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

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ARTICLE III


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Gothic Bible, Vetus Latina and Visigothic Law
Evidence for a Septuagint-based Gothic Version of Exodus*

by
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Although there is no extant version of the Gothic Bible book Exodus, there is historical and philological evidence for the existence of a Gothic translation of the Greek Septuagint version of the Old Testament. The Gothic Bible was translated into the Gothic vernacular before the Goths migrated to the West. I will argue that Visigothic secular law may provide evidence of the existence of a Gothic version of Exodus that was still in use after the Gothic migration to the West. This evidence is based on the difference between the Septuagint version and the Hebrew version of Exodus 21.22-23, the biblical law on abortion. The Septuagint text of Exodus 21.22-23 distinguishes between early term and late term abortion, using the concept ‘formed – unformed’, whereas the Hebrew text makes no such distinction. Both versions of Exodus 21.22-23 were available in the early medieval West; the former in the Old Latin translations called Vetus Latina, and the latter in

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the Vulgate. Visigothic secular law – issued after the Gothic migration to the West – also differentiates between early term and late term abortion. This early medieval Germanic abortion law is innovative, because late Roman law does not punish abortion and early medieval Church law condemns abortion as homicide without any regard for the stage of development of the aborted fetus. In this paper I will also try to answer the question why the Visigothic kings issued abortion law that was fundamentally different from Roman law and early medieval conciliar law.

There are seven articles on abortion in the early medieval *Leyes Visigotorum* (L.V).\(^1\) Article 6.3.2 is of special interest, because it is the first medieval law on abortion to explicitly employ a distinction between a formed and an unformed fetus in order to differentiate between early term and late term abortion.\(^2\)

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1. The *Leyes Visigotorum* is a collection of Visigothic law issued in the fifth, sixth and seventh centuries. The standard edition is Karl Zeumer (Hrsg.), *Leyes Visigotorum*, Monumenta Germaniae Historica, Leges Nationum Germanicarum 1 (Hannover-Leipzig, 1902).

2. The fetus is usually considered to be ‘formed’ when the mother first feels movement; this more or less corresponds to a pregnancy of three months.


Leges Visigothorum 6.3.2. Antiqua. Si ingenua ingenuam abortare fecerit.
Si quis mulierem gravidam percusserit quocumque hictu aut per aliquam occasionem mulierem ingenuum abortare fecerit, et exinde mortua fuerit, pro homicidio puniat.
Si autem tantummodo partus excutiatur, et mulier in nullo debilitata fuerit, et ingenua ingenuae hoc intulisse cognoscitur, si formatum infantem extincit, CL solidos reddat; si vero informem, C solidos pro facto restituat.3

Visigothic laws 6.3.2. Old law. If a free man causes a free woman to abort.
If anyone strikes a pregnant woman by any blow whatever or through any circumstance causes a free woman to abort, and from this she dies, let him be punished for homicide.
If, however, only the partus is expelled, and the woman is in no way debilitated, and a free man is recognized as having inflicted this to a free woman, if he has killed a formed fetus, let him pay 150 soli; if it is actually an unformed fetus, let him pay 100 soli in restitution for the deed.4

The distinction ‘formed’ – ‘unformed’ is also found in the Greek Septuagint version (LXX) of the Mosaic law on abortion. If we take a closer look at the Visigothic secular law on

Grove, ILL, 1982); John Riddle, Conception and Abortion from the Ancient World to the Renaissance (Cambridge MA, 1992); John Riddle, Eve’s Herbs; a History of Conception and Abortion in the West (Cambridge MA, 1997); Konstantinos Kapparis, Abortion in the Ancient World (London, 2002).

On the link between Aristotle’s biology (esp. Historia Animalium 9(7).583b) and the distinction ‘formed — unformed’ in the Septuagint version of Exodus 21.22-23, see: Noonan, Contraception, p. 90; Connery, Abortion, pp. 17-18; Gorman, Abortion and the Early Church, p. 35; Riddle, Contraception and Abortion, pp. 21-22; Riddle, Eve’s Herbs, pp. 79-90, and Jan Gerhard te Lindert, Over de status van het menselijk embryo in de Joodse en de Christelijke ethiek; een analyse van opvattingen toegelicht aan de hand van verklaringen van Exodus 21:22 (with a summary in English), Ph.D. Dissertation, University of Utrecht, 1998 (s.l., 1998), pp. 41-48.

3 Zeumer, Leges Visigothorum, p. 261; the other six laws are on pp. 260-262.

abortion, we see that LV 6.3.2 seems to have incorporated this version of Exodus 21.22-23.

**Septuagint**

Ex. 21.22-23. If two men fight and strike a woman who is pregnant, and her child comes out while not formed, he will be forced to pay a fine; according as the woman’s husband lays upon [him] he shall give according to that which is thought fit. But if it is formed, he will give life for life.⁵

But what is the connection between the Septuagint version of Exodus 21.22-23 and Gothic secular law? Why was a biblical law on abortion inserted into a secular Germanic law code? And how did it get there?

Possible answers to these questions involve a rather lengthy digression on the Old Testament in the fourth, fifth, and sixth centuries in order to establish what versions of the Bible were known in the early medieval West, and, more especially, whether the Gothic translation of Exodus was based on the Hebrew version or on the Septuagint version. Determining the ‘Vorlage’ of the Gothic Bible is important, because the Hebrew or Massoretic version of Exodus 21:22-23 is fundamentally different from the Septuagint version. The Hebrew version does not differentiate between a formed and an unformed fetus; in this version the ’ḥôn, ‘harm, mischief’, refers to the (fatal) injuries sustained by the mother.⁶

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See also: S. Mendelsohn, *The Criminal Jurisprudence of the Ancient Hebrews* (Baltimore, 1891; rpr. Union, NJ, 2001), p. 149: “... the Talmud (...) considers the embryo in the womb *pars viscerum matris* (Sanh. 80b, et al.) and,
Hebrew

Ex. 21.22-23. And if men strive together, and hurt a woman with child, so that her fruit depart [from her], and yet no mischief (ʾāšōn) follow, he shall be surely fined, according as the woman’s husband shall lay upon him; and he shall pay as the judges determine.

But if any mischief (ʾāšōn) follow, then thou shalt give life for life, eye for eye, etc.⁷

Both versions of Exodus 21.22-23 are concerned with accidental or unintentional abortion, that is, a situation in which a pregnant woman is accidentally injured so seriously by fighting men that she miscarries.⁸ In his De Specialibus Legibus, ‘On the Special Laws’, Philo of Alexandria (first century A.D.) explains that the Septuagint version of Exodus 21.22-23 could also ‘by implication’ be interpreted as a condemnation of intentional abortion and infanticide.⁹

Septuagint, Vetus Latina and Vulgate

At an early date in antiquity the Christian Church chose the Greek Septuagint as her ‘authorized’ version over the Hebrew or Massoretic text of the Old Testament. The Alexandrian Septuagint, the oldest known Greek translation of the Old Testament, is from the third century B.C. In the following centuries a number of revisions of the Septuagint and several therefore, as not having individual existence (...).’” Roman law also considered the fetus to be part of the woman’s body, see also: note 53.

⁷ Extracted from Bible Works 4.0; see also: ISSER, “Two Traditions,” p. 30.

⁸ Most scholars argue that the Jewish tradition would not have approved of deliberate abortion, even though it was not explicitly condemned in Exodus 21.22-23. See, for instance: CONNERY, Abortion, pp. 13-21, and GORMAN, Abortion and the Early Church, pp. 33-34. Contra: RIDDLE, Eve’s Herbs, pp. 72-73.

new translations from the Hebrew were made.\textsuperscript{10} Jerome (c. 348-420) indicated that there were at least three recensions of the Septuagint current in his day: the Hesychian recension in Alexandria and Egypt, the Hexaplaric in Palestine (Caeasar- ea, Jerusalem) and the Lucianic or Antiochian recension — the version favored by the Arian Christians – in North Syria, Asia Minor and Greece (Constantinople and Antioch).\textsuperscript{11} The Greek-speaking Christian communities in the West must have been familiar with one or more versions of the Septuagint.

The first versions of Old Latin Bible probably originated in the Latin-speaking parts of North Africa in the second century; these translations are collectively called Vetus Latina (VL). As the West was slowly becoming more and more romanized, ‘European’ versions of the Vetus Latina also appeared. The Old Latin translations of the Old Testament were based on the Alexandrian Septuagint.

It will be obvious that by the fourth century A.D. many different Greek and Latin redactions of the various Bible books existed side by side: on the one hand there were a number of different versions and translations, and on the other hand not


\textsuperscript{11} The Hesychian version is from the third century, Origen’s (185-253) Hexapla was finished between 230 and 245, and Lucian’s recension is conventionally dated to the end of the third century; the Hexapla contains six different versions of the Bible arranged in columns. On Jerome’s description of the Septuagintal recensions, see: STREITBERG, \textit{Die Gotische Bibel}, p. xxi; SWETE, \textit{Introduction to the Old Testament}, pp. 85-86 and CHB II, p. 19 which mentions “Kahle’s view that at least the Lucianic [version] was based on a pre-Christian divergent text.”
one of these texts had been standardized, so that each redaction would contain countless textual variations due to centuries of interpolating, emendation, copying and translation mistakes. Jerome states that there were *tot exemplaria quot codices* ‘as many versions as there were codices’, and Augustine (354-430), who used an Old Latin version of the Bible, also complained of textual corruptions.\textsuperscript{12}

It does not come as a surprise that Jerome was called on by the pope to revise the Latin Bible in the late fourth century. After a first revision of the Old Latin using the Greek Septuagint version of the Bible, Jerome produced a completely new Latin translation of the Bible, the Vulgate. The Vulgate version of the Old Testament was based on the Hebrew text instead of on the Septuagint.

