



Translation and Medieval Documents

Voices of Law: Language, Text and Practice

Voices of Law: Language, Text
and Practice

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Preface

This translation booklet is the result of a workshop organised by the international network 'Voices of Law: Language, Text and Practice' and held at Cardiff University in January 2017. The workshop was attended by postgraduate students and early career researchers, who had the opportunity to listen to different speakers giving their expertise and experience of translating, before practising their own translation skills in Old English, Old Danish/Old Frisian, and Latin/Welsh workshops. The day was finished off with a round-table discussion of issues raised during the workshops.

The booklet expands on some of the issues raised at the workshop and aims to provide some basic guidance to any postgraduate or early career researcher intending, or needing, to translate or edit original documents as part of their research. It has been published open access in this format to be available as widely as possible.

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Jenny Benham and Melissa Julian-Jones

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‘[We] bend down and trace with our mind’: What is translation?

DR CRISTINA MARINETTI



In the prose preface to his translation of Gregory the Great’s *Cura Pastoralis*, King Alfred gives us what I think is one of the most compelling descriptions of translation of all time. Being an accomplished translator himself, as well as king of the West Saxons, Alfred sees translation as the most important of all intellectual activities as it enables us to ‘bend down and trace with our mind’ (Weissbort & Eysteinnsson, 2006: 36) the paths to knowledge left by those who came before us. What Alfred’s words also convey is that translation is enriching both for the individual, as it extends the reach of one’s mind, and for society, in that it helps us make connections with the ‘knowledge and wisdom’ (Ibid, 2006: 37) of ancient and faraway lands. As we will see, these two strands, the individual and the societal, are fundamental to our understanding of translation as a complex and often surprising process, involving interpretation and linguistic transfer but also cultural mediation and ethical choice.

Many of these themes were raised by the Cardiff PGR workshop on ‘Translating Medieval Documents’ (2017) and they are central to discussion of translation today. For example, questions about the nature of meaning have been crucial for theories of equivalence and how to decide which aspect should be prioritized by the translator (cf. Jenny Benham ‘[Translating Medieval Documents: Some Basic Problems](#)’ and Carol Hough ‘[Translating Old English Laws](#)’). The multi-layered nature of meaning also speaks to the question of attestation raised by Sara Pons-Sanz and the additional challenges posed to the translator by terms we are unable to fully decode. Finally, translating for modern audiences (cf. Helle Vogt and Han Nijdam, ‘[Translating a Medieval Legal System into Modern English](#)’) raises the important issue of what to do when meaning is embedded in a context that is far removed from that of your reader. This article seeks to locate some of these discussions within current definitions of translation, showing how relevant they are to recent debates on the nature of translation both within the discipline of translation studies and beyond. After a brief overview of the many possible ways one could define translation, the article explores two important questions all translators should pose themselves: what do we translate (meaning, context, culture) but also why do we translate (for what purpose, what audience, what agenda)? While translating is often seen as an intuitive activity that requires little reflection, I hope that posing these questions and seeing the kind of answers theorists have given will help make you more empowered and successful translators.

Translation is one of the most universal of human activities and yet one of the most difficult to pin down in terms of definition. The English word ‘translation’ (from the Medieval Latin *translatio*) is inherently tied to the idea of transferring something from one place to another (from the Classical Latin *transfēre*). The older and primary meaning of the word in the Romano-Christian tradition is

associated with the processing of religious texts into vernacular languages especially in relation to Bible translation but also, intriguingly, with the movement of religious relicts (Tymoczko 2007: 56-57). The words for translation in other European languages, such as Spanish and Italian, have slightly different meanings as they derive from the classical Latin verb *traducere* meaning ‘carrying across’ or ‘bearing across’. Despite the different roots, ‘translation’ and *traduzione/traducción* are underpinned by the same assumption: that meaning can be carried over and reach the other language or culture intact. The image that is conjured up is that of a kernel of meaning that can be packaged and sent on its way. These metaphorical associations, evoked by the term ‘translation’ in the Western tradition, often portray the translator or interpreter as a transporter (or perhaps a smuggler) carrying some ‘sacred’ content across time and space.

As scholars have begun to acknowledge an Anglophone/Western bias to our understanding of translation, other, new and at times surprising definitions have started to emerge. For example, the contemporary Arabic word for translation is *tarjama*, originally meaning ‘biography’. The connection with the narrative genre of the biography suggests that the term is associated with the act of ‘telling and recounting’ (rather than transferring) (Salama-Carr 2000: 102). In Chinese, on the other hand, the term for ‘translation’ - *fanyi* - can be rendered literally as ‘turning over’. It comprises of a character for *fan*, ‘turning (the page of a book)’, and a character for *yi*, meaning ‘interpretation’, ‘exchange’. It can be linked to the idea of embroidery, where turning over reveals the other side. In other words, the original and the translation are envisaged as the front and back of the same object, thus bringing together the idea of sameness in difference. The second character *yi* (‘exchange’) also activates associations with commerce (Cheung 2005).

Even such a cursory glance at the meaning of the word ‘translation’ across languages teaches us at least two things. Firstly, that our understanding of translation is saturated with Western history, Western ideology and Western religious meanings and practices. Secondly, that translation enables us to look at the same phenomenon through different eyes, revealing meaning to be far from universal, but rather historically and culturally determined.

WHAT DO WE TRANSLATE? TRANSLATION AS LINGUISTIC AND CULTURAL TRANSFER

There is a very strong layman’s perception that translation is simple and unproblematic. This is because translation is everywhere around us and, most of the time, we hardly notice it is there. We have access to what happens on the other side of the globe through foreign reports and subtitled interviews, we consume foreign foods that have become part of our vocabulary (*panini*, *samosas*, *sushi*) while automatic translators make foreign texts accessible at the click of a mouse. Translation today feels immediate, fast and trouble free. However, the fallacy with such thinking is immediately visible when we stop to consider what really happens to a word, a concept or a text when it is actually translated. Far from being a straightforward process of linguistic substitution, translation involves complex negotiation between languages, cultures and people.

A simple yet illuminating example of such complexity is given by the Russian scholar Roman Jakobson in an essay which has become a classic in translation studies. In ‘On Linguistic Aspects of Translation’, Jakobson points out that what we call ‘cheese’ in English does not correspond to the Russian *syr*, the term one would ordinarily find as the equivalent of ‘cheese’ in an English-Russian dictionary (Jakobson, 2012: 127). While the English word ‘cheese’ conjures up images of rectangular or circular blocks often with rinds that can be grated and sliced, Russian *syr* is soft and creamy, usually in a tub and is spread rather than sliced. And the differences are not limited to appearance and consistency. ‘Cheese’ can be defined generically as a ‘food made of pressed curds’ but *syr* falls outside this semantic field because it is subject to a process of fermentation that arguably turns it into a different food product. Does this mean that *syr* is ‘untranslatable’ in English? No, it simply shows that translation is not a substitution of words for other words with the same meaning but the expression of concepts and ideas from one language through a different combination of words in another language and this always involves an approximation of meaning. In the case of *syr*, we can approximate its meaning as ‘cottage cheese’ in English, combining the generic word ‘cheese’ with the pre-modifier ‘cottage’ to extend its meaning to milk-based foods that involve a process of fermentation. What translators do in these cases is to devise different strategies that allow them to convey the message (or part of it) in a form that is acceptable and understood by the target audience.

The discipline of Translation Studies was dominated for decades by debates over different strategies to overcome these very problems of equivalence. Of all the different approaches proposed, the one that has had more currency in translation theory, but also the most lasting impact on translation practice, is Eugene Nida’s concept of ‘dynamic equivalence’, or equivalence of effect (Munday, 2012: 60-65). Drawing on Noam Chomsky’s generative linguistics, Nida believed that language was constituted by a deep structure (or kernel of meaning) that was then encoded in a surface structure which is subject to phonological and morphemic rules. While the surface varies from language to language, the kernel of meaning is, for Nida, understandable and, more importantly, transferrable, across languages. Nida’s advice to translators is that they should disregard the surface form and focus on the kernels of meaning which should be re-encoded using forms of the target language that are idiomatic and natural-sounding.

Any bilingual or multilingual speaker will immediately recognize the points that Jakobson and Nida are making, for even very small children with more than one language learn very quickly that some things can be said in one of their languages but not the other. In our household, where we speak a rather idiosyncratic mixture of English and Italian, my daughters would begin the meal by wishing everyone ‘Buon appetito’, a tradition present in most European languages but strangely absent from British etiquette, and then proceed to add ‘please’ at the end of every request (as in ‘can I have some water, please?’). This is completely absent in informal interactions in Italian and makes our Italian relatives marvel at the ‘extraordinary politeness’ of British education. This kind of understanding is the issue at the very heart of translation: not only are languages not the same, but their usage in a

variety of different semantic combinations, contexts and situations is rarely homologous. As Nida argues in his defence of equivalence of effect, although words are not equivalent across languages, they are always translatable and explainable through different linguistic forms. It follows that the task of the translator requires a negotiation that is both linguistic and cultural.

In fact, the more culture-specific the text is, the harder you have to work to disentangle its message and explain its meanings. When you are faced with translating a situation or set of behaviours that are not easily replicable outside that culture, your task as a translator becomes seemingly impossible. I have recently experienced an example of such cultural specificity while watching the Italian TV series ‘The Young Montalbano’ on British television. The series’ dialogues are in a mixture of standard Italian and Sicilian and are subtitled in English for BBC viewers. The scene in question depicts Inspector Montalbano having coffee with a possible suspect in a coffee bar in the main square of the fictitious Sicilian village of Vigata. At the end of their conversation, the suspect stands up and tells the bar owner ‘*Giovannino, tutto pagato*’ [Lit. Giovannino, all paid]. The subtitle reads ‘Giovannino, put it on my tab’. On one level, this is both an accurate and a successful translation because it renders the meaning of the utterance (that the cost of the coffee will be covered by the speaker) in a form that conforms to English idiomatic usage. However, the cultural context in which the interaction occurs grants the utterance a very different (and much less benevolent) meaning. Viewers know from previous conversations that the suspect is a member of the powerful Sinagra family, the local Mafia lords who control all businesses in the area. In this context, in opposition to what Nida would have us believe, the form of the utterance is what determines its meaning. The fact that the speaker used the expression *tutto pagato* [‘all paid’] rather than *mettimelo sul conto* [‘put it on my tab’] communicates not only, or not primarily, that the suspect is paying for the Inspector’s coffee but that the suspect, as a local *mafioso*, effectively owns the bar and does not need to pay for his purchases. What appears in the English translation as a generous or perhaps sycophantic act, aimed at getting on the right side of the inspector, is in fact a threatening gesture, aimed at reinforcing the perception that the *mafiosi* are above normal citizens and importantly above the law and the reach of the police. On this more contextually and culturally complex level, then, the subtitle is neither accurate nor successful as it fails to capture the central meaning of the utterance. Such a complex culture-specific context can only be grasped in English through what I have just done here, which Antony Appiah calls ‘thick translation’, an ethnographic explanation of the multiple cultural and contextual layers that underpin linguistic expression (Appiah, 2012: 331).

