Reading between the lines: Old Germanic and early Christian views on abortion

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INTRODUCTION

The subject of my research is early medieval abortion. The papers gathered together here are all directly or indirectly concerned with women and abortion. The object of my studies was to determine whether women in the early medieval Germanic West (could have) committed abortion, when confronted with an unwanted or inconvenient pregnancy. My main source is early medieval Germanic law.

The period studied covers the early medieval period and last part of the late antique period, roughly the period from the sack of Rome by the Visigothic king Alaric (410) and the subsequent settlement of the Visigoths in southern Gaul (418) to the start of the translation activities of the School of Salerno in eleventh-century Italy. The Germanic or ‘barbarian’ tribes that are the subject of my research are the Visigoths, Ostrogoths, the Salian and Ripuarian Franks, the Burgundians, Anglo-Saxons, Lombards, Alamans, Bavarians and the gentes ultra Rhenum, that is, the tribes that settled just outside the Roman limes (the Frisians, Saxons, Thuringians and the Chamavi or Hamaland Franks).1 These tribes gradually settled in the western and northwestern part of the (ex-) Roman Empire in the course of late antiquity and the early medieval period, bringing along their own customs, traditions and laws.2 The laws of these Old Germanic tribes were codified in the early medieval period with the exception of the greater part of Old Frisian law, which was codified in the late medieval period. Old Frisian law was included in this study, because the core text of Old Frisian abortion law - the Twenty-third Landlaw - is reputed to date back to Carolingian times. Late Roman law is also important, because it remained in force for the Roman subjects of the Germanic kings - usually in the form of the Lex Romana Visigothorum or Breviarium Alarici; it influenced some of the codifications of Old Germanic law.

Early medieval Christian texts, classical medicine and early medieval medicine were studied in a supplementary capacity.3 The biblical law on abortion and the Christian church’s opinions as taught by the Church Fathers and

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1 The Germanic tribes in Scandinavia were excluded from this study because they settled in northern Europe, and because Scandinavia was never part of the Roman Empire, nor part of the Carolingian Empire.
2 The arrival of ‘barbarian’ tribes in the Western Roman Empire is no longer regarded as a period of ‘invasions’; it is now considered a period of gradual settlement and migration during which the Roman Empire was slowly transformed into a number of ‘barbarian’ states. See, for instance, Noble 2006, pp. 1-27 for a summary of new and current theories on the subject.
3 Only sources that can be presumed to have been available at least in some parts of the early medieval West were studied. By ‘available’ I mean that there is evidence for an early medieval manuscript written either in Latin or the vernacular, or, if the text was originally written in Greek, that there was an early Latin translation. Often writers on ancient and medieval abortion discuss Greek texts as if they were available in the medieval West - this is a pitfall I wish to avoid.

There was little knowledge of Greek in the early medieval West in the Pre-Salernitan period, except in some of the farthest corners of the ex-Roman Empire such as North Africa, southern Italy and important ports in the Mediterranean. Literature written in Greek, such as the works of the Eastern Church Fathers, Greek Church council canons and most of ancient Greek philosophical (Aristotle) and medical literature, was not available in the early medieval West. Barring exceptions. There is an early sixth-century translation of the Greek canons of the Council of Ancyra (cf. chapter 2), and a number of Greek medical treatises and recipe books were translated into Latin in Ravenna and Milan in the sixth and seventh centuries. Some
laid down in Church council decisions were examined, and special attention was given to practical Christian texts, such as sermons and penitentials, because these texts were probably devised in response to real-life situations. A sample of early medieval gynecological recipes was added as a supplementary source because of its (presumed) practicality and in order to find out whether any recipes for abortifacients were known. My supplementary sources were mainly chosen for their ‘practicality’, that is, because they might contain clues as to whether and how abortion was practiced in early medieval Western Europe.

Old Germanic law was originally oral law, or ‘aural law’ that was recited by the asega or ‘law speaker’ in each tribe’s own vernacular during court proceedings. After settling in the former Roman Empire, the Germanic kings had their law codes put into writing as a means to assert their authority. When Old Germanic law was codified, most of these oral laws were translated into Latin, the language of literacy, authority and status. Through its codification oral Germanic law became part of the literary tradition and therefore only accessible to those who could read, the literati. Thus codification created a language and an accessibility barrier between the laws and their intended audience, that is, the people for whom these laws had been promulgated. Moreover, it also created a rift between the literati and the illiterati. The result is a new elite, the literati, and the creation of a double barrier: the Latin language and the medium, written texts.

