much as the lawyers may have wished it to be so), but developed over time. New material was added, older parts became obsolete, and the rules would have been changed according to custom or usefulness.<sup>3</sup> There does not seem to be much development in the law of women tractate, although the law did keep developing. However, material could be added to the Welsh legal tractates in different ways. Sometimes additional laws or information would be added at the end of a tractate: an example of this is the additional material found at the end of the *galanas* section of the three columns tractate.<sup>4</sup> Alternatively, a tail of material would

be added, taken from other redactions of the laws or material in certain forms; this method has been much discussed in the context of fifteenth-century Welsh legal compilations.<sup>5</sup> This additional material would often be in the form of triads, or in the case of the Iorwerth redaction, as *dannwinniau*.<sup>6</sup> Aneurin Owen's second volume of *Ancient laws and institutes of Wales*, which he subtitled the 'anomalous laws', is mainly additional material, not found in the main tractates of Welsh law.<sup>7</sup> Studies of certain genres of the additional material do exist.<sup>8</sup> Therefore, a more complete study of the Welsh law of women tractate needs to take into account the additional material on women found within other tractates of the law – for example, the text discussing the queen's rights and responsibilities in the law of court, and material within the *dannwinniau*, and in the legal triads, which is the focus of this paper.

This paper will concentrate on a selection of triads relating to the Welsh law of women from the legal manuscripts. The legal triad collections are exactly that – collections of triads useful to the medieval Welsh lawyers, the connection between every triad in the collection being Welsh law. Welsh law, however, is a huge subject, and so classifying the triads in the collections according to subject is no easy matter (especially as some triads combine three separate areas of law), although 'runs' of triads on the same topic often occur.

There are four redactions, or groups, of Welsh law manuscripts, each demonstrating differences and regional variation, although many of the same tractates occur in each of the redactions. The Latin manuscripts are the loosest grouping of the four redactions, although the five Latin versions are linked to each other, and there are similarities between the Latin laws and the Welsh redactions. Of the three Welsh groups, Cyfnerth probably retains the earliest version of the Welsh laws, although most of the manuscripts are fourteenth-century in date; the material is probably older than the manuscripts.<sup>9</sup> The Blegywryd redaction, a translation of a version of Latin D, like Cyfnerth, derives from south Wales and is the latest of the three groups, as well as the largest.<sup>10</sup> Iorwerth could be classed as the north Wales redaction,

1 D. Jenkins and M.E. Owen (eds), *The Welsh law of women* (Cardiff: University of Wales Press, 1980) [MLM]. 2 The other studies are T.M. Charles-Edwards, M.E. Owen, and D.B. Walters (eds), *Laws and laymen* (Cardiff: University of Wales Press, 1980); T.M. Charles-Edwards, M.E. Owen, and P. Russell (eds), *The Welsh king and his court* (Cardiff: University of Wales Press, 2000) [MKC]. A fourth study on the three columns of law will appear in 2008. 3 For example, the laws of court in Welsh law became obsolete fairly early on, and by the fifteenth-century they were not copied into the lawbooks. MKC, pp. 15–16. 4 S.J. Williams and J.E. Powell (eds), *Llyfr Blegywryd* (Cardiff: University of Wales Press, 1942), p. 31 [Bleg]; the practice is more common in Iorwerth; see A.Rh. William (ed.), *Llyfr Iorwerth* (Cardiff: University of Wales Press, 1960) [Ior], for the 'miscellaneous'