As we have seen, neither Jakobson’s nor Nida’s idea of translation is perfect. There is more to the question of what translation translates than meets the eye. Sometimes what we need to translate is not just the meaning of a word, a sentence or even a text level, but an entire worldview.

WHY DO WE TRANSLATE? TRANSLATION AS COMMUNICATIVE ACTION

As we have seen from the examples in the previous section, translation is not only about reproducing existing meaning, transferring ‘the sacred’ message like our Western etymologies would have us believe. What we are translating (whether it is the abstract dictionary meaning or a contextual or culture-specific meaning) is not the only aspect that decides what translators should do. Our Arabic term for translation, *tarjama*, and its etymological link to ‘narrating and recounting’ is better suited to help us explore this further aspect. Translation is not only an interpretation of a given text, but it is also an act of communication in itself, an action that occurs, regardless of its source text, in a specific context, at a specific time, with a specific audience. Like Shahrazad, the heroin narrator of *A Thousand and One Nights*, whose life depends on her ability to tell a story that will grip and please the Sultan, translators base their livelihood on their ability to create a text that will satisfy their clients. To achieve this, a translated text needs to be understood in the target language while also fulfilling its function not only for a new cultural context but often a new moment in time and a new audience.

These considerations are what lead many scholars to abandon the endless quest for defining what it is that we translate (meaning, form, culture) and turn instead to why we translate, what are the purposes of our translations and how we go about determining them. To distinguish between the function of a text and the purpose of a translation, Hans Vermeer uses the Greek word for purpose, *skopos* (Nord, 2001:26). While source texts and translations can have the same function, for example they can both be literary texts aimed at educating/entertaining readers, *skopos* indicates not the function of the text but the purpose of translating it (what Vermeer calls ‘the *skopos* of the translational action’) (Nord, 2001:26-32). Vermeer offers a very striking example from the context of legal translation to illustrate the importance of *skopos*. In his hypothetical example, the text is an old French book reporting a lawsuit about a will that bequeaths a considerable sum of money to two nephews. At a certain point in the will an inkblot causes a crucial ambiguity over one word that could be either *deux* (‘two’) or *d’eux* (‘of them’). The lawsuit is about whether the sentence was *a chacun deux cent mille francs* (‘to each two thousand hundred francs’) or *a chacun d’eux cent mille francs* (‘to each of them, one thousand hundred francs’). Now, how should the translator proceed in translating the source text? Should they explain the ambiguity, which makes sense only in French, or should they substitute it for something more understandable by the target audience? Vermeer argues that you cannot know how to translate it until you have asked yourself: why are you translating this? for what purpose, what audience? Your translation strategy will change depending on your answer to those questions.

For example, imagine that the Swedish crown court have commissioned you to translate the French text because they have encountered a similar case and want to know how other European courts have handled such textual ambiguities. Then the purpose will be to give the judge access to the original document in all its complexity, explaining via footnotes and a detailed discussion of the facts of the case and the context of the textual ambiguity. Now, what if the story occurred as a minor incident in a detective novel instead? Here, its sole purpose is to give motive to an altercation

between the two nephews. Would you provide explanatory footnotes and lengthy explanations? Probably not. With such a different purpose, it would make more sense to find an equivalent solution in the target language (like the omission of a comma in the sum allocated to one of the nephews 200,000 as opposed to 2,000). This way you would be able to provide motive for the altercation between the nephews without interrupting the flow of the narrative which is crucial to the success of a detective novel.

Christiane Nord proposes a very useful distinction between the two strategies used by our fictitious translators in the Vermeer example: she calls them *documentary* and *instrumental* translation. The first aims to render in the target language *a document* of certain aspects of a communicative interaction that has occurred in the source language ('a linguistic ambiguity in French which has led to legal complexities'). Here the target audience is very well aware that what they are reading is a translation which is only one interpretation of an original text. The second, instrumental translation, instead serves as an independent *instrument* for a new communicative interaction between the source text and the target audience. In this case, the audience is not aware that this is a translation and relates to the text as if it had been written in the target language.

The point of this example is that translations do not happen in a void; they always have a purpose and a specific audience in mind. And purpose is as crucial to choosing a translation strategy as the nature of meaning. Translators should always ask themselves: why are we translating this text? This is a very useful question because it makes the translator aware of the role they play as writers, narrators, cultural mediators (as opposed to transporters or transmitters of meaning).

We have seen that translation is not a simple term to define nor a straightforward process of substitution of words from one language to another as contemporary technology would have us think. Translation is a complex, linguistic, cultural and communicative process requiring sensitivity to language difference but also an ability to communicate across text types and audiences. The notion of purpose has helped us see that translation is never a simple re-production of an original text but a new text with a new purpose for a specific audience. This makes our task as translators more challenging, because we have a plethora of different strategies to choose from and, ultimately, the responsibility for our choices and their consequences lies with us and only us. However, at a time when the public discourse of borders and walls seems to be winning the majority vote, being a translator can enable us to continue building those bridges across time and space by 'bending down and tracing with our minds' the paths to knowledge of those who came before us, in the hope of making the world around us a richer, more understanding and more tolerant place.



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Translating Medieval Documents: Some Basic Problems

DR JENNY BENHAM



This paper is intended as a candid guide to translating medieval documents based on my personal experience. It aims to offer some thoughts on basic problems or questions that postgraduates or early career scholars might want to consider before attempting to translate or edit their first documents. I claim no particular expertise in translation studies or in medieval languages, and it is important to set out at the start that my approach has always been, and will continue to be, that of a historian. Over the years, I have done a few translations from several different original languages but always into present-day English, and from this experience I have narrowed down five basic problems: purpose; time; knowing too little; knowing too much; and, finally, logistics and mechanics.

PURPOSE

It is important to think carefully about why you need to edit or translate a specific document or text at that particular time. Primarily, it is important to ask yourself if it is necessary to translate the whole text in detail. As a historian, I use and make translations in three different ways:

Firstly, the quick contextual translation. This is perhaps the most common type of translation for medieval historians, as often you only need a particular word or phrase translated, while the rest of the document can be used or read contextually. Indeed, the majority of my research frequently hinges on translating a single or a few words. Whilst I can understand and interpret the entirety of a document, I mostly do not need to translate it fully because parts of it is not pertinent to the argument I am making at that time. This, of course, can apply to working both with primary sources and with secondary literature in modern foreign languages.

The second purpose is the edited translation. This is what I try to do when I want to cite longer passages from documents in a published piece of work: I edit. That is, I use an existing translation and compare it to the original text, amending the translation according to my understanding of how the document should be read and/or used.

Sometimes, however, there is no existing translation into present-day English or the available modern translation is old or problematic to use, and this leads to the third purpose: the full translation. Examples of this are many of the earliest English laws, which were transcribed and edited in Old English by the German scholar Felix Liebermann at the end of the nineteenth century, or the many chronicles also edited during that same period, but which have never received full modern English translations. Many of the treaties I need for my research on

diplomacy also fall into this category, as does most of the secondary literature surrounding that subject. It is also possible that you need to make a full translation into modern English if you are working with documents where a modern translation exists, but it is in another modern foreign language. This is what I personally know most about having previously translated in full the Danish medieval laws and one of the medieval provincial laws from Sweden. For these projects, I was able to draw upon both an original text and a modern text in Danish/Swedish to make my translation into English. Inevitably, when no previous modern English translation exists, your text usually has to be accompanied by explanatory footnotes; comments on the text, author and manuscripts; and perhaps also a glossary of specific terms extracted from the text. In short, I take a full translation to mean that it is one that contains all the information that a scholar or a student might need to analyse, interpret, and use the content of a text.

Why is it important to think carefully about the purpose of your translation? Well, it's all to do with the next problem.