*The Goths and the Gothic Bible*

The Gothic Bible is the earliest rendering of the Bible into a Germanic language; it was translated c. 350 by Ulfila, bishop of the Goths (311-382/3), while the Gothic tribes, who were converts to Arianism, were still living in the Eastern Roman Empire.\textsuperscript{13} The extant remains of the Gothic Bible consist of

\textsuperscript{12} The quotation from Jerome can be found in his Preface to the Latin Gospels (PL 29: 0526 C), see: Swete, *Introduction to the Old Testament*, p. 89 and CHB II, pp. 83-84.

On Augustine’s complaints, see: Swete, *Introduction to the Old Testament*, p. 89, and CHB I, p. 545. Augustine, who was familiar with Jerome’s translations and even quoted from the latter’s translation of the Gospels, did not acknowledge the Vulgate Old Testament and continued to use the Septuagint-based Vetus Latina. Like Augustine, Origen, the author of the Hexapla, was aware of the textual discrepancies between the Septuagint and the Masoretic Text. Augustine probably remained faithful to the Septuagint because it had been preferred over the Hebrew by the early Church.


On the Gothic Bible, see: Streitberg, *Die Gotische Bibel*; G. W. S. Friedrichsen, *The Gothic Version of the Gospels; a Study of its Style and Textual Hist-
the greater part of the New Testament (Gospels and Epistles) and a few fragments of the Old Testament. The existence of fragments of the Old Testament is an indication that the major books of the Old Testament must also have been translated into Gothic. This is also supported by external evidence. Ulfila’s translation of the Old Testament was based on the revision of the Septuagint ascribed to Lucian († 311/312), which was used by Arian Christians in Greece and Asia Minor.

The Gothic fragments of the Old Testament consist of part of the book of Nehemia and a few scraps of Genesis which were jotted down in a ninth- or tenth-century Alcuin manuscript, the so-called ‘Salzburg-Wiener Alkuin-Handschrift’ (Codex Salisburg 795); see: Streitberg, Die Gotische Bibel, pp. xxx-xxxi, 475-478 and Stutz, Gotische Literaturdenkmäler, pp. 29, 81. Elfriede Stutz claims that these fragments do not prove that there was an Old Testament in Gothic: “die Existenz einer got. Genesis wird durch die nicht ausreichend erwiesen” (p.29); contra: Heather and Matthews, Goths in the Fourth Century, p. 158.

External evidence for the existence of the Gothic Bible has been gathered together by Streitberg, Die Gotische Bibel, pp. xiii-xxiv; for translations of some of these texts, see: Heather and Matthews, Goths in the Fourth Century, pp. 141-145. Important is Philostorgius (5th century) who in his Church History states that Ulfila “was the inventor for them [the Goths] of their own letters, and translated all the Scriptures into their own language... with the exception, that is, of Kings” (Heather & Matthews, Goths in the Fourth Century, p. 144).

See: Streitberg, Die Gotische Bibel, p. xxxii; Friedrichsen, Gospels, p. 8. On the Lucianic recension, see: Swete, Introduction to the Old Testament, p. 80 ff. The Lucianic or Antiochian recension of the Septuagint was edited by Paul de Lagarde, Librorum Veteris Testamenti canonicorum (Göttingen, 1883), but, unfortunately, De Lagarde’s edition of the Octateuch is now
In the course of the fourth and fifth centuries groups of Gothic tribes, Visigoths and Ostrogoths as they are traditionally called, migrated from the vicinity of the Black Sea to the western half of the Roman Empire.\(^{17}\) The Visigoths established the kingdom of Toulouse in southern Gaul and Spain in 418 after sacking Rome eight years earlier. The Ostrogoths were officially invited to northern Italy in 489 by the Eastern Emperor, but there must have already been Gothic settlements in Italy before then. Thus both the Visigoths and the Ostrogoths moved from a Greek-speaking area to a predominantly Latin-speaking area, where Latin was the language of literacy.

Both the Visigoths and the Ostrogoths were Arian Christians. We have evidence of early Gothic biblical scholarship in the Skeireins, a commentary on the Gospel of John,\(^{18}\) and in the letter on biblical translation Jerome wrote to the Gothic scholars Sunnia and Fretila in the early fifth century.\(^{19}\) It is likely that the Goths took copies of the Gothic Bible along with them on their journey West. This is corroborated by Salvian of Marseilles, a fifth-century Gallo-Roman priest originally from the vicinity of Trier who must have heard of, or perhaps even experienced, the arrival of the Goths in Gaul when he was a boy. In his \textit{De Gubernatione Dei}, written c. 440-


\(^{17}\) On the names of the Gothic tribes, see: Heather, \textit{The Goths}, p. 52 ff, who prefers the terms Tervingi (≈ Visigoths) and Greutungi (≈ Ostrogoths).

\(^{18}\) Unfortunately, date, author and provenance of the Skeireins are unknown, see: Stutz, \textit{Gotische Literaturdenkmäler}, pp. 64-69.

\(^{19}\) Sunnia (Sunitas) and Fretila (Fretela) consulted Jerome (Epistle 106) on “the relationship between the Septuagint and his revised text of the Psalms” in 403 or 405, see: Heather and Matthews, \textit{Goths in the Fourth Century}, p. 156; see also: Streitberg, \textit{Die Gotische Bibel}, pp. xxxi-xxiii; CHB II, p. 351 and Stutz, \textit{Gotische Literaturdenkmäler}, pp. 43-45. Contra: Thompson, \textit{The Visigoths in the Time of Ulfila}, p. 138 ff.
Part 1: Article III

441, Salvian mentions the fact that the Goths had a version of the Bible in the vernacular, a fact which in itself must have been surprising to him, because only Greek and Latin versions of the Bible were current in the West at that time.\(^{20}\)

In book 5 Salvian explains that being a heretic – in this case an Arian – was a fate worse than being a pagan, and at best misguided.

5.2.5. Interim quia duo superius barbarorum genera uel sectas esse memorauimus, paganorum atque haeticorum (...) 6. Eadem, inquis, legunt illi quae leguntur a nobis. Quomodo eadem, quae ab auctoribus quondam malis et male sunt interpolata et male tradita? Ac per hoc iam non eadem, quia non possunt penitus dici ipsa quae sunt in aliqua sui parte uitiata. (...) Nos ergo tantum scripturas sacras plenas, inuiolatas, integras habemus, qui eas uel in fonte suo bibimus, uel certe de purissimo fonte haustas per ministerium purae translationis haurimus. Nos tantummodo bene legimus. 7. (...) Ceterae quippe nationes aut non habent legem Dei, aut debilem et conuulneratam habent; (...) Nam et si gentium barbararum sunt qui in libris suis minus uideantur scripturam sacram interpolatam habere uel dilaceratam (PL laceram), habent tamen ueterum magistrorum traditione corruptam (...).\(^{21}\) [CPL 485]

5.2.5. Now I mentioned above that there are two groups, or sects, of barbarians; pagans and heretics. (...) 6. They [the heretics] read the same things, you say, that are read by us. But how can they be the same, when they were written in the first place by bad authors, and are badly interpolated and badly transmitted? They are not really the same, because things can in no sense be called the same when they are defective in any


part of themselves. (...) It is only we who possess the holy scriptures full, inviolate and complete: for we either drink them at their very source, or at least as drawn from the purest source through the service of a pure translation. Only we read them correctly. 7. (...) As for other nations, these either do not possess the law or they possess it in a faulty and damaged form. (...) Even if there are some among the barbarian nations who among their books may seem to possess a sacred scripture that is less interpolated or torn apart, yet they still possess it [in a version] corrupted by the teaching of their masters in the past (...).\(^{22}\)

This quote, especially words like *corrupta, convulnrum, debilis, dilacerata, interpolata, vitiata*, and *violata*, shows that Salvian did not recognize the authority of the Gothic Bible because of its corruptions. The corruptions Salvian is referring to concern interpolations and translation errors, but also textual emendations. In Salvian’s eyes the Gothic Bible stood for Arianism and heresy, and it is likely that Salvian’s definition of a textual corruption would include erroneous emendations, especially changes reflecting the Arian doctrine. *Male tradita*, ‘badly transmitted’ could therefore mean that Salvian rejected badly translated verses or passages containing Arian heresies, but it might also mean that he rejected the whole Gothic Bible and its Lucianic ‘Vorlage’, because of their Arian leanings.\(^{23}\) Usage of the phrases *auctores mali* — which in this context can only mean ‘bad translators’, *tamen uterum magistrorur traditio corruptam* and *pura translatio* seems to point in this direction.\(^{24}\) But Salvian may also be stressing the fact that the authorized text, the *purissimus fons*, may only be consulted through an authorized translation, *per ministerium purae translationis* into a scriptural language, thus suggesting that he might disapprove


\(^{23}\) See: Friedrichsen, *Epistles*, p. 200 and pp. 236-237, who “gives two examples (...) of where elements of Arian doctrine may have been incorporated, or at least given emphasis, in the Gothic translation” (Heather and Matthews, *Goths in the Fourth Century*, p. 168, note 11).

of a translation into a Germanic vernacular. In short, Salvian rejects the Gothic Bible because the sacred text has been tampered with in a number of different ways. It does not seem likely that Salvian’s command of Gothic — if any — was good enough to enable him to analyze Ulfila’s Bible. More likely he relied on the judgement of others or simply rejected it because of its Arian associations.

