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

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Chapter 4

EARLY MEDIEVAL ABORTION:
Some final considerations

QUESTIONS AND MISCONCEPTIONS
The object of my studies was to find out what secular law, ecclesiastical law, and practical Christian texts have to tell us about women and abortion in early medieval Germanic society. I have attempted to find answers to questions, such as, did women resort to abortion, how was it committed, and could the methods used have been effective, why was it committed (inside marriage, outside marriage etc.), who was knowledgeable about abortion, who was considered responsible for abortion, was it punished, and if it was, who was punished, how was it punished, and what was punished, and, finally, were people in the early medieval West concerned with the fate of the fetus. I have tried to distinguish between intentional abortion and violent abortion or abortion by assault, and to determine whether abortion was condoned, condemned or only sometimes condemned. Not every one of the questions formulated above can be answered satisfactorily; a lot still remains to be studied.

Before summarizing my findings and conclusions a number of misconceptions must be addressed. The first misconception regards the meaning of the Latin word aborsus. The Latin word aborsus means ‘miscarriage’. It can take on the meaning ‘abortion’ or ‘induced miscarriage’ if the miscarriage is in any way externally induced (intentionally, unintentionally or involuntarily). The verbal phrase aborsum (auorsum, abortum, auortum) facere means: (1) have a miscarriage, (2) induce an abortion, cause a woman to abort, or (3) commit abortion (intentionally). The meaning of aborsus in secular and ecclesiastical legal texts is usually obvious. However, when reading medieval medical texts on ‘abortion’, usage of the word aborsus should put us on our guard. We should beware of being too eager to interpret aborsus as ‘abortion’, even though at first sight the text may seem to be concerned with abortion. Two examples. In his book Contraception and Abortion from the Ancient World to the Renaissance John Riddle interpreted one of the recipes in Scribonius Largus’s Compositio (43-48 AD) as useful “for the after effects of an abortion (ex partu abortive)”.

Scribonius Largus, Compositio
121. (…) nec minus etiam mulieribus, quae fluore sanguinolento infestantur (…) vel ex partu abortive quae residuos vulvae dolores habent (…).6

1 Again thanks are due to Wilken Engelbrecht, Erika Langbroek, Rob Brouwer and Jan van der Heijden for helping me with my Latin problems. Jacqueline de Ruiter, Thea van der Linden and Bertine Bouwman helped me finish this book.
2 See: below under ‘concluding remarks’.
3 Grigsby 2008 and Van Arsdall 2008 describe other, more general ‘medieval medical misconceptions’. Grigsby formulates three general misconceptions concerning the study of medieval medicine: (a) “to see medicine in the Middle Ages as an unsophisticated system” (p. 142), (b) approaching “medieval medicine from a positivistic framework (…) as a precursor or primitive form of twentieth-century medicine” (p. 142), and (c) “ascribing the belief to medieval people that all illness was connected to moral failings” (p. 145). Anne van Arsdall explains how a negative bias permeated the study of Anglo-Saxon medicine from its start in the mid-nineteenth century (e.a. Cockayne, Singer, Bonser). She argues for a more objective study of the system of medieval medicine without dismissing the things we do not understand, or labelling them as non-rational, magie, folklore or nonsense (Van Arsdall 2008, pp. 135-139).
4 The words aborsus, auorsus, abortum(s), auortus(m) function as synonyms. For the etymology of aborsus and abortus, cf. De Vaan 2008 under orior - oriri and verto/vorto - vertere/vortere (pp. 434-435 and pp. 666-667). The word abortivum is used in the meaning ‘abortion’ and ‘abortifacient’.
5 Riddle 1992, p. 84.
6 Sconocchia 1983, p. 64; ‘121. (…) ebensosseh auch den Frauen, die durch blutigen Ausfluß (…) geplagt werden, oder die durch Geburt oder Fehlgeburt noch Schmerzen in der Scham zurückbehalten haben (…).’ (Schonack 1913, p. 60).
Riddle’s reading of the Latin word *abortuve* as the adjective *abortive*, ‘abortive’, instead of *abortu* plus *ve* is too hasty. The word *abortu* means ‘miscarriage’ here, and *ex partu abortuve* must be translated as ‘due to the delivery or the miscarriage’, as in Schonack’s 1913 translation.

A second example concerns Riddle’s interpretation of *ex partu aut aborsu* in one of the recipes in Marcellus Empiricus’s *De Medicamentis* (late fourth-early fifth century).

Marcellus Empiricus - Marcellus of Bordeaux, *De Medicamentis* 20: 33-35. Mouet etiam menstrua mulierum, cum difficulter purgantur, item detrahit, si qua ex partu aut aborsu intrinsecus nocia substititerrit.8

Again Riddle translates *aborsus* as ‘abortion’: “also it moves the *menstrua* of women, if there is difficulty in purging, and it pulls down (or expels) if after childbirth or abortion internal corruptions are substituted”.9 Riddle’s interpretation of the word *aborsus*, and his translation of *substiterrint* as ‘substituted’ (< *substituere*) instead of ‘remained’ (< *substare*) obscure the meaning of the passage. It should read ‘it also moves the menses of women, if they have difficulty in purging, and it draws [the menses] out, if as a result of birth or a miscarriage harmful [matter] remains inside the body’, as in the German translation on the opposite page of the 1968 edition of Marcellus’s *De Medicamentis*. *Ex aborsu* can also refer to abortion, but only by a large stretch of the imagination.

A second misconception concerns the definition of abortion. Many modern books and articles on fertility limitation and fertility regulation in the medieval period deal with abortion (‘the termination of pregnancy’) and contraception (‘the prevention of pregnancy’) as two separate subjects, as if they were writing about abortion in their own day and age. Even though medieval sermons, laws, recipes and medical texts differentiate between *ut non concipiatur* and *aborsum facere*, it was not possible for medieval women (or men) to accurately distinguish between contraception and abortion in the same way as we do today. By our modern standards medieval knowledge of reproduction and the menstrual cycle was insufficient and sometimes incorrect. Theoretically speaking the medieval definition of abortion was the same as ours.10 Practically speaking, however, there is a crucial difference, because classical and medieval medicine define women’s fertile period as right after menstruation stops - right after the womb has been ‘cleansed’ so to speak and brought in readiness for conception.11 Twentieth-century modern medicine invalidated this ‘belief’, but, because the ‘ancient’ and ‘medieval’ fertile period is actually an ‘infertile’ period, a remedy that was considered an abortifacient might have worked as a contraceptive, and a contraceptive may have worked as a morning-after pill or early-stage abortifacient. This means that concep-

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7 Helen King characterizes Riddle’s ‘eagerness’ to read *aborsus* as ‘abortion’ as follows: “For Riddle everything expulsive becomes an abortifacient; ‘bringing on a period’ is always to be read as Hippocratic code for ‘causing an abortion’. (…) By reducing all of Hippocratic gynaecology to abortion advice, Riddle fails to appreciate the importance of menstruation in its model of the female body” (King 1998, p. 145). See also: Grigsby 2008, p. 142, on Riddle’s positivistic approach to medieval medicine, and Green 1999 (review of Riddle 1997): “we must be very cautious in assuming, as Riddle does, that every substance identified as an emmenagogue was used with the intention of preventing pregnancy or aborting one already begun (p. 309).


9 Riddle 1992, pp. 90-91 at p. 91.

10 For Soranus’s definitions, cf. table 4.1, and Elsakkers, unpublished. [article X]

11 See, for instance, Lonie’s translation of the Hippocratic *On the Nature of the Child*: “The most favorable time for conception is just after menstruation” (L 7.494; Lonie 1981, p. 8). Helen King explains that in Hippocratic medicine ‘since conception was a gradual process taking place over several months, the line between abortion and contraception was also drawn at a point different from our own’ and that “contraception extended several months into pregnancy” (King 1998, p. 134). Cf. also: Treggiari on Roman marriage: “Induced abortion was not sharply distinguished from contraception” (Treggiari 1991a, p. 406).
tion, that is, the start of pregnancy, was considered to take place at an earlier point in time than we believe today. Medieval definitions of contraception and abortion do therefore not always correspond to our definitions. As a result texts sometimes need to be reinterpreted, and texts on ‘abortion’ should be read with great caution.

The third misconception has to do with the medieval definition of fertility regulation. In the twentieth and twenty-first century fertility regulation is regularly equated with planned parenthood. Conception is planned, as is the number of children. Births are spaced, and when the family is complete some form of birth control is used. In many modern Western societies ‘accidents’, unplanned and unwanted children can be dealt with relatively easily and adequately, whether through abortion, fostering, or adoption. However, in medieval society infant and maternal mortality was relatively high - as in many Third World countries today. This indicates that planned parenthood and family limitation cannot have been as widespread as they are today.\(^\text{12}\) The recipes for menstrual regulators, emmenagogues and purgatives were mainly used to promote fertility and not to limit it. They indicate that medieval society was fertility-centered. This does not mean that contraception, abortion, infanticide and exposure did not happen. The laws clearly indicate that they did. However, we must beware of indiscriminately applying our ideas and standards on birth control, abortion and family planning to medieval society. The scale on which it happened in the medieval period was entirely different.

This chapter contains a summary of my research on early medieval abortion in the early medieval West. The following subjects are discussed: fetal development and the status of the fetus, intentional abortion and abortion by assault punishment motives, methods of abortion, efficacy and dangers, and abortion and women’s business. The chapter finishes with a few general conclusions.

THE FETUS, FETAL DEVELOPMENT AND THE STATUS OF THE FETUS

In the secular and ecclesiastical legal and moral texts discussed above a number of different terms are used for ‘fetus’.\(^\text{13}\) The most common are filius (in utero), infans (in utero) and partus. We also find the words conceptus, pecus, foetus, and occasionally the word parvulus.\(^\text{14}\) The words filius, infans and partus can also be used in the meaning ‘neo-nate’ or ‘child’, and are sometimes purposely used with the double meaning ‘fetus’-‘child’ in order to stress the fact that killing a fetus in utero was considered to be child murder.\(^\text{15}\) The Penitentiale Ps. Gregorii even has filium aut filiam in its version of the Theodorian article on abortion, thus distinguishing between a male and a female fetus.\(^\text{16}\) Caesarius of Arles explains the double meaning of the word filius, when he says: nec filios suos aut conceptos aut natos occidat, ‘nor should she kill her children that have been conceived or are already born’. In the sample of early medieval recipes for emmenagogues and purgatives discussed in article IX the words partus and pecus are used, and once the word infans. Words for ‘fetus’ are used in recipes to prevent an ongoing miscarriage (tenet pecus, ‘she will keep the fetus’), in recipes for difficult birth and in recipes to help expel a dead fetus, when a woman is having a miscarriage.\(^\text{17}\) Although often difficult to interpret, the early me-
dieval recipes are straightforward and not concerned with double meanings or the moral issues connected with abortion.

Some of the normative texts on abortion differentiate two (or more) stages of fetal development. The terms used all ultimately go back to Aristotle’s distinction between a formed (> 40 days) and an unformed (< 40 days) fetus. Classical Greek theory on fetal development influenced the Greek Septuagint version of the biblical law on abortion, and this Greek translation of Exodus 21: 22-23 became known in the Latin West through the early Latin translations of the Bible (Vetus Latina), and the writings of Church Fathers like Augustine. In Old Germanic law, the writings of the Church Fathers and the early medieval penitentials we find the abortion criteria ‘formation’, ‘aliveness’ or ‘vivification’, ‘gender distinction’, ‘forty days’, and the age-old Frisian ‘hair and nails’ criterion. These distinctions are all basically variants of the Aristotelian abortion criterion ‘formation’. Christianity introduced the concept of ‘ensoulment’, and Christian authors usually equate ‘formation’, ‘aliveness’, ‘movement’ and ‘ensoulment’. Some legal texts on abortion use ‘ensoulment’ (anima, animatus, conceptus, conceptus spiritus, conceptio, Ofr. vnfteth thene om) to denote the difference between early term and late term abortion (cf. Bavarian law and Old Frisian law, and some of the penitentials). The early medieval medical texts on the other hand are descriptive. The early medieval recipes for emmenagogues and purgatives discussed in article IX do not deal with fetal development. There is one recipe that may contain a reference to fetal development, and that is the potio denoncupata (A141) in the St. Galler Receptarium I.22

A few of the penitentials distinguish three stages of fetal development. They distinguish between ‘forty days after conception’ and ‘ensoulment’. The late medieval Old Frisian laws have a remarkable number of articles on abortion. The oldest one is a simple one-tier article on abortion in an ancient Landlaw that does differentiate between early term and late term abortion. It developed into a two-tier article with the ‘hair and nails’ abortion criterion (the short laws), and later evolved into a four-tier article (the long laws). The revised long laws, which should be read together with Vindicianus’s late antique embryology, contain a nine-tier article that demands a different fine for each month of pregnancy in which a miscarriage can be induced.

The reason many of the Church Fathers and some of the secular and ecclesiastical laws distinguish between early term and late term abortion has to do with the status of the fetus, and this in turn has everything to do with the way abortion is punished. In some of the Old Germanic laws, in all the penitentials with two-tier abortion articles, and in the writings of the Church Fathers killing a fully developed fetus is equivalent to killing a human being. A ‘formed’ fetus is regarded as a person. It is alive, it looks like a child (infans) - complete with ‘hair and nails’, and its sex can be distinguished. It is a living, ensouled human being that the mother can feel moving

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18 Some Old Germanic laws do not distinguish between early term and late term abortion, and some laws do not have articles on abortion. The Church councils and the early medieval sermons on abortion all condemn abortion at any stage of fetal development.
20 See also: Elsakkers 2001, Elsakkers 2004, Elsakkers 2008, [articles I, VI, VIII]
21 Cf. table 1.3b and table 3.5.
22 Elsakkers, unpublished, pp. 32-33. [article XI]. Although the text of this recipe is probably corrupt, the recipe seems to claim to be able to expel medulla hominina, ‘human marrow’, si ossa non habuerint, ‘if [the fetus] does not have bones yet’, thus distinguishing between a fetal stage with ‘marrow’ and a stage with ‘bones’.
23 On the period of ‘forty days’ and its practicability, cf. chapter 3 and table 3.5.
24 See: below under ‘punishment’.
around, whereas an ‘unformed’ fetus does not have any human characteristics yet. In short, a ‘formed’ fetus has acquired the characteristics of a human being and is recognizable as such. Killing it is usually punished or compensated as murder. 25 Early term abortion is considered a less serious crime or sin than late term abortion, and perhaps the fact that there are many two-tier articles on abortion suggests that defining an abortion as ‘early term’ was a way to commit abortion without incurring too much punishment, in other words, a loophole. Some of the Church Fathers, the council canons and the early medieval sermons do not distinguish between a formed and an unformed fetus; they consider the fetus to be a ‘person’ regardless of its stage of development. But, not all abortion laws consider the fetus to be a person or human being. In Jewish law, including the Hebrew version of Exodus 21: 22-23, and in Roman law the fetus is regarded as part of the pregnant woman’s body (*pars viscerum matris*). According to these laws (and Stoic philosophy) a fetus becomes alive and a person when it is born. Many of the Old Germanic laws - both the one-tier and the two-tier articles on abortion - follow Roman law in this respect. These Old Germanic laws consider loss of the fetus an amputation of part of the mother’s body, and therefore punish abortion as an injury to the woman involved. Early medieval Old Germanic abortion law is certainly not consistent concerning the status of the fetus. Christian texts, on the other hand, consistently designate abortion as murder, even though some texts consider early term abortion a minor offense.