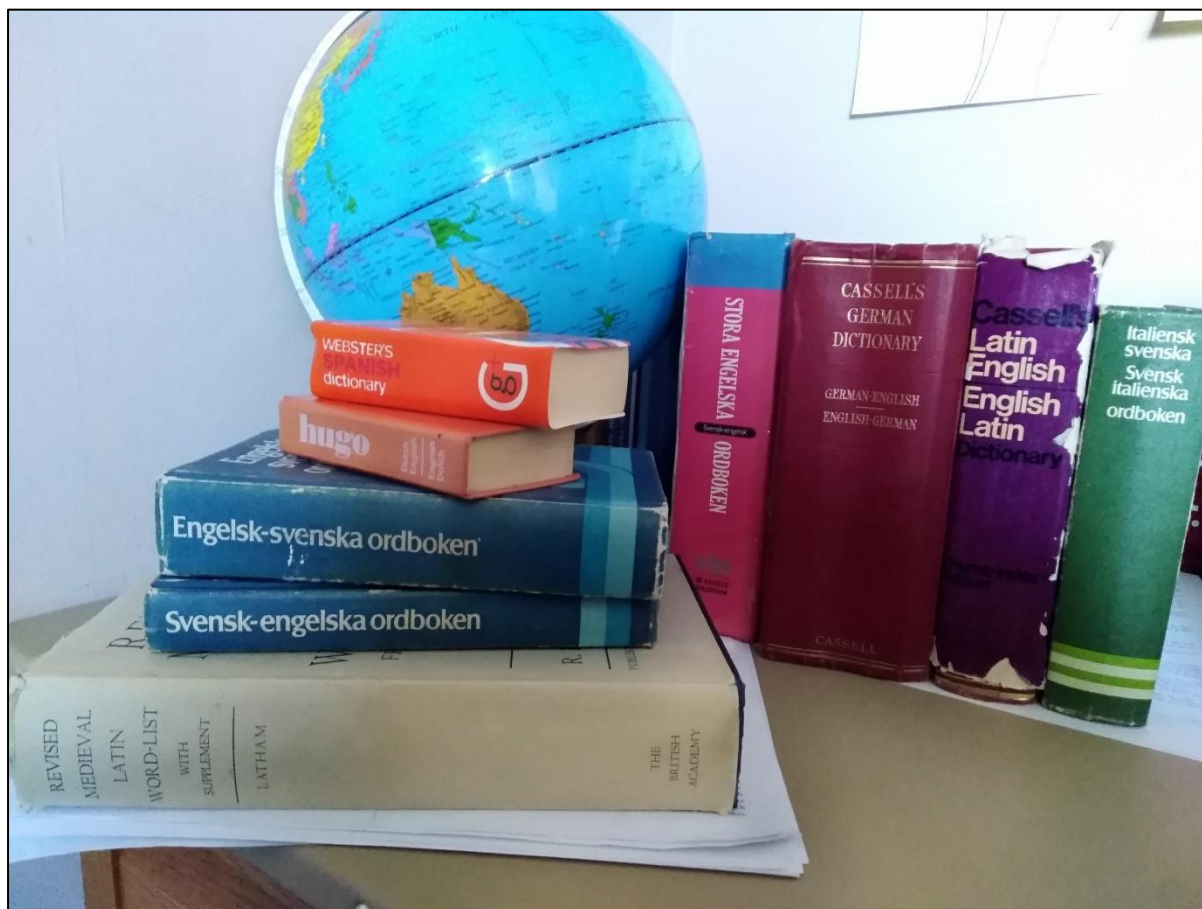
TIME

The reason why you should ask about the purpose of translating, is time. It is, of course, the most precious thing you have as a scholar, and also as a person: once it is gone, you can't get it back. Each of the purposes I outlined above requires a certain amount of time. Evidently, the quickest is the contextual translation and the most time-consuming is the full translation. Before you start any translation, it is therefore important to be realistic about what you can achieve in the time you have. Similarly, if you have been asked to make a translation for someone else (be this a publisher, another scholar or student, or for someone using it for commercial purposes), it is important that you are clear about what the final product will be used for so that you can spend the appropriate amount of time on it.

Let me give you an example. Many years ago, I worked as a legal assistant for a law firm and was asked by one of the partners in the litigation department to translate some medical notes that were in Danish for a case relating to medical negligence. I carefully translated every word of every single hand-written note in the medical file, including all medical abbreviations – for which I had to ask for help from my sister, who is a nurse. In addition, I indicated any annotations made by the doctors and exactly where in the notes these annotations were. As you might be able to tell, this was the precision work of a PhD student in the final stages of her thesis in medieval history! Three weeks later, I then handed over the translations of these medical notes to the partner in the firm, who looked over them for two minutes, concluded that there was no case, and billed the client for the work he had done. Clearly, this was not effective use of any person's time and had I been made aware of the purpose, I would likely have taken a different approach to the task.

It is worth pointing out that a translation, regardless of purpose, will nearly always take longer than you think. Even if you're only making a contextual translation, that single word or phrase you

need for the article you are currently writing can take days to resolve satisfactorily. A good dictionary is essential – as I am writing this, there are currently twenty-six on the shelves in my study at home – but on many occasions they won't resolve the issue because they are too general. A Google search can be useful in locating other documents that contain similar terminology, which in turn might aid your understanding of it, but variations in spelling or obscure grammar can also throw you off the trail. Additionally, technical language, requiring for instance specific medical or legal knowledge, will take longer, and with this in mind, I want to move on to the third problem.



1: 'as I am writing this, there are currently twenty-six on the shelves in my study at home ...'

KNOWING TOO LITTLE

From the translations I have done to date, this generally falls into three categories:

Imposter syndrome

All scholars will be familiar with this feeling. However, for me, doing translations often exacerbates that notion and the more translations I do, the less certain I feel, which often results in a vicious circle of checking, re-checking and checking again only to come to the same conclusion I had reached several days previously.

I recently thought I had extraordinary success when I located a modern Italian translation of a treaty that contained the specific term *zala*, referring to someone who commits arson. I had been pondering how to translate it for several days because although this term was seemingly intended to clarify the Latin word ‘incendiis’, denoting ‘arson’, one glossary had identified the term in two other documents from the same region and in those documents *zala* qualified ‘depredatione’, that is, ‘plunder’ (Du Cange 1846: 930). To complicate matters, plunder was also another term mentioned in the same sentence in my document. Having found the modern Italian translation of the treaty, I was confident that I was finally going to get my answer. I did: arson. The same conclusion I had drawn at the beginning, and so, at the end of that long exploration, I realised it really hadn’t required confirmation through a modern translation in yet another foreign language. Clearly, self-doubting has a purpose in research, ensuring that as scholars we pursue all possible avenues before reaching a conclusion, but it is also important to know when to stop.

Technical language

Understanding and translating technical language is exceedingly tricky and building up such knowledge takes a long time. A few years ago, I published an article in which I briefly referred to ‘felony’ mentioned in some treaties in the general sense of a serious crime but without specifically noting how some legal historians had rendered this a term for the most serious crimes of all: treachery or betrayal of one’s lord (Benham 2013: 495; Van Caenegem 1991: 42-3). In the years since, however, I have discovered that this was perhaps not as careless as I thought at the time because while the term can be used in a narrower sense of ‘betrayal’, it often simply refers to a serious crime, in the same way the Latin word *furtum* is usually translated as ‘theft’ but occasionally also refers to crime more generally. Acquiring the knowledge and skills to deal with technical language is hence often a case of accumulation of knowledge; of knowing how and when a particular term or phrase is, or should be, translated in any one specific instance. In short, it is a life-long project.

Unfamiliarity with period/region

Anyone who works on comparative history will be familiar with this. Translating texts from a period or region, for which you have few reference points stored in the back of your mind to draw upon for context, is like travelling a road full of potholes. It is slow, uncomfortable, and a lapse in concentration can make the wheels come off completely!

I once listened to a presentation on purchases in Scandinavian law, which were apparently made with the aid of a celebratory cup of wine at the end. Only, the presenter, unfamiliar with the period and its language, had confused the Old Norse word *vinr* (*friend/relative/aide*) with the modern

Scandinavian word *vin*, referring to the alcoholic beverage (Old Norse *vín*). In other words, purchases were made with a known witness, not with wine.

These mistakes are easier to make than one might think. Latin is often referred to as a universal language across Medieval Europe but while this is true, it also seems logical that the usage of a language changes over time and space and that a word might not mean the same in 1300AD as it did in 500AD. I often get asked why I don't look at Spanish treaties or diplomatic documents from central and eastern Europe, e.g. from places like Hungary. The answer is very simple: although the majority of the documents are written in Latin, I simply don't have the required contextual

Example from Latham's Revised medieval Latin word-list

Reton/sio 1221, 14c.

-sura 1180, c 1300

-tura 1243

retuntura 1247

retundura c 1283

rotuntura 1217

All meaning 'clipping (of coins)'

knowledge to make a successful go of translating or using them. Nor can I read Spanish or Hungarian and so I cannot access vital information written about these Latin documents by modern scholars. For those working on English history, Latham's *Revised Medieval Latin Word-List* is a useful tool that shows different meanings of a word at specific points in time, thereby enabling you to make an informed choice when translating even if you are not a researcher of that period. Ultimately, however, when it comes to unfamiliarity with a period or a region, there is no substitute for knowing people whom you can ask for help.

KNOWING TOO MUCH

Contradictory to the last problem maybe, but it is one that will be familiar to those who are bilingual or who can "dabble" in many languages. Strong ability to speak or use languages can, perhaps inevitably, lead you to

making comparisons and drawing conclusions that are not correct.

A couple of years ago, I was making a draft translation of one of the fourteenth-century provincial laws from Sweden by using the original text as well as a modern Swedish edition. There is absolutely no doubt that being able to read the modern edition in my mother tongue greatly aided my ability to understand and translate the original text, but at times I had to stop and think carefully so as not to make basic mistakes.

For instance, the phrase 'utan landzs' can be directly translated into modern Swedish as *utomlands* (meaning 'abroad') and indeed, in places, the modern edition had this rendition. However, the first word, 'utan', directly translated means 'outside', while the second part of the phrase, 'landzs', directly translated means 'land' but really denoted a province or region in the medieval kingdom of Sweden. As each province had its own law, the term was, in fact, used to denote who was in or

outside a specific province. It effectively established whether the law applied to you or not. So, to be ‘utan landzs’ meant to be ‘outside the province’ and not ‘abroad’ as we think of it in the modern period. That this was the correct interpretation could also be established from a different expression; ‘utan rikis’, which means ‘outside the realm/kingdom’ and which more clearly corresponds to the modern notion of being ‘abroad’.

Knowing too much evidently links closely to knowing too little about a particular period or region. However, knowing too much can manifest itself in other ways too. In an article from 2014, I highlighted the problem of scholars translating the Old Danish word ‘frithlös’ (and Old Swedish ‘fredlös’) as ‘outlaw’ in modern English. On the surface, this seems straightforward because in general both the Old Danish and the modern English words refer to a person, who has committed a serious crime and who, as a consequence, ends up ostracised and living outside the community: an outlaw. However, the ways in which this came about and how it was resolved, i.e. the legal practices behind the terms, were different (Benham 2014). To an interested reader, this difference is likely a legal technicality of little consequence. By contrast, to a historian of legal history, the difference is important, for instance, when comparing the concept of outlawry across all Germanic cultures of that period. Knowing too much is hence at times linked to the audience for whom you are translating.

Resolving such translation issues leads me onto the final problem.

LOGISTICS AND MECHANICS

A translation is never just a translation. You might need to compile a glossary; provide technical explanations; write a detailed introduction about the author or the provenance of the text and its manuscripts; make a commentary that provides chronological or biographical reference points; or a whole host of other things. Exactly what needs to accompany your translation will depend on its purpose and audience, but either way, I have found that it is best to be thorough from the beginning. Making detailed notes about a text or extracting words that require explanations, even before you have been asked to provide this or think that you need them, can save a lot of time in the end.

During the discussion at the end of the workshop, Carole Hough suggested that before starting the translation, it is important to make a list of what should accompany your translation, how to do the footnotes, how to mark up your text for extracting words for the glossary, and so on. This seems like sound advice to me. Personally, I have never been organised enough to actually make such a list. Partly, because each time I have kind of ‘fallen’ into translating rather than actively planning it. However, just throwing yourself in at the deep end is often more time consuming than planning, I think. I can remember several times pondering for days things like how to mark up the text for a glossary; whether it would be best to use round or square brackets, and whether I should use the footnotes for queries or merely for technical explanations. And, how should corrections and

amendments be indicated? Directly in the text, using comments in Word, footnotes...? If this seems insane, I can confirm it was.