sections throughout the list of contents, pp. xliii–xliiv. 5 For example, see A.Rh. William, 'Y deddfegronau Cymraeg', *National Library of Wales Journal* 8 (1953), 97–103, for a discussion on these later manuscripts with tails of additional material. 6 For the *dannwinniau*, see D. Jenkins (ed.), *Dannwinniau Colan* (Aberystwyth: Cymdeithas Lyfrau Ceredigion, 1973). 7 A. Owen (ed.), *Ancient Laws and Institutes of Wales*, 2 vols (London: Record Commission, 1841). 8 T.M. Charles-Edwards, 'Cyghawsedd: counting and pleading in medieval Welsh law', *Bulletin of the Board of Celtic Studies* 33 (1984), 188–98; R. C. Stacey, 'Learning to plead in medieval Welsh law', *Studia Celtica* 38 (2004), 107–23; *Dannwinniau Colan*, S.E. Roberts, 'Plaints in mediæval Welsh law', *Journal of Celtic Studies* 4 (2004), 219–61; and S.E. Roberts, *The legal triads of mediæval Wales* (Cardiff: University of Wales Press, 2007) [LT]. 9 For an edited text and discussion of the Cyfnerth manuscripts, see A. W. Wade-Evans, *Welsh Mediæval law* (Oxford: Clarendon Press, 1909; repr. Aden: Scientia, 1979) [Cyfn]. 10 The relationship between Latin D and Bleg are discussed by H. D. Emanuel, 'Llyfr Blegywryd a

containing the earliest manuscripts, although the law seems to reflect the legal situation in Gwynedd during the time of Llywelyn the Great.<sup>11</sup> For this study, the spotlight will not be on Iorwerth, as the Iorwerth manuscripts do not contain a large collection of triads, but only triads within the tractates.<sup>12</sup> The Bleg and Cyfn manuscripts, however, do contain large triad collections, with some of the Cyfn manuscripts showing a core collection, contained within the larger Bleg collection.<sup>13</sup> All but two of the triads (Q118 and Q119) from the triad collection studied here all occur in both Cyfn and Bleg, and they occur in the core collection in Cyfn, thus taken into Bleg. Their content is usually the same, with the occasional change in wording, with no notable additions or omissions. The Bleg text from Q will be used here.<sup>14</sup>

The development of the triad collections is a complex subject, and has been discussed more fully elsewhere,<sup>15</sup> but a quick summary may be useful here. It does not seem that one person set out to compose triads in bulk, creating the Bleg collection of over a hundred triads; indeed, the triad collection is unlikely to have been composed as a collection, with over a hundred triads composed in one sitting. This is also true of most of the tractates – several layers of development can be seen within most tractates of Welsh law, and additions and emendations were made over the course of time. Triad collections probably originated as mnemonic aids, of practical use to the lawyers as a ready-reference to the main points of Welsh law. A large collection is found in all Cyfnerth and Blegywyrd redaction manuscripts.<sup>16</sup> The triad collections can be classed as a separate tractate in the laws in their own right. The Iorwerth manuscripts have a very small collection of a dozen or so triads, but it is more common to see a large collection of *damwainian* in manuscripts of that redaction.<sup>17</sup> With the triad collections, it is more likely that a small group was gathered early on – this can be seen in the Iorwerth texts<sup>18</sup> – and then added to with time, drawing together triads from oral tradition, and later from other parts of the lawbooks, to create what became eventually a large collection.<sup>19</sup> By the time of the Cyfnerth manuscripts, there was a 'core' collection of triads on various subjects, which found their way in bulk, often keeping the same order, into the Bleg collection which is much larger.<sup>20</sup>

Lawysgrif Rawlinson 821', *Bulletin of the Board of Celtic Studies*, 29 (1962-4), 23-8, and he published the text in H.D. Emmanuel (ed.), *The Latin texts of the Welsh laws* (Cardiff: University of Wales Press, 1967) [LTWL]. 11 LT, pp 2-3. 12 The short Ior collection of eleven triads focuses on status and the laws of court, and there are no triads on the law of women within this group. 13 LT, p. 22. 14 The rationale for using manuscript Q, NLW Wymstey 36, is set out in LT, p. ix. 15 LT, pp 15-30. 16 LT, pp 1-3. 17 I intend to discuss this material more fully elsewhere in an article on the Iorwerth triads. 18 Ior, §42. 19 LT, p. 27. 20 LT, pp 22 and 24.