### INTENTIONAL ABORTION AND ABORTION BY ASSAULT

We find four types of abortion in the various early medieval legal, Christian and medical sources: miscarriage or spontaneous abortion, therapeutic abortion, intentional abortion or induced miscarriage, and abortion by assault or violent abortion. Spontaneous miscarriages are by definition unintentional. 26 Therapeutic abortions are deliberate, emergency procedures that are performed to save the life of the mother in circumstances of difficult birth, or to save the fetus, if the mother has died. 27 Spontaneous miscarriages and therapeutic abortions are mentioned in medical texts, but not in early medieval secular and ecclesiastical law. Intentional abortion involves deliberately terminating an unwanted pregnancy. Abortion is intentional, deliberate or voluntary, when it involves volition on the part of the pregnant woman, that is, if she asks for abortifacients and/or requests help, and induces the abortion herself, of her own free will. 28 Only one secular Old Germanic law punishes intentional abortion by the mother. 29 Intentional abortion is not mentioned in any of the other secular laws. However, providing a woman who is contemplating intentional abortion with abortifacients is probably punished in all the Old Germanic secular laws. Visigothic, Salian and Bavarian law contain articles that punish ‘supplying abortifacients’, and the other Old Germanic laws probably implicitly punish ‘supplying’ through their laws on poisoning. 30 Early Christian texts known in the Latin West, such as the *Didache*, the writings of the Latin Church Fathers, late antique and early medieval Church council canons, sermons and early me-

25 See: below under ‘punishment’.
26 Late antique and early medieval recipes occasionally mention recipes that can stop a spontaneous abortion, for instance recipe 95 in the *Reichenauer Antidotarium* (…) *Facit ad abortum et graues dolores. Si quis hunc trociscum acceperit, tenet pecus et numquam aborsum facit* (…) (Sigerist 1923, p. 56).
27 See: below under ‘motives’.
28 Abortion at the request or behest of the father is not considered to be intentional abortion.
29 Visigothic law, arts. LV 6.3.1 and LV 6.3.7, cf. chapter 1.
30 Supplying a woman with poisonous abortifacients is considered tantamount to (attempted) murder. Cf. chapter 1.
dieval penitentials all vigorously condemn women who commit intentional abortion.\textsuperscript{31} Intentionality is usually implied, but it is occasionally mentioned explicitly, as in the Frankish \textit{Penitentiale Burgundense} and its derivatives, and in the Bedae-Egberti penitentials, where we find the words \textit{voluntarie} and \textit{sponte}. Christian texts do not systematically punish aiding and abetting as in Old Germanic law, but it is mentioned occasionally.\textsuperscript{32} Abortion by assault or violent abortion, as described in Exodus 21: 22-23, is the result of reckless and irresponsible violent behavior.\textsuperscript{33} Most Old Germanic laws on abortion by assault were in some way influenced by Exodus. From the point of view of the aggressor(s) causing a woman to miscarry was probably accidental and unintentional in most cases, because the perpetrators did not intentionally set out to injure a woman who through no fault of her own got caught up in their fight. Occasionally early medieval secular law suggests that we might be dealing with domestic violence, or that the woman herself was actively involved in the fight, and we must also keep the possibility open that in some cases the assailant actually intended to cause a miscarriage.\textsuperscript{34} For the woman involved violent abortion is unintentional and involuntary, whatever the circumstances, as usage of \textit{nolendo} and \textit{si nolens} in some of the secular and ecclesiastical legal texts indicates.\textsuperscript{35} Christian texts hardly seem to be interested in abortion by assault.

Whereas Old Germanic law hardly mentions intentional abortion, and seems to primarily legislate on violent abortion, Church law - which I interpret in the widest sense of the word here - only seems to be concerned with intentional abortion. This raises the question 'why do secular and ecclesiastical legal texts seem to focus on different crimes and sins?' An answer could be that Christian texts are concerned with the morals of the individual, and the salvation of the soul of an unborn and unbaptized child, and that Old Germanic law on abortion is part of early medieval 'criminal law', and therefore concerned with law and order, that is, keeping the peace in a specific societal and political context. This explanation implies that church and state each had a separate jurisdiction, a claim that must emphatically be refuted for early medieval society.\textsuperscript{36} This in turn means that our question is not really answered. Perhaps we must ask ourselves what the difference is between the secular and Christian abortion laws, and if the difference between intentional abortion and violent abortion was as sharply distinguished in the minds of early medieval men and women as in the definitions given above?

Although the references to intentional and unintentional abortion in early medieval texts look quite straightforward, what we see is not always what may have been meant. In other words, the difference in focus between secular and ecclesiastical law is probably not as rigid as it appears to be at first sight. For instance, ‘intentional’ or ‘voluntary’ abortions may not always be ‘voluntary’. In Old Germanic law and in the penitentials there are a few instances where we seem to catch a glimpse of men who seem to be urging a pregnant woman to get an

\begin{itemize}
  \item \textsuperscript{31} Cf. chapters 2 and 3.
  \item \textsuperscript{32} For instance, the Leridian council canon punishes the adulterer, the adulteress and the supplier (\textit{veneficus}), the canon in Toledo III punishes the person who gives advice, and one of the sermons (\textit{Homilia de Sacrelegii}) also punishes the supplier (\textit{maleficus}). Helpers are also mentioned in some of the penitentials. Article 4.2.4 of the \textit{Penitentiale Bigotianum} punishes the person responsible for the death of the pregnant woman. This may be a vague reference to punishment for the supplier of the poisonous abortifacient, or to punishment for aggression towards a pregnant woman; the preceding articles punish early term and late term abortion (cf. Bieler & Binchy 1963, pp. 228-229).
  \item \textsuperscript{33} Cf. chapter 1 on the Third Merovingian Capitulary (III.104.4), and usage of the word \textit{debilit*} in Visigothic and Bavarian law - in these three laws we could be dealing with domestic violence. Old Frisian law explicitly mentions the possibility that the pregnant woman was involved, cf. Elsakkers 2004, pp. 108-109. [article VI] Intentionality on the part of the assailant is not mentioned explicitly.
  \item \textsuperscript{34} We find the word \textit{nolendo}, ‘not willingly’, ‘involuntarily’, in Lombard law (LLa-ER 75), and the short clause \textit{si nolens}, ‘if she did not wish [it]’ in the \textit{Penitentiale Sangallense tripartitum} and the \textit{P. Capitula Iudiciorum} - one of the few references to involuntary abortion and possible coercion in the penitentials.
  \item \textsuperscript{35} Cf. Elsakkers 2005, passim, on the influence of Christianity on secular Visigothic law. [article III]
\end{itemize}
abortion. If coercion is involved such an abortion can certainly not be considered ‘intentional’ from the point of view of the pregnant woman. Secondly, the biblical condemnation of violent abortion in Exodus can assume a different identity. When discussed by the Church Fathers or referred to in Christian texts, the clause on ‘fighting’ seems to be systematically ignored. Christian commentaries on Exodus condemn intentional abortion, but not violent abortion or abortion by assault. The commentaries show us that the biblical law was regularly (and still is) interpreted as a condemnation of intentional abortion by the mother. It was therefore possible to reinterpret early medieval secular law on violent abortion that was derived from Exodus 21: 22-23 as a prohibition of intentional abortion.\(^{37}\) Note that this explanation is possible, not mandatory. This means that the term ‘violent abortion’ can sometimes refer to ‘intentional abortion’ by the mother, and that the term then becomes a euphemism for ‘intentional abortion’. In this interpretation the ‘violence’ refers to the methods of abortion, which were often dangerous and crude.\(^{38}\) These (re-)interpretations diminish the gap between early medieval secular and Church law on abortion.

**PUNISHMENT**

This section briefly summarizes what was punished, who was punished, and how and why abortion was punished in early medieval secular and ecclesiastical legal texts.

Like the biblical law on abortion (Exodus 21: 22-23) Old Germanic secular law punishes the assailant for injuring or killing a pregnant woman and for loss of her fetus. Violent abortion or abortion by assault is not dealt with in Church law. In secular law injuries to the woman - other than the miscarriage itself - were compensated according to the injury tariffs. If the pregnant woman died, the assailant was punished for murder. Most Old Germanic laws demand the *wergeld* for murder of the mother, only Visigothic law and the paraphrase of Exodus in the *Prologue* of King Alfred’s *Domboc* follow Exodus and demand the death penalty. Loss of the fetus can be punished as murder or as an injury to the mother that is comparable to an amputation, as in Jewish and Roman law. If loss of the fetus is classified as an amputation, compensation must be paid according to the injury tariffs. If classified as murder Old Germanic law demands *wergeld*, because the fetus is considered to be a ‘person’.\(^{39}\) Some laws differentiate between early term and late term abortion by assault. Early term abortion is a less serious crime, and punished as an injury to the mother. Late term abortion can be punished as a major amputation (a serious injury), or as fetal murder. Late term abortion was probably also regarded as a more serious crime than early term abortion, because it poses a greater risk to the mother’s health.

Intentional abortion is punished in secular and in ecclesiastical law, but most laws only punish supplying a pregnant woman with an abortifacient potion. Secular law follows Roman law in classing abortifacients as poisons. Visigothic law punishes a pregnant free woman who asks for an abortifacient with enslavement, 200 lashes or having her eyes put out. The supplier of the abortifacient is punished with the death penalty, regardless of whether the pregnant woman lives or dies.\(^{40}\) The death penalty is imposed, because abortifacients were known to contain deadly poisons, and because supplying was considered a form of attempted murder. Salic and Bavarian law follow suit, and punish the supplier for attempted murder - the punishment is less harsh and entails


\(^{38}\) Cf. below ‘methods of abortion’.

\(^{39}\) For a more detailed discussion of ‘punishment’ in Old Germanic law, cf. chapter 1, ‘punishment’ and tables 1.4a-1.4c.

\(^{40}\) LV 6.3.1 and LV 6.3.7; the latter also punishes the husband with blinding, if he is involved, see also: Elsakkers 2003a and Elsakkers 2005. [articles II and III]
composition in the form of a fine. The laws without provisions on abortifacients probably all punish the supplier under the laws on poisoning, that is, as murder, if the woman dies and otherwise as attempted murder. With the exception of Visigothic law, Old Germanic law does not punish the pregnant woman for intentional abortion. Early medieval secular law is concerned with preventing murder by poisoning. It punishes endangering another person’s life. Like Roman law it focuses on the supplier and on the pregnant woman’s health and welfare. It does not seem to be interested in the fate of the fetus.

Christianity takes a different view of intentional abortion and the fetus. The Church Fathers, Church council canons, sermons, penitentials and other Christian texts all vigorously condemn intentional abortion as murder. Church law primarily punishes the pregnant woman. In the oldest Church council canon on abortion (Elvira c. 300-306) and in the earliest Christian texts the pregnant woman is warned that she will be punished with ‘spiritual death’, the Christian equivalent of the death penalty, that is, excommunication and eternal hell. The earliest Christian text on abortion, the Didache, even calls abortion the ‘way of death’. The Church Fathers and the early medieval homilists stress the fact that abortion is equivalent to homicide, because a potential human being is killed. Although also concerned with the mother’s spiritual welfare, the homilists’ main concern is to protect the fetus and to prevent abortion; they do this by threatening the mother with eternal damnation. The ‘younger’ council canons seem to be more pragmatic, and change the punishment of excommunication into a seven to ten years’ period of fasting. The penitentials also consider intentional abortion to be equivalent to murder, and they usually punish it with a three years’ penance. Some of the younger penitentials are extremely harsh, sometimes following the Ancyrian council canons (314) with a ten years’ penance, and sometimes even increasing the penance to twenty-one years. The Theodorian penitential and its derivatives distinguish between early term and late term abortion, thus following the Septuagint version of Exodus and the teachings of most of the Church Fathers. Early term abortion is punished with a penance of one year and late term abortion with three years. Because only late term abortion is regarded as murder and the penance for early term abortion is relatively light, these penitentials seem to create a loophole for early term abortion. Early medieval Christianity punishes intentional abortion as murder, occasionally making an exception for early term abortion.

Some of the Christian texts also hold the accomplice and the father accountable. The Council of Lerida (524) punishes both adulterers plus the veneficus who provided the potions. Toledo III also punishes those who teach others how to induce an abortion, and the anonymous Homilia de Sacrilegiis punishes the accomplice (qui maleficus aut uenenarius est). Also noteworthy is the fact that the oldest penitential articles on abortion in the Iro-Frankish penitentials only punish aiding and abetting, that is, supplying the maleficia. A number of the other penitentials also punish suppliers, helpers and instructors. The punishment is often the same as for the pregnant woman.

Secular law on intentional abortion focuses on the health of the pregnant woman, but ecclesiastical law, including the penitentials, focuses on the fetus, that is, the loss of potential human life and the fact that the murdered fetus will never be able to enter the kingdom of heaven on ‘judgement day’, because it died before it was baptized. If we reinterpret the secular laws on violent abortion as general condemnations of intentional abortion, these laws become comparable to the penitential articles on intentional abortion. They then punish the mother

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41 Cf. table 1.4b.
42 Cf. chapter 1 on the similarities between the Roman and Frankish laws on poisoning.
43 The Third Council of Toledo (589) even explicitly states that the death penalty is not allowed.
44 For a more detailed discussion, cf. chapter 3.
for the (late term) murder of her child *in utero* and attempted suicide (poisoning herself), a crime also explicitly mentioned by Church Fathers and homilists in connection with abortion. Intentional abortion is often referred to as a double or a triple crime. The Elvirian council canon on abortion calls it a ‘double crime’, that is, adultery (towards Christ) and parricide. The Church Father Jerome calls it a triple crime and adds the sin of attempted suicide. We find references to the double or triple crime of intentional abortion in Caesarius’s sermons (spiritual adultery, refusing a child baptism and attempted suicide), Aelfric’s sermons (adultery and withholding baptism), in the anonymous sermon in *MS Verdun 64* (child murder and withholding baptism), and in the younger penitentials (usually quotations from the Church Father Jerome or the council canons). The references to ‘attempted suicide’ indicate that early medieval Christian texts did not completely ignore the health and the welfare of the mother. Early medieval Christianity is ‘pro-life’, whether it is the fetus’s life or the mother’s.

The question ‘why is abortion punished’ has different answers that match different legal contexts and interpretations. Secular Old Germanic law on abortion by assault punishes murdering or injuring the pregnant woman and loss of the fetus; the latter is either regarded as an injury to the mother or as murder. In secular law intentional abortion is part of the laws on poisoning; endangering the mother’s health is punished, not loss of the fetus. In ecclesiastical law intentional abortion is condemned in order to prevent the murder of the fetus, and to keep the pregnant woman from killing herself. Approximately six centuries of early medieval abortion law and prohibitions of abortion in various other early medieval texts present us with a far from consistent picture. As in our own day and age views on the gravity of the crime of abortion and its punishment are regularly subject to change.

**MOTIVES**

Women seek abortions for many different reasons. Some of the early medieval texts studied here mention motive(s) for intentional abortion and some do not seem to be interested; in other texts the motive was ‘understood’, that is, known implicitly to its early medieval listeners and readers. The motives for abortion in classical, late antique and early medieval sources are not significantly different from those of twentieth- or twenty-first-century women.

Late antique and early medieval woman’s medicine rarely mentions motives for abortion. The sample of late antique and early medieval recipes discussed in article IX has nothing to say on the subject - at least not explicitly. We occasionally come across motives when ethical issues and therapeutic abortion are discussed. The Greek medical author Soranus (late first - early second century) gives three reasons for abortion in his discussion of the *Hippocratic Oath*. He tells us that therapeutic abortion is permitted by some, if the mother’s health is at risk, but that an abortifacient for intentional abortion should not be prescribed, if the motive is adultery or preservation of beauty. Three of late antique Latin adaptations of the *Gynaecia* include Soranus’s reference to abortion for the sake of the mother’s health. Theodorus Priscianus’s *Euporiston* (early fifth century; North Africa) adds ‘the mother’s age’, but omits Soranus’s two reasons for refusing abortifacients (*adulterium*, ‘adultery’

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45 Cf. below under ‘dangers - efficacy’.
46 See, for instance, Kapparis 2002, chapter 4, pp. 91-132, and Deij & Teekman 2002, p. 18, a book written by two abortion counselors that lists practically the same reasons for abortion.
47 Cf. Elsakkers, unpublished. [article XI]. There are recipes that mention reasons for postponing menstruation.
48 The *Hippocratic Oath* is discussed in Elsakkers, unpublished. [article X]
49 Cf. Soranus, *Γυναικείων - Gynaecia*, 1.19.60, quoted below in Table 4.1.
50 This section is missing in the *Liber Geneciae ad Soteris Obs[ty]ram*.
and pulchritudo, ‘beauty’). Caelius Aurelianus’s Gynaecia (early fifth century; North Africa) is an accurate translation that includes all three of Soranus’s motives. Muscio or Mustio (sixth century; North Africa) also gives three reasons for abortion in his Gynaecia, but he substitutes lucrum, ‘profit, wealth, riches’ for pulchritudo.

Old Germanic law hardly seems to be concerned with motives for abortion. As explained in chapter 1, early medieval secular law on intentional abortion usually indicates that abortion happened, but not why. However, there must have been a reason for the pregnant woman to ask for an abortifacient potion, even if there is no mention of it. The early Christian texts discussed in chapters 2 and 3 - the Doctrina Apostolorum (Didache), the teachings of the Church Fathers, canon law, councils, sermons and penitentials - regularly mention motives for abortion.

Sexual promiscuity

The most often named motive for abortion is sexual promiscuity. As we saw above, two of the three late antique Latin translations of Soranus’s Gynaecia do not approve of adultery as a reason for abortion. Secular law ignores the connection between abortion and promiscuity. Christian texts, on the other hand, emphatically condemn abortion in order to conceal illicit sex. It is not only considered shameful, but also socially and morally unacceptable - whether it concerns being pregnant with an illegitimate child as a result of adultery (‘voluntary sexual intercourse between a married person and someone other than his or her lawful spouse’), fornication (‘sexual intercourse between partners who are not married to each other’), a relationship between a slave and a free man or woman, between men and women under religious vows of chastity, or incest. Prostitution is probably included in fornication and adultery, but, strangely enough, not mentioned in my sources.