On a more serious note, setting the parameters of what you need to provide in addition to the translated text and how to do this is important. If you are planning on publishing your translation, the publisher will likely have specific requirements already, and if you have been commissioned to translate something for commercial purposes, then these matters can be negotiated and agreed from the outset.

FINAL THOUGHTS

Translation is best done in collaboration with others: no single person can know as much as a team of scholars. Pooling resources is time efficient and is likely to produce a better result. I've been lucky enough to have had excellent collaborators, who have contributed a range of skills, experience, and knowledge, and who have filled different roles and functions throughout the various translation projects I have undertaken.

Translating collaboratively has further taught me lots of important lessons about how to work and manage people and their expectations, but crucially also about how to manage my own work and expectations.

Translating can be one of the most frustrating and lonely activities I do as a historian. At the same time, it is also one of the most rewarding in terms of advancing my historical knowledge and in getting to work with scholars from a range of disciplines.



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Translating Old English Law

PROF. CAROLE HOUGH



INTRODUCTION

The purpose of this paper is to discuss some of the issues that problematize translation from Old English (OE) into Present-Day English (PDE), with particular reference to the laws issued in the early and mid-seventh century by the Kentish king Æthelberht and his successors Hlothhere and Eadric. The first part will address lexical issues; the second part will address grammatical issues; and the third part will provide illustrative examples of translation practice.

TRANSLATING OLD ENGLISH LEXIS

Two key points relating to translation are:

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- 1. Most words in most languages have more than one meaning.*
 - 2. Words in one language rarely map exactly onto words in another language.*
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The second point follows directly from the first, since the range of meanings developed by a word in one language usually differ from those developed by its closest counterpart in another language. A further consequence is that since words develop additional meanings through time, words at one stage of a language rarely map exactly onto words at a later stage of the same language. This is particularly important to bear in mind when translating from OE into PDE. Some PDE words derive from OE, but many others entered the language after the Norman Conquest of 1066 or in later centuries. Although it can be tempting to associate words in the first group with their OE ancestors, in neither group is the range of meanings likely to have remained stable through time.

While this applies generally to any translation from OE into PDE, the issues are particularly acute with regard to legal vocabulary, where the changes associated with standard linguistic development are exacerbated by cultural, social and legislative differences. As regards the standard words for law itself at early and later stages of the language, the primary senses of OE *æ* identified in the *Dictionary of Old English (DOE)* are:

1. law (divine and secular), statement of law (written or customary), code of behaviour; also figurative.

2. marriage.

By contrast, PDE *law*, the descendant of the Scandinavian loanword *lagu* which displaced OE *ǣ* as the central word in the semantic field, has twenty primary senses in the *Oxford English Dictionary* (*OED*, s.v. *law*, n.¹), grouped under four main headings:

- I. A rule of conduct imposed by authority.
- II. Without reference to an external commanding authority.
- III. Scientific and philosophical uses.
- IVa. *Sport*. An allowance ... to ensure equal conditions.
- IVb. Hence, Indulgence, mercy.

Sense 3c ‘in law (of wedlock): lawfully married’ became obsolete in the seventeenth century, so whereas occurrences of OE *ǣ* sense 1 may potentially be translated as ‘law’, occurrences of the same word in sense 2 cannot.

Even where an OE term has survived into PDE, the meanings are often quite different, and indeed may not even overlap. The thirteen primary senses listed in *DOE* for the more specialised term for legal judgement, OE *dōm*, bear little connection to those still current for the PDE descendant *doom*. As the *OED* entry shows (s.v. *doom*, n.), the latter has developed negative connotations quite at variance with the neutral and positive senses represented in OE. It would therefore rarely if ever be appropriate to translate OE *dōm* as ‘doom’.

Turning from words about law to the laws themselves, one of the most common words in the Kentish law-codes is OE *ceorl*. The main meanings identified in *DOE* (abbreviated) are:

- I. man, male person: a general term used without reference to a particular social class.
- I.A. married man, husband.
- I.B. peasant, countryman, rustic.
- I.B.1. a member of the lowest class of free men, distinguished from *eorl* and *þegn* ‘nobleman’ and *þeow* and *þræl* ‘slave’.
- I.C. layman.
- I.D. referring to Queen Emma's French reeve at Exeter.
- I.E. as a personal name for men of high rank.
- I.F. as a place-name element.

None of these definitions utilises the PDE descendant *churl*, which is largely archaic except in the adjectival form *churlish* ‘grudging’. It is thus never appropriate to translate OE *ceorl* as ‘churl’. Having established that, we still need to decide how to translate the term in any given instance. Here there are two main issues. The first is how to select the relevant meaning from the above list. The second is how to express meanings that do not exist in the vocabulary of PDE, such as I.B.1. At this point, we need to turn to actual occurrences.

A straightforward example, insofar as identifying the relevant meaning is concerned, is clause 15 of the law-code issued by King Æthelberht towards the beginning of the seventh century [Throughout, text and clause numbers are from Liebermann’s edition (1903–1916)]:

Æbt 15. Georles mundbyrd: VI scillingas.

The word *mundbyrd* is a legal term referring to the right of protection over dependants, so its value is the amount of compensation payable for violating that protection. Clause 8 of the same code sets the king’s *mundbyrd* at 50 shillings, and here that of the *ceorl* is set at 6 shillings. Context, then, indicates that in this instance, *ceorl* refers to social class: sense I.B.1. The problem remains that there is no PDE equivalent, because the social class in question does not exist within modern-day society. As with *mundbyrd*, the concept itself is obsolete, so PDE has no term for it.

This means that although the meaning is not in doubt, it is difficult to express in translation. Strategies to deal with such situations will depend on the type of translation and the intended audience. For some purposes, a general term such as ‘freeman’ may suffice. For others, a more precise but longer-winded description such as ‘a member of the lowest class of free men’ may be required. A third option is to leave the term untranslated, and to provide a glossary for the reader. Inevitably, there is a tension between semantic precision and readability, and different translations will prioritise one above the other. Whichever solution is adopted, it is essential to maintain consistency throughout the translation. Thus each occurrence of *ceorl* sense 1.B.1 must be treated in the same way, and in a manner consistent with the treatment of other concepts unrepresented in PDE such as *mundbyrd*.

A different sense of *ceorl* appears in clause 85 of the same code:

Æbt 85. Gif man mid esnes cwynan geligeþ be cwicum ceorle, II gebete.

Again, the meaning of *ceorl* is clear from the context. This clause specifies the compensation to be paid (*gebete*) by an offender who commits adultery (*geligeþ*) with the wife (*mid ... cwynan*) of an unfree servant (*esne*) while the *ceorl* is alive (*cwic*). Since one person cannot be a member of two different social classes, this rules out an interpretation of *ceorl* in sense 1.B.1. Moreover, the marital context points clearly to sense 1.A. In this instance, then, *ceorl* can be translated by the PDE equivalent ‘husband’.

Other occurrences are less clear-cut than these. Difficulties of interpretation are presented by the use of *ceorl* in clause 6 of the second series of Kentish laws, issued under the joint names of kings Hlothhere and Eadric in the mid seventh century:

H&E 6. Gif ceorl acwyle be libbendum wife 7 bearne, riht is þæt hit, þæt bearn, medder folgige, 7 him mon an his fæderingmagum wilsumne berigean gefelle, his feoh to healdenne, oþ þæt he X wintra sie.

The rest of the clause may be translated as follows:

If a ceorl dies with a living wife and child, it is right that the child should go with the mother, and one of its father's relatives who is willing to act is to be appointed trustee to look after its property until it is ten years old.

Unlike in the two previous examples, contextual evidence here is consistent with alternative meanings of *ceorl*. On the one hand, a man who has a wife and child is clearly married, so sense I.A ‘married man, husband’ seems appropriate. On the other hand, the fact that the clause is about guardianship and property carries implications of social standing, so there is also a strong case for sense I.B.1 ‘a member of the lowest class of free men’. Since there can be no certainty, a further option is to avoid choosing between the two, by selecting the more general sense I ‘man’. Different translators make different choices, with ‘husband’, ‘freeman’ and ‘man’ all appearing in published translations of the clause.

To conclude this section, a key point to note is that translation is not a matter of identifying a word in the source language and finding the corresponding word in the target language. Rather, it is a matter of identifying a meaning in the source language, and deciding how that meaning can best be represented in the target language.

TRANSLATING OLD ENGLISH GRAMMAR

As with lexical structures, grammatical structures in one language rarely map directly onto grammatical structures in another language, or in another stage of the same language. In some instances, this is a source of ambiguity; in others, translators have to choose between retaining the original grammatical structure and representing the original grammatical meaning. In practice, of course, there is often a grey area inbetween, with alternative strategies being closer to one end of the scale or the other.

An example of ambiguity is presented by Æthelberht 31, which deals with adultery. It begins:

Æbt 31. Gif friman wið fries mannes wif geligeþ, his wergelde abicge ...

Every free person in Anglo-Saxon society had a *wergeld*, the value set on their life, which varied according to social class. This clause sets the compensation payable by a free man (*friman*) for committing adultery (*geligep*) with the wife of another free man (*wið fries mannes wif*) at the value of his – or her – *wergeld*. The phrase *his wergelde* is doubly ambiguous. Most obviously, it could refer to the *wergeld* either of the husband or of the adulterer. A further ambiguity arises from the fact that, unlike in PDE, all OE nouns belong to one of three genders: masculine, feminine or neuter. Since *wif* is a neuter noun, which also takes the genitive pronoun *his*, the phrase could alternatively refer to the woman's *wergeld*. All three possibilities have been robustly defended in published scholarship, and it is not my aim to arbitrate between them here. The point is that we cannot necessarily translate the OE masculine pronoun *his* as the PDE masculine pronoun *his*, any more than we can translate the OE noun *ceorl* as the PDE descendant *churl*.

Even where the meaning is clear, translation may not be straightforward. Returning to Hlothhere and Eadric 6 quoted towards the end of the preceding section, the verb *ācwyle* is a subjunctive rather than an indicative form. It might therefore be translated as a PDE subjunctive: 'If a *ceorl* die ...' The problem is that whereas the subjunctive was routinely used in OE for hypothetical statements, it is vanishingly rare in PDE except in fossilised phrases such as 'If I *were* you' and 'God *save* the queen', so its use might now appear stilted or unnatural. To put it another way, the grammatical construction still exists in PDE, but has changed from being an unmarked to a marked form. This means that it is not possible for a translation to retain both the construction and the register of the original: a choice has to be made. There is certainly a case for translating the grammatical forms of the source language into the corresponding grammatical forms of the target language. However, where the two languages use grammatical forms differently, there is also a strong case for translating the unmarked grammatical forms of the source language into the unmarked grammatical forms of the target language. Again, the main principle is consistency. If one OE subjunctive is translated as a PDE subjunctive, so should all the others. Conversely, if one is translated as an indicative, the same practice should be maintained throughout.