Important evidence on the growth of the triad collections is found in Latin D. The surviving Latin D manuscript contains a text similar to that found in the Bleg manuscripts – the Bleg manuscripts were a translation of a Latin D text – but it is not the exact text translated into Welsh to become Blegywyrd, and it is more likely to be a branch from the same stem.<sup>21</sup> In Latin D, there are two large triad collections: the Cyfn core collection (slightly adapted), and another collection of triads mainly focusing on procedure.<sup>22</sup> These two triad collections were combined and became the one large triad collection in the Bleg manuscripts.<sup>23</sup> So, in the case of legal procedure, there was a collection of triads all focusing on the same subject. This is not true in the case of the law of women, and the triads on the law of women are found scattered throughout the Cyfn core collection in Latin D. Crucially, we can see the process of creating the triad collection happening, by the combination of two blocks of triads. It happened sometime between the compilation of the surviving Latin D manuscript and the first Bleg manuscript: in the surviving Latin D manuscript, the triads are found at the end of the tractate on the duties and responsibilities of a justice, as a collection of procedural triads, but appended to a relevant section of text.<sup>24</sup>

Triads were often inserted at relevant points into the main tractates of Welsh law, and this is true of both the Bleg and the Cyfn law of women tractate.<sup>25</sup> There are three triads found in the Bleg women tractate, but the Cyfn manuscripts show more variation: X, Mk, W and Z have the same two triads: one is the same as Q232 and is in the same position in the tractate, and the other is the same as Q119, found in the triad collection in Bleg. Z, Mk and W have the same third triad in the women tractate, and it is the same as Q234; these three Cyfn manuscripts are often closer to Bleg. Manuscript V is no longer complete; parts of the law of women tractate are missing, and there are no triads in the surviving portion. Manuscript U has a tractate unlike any of the other Cyfn manuscripts and it contains no triads.<sup>26</sup> As the Bleg manuscripts are more stable in terms of content and form where triads are concerned, this study will focus on the Bleg triads, with reference to Cyfnerth where applicable.

In some tractates of Welsh law, short collections of triads are found together, e.g. the land law tractate. In the law of women in Bleg, two of the

21 LT, pp 26-9. 22 LT, pp 26-7. 23 LT, p. 27. 24 LTWL, p. 349: 'the diversis iudicibus' and the triads are found on pp 354-7. 25 Several of the Iorwerth triads in the Ior women tractate are unique to Ior, and none occur in the women tractate in Bleg and Cyfn, or in the main triad collections in those redactions, but most Iorwerth triads turn up in fifteenth-century extended Bleg manuscripts. One of the seven Iorwerth triads in the women tractate is incorporated into the extended triad collection in manuscript Q, from the fifteenth century, in an extended form, although the concept is found in another triad in the main Bleg collection. There seems to be very little contact between the Iorwerth triads and the main Bleg collection, as they only occur in later Bleg manuscripts, if at all. 26 WLV, pp 132-4.

triads are consecutive, both discussing payments due to women. They follow other references to payments due to women, and so summarize points made in the surrounding text.<sup>27</sup> It is also interesting that there are only three triads in the Bleg tractate; triads are common in Welsh legal tractates. Three is a relatively low number: for example, in the short text on justice and justiceship, there are ten triads, and there is a small collection of triads grouped together after the tractate on land law.<sup>28</sup> It could equally be argued that the number of triads on land law and the justice is unusually high, but the actual nature of the triads in the Bleg women tractate makes the low number interesting.

Two of the three triads could be called 'procedural' triads: Q233 and Q234 give certain legal situations which can be divided into three – in other words, one legal situation is divided into three stages rather than having a triad combining three different ideas or circumstances. It could be said that these two triads are purely mnemonic, for easy recollection of the procedures.