The Doctrina Apostolorum (Didache)’s list of sins includes adultery, fornication and abortion, but it does not link abortion and promiscuous behavior, as most other Christian texts do. The Church council canons on abortion are strict and to the point: women who commit abortion in order to hide an illicit sexual relationship have committed serious sins. The canons, especially Ancyrian canon 21, are often quoted in other texts. The Church Fathers and homilists actively caution their listeners and readers to be chaste, warning them against immorality. The Western Church Father Jerome (c. 348-420) even seems to be shocked when he speaks of “women who have been left widows before they were wed” in his letter on virginity to Lady Eustochium. Early medieval sermons can be harsh and uncompromising; fornication, adultery, abortion, contraception and infanticide are not tolerated. Caesarius of Arles (469-543) often cleverly links promiscuity and abortion by placing his censure of abortion directly after his condemnation of adultery, as in sermon 200.4:

Caesarius of Arles, Sermones

200.4. Hoc etiam oportet competentibus observare, ut si se agnoscent persuadente diablo aut furtem aut homicidium aut adulterium commississe, aut si aliqua mulier competens potiones diabolicas aliquando ad avorsum accepit, et filios suos aut adhuc in utero positos aut etiam natos occidit - quod satis grave peccatum est.

51 Cf. 3.6.23 in Rose’s edition of Priscianus’s Euporiston, Rose 1894, p. 240. The passage is quoted in table 4.1.
54 Incest is discussed below under ‘sexual violence’.
55 Reasons (adultery, fornication) and methods for abortion (magic, medicines) do, however, immediately precede the condemnation of abortion, thus suggesting a connection.
56 Cetedoc Library of Christian Texts, Cl. 1008 , SL 104, sermo : 200, cap. : 4, linea :1; ‘200.4. It is further necessary for catechumens to pay attention to this if they know that through the devil’s persuasion they have committed theft or murder or adultery, or if a woman catechumen has ever taken diabolical potions for purposes of abortion and has killed her children when they were either still in the womb or already born, for this is a very grave sin,’ Mueller 1973, vol. 3, p. 61. Sermon
In his Old English version of the Pseudo-Augustinian sermon *De Auguriis* the Anglo-Saxon abbot Aelfric also spells out the connection between abortion, infanticide and adultery, complaining that one sin leads to another. The early medieval penitentials regularly associate abortion with adultery and fornication, often quoting the Ancyrarian canon verbatim; the younger penitentials also include other council canons on abortion (Elvira, Lerida, Braga II, Toledo III). Some transform the Ancyrarian canon into a question that can be used when interrogating parishioners about their sins: *Mulier, fornicasti? Necasti partum tuum vel conceptuum? X annos peniteat. Es adultera? VII annos peniteat,* ‘Woman, did you fornicate? Did you kill your new-born or unborn child? She must do penance for ten years. Are you an adulteress? She must do penance for seven years’ (*Ordo Poenitentiarum*).

The Old English penitential (*Penitentiale Pseudo-Ecgberti*) goes one step further. It explains that abortion is a ‘cover up’ for illicit sex, and that it is done for fear of being discovered: *Be þam wifmen þe hig forligeð 7 þonne for ege hire bearn fordeð,* ‘Concerning the woman who commits adultery, and then out of fear destroys her child’.

The ten years’ punishment for abortion and infanticide mentioned in Theodore of Canterbury’s penitential (*Iudicia Theodori* U.1.14.24, U.1.14.26) refers to the Ancyrarian canon, and thus to the motive of fornication. This penitential considers poverty an extenuating circumstance for infanticide, which brings us to the economic reasons for committing abortion.

**Economic reasons: poverty**

The Church Father Ambrose of Milan (339/340-397) mentions economic reasons for abortion, and says that the poor expose their children and that the rich abort them. In both cases the family is considered ‘complete’, albeit for different reasons.

The inability to feed more mouths is an important reason to limit family size. According to John Noonan the early Christian author Lactantius (c. 240 - c. 320) was the first to mention poverty as a reason for family limitation. Poverty is referred to indirectly in some of the early medieval homilies, and it is mentioned explicitly in the penitentials. Caesarius of Arles dismisses economic reasons for abortion, and insists that women must give birth to the children God ‘has commanded to be born’. His solutions for unwanted pregnancies are chastity, abstinence and adoption. The penitentials regularly acknowledge poverty as an extenuating circumstance for abortion and infanticide. Theodore of Canterbury was the first penitential author who understood and empathized with the predicament of the *mulier paupercula* or ‘poor woman’, who committed infanticide by reducing her penance from fifteen years (U.1.14.25) to seven years (U.1.14.26). The late eighth- and ninth-century Bedae-Egberti penitentials applied Theodore’s *paupercula* clause to women who committed abortion, using the long *paupercula* clause: *sed distat multum, utrum paupercula pro difficultate nutriendi an fornicaria causa sui*

44.1 forbids adultery and sex before marriage: ‘44.1. Above all, with God’s help observe chastity, according to what is written: ‘Nor will adulterers possess the kingdom of God’ (I Cor. 6.9), and: ‘God will judge the immoral and adulterers’ (Heb. 13.4). Young men and women who are going to be joined in marriage should observe virginity until their marriage. If they are corrupted by adultery before their lawful union, they come to their wedding alive physically but evidently dead in soul, for it is written: ‘The soul that sinneth, the same shall die’ (Ezech. 18.20)’ (Mueller 1956, vol.1, pp. 220-221). The following sermon (44.2) condemns abortion.

57 Cf. chapter 3. See also: Burchard of Worms and Regino of Prūm’s penitentials (tables 3.3a-3.3c).

58 Quoted in full in Elsakkers 2001, p. 89. [article I].

sceleris celandi faciat, ‘but it makes a great difference whether a poor woman does it because of the difficulty in feeding (or raising) [her child], or a woman who fornicates does it in order to conceal her sin’. The expanded version of the ‘paupercula clause’ cautions women that the Church is not lenient towards those who fornicate. The paupercula clauses appear in many other continental penitentials. Use of this clause in the penitentials not only indicates that there were compassionate pastors who ‘understood’, but also that poverty must have been one of the main reasons for infanticide and abortion.

**Economic reasons: prosperity**

Another reason to limit the number of children is the wish to preserve property, wealth, luxury and material comfort for oneself and/or for future generations. Inheritance were usually divided equally between the (male) children - just as Charlemagne’s empire was split between his sons, grandsons and great-grandsons. Restricting the number of heirs could be good financial policy for the well-to-do. In one of his sermons Caesarius notes that some women stop having children postquam duos aut tres filios genuerint, ‘after they have had two or three children’; apparently these women considered their family complete at two or three children (two sons and a daughter). In the same sermon Caesarius says that women also limit their family’s size, because they are afraid of becoming poor: timentes ne forte si plures filios habuerint, divites esse non possent, ‘such women fear that if they have more children they cannot become rich’. Aside from Ambrose and Caesarius this reason for fertility regulation is hardly mentioned in early medieval legal and Christian texts. However, it cannot be ignored, because even Muscio, one of the Latin translators of Soranus’s Gynaecia, mentioned it explicitly, when he substituted lucrum, ‘profit, wealth, riches’ for pulchritudo, ‘beauty’, as a reason for refusing an abortifacient.

**Gender selection**

Many Old Germanic laws indicate that girls of child-bearing age are ‘worth’ more than boys, that is, a higher amount of wergeld had to be paid for the death of a young girl, because girls ensure the continuation of a family. On the other hand, boys were the ones who inherited the family property. Selection of either gender might therefore be desirable. Family planning that involved gender selection is mentioned in passing in some late antique and early medieval recipes. Some recipes claim to be able to predict the gender of a child before conception:

**Liber de muliebria**

7. Item ut concipiat et masculum pareat, leporis uulba sicca et erasa in pocionē efficit, si et mulier et mas[cel] simul biberent; nam mulier non bibat sola, quia infans non nascitur.

This recipe for a pre-conception gender test would now be considered unreliable and nonsensical. Dependable gender tests for unborn children were not available either. The only references to post-conception gender tests are in Hippocrates’s *Aphorisms*. This Greek text was translated into Latin in Ravenna in the fifth or sixth century and was widely known. Two aphorisms claim to be able to determine the gender of an unborn child:

**Hippocrates, Aphorisms**

5.42. Mulier quidem si masculum fert, rubiconda est. Si feminam pallet.

5.48. Infantes quidem masculi, in dextris, femine uero in sinistris iacent.

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61 In his article on “Child Exposure in the Roman Empire” Harris states that the main reasons for exposure were probably economic: “The economic reasons for child-exposure ranged from intense poverty to a desire to conserve a family’s property in the face of the system of partible inheritance” (Harris 1994, pp. 11 ff. at p. 13).

62 Sermon 52.4, cf. chapter 2. See also: Arjava 1996, p. 83.


64 Egert 1936, p. 35 (Egert III). We find the same recipe in the *Vademecum eines frühmittelalterlichen Arztes* (recipe [4], cf. Köpp 1980, p. 107.)
There are no references to abortion after using an early medieval post-conception gender test. There is occasional evidence for gender selection after birth in narrative sources, such as in the story of the mother of the Frisian saint Liudger, who escaped being killed after birth, because she was fed in time. Some of the secular laws differentiate the fine for involuntary abortion, usually demanding a higher fine for a female fetus - but this has nothing to do with gender selection. Secular and ecclesiastical law both punish infanticide and infant exposure, but they do not mention gender selection. This does not alter the fact that the results of medieval gender tests could have been a reason for abortion. The existence of recipes for gender tests also indicates that the gender of the children was important to some medieval parents.

Divorce

A pregnant divorcee awaited the same social disapproval and shame as the woman who was pregnant as a result of a promiscuous relationship. A Roman woman who aborted her ex-husband’s child was sent into temporary exile, because the ex-husband’s rights as a father were violated. This reason for abortion is not mentioned explicitly in any of the early medieval (legal) sources presented here. Besides the divorce itself, hatred for the former husband may also have been a reason for a woman to want to terminate her pregnancy. Causa odii meditazione, 'out of hate', mentioned in the penitentials of Regino of Prüm and Burchard of Worms, may be a reference to this motive for abortion. Committing abortion 'out of hate' can, of course, also refer to rape, incest and any other form of sexual violence.

Sexual violence: rape and incest

Rape would be considered a legitimate reason for abortion in many countries today. However, this reason for abortion is hardly mentioned in early medieval legal and medical sources. In the Old Saxon laws discussed in

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65 Müller-Rohlfen 1980, p. 151; ‘5.42. If indeed a woman is carrying a boy, she has a rosy color. If it is a female, she looks pale’; ‘5.48. Masculine children (fetuses) are situated in the right, females, however, in the left’. Soranus refers to aphorism 5.42 in Book 1 of his Gynaecia: ‘1.13.45. For they say that the good color in women with a male child results from the exercise caused by the movement of the fetus; while the bad color in women with a female child is due to the inactivity of the fetus. But these things are more plausible than true, as in as much as on the evidence we see that sometimes one thing, sometimes the opposite, has resulted’ (Temkin 1956 [1991], p. 45). Three of the Latin versions of the Gynaecia include references to the Aphorisms. Caelius Aurelianus and Muscio add a reference to aphorism 5.48: Caelius Aurelianus, Book 1.57. Que sunt secundum veteres signa masculum vel feminam ferentis pregnantis? Ipocrates marem facere dicit eam que boni coloris fuerit pregnans et dexteram mammam plus habuerit ab alia turgentem; feminam vero ilam que cum pallore sinistrum mammam supradicto habuerit modo, set hoc falsa videtur. oppinatur quod in dextra parte matricis conceptio facta masculum formet, in sinistra feminam. alii masculum signare dixerunt si velocius et exercitius infans movebatur, cum alitis predictis signis ab Iporcrate; feminam vero cum tardius et languide se movere incipit, cum signis similiter ab Ypocrate predictis. (Drabkin &Drabkin 1951, p. 19). Muscio, 1.36. Quae signa sunt quae conceptum infan tum masculum aut feminam futurum ostendunt? apud antiquos masculum pollicentur si velocius et exercitius infans in utero moveatur, praegnans autem ipsa bono colore in facie sit dextranque mammillam maiorem habeat. feminam vero et tardius et languide movere incipit ipsaque mulier gravida et colore foeda est et aegra, et in sinistra mamma inflacionem habet. nos autem haec veri similia esse arbitramur (Rose 1882, p. 15). The text of the Liber ad Soteris - with a hiatus at the beginning - only refers to aphorism 5.48: Liber Geneciae ad Soteris Obsetrix, [36] [hiatus] A veteribus sic est traditum quod per [per] citius movere et fortius et gravide esse et dextra mamma dolore habere. puella vero tardius moveri, et maiores molestiam facere, et nos homeres similia putamus (Rose 1882, p. 132.) Priscianus does not include the reference to the Aphorisms.

66 Müller-Rohlfen 1980, p. 151; ‘5.42. If indeed a woman is carrying a boy, she has a rosy color. If it is a female, she looks pale’; ‘5.48. Masculine children (fetuses) are situated in the right, females, however, in the left’. Soranus refers to aphorism 5.42 in Book 1 of his Gynaecia: ‘1.13.45. For they say that the good color in women with a male child results from the exercise caused by the movement of the fetus; while the bad color in women with a female child is due to the inactivity of the fetus. But these things are more plausible than true, as in as much as on the evidence we see that sometimes one thing, sometimes the opposite, has resulted’ (Temkin 1956 [1991], p. 45). Three of the Latin versions of the Gynaecia include references to the Aphorisms. Caelius Aurelianus and Muscio add a reference to aphorism 5.48: Caelius Aurelianus, Book 1.57. Que sunt secundum veteres signa masculum vel feminam ferentis pregnantis? Ipocrates marem facere dicit eam que boni coloris fuerit pregnans et dexteram mammam plus habuerit ab alia turgentem; feminam vero ilam que cum pallore sinistrum mammam supradicto habuerit modo, set hoc falsa videtur. oppinatur quod in dextra parte matricis conceptio facta masculum formet, in sinistra feminam. alii masculum signare dixerunt si velocius et exercitius infans movebatur, cum alitis predictis signis ab Iporcrate; feminam vero cum tardius et languide se movere incipit, cum signis similiter ab Ypocrate predictis. (Drabkin &Drabkin 1951, p. 19). Muscio, 1.36. Quae signa sunt quae conceptum infan tum masculum aut feminam futurum ostendunt? apud antiquos masculum pollicentur si velocius et exercitius infans in utero moveatur, praegnans autem ipsa bono colore in facie sit dextranque mammillam maiorem habeat. feminam vero et tardius et languide movere incipit ipsaque mulier gravida et colore foeda est et aegra, et in sinistra mamma inflacionem habet. nos autem haec veri similia esse arbitramur (Rose 1882, p. 15). The text of the Liber ad Soteris - with a hiatus at the beginning - only refers to aphorism 5.48: Liber Geneciae ad Soteris Obsetrix, [36] [hiatus] A veteribus sic est traditum quod per [per] citius movere et fortius et gravide esse et dextra mamma dolore habere. puella vero tardius moveri, et maiores molestiam facere, et nos homeres similia putamus (Rose 1882, p. 132.) Priscianus does not include the reference to the Aphorisms.

67 The story of Liudger is discussed in chapter 1.


69 Cf. Digest 48.19.39. “Cicero wrote in the speech for Cluentius HABitus (…) But if, after a divorce while she was pregnant, she had an abortion in order to avoid giving birth to the son of her estranged husband, she is to be punished with temporary exile, as ruled in the rescript of our excellent emperors”; quoted by Kapparis 2002, p. 182. See also: chapter 1, appendix 1 and Grubbs 1995, Pomeroy 1975, pp. 158-159, Rousselle 1988 [1983], pp. 93 ff.