Many other differences between OE and PDE also have to be negotiated in translation. Like the subjunctive, use of the impersonal pronoun *one* has declined over the centuries. In the opening of Æthelberht 85 quoted above, 'Gif man...' is a standard form, but the closest PDE equivalent, 'If one ...', belongs to a highly formal register. Alternative possibilities include 'If someone ...', 'If anyone ...', or 'If a person ...'. Many of the other Kentish laws begin in the same way, so again, whichever solution is adopted should be consistently applied.

A further issue relates to syntax. The Kentish laws are very elliptically expressed, so their meaning may not be evident from a literal translation. As noted above, Æthelberht 15 specifies the amount of compensation payable for violation of *mundbyrd*, the 'right of protection'. However, neither the concept of payment nor the concept of violation is articulated within the text of the law. Instead, it simply specifies the social class (*ceorles*), the right of protection (*mundbyrd*) and the sum of money (*VI scillingas*). A literal translation such as 'freeman's right of protection: 6

shillings’ would be technically accurate, but may make little sense to readers. A common strategy is to add the implied concepts in translation, placing them within square brackets to indicate that they are not present in the original: ‘[Payment for violating] a freeman’s right of protection: 6 shillings.’ In such instances, we need to be careful not to impose an interpretation that may represent only one possible reading.

To conclude this section, a key point to note is that translation is not a matter of identifying a grammatical structure in the source language and finding the corresponding grammatical structure in the target language. Rather, it is a matter of identifying a grammatical meaning in the source language, and deciding how that grammatical meaning can best be represented in the target language.

SAMPLE TRANSLATIONS

This section presents alternative translations of three selected clauses from the Kentish laws, in order to illustrate some of the different strategies adopted in published editions.

Æthelberht 10 concerns compensation for sexual relations with a virgin slave belonging to the king. There are no interpretive differences between the four translations below, yet none is identical to any of the others:

Æbt 10. Gif man wið cyninges mægdenman geligeþ, L scillinga gebete.

If a man lies with a maiden belonging to the king, he shall pay 50 shillings compensation. (Attenborough 1922: 5)

If anyone lies with a maiden belonging to the king, he is to pay 50 shillings compensation. (Whitelock 1979: 391)

If a man lies with the king’s maiden, let him pay 50 shillings. (Oliver 2002: 65)

If someone lies with a king’s maiden, he is to compensate 50 shillings. (Wormald 2005: 4)

Notice particularly the various ways of rendering the final clause, as well as the alternative approaches to the impersonal pronoun *man*. Nevertheless, all four agree on translating *geligeþ* as ‘lies with’ and *mægdenman* as ‘maiden’, apparently motivated by the etymological links between

these words in OE and PDE. Is either expression actually current in PDE? If not, how appropriate are these translation choices?

The following clause continues the same topic by setting out reduced levels of compensation for sexual relations with slaves of inferior status:

Æbt 11. Gif hio grindende þeowa sio, XXV scillinga gebete. Sio þridde: XII scillingas.

If she is a grinding slave, he shall pay 25 shillings compensation. [If she is of the] third [class], [he shall pay] 12 shillings compensation. (Attenborough 1922: 5)

If it is a grinding slave, he is to pay 25 shillings compensation; [if a slave of] the third [class], 12 shillings. (Whitelock 1979: 392)

If she should be a 'grinding' slave, let him pay 25 shillings. [If] she should be [of the] third [rank], 12 shillings. (Oliver 2002: 65)

If she be a grinding slave, he is to compensate 25 shillings. The third [sc. rank?], 12 shillings. (Wormald 2005: 4)

Here it is interesting to compare the treatment of the subjunctive verb *sio* towards the beginning, and the parenthetical insertions in the final part. Perhaps surprisingly, only Oliver uses inverted commas to indicate that 'grinding slave' is not a standard PDE expression!

The third and final example appears towards the end of Æthelberht's code, and again concerns slaves:

Æbt 89. Deowæs wegreaf se III scillingas.

The sum to be paid for robbing a slave on the highway shall be 3 shillings. (Attenborough 1922: 17)

Highway robbery of [or by?] a slave is to be three shillings. (Whitelock 1979: 394)

A slave's highway robbery shall be [paid for with] 3 shillings. (Oliver 2002: 81)

Slave's highway robbery is to be 3 shillings. (Wormald 2005: 10)

Interpretation of this clause is problematic, since it is unclear whether the genitive singular form *Deowæs* refers to a robbery committed by or against the slave. The translation ‘slave’s highway robbery’ is the most literal, but does this retain the ambiguity or simply render the clause meaningless? Also notable is the respective length of each translation in comparison to the original, representing five OE words with up to sixteen in PDE.

SUMMING UP

It will have become clear that there is no right or wrong approach to translating the Old English laws. Rather, it is important to be aware of the issues in order to develop a considered – and consistent – plan of action.

As with other choices, such as how to cite references and how to lay out a bibliography, forward planning is essential in order to decide on a translation strategy from the outset and to apply it consistently.



ABBREVIATIONS

DOE = *Dictionary of Old English: A to H Online*. 2016. eds Angus Cameron, Ashley Crandell Amos, Antonette diPaolo Healey et al. Toronto: Dictionary of Old English Project.
<http://tapor.library.utoronto.ca/doe/>

OED = *Oxford English Dictionary* <http://www.oed.com/>

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Borrowing and Attestation: Translating Poorly Attested Loans

DR SARA PONZ-SANS



When we want to translate a document we first need to know the basic meaning of the words in it before we can start thinking about how best to translate it or the kind of translation that we want to produce in relation to our purposes, audiences, etc. (see the papers by Benham, Hough and Vogt and Nijdam in this collection).

However, establishing the meaning of a term is not always easy because of the various issues, lack of enough information due to poor attestation in the extant records being the most significant problem for our purposes here. That difficulty is aggravated when we deal with terms that might have been borrowed from another language because then we have to contend with establishing first of all the meaning of the term in the original language and then the meaning with which the term might have been borrowed. Or, actually, it might be the case that we are not dealing with a loan after all, and that complicates things even more by adding more semantic possibilities. This is the situation that we have with some Norse-derived loans that entered Old English as a result of the Anglo-Scandinavian linguistic contact following the settlement of Scandinavian newcomers in England in the mid-9th century. This paper focuses on some of these terms and the problems that they involve, but the discussion could be extrapolated to other terms facing similar issues.

There are approximately 150 loans from Norse in Old English, many of which are legal terms.

There are approximately 150 loans from Norse in Old English, many of which are legal terms (see Pons-Sanz 2013). Old Norse and Old English were very close to one another, to the extent that Old Norse was probably the closest Germanic language to Old English after Old Frisian and Old Saxon. This is likely to have led to a significant level of mutual intelligibility between the speakers of the two languages and to the borrowing of important terms from Norse into English, including the personal pronouns *they*, *them* and *their*. However, the proximity between the two languages also makes the identification of Norse-derived loans in English rather hard at times,

as exemplified by the terms discussed below.

I would like to focus first on the terms that appear in clause 3 of the law-code normally referred to as *III Æthelred*, issued around 997 and aimed particularly at the Danelaw. This decree is echoed in the so-called *Law of the Northumbrian Priests*, a code which is somewhat later because it incorporates material from Cnut's code. OE *landcōp* / *landcēap* and *lahcōp* / *lahcēap* are only recoded here.

And **landcop** & hlafordes gifu þe he on riht age to gifanne & **lahcop** & witword & gewitnes þæt þæt stande þæt hit nan man ne awende.
(LawIIIatr 3)

*'And there shall be no interference with **landcōp**, or gifts by a lord of what he has a legal right to bestow, or **lahcōp** or asseverations [which have been duly made] or testimonies [which have been duly given].'*

& we willað, þæt **landceap** & **lahceap** & witword & getrywe gewitnes & riht dom & fulloc & frumtalū fæste stande & **dryncelean** & hlafordes rihtgifu & huru an Cristendom & an cynedom æfre on ðeode. (LawNorthu 67.1)

*'And we desire that **landcēap** and **lahcēap** and testament and true witness and lawful judgement and baptism and first statement of a witness and **dryncelēan** and the lord's lawful gift and one Christendom and one kingdom ever be in the nation.'*

Both OE *landcōp* and *lahcōp* are most likely Norse derived terms. This is particularly suggested by the phonology of the second element of the compound, where /o:/ shows the common way in which the Norse diphthong /au/ was adopted into English. The native cognate of ON *kaup* was OE *cēap* 'purchase'. Both terms ultimately derive from L *caupō* 'petty tradesman', so they exemplify the different evolution of the diphthong /au/ in the two languages. In the *Laws of the Northumbrian Priests* we find the native term instead of the loanword in the compounds.

In spite of the apparent simplicity in this initial etymological explanation, things are not as clear. OE *landcōp* might have been borrowed as a compound based on ON *landkaup*, which was a polysemous term: it is attested with the meanings 'purchase of land' as well as 'a fine paid to the king by one exiled or banished', a meaning that we find, for instance, in Norway's *Frostathing Law*. Alternatively, it might have been newly coined on English soil, once the loanword OE *cōp* (< ON *kaup*) had been recognised as an element meaning 'purchase'. This would argue in favour of interpreting the compound along the lines of the first meaning suggested above for the Norse term, i.e. as a reference to the purchase of land, which is the most common trend amongst scholars. But how exactly should it be interpreted?

Various suggestions have been put forward:

1) Possibly, the decree refers to the fact that transactions carried out according to Danish procedure should stand even if they are not fully in keeping with Anglo-Saxon practice (e.g. it has been suggested that in Anglo-Saxon law land could not be sold out of the kindred). This direct reference to purchase of land finds an equivalent in compounds such as OE *cēapland* and *caupaland* ‘bought land’, attested in various charters.

2) Bosworth-Toller (1898: s.v. *landceáp*) suggest instead the term refers to a fine or tax paid when land was purchased. This translation presents a term for an action as referring to a payment to be made in connection to that action and finds various parallels in Old English, e.g. OE *lahbryce* or *lahslit*; both these terms mean literally ‘breach of the law’, but are also used to refer to the fine to be paid for committing the crime.