Q233. *Teir gŵeith y keiff gŵreic y hŵyneberth: yn gynaf 6heugint, yr eil 6eith punt, y tryded 6eith y dichadn adaf y gŵr, a mynet a' e holl dylvet genthi, ac os diodet hi dros y tryded 6eith, ny cheiff hi y hŵyneberth.*

Three times a woman receives her *wyneberth*: the first time six score, the second time a pound, the third time she may leave her husband and go with all of her entitlement with her, and if she suffers beyond the third time, she does not receive her *wyneberth*.

Q233, on paying *wyneberth* compensation to a woman, has one situation – the woman is owed compensation – but three different results or procedures to follow, with the *wyneberth* payment increasing each time her husband causes her an insult. The lawyer would need to remember the three increases, but otherwise there is only one situation in the triad – *wyneberth* is due.

Q234. *Tri llŵg a dryr gŵreic y gr: pan enllipper gynaf, llŵg seith graged, ac yr eil enllip, llŵg pedeur gŵraged ar dec, a'r trydyd enllip, llŵg deg graged a deu vgeint, o byd neb ryŵg hyspysrŵyd ar yr enllip.*

Three oaths a wife is to give to her husband: when first accused, she is to give the oath of seven women, upon the second accusation, the oaths of fourteen women, upon the third, the oaths of fifty women, if there be any certainty behind the accusation.

<sup>27</sup> Bleg, pp 78.24–80.6; for the three triads in the women tractate, see *LT*, Q232, Q233 and Q234.

<sup>28</sup> Bleg, pp 98.28–105.17; 78.24–80.6.

Q234, on the three oaths a woman may give to her husband, is 'functional' – the number of women needed to support the oath increases each time, and so the lawyer would need to memorize the number of women with two increases, but the situation again stays the same. This does not tell us anything about the situation or status of women in the Welsh laws. The triad is functional in that it would be extremely useful to a medieval lawyer needing to know off pat the number of women needed to support an oath. The triad does not contain surprising information – each time a woman needs to swear an oath, the number of supporting women increases.

The other triad in the women tractate in Bleg, however, is more interesting. It is the first triad in that tractate, and it also occurs in *Cyfn* in a similar place, which suggests that the triad was part of the women tractate from an early stage, at least from the time of *Cyfn*, the oldest redaction, and it may be part of the original material on women in the Welsh laws.<sup>29</sup>

Q232. *O tri achafis ny chyll gŵreic y heggedi kyf adafŵ y gŵr: o glafri, ac o eissey kyf, a dryc anadyf.*

For three reasons a woman does not lose her *agweddi*, although she leaves her husband: for leprosy, and for want of intercourse, and for bad breath.

The triad is on *agweddi*, a share of the matrimonial property, decided when a couple first got married, which went to the wife if her husband left her before seven years of marriage; it was a sort of insurance payment for a woman who was left by her husband.<sup>30</sup> The triad gives the three situations where a woman is paid her *agweddi*, although she herself leaves her husband. Normally, if a woman left her husband of her own accord, she would not receive her *agweddi*, but the three cases given in the triad are just causes for leaving a husband. They are impotence, leprosy and bad breath. The first would have serious consequences, as the main reason for marriage was to produce offspring. Leprosy was viewed as dangerous and contagious (so the woman would probably be reluctant to attempt intercourse), and meant that the man would not survive and would be unlikely to father children. The last case may seem surprising, but may again have a link to impotence: apart from making sexual intercourse unpleasant, bad breath could be an indicator of more serious disease, such as a respiratory infection, kidney or liver disease and untreated diabetes, all incurable in the middle ages. However, Fergus Kelly notes that the Irish triads often have a punchline or humorous third item; this triad may be an example of medieval humour.<sup>31</sup>

<sup>29</sup> *LT*, Q232, Xo. 30 *WLN*, pp 187–8. 31 F. Kelly, 'Thinking in threes: the triad in early Irish literature', *Proceedings of the British Academy* 125 (2003), 1–18 at 10–12.

