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Old Frisian and Anglo-Saxon Legal Texts. A Stylistic Comparison

Abstract

The main focus of the paper is to deliver the linguistic and lexical comparison of fragments of Germanic legal corpus; Anglo-Saxon legal texts: *The Laws of Alfred and Ine*, and Old Frisian: *Seventeen statutes* and *Twenty-four land laws* from *First Riustring Codex*. These two groups of texts provide certain legal limitations, however are of slightly different structure. Old Frisian laws are, most of the time, the result of analysis of individual cases which are later on generalized, whereas Anglo-Saxon legal codes are of more organized form, prepared for promulgation by one authority. The paper contrasts the lexical choices done by the scribes, especially the level of formality of the language, structures of the sentences, whether they are organized in a dialog or prescriptive vs. proscriptive form, as well as the sophistication and abstractness of the words and phrases. Furthermore, the styles of the texts are compared and analyzed with the main focus on the usage of the different text types. Thus, the presence of the descriptive, narrative or argumentative elements in the texts is taken into consideration while presenting the differences and similarities between them. The paper aims at showing the variety of stylistic methods used within the same Germanic linguistic culture, as far as legal texts are concerned.

Keywords: lexical and stylistic abstractness, asyndetic coordination, syndetic coordination, sanction clauses

1. Introduction

At the time of Germanic settlement of Britain, all the tribes already had well developed legal systems, which were based on the spoken tradition passed from generation to generation. However, it was not until the adoption of Christianity, the growth of the royal administration and the disappearance of the tribal structures, that the majority of those legal customs were written down.

With the codification of law, certain differences between the acts appeared too. The first and major difference between these two written legal traditions is that the Anglo-Saxon laws, being a kind of king's enactments, clarified matters in order to create a single authoritative source, leaving aside the matters of family inheritance or other customary laws, whereas, Old Frisian manuscripts had their origins in private compilations resulting from historical and accidental legal cases of the people.

Due to the slightly different sources of the Anglo-Saxon and Frisian laws, the style they were written in is also different as far as the structure of the sentences, level of formality of the language, sophistication and the abstractness of the used words are concerned.

2. Structure of the sentences

In both Frisian and Anglo-Saxon legal texts, the majority of the sentences consist of two parts: one containing the crime, or the certain condition that must be committed, and the second part with the sanction to be implemented later on.

2.1. Conditional clauses

Following Bautkan (1996), most of the time the structure of a conditional clause in the legal texts has the structure: "if X, then Y" or "if X, then Z shall do Y". Here, the conditional clause is in the majority of cases followed by the main clause. Nevertheless, structures such as "whoever commits X shall do Y" or "the man who commits X shall do Y" can also be traced.

Conditional clauses in Anglo-Saxon and Old Frisian texts were composed of an adverbial clause of condition with the conjunction *gif* in initial position, subordinated to the main clause.

2.1.1. Asyndetic coordination

The coordination of two or more conditional clauses or two or more predicates (parts of the sentence which state something about the subject) in a conditional clauses was also possible. Thus, we had asyndetic coordination in which no coordinating conjunction between the clauses was present, with the repetition of *gif* and change of subject like in for example:

- 1) *Gif mon ðonne þæs ofslægenan weres bidde, he mot gecyþan, þæt he hine for ðeof ofsloge, nalles þæs ofslegenan gegildan ne his hlaford. Gif he hit ðonne dierneð, 7 weorðeð ymb long yppe, ðonne rymed he ðam deadan to ðam aðe, þæt hine moton his mægas unsyngian.*
- 2) *Gif mon ðonne þæs ofslægenan weres bidde, he mot gecyþan, þæt he hine for ðeof ofsloge, nalles þæs ofslegenan gegildan ne his hlaford. Gif he hit ðonne dierneð, 7 weorðeð ymb long yppe, ðonne rymed he ðam deadan to ðam aðe, þæt hine moton his mægas unsyngian. (The Laws of Ine)*
- 3) *Ief hwa of herenede ieftha of othere nethe, ieftha of fengnese kemht (= kemth), ande hi muge bikenna sine ethel ende sine eckerar and sine federstatha, ac ief sin brother ieftha sine balemunda ieftha sin athem ieftha sin stiapfeder sin lond urbruden hebbe ur sinne willa ieftha ur sine wald ieftha ur sine louethe, sa ach hi to farane uter stride uppa sin egen erwe, mith allera Fresena riuchte. (Seventeen Statutes, 14)*

- 4) *Jef hit queth, hwanat him come, ief hi mi bi-sekth and queth, thet ik hia nomia skille, sa nomie ik hia son; bi thi u mot ik thet erue halda buta stride mith ded-ethon. (Twenty-four land laws, 21)*