Given that the term appears together with a reference to possessions changing hands, in connection with the gifts that the lord has a legal right to bestow, and that we are told literally that the matters listed ‘should stand incontrovertible’, it seems to make more sense that the term refers to the actual purchase and not a fine or a tax, but we cannot be certain.

On the basis that, as I have just mentioned, scholars do not normally traduce OE *landcōp* as a fine to be paid by someone who has been banished to remain in the land, it is somewhat surprising that there seems to be widespread consensus that OE *lahcōp* should be translated as ‘purchase of legal rights’, often taken to be a reference to the fact that an outlaw would have to make a payment to regain the legal rights that he had lost.

Accordingly, the term is associated with the Old Danish compound *laghkøp*, which is attested in the *Old Sleswick Law* in connection with a payment that foreigners, such as those from Frisia, Saxony, etc., had to make to the king in order to be allowed to live in the area. Neff (1989) argues further that OE *lahcōp* might actually refer to a comment that we find later on in clause 3.3. of *III Æthelred*:

& ælc bicge him lage mid XII oran, healf landrican, healf wæpentake.

‘And each of them shall buy for himself [the benefit of] the law with twelve ores, half to the lord of the estate, half to the wapentake’.

This clause, about the need to pay for rights to be heard in court, is rather odd in the context of Anglo-Saxon law, where otherwise we find statements that everyone is entitled to the benefit of the law, as in clause 1.1. in *III Edgar*. Neff argues that this practice might have originated at a time when the Scandinavians were seen as foreigners not entitled to receive justice in English courts and therefore had to pay for it, or it might refer to a more general payment made by new immigrants.

However, interpreting the term as referring to the purchase of legal rights is not the only option. We need to remember that ON *lögkaup* is also attested with the meaning ‘lawful bargain’, for instance in the Icelandic code *Grágás*, and this meaning would not be out of place in either Anglo-Saxon decree, given that we have various references to possessions changing hands. Accordingly, it might be that OE *landcōp* refers specifically to the purchase of land and OE *lahcōp* to legal bargains in general.

So, we are not quite sure about what these decrees are about other than, of course, the important role of witnesses and the fact that the gifts bestowed by lords should be respected. Are they primarily about different types of transactions leading to possession changing hand and the role that witnesses play there? Or are they about the role of witnesses more generally, both in transactions and courts (notice the reference to *riht dōm* in the *Law of the Northumbrian Priests*)? Is the *Law of the Northumbrian Priests* trying to unpack the various references that one finds in the Æthelredian decree? Is it expanding it in ways not necessarily intended by the Æthelredian decree? Is it doing both?

In this context, it is also interesting to consider the meaning of OE *dryncelēan*. Clause 67.1 of the *Law of the Northumbrian Priests* brings together clause 3 of *III Aethelred* with clause 81 of *II Cnut*. These are the only two contexts where the compound OE *dryncelēan* is recorded.

And **drincelean** & hlafordes rihtgifu stande æfre unawend. (LawIICn 81)

‘And dryncelēan and the lord’s legal gift are to remain unperturbed.’

Whereas in the case of OE *landcōp* and *lahcōp* we have some phonological evidence pointing towards the Norse origin of at least part of the compounds, that is not the case as far as OE *dryncelēan* is concerned, where the only evidence that we have to suggest that this term is Norse-derived is the fact that it is first attested rather late in English (during Cnut’s reign) and we have a comparable compound in Old Norse: OWN *drekkulaun* ‘reward for drink’ (i.e. a gift presented by the king to one who has entertained him, as in Norway’s *Gulathing Law*, §270). Therefore, this compound might have been coined with or without foreign influence.

On the basis of these etymological explanations, we have again various possibilities for the meaning of the term:

1) Steenstrup (1882: 186-87) argues in favour of assigning it the same meaning as the Norse term. This meaning finds a parallel in Old English terms such as OE *feorhlēan* ‘recompense for saving one’s life’ or *fōstorlēan* ‘remuneration for fostering someone’ (used specifically in relation to the Virgin Mary, who is said to have been granted eternal life for giving birth to Christ), where the determinant of the compound indicates the reason for the reward.

2) Peters (1981: 91) and Townend (2002: 203) translate it with a more general sense: ‘entertainment given by a lord to his tenants’.

3) Bosworth and Toller (1898: s.v. *drynce-leán*), Robertson (1925: 359 n. to LawIICn 81), and Clark Hall (1960: s.v. *dryncelēan*) prefer to associate this word with the gift of drink-money which may have marked the successful conclusion of a bargain. Similarly, the *Thesaurus of Old English* (2000) includes this compound under 15.05 (‘trade, traffic, commerce’), and translates it as ‘drink confirming sale’ (cp. the *DOE* 2016: s.v. *dryncelēan*), so, in this case, the determinant would indicate the nature of—rather than the reason for—the reward; again, we find a parallel in OE *wuldorlēan*, where the determinant, OE *wuldor* ‘glory’ indicates the nature of the reward rather than its reason.

Given these alternatives, attributing a meaning to this compound is not an easy task. The meaning referring to some sort of procedure involving drinking after a bargain seems fully appropriate, particularly if we associate LawIICnut 81 with IIIAtr 3, its source, and decree 67.1 in the *Law of the Northumbrian Priests* because, as we have seen, these decrees seem to deal with various issues surrounding purchases and the transfer of property. However, LawIICn 81 appears in the context of various decrees dealing with issues of land tenure and use:

And se ðe land gewerod hæbbe on scire gewitnesse & se nolde oððe ne mihte, þe hit ær ahte, hæbbe unbesacen on dæge & æfter dæge to sylenne & to gyfenne þam þe him leofost si. (LawIICn 79)

‘And he who has performed the obligations on an estate with the witness of the shire is to have it uncontested for his lifetime and to give it to whom he pleases after this lifetime.’

And ic wylle, þæt ælc man si his huntnoðes wyrðe on wuda & on felda on his agenan. (LawIICn 80)

‘And it is my will that every man is to be entitled to his hunting in wood and field on his own land.’

Furthermore, OE *dryncelēan* appears together with an explicit reference to a gift provided by a lord. So, could it be the case, that, just as OE *landcōp* could be a specific example of *lahcōp*, OE *dryncelēan* was a specific example of OE *hlāfordes rihtgifu*? I.e. was Steenstrup right in associating the term with the Norse compound and giving it the same meaning as its suggested etymon? Given the difficulties involved in establishing the specific meaning of this term, it is no

wonder that Liebermann (1903-16) and Whitelock (1979) give both the Norse meaning and the commercial meaning discussed under 3) as equal possibilities without daring to make a decision.

The lines above have provided more questions than solutions because there are no easy solutions to these problems. However, they have exemplified that, when attempting a translation, it is fundamental to pay very close attention to our terms, their possible sources and their contexts in order to gain some understanding of what the terms might mean. This is, of course, only the first step in the translation process.



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Translating a Medieval Legal System into Modern English

DR HELLE VOGT & DR HAN NIJDAM



INTRODUCTION

This paper will look at some of the problems which arise when translating a medieval legal system into modern English. It is based on experiences that were acquired in the course of two edition projects; one Frisian and one Danish (Nijdam et al, forthcoming 2018, and Tamm and Vogt, 2016).

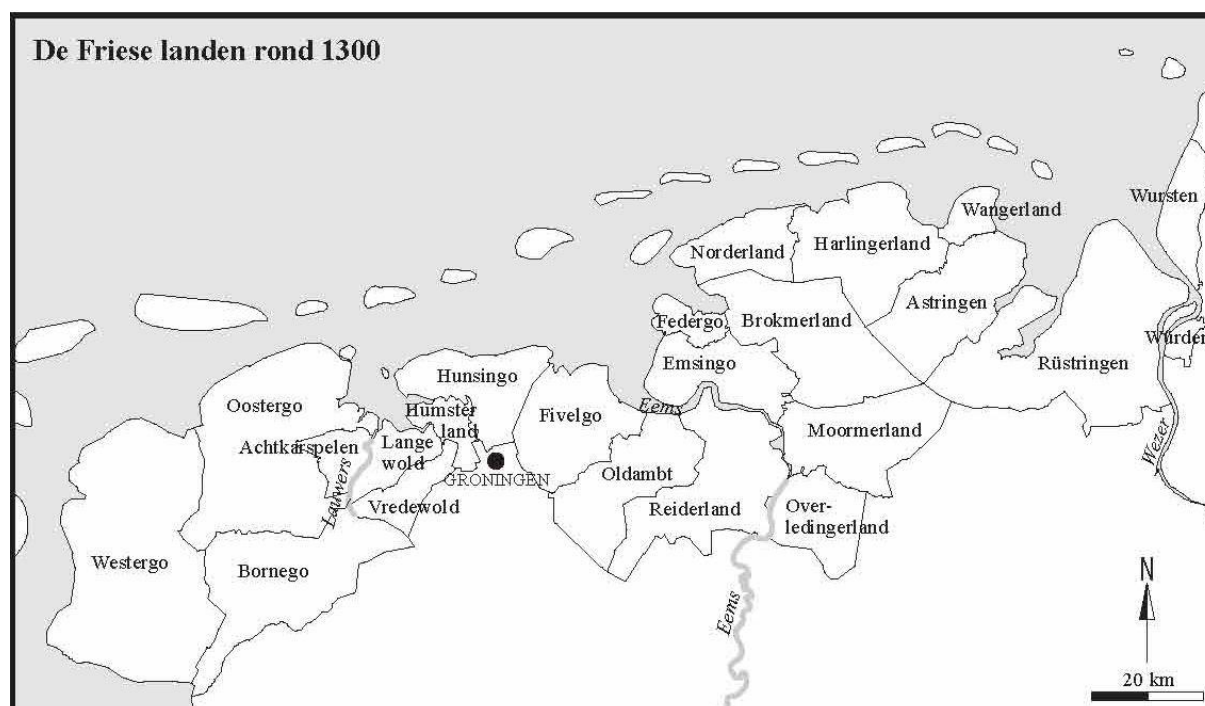


Medieval Frisian and Danish laws give a beautiful option for comparison. First of all, the Frisians and the Danes occupied almost contiguous areas in the North Sea region (see map 1). Second, archaeologists now believe that the ‘new’ Frisians who settled in the Frisian lands from the fifth century onwards came from Denmark. They brought with them their set of legal terms and concepts and developed these further. Third, the later development and histories of medieval Frisia and Denmark respectively differ considerably from each other, yielding an interesting case for contrastive comparison.