70 Cf. chapter 3 and table 3.3c.
article V the word *raptus* means both ‘rape’ and ‘abduction’.⁷¹ There are Old Saxon articles on *raptus* that have to do with consensual and nonconsensual abduction, and wartime situations, but there are no references to *raptus* as a reason for abortion. The same goes for the other Old Germanic laws. The fact that *raptus* occurred implies that there must have been rape and abduction victims who found themselves dealing with an unwanted, and probably shameful, illegitimate pregnancy, and the prospect of continuation of the shame in the form of an illegitimate child. This could be a motive for abortion, but both secular and ecclesiastical law are practically silent on the subject. We occasionally find articles that punish *raptus*, ‘abduction’ in the penitentials.⁷² But only four penitentials, three of which are Italian in origin, mention rape in connection with abortion.⁷³ Rape is considered an extenuating circumstance, and, although the woman is punished for abortion, the penance is light. It is strange that rape is mentioned so seldom, but perhaps the fact that women are punished for rape is an indication that illicit or promiscuous sex included rape, and that committing abortion after being raped was punished under the laws and articles on abortion, fornication and adultery, and not as a separate crime of violence.⁷⁴ Incest is punished in most Christian moral and legal texts, especially the penitentials, but it is not mentioned as a motive for abortion in any of the sources studied here.⁷⁵ That incestuously conceived children were on occasion aborted can be deduced from other sources, such as archbishop Hincmar of Rheims’s *De divorcio Lotharii Regis et Theutbergae reginae*, a treatise on the divorce proceedings king Lothar II instigated against his wife queen Theutberga in the mid ninth-century.⁷⁶ Lothar wanted a divorce, because Theutberga had not provided him with a male heir, and he went to great lengths to get the divorce, accusing Theutberga of having had a sexual and sodomic relationship with her brother, and having aborted the child conceived out of this relationship.

### The fetus’s health

The fetus’s health can hardly have been a reason for intentional abortion in the early medieval period, because it was impossible to monitor the fetus’s health during pregnancy, as it is today. Birth defects would be detected at or after parturition. Sickly or deformed babies, babies with congenital birth defects or serious handicaps were suffocated or strangled immediately after birth by the mother or one of the birth attendants.⁷⁷ Another

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⁷¹ Cf. Elsakkers 1999, passim. [article V] See also: Brundage 1987, p. 107 (on *raptus*: abduction and rape) and pp. 209-210 (on late eleventh-century canonists on *raptus*).

⁷² See, for instance, *P. Vallicellanum I*, 17. *Si quis viduam vel virginem raptus fuerit. III annos peniteat in pane et aqua* (SI, p. 270); ‘17. If anyone abducts a widow or virgin, he must do penance for three years on bread and water’, and *P. Parisiense Compositum*, 126. *Si quis raptum fecerit III annis peniteat, foris uno*; ‘126. Als iemand een vrouw schaakt, moet hij drie jaar boete doen, één buiten (de kerk)’ (Meens 1994, pp. 502-503). Title three of the *Excarpsus Cummeani* is called *De adulterio et raptus et incestus* (…); it discusses various kinds of fornication, adultery, incest and other forbidden sexual acts, but not rape (Schmitz 1883 [1958], p. 622).

⁷³ A woman who commits abortion after being raped is given a relatively light penance. The articles on rape are in the *P. Oxoniense II*, the *P. Merseburgense A* (Me), the *P. Vallicellanum I* and the *P. Casinense*. The *P. Oxoniense II* does not use the word *raptus*, cf. chapter 3.

⁷⁴ This seems to fit in with Ruth Karras’s explanation of the lack of or minimal punishment of rapists in her book *Sexuality in Medieval Europe*. Karras explains that pregnancy after (marital) rape implied consent, because “many medieval medical theorists believed that conception could not take place unless both parties emitted seed, and thus that a woman could not become pregnant without experiencing pleasure (…). Therefore a woman who became pregnant must have given her consent to the act of intercourse, because she enjoyed it” (Karras 2005, p. 113). Cf. Karras 2005, pp. 112-114, and pp. 126-127. Injuries could be punished under the laws on injury, but Karras’s clarification helps explain why punishment of rape and abortion after rape are hardly ever mentioned.

⁷⁵ On incest, see, for instance, Karras 2005, pp. 114 ff.


⁷⁷ Cf. Soranus on ‘the newborn worth rearing’ (Temkin 1956 [1991], pp. 79-80).
possibility was exposure or abandonment. If the fetus died *in utero*, expulsive potions could be prescribed in order to help expel it.\footnote{78}

**The mother’s health**

If the mother’s health was threatened, therapeutic abortion could be indicated. It is not mentioned in early medieval legal sources, but it is mentioned in all three Latin versions of Soranus’s *Gynaecia*. Soranus permits abortion, if the mother’s physique presents a risk for complications in childbirth. Priscianus’s translation adds ‘the mother’s age’ as a health risk. The late antique and early medieval recipes ‘to expel a dead fetus’ are also concerned with therapeutic abortion and the mother’s health, because retention of a dead fetus can lead to all kinds of complications and eventually to her death.\footnote{79}

**Preservation of a woman’s beauty**

Repeated pregnancies take their toll on women’s figures and health (sagging breasts and bellies, stretch marks, exhaustion, vitamin deficiency, prolapse, etc.). Preservation of beauty is disapproved of as a reason for abortion by Soranus, but it is only included in one of the Latin adaptations of his *Gynaecia*.\footnote{80} This motive for abortion is mentioned in classical sources, but not in early medieval legal sources.\footnote{81}

**Other motives**

Although Soranus advises contraception, because it is less dangerous than abortion, an unplanned or unwanted pregnancy due to ‘failed contraception’ must obviously also have been a reason for abortion. It can refer to all the above-mentioned motives, except rape and incest. A woman who finds herself pregnant in spite of contraceptive precautions is faced with a problem, if she considers her family ‘complete’, does not wish to have any children at all, should not conceive for health reasons or is involved in an illicit sexual relationship. She can conceal the illegitimate pregnancy from her husband (and raise the child as his), resort to abortion, expose or abandon the child after birth, put it up for adoption or raise it as a single parent. Abortion is sometimes the least shameful or awkward way out, because if done at an early stage, the pregnancy can be kept a secret.

As a rule motives for abortion are only mentioned in Christian texts, because these texts try to set moral standards. The penitential authors, Regino of Prüm and Burchard of Worms, mention two reasons for abortion that are contained in the motives discussed above, but are nevertheless interesting to repeat here, because they add dimensions, such as sexual obsession and hatred of the husband, abductor or rapist, to the reasons discussed above: *causa explendae libidinis*, ‘to satisfy lust’ and *causa odio meditazione*, ‘out of hate’.\footnote{82} Harris also mentions ‘evil omens’ in his article on “Child Exposure in the Roman Empire”, but the sources studied in this book make no mention of this reason for abortion.\footnote{83} The same goes for Aristotle’s justification of abortion as a method of population control.\footnote{84} The *Penitentiale Arundel* seems to summarize the various motives for abortion, when it speaks of *pro utilitate necessaria*, ‘for a necessary reason’ and *pro suo levitate*, ‘for her own conven-

\footnote{78}{The late antique and early medieval recipe books and herbaria contain many recipes ‘to expel a dead fetus’. Cf. article IX.}

\footnote{79}{Complications include the ‘retained dead fetus syndrome’ and sepsis. See also: Elsakkers, unpublished. [article IX]}

\footnote{80}{Cf. Elsakkers, unpublished. [article X]}

\footnote{81}{See, for instance, chapter 1, appendix.}

\footnote{82}{Cf. the penitentials of Regino of Prüm and Burchard of Worms discussed in chapter 3.}

\footnote{83}{Harris 1994, pp. 12, 14.}

\footnote{84}{Cf. Elsakkers 2001, pp. 73-74. [Article I]}
ience’. In a nutshell, the two most important reasons for intentional abortion are poverty and promiscuity - poverty is considered more excusable than illicit sex.

METHODS OF ABORTION

There are many methods of abortion. Not all these methods are mentioned in the early medieval legal and Christian sources studied in this book, but more methods were known than most people today would think. The most popular method of intentional abortion, the abortifacient potion, is mentioned in all the early medieval sources, and probably often implied when no method of abortion is mentioned. The various methods of abortion encountered in my sources will be discussed below. In most cases we are dealing with intentional abortion.

Bibisti ullum maleficium, id est herbas vel alias causas? ‘Did you drink any kind of maleficium, that is, herbs or other substances?’

Abortifacient potions and maleficia

The method of abortion described in most late antique and early medieval medical texts is an abortifacient potion that consists of some sort of herbal concoction. In the sample of recipes for women’s diseases examined in article XI only a few recipes are listed as abortifacient potions. However, some of the emmenagogues and purgatives would probably qualify as ‘verschleierte Abortiva’, because, for instance, they are also recommended for the expulsion of a dead fetus or the afterbirth. Other late antique and early medieval medical texts also contain many recipes for purgatives and emmenagogues. Occasionally the author explicitly tells us that the recipes can also be used to abort the fetus. Judging from the medical texts, including the ‘verschleierte Abortiva’, abortifacient potions must have been available.

In Old Germanic law the method of abortion mentioned is usually also a potion. The laws on abortion are usually found in or near the sections on poisoning, and, as in Roman law, abortifacient potions are classed as poisons, often using the ambiguous words maleficium and veneficium, which both mean ‘poison’ and/or ‘magic’. In these legal texts the phrases herbas dare bibere, ‘give herbs to drink’, and maleficium (veneficium) facere, ‘prepare a maleficium (veneficium)’ are synonymous. The words maleficium, veneficium, venenum and herba seem to be used interchangeably to denote ‘poison’, ‘magic’ and ‘poisonous herbal mixtures’ that include abortifa-

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85 P. Arundel, 20.
86 Penitentiale Mixtum 30, cf. chapter 3.
87 See, for instance: Gorman 1982, Noonan 1986 [1965], Riddle 1992, Riddle 1997, Jütte 1993, Jerouschek 1988, Müller 2000, Kapparis 2002, or Jütte 2003. In the near future I hope to be able to study late antique and early medieval Latin recipes for women’s diseases, and focus on abortifacients and recipes that could be used as abortifacients. We find many of these recipes in medical texts by authors such as Scribonius Largus, Marcellus Empiricus, Oribasius Latinus, Dioscorides and Aetius, in translations and adaptations of Soranus’s Gynaecia, in early Latin translations of Hippocratic texts, in the various herbals and their translations into the Old English vernacular, in texts derived from Pliny’s Natural History (such as the fourth-century Medicina Plinii and fifth- or sixth-century Physica Plinii). Cf. Elsaekers, unpublished. [article XI]
89 For instance: Scribonius Largus’s Compositions: 106. (…)menstrua movet mulieribus, quae difficulter purgantur, ‘it moves the menses of women who have difficulty with purgation’ (Sconochia 1983, p. 58; Schonack 1913, p.54), or Oribasius’s Synopsis: 1.42. Ad menstrua deducendu, ‘in order to bring forth the menses’ (Marland 1940, p. 75). Marcellus Empiricus’s De Medicamentis Liber has a recipe for a dead fetus: 14.70 (…) ad partus extrahendos, qui ante maturitatem fuerint enecati, ‘um eine Leibesfrucht, die vor ihrer Reife abgestorben ist, herauszubringen’ (Niedermann e.a. 1968, pp. 246-247).
90 For instance, a recipe in book one of the early Latin translation of Dioscorides’s De Materia Medica: 1Θ. De carpopal-samu et xylobalsamu. (…) secundas mulierum depont et abortum provocat (Mihăescu 1938, pp. 14-15); ‘[Θ]. On carpopalsamum and xylobalsamum. (…) it draws down the afterbirth and provokes a miscarriage’.
91 Cf. chapter 1, under ‘methods of abortion’ and table 1.5a.
cients and contraceptives. Some laws associate being knowledgeable about herbs with magic. Old Germanic law indicates that abortifacient drugs were regarded as dangerous, potentially lethal drugs that were usually administered in herbal potions. The association of potions with magic underscores this.

In early Christian texts on abortion the method of abortion named most is again the abortifacient potion. Here, too, poisonous potions are sometimes associated with magic. In the list of sins in the *Doctrina Apostolorum* (Didache) the sin of abortion is preceded by prohibitions of two possible methods of abortion: poisoning (*non medicamenta mala facies*) and magic (*non magica facies*). The connection between abortion and the possible method of abortion is implicit - but it is there, and perhaps emphasized by the word *medicamentum*, 'poisonous or magical remedy (potion)', a word that can take on the same double meaning as the words *maleficium* and *veneficium*.

Although the Church Fathers vehemently condemn abortion, methods of abortion are not often mentioned. Ambrose of Milan informs us that potions were used: fetuses are killed *parricidalibus sucis*, 'with potions of parricide'. Jerome and Augustine do the same: *aborti venena meditantur*, 'they use abortive poisons', and *sterilitatis venena*, 'poisons for sterility'. Like the word *medicamentum*, the word *venenum* probably denotes a potion containing a poisonous substance.

Church council canons rarely mention a method of abortion. Canon 2 of the Council of Lerida (524, Spain) mentions abortifacient potions: *conceptos (...) in uteri matrum potionibus aliquibus conliserint [necare]*, 'they cause fetuses to die in the mother’s womb through potions of some sort'.

Sermons and penitentials are the ultimate texts of early medieval practical Christianity, and both regularly mention potions in connection with abortion. Caesarius of Arles refers to the potion (*potio, poculum, potatio, medicamentum*) as a method of abortion in all six of his sermons against abortion and contraception. He calls them *diabolicula, mortifera, sacrilega, venenata* and *crudelis* in order to show us how sinful and also how dangerous these potions are. From Caesarius’s sermons on fertility drugs we learn that he knew that these drugs contained herbs. The homilist Pirmin uses the same words as Caesarius - *diabolicas potiones* - when referring to abortifacient potions, and the anonymous author of the sermon in MS Verdun 64 speaks of contraceptive potions and committing abortion (*auorsorium facere*) in one breath, probably indicating that the abortifacients were also potions. Aelfric’s condemnation of abortion in his sermon *De Auguriis* also omits the method of abortion, but, because he goes on to condemn love potions in the next sentence, potions are probably meant. The author of the *Homilia de Sacriligis* says that abortion is committed *per maleficia* without any further explanation. He is the only homilist who uses the ambiguous word *maleficiarium*.

Whereas the Church Fathers, the canonists and most of the homilists seem to avoid using words that are associated with magic in connection with abortion, the words *maleficium* and *veneficium* feature regularly in the early

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92 See also: Elsakkers 2003b. [article IV]
93 The Roman, Ostrogothic and Burgundian divorce laws consider being a *medicamentaria (-ius)*, a ‘poisoner’ or ‘magician’, a grounds for divorce, cf. table 1.1.
94 On the Church council canons on abortion, cf. chapter 2. This canon is also quoted in the penitentials written by Regino of Prüm, Burchard of Worms and Ivo of Chartres.
95 The Roman law on poisoning (LCSV) also discusses abortifacients and aphrodisiacs together as examples of poisoning. On Roman law on poisoning, cf. chapter 1, ‘Roman heritage’ and Elsakkers 2005, pp. 60-61. [articles III] Salic law does the same, and also gives two examples of poisoning (administering hallucinatory drugs and supplying abortifacients), cf. Elsakkers 2003b, pp. 253 ff. at p. 260. [article IV] In the Irish penitentials (and their derivatives) we find the same connection between poisoning, abortifacients and love potions.
medieval penitentials. Even in the earliest penitentials abortifacients are referred to as maleficia or veneficia. Repeated usage of the words poculam and bibere indicates that the most important method of abortion was the potion. There is also ample evidence that the main ingredients of these potions consisted of a mixture of herbs (herbam bibit), that these herbal concoctions were prohibited because of their toxic properties, and that women (de potionibus mulierum) were the ones who knew the recipes, mixed the potions and supplied others with them. Occasionally the penitentials indicate that the potions also contain other substances besides herbs (alias causas). The prohibitions of oral abortifacients are often in the title on murder by poisoning, and it is abundantly clear that abortifacient potions were dangerous, poisonous drugs that could not only cause abortion, but could also kill the pregnant women.

The sources studied all indicate that the poisonous herbal potion was the most important method of abortion. If not mentioned, it was certainly implied. Although some of the sources employ words that are associated with magic and superstition, the texts hardly sketch a picture of magicians conjuring fetuses out of a pregnant woman’s womb. The words maleficium and venefici um seem to simply refer to the poisonous plant substances in the potions and to the fact that the recipes were probably kept secret. Interestingly, Caesarius seems to keep all his options open in sermon 52.5.

Caesarius Arletansis, Sermones

52.5. Illud quoque, carissimi, sicut iam superius diximus, funestum est occulti perseguitoris ingenium, quando aliquaorum mulierum filii diversis temptationibus aut infirmitatibus fatigantur, lugentes et adonitae currunt matres; et quod peius est, non de ecclesiae medicina, non de auctore salutis exposcunt atque eucharistia christi et, cum sicut scriptum est, oleo benedicto a presbyteris debereunt perunguere, et omnem sperum suam in de ponere. Econtrario faciunt, et dum salutem requirunt corporum, mortem inveniunt animarum. Et atque utinam ipsum sanctitatem vel divinum, illum sortilegum, illum erbariam consulumus; vestimentum infirmi sacrificecumus, cingulum qui inspici vel mensurari debeat; offeramus aliquos caracteres, aliquas praecantationes ad collum. Inter haec una diaboli persuasio est: aut per avorsum occidere crudeliter illitos, aut per carateres sanare crudelius.