2.1.2. Syndetic coordination

The syndetic coordination of clauses, in which a coordinating conjunction appeared, was additionally used as a stylistic device, as in examples 5, 6, 7 from *The Laws of Ine* and 8 from *Seventeen Statutes*:

- 5) *Gif hwa fare unaliefed fram his hlaforde oððe on oðre scire hine bestele, 7 hine mon geahsige, fare þær he ær wæs 7 geselle his hlaforde .lx. scillinga.*
- 6) *Ðonne mon monnan betyhð, þæt he ceap forstele oððe forstolenne gefeormie, þonne sceal he be .lx. hida onsacan þære þiefðe, gif he aðwyrðe bið. Gif ðonne Englisc onstal ga forð, onsace þonne be twyfealdum; gif hit ðonne bið Wilisc onstal, ne bið se að na ðy mara. Ælc mon mot onsacan frympe 7 werfæhðe, gif he mæg oððe dear.*
- 7) *Gif ceorl ceap forstild 7 bireð into his ærne, 7 befehð þærinne mon, þonne bið se his dæl synnig butan þam wife anum, forðon hio sceal hire ealdore hieran: gif hio dear mid aðe gecyðan, þæt hio þæs forstolenan ne onbite, nime hire ðriddan sceat.*
- 8) *Ac ief Fresena capmen an thira sogen stretena eng werthe benert, ieftha birawad werthe a Saxena merkum ur riucht, sa scelmat him fella mith tian liudmerkum, ande tha frana sin bon, thet is enendtuintech scillenga. (Seventeen Statutes, 9)*

Syndetic coordination in a protasis (opening clause) was widely used especially in Anglo-Saxon texts (Schwyter 1996). Some parts of *The Laws of Ine* include syndetic coordination of clauses and syndetic coordination of predicates, whereas other give the examples of syndetic coordination of clauses with additional subordination:

- 9) *Gif mon forstolenne man befo æt oþrum, 7 sie sio hand oðcwolen, sio hine sealde þam men þe hine mon ætbeþeng, tieme þonne þone mon to þæs deadan byrgelse, swa oðer fioh swa hit sie, 7 cyðe on þam aðe be .lx. hida, þæt sio deade hond hine him sealde. Þonne hæfð he þæt wite afylled mid þy aðe, agife þam agendfrio þone monnan. Gif he þonne wite, hwa ðæs deadan ierfe hæbbe, tieme þonne to þam ierfe 7 bidde ða hond þe þæt ierfe hafað, þæt he him gedo þone ceap unbeceasne oþþe gecyðe, þæt se deada næfre þæt ierfe ahte.*

2.2. Relative clauses

Sentences expressing a certain legal act could also be shaped by means of using simple relative structure: *whoever does sth, he is to do sth else*, like it is done in the *Alfred's Biblical Introduction*, where we can see a relative structure with the additional information added by means of predicate subordination:

- 10) *Se ðe frione forstele 7 he hine bebycgge, 7 hit onbestæled sie, þæt he hine bereccan ne mæge, swelte se deaðe. (The Laws of Alfred)*

2.3. Sanction clauses

Apart from conditional and relative clauses, there are also examples of sanction clauses with the *then* part present in the main clause, as it is in *The Laws of Ine* presented in the example 11 and 12, or the directive dependent or non-dependent phrases expressing sort of legal facts like for instance: '*murder is 3 shillings*'.

- 11) *Se ðeof gefehð, ah .x. scillinga, 7 se cyning ðone ðeof; 7 þa mægas him swerian aðas unfæhða. Gif he ðonne oðierne 7 orige weorðe, þonne bið he wites scyldig. Gif he onsacan wille, do he ðæt be ðam feo 7 be ðam wite.*
- 12) *Se ðe ðeof slihð, he mot aðe gecyðan, þæt he hine fleondne for ðeof sloge, 7 þæs deadan mægas him swerian unceases að. Gif he hit þonne dierne, 7 sie eft yppe, þonne forgielde he hine. Gif mon to þam men feoh geteme, ðe his ær oðswaren hæfde 7 eft oðswerian wille, oðswerige be ðam wite 7 be ðæs feos weorðe; gif he oðswerian nylle, gebete þone mænan að twybote.*
- 13) *Jef hi bi-seka wili, sa skil hi et there herna hwek and stride with-stonda mith fiuwer berskinzia campon, and et there hirth-stidi mith tha fifta campa, thruch thet, thet ma morth skil mith morth the kela. (sanction clause). (Twenty-four land laws, 24)*
- 14) *Jef thet is liodcuth, thet (...) him sines godes se ur-bruden tha ur-burnen tha thes nachtes thermithi ur-stelen se, sa ne thur hi ther-umbe nene ondarde dwa, thruch thet ther ne mi nen mon otheres monnes god firor an plicht nema, thare sin ein god. (Twenty-four land laws, 16)*