This barrier also applies to other texts, because almost all the early medieval texts with information on abortion were written in Latin. Exceptions written in the vernacular are Old Frisian law and the Old English laws, penitentials, medical texts (herbaria) and sermons. Because all these Latin and vernacular texts were part of the ‘written’ tradition, we are dealing with material that was chiefly known and accessible to a literate or at the most a semi-literate elite. The illiterati, the majority of the Germanic speaking population in early medieval Western Europe, would not have been able to consult these texts first hand, nor would they have understood much of Latin texts that were read out loud to them.

The language and literacy problems outlined above are concerned with ‘literary tradition and literacy’ versus ‘oral tradition and orality’, and ‘Latin’ versus ‘the vernacular’. Literacy was slow in spreading, and its spread was complicated by the fact that Latin and not the regional vernacular was the language of medieval literacy, and the fact that literacy was restricted to the clergy, administrators and the upper classes for a long time. Language and literacy barriers probably existed during the larger part of the medieval period. It is important to realize that these problems affected the reception and transmission of medieval literature, or as Dennis Green put it: “It is justifiable to see the medieval period as one in which literacy gradually expands, encroaching upon the hitherto oral area of Northern Europe, so that the period is characterized by the clash and interpenetration of

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4 The term asega is the Old Frisian word for ‘law speaker’. On medieval orality, see, for instance, Green 1994.
5 Cf. Wormald 1999b: “Germanic kings made laws, first and foremost, partly in order to emulate the literary legal culture of the Roman and Judaeo-Christian civilization to which they were heirs, and partly in order to reinforce the links that bound a king or dynasty to their people” (pp. 38-39).
6 The evidence of the vernacular glosses of legal terms in Salic (the Malloberg glosses) and Alamannic law suggest - although there is no concrete proof - that some of the Old Germanic laws may have existed in two versions that functioned side by side: a written set in Latin and an oral set in the vernacular. If this is true, it is not unlikely that there were differences between these two sets of laws. But this remains largely a matter of conjecture. Cf. Wormald, “Lex Scripta and Verbum Regis”, in Wormald 1999b, pp. 13 ff. on Latin, Old Germanic law and the verbum regis or oral pronouncement of law (p. 17). Some laws were written directly in Latin, especially laws that were derived or influenced by Roman law, for instance, the Brevarium Alaraci, the Lex Romana Burgundionum and Ostrogothic law. Cf. also Dennis H. Green 1994, pp. 99-101 and Wormald 1999a.
orality and writing”. The fact that codification and Latinization made the texts studied in these essays relatively inaccessible and unintelligible should put us on our guard. We must repeatedly ask ourselves whether early medieval men and women could actually have been acquainted with any of the written Old Germanic laws on abortion, Church council canons, or recipes for emmenagogues found in early medieval recipe books. However, even though only a relatively small educated class had access to these texts, because they had learned Latin and were able to read or were read to, it is likely that at least some of the information in these texts was directly or indirectly known to the illiterati through Church sermons, confession, public court sessions, medical practitioners, pharmacists or the local herbalist. Information could also have been transmitted orally through an interpreters or some other kind of intermediary, because laws, penitentials, sermons and recipes are all texts intended for practical use.

This brings me back to the reason why the types of sources described above were chosen for these studies of early medieval abortion. Laws, recipe books and practical Christian texts all have to do with every day life, and they were probably written down or conceived as a result of concrete situations, and/or because they were useful. Abortion is a matter that primarily concerns women, and because most early medieval women were probably illiterate, this means that, if we are looking for evidence of abortion that left traces in the literary tradition, it is especially important that the texts that are studied are as practical and as pragmatic as possible. In other words, texts that reflect practical situations. What I looked for in all three source types was evidence in the literary tradition that abortion was committed, and that there were women (or men) who knew how to perform an abortion or could instruct others. My hypothesis is that practical texts had a better chance of being transformed into vernacular texts that were delivered orally. Of course, there is no way of definitely proving that any of these texts were known to a wider public, or ever reached any of the illiterati. However, the practical information and advice these texts offer - the condemnations, warnings and recipes - can be seen as evidence that the intended audience was larger than expected. On the other hand we must not forget that early medieval written texts constitute only a small percentage of the ‘information’ that was available. Most of the information that was exchanged was passed on orally and is now therefore by definition lost.