In this sermon Caesarius condemns magicians and magic amulets, saying that they are the tools of the devil and that the devil can kill children by abortion.

Pessaries, suppositories and infusions

Pessaries, suppositories and infusions can also be used to induce an abortion; they are inserted (supponere) or infused (injectare) into the vagina. A pessary (pessarium, pessus, collirium or collyrium, balanus) is usually a tampon - often made of wool - that was soaked in a mixture of herbs before insertion; it is taken out after us-
The tampon can also be used as a barrier method of contraception. A suppository is a pill (trociscum) or plug that probably dissolves in its entirety. The most liquid form of vaginal medicine is the infusion (clyster, encolpismus); the liquid mixture is poured or squirted into the vagina. The terms for ‘pessary’ are also used for the more solid, pill-like substance or the infusion. The herbal mixture in the pessary can be pungent and caustic, or soft and soothing, depending on what it is used for.

In Hippocratic gynecology pessaries - in the widest sense of the word - are prescribed for all kinds of women’s complaints, diseases and problems, including abortion. Soranus gives many recipes for abortifacient pessaries, suppositories and infusions in his Gynaecia. We find many (not all) of these recipes in the Latin adaptations of Soranus by Priscianus and Caelius Aurelianus. Muscio’s version is short and has no recipes in the main text (cf. table 1). Caelius Aurelianus and Muscio’s versions are both followed by a separate Appendix Pessariorum.

Both contain many recipes for pessaries that promote menstruation (ad menstrua provocanda), but neither has recipes that explicitly mention their abortifacient qualities, as in the main text of Soranus’s Gynaecia.

Although other classical and late antique medical texts also contain recipes for pessaries, the number of recipes for pessaries, especially abortifacient pessaries, seems to be diminishing in the late antique period, especially in comparison with the corpus of Greek recipes for women’s diseases. There are no abortifacient pessaries and relatively few other pessaries in the late antique and early medieval recipe books discussed in article IX - all small recipe books probably translated from the Greek in late antique northern Italy. This seems to confirm that the pessary was going out of fashion. If we look at the Lorscher Arzneibuch, an important early medieval recipe

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100 Kapparis 2002 defines the pessarium, ‘pessary’, as a ‘vaginal suppository’ (p. 19) and says that ‘pessaries took the form of liquid to be poured into the uterus (ekchuton), or solid suppositories (balanos), depending on their composition’ (p. 20); cf. Kapparis 2002, pp. 19-21. Kapparis omits the tampon-pessary. The pessary is defined as a tampon by Monica Green in her edition of The Trotula, cf. Green 2001, p. 286: ‘a wad of cotton or other material that is soaked in or filled with a medicament and then inserted into the vagina’. Collirium and balanus are synonyms of pessarium, cf. abortifacient recipes in the recipes in Caelius Aurelianus’s translation, and the recipes Priscianus inserted into his version of Soranus’s Gynaecia replacing part of Soranus’s text on abortifacient remedies.

We find the word collirium (three times) and balanus (twice) in Priscianus 25 and 26 (table 4.1) in the text he inserted into his Soranus translation; Caelius Aurelianus only uses the word collirium once in section 88 (table 4.1).

101 Cf. Soranus, Gynaecia, 1.65: “a softening clyster” (cf. table 4.1, column 1); Caelius Aurelianus translates: cistere mollis. Applying a clyster was often - as it is here - part of an extensive therapy to induce an abortion.

102 In book one of the Latin translation of Dioscorides’s De Materia Medica we find a recipe with iris illirica that illustrates the changeability and instability of the Latin words for pessary, suppository and infusion: Hec colliria facta et pessarii more infecta secundas mulierum educunt (…) (Mihäescu 1938, p. 4): ‘This [recipe] made into a suppository and infused (or injected) like a pessary draws down the after-birth’. Many examples can be added to this list. Priscianus recommends a well-known pessary called libiamum in a recipe to promote conception that uses a pessary-infusion and a more ‘solid’ pessary: Priscianus, Gynaecia, 16. (…) ex dia chylon pesso vel libiano, cum nardino aut roseo oleo resoluto prius, encolpismo uti conveniet, et post matricis delavationem ex oedem medicamento spissiore pessario. adiehie haec continuis diebus triginta conventit usque in diem venturum alterius purgationis (Rose 1894, pp. 234-235); ‘16. (…) lasse man eine Scheideneinführung vornehmen, indem man ein Mutterzäpfchen „diuch χυτόν“ oder „libiamum“ benutzt, das man vorher in Narden- oder Rosenöl auflost. Nachdem man sodann die Gebärmutter ausgeschüttet hat, führe man ein festeres Mutterzäpfchen aus demselben Stoffe ein. Dieses muß man dreißig Tage hintereinander verwenden, bis die Zeit der nächsten Reingung herankommt’ (Meyer 1909, p. 287).

103 Cf. table 4.1 below. The sections on contraceptives, the Hippocratic Oath and abortifacients are not extant in the fourth Latin version (fragment) of Soranus, the Liber ad Soteris, cf. Rose 1882, pp. 131-139.

104 The appendix in Caelius Aurelianus contains twenty-two recipes for pessaries, twenty-one of them correspond to the first twenty-one recipes in Muscio’s appendix. The latter contains sixty recipes, of which at least fifty-five are pessaries for a variety of women’s illnesses and problems. Cf. Drabkin & Drabkin 1951, pp.120-124 and Rose 1882, pp.120-128.

105 Note that Muscio’s text - the youngest Soranus translation - avoids giving abortifacient recipes or explicit advice on abortion.

book, the number of pessaries for women’s diseases has not only diminished, it is nil.  
Perhaps methods explicitly referring to the female genitalia were becoming taboo.

Pessaries are not mentioned as a method of abortion in any of the legal and Christian sources studied in this book.

**Cataplasms, poultices, plasters, ointments, salves, creams and pills**

A pill (*trociscum*) must be taken orally. A cataplasm, poultice or compress (*cataplasma, fomentum*), plaster (*emplastrum, epitima, epit(h)ema*), ointment (*epitima*), salve or cream is applied externally; they are ‘plastered’ onto a person’s body. Sometimes the substance itself is plastered, sometimes it is put on a cloth. A cataplasm is often heated before use. The Latin terms for cataplasm and poultice are also used as synonyms of the word ‘plaster’. Ointments are often used to massage and anoint the body in order to relax the person undergoing (further) treatment; if the massage is part of an abortifacient procedure, it is often accompanied by vigorous rubbing.

The basis of the ointments is usually olive oil.

Soranus mentions these remedies in his chapter on abortifacients, except the pills. Some of his recipes were incorporated into Priscianus and Caelius Aurelianus’s versions of the *Gynaecia*. Priscianus added a recipe for a *trociscum* or abortifacient pill that he took from another source, and that must be given in a decoction of herbs.

Further research on late antique and early medieval medical texts must be done to find out how many recipes there were for abortifacient pills, plasters, and ointments. The recipe books discussed in article IX only contain recipes for pills, poultices, plasters and ointments that bring on or stop the menses. Recipes for pills and external medications are usually used as supportive medicine, that is, they are used together with other remedies, for instance, in a bath, or before the actual remedy is administered or applied. As abortifacients they are less important than the potions and pessaries.

Not one of these remedies is mentioned in the early medieval legal or Christian texts studied here.

**Fumigation**

A fumigation (*fumigatio, suffumigatio*) is a method of steam vaporization that involves introducing medications into the vagina and other internal genital parts through steam by seating a woman over a fumigation pot filled with water and the medicines, under which a fire is smoldering. Hippocratic medicine regularly advises fumigations for women’s ailments. Soranus mentions fumigation occasionally as part of extensive therapy for a

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107 The *Lorscher Arzneibuch* contains hundreds of recipes, but the words *pessarium, collirium* and *balanus* do not occur in this recipe book; near the end there is one recipe that *utilis est et ad pessos, ‘es ist bei der Behandlung der Scheide nützlich’* (Stoll & Keil 1989, pp. 382-383).

108 A *fomentum* is a warm wet medicated poultice, often applied with sponges in a bath, see also below under ‘bathing’. Sigerist says that *epithemata* are ‘zwischen Salbe und Pflaster, bald flüssiger, bald fester’ (Sigerist 1923, p. 174). For examples of the use of cataplasms’s cf. table 4.1 (Priscianus [24] and Caelius Aurelianus 86 - twice). For examples of *fomenta*, cf. table 4.1 (Priscianus [24] and Caelius Aurelianus 86). We find the word *epitema* as a translation of ‘plaster’ in Caelius Aurelianus 86 (cf. table 4.1).

109 There are recipes for plasters and ointments that can be used to bring on the menses in article XI, but none are presented as abortifacients.

110 Cf. table 4.1 (section 25). Meyer 1909 (p. 292, note 5) suspects that this recipe was taken from Dioscorides’s *De Materia Medica*.

111 Soranus describes how it is done in a section on retention of the afterbirth (4.4.14). Aromatic herbs are put into a pot to which a pipe is fixed. The other end of the pipe is inserted into the vagina, which is fomented by warming the vessel over a small fire (paraphrase of Temkin 1956 [1991], p. 197). Cf. also: Green 2001, p. 31: “another therapeutic procedure deriving from ancient practices was the application of fumigations to the genitalia.”
displaced uterus and the expulsion of the afterbirth, but not as part of any procedure to expel the fetus. A comparison of, for instance, the Greek and Latin lemmata for the herb cardamom in Dioscorides’s herbal shows us that fumigation could be used as an abortifacient procedure in Greek medicine,

Dioscorides, Περί λίθων λατεκίων
I.6. Ellettaria cardamomum. (…) When burned to produce smoke from below, it also destroys embryos/fetuses (…).113 but that this fumigation recipe was apparently changed into a recipe to ‘provoke the menses’ in the Latin translation:

Dioscorides, De Materia Medica
E’. De cardamomou. (…) Menstrua fumigando deponit.114

This example indicates that ‘provoke the menses’ might also be a euphemism for ‘cause an abortion’.

Marcellus of Bordeaux’s De Medicamentis Liber has a fumigation recipe for the expulsion of a dead fetus, which - if reinterpreted - could also be used to expel a living fetus:

Marcellus Empiricus of Bordeaux - Marcelli De Medicamentis Liber
7.23 (…) Hoc ipso medicamine incenso suffita mulier facile purgabitur, etiam si pecus intra uterum habuerit immortuum.115

The sample of recipes in article XI contains only one fumigation recipe. The recipe claims to restore the menses and cure womb pain.116 Although more research is necessary, a cursory look into medical texts that were available in the early medieval period indicates that fumigations were not advised for abortion (anymore). Fumigation seems to have fallen into disuse in the early medieval Latin West. However, the procedure reappears in later medieval women’s medicine - as does the pessary.117

Fumigation is not mentioned in any of the early medieval legal or Christian texts.118

Bathing

Bathing, washing and sponge baths are mentioned in connection with abortion in late antique and early medieval medicine. In Soranus’s Gynaecia baths (balneo), sitz baths (sessio), washing (lavatio), warm sponge baths (fomentum) appear as treatments that soften the uterus and help the woman relax, so that the fetus can be expelled more easily.119 Three of the four recipes Soranus gives were translated into Latin by Caelius Aurelianus.120 Priscianus mentions bathing twice as part of an abortifacient treatment in a long passage he added from other sources.121 The late antique and early medieval recipes collected in article IX mention bathing twice. One recipe advises a bath in connection with difficult birth, and the other is one of three recipes that claim to be abortifacients.122 The latter is in the Reichenauer Antidotarium (recipe 34), and it is a recipe that can cure almost any-

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114 Mihăescu 1938, p. 6; ‘On Cardamom. It brings on the menses through fumigation’.
115 Marcellus Empiricus, De Medicamentis Liber, ‘(…) Wenn eben dieses Heilmittel verbrannt wird, wird eine Frau, die damit geräuchert wird, mit Leichtigkeit gereinigt, auch wenn sie in der Gebärmuttern einen toten Embryo hat.’ (Niedermann e.a. 1968, pp. 108-109).
117 See, for instance, the illustrations in the Copenhagen manuscript of the fifteenth-century Dutch translation of the Trotula, reproduced in Green 2001, pp. 32-33, which explain how fumigation works and what pessaries look like.
118 In his edition of sixth- and seventh-century recipe books Sigerist notes: “Räucherungen, die bei den Hippokratikern so beliebt waren, sind kaum erwähnt” (Sigerist 1923, p. 174). There only one recipe for a fumigation in the seven recipe books Sigerist edited.
119 Soranus mentions baths and bathing four times in the section on abortifacients, cf. table 4.1 (1.64 and 1.65).
120 Cf. Caelius Aurelianus, 86 (one recipe) and 88 (two recipes), table 4.1.
121 Cf. Priscianus 25, table 1, pp. 3-4, and Meyer 1909, notes on p. 292.
122 Cf. Elsakkers, unpublished, pp. 25, 33. [article IX]
thing. At the end - in a clause that was apparently added on later - the recipe says *si conceptum excutere uolueris post balneum potui dabis*, ‘if you wish to expel a *conceptus*, give the potion after a bath’. There are probably more recipes for abortifacients that involve bathing, and hopefully future research will provide more information. In the recipes mentioned here taking a bath is always part of an extended therapy to induce an abortion. I have not found any early medieval references to taking a bath in a decoction of water to which caustic or acidic substances were added - a therapy which undoubtedly would have caused not only great discomfort, but also serious internal and external injuries.

Again, bathing is not mentioned in connection with abortion in early medieval legal or Christian texts.

**Bloodletting**

Bloodletting is associated with abortion in the classical and medieval period. It was understood that women who underwent phlebotomy faced an increased risk of spontaneous abortion. Hippocrates’s *Aphorism* on the subject was well-known. Soranus refers to it in his *Gynaecia* and Caelius Aurelianus included the reference in his translation.123 The late antique Latin version is as follows:

**Hippocrates, *Aphorisms***

5.31. Mulier in utero habens, si flebothomata fuerit, discutiet maxime cui maius pecus est.124

After mentioning Hippocrates’s aphorism Soranus goes on to tell us that phlebotomy can be used to help bring on a miscarriage - an example of Soranus’s advice to ‘do the opposite’ of what he advised women who want to prevent a miscarriage.125 Caelius Aurelianus translates this passage faithfully.126 Priscianus’s adaptation of the *Gynaecia* skips the section on phlebotomy, but this does not mean that he was unacquainted with the subject. In section 15 we find a recipe that promotes conception by prescribing an elaborate purgative treatment that includes phlebotomy and fumigation.127 There is a marginal note to the same effect in article XI.128 For the rest bloodletting does not seem to be mentioned very often in early medieval medical texts and recipes. It is not mentioned at all in the legal and Christian texts studied in this book.

**Surgical abortion and other invasive abortion techniques**

Surgical techniques associated with abortion were known in the ancient and early medieval world. Two different surgical procedures must be distinguished: the caesarian section and embryotomy. Both are emergency procedures, but only embryotomy is a form of emergency therapeutic abortion. A caesarian section or surgical delivery is an operation that involves a surgical incision in the mother’s abdomen and uterus in order to extract the fetus. Embryotomy is “the dismemberment of a fetus in the uterus or vagina to facilitate delivery that is impossible by natural means”.129 Both operations were performed by doctors or surgeons, and perhaps also by midwives. An embryotomy is done to save the mother’s life, and a caesarian is done to save the fetus.