Turning to the triad collection in Bleg, there are several triads on the subject of the law of women, and other triads discuss the related subjects of children and inheritance. These latter triads are particularly interesting as there is no separate tractate on children and inheritance in the Bleg texts; material on children is found as a short tractate in the *Iorwerth* manuscripts, so the triads are supplying the material on children in the Bleg texts.<sup>32</sup> There are many triads on the subject of women in the Bleg triad collection, and this may be telling, given that there are only three triads within the women tractate: there seems to be an interest in the law of women in the triads.

Eight triads in the Bleg stand out as discussing only the law of women. Although the triads in the main Bleg collection appear to be a jumble, there are attempts at ordering the triads by subject, a system also found in the *Cyfn* triad collections and probably reflecting the triads' original purpose as mnemonics.<sup>33</sup> Often, there are contrasting pairs, or sets of triads which belong together; occasionally, there are groups of consecutive triads on the same subject.<sup>34</sup> The triads I will be discussing are numbered according to the order in which they appear in manuscript Q (the order is the same in all of the Bleg manuscripts) and the numbering of the triads shows that several of them, on the law of women, are consecutive, so this supports the idea of subject-grouping within the triad collection.

The first triad which deserves attention does not at first glance appear to be discussing women, but rather sons and inheritance – Q71 is the first in a short run of triads on the law of women, on the three women whose sons are entitled to the inheritance of their mother; but there is an attempt to put the situation from the women's point of view, as the triad lists the three women, rather than the three sons.<sup>35</sup> The opening words are different in *Cyfn*, and it may have been adapted by the time of Bleg to reflect the true content of the triad – the law of women, rather than sons and inheritance.<sup>36</sup>

Q71. Teir gŵraged a dyly eu meibon tref eu mam: gŵreic a rother tros y that yng gŵysyl, a chaffel mab ohonei yn y gŵysyloryaeth; a gŵreic a rother o rod kenedyl y allhur; a gŵreic a lather gŵr o'e chenedyl, a dial o'e mab hŵmŵ, ny dylyr y oedi am tref y vam, nac aros nauctdyd yn y etbyn.

Three women whose sons are entitled to the inheritance of their mother: a woman who is given as a hostage on behalf of her father, and she has a son during that hostageship; and a woman who is given by gift of kin to an alien; and a woman from whose kindred a man is killed, and her son avenges him, there should be no delaying him concerning the inheritance of his mother, nor waiting until the ninth day to receive it.

Women were not entitled to hold land in Welsh law, and they ordinarily would not have land to pass on, so the situation in this triad is highly unusual.<sup>37</sup> However, there are good reasons why the sons would receive land through the mother's side. It becomes clear that the three men would not be entitled to land through their fathers according to Welsh law, since two appear to be the sons of aliens (non-Welshmen) – and aliens, like women, had no right to land.<sup>38</sup> Anyone who did not have Welsh status was in a bad situation in Welsh law, but the two men in this triad have alien fathers as their mothers were not treated carefully enough by their own kindred: in the case of a woman given by gift of kin in marriage to an alien, her own kindred put her in a situation where her sons would not be able to inherit land, and therefore this triad makes provision for a son whose grandparents and relatives might have set up for problems by choosing a husband unwisely for a kinswoman.

It is not clear in the second case, that of a woman given as a hostage having a son whilst being kept hostage, whether the father of her son was an alien, but it seems to be implied, as, according to Welsh law, the status of the union is of no consequence as long as the father acknowledges his own sons.<sup>39</sup> Therefore, for a son to have no inheritance, it seems that his father was also an alien. There is an implication that the woman was raped while a hostage, or else she has taken matters into her own hands and has become pregnant with one of her captors. Either way, her kindred were foolish to give a woman of marriageable age as a hostage, possibly ruining her chances of securing a good union. If it was rape, then they had rendered her and themselves vulnerable in a situation where sexual vulnerability is coincident with political vulnerability.