The Bible in the early medieval West

The situation of textual confusion described above persisted into the fifth and sixth centuries. Biblical scholars in sixth-century Ostrogothic Italy were well aware of the corrupt textual tradition of the Bible. Cassiodorus (c. 480-575), a Roman aristocrat who had been in the service of the Ostrogothic king Theodoric before founding the monastery of Vivarium, provided his monastery’s library with copies of the most important biblical codices. In his Institutiones divinarum et humanarum lectionum (c. 551), he gives directions for correcting and emending these codices, explicitly mentioning the Greek Septuagint, Jerome’s Vulgate, and a Vetus Latina version preferred by Augustine.25 In Cassiodorus’s day Greek and Latin versions of the Bible apparently existed side by side, although language considerations — Latin being the language of the West — and scholarly preferences probably favored the use of a Latin version. The Septuagint-based Vetus Latina remained the semi-official version of the Bible in the West for the next few centuries, with the Vulgate slowly gaining ground in the Carolingian period.26 With no one version functioning as an ‘authorized’ version, the situation in the early medieval period


26 See: CHB II, p. 25 and Berlioz, Identifier Sources et Citations, p. 13.
might therefore be described as one of apparent textual chaos, because of the many different versions of the Bible in often divergent recensions, with different biblical scholars favoring different versions.

The Gothic Bible did not fare much better. The extant manuscripts are all from the West and most of them are probably Ostrogothic. A gap of nearly two centuries between Ul- fila’s translation (c. 350) and the extant manuscripts (late fifth, early and mid sixth centuries) provides ample time for alterations to the text. Like the Greek and Latin Bible texts, the text of the Gothic Bible did not have a fixed or standardized text; revising and emending was an ongoing process. For fifth-century Visigothic Gaul we have Salvian’s testimony of a ‘corrupted’ Gothic version of the Bible, and for the sixth-century Ostrogothic Italy we have Cassiodorus’s instructions for correcting Bible texts, although he does not explicitly mention the Gothic vernacular. A number of the extant fragments of the Gothic Bible are Gothic-Latin bilinguals. It is possible that the production of bilinguals was triggered by

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27 There are seven manuscripts containing parts of the Gothic Bible or the *Skeireins*: the Codex Argenteus, the Codices Ambrosiani (five fragments, A-E), the Fragmentum Spirensense of the Codex Argenteus, the Codex Vaticanus Latinus, the Codex Taurinensis, the Codex Carolinus and the Codex Gissensis; only the Codex Argenteus and the Codex Gissensis (now lost) are not palimpsests, see: Braune-Heidermanns, *Gotische Grammatik*, pp. 6-10; Stutz, *Gotische Literaturdenkmäler*, passim. On the possible Visigothic origins of some of the manuscripts, see: James W. Marchand, “Notes on Gothic Manuscripts,” *Journal of English and Germanic Philology* 56 (1957), pp. 213-224, and Stutz, *Gotische Literaturdenkmäler*, pp. 21-22. The Codex Brixianus is a Latin Bible manuscript with a preface which indicates that it was originally part of a Gothic-Latin bilingual (see: Heather and Matthews, *Goths in the Fourth Century*, pp. 169 ff.); the Codex Carolinus is also a bilingual, and so was the Codex Gissensis. On palimpsested Gothic texts, see: Michiel van den Hout, “Gothic Palimpsests of Bobbio,” *Scriptorium* 6 (1952), pp. 91-93.

28 The Gothic Bible is not mentioned in Cassiodorus’ *Institutes*, nor in Jordanes’ *History of the Goths* (De origine actibus Getarum or Getica; written 551); the latter is an abridgement of the lost *History of the Goths* by Cassiodorus. Jordanes only mentions the fact that Ulfixa taught the Goths to write (c. 51). Friedrichsen, *Epistles*, p. 216, says that “it is not unreasonable to conjecture that he [Cassiodorus] may have been in some way connected with Gothic textual and exegetical activities.”
the integration and romanization of the Visigoths and Ostrogoths.  

These bilinguals, in turn, may have stimulated further use of the Vetus Latina to accommodate the Gothic Bible to the Latin text. Friedrichsen’s philological research has shown that the New Testament texts, which have come down to us, were emended, revised and corrected using the Vetus Latina and perhaps also some unidentified Western Greek text.  

For both Gothic kingdoms there is enough evidence that their vernacular Bible was in use, and for northern Italy the remaining manuscripts of the Gothic Bible are concrete proof that the Ostrogothic scriptoria produced both Gothic and Latin Bibles. On the other hand precious little is left of the Gothic Bible. The paucity of manuscripts and the fact that most of them are palimpsests indicate that the Gothic Bible fell into disuse at a certain point in time.  

For both Gothic kingdoms plausible historical explanations for the disappearance of ‘Gothic’ manuscripts can be given. In the Visigothic kingdom Arian codices were burned after the Third Council of Toledo (589), when the Visigoths officially converted from Arianism to Catholicism. This book burning would explain the lack of manuscripts from the Visigothic kingdom in Spain, because, as we saw above, the Gothic Bible would

29 It is hard to prove where and when the Gothic bilinguals were in use. The Ostrogothic provenance of most of the Gothic manuscripts indicates usage by the Ostrogoths, but, as Friedrichsen says, “There is really not sufficient evidence (...) to show where bilinguals were, and where they were not in use (...). We are on firmer ground in our speculations as to the possible age of bilingual copies. In Gaul and Spain they may have come into existence among the romanizing Visigoths from the beginning of their settlement under Athaulf since 412” (FRIEDRICHSEN, Epistles, p. 125). In “Notes on Gothic Manuscripts” Marchand questions the conventional views on the ‘original home’ of the Gothic manuscripts, and concludes that “we are no longer justified in stating a priori that all our MSS are products of the Ostrogoths in Italy; Southern France and the Danube countries also come into consideration” (p. 219); in note 29 Marchand adds that the Codex “Carolinus and the Old Testament fragments were once considered to have come from Spain”.

30 Friedrichsen also demonstrates that Ulfila did not use the Vetus Latina, and that Jerome’s Vulgate did not influence the Gothic Bible, see: FRIEDRICHSEN, Gospels, passim.

31 See: note 27.
have been classified as ‘Arian’. The Ostrogothic kingdom, too, did not offer the best chances of survival for manuscripts of the Gothic Bible. Ostrogothic rule came to an end in 552 (555) after a twenty years’ war with the Byzantines had left the country in ruins; shortly afterwards, in 568, large parts of Italy fell into the hands of the Lombards. Neither the Byzantines nor the Lombards would seem to have been especially interested in preserving Gothic manuscripts. But interest in the Gothic Bible did not vanish completely: notes in a ninth- or tenth-century Alcuin manuscript indicate that copies of the Gothic Bible were still circulating in the medieval West.\(^\text{32}\) Notwithstanding the sad fate of the manuscripts, there must have been a reasonable amount of copies of the Gothic Bible available in Visigothic and Ostrogothic Gaul, Spain and Italy in the fifth and sixth centuries.

To sum up, there were no standardized versions of the Bible in the late antique or early medieval period; all versions, whether in Greek, Latin or in the vernacular, were regularly emended and revised, so that there were many variant readings. In the case of the Gothic New Testament both the original text and all subsequent revisions were – as Friedrichsen has demonstrated – either directly or indirectly, based on Greek versions of the Bible. Although there is not much sup-


portive evidence, it is possible to postulate, albeit cautiously, a Gothic version of the Old Testament based on a Lucianic version of the Septuagint. If we project Friedrichsen’s findings onto the Gothic Old Testament, emendations would have been based on either the Vetus Latina or the Greek Septuagint, and not on Jerome’s Vulgate. This means that both the original and subsequent revisions of the Gothic Old Testament derived from the Septuagint, and that, where the Hebrew and the Greek text of Exodus differ, the Gothic Bible would have followed the Septuagint. We can now tackle the problem of the Gothic version of Exodus 21.22-23, and then return to the Visigothic laws on abortion.

Exodus 21.22-23

The latest edition of the Greek Exodus (Wevers & Quast 1991) incorporates all the versions of the Septuagint that are currently available.33 For Exodus 21.22-23 the Septuagint versions mentioned above are substantially the same with only a few minor variants.34 Wevers’s text might, therefore, be a reasonable indication of what the Greek ‘Vorlage’ of the Gothic text of Exodus 21.22-23 would have looked like:

Septuagint

Ex. 21.22. Ἐὰν δὲ μάχωνται δύο ἄνδρες καὶ πατάξωσιν γυναῖκα ἐν γαστρὶ ἐχούσαν, καὶ ἐξέλθη τὸ παιδίον αὐτῆς μὴ ἔξεικονισμένον, ἐπιζήμιον ἔχωσαν καθότι ἐὰν ἐπιβάλῃ ο ἀνήρ τῆς γυναικὸς, δώσει μετὰ ἀξίωματος

Ex. 21.23. Ἐὰν δὲ ἔξεικονισμένον ἦ, δώσει ψυχὴν ἀντὶ ψυχῆς, (...)

35 Wevers & Quast, Exodus, p. 253. See also: Wevers, Notes, pp. 333-334, and John William Wevers, Text History of the Greek Exodus, Abhandlungen der Akademie der Wissenschaften in Göttingen, Philologisch-His-
What version or versions of the Vetus Latina were available in the Gothic kingdoms and used for later revisions of the Gothic Bible is not a question which is easy to answer, because not many early Old Latin manuscripts of the Bible have come down to us, and still less which include Exodus 21.22-23. In the past the Vetus Latina has been pieced together from the fragmentary manuscript evidence, and supplemented using quotes from Church Fathers, biblical commentaries, treatises, glosses, homilies etc. The examples quoted below show that many versions of the Septuagint-based Vetus Latina version of Exodus 21.22-23 circulated in the early medieval West, but that versions of Jerome’s Vulgate with its Hebrew-based version of the biblical law on abortion were also available.

Sabatier’s edition of the Vetus Latina is one of the oldest (1743); his edition is, however, now considered obsolete and unreliable. He gives the following, practically literal, rendering of the Greek Septuagint:

**Vetus Latina** (Sabatier)
Ex. 21.22-23. Si autem litigabunt duo viri, et percusserint mulierem in utero habentem, et exierit infans ejus nondum formatum: detrimentum patietur, quantum indexerit vir mulieris, et dabit cum postulatione. Si autem formatum fuerit, dabit animam pro anima.\(^{36}\)

Lucifer of Cagliari and Ambrosiaster, fourth-century commentators from the Mediterranean area, have provided us with the following Vetus Latina versions of Exodus 21:22-23.