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123 Cf. Soranus 1.65, table 4.1 and Priscianus 87, table 4.1.
124 Müller-Rohlfsen 1980, p. 150; ‘5.31. If a woman with child be bled, she will have an abortion, and this will be the more likely to happen, the larger the foetus’ [http://classics.mit.edu/Hippocrates/aphorisms.5.v.html; last accessed September 29, 2009].
128 Cf. Elsakkers, unpublished, p. 2 [article XI].
Nowadays a caesarian section is an operation both mother and child can survive. In ancient and medieval texts the references to caesarians are to a *sectio in mortua*, that is, a situation where the parturient woman has died in childbirth and the fetus can (perhaps) be saved by cutting open the dead woman.\(^{130}\) From the medieval period onwards there is a growing number of references to situations where a caesarian is performed in order to baptize the child before it too dies.\(^{131}\) Although the caesarian section is occasionally mentioned in ancient and medieval literary texts and in Roman law, it is not discussed in contemporary medical texts.\(^{132}\) Danielle Gourevitch calls the references to the caesarian section a ‘myth’: “La césarienne antique est pourtant un mythe”; she says that it was not performed on humans, and only occurred, albeit rarely, in veterinary practice.\(^{133}\)

Embryotomy is mentioned in the Hippocratic Corpus and in a number of classical and late antique medical texts that were known in the early medieval period; it is considered a dangerous technique.\(^{134}\) Celsus (first century AD) and Soranus (late first - early second century) both give us detailed descriptions of the operation.\(^{135}\) Celsus also mentions instruments (hooks and knives). Two of the Latin translations and adaptations of Soranus - those by Caelius Aurelianus and Muscio - also mention embryotomy.\(^{136}\) Each of these texts describes a situation where the mother’s life is in danger, because the fetus has died *in utero* due to breech position or some other complication, such as sepsis or septicemia. They indicate that the mother’s life can only be saved by removal of the dead fetus. Two influential Church Fathers also refer to embryotomy. Tertullian (third century; North Africa) describes the surgical procedure and some of the instruments used (speculum, hooks). He also explains that the operation can be ‘a cruel necessity’:

*Tertullianus, De Anima 25.4-6*

> Atquæ in ipso adhuc utero infans trucidatur necessaria crudelitate, cum in exitu obliquatus denegat partum, matricida, ni moriturus. Iaque est inter arma medicorum et cum organo, ex quo prius patescere secreta coguntur tortili temperamento, cum anulocultro, quo intus membra caeduntur anxió arbitrio, cum hebete unco, quo totum facinus extrahitur violento puerperio. Est etiam aeneum spiculum, quo iugulatio ipsa dirigitur caeco latrocinio; embruosphaktēn - g appellant de infanticiadi officio, utique uiuentis infants peremptorium. Hoc et hippocrates habuit et asclepiades et erasistratus et maiorum quoque prosector herophilus et mitior ipse soranus, certi animal esse conceptum atque ita miserti infelicissimae huismodi infantiae, ut prius occidatur, ne uiua lanietur.\(^{137}\)


\(^{131}\) Cf. Blumenfeld-Kosinski 1990, pp. 26 ff. (the oldest medieval source quoted is from the late twelfth century) and Schäfer 1996, pp. 281-282. The early medieval penitentials stress the importance of baptism, but do not mention any kind of surgical procedures. See, for instance, Burchard of Worms 19.5.164. *Neglexisti infantem tuam, ut per culpam tuam sine baptismo moreretur? Si fecisti, unum annum per legitimas ferias poenitere debes, et nunquam sis sine poenitentia* (PL 140: 0973A).


\(^{133}\) Gourevitch 2004, p. 263. See also: Dölger 1934, p. 49, and Schäfer 1996, p. 297. Boss discusses Caesarian section - both *ante mortem* (*sectio in viva*) and *post mortem* (*sectio in mortu*) - among the Jews; he says that caesarians were performed on living Jewish women in the Roman period with maternal survival (Boss 1961a and Boss 1961b, passim). See also: Schäfer 1996, pp. 296-297 for a few late medieval-early medieval references to the *sectio in viva*.

\(^{134}\) The Hippocratic treatises that discuss embryotomy (Diseases of Women, Superfetation and On the Excision of the Foetus) and other Greek and Latin medical texts on the subject are discussed by Kapparis 2002, pp. 24-27, Schäfer 1996, p. 288 ff. and Gourevitch 2004, pp. 245-260.


\(^{137}\) ClCLT: Cl. 0017, cap.: 25, linea: 42-51 (Cetedoc last accessed January 2, 2010); ‘But sometimes by a cruel necessity, whilst yet in the womb, an infant is put to death, when lying awry in the orifice of the womb he impedes parturition, and kills his mother, if he is not to die himself’ (http://www.ccel.org/ccel/schaff/anf03.iv.x.vv.html; last accessed January 2, 2010); for another translation, see: McClanan 2001, p. 38. See also: http://www.intratext.com/LXT/LAT0746/ _PQ.HTM (last
Augustine (354-430; North Africa) speaks of embryotomy as a sad, but sometimes necessary procedure in his *Enchiridion*:

**Augustine, Enchiridion de fide, spe et caritate 23.86**

nam negare uixisse puerperia quae propterea membratim exsecantur et eiciuntur ex uteris praegnantium ne matres quoque, si mortua ibi relinquantur, occidunt, impudentia nimia uidetur.138.

The medical and patristic texts indicate that embryotomy is a procedure that is sometimes done to try and save the life of the mother when the fetus has died. In ancient and early medieval times embryotomy is a last resort, an emergency procedure that is done, when all else has failed. Embryotomy has nothing to do with intentional abortion.139

Another method of abortion using instruments is the so-called knitting needle or coat-hanger method, a technique that involves the use of a sharp object to puncture the amniotic sack or pierce the fetus in order to provoke premature labor and thus cause a miscarriage. Unlike embryotomy this is a method of intentional abortion by the mother, not a method of emergency surgical abortion. Soranus refers to it in passing at the end of his section on abortion: ‘one must, however, beware of (…) separating the embryo by means of something sharp-edged, for danger arises that some of the adjacent parts be wounded’. Caelius Aurelianus’s *Gynaecia* is the only Latin version of Soranus that includes this passage: *multa preterea alia et ab aliis conscripta sunt, set erunt evitanda que forte fuerint nimiris percutienda, ‘besides, many other [methods] were also written down by others, but those must be avoided that are perhaps very sharp (piercing)’.*140 Ovid’s *Amores* (16 BC) contains a reference to this rather crude and dangerous method of abortion. The poem tells us that the poet’s lover Corinna committed abortion using some sort of sharp, pointed instrument.

**Ovidius, Amores, 2.14.27-28**

Vestra quid effoditis subiectis viscera telis, et nondum natis dira venena datis?141

**Ovid, Amores, 2.14.27-28**

‘Why do you pierce your womb with pointed instruments stuck in from underneath, why do you give horrible poisons to those not yet born?’142

Anne McClanan quotes Ovid as “our first reference to surgical tools being used for an abortion” in her article “Weapons to Probe the Womb”, an article that is concerned with abortive surgery and surgical instruments used

accessed November 8, 2009). Tertullian was apparently well acquainted with Soranus’s text on embryotomy, cf. Waszink’s commentary on this passage (Waszink 1947, pp. 324-331).

“But sometimes by a cruel necessity, whilst yet in the womb, an infant is put to death, when lying awry in the orifice of the womb he impedes parturition, and kills his mother, if he is not to die himself.” Accordingly, among surgeons’ tools there is a certain instrument, which is formed with a nicely-adjusted flexible frame for opening the *uterus* first of all, and keeping it open; it is further furnished with an annular blade, by means of which the limbs within the womb are dissected with anxious but unfaltering care; its last appendage being a blunted or covered hook, wherewith the entire *fœtus* is extracted by a violent delivery. There is also (another instrument in the shape of) a copper needle or spike, by which the actual death is managed in this furtive robbery of life: they give it, from its infanticide function, the name of ἐμβρυοσφάκτης, the slayer of the infant, which was of course alive. Such apparatus was possessed both by Hippocrates, and Asclepiades, and Erasistratus, and Herophilus, that dissector of even adults, and the milder Soranus himself, who all knew well enough that a living being had been conceived, and pitied this most luckless infant state, which had first to be put to death, to escape being tortured alive.”

138 CLCLT: Cl. 0295, cap. : 23, linea : 27 (Cetedoc, last accessed November 22, 2009); *Enchiridion, Handbook of Faith, Hope and Love*, ‘23.86. On the other hand to deny that children ever lived that are for this reason cut out limb for limb and cast out of the wombs of pregnant women, [that is] lest the mothers would also be killed, if the dead [fetuses] were left behind there, seems [to be] too shameless’ (my translation); see also: (http://www.ccel.org/ccel/augustine/enchiridion.chapter23.html) and http://www.ccel.org/ccel/schaff/hnpf103.ii.ii.lxxxviii.html (both last accessed November 22, 2009). Cf. Noonan 1986 [1965], p. 136, and chapter 4 on embryotomy.

139 By “all else” I mean other methods of abortion. Treatment could have started with some of the emmenagogues, purgatives or expulsives prescribed for the ‘retention of a dead fetus’ that are mentioned in late antique and early medieval recipes cf. Elsakkers, unpublished. [article XI]

140 Cf. table 4.1, columns 1 and 3.

141 Marg & Harder 1968, p. 90; ‘Ihr aber treibt euch selbst das Eisen ins eigene Innre, Gebt esnetzliches Gift noch nicht geborenem Kind!’ (Marg & Harder 1968, p. 91).

142 Many thanks are due to Wilken Englbrecht and Erik Langbroek for their advice on the English translation.
for abortion in the early Byzantine period. However, although an instrument is used, usage of the second person indicates that the text is concerned with self-induced abortion, in other words, that Corinna used a *telum* on herself to induce an abortion, and that this text is not concerned with abortive surgery.

In pre-modern times before surgical techniques were perfectionized and became safer (hygiene, antibiotics, anesthesia, etc.) caesarian section - if performed *in viva* - and embryotomy were dangerous procedures. The medieval caesarian section (*sectio in mortua*) may first have been a ‘myth’ existing in the minds of writers and illustrators before it developed from a surgical form of childbirth done *post mortem* into one that could also be done *ante mortem*. To my mind it is possible that caesarians were occasionally performed on dead women by midwives in the early medieval period in order to save a fetus that was still alive and to baptize it, even though there does not seem to be any real evidence to this effect. Caesarian section has nothing to do with deliberate abortion whether performed *in viva* or *in mortua*. Embryotomy on the other hand evolved from an operation for the removal of a dead fetus in order to save the mother’s life into a surgical procedure that could also be used to abort a living fetus, that is, a method of late term intentional abortion. In the early medieval period both surgical delivery techniques were emergency procedures done to save lives, when all else had failed. We do not know whether medieval surgeons, midwives or abortionists tried to use embryotomy as a method of abortion, but it does not seem very likely. However, sometimes ‘necessity knows no law’. The ‘knitting needle’ or ‘coat hanger’ technique, is a crude, primitive and invasive method of intentional abortion. It is not a surgical procedure, although it does make use of a pointed instrument. There is no evidence for the occurrence of this dangerous procedure in the ancient and early medieval period except for the reference in Ovid discussed above, and, if it happened, and I think it did occasionally, it was a private affair that would probably not be known to many.

**Miscellaneous methods**

There are a number of ad hoc methods of abortion, which are not mentioned in the early medieval legal and Christian sources studied in this book. These methods include vigorous or energetic walking, jumping up and down, jumping off something, womb binding, shaking, being shaken by draught animals, falling down, taking a

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143 McClanan 2001, p. 38.
144 McClanan’s translation reads ‘why take weapons to probe the womb and delve the life away’ (McClanan 2001, p. 39). McClanan interprets *telum* as a tool used by surgeons, and seems to suggest that Corinna had an embryotomy. Because McClanan does not distinguish between emergency therapeutic abortion and intentional abortion in her article, she repeatedly implies that embryotomy was used as a method of intentional abortion in the early Byzantine period. For instance: "Sources, such as Ovid, that discuss surgery as a means of ending an unwanted pregnancy (…) are rare” (p. 41), and “women occasionally resorted to surgery in the early Byzantine period” (p. 33). On the surgical tools found in Pompeii (sic!) she says: “These tools testify to the ongoing practice of surgical abortion in the early Byzantine era” (p. 37). On the surgical instruments found in surgeon’s graves and two early medieval lists of surgical instruments (cf. Schoene 1903): “The presence of these devices on the list suggests that surgical removal of the fetus continued throughout the Middle Byzantine period” (pp. 43-44). On Aetius, a sixth-century Greek medical author: “nothing in his text suggests that the above mentioned procedures [embryotomy] were particularly controversial.” (p. 48), and “Based on the evidence of Paul of Aegina and Aetios, therefore, it seems that both chemical and surgical abortions were performed in the early Byzantine period despite the growing hostility of the church” (p. 48). McClanan’s conclusion is a bit hasty, because early medieval medical authors hardly ever voice moral opinions.
145 Early evidence for the *sectio in viva* is given by Boss 1961a and Boss 1961b.
146 Kapparis, p. 224, note 85: “… Here again it seems to me that we are dealing with knowledge initially pursued for therapeutic purposes, but eventually used for induced abortions too.”
147 Womb binding is mentioned by the Greek Church Father Hippolytus (late second - early third century) in his *Refutation of All Heresies* 9.7: “that a woman, though not legally married, might consider such a companion as a husband. Whence women, reputed believers, began to resort to drugs for producing sterility, and to gird themselves round, so to expel what was being conceived on account of their not wishing to have a child either by a slave or by any pauper fellow, for the sake of their family and excessive wealth (http://www.newadvent.org/fathers/050109.htm; site accessed February 8, 2010). Greek texts were not included in this study, because in the late antique and early medieval period, Latin was the language of literacy in western Europe.
ride in a horse-drawn cart on a bumpy road, eating pungent food, sneezing, shock, massage abortion, intercourse during pregnancy, or a combination of any of the above-mentioned methods. Soranus mentions many of these methods in his *Gynaecia*. These methods are omitted by Priscianus and Muscio, and Caelius Aurelianus only includes “walking about energetically and being shaken by means of draught animals”.\(^{149}\)

There are also methods of abortion, which today would be classed as useless, superstitious practices. Soranus mentions amulets in section 1.64, and dismisses wearing them as superstition.\(^ {150}\) It is interesting to note that Priscianus, Caelius Aurelianus and Muscio all leave out this passage. Is this a tacit nod that all three agree with Soranus, or are they secretly keeping their options open?

One other method of intentional abortion is important, and that is ‘doing the opposite’. When discussing contraceptives in section 1.63 Soranus says that ‘these things not only prevent conception, but also destroy any already existing’, or as Caelius Aurelianus translates: *hec inquiunt non solum prohibere conceptum set [=sed] etiam factum extingueret*.\(^{151}\) In the next section Soranus explicitly advises women who wish to abort to ‘do the opposite of what we said earlier’, that is, the opposite of the advice he gave women who wanted to prevent a miscarriage. The passage ‘do the opposite’ was omitted by Priscianus and Muscio, but repeated by Caelius Aurelianus: *set conceptione facta primo usque ad XXX diem erunt adhibenda contraria his que ad conceptionem curandam docuimus*, ‘but, if conception has taken place, first, until the thirtieth day, the reverse of those things that we taught to advance conception should be done’. This remarkable piece of advice seems to confirm Sigerist’s statement that many purgatives and emmenagogues could also have been used as ‘verschleierte Abortiva’.\(^ {152}\) This means that ‘provoking the menses’ might indeed be a euphemism for ‘induce an abortion’.

The methods of abortion discussed above are all methods of intentional abortion. It can, of course, be argued that some of these methods might also be used as methods of involuntary abortion, for instance, if the pregnant women is secretly given an abortifacient drug, or purposely taken on a bumpy ride. If we read the sources carefully, some of them indicate that women could be persuaded, forced or intimidated into committing abortion.\(^ {153}\)

We should not forget women were sometimes pressured into aborting their child and that in that case any of the above-mentioned methods could also have been used for involuntary abortion.

**Violence**

Violence can also lead to involuntary abortion. In many cases we are probably dealing with domestic violence. The medical sources are silent on the subject, and early medieval ecclesiastical law and other Christian sources tend to ignore domestic violence and abortion by assault, even though we find the most important law on violent abortion in the Bible. Most Old Germanic laws contain provisions on abortion by assault.\(^ {154}\)

The biblical law on abortion in Exodus 21: 22-23 deals with (two) men who are fighting and accidentally hit a pregnant woman causing her to miscarry. The Church Fathers’ exegesis of Exodus seems to concentrate on the

\(^{148}\) See also: Kapparis 2002, p. 27.

\(^{149}\) Cf. Soranus 1.64 and 1.65, table 4.1 and Caelius Aurelianus 86, table 4.1.

\(^{150}\) Temkin 1956 [1991], p. 66, see also: table 4.1. Caesarius of Arles and Boniface both prohibit the use of amulets or *phylacteria*, but they do not mention amulets as a methods of abortion.


\(^{153}\) Cf. Chindasvind’s law on abortion (LV 6.3.7), which mentions the involvement of the husband, canon 2 of the Council of Lerida and perhaps also canon 17 of the Third Council of Toledo.

\(^{154}\) Cf. chapter 1, tables 1.4c and 1.5b.
Christian condemnation of intentional abortion, and the questions like ‘at what point (in the fetus’s development) is abortion murder’. In a letter by the third-century bishop Cyprian of Carthage we find one of the few references to abortion and domestic violence; Cyprian mentions a husband who caused an abortion by kicking his pregnant wife in the stomach.