Map 1

THE FRISIAN LEGAL SOURCES



Map 2

During the eighth century, the Frisians were conquered by the (Merovingian and Carolingian) Franks. This event led to the recording of the law of the Frisians: the Latin *Lex Frisionum* dating from ca. 780/795 (Siems, 1980). In the *Lex Frisionum*, Frisia is divided into three distinctive parts: 1) between the rivers Sincfal (on the border between Belgium and the Netherlands) and Vlie (nowadays IJsselmeer); 2) between Vlie and Lauwers (i.e. present day Friesland); 3) between Lauwers and Weser (i.e. the present day provinces of Groningen in the Netherlands and Ostfriesland in Germany). This division was not a Frankish invention since these regions seem to have been old cultural zones. The cultural heartland was the present-day province of Friesland. [See Maps 1 and 2]

Shortly after the Frisians had been conquered by the Franks, the Viking started raiding the European continent and England (roughly between 800 and 1000) and this heavily influenced the situation in Frisia. Frisian villages were plundered, but the Frisians also traded with the Vikings or even took part in raids (IJssennaggar, 2013). Also, the Carolingian kings gave parts of Frisia in fief to Viking chieftains in an effort to stop further Viking raids on the continent, just as they did with Normandy in France.

One of the outcomes of the Viking period was that the ties between Frisia and the Carolingian realm, which had been fresh by the onset of that period were weakened. From ca. 1100 onwards, the so-called Frisian Freedom emerged. This was a society much like the Icelandic Freestate. The Frisians were autonomous, ruling themselves and upholding to their own laws. This

legal practice led to the famous corpus of Old Frisian law texts which the German scholars of the nineteenth century such as Jacob Grimm and Karl von Richthofen treasured so much.

The corpus of Old Frisian law texts consists of a large number of individual texts, some of which were used in all Frisian regions between the rivers Vlie and Weser, some only regionally. During the thirteenth century, the Frisian lands fragmented into twenty to twenty-five smaller regions in the area between the rivers Vlie and Weser, whilst the area between Sincfal and Vlie grew into the county of Holland, no longer forming a part of the Frisian legal community. These smaller regions formed autonomous communities, ruling themselves. There were, however, intraregional contacts and assemblies were held at the Upstalsbam near Aurich once a year. [See Map 2]

The oldest law texts were most probably composed in the eleventh century, the bulk of them stemming from the twelfth and (especially) thirteenth centuries onwards. During the fifteenth century, the influence of Roman and canon law increased dramatically, changing the outlook of the law texts as well as legal practice.

Our view of this development is seriously hampered through a shortage of medieval sources. During the Reformation, in the 1580s, all Catholic monasteries were shut down and their archives and libraries were largely destroyed. This has left us with only a fraction of the Frisian medieval sources that once existed (Nijdam and Savelkoul, 2017). The oldest complete law manuscripts that have come down to us stem from the late thirteenth century.

THE DANISH LEGAL SOURCES



Map 3: reproduced with permission from: Ditlev Tamm and Helle Vogt, eds., *The Danish Medieval Laws: The Laws of Scania, Zealand and Jutland*, (Routledge, 2016), p. xiv

The Danish realm consisted of three legal provinces: Scania, to the east, Zealand, in the middle, and Jutland, to the west. The oldest written Danish laws which we know about for certain are the church laws from Zealand and Scania, dating from around 1171 (Andersen, 2014). These church laws are examples of law which had been written for a special region. It aimed to regulate the grey area between secular and ecclesiastical law, such as succession, donations, marriage, procedure and crimes. Between the beginning and the middle of the thirteenth century the laws for each of the three legal provinces were written down: Scania (1202-1215), Zealand (Valdemar's law from the 1220s and Erik's law from the 1240s respectively), and Jutland (1241). These laws were in force until a national law for the entire kingdom replaced them in 1683.

The Danish laws are printed in *Danmarks gamle Love med Kirkelovene* vol. 1-8, Peter Skautrup, Stig Iuul and Peter Jørgensen eds., Det danske Sprog- og Litteraturselskab, (Copenhagen 1933-1961). For an English translation see: Ditlev Tamm & Helle Vogt (eds): *The Danish Medieval Laws: the Laws of Scania, Zealand and Jutland* (Routledge 2016).

The Danish laws were written in the vernacular, which is quite interesting since all Danish charters, narratives and even royal ordinances were written in Latin. Apart from the law texts, Denmark was one of the last places in Europe where the vernacular replaced Latin as the administrative language. This took

place during a reform around 1425 (Knudsen, 2011). Hence, it is most likely that a written Danish language using the Latin alphabet was developed in the second half of the twelfth century as a tool for writing down the laws. That this written language was still in full development during the thirteenth century is maybe best illustrated by the fact that a total of 994 different words are found in the *Law of Scania* (1202-1215), whereas the later *Law of Jutland* (1241) contains 1360 unique words (Skautrup, 1944; 284).

ON TRANSLATING MEDIEVAL LEGAL TERMINOLOGY

a) General observations

When deciding how to translate a medieval word, one must consider its linguistic and philological roots, as well as the actual meaning of the word within its context. In relation to the translation itself the following three considerations must be addressed:

1) *the modern common law vs. medieval legal understanding;*

2) *if a similar word exists in modern English, is the meaning still the same?*

3) should the medieval word be translated or should the original word be retained in the translation?

First, it can be useful to find out what the philological root for a word is, i.e. from which background it sprung. It will often help to understand where a word originated and which other concepts were originally linked to it. In Old Danish and Old Frisian most of the words have a Germanic root, but terminology linked to the church often has roots in Latin, Greek or High German.

Finding the philological root of a word is helpful, but it is not crucial for a correct translation. The next step is much more difficult but also more important: to define what the word actually means in the context in which it is found. The fact that lots of medieval – as well as modern – words have more than one meaning does not make the task easier. One example is Old Danish *logh*, which can mean ‘oath’, and ‘law’ as well as ‘proof’. These meanings point to the fact that the word originally was linked to settling or deciding a conflict. But in modern English there is a great difference between whether a case is decided by oath giving, by the law or in the view of proof that has been presented. If a word only occurs in one place in the text or if it clearly has the same meaning for all occurrences, one can stick to the same translation. However, if it becomes apparent that the word has different meanings throughout the text, one will have to decide whether to translate the word in a consistent manner or according to the individual context. Both solutions have their advantages and disadvantages. The advantage of translating according to context is of course that the reader gets a clearer understanding of how the translator interprets the text, but the problem is that much is then left to interpretation and the reader does not get an impression of the limitations of the vocabulary in the source. Whichever choice is made, make sure it is explained in footnotes or in the introduction.

When working with legal terminology, the modern English legal language is the language of common law, but common law was first gradually developed during the Middle Ages, and it is a specifically English phenomenon. Therefore, one must be very careful when using English legal terminology to describe something in medieval texts.

One example is the word jury. Jury-like institutions are found in many medieval legal systems including canon law, but the modern jury is defined as:

‘a group of people who have been chosen to listen to all the facts in a trial in a law court and to decide if a person is guilty or not guilty, or if a claim has been proved’.

~Definition taken from the Cambridge dictionary,
<http://dictionary.cambridge.org/dictionary/english/jury> (visited 28 July 2017).

So, when a jury-like institution occurs in a medieval text one has to estimate if what the text describes is actually a jury or something (slightly) different, such as a board of men nominated to give an oath or to give their opinion. And even if it is not exactly the same as a jury in a common law understanding, is it then perhaps better to translate it as jury? Perhaps by providing the translation with a footnote, rather than creating a construction which will be far more difficult to understand for the reader?

Working with medieval law texts occasionally presents us with ‘false friends’: medieval concepts that still are used in modern languages, but the meanings of which have changed. A good example is the Old Danish word *umbuthsman*, which is the same word as the modern Danish and English *ombudsman*. The medieval ombudsman was a local representative for the king who collected fines for the king, aided in the administration of justice and ensured that labour or other dues to the king were paid. The modern ombudsman on the other hand is employed to investigate complaints about the state administration and to represent the interests of the public in cases of abuse of power.

Finally, working on a translation soon makes one realise that there are many words that are extremely difficult to find a suitable translation for. At first glance the easiest and most accurate way may seem to go for a simple solution and render the medieval word in the translation. Unfortunately, keeping the original word does not acquit one of making the reflections mentioned above. The reader still expects an explanation of how the term is to be understood. And if the term has several meanings, the contextual understanding has to be addressed. In other words, by keeping the original term in the translation the problem of understanding and explaining is transferred to the footnotes – but it still has to be dealt with.

b) The Thing

We will now give three examples of legal terms that have Germanic roots, occur both in Old Frisian and Old Danish, but show (slightly) different developments in each language / legal system, thus making them interesting cases for comparison. Moreover, two of them still exist as modern English words, but the meanings of these words have evolved over time, making it impossible to translate the medieval terms with their modern English equivalents.

The word *thing* goes back to Proto Germanic (ProtoGmc) *thingaz ‘time, appointed time’ (cf. Lat. tempus). It referred to the (legal) assembly held by the various Germanic peoples at set times, where a range of matters was decided by the freemen. It also had a religious component (Green, 1998: 35-39).

Already in the early Middle Ages, the term came to stand for various aspects of the

The things in Northern Europe have been subject to extensive studies in the last ten years, the main results can be read in *Debating the Thing in the North I. Selected Papers from Workshops Organized by The Assembly Project*, eds. Alexandra Sanmark, Frode Iversen, Nathacha Mehler and Sarah Semple, Journal of the North Atlantic. Eagle Hill Institute. Special Issue 5 (2013).

original meaning. Thus, its meaning changed into either the time when the assembly was held, the place where it was held, the legal case that was being pursued (thus becoming glossed with Latin *causa* and *res*), etc.

Frisian Law

In Old Frisian (OFris.), we encounter the form *thing* (with variant spellings *ting*, *ding*). Being such a central

concept, it spanned various compounds, adjectives and even a verb: OFris. *thingia* ('to hold a *thing* / court meeting, to file a lawsuit'). Apart from *thing*, Old Frisian used the term *warf*, which refers to the place where the meeting was held: an elevated place in the landscape (Hofmann and Popkema, 2008: 488-489, 568).

There were three "normal" thing meetings each year, which a free man or Free Frisian was obliged to attend. Apart from this, special thing meetings could be called for. For some of these, Old Frisian has rendered a specific term, such as *bodthing* ('thing meeting to which one is specifically called/summoned'), *fimelthing* ('the *thing* which comes after the *bodthing* and in which unsolved cases can be dealt with'), and *bodelthing* ('*thing* to deal with the inheritance of an estate').