**Lucifer Calaritanus** (Cagliari, Sardinia, c. 370)
[Ex. 21.22-23] Si rixauerint duo et percusserint mulierem in utero habentem et abortauerit non deformatum, detrimentum patietur. Quodcumque aestimauerit uir mulieris dabit

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cum dignitate. Quodsi deformatum fuerit, dabit animam pro anima (...) [CPL 114]

Ambrosiaster (probably written in Rome between 370-375) [Ex. 21.22-23] Si quis percusserit mulierem in utero habentem et aborterit, si formatum fuerit, det animam pro anima; si autem informatum fuerit, multetur pecuni, ut probaret non esse animam ante formatum. [CPL 185]

Rufinus (c. 345-410) quotes and paraphrases Exodus in his translation of Origen’s homily on Exodus:

Rufinus (Italy, 403-404) [Ex. 21.22-23] De muliere praegnante, quae duobus viris liti-gantibus aborterit.
Quod si litigabunt duo viri et percusserint mulierem praegnantem, et exierit infans eius nondum formatus, detrimentum patietur, quantum indixerit vir mulieris, et dabit cum honore. Quod si deformatus fuerit, dabit animam pro anima. [CPL 198.5]


Friedrichsen, *Epistles*, pp. 216-217, p. 265 and passim, notes that a number of passages in the Gothic Epistles were influenced by Ambrosiaster’s exegetical works. See also: note 75.

39 Rufinus was from northern Italy (Concordia near Aquileia) and translated Origen’s homilies in 403-404.

The *Liber de Divinis Scripturis sive Speculum* is an anonymous, fifth-century tract on the Bible from North Africa or Spain, which has often, mistakenly, been ascribed to Augustine; it presents us with yet another Septuagint-based variant version of Exodus 21:22-23.

**Liber de Divinis Scripturis sive Speculum** (North Africa – Spain, 4th-5th c.)

[Ex. 21.22-23] *Si autem duo uiri rixabuntur, et percurseerint mulierem praegnantem, et abortauerit immaturum, detrimentum patietur quodcumque vir mulieris petit, dabit cum postulatione quod si formatum fuerit, dabit animam pro anima.* [CPL 384]

Augustine of Hippo, one of the most influential authors in the Middle Ages, gives an Old Latin version of Exodus 21:22-23 in his commentary on Exodus in the *Quaestionum in Heptateuchum*; here Augustine takes a stand on abortion and explains that killing an unformed fetus cannot be murder, because the unformed fetus would not yet have been endowed with a soul.

**Augustinus Hipponensis** (North Africa, 4th-5th c.)

[Ex. 21.22-23] *Si autem litigabunt duo uiri et percurseerint mulierem in utero habentem, et exierit infans eius non deformatum (nondum formatum), detrimentum patietur; quantum*

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indixerit uir mulieris, et dabit cum postulatione. (...) si autem formatum fuerit, dabit animam pro anima.\textsuperscript{43} [CPL 270]

Teofilo Ayuso Marazuela’s edition of the Vetus Latina Hispana not only contains Vetus Latina variants from indirect sources, such as the Church Fathers, but he also includes a number of ancient manuscripts of the Bible, among which a relatively early one from the sixth or seventh century, which is probably Spanish in origin, the Codex Lugdunensis. This codex may very well have been in use in Visigothic Spain.\textsuperscript{44}

**Codex Lugdunensis** (Spain, 6th-7th c. manuscript)
Ex. 21.22-23. Quod si rixati erint duo uiri, et percusserint mulierem conceptum habentem, et abortauerit inmaturum detrimentum patietur quodcumque aestimauerit uir mulieris dabit cum dignitate, quod si deformatum fuerit dabit animam pro anima.\textsuperscript{45}

The Vetus Latina versions of Exodus 21.22-23 given above all mention the distinction ‘formed’ - ‘unformed’, thus proving that they were based on the Septuagint version of Exodus. This is not to say that the Hebrew interpretation of Exodus 21.22-23 was unknown in the early medieval West. Jerome’s Vulgate translation was known and available, as Cassiodorus indicated in his *Institutiones*.

**Vulgate** (4th-5th c.)
Ex. 21.22-23. si rixati fuerint viri et percusserit quis mulierem praegnantem et abortivum quidem fecerit sed ipsa vixerit subiacebit damno quantum expetierit maritus mulieris et ar-


\textsuperscript{44} On the possible Spanish origin of this manuscript, see: Ayuso Marazuela, *Vetus Latina Hispana*, vol. 1, p. 345 ff., esp. p. 349.

\textsuperscript{45} Ayuso Marazuela, *Vetus Latina Hispana*, vol. 2, p. 143; for the full text of Exodus 21.22-23 in the Codex Lugdunensis, see: Ulysse Robert (ed.), *Pentateuchi Versione Latina Antiquissima e Codice Lugdunensi. Versione Latina del Pentateuco Anteriore a Saint Jérôme* (Paris, 1881), p. 176. Three other, younger, Septuagint versions in Ayuso Marazuela, *Vetus Latina Hispana*, vol. 2, p. 142 have been included in the appendix; these versions were added ‘in graeco’, i.e. as Latin glosses in a Greek text (Spanish MSS).
bitri iudicarint sin autem mors eius fuerit subsecuta reddet animam pro anima.\textsuperscript{46}

Besides the Vulgate itself, only two other quotations from early medieval ‘Hebrew-based’ versions of Exodus 21.22-23 were found.\textsuperscript{47} Both quote the Vulgate verbatim. The first is in the \textit{Liber qui appellatur Speculum}, allegedly by Augustine, and the second was found in the \textit{Liber de Variis Quaestionibus}, a seventh-century work by an anonymous author, called Pseudo-Isidorus, who was probably a contemporary of Isidorus Hispalensis (c. 570-636).

\textbf{Liber qui appellatur Speculum} (5th c.)
\[\text{Ex. 21.22-23}\] si rixati fuerint uiri, et percurserit quis mulierem praegnantem, et abortium quidem fecerit, sed ipsa uixerit, subiacebit damno, quantum expetierit maritus mulieris et arbitri iudicarint: sin autem mors eius fuerit subsecuta, reddet animam pro anima.\textsuperscript{48} [CPL 272]

\textsuperscript{46} Cetedoc database, \textit{Biblia sacra iuxta Vulgatam versionem – Exodus (ab Hieronymo transl.)} cap. : 21, versus : 22-23. The edition used by the Cetedoc is: B. Fischer e.a. (eds.), \textit{Biblia sacra iuxta Vulgatam versionem}, 2nd ed. 2 vols. (Stuttgart, 1975). See also: Ayuso Marazuela, \textit{Vetus Latina Hispana}, vol. 2, p. 142; Ayuso Marazuela’s edition is based on Vulgate manuscripts from the 8th (1 MS), 10th (two MSS), and 11th centuries (1 MS), plus two early printed editions.

\textsuperscript{47} Two enormous text repositories, the Cetedoc and the Patrologia Latina databases, were searched extensively.

\textsuperscript{48} The text of the \textit{Liber qui appellatur Speculum} is found in the first part of Augustinus Hipponensis, \textit{Liber qui appellatur Speculum et Liber de divinis scripturis sive Speculum quod fertur S. Augustini}, ed. Franz Wehnhich, CSEL 12 (Vindobona, 1887), p. 7; Cetedoc database, Cl. 0272, cap. : 1, pag. : 7, linea: 13. According to the Cetedoc the text is from the 5th century; the Cetedoc does not question Augustine’s authorship. See also: note 41.

This text is part of a discussion of homicide that does not mention killing an unborn child. Augustine’s authorship of this text is in my opinion debatable, because Augustine has explicit views on the development of the fetus which are not mentioned. Disregard for the fate of the fetus is consistent with the Hebrew interpretation of Exodus 21.22-23, but not with the Septuagint. The text in the \textit{Liber qui appellatur Speculum} is identical to the Vulgate text, and as we saw above, Augustine rejected the Vulgate version of the Old Testament. In his article “St. Augustine, Abortion, and Libido Cru- delis,” Daniel A. Dombrowski (cf. note 42) discusses Augustine’s statements on abortion, and more especially his views on the stages of development of the fetus. Dombrowski contends that Augustine’s works
Pseudo-Isidorus (Spain, 8th c. manuscript)

[Ex. 21.22-23] 61.1. Si rixati fuerint viri et peresserit quis mulierem praegnantem et abortuum quidem fecerit sed ipsa uixerit subiacebit damnio quantum expetierit maritus mulieris et arbitri iudicarint sin autem mors eius fuerit subsecuta red-det animam pro anima.49

Apparently there was a ‘Hebrew’ or Vulgate undercurrent reflecting the ‘other’ interpretation of Exodus 21.22-23. This indicates that different views on abortion existed side by side in the early medieval West, just as they do today. The variant versions of Exodus 21.22-23 have been tabulated in the appendix, and it is evident that by far the majority of the variants follow the Septuagint.

Most of the textual variations in the various Septuagint versions are either on the word level or on the syntax level. Sometimes the tenses of the verbs vary, and sometimes synonyms are used: for instance, the verb ‘to fight’ is rendered by the synonyms rixari and litigare, and the distinction ‘formed’ and ‘unformed’ by (in)formatus, deformatus, (nondum) formatus, and immaturus. The differences between the various ‘Septuagint’ renderings of Exodus 21.22-23, are not completely negligible, but there is no significant difference in meaning. Besides adding the distinction between a ‘formed’ and an ‘unformed’ fetus, the Septuagint version has a different subject of the verb ‘to fight’. Where the Vulgate has the indefinite viri, all the Septuagint versions quoted above have duo viri, except Ambrosiaster, who has the singular indefinite pronoun quis – which we also find in LV 6.3.2.