Most early medieval secular laws on abortion by assault were ultimately based on Exodus 21: 22-23, as was demonstrated for Visigothic law. The ‘two men’ tend to be omitted, and the ‘fighting’ is usually transformed into a verb that denotes ‘killing’ or ‘hitting’ - except in King Alfred’s Old English Domboc and in Old Frisian law. Alfred’s translation of Exodus 21: 22-23 in the Prologue to his Domboc is a relatively faithful rendering of the Vulgate version; he punishes men who injure a pregnant woman during a caest, a ‘fight’ or ‘quarrel’. Alfred’s law on abortion simplified the text to gif mon wif mid bearne ofslea þonne þæt bearn in hire sie, ‘if anyone slays a woman with child, while the child is in her womb’. The Old Frisian laws on abortion are reminiscent of the biblical law on abortion, and they are also all in some way related to the Twenty-third Landlaw, an ancient Old Frisian law that punishes assaulting a pregnant woman. The tredda wend or third supplementary law to the Landlaw (re)introduces the ‘fight’, and demands ‘murder for murder’ (‘life for life’, that is the retribution or punishment for murder), if a pregnant woman who accidentally got caught up in a fight between two keddan, ‘gangs’ suffers a miscarriage.

Usually Old Germanic laws on violent abortion formulate a general condemnation that only indirectly refers to violence: si quis partum in feminam interfecerit, ‘if anyone kills a fetus inside a woman’ (LRib 40.10), using verbs such as occidere, interfecere, mortuum/-a esse, and debilitare. Sometimes words and phrases that convey violence are used, for instance, trabattere, percutere, Old English ofslean, quocumque (h)ictu, ‘by any blow’, ictu quolibet, or in uentre aut in rens percusserit pugno aut calce, ‘in the stomach or in the kidney with fist or foot’. Some of these verbs and phrases can also be interpreted as references to domestic violence. Old Frisian law occasionally adds small clauses that can denote domestic violence, such as: [hiu] nebbe nawet erges eden (...), ‘she did nothing wrong herself (...) (R1.IV.23)’ and hijt anda wiue deen habbe, ‘he did to the woman’ (J.IX.6). Some laws are vague as to the method of abortion and consider any unspecified circumstance or action that leads to a miscarriage - violent or not - punishable (LV 6.3.3). We also find vague terminology regarding the methods of abortion in other early medieval texts.

Et per artem aliquam - ‘and by any other method’

Whereas the medical treatises are relatively clear in their description of the various methods of abortion, the Old Germanic laws, Church council canons, Church Fathers, sermons, penitentials and other Christian texts often merely indicate that the fetus was killed without describing any particular method of abortion. As we saw above, the only methods mentioned explicitly in legal and Christian sources are potions and violence. The lack of interest in the method of abortion may be due to the fact that in normative texts the method is less important than the prohibition of abortion itself.

However, in some texts we do find vague references to ‘other’ methods of abortion than the potion or violence. The oldest Visigothic laws on violent abortion add phrases that indicates that any other circumstances resulting

155 Cf. Elsakkers 2005. [article III]
156 Cf. tables 1.4c and 1.5b.
in involuntary abortion will be punished: *aut per aliquam occasionem*, ‘or in any other way’ (LV 6.3.2), and *per aliquam violentiam aut occasionem*, ‘by any kind of violence or circumstance’ (LV 6.3.3).\(^{158}\) The Alamannic laws are even simpler. They state that the fetus was killed *per facto alterius*, ‘through the act of another’ (PLA 12; LA 70), thus in fact punishing *any* method of abortion. The Visigothic king Chindasvind also refers to ‘other’ methods of intentional abortion besides the potion, but he does not give any clues as to what methods he is referring to: *alia quocumque modo extinguere partum suum*, ‘destroy her fetus by any other means whatsoever’ (LV 6.3.7). The Church Father Augustine does the same: *conceptos fetus aliquo modo intra uiscera extinguat*, ‘kill the fetus in some way inside the womb’. In the penitentials, the most practical and down-to-earth texts studied in this book, we also find phrases that indicate that other, unspecified methods of abortion were known and used: *per artem aliquam*, ‘by any other means’, *diversis modis*, ‘in different ways’, or *aliquid fecerit*, ‘did something’.

‘Any other method’ can refer to any of the above-mentioned methods. The reason these vague and unspecified methods are mentioned may be that the authors wanted to prevent loopholes, that is, prevent a woman who had committed abortion and those who had caused a woman to miscarry from escaping punishment by using ‘another’ method.

**Suggestion for reinterpretation**

In discussions of the biblical law on abortion in Exodus we slowly become aware of the fact that the early Church Fathers - undoubtedly following the lead of Philo of Alexandria - are often speaking of intentional abortion.\(^{159}\) Apparently Christian teachers and theologians also interpreted the biblical law as a law against intentional abortion. If we extend this interpretation to secular law, the laws on violent abortion can be reinterpreted as condemnations of using violence as a method of intentional abortion. This seems to be a contradiction in terms, but, if we review the various methods of abortion discussed above, and the dangers involved in using them, we see all these methods of abortion can be called ‘violent’. I am not suggesting that secular law on abortion by assault must always be reinterpreted as a law on intentional abortion, but I do suggest that, if necessary, they *can* be used as laws that punish intentional abortion.\(^{160}\)

\(^{158}\) Cf. Elsakkers 2003a, pp. 58-59. [article II]

\(^{159}\) Cf. Elsakkers 2001, p. 77. [article I]

\(^{160}\) See also: chapter 1, ‘reinterpretations’.
1.19.60. A contraceptive differs from an abortive, for the first does not let conception take place, while the latter destroys what has been conceived. Let us, therefore, call the one “abortive” (phthorion) and the other “contraceptive” (atokion). And as “expulsive” (ekbolion) some people say is synonymous with an abortive; others, however, say that there is a difference because an expulsive does not mean drugs but shaking and leaping. (...).

For this reason they say that Hippocrates, although prohibiting abortives, yet in his book “On the Nature of the Child” employs leaping with the heels to the buttocks for the sake of expulsion. But a controversy has arisen. For one party banishes abortives, citing the testimony of Hippocrates who says: “I will give to no one an abortive”; moreover, because it is the specific task of medicine to guard and preserve what has been engendered by nature.

The other party prescribes abortives, but with discrimination, that is, they do not prescribe them when a person wishes to destroy the embryo because of adultery or out of consideration for youthful beauty; but only to prevent subsequent danger in parturition if the uterus is small and not capable of accommodating the complete development, or if some similar difficulty is involved. And they say the same about contraceptives as well, and we too agree with them. And since it is safer to prevent conception from taking place than to destroy the fetus, we shall now first discourse upon such prevention.

23. Abortivum dare nulli umquam fas est. ut enim Hippocratis attestatur oratio, tam duri reatus conscientia medicorum innocens officium non decet maculari. sed quoniam aut matricis vitio aut aetatis impossibilitate, sub qua causa praepropere frequenter partus excitetur, feminae periclitantur, expedit praegnantibus in vitae discrimine constitutis sub unius partus saepe iactura salutem mercari certissimam, sicut arboribus arescentium ramorum accommodatur salutis abscisio et naves pressae onere cum gravi tempestate iactantur solum habent ex damno remedium. unde breviter his locis adnectendo continuo designabo.

24. si ergo necessitatibus aut aetatis immaturae aut vitiorum superius comprehensis pecus molliter subtrahendum erit, his quam maxime consentio faciendum ut

82. Utrum medicaminibus conceptionem prohibentibus vel factam rumpentibus utendum sit vel quomodo?

Inhibens medicamen a corrumpenti plurimum differt. illud enim prohibet, illud factam detrahit conceptionem. Ypocrates demique [cum libro quem vocavit] cum corruptiva dari medicamina prohibet, libro quem De puertili natura conscriptis discretionis causa isuissit feminas suo salutariuui fibras pari plantarum percussu pultare. set de hiis fuit apud veteres magna certatio.

ali enim usum medicaminum corrumpentium prohibentes aiunt nulli debere dari pregantni, siquidem sit medicine salvare potius quam vexare, nascentiumque profecto natura fuerit nutrienda.

ali adulteri conceptatus causa aut servande pulcritudinis uterum rumpere noheuerint.

illla vero danda probant que periculum partus declinant, ne parve matricis causa et minus implere volentis officium mortis sequatur effectus; vel si in ore matricis aliqua fuerint condilomata procreata; vel horum queque similia impedimento fuerint. quibus et nos attestamur. set nunc quoniam a corrumpentibus inhibenda sunt securiora, de hiis primo dicemus. quibus enim convenit corrumpere conceptionem illis erit melius prohibere.

57. Oportet nos rebus abortorii uti?
apud quosdam non oportet. medicina enim quoscumque natura cooperet, sanare debet, non interimere.

ali vero volunt uti abortorii, sed nec si cupiant quae sunt adulterae neque propter lucrum,

sed si condylomata vel aliqua impedimenta in orificio matricis mulier habeaut et sic concept, melius est abortorii exterminare quod conceptum est, quam cum dies partus velerint, cum exitus infantii denegatur, periculum mulier quae parturit impingat.

[Muscio’s text on abortion ends here]

1.19.61. For if it is much more advantageous not to conceive than to destroy the embryo, one must consequently beware of having sexual intercourse at those periods which we said were suitable for conception. [I.36] And during the sexual act, at the critical moment of coitus when the man is about to discharge the seed, the woman must hold her breath and draw herself away a little, so that the seed may not be hurled too deep into the cavity of the uterus. And getting up immediately and squatting down, she should induce sneezing and carefully wipe the vagina all round; she might even drink something cold. It also aids in preventing conception to smear the orifice of the uterus all over before with old olive oil or honey or cedar resin or juice of the balsam tree, alone or together with white lead; or with a moist cerate containing myrtle oil and white lead; or before the act with moist alum, or with galbanum together with wine; or to put a lock of fine wool into the orifice of the uterus; or, before sexual relations to use vaginal suppositories which have the power to contract clogging, and cooling cause the orifice of the uterus to shut before the time of coitus and do not let the seed pass into its fundus.

83. Quomodo inhibeatur conceptio? Oportet igitur feminam illam primo tempora servare et in ipso concubitu imminente virili semine spiritum continere, et se ipsam a conceptione interius subducere, vel frequentibus pessariis constrictivis vel dempsabilibus usus venerios prevenire. hiis enim os matricis clausum ante conceptionis tempus non sinit ad fundum semina pervenire.

1.19.62. And we shall make specific mention of some. Pine bark, tanning sumach, equal quantities of each, rub with wine and apply in due measure before coitus after wool has been wrapped around; and after two or three hours she may remove it and have intercourse. Another: Of Cimolian earth, root of panax, equal quantities, rub with water separately and together, and when sticky apply in like manner. Or: Grind the inside of fresh pomegranate peel with water, and apply. Or: Grind two parts of pomegranate peel and one part of oak galls, form small suppositories and insert after the cessation of menstruation. Or: Moist alum, the inside of pomegranate rind, mix with water, and apply with wool.

84. denique etiam quedam specialia memoramus.
<table>
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<tr>
<th>Or: Of unripe oak galls, of the inside of pomegranate peel, of ginger, of each 2 drachms, mould it with wine to the size of vetch peas and dry indoors and give before coitus, to be applied as a vaginal suppository. Or: Grind the flesh of dried figs and apply together with natron. Or: Apply pomegranate peel with an equal amount of gum and an equal amount of oil of roses. Then one should always follow with a drink of honey water. But one should beware of things which are very pungent, because of the ulcerations arising from them. And we use all these things after the end of menstruation.</th>
<th>item gallarum item juniperi interioris cortexis item ivi, et in fave egyptiace magnitudinem formatum apponitis. set erunt declinanda que forte fuerint acrora. ex hiis enim sepius ulcerationes fient.</th>
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<tr>
<td>Caelius Aurelianus, Drabkin &amp; Drabkin 1951, pp. 27-31.</td>
<td>Muscio, Rose 1882, p. 20</td>
</tr>
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</table>

1.63. Moreover to some people it seems advisable: Once during the month to drink Cyrenaic balm to the amount of a chick-pea in two cyaths of water for the purpose of inducing menstruation. Or: Of panax balm and Cyrenaic balm and rue seed, of each two obols, <grind> and coat with wax and give to swallow; then follow with a drink of diluted wine or let it be drunk in diluted wine. <Or:> Of wallflower seed and myrtle, of each three obols, of myrrh a drachm, of white pepper two seeds; give to drink with wine for three days. Or: Of rocket seed one obol, of cow parship one-half obol; drink with oxymel. However, these things not only prevent conception, but also destroy any already existing. In our opinion, moreover, the evil from these things is too great, since they damage and upset the stomach, and besides cause congestion of the head and induce sympathetic reactions. Others, however, have even made use of amulets which on grounds of antipathy they believe to have great effect; such are uteri of mules and the dirt in their ears and more things of this kind which according to the outcome reveal themselves as falsehoods.

| cataplasmatibus chalasticis artemissiae sucum aut tunsae pulverem miscemus. dictamni quoque similiter. sic aristolochiae, sic rutae seminis. sic et fomentis ex supra dictarum specierum decoctionibus factis uti conveniet et quae scripta sunt in cura conceptionis ad sanguinem innoxie provocandum. | 85. quibusdam vero videtur semel in mense lasar bibendum in modum ciceris, duobus aqua ciatis admixtis, aut ex ipso sanguine purgationis quicquam sumere. et viole semen et mirre obolos trinos et pipers grana duo cum vino tribus diebus sumere. vel eruce semen obolum unum, et sfindili herbe oboli s., ex mulso et aceto bibendum mane cum a viro mulier surrexerit. aiunt preterea eterno conceptionem prohibere urinam mule, vel aquam in qua operantes fabri igneum sepius extinxerunt ferrum, si potui bibenda detur modo eminarum trium. hec inquiunt non solum prohibere conceptum set etiam factum extinguere. secundum nos autem multarum vexatio sunt. primo enim corrumpunt stomaechum et caput inflant inflato consenso. |
| 25. his vero sequentibus aliqui usi remedium dari dorsan corporibus minus obfuisse videntur, | 86. set conceptione facta primo usque ad XXX diem erunt adhibenda contraria hiis que ad conceptionem curandam docuimus, ut eas vehementi motu ambulare ibeamus vel ani-mialisibus inquitis vectari; oculo dulci acalido fovere matricem atque toto perungi corpore; |

Part 2: Chapter 4
yond her strength. She should use diuretic decoctions which also have the power to bring on menstruation, and empty and purge the abdomen with relatively pungent clysters; sometime using warm and sweet olive oil as injections, sometimes anointing the whole body thoroughly therewith and rubbing it vigorously, especially around the pubes, the abdomen, and the loins, bathing daily in sweet water which is not too hot, lingering in the baths and drinking first a little wine and living on pungent food. If this is without effect, one must also treat locally by having her sit in a bath of a decoction of linseed, fenugreek, mallow, marsh mallow, and wormwood. She must also use poultices of the same substances and have injections of old oil, alone or together with rue juice or maybe with honey, or of iris oil, or of absinthium together with honey, or of panax balm or else of spelt together with rue and honey, or of Syrian unguent. And if the situation remains the same she must no longer apply the common poultices, but those made of meal of lupines together with ox bile and absinthium, <and she must use> plasters of a similar kind.

ut qui vi sanguinem extorquentes simul etiam venientia pecora pertraxerunt.

sucum rutae viridis potui dederunt ad neofyta excludenda. hanc eandem rutam viridem cum rancidis nucibus et cum melle tritam dederunt, asseverantes pro pessario apponendum. interea etiam murrum et artemisia et violae semen ex aequo cum suco mentae potui [drink] similiter post balneas dari debere asseveraverunt. item lupinorum amarorum pulverem murrae et violae semen, quae omnia ex aequo cum mentae suco temperaverunt ut trocicos conficerent, quos cum decoctione artesiae aut dictamni dari constituerunt. aliis radicem panacis murrum aloen ex aequo similiter cum suco mentae viridis temperaverunt. aliis collyrium suppositorium facientes sic se haec innixoe extorsisse testati sunt. murrae absinthii iris illyricae radicis panacis uncias singularis, cummi ÷ II. quae in suco faeni graeci infuderunt, ex quo mixto cum pulvere supradictarum specierum collyria vel balanos conficerunt, quos post balneas supponebant. nam et dictamnum cum vino tritum post balneas potui dabant et continuo paene iam naturas animales exclusionabat. nam et ovium fel in melicrato dederunt ac fierunt violentum. sic fel taurinum cum nitri combusti pulvere osypo- cereto misceuerunt et pro pessario supposuerunt.

deficixari etiam forti fricatione, magis pubetenus et sub umbilico ac clunibus; tune etiam cotidiana lavatione, nec multum ferventi aqua vel aere, et in ipso lavacro tardius immorari, vinum bibentes atque acriores cibos sumentes,

sessionibus quoque adhibitis ex decoctione lini seminis aut fenugrei, vel malve; tune etiam cathaplasmatis et fomentis olei veteris solius aut suco rute admixto, aliquis etiam melle aut yri illirica.

at si tenax ceperit perseverare conceptio, simplicia cathaplasmata sunt removenda, adhibitis acrioribus, ut ex farina lupini cum felle taurino vel absinthio et similis virtutis epitheplasmata.