The transmission of the texts themselves also constitutes a problem. The oldest Germanic laws were probably translated and codified by Roman lawyers and Christian clerics or monks. They were employed by the Germanic kings to translate and codify - and sometimes even devise - Germanic law, because they were skilled in law and proficient in Latin. Some of them may have been trained Roman lawyers, but it is not likely that they were all familiar with Germanic law, and some of them may have needed interpreters to understand the Old Germanic vernacular. As literacy spread, clerks, clerics and monks of Germanic origin, who had learned Latin, also codified and copied Germanic law. When a text is translated, there is often a gap in the transmission of meaning. This can happen when a concept is difficult to translate, or when there is a difference in meaning

7 Green 1994, p. 3.
8 See, for instance, the prologue of Muscio’s Gynaecia, where Muscio tells us about his intended audience: “I wished to speak very simply; and, to tell the truth, I used women’s words so that even inexperienced obstetricians would be able to understand easily the matter, albeit when read to them by another woman” (Green 1985, p. 138; Rose 1882, p. 3; Radicchi 1970, pp. 36, 39). Priscianus’s intended audience also included midwives, because he dedicated his gynecology to the midwife Victoria (Green 1985, p. 177, note 27). See also: chapter 2 on the dissemination of Caesarius of Arles’s sermons.
9 Nor do we know much about information that was primarily passed on by word of mouth, and stayed in the oral tradition. Much of it probably ‘evaporated’ in the course of time; some of it probably survived in what we call folklore. Most of the information on the early medieval period that has come down to us survives only because it was written down.
between the original word and its translation. Unfortunately, we do not know how the various translators worked. This means that we will probably never know whether the various Germanic laws were translated into Latin ‘sense for sense’ or ‘word for word’, or if the ‘sense’ was reinterpreted or modified, because of changed circumstances, to suit the translator or the person who commissioned the translation, or for other reasons.\textsuperscript{11} The influence of translators and scribes on Old Germanic law must not be underestimated. Both may have inadvertently changed the text so that it agreed with Roman laws they were familiar with, or with Christian principles they believed in; both had the opportunity to deliberately alter the text. Besides deliberate textual change, we must also be on the alert for unintentional copying mistakes. When studying and interpreting the codifications of Old Germanic law, we must continually ask ourselves if the texts as they have come down to us could have been ‘changed’, ‘adapted’, ‘assimilated’, ‘misunderstood’, or even intentionally ‘distorted’, when they were translated, codified and copied. This \textit{caveat} does, however, not only apply to Old Germanic law, it applies to all medieval texts, and it explains the instability, but also the flexibility of many texts.

There is also a gender problem we should be aware of when studying early medieval texts on abortion. The translators, editors and scribes who transmitted texts on abortion were most likely men.\textsuperscript{12} Abortion, on the other hand, is women’s business - although it must be conceded that not all women are knowledgeable about these matters. Even today there are still girls who become pregnant and do not suspect anything until it is ‘too late’.\textsuperscript{13} We must nonetheless be on guard for mistakes, misunderstandings, misrepresentations, and translation and copying mistakes that are due to ignorance or unfamiliarity with the female body, ‘birth and babies’, reproduction, pregnancy and fertility management.

One last complication must be mentioned and that is the fact that many manuscripts were destroyed, thrown away, recycled or otherwise lost. Moreover, many manuscripts have never been edited.\textsuperscript{14} This means that my research on abortion is certainly not ‘the last word’ on the subject.