Visigothic and Ostrogothic scholars were undoubtedly acquainted with a number of the above-mentioned Vetus Latina variants, if only because Latin was the language of literacy in

are not inconsistent. Attribution of this text to Augustine would not be in keeping with his ideas on the subject.

the West. The actual text of the Gothic version of Exodus 21.22-23 remains a matter of conjecture. However, Friedrichsen’s philological analyses of the Gothic Bible’s revisions and the textual evidence of the Vetus Latina suggest that it must have been very similar to the Latin Septuagint-based variants quoted above. That the Vetus Latina was known in early medieval Gaul, Spain and Italy is beyond doubt, and perhaps some of the extant Vetus Latina codices – the Codex Lugdunensis to name one – might even have been in use in the Visigothic kingdom in Spain.

There is one last bit of supportive evidence for the existence of a Gothic version of Exodus, and this takes us back to the Leges Visigothorum.

_Gothic secular law on abortion: the antiquae_

Roman citizens in the western Roman Empire continued to live by Roman law, even after they became subject to Germanic rule; the Germanic tribes had their own laws which had been transmitted orally for generations. We know that the Visigothic king Abaric II (484-507) employed Roman lawyers to help draft the _Breviary of Abaric_ (BA) or _Lex Romana Visigothorum_, and that he asked the Gallo-Roman bishops for their approval when it was finished in 506. The _Breviary of Abaric_ is a compendium of late Roman law compiled for Abaric’s Gallo- and Hispano-Roman subjects. It is a condensed version of the _Codex Theodosianus_, and also includes selections from other Roman legal sources. It was probably intended as a diplomatic confirmation of the _status quo_ to appease the Romans living in the Visigothic kingdom. Roman officials undoubtedly also assisted the Goths with the compilation of the _Edictum Theoderici_ and the _Leges Visigothorum_. The _Leges Visigothorum_ contain the laws of the Germanic Visigoths, whereas the early sixth-century _Edictum Theoderici_ is a Roman law code intended for all of the Ostrogothic king Theoderic’s subjects, Goths as well as Italo-Romans. Much of the _Edictum Theoderici_ was also derived from the _Codex Theodosianus_.

Part 1: Article III
Neither of the Roman laws promulgated by Gothic kings includes a law on abortion. However, the *Breviarium Alarici* does quote the third-century *Pauli Sententiae* (PS) on the *Lex Cornelia de Sicariis et Veneficis* (LCSV), an ancient Roman law on poisoning (81 B.C.), which was probably still considered to be in force in the century following the fall of the Roman Empire (476).\(^{30}\) From commentaries on classical Roman law such as the *Pauli Sententiae* we learn that the *Lex Cornelia de Sicariis et Veneficis* punished the use of abortifacients and love potions, and that it was not a law against abortion, but a law against poisoning.\(^{31}\) Abortifacient potions were prohibited be-

\(^{30}\) The *Pauli Sententia* on abortifacients in the *Breviarium Alarici* is as follows: BA PS 5.25.8. (PS 5.23.14) Qui abortionis aut amatorium poculum dant, etsi id dolo non faciant, tamen, quia mali exempli res est, humiliores in metallum, honestiores in insulam amissa parte bonorum relegantur; quod si ex hoc mulier aut homo perierit, summo supplicio afficiuntur, in: Maria Bianchi Fossati Vanzetti (ed.), *Pauli Sententiae; testo e interpretatio* (Milano, 1995) p. 136; ‘Those who give an abortifacient or a love potion, and do not do this deceitfully, nevertheless, [because] this sets a bad example, the *humiiores* will be banned to a mine, and the *honestiores* will be banned to an island after having forfeited (part of) their property; and if on account of that a woman or man perishes, then they will receive the death penalty’, Clyde Pharr, ‘The Interdiction of Magic in Roman Law,’ *Transactions and Proceedings of the American Philological Association* 63 (1932), pp. 269-295, at p. 289 (slightly emended translation).

\(^{31}\) The *Pauli Sententiae* summarize the LCSV as follows: BA PS 5.25.1 (PS 5.23.1) Lex Cornelia poenam deportationis inflict ei, qui hominem occiderit eisve rei causa furtive faciendi cum telo fuerit et qui venenum hominis necandi causa habuerit, vendiderit, paraverit, falsum testimonium dixerit, quo quis periret, mortisve causam praestiterit. Ob quae omnia facinora in honestiores poena capitis vindicari placuit, humiliores vero aut in crucem tolluntur aut bestiis obiciuntur. Interpretatione non egit, Vanzetti, *Pauli Sententiae*, p. 134; ‘Die Lex Cornelia legt die Strafe der Deportation denjenigen auf, welche einen Menschen getötet oder dieserhalb, bez. um ein Furtum zu vertäten, einer Waffe sich bedient haben werden, und die Gift behufs Beiseiteschaffung eines Menschen gehabt, verkauft, zubereitet, oder ein fälsches Zeugnis abgelegt haben werden, damit jemand zu Grunde gehe, oder die Veranlassung zum Tode eines Menschen gegeben haben werden. Man war dahin einig, dass wegen aller dieser Missachten gegen Vornemhere mit Kapitalstrafe eingeschritten werde; hingegen werden Personen niederen Standes entweder an das Kreuz geschlagen oder den wilden Tieren vorgeworfen’, Max Conrat, *Breviarium Alaricianum; Römisches Recht im Fränkischen Reich in systematischer Darstellung*, (Leipzig, 1903), p. 531.
cause they were classified as lethal poisons and considered hazardous to a person’s health — no doubt a conclusion based on fact. In Roman law a poisoner who caused someone’s death was punished as a murderer. However, causing the death of a fetus is not punished. Like the Hebrew version of Exodus 21.22-23 Roman law does not concern itself with the unborn child; it is only concerned with injuries sustained by the mother.

The first six Visigothic laws on abortion in the *Leges Visigothorum* are antiquae or ‘old laws’; the antiquae were promulgated by king Euric (466-484), Alaric II (484-507), Leovigild (568-586) or Reccared I (586-601) in the fifth and sixth centuries. Most of the antiquae were issued after the Visigothic re-

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54 The authorship of the antiquae is difficult to determine, because only the names of the kings responsible for younger Visigothic law are known. There are at least four or five kings to chose from as authors of the Visigothic antiquae on abortion: Euric, Leovigild, Reccared I, and perhaps also Alaric II, or the Ostrogothic king Theoderic who was joint ruler over the Ostrogothic and Visigothic kingdoms after Alaric II’s death in 507 (511-526). The extant fragments of Euric’s *Codex Euricianus* are all concerned with transactions, and despite Zeumer’s reconstruction of two Eurician laws on abortion (*Zeumer, Leges Visigothorum*, p. 29), there is no plausible evidence for postulating Eurician laws on abortion.

The law code issued by Theoderic for the Ostrogoths, the *Edictum Theoderici*, is a compendium of Roman law and does not have a law on abortion, which makes it hard to imagine Theoderic issuing a separate law on abortion for the Visigoths, and not for the Ostrogoths. It is similarly hard to imagine Reccared I as the author of the Visigothic antiquae on abortion, because Visigothic secular law would then clash with the harsh canon on abortion promulgated at the Council of Toledo III under Reccared’s auspices, which even explicitly mentioned his name. If we look at Spanish conciliar legislation there would seem to be a period of relative tolerance of abortion between the Council of Lerida (524) and the Council of Braga II (572). The
treat from Gaul in 507. Like the *Lex Cornelia de Sicariis et Veneficis* the first article on abortion in the *Leges Visigothorum* (LV 6.3.1) equates abortifacients and poisons. LV 6.3.1 punishes the person who provides or administers abortifacient drugs with the death penalty. Although this Visigothic law is harsher than the Roman *Lex Cornelia de Sicariis et Veneficis*, because it imposes the death penalty for poisoning regardless of the outcome, it closely resembles the LCSV in its prohibition of the use of drugs considered detrimental to a woman’s health.

LV 6.3.1. Antiqua. De his, qui potionem ad aborsum dedereint. Si quis mulieri pregnanti potionem ad avorsum aut pro necando infante dederit, occidatur; et mulier, que potionem ad aborsum facere quesibit, si ancilla est, CC flagella suscipiat, si ingenua est, careat dignitate persone et cui iusserimus servitura tradatur.

LV 6.3.1. Old law. Concerning those who give a potion to induce abortion. If anyone gives a potion to a pregnant woman to induce abortion and for the purpose of killing an unborn child, let this person be put to death; and let the woman who asked [this person] to concoct the potion for abortion, if she is a slave, receive 200 lashes; if she is a free woman, let her be deprived of the dignity of a *persona* and be handed over as a slave to whom we order.

Like the LCSV, LV 6.3.1 punishes poisoning and the person who supplies a pregnant woman with a poisonous potion so that she can commit abortion. Unlike the LCSV, however, LV 6.3.1 adds a clause on the fate of the fetus that explicitly explains the abortifacient potion’s effect: *pro necando infante*. It

*antique* would then have been issued before Toledo III. Leovigild (568-586) might therefore be a better candidate for their authorship, even though the penance for abortion was changed back to 10 years in the council (Braga II) held during his reign.

55 After the Frankish king Clovis defeated and killed Alaric II in the battle of Vouillé (507), most of the Visigothic territory in Gaul was ceded to the Franks.


then proceeds to insert a provision that punishes the pregnant woman who asks for an abortifacient, so that, in effect, this article functions as a condemnation of this particular method of intentional abortion. Whereas the LCSV only holds the supplier responsible, LV 6.3.1 also holds the woman who takes the abortifacient accountable for her irresponsible behavior. A woman who wishes to endanger her life and that of her unborn child is punished with loss of freedom; if she is a slave the punishment is 200 lashes. Although a woman who wishes to have an abortion is not punished with the death penalty, the prospect of enslavement was probably intended as a deterrent for a free woman contemplating the use of an abortifacient to terminate her pregnancy.