The third case in the triad, the son who avenges a killing from his mother's kindred, would lose his patrimony as a punishment for taking revenge, killing another. This may be in the context of the other two limbs in the triad, and that the boy's father was an alien, but in that case he would have a claim as he would be defending the kindred of his mother. Alternatively, the killer may have come from his father's kindred, and the son has then put his paternal inheritance at risk by defending his mother's kindred against his father's. Either way, according to this triad, he has lost his inheritance through his own kindred, his father's side, but the law reverts to his mother's kindred. It is unclear why, perhaps showing loyalty to his mother's kindred was considered to be a positive thing, even though his mother was no longer part of that kin-group. In any other situation of revenge, the person committing the act of revenge would lose his patrimony;

32 *Ior*, §§97–103. 33 *LT*, p. 10. 34 *LT*, pp 10–11. 35 *LT*, Q71. 36 *LT*, X30.

37 *Ior*, §86/1. 38 D. Jenkins, *Hywel Dda: the law* (Llandysul: Gwasg Gomer, 1986), pp 114–22. 39 Jenkins, *Hywel Dda: the law*, pp 135–7.

the only situation where this would not be the case would be where compensation had not been received – according to Welsh law someone was either entitled to compensation (preferable) or could take revenge (worst-case scenario).<sup>40</sup> Each of these cases is interesting, as they tell us a fair amount about the status of women. It appears that they had no say in their marriages, and were at the mercy of their families – if the family gave a woman away to an alien, or seemingly ruined her chances at a decent match, there was not a great deal she could do about it. However, according to this triad, the sons' inheritance would be safeguarded.

The next triad in the group of four on women in the Bleg triad collection is on the three *sarhaed* of a woman, or the three cases where a woman would receive the *sarhaed* payment, compensation for an insult or a deliberate act.<sup>41</sup>

Q24. Teir sarhaet gŵreic ynt, vn a drycheif, ac vn a ostŵg, ac vn yssyd sarhaet gŵbyl: kynraf yŵ bot genthî o'e hannud, a honno gan vn drychafel y telir idi. Yr eil yŵ rodi cussan idi o'e hannud, a honno a ostŵg, y trayan a vyd eisseu idi. Trydyd yŵ y phaluo o'e hannud, a honno yssyd sarhaet gŵbyl idi, ac os gŵryaŵc vyd, herŵyd breint y gŵr y telir idi.

These are the three *sarhaed*s of a woman, one which is augmented, one which is decreased, and one which is complete *sarhaed*: the first is to have intercourse with her against her will, and that is paid to her with one augmentation. The second is to give her a kiss against her will, and that is decreased, a third is lacking from it. The third is to grope her against her will, and that is complete *sarhaed* to her; and if she is married, it is paid to her according to the status of her husband.

In most of the Bleg manuscripts, this triad would be found in the triad collection, but manuscript Q has re-edited the text and moved the triad, along with others, into the three columns of law tractate, dealing with *galanas* (the homicide payment) and the accompanying *sarhaed* payment.<sup>42</sup> Ordinarily, it would fit between Q71 and Q72 in the Bleg collection. According to the law of women, the husband would receive the *sarhaed* compensation on behalf of his wife – she was treated as part of her husband's property.<sup>43</sup> However, this triad shows a different situation – the woman herself receives the payment in these instances. There is a crucial element – the woman is unwilling according to the triad, and kissing, groping or raping her is an assault on her body. In the main tractate in Bleg, the situation is that

the woman was a participant in these three cases, and so it would be an insult to her husband, but as she is unwilling in the triad, she has some rights over her own body. The *sarhaed* is increased or decreased according to the seriousness: having sexual intercourse with her against her will is the basic *sarhaed* payment plus an increase; groping her against her will (the word *palfu* implies some violence and roughness, with an element of internal groping, rather than simply touching inappropriately)<sup>44</sup> is full *sarhaed*, and kissing her against her will would be worth less than her full *sarhaed*. The triad is giving us a situation which is not prominent in the women tractate in Bleg, and in the triad the woman has some bodily integrity if attacked.