As it has been shown, the “*gif, se ðe*” clauses and directives can be seen as style makers for the law codes. Clauses analysed above like: if-than conditions (including adverb clauses of condition), relative clauses, sanction clauses, clauses with syndetic or asyndetic coordination are present to the same degree in the Old Frisian as well as Anglo-Saxon legal texts. The only difference according to Bremmer (1998) is the orthographical and lexical one, as in Old Frisian the structures can begin with *jef* (*gef* spelled with *g, ef, iof, of, ieft*), *jefma* [if one], *jeftha, jeft, that is (...)that jef*.

What is more, in contrast to the Anglo-Saxon legal texts, early Old Frisian laws like the land-laws or the statutes are never composed only of such conditional structures but also have narrative sentences, whose main role is to provide the reader or the listener with the background knowledge of the specific situation presented, or the conditions to be taken into account. Such features of the text appear, due to the mentioned in the beginning fact, that Frisian laws were established due to the certain legal cases (Bremmer 1998), whereas Anglo-Saxon laws, even though following certain tribal traditions, were mainly the product of one or two people writing down the word of the ruler. Therefore, it has to be clearly stated that narrative sentences in Anglo-Saxon laws do not convey any legal material as such, but give the reasons when and why a certain code was promulgated, or simply describe facts and states of affairs.

3. Level of formality of the language

As far as the level of formality of the language in both Anglo-Saxon and Old Frisian legal texts is concerned, it has to be stated that there are certain distinct differences. *Twenty-four land laws* from Frisian law, for example, are a collection of regional legal customs and precedents compiled and intended primarily for the use in internal Frisian legal matters. They were supposed to be used by “Allera Fresena” – by all the Frisians as O’Donnell (1998) points out, therefore the language used here had to be relatively simple and easy to follow for everyone. A good example of the usage of simple language is the 5th land-law which presents the situation in which a family has to defend its title to a piece of land bought from a pilgrim. Here the simple legal regulation is presented with the almost visual picture of a situation. We can see dramatically presented examples of possible events, which are deliberately created to make the law easy to understand. Nevertheless, the legal meaning is also clear and cannot be abused as at the mere beginning

of the law, we can read its bare form: “If one demands land from somebody, let the elder in the house say: that land for which you bring me before the Thing and demand from me, I bought it” (O’Donnell 1998: 247). Such a dramatized law and the whole procedure gives plenty of indication that it was intended to be read and understood far more generally than its detail would suggest. Similar style is visible in the Second land-law too. The law gives certain conditions on which a mother can sell an inheritance of the child who still has not reached the age of adolescence. The law is transferred into a kind of dramatic story with a suspense. Even though the reader can decipher the regular, universal meaning of the act (that a child has right to approve the actions of his mother when he comes of age, except when the mother was trying to support the stable future of the child) with no difficulty, still the so called “three needs” of the child are to be interpreted in a more general way, as it simple could happen very rarely if not never that a child would starve, the freezing wind would kill the wild animals and so on (Sterringa 1998: 291). *Seventeen statutes* also use similar stylistic level of sophistication. In the 7th statute one can find the procedure that should be followed in a situation when “a man flees with a woman through three houses and a church.” That visualized description does not prevent the reader from general understanding of the particular law, however.

When we compare the two styles of the Anglo-Saxon and Old Frisian legal texts we can clearly state that in Old Frisian texts, there is this predominant preference of the specific over general, whereas in Anglo-Saxon it is the other way round. Here, the legal declarations are rather proscriptive than prescriptive, and the language tends to be balanced and formal. What also should be added, is that as far as Old Frisian legal texts are concerned, they can be written in the third person, when they give a situational description, second person monologues (in case of the oaths of office – where the text is to be read by the representative of the administration) and first person complaints put into the legal message. When we compare it with the English legal texts, such situations are impossible, unless we talk about a monologue in the introduction, or the words directed to God.

Even if we analyze only such small amount of data, we can still find the major differences between the legal texts of Anglo-Saxon and Old Frisian communities. The sentences presenting the main legal points are constructed in a similar way, nevertheless, their stylistic and lexical composition is slightly different. Furthermore, the text types used in the Old Frisian legal acts are much more complex than in Anglo-Saxon legal codes, as they can be freely mixed to achieve the writer’s aim.

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