The ‘problems’ we can encounter when trying to interpret medieval texts that were outlined above, and the three different types of sources studied - each with their own perspectives on abortion - are the reason that ‘close reading’ was chosen as a research method. This method can help us to more easily pick up signals of textual change, modification, confusion, or distortion. It also helps us focus on the words - the nouns, pronouns and verbs - used to describe the fetus, methods, motives and actors in the prohibitions and condemnations of abortion. In the articles collected in this volume I have, as a philologist, attempted to discover what the texts

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\item The reference to ‘word for word’ and ‘sense for sense’ was taken from the prologue or \textit{proem} to Alfred the Great’s Old English translation of Boethius’s \textit{De consolatione philosophiae}. The Old English passage reads: \textit{Hwilum he sette word be worde, hwilum andgit of andgite, swa swa he hit þa sweotolost 7 andgíftíllicest gereccan mihte}; ‘Now he set forth word by word, now sense from sense, as clearly and intelligently as he was able’ (Sedgefield 1899, p. 1). See also: \url{http://beowulf-engel.uky.edu/~kiernan/ENG720/SdgTrans/SedgefieldProseTrans.htm} (last accessed January 2, 2010). See also Wiesenekker 1991.
\item On Nuns’ scriptoria, see, for instance, McKitterick 1989. See also: Klingshirn 1994a, p. 39 (book 1. 58).
\item For instance: ‘Schoolgirl gives birth, drowns baby in toilet’ (April 3, 2008), \url{http://www.news.com.au/story/0,23599,23476543-2,00.html?from=public_rss} (last accessed January 2, 2010), or “Baby found in trash can at Phoenix school” (September 17, 2008), cf. \url{http://noolmusic.com/utube/baby_found_in_trash_can_at_phoenix_school_phoenix_polic.php} (last accessed January 2, 2010).
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themselves have to tell us about women and abortion in the early medieval West. I have tried, as it were, to ‘read between the lines’.

**Early medieval abortion: state of the art**

A great deal has been written on family planning, birth control, contraception, abortion, abandonment and infanticide in the classical and medieval period. These subjects have been discussed by theologians, historians, philosophers, classicists, medical and legal historians, philologists, botanists, biologists, pharmacists, and psychologists. General studies on the history of abortion often also deal with contraception, infanticide and abandonment; other studies deal with abortion in a specific historical period. Some books and articles focus on legal, moral, biological or medical aspects of abortion, whereas others deal with abortion as part of the history of sexuality or the history of medicine and/or gynecology. Studies on ethics and the moral tradition include discussions of the (meaning of the) Hippocratic Oath and the status of the fetus. Classical Greek and Roman writings on abortion and their influence on religion, philosophy, biology, medicine and law have received a great deal of attention. Scholars have discussed legal, philosophical and theological questions concerning abortion from religious (Jewish, Christian, Islamic) and secular perspectives. The biblical law on abortion in Exodus, canon law (and conciliar law) and the writings of the Church Fathers have been studied in extenso. Some scholars focus on theoretical issues, and others on the more practical problems we encounter in sermons and penitentials. Medical historians, classicists and philologists have edited many medical texts on abortion, and thanks to their editions of medieval recipe collections and herbals many age-old recipes that were hidden away in libraries for centuries can now be studied. Biologists, botanists and pharmacists have identified many of the plants and other substances used in classical and medieval remedies for emmenagogues, purgatives, abortifacients and contraceptives. The (poisonous) properties of many of the (plant) substances used in these recipes were cataloged, and in some studies the results of modern pharmacological research were linked to the ancient recipes, thus offering us more objective information on the efficacy of some of the medieval abortifacients. Legal historians have not only edited, interpreted, translated and commented on medieval legal texts, but they have also written comparative studies, elucidated legal principles and furnished us with information on the various punishments for abortion (the death penalty; compensation in the form of *wergeld*, ‘the price set upon a man’). Philologists and historians have also edited and translated legal, penitential and medical sources on abortion, providing help in textual interpretation by unraveling the meaning of many obscure words and passages, and clarifying the context.

Not many studies discuss abortion in early medieval legal and penitential texts, and often these studies contain only a few laws or penitentials articles. There are two notable exceptions: Heinz Wilhelm Schwarz’s book *Der Schutz des Kindes im Recht des frühen Mittelalters* (1993) and Annette Niederhellmann’s *Arzt und Heilkunde in den frühmittelalterlichen Leges* (1983). Schwarz meticulously collected all the available early medieval secular

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17 For instance: Amundsen 1971, Morzak 1977, Muzzarelli 1980, Brundage 1987, Amundsen 1996 and Riddle 1992. The laws and penitential articles often seem to have been randomly chosen without consideration for chronology or the interrelationships between the various laws and penitentials. Riddle too hastily adds Gothic laws to his list of legal condemnations, confusing Visigothic and Ostrogothic law (Riddle 1992, pp. 109-110).
and ecclesiastical legal texts on abortion, infanticide, child molestation and child abuse, and Niederhellmann systematically studied the early Germanic laws that are concerned with medical matters.¹⁸ Both are indispensable.