The next triad, Q72, takes this concept further.

Q72. Tri cheydid kenedyl ynt ac o achawg gŵreic y maent: llathrudraŵ o'e hannud; eil yŵ dŵyn o'r gŵr gŵreic arall ar y pen y'r ty; trydyd yŵ y hyspellaŵ.

These are the three shames of a kindred and they are because of a woman: abducting her against her will; the second is if her husband brings another woman to the house to encounter her; the third is to despoil her.

The three shames of a kindred makes the offences or attacks against a woman serious to the whole kin group, and although it is still paternalistic, it shows a sense of responsibility towards women not found in the women tractate in the redactions – the whole kindred should feel responsible, and if a woman was injured or treated badly, they would all be party to the shame.<sup>45</sup> However, the basis for this responsibility may be financial – 'damage' to a woman could cost a kindred – and so selfish, rather than sensitivity to her feelings.<sup>46</sup> Two of the three incidents listed in the triad are direct attacks: abducting her (presumably for some sexual gratification later), and despoiling her; *ysbeilio* is a strange word to use in this context and it is used in all versions of the triad. In the earlier Welsh examples of *ysbeilio* in GPC, it can mean to strip someone of their clothes, and this is supported by the *Oxford English dictionary*, 'despoil'.<sup>47</sup> In the triad it may simply mean stripping a woman of her clothing, or it may have a wider meaning of taking something violently from the woman – a *sarhaed* to the queen, according to the laws of court.<sup>48</sup> The use of *ysbeilio* for rape is not found, although it may

<sup>40</sup> LT, p. 249. <sup>41</sup> LT, Q24; see also the note for X31. <sup>42</sup> LT, p. 32. <sup>43</sup> M.E. Owen, 'Shame and reparation: woman's place in the kin' in *WLN*, pp. 40–68 at 53.

<sup>44</sup> *Ceridiadur Pŷfysgol Gymru* (Cardiff: University of Wales Press, 1967–2002), p. 2673, s.v. *palfulaf; palfulu, palfula, palfulad*. [GPC] <sup>45</sup> LT, Q72, and see the note on X33. <sup>46</sup> K.M. Phillips, 'Written on the body: reading rape from the twelfth to fifteenth centuries' in N.J. Mennige (ed.), *Medieval women and the law* (Woodbridge: Boydell Press, 2000), pp. 125–44 at 142–4. <sup>47</sup> GPC, pp. 3822–3, s.v. *ysbeilio*?. <sup>48</sup> LT, Q3.

mean something similar here, and a sense of violence is strongly implied in the word.<sup>49</sup>

The third item in the triad is when her husband takes a new wife, while still married to the original woman, and the two women meet. This is, unsurprisingly, quite shameful to the woman, but again implies that the whole kindred should be protective and ensure that the man does not do things which would harm her; it seems that marriage is not such a private matter when it comes to personal shame or injury in Welsh law. In another triad, the woman would be allowed to kill the new woman without consequences.<sup>50</sup>

There is an element of humour in the next triad, although the legal concept found within it is sophisticated.<sup>51</sup>

Q73. Tri chadarn enllip gofreic ynt: vn y6 g6elet y g6r ar greic yn dyuot o'r vn ll6yn vn o pop parth y'r ll6yn, eil y6 eu kaffel ell deu dan vn vantell, trydyd y6 g6elet y g6r r6g deu nord6yt y 6reic.

These are the three strong scandals of a woman: one is seeing the man and the woman emerging from the same bush one on either side of the bush, the second is finding them both under one blanket, the third is seeing the man between the two thighs of the woman.