The following five Visigothic articles, LV 6.3.2 - LV 6.3.6, are concerned with unintentional abortion; they punish those who use violence and thus cause a woman to miscarry. LV 6.3.2 is the main article; articles LV 6.3.3- LV 6.3.6 supplement LV 6.3.2. The first part of LV 6.3.2 – quoted at the beginning of this paper – punishes the aggressor for homicide, if the pregnant woman dies as a result of the violence. The second part of LV 6.3.2 resembles the Septuagint version of Exodus; it imposes a fine for killing the fetus, which is differentiated according to its stage of development: 100 *solidi* for an unfomed fetus and 150 *solidi* for a formed fetus. Note, however, that the Septuagint punishes killing a formed fetus as homicide, whereas Visigothic law punishes killing an unborn child as a serious injury to the mother; it is not labelled as homicide.

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59 The fine for killing a formed fetus is comparable to the fines imposed for causing a person to become seriously disabled, for instance, through loss of a limb, an ear or an eye. See: The Visigothic injury tariffs in the title on wounds (LV 6.4) of the *Leges Visigotorum*, especially LV 6.4.1 and LV 6.4.3. The link between the laws on abortion and the title on wounds is discussed in Elsakers, “Inflicting Serious Bodily Harm,” pp. 55-63 at p. 56, note 7 and pp. 61-62.
The Visigothic *antiquae* on abortion show us that the compilers of these laws were familiar with the Roman *Lex Cornelia de Sicariis et Veneficiis* and with the Septuagint version of Exodus 21.22-23. The LCSV and LV 6.3.1 are concerned with poisoning and intentional abortion; both punish the use of lethal poisons and putting another person’s life at risk. The Septuagint and LV 6.3.2 both distinguish between early term and late term abortion, using the same terminology, and both condemn violent abortion induced by a third party. Visigothic law probably also implicitly punishes intentional abortion, because in the early medieval period provoking an abortion — whatever method is used — involves the use of dangerous, life-threatening procedures — which all must be classified under the heading ‘violence’.

*Early medieval Conciliar law on intentional abortion*

The earliest conciliar condemnation of abortion is found in the canons of the Council of Elvira (c. 300-306), a provincial council held in southern Roman Spain long before the arrival of the Visigoths; it excommunicates those who commit intentional abortion in order to conceal adultery (canon 63). Canons 21 of the (eastern) council of Ancyra (314) condemns abortion and infanticide, and reduces the punishment to a ten years’ penance. Three sixth-century Church councils held in

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60 See: ELSAKKERS, “Inflicting Serious Bodily Harm,” p. 63.
61 Elvira c. 63. De uxoribus quae filios ex adulterio necant. Si qua per adulterium absente marito suo conceperit, idque post facinus occiderit, placuit nec in finem dandam esse communionem eo quod geminaverit scelus; in: José Vives (ed.), *Concilios Visigóticos e Hispano-Romanos* (Barcelona-Madrid, 1963), p. 12. “On wives who kill children conceived in adultery. If a woman, during the absence of her husband, conceives [a child] in adultery, and kills it after the crime, it is so ordained that she may not even receive communion at the end of her life, because she has committed a double crime.”

62 Ancyra c. 21. De mulieribus, quae fornicantur et partus suos necant, sed et de his quae agunt secum ut utero conceptos excidunt, antiqua quidem
Visigothic Spain have canons on abortion.\(^{63}\) The council of Lerida (524)\(^{64}\) mitigates the penance for abortion to seven years (canon 2), Braga II (572)\(^{65}\) changes it back to ten years definitio usque ad exitum vitae eas ab ecclesia remouit; humanius autem nunc definimus, ut eis decem annorum tempus paenitentiae tribuatur; “On women who fornicate and kill their partus, or who do something to themselves so that they expel that which was conceived in the womb. By an ancient law they are excluded from the church (excommunicated) until the end of their lives. We, however, have decided to soften their punishment, and condemned them to do penance during a period of ten years.” In: Gonzalo Martínez Díez y Félix Rodríguez (eds.), La colección canónica Hispánica, vol. 3, Concilios Griegos y Africanos, Monumenta Hispaniae Sacra, serie Canónica 3 (Madrid, 1982), p. 101. Turner gives four slightly different Latin versions of this canon; see: Cuthbert Hamilton Turner (ed.), Ecclesiae occidentalis monumenta iuris antiquissima; canonum et conciliorum graecorum interpretationes Latinae, 2 vols. (Oxford, 1899-1939), vol. 2, pp. 106-109.

\(^{63}\) See also: note 54.

\(^{64}\) Lerida c. 2. De his qui aborsum faciunt vel natos suos extingunt. Hii vero qui male conceptos ex adultero factos vel editos necare studuerint, vel in uteri matrum potionibus aliquibus conliserint, in utroque sexu adulteris post septem annorum curricula communio tribuatur, ita tamen ut omni tempore vitae suae fletibus et humilitati insistant, officium eis ministrandi recuperare non licet; adtamen in choro psallentium a tempore receptae[el] communionis intersint. Ipsi veneficiis in exitu tantum, si facinora sua omni tempore vitae suae defleverint, communionis tribuatur; “2. De aquellos que procuran el aborto o dan muerte a sus hijos. Aquellos que procuran la muerte de sus hijos concebidos en pecado y nacidos del adulterio, o tratan de darles muerte en el seno materno por medio de algún medicamento abortivo, a tales adulteros de uno y otro sexo, déseles la comunión solamente pasados siete años, a condición de que toda su vida insistan especialmente en la humildad y en las lágrimas de contrición; pero los tales no podrán volver a ayudar al altar, aunque se podrá volver a admitirles en el coro a partir del día en que fueron nuevamente reintegrados a la comunión. A los envenenadores, solamente se les dará la comunión al fin de la vida y eso si durante todos los días de su vida han llorado los crímenes pasados” (Vives, Concilios Visigócas, pp. 55-56). The Council of Lerida was held during the interregnum when the Ostrogothic king Theoderic ruled the Visigothic kingdom (511-526).

\(^{65}\) Braga II c. 77. [De mulieribus fornicariis abortum facientibus.] Si qua mulier fornicaverit et infantem qui exinde fuerit natus occiderit, et quae studuerit aborsum fecere et quod conceptum est necare aut certe ut non concipiat elaborat sive ex adulterio sive ex legitimo coniugio, has tales mulieres in mortem recipere communiom priores canones decreverunt; nos tamen pro misericordia sive tales mulieres sive consellas scelerum ipsisum decem annis poenitentiam iudicamus; “77. De las mujeres pecadoras que comenten
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66

(canon 77), and the last council, Toledo III (589), is a passionate outcry against adultery, fornication, infanticide and abortion which advocates the severest possible punishment, but rejects the death penalty (canon 17).66 These canons show us that Church law regarded abortion as a serious crime, but that her punishment of abortion changed every so often; it could be harsh, and then, a generation or two later, it would be milder.

In the Middle Ages conciliar legislation was transmitted through the so-called Collectiones Canonum; these collections of canon law were widely disseminated and are important sources of canon law.67 We find the conciliar canons mentioned above, especially Elvira and Ancyra, in most of the early medieval, western conciliar collections, such as the Hispana, the Vetus Gallica, and the Epitome Hispanica. Although most of the canons on abortion link abortion and illicit sexual behavior, an epitome of canon 77 of the Second Council of Braga in the Epitome Hispanica suggests that canonical legislation on abortion could be interpreted as a general condemnation of abortion, because this epitome leaves out the context — adultery and fornication — and simply forbids abortion (and infanticide): *Mulier qui aborsum sibi dederit vel natum filium occiderit X aborto. Si alguna mujer forniciare y diere muerte al niño que como consecuencia hubiera nacido, y aquella que tratase de cometer aborto y dar muerte a lo que ha sido concebido, y también se esfuerza por evitar la concepción, sea consecuencia del adulterio o del matrimonio legítimo, acerca de estas tales mujeres decretaron los cánones antiguos que recibían la comisión a la hora de la muerte. Nosotros, sin embargo, usando de misericordia, creemos que las tales mujeres, o los que han sido cómplices de las mismas, deben hacer diez años de penitencia*67 (VIVES, Concilios Visigóticos, p. 104). Braga II was held during the reign of Leovigild (568-586).

66 Canon 17 of the Third Council of Toledo (589) condemns those who teach others how to induce an abortion: *qui foetus necando proprios docent se non pro filiis sed pro libidine sociari* (VIVES, Concilios Visigóticos, p. 130); it was during this council that king Recared I (586-601) renounced Arianism (VIVES, Concilios Visigóticos, pp. 107 ff.).

67 Important early medieval western collections are the Collectiones Dacheriana (c. 800), the Dionysio-Hadriana (before or c. 774), the Hibernensis (eighth century), the Hispana (seventh century), the Vetus Gallica (between 585 and 626/7) and the Epitome Hispanica (598/619).
annos poenitentiam agat, ‘a woman who causes her own abortion, or kills her new-born child must do penance for ten years’. 68

None of the early Church council canons on abortion mentions the distinction ‘formed - unformed’. This is remarkable, because this distinction is found in the Septuagint, and the Septuagint-based version of Exodus 21.22-23 was more popular in the early medieval West than the Vulgate. Apparently, there were two different views on abortion. One that condemns abortion regardless of the stage of development of the fetus, a standpoint that is reflected in the conciliar legislation discussed above, and another that distinguishes between early term and late term abortion and stipulates a milder punishment for early-term abortion. 69 The former can be traced back to the Hebrew version of Exodus through Jerome’s Vulgate; its main exponent is Caesarius of Arles (c. 470-542), a sixth-century Gallo-Roman bishop, who fiercely attacked those who aborted their children in a number of his sermons. 70 The latter is ultimately derived from the Septuagint version of Exodus 21.22-23 and was well-known through Augustine’s


70 Caesarius of Arles (469-543) condemns abortion in sermons 1.12, 19.5, 44.2, 51.4, 52.4 and 200.4; see: Caesarius Arelatensis, Sancti Caesari Arelatensis, Sermones, ed. Germanus Morin, 2 vols. CCSL 103-104 (Turnhout, 1953), pp. 8-10, 90-91, 196, 229, 810.
commentary on Exodus.\textsuperscript{71} Both Caesarius’s sermons and Augustine’s commentary on Exodus were popular throughout the medieval period.

