Old Frisian: a Legal Language in Principle

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1. INTRODUCTION

The language in which the oldest Frisian legal sources were initially recorded is a much-scrutinized question within the field of Old Frisian studies. Ever since Karl Freiherr von Richthofen posited that the Seventeen Statutes and Twenty-four Landlaws were first written in Latin, the original language of the laws has remained a bone of contention which, at regular intervals, keeps returning to the scholarly debate. Although the primacy of Latin is a certainty for the oldest legal source, the Lex Frisionum of 785–793/794, uncertainty exists for the oldest surviving legal texts that succeeded this primal source. The debate has resulted in a consensus for only a few texts, but for most of these, including the aforementioned Statutes and Landlaws, the language primacy is still far from clear.

To determine the language in which an earlier or, ultimately, the first version of a law text was written, the customary method has been to use ex-
clusively or predominantly text-internal arguments. However, only rarely has this approach succeeded in establishing definitively that an earlier version really reflects the language in which it was composed (and, of course, the earlier version may in principle have been a translation too). Moreover, the fact that literally dozens of conflicting text-internal arguments have been put forward in the course of many decades to show that the language primacy of that particular text was either Latin or Old Frisian suggests that a solution to the primacy question cannot be found purely on the basis of the texts themselves.

It may be fruitful therefore to look for new perspectives. In particular, arguments derived from contemporaneous sociocultural circumstances may prove a more fruitful way of deciding the primacy of this or that language for a certain text or text corpus. Rolf Bremmer deserves credit for being the first to explore such perspectives on a wider scale in the case of Frisian. As part of his 2004 study, Bremmer made a concerted attempt to ascertain for the first time the linguistic primacy of especially the oldest Frisian legal texts on the basis of cultural-historical circumstantial evidence, by making generalizing claims about the written language traditions in the medieval Frisian lands. On the basis of a comparison with adjacent territories (esp. Holland and Saxony) and with the support of text-internal arguments, Bremmer concluded that Latin must have been the original language for the oldest legal texts. Although I applaud Bremmer’s innovative approach on the subject, some critical remarks about his analysis and argumentation are

6 Illustrative for the difficulty of ascertaining whether a version represents the original written language (i.e. that no intermediate stages of translation separate it from its original stage of recording) is Philipp Heck’s comment on the matter of written language primacy of the Seventeen Statutes and Twenty-four Landlaws (Übersetzungsprobleme im frühen Mittelalter, 35–6): ‘Der Lateintext ist natürlich selbst eine Uebersetzung aus dem Friesischen. Aber nicht eine Uebersetzung nach einer schriftlichen Vorlage, sondern ein Uebersetzung nach Gehör auf Grund eines mündlichen Vortrags der mündlich überlieferten Protokollen (...). Die friesischen Texte sind nur Rückübersetzungen oder Fortbildungen solcher Rückübersetzungen.’ The question is how one could definitively exclude that the Latin text was preceded by a (non-extant) Frisian text that neatly reflected the orally transmitted legal rules.

7 Bremmer’s Hir is eskriven, in turn, stands in a much broader tradition of studies into medieval communication, esp. medieval literacy; for an overview, see Mostert, A Bibliography of Works on Medieval Communication, 15–25.

8 Mostert (‘The Early History of Written Culture in the Northern Netherlands’, a translated revision of Mostert, ‘De vroegste geschiedenis van de schriftcultuur in Holland’, and Mostert, ‘De verschriftelijking van middeleeuws Friesland’) discusses the introduction of writing in the coastal regions of the Northern Netherlands between the first century BC and the end of the thirteenth century AD.

9 Bremmer, Hir is eskriven, 107–18.