*Enllb* in the modern sense means 'slander', and the word is not attested in the laws outside of this triad. The triad gives the three cases where the woman can be accused of adultery, and in each of the three, it is pretty clear what has been happening; even though actual adultery was not witnessed. This triad is presenting situations where the court could act on a presumption that adultery had taken place, short of direct evidence (such as confession or eye-witness testimony). This triad is setting out a concept not found elsewhere in Welsh law, showing that Welsh law was not only a system reaching conclusions based on direct evidence, but a system which could also reach a conclusion, in appropriate circumstances, from evidence that strictly speaking falls short of full proof of adultery but which it is unlikely to be unjust to rely upon.

On the whole, the Welsh law of evidence is pretty mysterious, the problem being due in no small part to the lack of surviving evidence on the Welsh laws in actual practice. In short, the lawbooks tell us about oaths, which were the main way of proving anything in Welsh law, as in other legal systems from the same period.<sup>52</sup> Dafydd Jenkins, in his discussion on this

<sup>49</sup> *LT*, p. 257. <sup>50</sup> *LT*, Q106, and see the discussion, above. <sup>51</sup> *LT*, Q73. <sup>52</sup> D. Jenkins, *Cyfraith Hywel* (Llandysul: Gwasg Gomer, 1976), p. 101.

aspect of Welsh law, contrasts the situation today, where an oath in court would be for giving evidence, rather than being used to support someone else's oath. The number of people giving oaths, and the type of oath given, could vary according to the situation or the need.<sup>53</sup> However, this depends on the case getting to the court in the first place – a different type of evidence perhaps to that needed to accuse a person and bring forward a legal case. It seems that any legal case in medieval Wales would open with a plaintiff to the lord or king, a legal statement setting out the situation and making clear that someone has committed a wrongdoing, and how the victim has suffered and what is expected as a result.<sup>54</sup> In that case, it is assumed that there are witnesses who can give evidence to prove that the situation, as set out in the plaintiff, is true. Welsh law details different witnesses: the nine tongued-ones, a list of nine people whose evidence, in certain situations, would be believed over any other evidence.<sup>55</sup> Then there are the two basic types of witnesses, the *ceidwaid* 'maintainers', who would maintain someone's claim to something, and the *gwybyddiaid* 'knowers', actual eyewitnesses.<sup>56</sup> These witnesses are most often seen in discussions on land law and property law in medieval Wales. The witnesses and those making an oath in a court would be swearing that what they saw – or what another person had said – was actually true.<sup>57</sup> What the lawbooks do not tell us, however, is how people would get to that stage – naturally someone had to see something, and be willing to swear as to the truth of it.

This triad gives us one further stage into the process by telling us the nature of what had to be seen. In cases of adultery, the witness would need to see certain things for the evidence to be strong enough to take a case to court (or settle the matter in another way) – and the three strong scandals in the triad seem to be the three clear cases where a woman can be accused of adultery; because she has been seen in a situation which would make it hard for her to deny that she was having intercourse with a man other than her husband. So, in this triad, we have some signs as to how the law would be used and the evidence needed to bring a case against a woman. Although the triad may seem simplistic, there is sophisticated legal thinking behind it, and the short triad is an important part of the material on the actual practice of law in medieval Wales.

Following this triad, there are more on the subject of children and inheritance, and claiming or rejecting children of doubtful parentage; the subject of children or sons, in particular, is closely related to the law of women, and it maintains the subject grouping found within the triad

<sup>53</sup> *Ibid.*, p. 101. <sup>54</sup> Roberts, 'Plaints in mediaeval Welsh law', 220–1. <sup>55</sup> Jenkins, *Cyfraith Hywel*, p. 102. <sup>56</sup> *Ibid.*, 103–4. <sup>57</sup> Thomas Glyn Watkin, *The legal history of Wales* (Cardiff: University of Wales Press, 2007), p. 74.