The secular Visigothic laws reflect both views on abortion. Whereas the older antiquae employ the distinction ‘formed - unformed’ (LV 6.3.2 ff.), the youngest Visigothic law on abortion (LV 6.3.7), which was issued by king Chindasvind (642-653), is straightforward and uncompromising in its condemnation of deliberate abortion. Chindasvind’s law can be characterized as a Caesarian sermon in legal guise.

LV 6.3.7. Flavius Chindasvindus Rex. De his, qui filios suos aut natos aut in utero necant. Nihil est eorum pravitate deterruis, qui, pietatis inmores, filiorum suorum necatores existunt. Quorum quia vitium per provincias regni nostri sic inolevisse narratur, ut tam viri quam femine sceleris huius auctores esse repperiantur, ideo hanc licentiam proibentes descernimus, ut, seu libera seu ancilla natum filium filiamve necaverit, sive adhuc in utero habens, aut potionem ad avorum acceperit, aut alio quocumque modo extinguere partum suum presumserit, mox provincie iudex aut territorii ta-lem factum reppererit, non solum operatricem criminis huius publica morte condemnet, aut si vite reservare voluerit, omnem visionem oculorum eius non moreetur extinguere, sed etiam si maritum eius talia iussisse vel permisisse patuerit, eundem etiam vindicet similis subdere non recuset.\textsuperscript{72}

\textsuperscript{71} See above and note 42.

\textsuperscript{72} Zeumer, \textit{Leges Visigothorum}, p. 262; “LV 6.3.7. King Chindasvind. Concerning those who kill their own children, either already having been born or in utero. There is nothing worse than the depravity of those who, disregarding piety, become murderers of their own children. In as much as it is said that the crime of these has grown to such a degree throughout the provinces of our land that men as well as women are found to be the performers of this heinous action, we therefore, forbidding this dissoluteness, decree that, if a free woman or a female slave murders a son or a daughter which has been born, or, while having it still in utero, either takes a potion to induce abortion, or by any other means whatsoever presumes to destroy her own fetus, after the judge of the province or of the territory learns of such a deed, let him not only sentence the performer of this crime to public execution, or if he wishes to preserve her life, let him not hesitate to destroy the vision of her eyes, but also, if it is evident that the woman’s husband ordered or permitted such things, let him not be reluctant to subject the same
Abortion must have been an important issue to the Germanic Visigoths for them to promulgate laws on abortion in the fifth and sixth centuries that were not consistent with and milder than current Church law. It is significant that Chindasvind’s mid-seventh-century law (LV 6.3.7) was issued nearly a century after the Visigothic king Reccared I decided to convert from Arianism to Catholicism (589) and after it was decreed that Arian books should be burnt.\(^\text{73}\) If we interpret LV 6.3.2 - LV 6.3.6 as a condemnation of intentional and unintentional abortion, Chindasvind’s law on abortion contradicts earlier Visigothic law, but is compatible with canon law. This implies that LV 6.3.7 constitutes a revision of earlier Visigothic law on abortion and was intended to replace it. This in turn suggests that the Septuagint-based version of Exodus 21.22-23 was associated with Arianism and that the Vulgate version was regarded as the ‘authorized’ version of the Bible by Catholic Spain.\(^\text{74}\) Perhaps Arianism is the link between the Septuagint-based version of Exodus 21.22-23 in the Vetus Latina, the Gothic Bible and early Visigothic law on abortion.

*Exodus 21.22-23 and LV 6.3.2*

The appendix shows us just how much of the Septuagint text of Exodus 21.22-23 corresponds to LV 6.3.2. The introductory text ‘if two men fight’ was changed: the verb ‘to fight’ was replaced by the verb ‘to strike’ and the subject of the first sentence is now in the singular, as in the Vetus Latina version of Exodus 21.22-23 ascribed to Ambrosiaster.\(^\text{75}\) This means that the violence done to the pregnant woman cannot to a similar punishment” (Amundsen, “Visigothic Medical Legislation,” pp. 568-569).

\(^{73}\) The conversion of the Goths to Catholicism was by no means unproblematic, see: Heather, *The Goths*, pp. 282-283.

\(^{74}\) It also suggests that earlier Visigothic law on abortion (the *antiquae*) must be dated before 589.

\(^{75}\) In his *De Specialibus Legibus* Philo also speaks of the aggressor in the singular: “If a man comes to blows with a pregnant woman and strikes her on the belly and she miscarry...” , Philo, *Works*, vol. 7, III.108, pp. 544-545. See also: note 38.
be an accident anymore; it must be interpreted as a deliberate act of violence.\textsuperscript{76} The order of the clauses is different, but otherwise the text of the Septuagint version of Exodus is clearly discernible in LV 6.3.2, despite its accommodation to the style and requirements of secular law and legal prose.\textsuperscript{77} Especially noteworthy is the explication of the method used to induce the abortion: \textit{quocumque bictu}, and the addition of \textit{aut per aliquam occasionem}, which expands the crime described in Exodus, so that any kind of violence towards a pregnant woman can be punished (including domestic violence). The use of legal terms such as \textit{ingenius} and \textit{ingenna} and the addition of clauses such as \textit{et exinde mortua fuerit, pro homicidio puniatur}, and \textit{si antem tantummodo partus excretatur, et mulier in nullo debilitata fuerit} show the legal mind at work, defining every possible contingency.

Another important difference between the two texts is the punishment. Abortion of a formed fetus is not punished by ‘life for life’ in the Visigothic \textit{antiquae}; both early- and late-term abortion are punished by a fine — a punishment more in accordance with Germanic law, which demands monetary compensation for injuries. The fines, 100 or 150 \textit{solidi}, indicate that causing a woman to miscarry is considered a serious crime, but not as serious as murder.\textsuperscript{78}

Other, seemingly trivial, textual variations, such as \textit{mulier gravida} for the Vetus Latina variants \textit{mulier praegnans} and \textit{mulier in utero habens}, and \textit{si formatum infantem extinxit} for \textit{si antem formatum fuerit} or (quod) \textit{si deformatum fuerit} do not seem to be due

\textsuperscript{76} The subject of the first sentence is also in the singular in the four companion articles: LV 6.3.3 - LV 6.3.6, see also: Elsakkers, “Inflicting Serious Bodily Harm,” p. 58, table 1.

\textsuperscript{77} Accommodation to legal requirements would explain the omission of the passage in which the husband is allowed to determine the amount of damages, because most secular laws would regulate this in a title on damages, as Visigothic law did in LV 6.4.

\textsuperscript{78} See also: note 59. The Septuagint does not explicitly mention what to do if the mother dies, or if she sustains serious injuries; Gothic law, on the other hand, like Hebrew law, explicitly states that homicide must be punished accordingly, \textit{pro homicidio puniatur}. Implicitly the Septuagint would, of course, demand ‘an eye for an eye’, the normal punishment for homicide, if the mother died as a result of the abortion, a fact any theologian or lawyer would have been well aware of.
to legalistic considerations. Furthermore, LV 6.3.2 uses the words *infans* and *partus*, but only the Vetus Latina versions by Augustine and Rufinus refer to an *infans*; all the other Latin Exodus variants, simply use the phrase ‘to cause an abortion’, thus evading the question ‘what was aborted’. The textual differences discussed above might have been inspired by texts which are now lost, by earlier Gothic law – perhaps even by laws which were only available in an orally transmitted version, by other unknown, Septuagint-based Vetus Latina variants (in a Gothic bilingual?), or even medical texts. There is, however, the distinct possibility that some of the variants might have been taken directly from the Gothic version of Exodus 21.22-23.

*Conclusion: a case for a Gothic version of Exodus*

The use of the distinction ‘formed – unformed’ in a Germanic law on abortion is an innovation in early medieval, secular law; it has no parallel in Roman law. It is almost inconceivable that the resemblance between the Septuagint-based Vetus Latina version of Exodus 21.22-23 and LV 6.3.2 is a coincidence. As explained above, the Septuagint version of Exodus 21.22-23 was well known in Visigothic Spain through the Gothic Bible, the Vetus Latina and patrician sources. The link between the Septuagint-based Gothic Old Testament and the Vetus Latina had already been made in the form of the Gothic-Latin bilingual versions of the Bible which must have been in use in both Gothic kingdoms; besides, the Gothic text was regularly accommodated to the Vetus Latina text. ‘How’ the concept ‘formed – unformed’ found its way into Visigothic law is therefore not a difficult question to answer, but ‘why’ is another matter.