We know very little about the differences between the local, regional and supra-regional things that were held because of a lack of source material. The term for a meeting of a *thing* of a 'land' was *londeswarf*. The Frisian equivalent to the Icelandic 'Althing' was held at the Upstalsbam near Aurich. This gathering of the Frisians from all the Frisian regions was active during the thirteenth century and was revived in the fifteenth century. Not much is known about it.

DANISH LAW

The Frisian and Danish *thing* share many common features, but were not identical. In Denmark, two kinds of *things* dominated: one local and one for the whole province. The *thing* we are confronted with in the laws was not a court of law in the narrow sense. It had no judges, scribes, or legal officials of its own and it had no executive power. It was rather a multifunctional venue for discussing and determining matters of communal concern such as public announcements, calling of the military levy, publication of social status, and settling of disputes. The proceedings at the *thing* took place at regular intervals in the open air at fixed sites protected by a special peace (Esmark and Vogt, 2013). Both kinds of *things* met once a week on a fixed day. The local *thing* was called *hærethsting*. It was a gathering of householders of the area, i.e. free men who had their own household. Here, they primarily dealt with local matters like property conflicts,

trespassing, theft etc. The word *hæreth* comes from *hær* that both can mean ‘army’ and ‘people’, and *rath* that could mean ‘advise’, ‘disposal’, or ‘consent’.

The provincial *thing*, the *landsting*, was a larger *thing* for the whole *land* i.e. province. It dealt with killings, serious wounds, and all cases concerning losing one’s peace and protection. The *landsting* should also agree on new legislation and elect kings. The political importance of the *landsting* disappeared during the thirteenth century.

TRANSLATING THING INTO MODERN ENGLISH

A word like *thing* is often not translated in English texts, but for the reader who is not familiar with Germanic languages it can be confusing since the word *thing* in modern English has very little to do with the medieval *thing*. One would have to know that the modern English word *thing* ‘object’ (just as modern Dutch and Frisian *ding*, and modern Danish *ting*) developed from legal case (Latin *res*) into its present meaning.

Latin texts do not offer much help. We can see that there was no consistency in translating *thing*. In the Danish sources it is rendered as *curis secularis*, *placidium* or just *ius* – a place where legal matters were handled. What is a *thing* in modern English then? A court? The word underlines the legal function, but it is also misleading since it was not a court in the modern sense, due to the lack of a judge and executive powers. If the political function should be stressed an option could be parliament, but the problem is that it covers only the Danish *landsting* and the Frisian *londeswarf* and the legal function is totally left out of the picture. A compromise could be ‘assembly’ or ‘legal assembly’, a place where people met and discussed legal matters. Finally, one could simply choose to keep the original word *thing*.

On the origin of the *hæreth* see Per Andersen, *Rex imperator in regno suo. Dansk kongemagt og rigslovgivning i 1200-tallets Europa* (Syddansk Universitetsforlag 2005) 69-74.

c) *Dom*

The word *dom* survives in both Danish and Frisian (and English) language to the present time, and the meaning of the word changed gradually as the function of the *thing* changed into a court in a modern sense.

The word goes back to ProtoGmc *dōm- ‘judgement, opinion’ (Green, 1998; 44-45). It evolved into the suffix *-dom* in words such as kingdom, wisdom, freedom, etc. The meaning of the Modern English equivalent *doom* evolved through its use in a Christian context. The final judgment of the Apocalypse was called *doomsday*, i.e. ‘the day of the judgment’. From this, the word *doom* got its connotations of ‘destruction, ruin, extinction’. The same semantic development occurred in Modern Frisian and Modern Dutch.

FRISIAN LAW

In Old Frisian, we encounter *dom* ('decision, judgment, decree'). Frequently found formulae are: *dom dela* ('pass judgement') and *bi asega dome and bi lioda londriuchte* ('according to the decree of the law speaker / judge (the *asega*) and according to the land law of the people').

DANISH LAW

In twelfth-century Denmark, a *dom* could be given at the *thing* if the proof of the accused failed, or the men nominated to investigate the case found a person guilty. However, it was up to the plaintiff to get his right since the *thing* did not have executive power.

TRANSLATING DOM INTO MODERN ENGLISH

What was a *dom* then? A judgment? But how can there be a judgment without a judge? Could it be a verdict? But in a modern legal understanding a verdict is connected to a decision made by a jury. Translating it as 'sentence' might be an option, since a sentence can be defined as the punishment assigned to a person found guilty by a court, or fixed by law for a particular offence. A vaguer definition would perhaps better reflect the medieval word, in which case the translation 'permission' could be thought of – the plaintiff got public acceptance to follow up on his claim. Another option would be 'decision', showing that something was decided at the *thing*, but not executed.

d) Wergeld and Manbot

The words *wergeld* and *manbot* consist of elements that are almost completely synonymous: both ProtoGmc *wer- and ProtoGmc *man- mean 'man'. The etymon *wer- has almost disappeared from the Germanic languages (cf. *werewolf*), but it is cognate to Latin *vir* 'man'. The elements ProtoGmc *geld- and ProtoGmc *bot- both mean 'compensation', where *geld has as its wider connotations 'to pay' (cf. Mod Du. *geld* and Mod. Germ. *Geld* 'money') and 'sacrifice' (cf. Mod. Eng. *guild*). The wider meaning of the word *bot- on the other hand is reflected in *better*: i.e. to make good again, to repair.

The institution of wergeld or blood money was not only known throughout the Germanic world: in fact, it is found in numerous cultures all over the world. Essentially, the idea is that a

Further Reading on Wergeld:

R. Schmidt-Wiegand, 'Wergeld', in: H. Beck et al. (reds.), *Reallexikon der Germanischen Altertumskunde* 33 (Berlin and New York 2006) 457-463;

W. Schild, 'Wergeld', in: Adalbert Erler et al. (eds), *Handwörterbuch zur deutschen Rechtsgeschichte* 5 (Berlin 1998) 1267-1271.

See also: C. Boehm, 'The Natural History of Blood Revenge', in: Jeppe Büchert Netterström and Bjorn Poulsen (eds.), *Feud in Medieval and Early Modern Europe* (Aarhus 2007) 189-203

person who had killed someone pays a certain amount of money/valuables/goods to the next of kin of the victim in order to buy off revenge, i.e. to prevent the kin to take revenge on the killer.

FRISIAN LAW

In Old Frisian we find *wergeld* reflected in these terms: *werjeld* ('wergeld'), *jeld* ('payment, money'), *witherjeld* ('counter payment (as a consequence of no longer understanding the element *wer-* correctly)'), *dadjeld* ('dead payment'), *monnesjeld* ('wergeld: a man's payment').

Old Frisian also used the term *bote* ('compensation'). This was not used for the complete wergeld though, but to denote the compensation for any wounds which were not lethal. Thus, we find compounds such as: *agenbote*, *arbote*, *fotabote*, *halsbote*, *hondbote*, *nosebote*, *tungebote* ('compensation for wounding (or cutting off) the eye, ear, foot, neck, hand, nose, tongue').

Already in the Old Frisian law texts *bote* can sometimes mean 'compensation' and sometimes needs to be translated as 'fine'. This reflects the fact that there was a form of government. It was weak, but it did exist and it could exact fines. This development is reflected in Mod.Dutch and Mod.Frisian *boete* as well as in Mod.Danish *bøde* which all mean 'fine' exclusively. The whole notion of 'compensation' has disappeared from these modern words.

DANISH LAW

Unlike many of the Germanic law texts the word *wergeld* is not found in the Danish laws. Instead, *manbot* is used, which literally is to be translated as 'compensation or fine for a man'. The Old Danish word *gjald* is only used in connection with homicide in *thæghngjald* ('a fine paid to the king when a homicide case was settled privately'). The *manbot* was paid collectively by the killer and his kinsmen; one third by the killer himself and one third by the kinsmen on his father's and mother's side respectively. *Manbot* was also used as a scale to compensate for limbs that had been cut off or damaged, as well as other body parts such as eyes, tongues and ears, just like in Frisian law.

TRANSLATING WERGELD INTO MODERN ENGLISH

When translating *werjeld* and *manbot* into modern English it would seem obvious to translate them in the same way, since it was the same institution. So why not simply use *wergeld*, since it is an accepted term in modern English? Translating them in the same way, however, does obscure the fact that the words are not the same in the original source texts (i.e. *manbot* in the Old Danish texts vs. *(wer)jeld* in the Old Frisian texts). Another option could be 'a man's compensation', which is literal. The term compensation is chosen instead of fine because we are dealing with a settlement between private parties. The translation 'killing's compensation' is not literal and does not cover the fact that Old Danish *manbot* could also denote a compensation for part of a man, i.e. an arm or a leg. The only problem from a Danish perspective with using *wergeld* to translate *manbot* is that in Old English law the term *manbot* also exists. In the *Leges Henrici Primi* (c.1115) *manbot* was a fine paid to the lord of the killed person and not to his kinsmen. In Old English law in general, payment to the kinsmen was known as *were* or *wergild* (Downer, 1972: 87, 4, 266). In the translation of the

Old Danish law then, the choice has fallen upon ‘man’s compensation’ for *manbot*, whereas in the Old Frisian edition and translation project *wergeld* was chosen.

CONCLUSION

In this short paper we have pointed out just some of the problems encountered when translating a medieval legal system into modern English. We have shown how two old Germanic terms, ‘thing’ and ‘doom’ are still present in Modern English, but have become completely useless as translations for medieval *thing* and *dom*. The third case, *wergeld/manbot* showed that in the Frisian and Danish projects, different decisions were made in translating this concept, due to 1) the actual word that appears in the respective medieval legal texts, and 2) the fact that in the Danish case the term *manbot* is also found in medieval English texts, but with a slightly different meaning. In short then, the three examples that were chosen here, show how difficult it can be to create a translation that is clear, unambiguous and consistent.



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Definition taken from the Cambridge dictionary,

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Voices of Law is an international network which aims to establish a wide comparative framework to highlight cross-cultural connections and cover areas of exceptional significance for the study of law, language and legal practice in Britain, Scandinavia and Frisia in the period AD 600-1250.

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The network will continue its life into 2018 and beyond, with Dr Matthew McHaffie joining the Committee. From February 2018, Dr McHaffie will take over the blog and social media accounts from Dr Melissa Julian-Jones.



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