Reading Between the Lines

Part one of this volume contains eleven papers that are concerned with women and abortion in the early medieval Germanic West; most of them were previously published. This collection of papers by no means offers a complete picture of abortion in the early medieval Germanic West. It focuses on Old Germanic legal texts, using supplementary information found in Christian literature - such as the Bible, the writings of the Church Fathers, canon law, and practical Christian texts (sermons and penitentials) - and early medieval medicine, especially recipe books. The result presented in part one is a series of articles on Old Germanic law, a short paper that is the result of my quest for Old English laws on poisoning and abortifacients, an article on early medieval embryological terminology, a squib on the Hippocratic Oath, and an article on early medieval recipes for emmenagogues and purgatives that was written in order to try and find out whether there are any traces of recipes for abortifacients.

The first paper, “Genre Hopping: Aristotelian Criteria for Abortion in Germania” (I), discusses the early medieval legacy of the Aristotelian - and Augustinian - abortion criterion ‘formed - unformed’, and the various genres that adopted this distinction. Articles II-IV deal with early medieval Visigothic and Salic laws on (violent) abortion and poisoning. The fifth article (V) deals with sexual violence in the four early ninth-century Germanic law codes issued by Charlemagne for the gentes ultra Rhenum. Two papers on late medieval Old Frisian law (VI-VII) were included. Article VI discusses the unique, Old Frisian ‘hair and nails’ criterion that is used to distinguish between early term and late term abortion, and article VII offers an explanation of the word bobbaburg, a word found in an article on injuring and assaulting a small child that was previously considered to be an article on abortion. The eighth paper (VIII), “Anglo-Saxon Laws on Poisoning: an Invitation to Further Investigation,” reviews the Old English laws that might qualify as laws on poisoning, and the ninth paper (IX), “The Early Medieval Latin and Vernacular Vocabulary of Abortion and Embryology,” is concerned with the sources of the embryological terms for early term and late term abortion in the Old Germanic laws and early medieval penitentials. The tenth paper (X) discusses the late antique and early medieval remnants of the Hippocratic Oath, and the unpublished article “Proicit, Purgat et Sanat: Emmenagogues and Purgatives for Women’s Diseases in Early Medieval Recipe Books” (article XI) is a sample of recipes that describes the complaints and disorders associated with menstrual retention that early medieval recipes for emmenagogues and purgatives were reputed to cure, and it suggests - albeit tentatively - that these purgatives may have also been used as abortifacients.

Part two reviews the main sources studied and presents some final considerations. The first chapter is an overview of Old Germanic law. It summarizes the articles on early medieval Germanic abortion law (re)printed in part one, adds the laws that were not discussed in articles I-VII, and contains a summary and discussion of Old Germanic abortion law. Chapter 2 contains a short overview of the most important late antique and early medieval Christian texts on abortion. Most of these texts need little introduction, because they are discussed at length in many of the books on (early) medieval abortion. This chapter is followed by a comprehensive study of the

¹⁸ Niederhellmann’s study does not include Old English law, Old Frisian vernacular law or Old Norse law.
early medieval penitential articles on abortion - a chapter that got out of hand, because I could not resist the temptation of studying as many of these fascinating texts of practical Christianity as possible (chapter 3).

The papers in this volume aim to fill a few of the lacunae in the research on early medieval abortion. They present evidence from a variety of practical sources in the hope that these practical texts will disclose information about women and abortion in early medieval Western Europe. I have tried to differentiate between violent abortion or abortion by assault, that is, involuntary miscarriage, on the one hand, and intentional abortion that was done to terminate an unwanted pregnancy or as a method of fertility control on the other. I have also attempted to determine how abortion was committed, why, who had the expertise and who was responsible. A summary of the results of my investigations is discussed in chapter 4.