It is obvious that Visigothic lawyers introduced the distinction *formatus* - *informatus* deliberately, perhaps at the instigation of the king or one of his clerical advisors. But why? The compilation of the *antiquae* on abortion must be situated somewhere in the early or mid-sixth century under a Visigothic king who had the courage to issue pragmatic and rela-
tively compassionate legislation on abortion despite current canon law, and despite Gallo-Roman and Hispano-Roman bishops such as Caesarius of Arles (c. 470-542), who strongly opposed both abortion and Arianism. It may even have been compiled at the same time as the *Breviarium Alarici.*

Perhaps diverging from conciliar law and the opinions of the Gallo-Roman and Hispano-Roman bishops was a means to assert Gothic identity. But this is not enough to explain the introduction of a new concept in secular law which would involve differentiating between early-term and late-term abortion, and probably cause conflicts with the Gallo- and Hispano-Roman bishops and their clergy. I can think of only one reason why the Goths would include a passage on the stages of development of the fetus in their secular laws on abortion, and that is because to the Goths this was not an innovation, but simply part of their customary law on abortion. By this I mean that the Goths looked upon their Gothic Bible as a law book on a par with other collections of law, whether oral or written, and that they did not distinguish between secular and religious law as we do. Centuries later, the West Saxon king Alfred (c. 848-899) did the same thing when he modeled part of his law book on Mosaic law – only Alfred used the Vulgate, that is, an Exodus text derived from the Hebrew.

Thus Gothic law was innovative in comparison with current, written secular and canonical law. To the Goths, however, it would just have been a confirmation of existing law, laws which fitted in with their Arian convictions, laws which had been ‘Gothic’ since their conversion to Arian Christianity in the fourth century, when Ulfila translated the Bible into the Gothic vernacular. This means that Visigothic secular law on abortion must have closely followed the Gothic version of

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79 See also: note 54.

Exodus 21.22-23 in the Gothic Bible and possibly also one of the Vetus Latina versions of the biblical law on abortion.

As we saw above, when comparing the Septuagint-based Vetus Latina versions of Exodus 21.22-23 and the Visigothic law on abortion, both texts are remarkably similar; LV 6.3.2 only occasionally chooses words and adds phrases not found in the Old Latin Septuagint texts. It is evident that LV 6.3.2 is the result of a creative editing process and that the lawyers responsible for this article had a great deal of different sources at their disposal, Roman law, various versions of the Vetus Latina, and earlier Gothic law. In this paper I have tried to show that it is very likely that the Goths’ own Bible was also one of the sources used for their secular law on abortion. The introduction of the concept ‘formed - uniformed’ into secular Visigothic law certainly seems to point in this direction, and perhaps some of the textual variants noted above are simply due to the fact that Visigothic lawyers were translating parts of the Gothic version of Exodus 21.22-23 into Latin. If this is true, Visigothic law, especially LV 6.3.2, not only gives us a glimpse of the Gothic Exodus, but it also provides us with textual and conceptual proof that a version of Exodus in the Gothic vernacular, which was based on the Septuagint translation of the Bible, did indeed exist.
## Appendix: Exodus 21.22-23 versions

<table>
<thead>
<tr>
<th>source</th>
<th>cause of injury to mother</th>
<th>effect on fetus</th>
<th>stage of fetus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hebrew Ex. 21.22-23</td>
<td>And if men strive together, and hurt a woman with child,</td>
<td>so that her fruit depart [from her],</td>
<td></td>
</tr>
<tr>
<td>Septuagint Ex. 21.22-23</td>
<td>If two men fight and they strike a woman who is pregnant,</td>
<td>and her child comes out</td>
<td>while not formed,</td>
</tr>
<tr>
<td>Lucifer Calaritanus</td>
<td>si rixauerint duo et percusserint mulierem in utero habentem</td>
<td>et abortauerit</td>
<td>non deformatum,</td>
</tr>
<tr>
<td>Ambrosiaster</td>
<td>(a) si quis percusserit mulierem in utero habentem</td>
<td>(b) et abortierit,</td>
<td>(c) si autem informatum fuerit,</td>
</tr>
<tr>
<td>Pseudo Speculum</td>
<td>Si autem duo uirt riwsbuntur, et percusserint mulierem praegnament,</td>
<td>et abortauerit</td>
<td>immaturum</td>
</tr>
<tr>
<td>Liber de divinis scripturas</td>
<td>Si autem uirt riwsbuntur, et percusserint mulierem praegnament,</td>
<td>et abortauerit</td>
<td>immaturum</td>
</tr>
<tr>
<td>Augustinus Hipponensis</td>
<td>si autem ligabant duo uirt et percusserint mulierem in utero habentem,</td>
<td>et exierit infans eius</td>
<td>non deformatum,</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(nondum formatum)</td>
</tr>
<tr>
<td>Biblia sacra iuxta Ultagatam versionem – Exodus (ab Hie- ronymo transl.)</td>
<td>si rixati fuerint viri et per- cusserit quis mulierem praegnament et</td>
<td>abortivum quidem fecerit</td>
<td></td>
</tr>
<tr>
<td>Origenes secundum translationem Rufini</td>
<td>Quod si ligabant duo uirt et percusserint mulierem praegnament,</td>
<td>et exierit infans eius,</td>
<td>nondum formatum</td>
</tr>
<tr>
<td>(Pseudo-) Augustinus Hippo- nensis – Speculum</td>
<td>si rixati fuerint uiri, et per- cusserit quis mulierem praegnament,</td>
<td>et abortium quidem fecerit,</td>
<td></td>
</tr>
<tr>
<td>Codex Lugdunensis</td>
<td>Quod si rixati erint duo uiri, et percusserint mulierem conceptum habentem,</td>
<td>et abortauerit</td>
<td>immaturum</td>
</tr>
<tr>
<td>Vetus Latina Hispania, Pseudo- Isidorus</td>
<td>si rixati fuerint viri et per- cusserit quis mulierem praegnament et</td>
<td>abortivum quidem fecerit</td>
<td></td>
</tr>
<tr>
<td>glosses ‘in graeco’: ms 21 (10th c), 26 (incunable), 84 (12th c), 94 (12-13th c), see: Ayuso Marazuela, Vetus Latina Hispania, vol. 2, p. 142.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leges Visigothorum Antiqua 6.3.2.</td>
<td>(a) Si quis mulierem gravidam percusserit (b) quo- cumque hicet aut per aliquam occasionem (g) et ingenuus ingenue hoc intimuisse cognosceitur,</td>
<td>(c) mulierem ingenium abortare fecerit, (d) et exinde mortua fuerit, pro homicidio punatur. (e) Si autem tantummodo partus sceleratur, (f) et mulier in nullo debilitata fuerit,</td>
<td>(j) si vero informem,</td>
</tr>
<tr>
<td>Part 1: Article III</td>
<td>85</td>
<td></td>
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<tr>
<td>---------------------</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>punishment</th>
<th>stage of fetus</th>
<th>punishment</th>
<th>date</th>
</tr>
</thead>
<tbody>
<tr>
<td>and yet no mischief follow: he shall be surely fined, according as the woman’s husband shall lay upon him; and he shall pay as the judges determine.</td>
<td>But if any mischief follow,</td>
<td>then thou shalt give life for life, eye for eye, etc.</td>
<td></td>
</tr>
<tr>
<td>he will be forced to pay a fine; according as the woman’s husband lays upon [him] he shall give according to that which is though fir.</td>
<td>But if it is formed,</td>
<td>he will give life for life etc.</td>
<td></td>
</tr>
<tr>
<td>detrimentum patetur quodcumque aestimauerit uir mulieris dabit cum dignitate.</td>
<td>quodsi deformatum fuerit,</td>
<td>dabit animam pro anima,</td>
<td>4th</td>
</tr>
<tr>
<td>(f) multetur pecunia, (g) ut probaret non esse animam ante formam.</td>
<td>(c) si formatum fuerit,</td>
<td>(d) det animam pro anima;</td>
<td>4th</td>
</tr>
<tr>
<td>detrimentum patetur quodcumque vir mulieris petit [demands] dabit cum postulatione</td>
<td>quod si formatum fuerit</td>
<td>dabit animam pro anima.</td>
<td>4-5th</td>
</tr>
<tr>
<td>detrimentum patetur; quantum indixerit uir mulieris, et dabit cum postulatione.</td>
<td>si autem formatum fuerit,</td>
<td>dabit animam pro anima</td>
<td>4-5th</td>
</tr>
<tr>
<td>sed ipsa vixerit subiacebit damno quantum experierit maritus mulieris et arbitri iudicarii: sin autem mors eius fuerit subsecuta</td>
<td>Quod si deformatus fuerit,</td>
<td>dabit animam pro anima,</td>
<td>5th</td>
</tr>
<tr>
<td>detrimentum patetur quodcumque aestimauerit uir mulieris dabit cum dignitate</td>
<td>quod si deformatum fuerit</td>
<td>dabit animam pro anima.</td>
<td>6-7th</td>
</tr>
<tr>
<td>sed ipsa uixerit subiacebit damno quantum experierit maritus mulieris et arbitri iudicarii: sin autem mors eius fuerit subsecuta</td>
<td>reddet animam pro anima</td>
<td>7th-8th</td>
<td></td>
</tr>
<tr>
<td>detrimentum patetur quodcumque aestimauerit uir mulieris dabit cum dignitate</td>
<td>quod si deformatum fuerit</td>
<td>dabit animam pro anima.</td>
<td>10th ff.</td>
</tr>
<tr>
<td>(k) C solidos pro facto restituet</td>
<td>(b) si formatum infantem extinxit,</td>
<td>(i) CL solidos reddat;</td>
<td>6th</td>
</tr>
</tbody>
</table>
Summary

Although there is no extant version of the Gothic Bible book Exodus, this paper argues that Visigothic secular law provides textual and conceptual evidence for the existence of a Gothic translation of Exodus based on the Greek Septuagint version of the Old Testament, because Visigothic law on abortion (LV 6.3.2) is remarkably similar to the Septuagint version of the biblical law on abortion. Both laws on abortion distinguish between early term and late term abortion, using the concept ‘formed – unformed’. The occurrence of this distinction in Visigothic secular law – an innovation in comparison with contemporary, written secular and canonical law – suggests that the Gothic Bible book Exodus was one of the sources used by the Visigothic lawmakers and that a Gothic version of Exodus did indeed exist. Arianism would then be the missing link.