Following the venesection one must shake her by means of draught animals (for now the shaking is more effective on the parts which previously have been relaxed) and one must use softening vaginal suppositories. But if a woman reacts unfavorably to venesection and is languid, one must first relax the parts by means of sitz baths, full baths, softening vaginal suppositories, by keeping her on water and limited food, and by means of aperients and the application of a softening clyster; afterwards one must apply an abortive vaginal suppository. Of the latter one should choose those which are not too pungent, that they may not cause too great a sympathetic reaction and heat. And of the more gentle ones there exist for instance: Of myrtle, wallflower seed, bitter lupines equal quantities, by means of water, mould troches the size of a bean.

Or: Of rue leaves 3 drachms, of myrtle 2 drachms and the same of sweet bay, mix with wine in the same way, and give her a drink. Another vaginal suppository which produces abortion with relatively little danger: Of wallflower, cardamom, brimstone, absinthium myrrh, equal quantities, mould with water. And she who intends to apply these things should be bathed beforehand or made to relax by sitz baths; and if after some time she brings forth nothing, she should again be relaxed by sitz baths and for the second time a suppository should be applied. In addition, many different things have been mentioned by others; one must, however, beware of things that are too powerful and of separating the embryo by means of something sharp-edged, for danger arises that some of the adjacent parts be wounded. After the abortion one must treat as for inflammation.

Note:
If we compare the various Latin versions of Soranus to Temkin’s English translation we see that each Latin author had his own ideas on what to translate, what to adapt, what to add, and especially what to omit. Muscio’s text is the shortest, and Priscianus added a number of recipes from other sources. Caelius Aurelianus seems to be the most faithful translator.

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Reference:
Meyer 1909 indicates that Priscianus took some of these recipes from Dioscorides and from Oribasius. Much work remains to be done on the comparison of the various Latin translations of Soranus.
Only women are spoken of as guilty of committing contraception. ABORTION AND WOMEN’S BUSINESS

In his book *Contraception: a History of its Treatment by the Catholic Theologians and Canonists* John T. Noonan notes that only women are spoken of as guilty in connection with contraception in the sources he studied. The same can be said for early medieval secular law on abortion and the early medieval Christian legal and moral texts on abortion. The men who were responsible for getting a woman pregnant are hardly ever mentioned - let alone punished. This seems to indicate that fertility regulation and fertility control were considered to be women’s business and women’s responsibility.

Old Germanic law does not really punish intentional abortion. It does punish supplying a woman with an abortifacient. Two out of three laws that punish ‘supplying’ explicitly tell us that ‘suppliers’ are women. Bavarian law is a case in point. Its law on ‘supplying’ was based on Visigothic law, but the gender neutral reference to the ‘supplier’ was changed into *mulier* - a subtle emendation, but at the same time a very informative and revealing one, because it shows us that women were the ones who knew how to induce an abortion. If we read the Old Germanic laws closely and carefully, we see that, besides the link between women and abortifacients, there is also a close association between women and poisoning - partly because abortifacients are classed as poisons, but mainly because the laws indicate that women are knowledgeable about herbs, poisons, recipes for poisons, and even poisoning their husbands. There is also a vague and often implicit link between women and magic that is reinforced by the use of the ambiguous words *maleficium* and *veneficium* for ‘poison’, but also by the fact that words for ‘female herbalist’ and ‘witch’ - *herbaria, striga, stria* or *masca* - are sometimes mentioned in the same article, and all seem to be used in a pejorative sense.

Christian texts punish women for committing intentional abortion, and hold them responsible. Their use of adjectives like *mortifera* and *diabolica* indicates that the poisonous nature of abortifacients was well-known. Homilists like Caesarius and Burchard emphasize women’s role by addressing them personally using the second person and other rhetorical devices. Christian moral texts on abortion seem to avoid the word *maleficium* and its association with magic - with the exception of the sermon *Homilia de Sacrilegiis* and the penitentials. The latter regularly use the words *maleficium* or *veneficium* in connection with poisoning and abortion. We often find penitential articles on poisoning and abortion together in titles called *De maleficis* or *De machina mulierum*, and the articles clearly indicate that both words can take on the meaning ‘poison’ and/or ‘abortifacient substance’.

The various penitential articles on abortion seem to underscore the link between women, poisoning, abortion and magic, as well as women’s expertise. This is interesting, because the penitentials are texts of practical Christianity, and therefore bound to reflect reality at least to a certain extent.

164 There is one exception in Old Germanic law: Chindasvind’s Visigothic law on abortion (LV 6.3.7), a law that reads like a sermon. Only a few Christian texts punish men, cf. the council canons of Lerida and Toledo II, and some of penitentials. See also, above “intentional abortion and abortion by assault”.
165 The only law that punishes intentional abortion is LV 6.3.1.
166 Changes the other way around also occur: in the Irish *Penitentiale Vinniani* women supply women with abortifacients, but the version incorporated into the *Penitentiale Columbanii B* is gender neutral.
167 We also occasionally find the word *medicamentum*; all three words have the same double meaning ‘poison’ - ‘magic’. On *herbaria* and *striga* (Sali and Alammanic law) and *Edictum Rothari*, arts. 197-198 (Bluhme 1868, p. 48; Drew 1973, p. 90 and [http://bsbdmgb.bsb.lrz-muenchen.de/dmgb_new/](http://bsbdmgb.bsb.lrz-muenchen.de/dmgb_new/). (last accessed November 3, 2009).
168 Cf. chapter 4, under ‘methods of abortion’ and ‘dangers - efficacy’.
169 In the Irish penitentials the articles on abortifacients and aphrodisiacs are part of a title on *maleficia*. 
Usage of the words *maleficium* and *veneficium* in the penitentials seems to evoke the same atmosphere of poisoning, secrecy and magic we find in a recipe for an abortifacient in the *St. Gall Receptarium I* called *potio denoncupata* or ‘taboo potion’. The *potio denoncupata* says that its ingredient is *herba maleficia*, ‘a poisonous (or magical) herb (or herbs)’, without specifying what herb or herbs must be used in the recipe. Salian law and the penitentials also indicate that *maleficia* can refer to the herbal ingredients of the potions. Together the various texts tell us that recipes for abortifacients were probably a secret, that the secret ingredients were herbs, and that many herbs were known to be poisonous and perhaps therefore also considered magical. Recipes for fertility controlling drugs appear to be secrets that were guarded by women - perhaps the female herbalists or *herbariae* that were the subject of abuse in Alamannic law, or the *maleficae* referred to in some of the penitentials. The recipes were probably passed on by word of mouth from woman to woman, and thus only known to a small group of female insiders. Perhaps the secrecy associated with abortion and abortifacients simply has to do with the fact that women know about problems concerning reproduction first hand, that men only have second hand information, and that the texts that have come down to us were in most cases filtered through the pens of men.

Women’s knowledge of birth and babies also made them experts who could be consulted on legal problems regarding menstruation, fertility, pregnancy, miscarriage and abortion. In the section on ‘Divorce and patria potestas’ in her book *Women and the Law in the Roman Empire* Judith Evans Grubbs cites cases of Roman law in which a woman’s pregnancy after divorce had to be verified. In one of the rescripts the praetor ordered a woman who claimed not to be pregnant to be examined by three midwives ‘of proven skill and trustworthiness’. Late medieval Old Frisian law contains a comparable example. Here, the law itself assigns an active role to women in judicial proceedings. It states that women had to be consulted in order to determine the stage of fetal development, that is, whether the fetus had ‘hair and nails’, after an assault that resulted in a miscarriage. One last example from the ninth century. In the famous divorce case between king Lothar II and his wife Theutberga women are also considered to be the experts regarding questions that have to do with reproduction. Bishop Hincmar, obviously embarrassed, chose to be diplomatic and avoid taking sides, because the ‘affair’ concerned the king. Hincmar refers the secular judges to their wives in the delicate question of ‘virgin birth’.

**Hincmar of Rheims, De divortio Lotharii Regis et Theutbergae reginae**

Responsio [XII]. Utrum autem tali modo, sicut de ista femina dicitur, quaecumque mulier vel virgo concipiere valeat, expressis saeculi judices licentia mari tali, ne in iudicio interprendant, a suis uxoribus discere poterunt, quia nos, homines huius negotii inexperentes, quae legimus, dicimus et non inde amplius aut scire querimus aut investigare volemus.

He tells them that *a suis uxoribus discere potuerunt*, ‘they can learn from their wives’, because men are *inexpertes*, ‘inexperienced’, in these matters. In all three examples women are acknowledged as authorities in legal cases concerning pregnancy, miscarriage and birth.

Close reading of early medieval secular and ecclesiastical law and Christian moral texts on abortion provides much more information on women and abortion than we thought. Of crucial importance is the fact that women -

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170 Cf. Elsakkers, unpublished, pp. 31-32. [article IX]
172 Cf. Elsakkers 2004, pp. 110-111 and p. 135 on the short, secular supplements to the Twenty-Third Landlaw. [article VI]
173 See also: above ‘motives’.
174 Böhringer 1992, p. 102; Hincmar of Rheims, *On the Divorce of King Lothar and Queen Theutberga*, ‘If, however, any woman or virgin could conceive in this way, as is said about this woman [Queen Theutberga], secular judges could learn more accurately [about these things] from their wives through [their marital authority], so that they do not make a false judgement in the legal proceedings, because we, men, lack experience concerning this business, about which we read, speak, and about which we from now on do not wish either to know more or to further investigate’ (my translation). See also: Heidecker 1998 and Bishop 1985.
whether married or unmarried - are the main actors in all the early medieval texts on abortion. They seem to be inextricably associated with poisoning, abortifacients, magic and intentional abortion. Women are the ones who are punished for terminating a pregnancy, even a pregnancy that is the result of rape. In fact, women are also the ones who are punished for fornication and adultery. Secular law focuses on ‘supplying’ and poisoning, and the Christian texts focus on the pregnant woman and the prohibition of intentional abortion. Men tend to be disregarded in abortion law, not because they are forgotten, but because the textual evidence demonstrates that abortion is women’s business - whether we are speaking of committing abortion, helping a woman commit abortion or supplying evidence in judicial proceedings. The fact that women are the ones who are punished for being involved in an abortion procedure, clearly indicates that the early medieval normative texts hold women responsible and accountable for birth control and family planning. Women decide whether or not to abort, why and how the abortion is to be done. Women are responsible, they are held responsible, and it is clear that they also take responsibility for abortion and fertility planning.

*It is safer to prevent conception from taking place than to destroy the fetus*

**DANGERS - EFFICACY**

There are references to the dangers involved in using abortifacients for intentional abortion in classical Greek and Roman medicine, especially regarding abortifacient pessaries. Possible harmful effects include: lesions, lacerations, ulcerations, inflammation of the womb, and hemorrhaging. Soranus mentions them in his *Gynaecia*, and many of them are also in Caelius Aurelianus’s Latin translation; Priscianus’s translation only mentions hemorrhaging. Besides Caelius Aurelianus and Priscianus’s translations of Soranus, other late antique and early medieval Latin medical handbooks, herbs, recipe books or other medical texts, do not seem to warn against the harmful (side-) effects of abortifacient potions and pessaries. Nor are cautions issued to be careful harvesting the herbs, mixing the ingredients or determining the dosage. It is clear that the risks involved were known, and that some abortifacients were so dangerous and poisonous that they could cause a pregnant woman’s death. But,

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175 Noonan 1986 [1965], p. 158 observes the same connection - including contraceptives - in Caesarius’s sermons and the penitentials: “… the close association between abortion and magic, between contraception and magic, and between poison, abortion and contraception; it may also suggest that with the authors of the penitentials, as with Caesarius of Arles, opposition to magic reinforces the opposition to contraception. Contraception is not condemned merely as magical, but the hostility to it has added force from the orthodox Christian distrust of pagan magic” - perhaps slightly exaggerating the connection with pagan magic.

176 Cf. the discussion of rape in chapter 3.

177 Note that early medieval medical texts are not concerned with responsibility, only with curing bodies, cf. Elsakkers, unpublished, passim. [article XI]


179 Soranus 1.19.60 and 1.19.61, Temkin 1956 [1991], pp. 62-64.

180 On the knowledge of the dangers of having an abortion in antiquity, cf. Hippocrates, *Diseases of Women I* (DW1): ‘66. All the lesions which form in a woman’s uterus following abortion’ and ‘67. (…) she whose womb was lacerated as the result of an abortion’ (translated by Ann Hanson, email correspondence); cf. also the dangers described by Soranus in table 4.2 below. On the harmful effects of pessaries, cf. Elsakkers, unpublished on the *Hippocratic Oath*. [article X] See also: Rousselle 1988 [1983], p. 46 and Fontanille 1977, pp. 151-161.

181 Cf. table 4.2. Muscio omits almost the whole passage on abortion; moreover, the whole section on abortion is missing in the *Liber geneciae ad Soteris obstetric* or *Liber ad Soteris* (see also: table 4.1).

apparently, not many late antique and early medieval medical texts put all their cards on the table. We do have a few recipes that tell us that they can be used to expel a (dead?) fetus sine periculo: pecus excludit per aborsum sine periculo lapsum, ‘it drives out a fetus by means of a miscarriage (or abortion?) without danger [to the mother]’. Use of the phrase sine periculo implies that other recipes were dangerous. There are also recipes with the opposite advice, that is, warnings that certain plants or medicines should not be used by pregnant women. The Roman author Pliny the Elder (first century A.D.) mentions many herbs and plants that can cause a miscarriage, for instance:

**Gaius Plinius Secundus, Naturalis Historia**
20.51.145. praecavendum est gravidis abstineant hoc cibo, necari enim partus invenio [on the herb rue]
21.60.122. feminis quidem abortus facere non dubitat [on the herb mariscum].

We find similar warnings in late antique and early medieval herbals and recipe books. The following two recipes in Marcellus of Bordeaux’s *De Medicamentis Liber* (late fourth- or early fifth-century) also advise against using the remedy if the woman is pregnant:

**Marcellus Empiricus of Bordeaux - Marcelli De Medicamentis Liber**

Legal authors were also familiar with the lethal properties of abortifacients. As Susan Treggiari says in her book on *Roman Marriage*: “The ancients were well aware of the risk of killing the mother as well as the foetus”. Roman law puts buying, selling, supplying and administering abortifacients on a par with poisoning; both are serious crimes, because another person’s life is put in danger. Pliny’s warning about the effects of certain poisonous herbs and plants in book 25 of his *Naturalis Historia* contains the same examples of poisoning we find in Roman law and in early medieval Salian law: abortifacients, psychodelics and aphrodisiacs.

**Gaius Plinius Secundus, Naturalis Historia**
25.7. 24-25. A Graecis et noxias herbas demonstratas miror equidem, nec venenorum tantum (…) sed quae fuit venia monstrandi qua mentes solverentur, partus eliderant multaque similia? ego nec abortiva dico ac ne amatoria quidem (…).
Visigothic law seems to follow Roman law in its punishment for aiding and abetting (the death penalty). It is also the only Old Germanic law that severely punishes a pregnant woman for requesting an abortifacient. This provision may have been inspired by Christianity’s pro-life position, but, even if this is true, it also indicates that the Visigothic lawmakers knew that abortifacients often contained deadly poisons, and that they considered using them a form of attempted suicide. The other Old Germanic laws also follow Roman law. Abortifacients are classed as poisons, and supplying is viewed as (attempted) murder, a crime for which the *wergeld* or a percentage of the *wergeld* must be paid. Usage of phrases such as *potio mortifera*, ‘a deadly potion’ (LBai 4.22) and *varietatem seu debilitatem (...) in corpus*, ‘physically ill or invalided’ (LRib 86.2) shows us that the effects and the toxicity of the herbal mixtures were well-known.

Christian authors also knew that taking an abortifacient was dangerous, and that the woman involved was risking her own life by resorting to abortion. New is the concern for the fetus’s life. Often Christian texts seem to put the fetus first, when speaking of the dangers of abortion. Use of pejorative adjectives, such as *mortiferus*, ‘deadly’, especially with reference to abortifacient potions, indicates that the herbal concoctions could not only have fatal consequences for the unborn child, but also for the pregnant woman. In one of his epistles the Church Father Jerome explicitly tells us that pregnant women can die from these potions: *frequenter etiam ipsae commortuae*, ‘and so frequently brought about their own death as well’.

Caesarius of Arles says the same thing in sermon 51.4: *etiam ipsae pariter moriuntur*, ‘and they themselves die in the act’. Both Jerome and Caesarius consider a woman who uses abortifacients guilty of (attempted) suicide, in other words, they intimate that women knew that the drugs could be fatal, and that taking them was therefore tantamount to suicide. We do not find this kind of argumentation in the penitentials. These texts of practical Christianity are mainly concerned with preventing the death of an unborn child. The penitentials do not seem overly preoccupied with the risks the pregnant women is taking with her own life, but they do class abortifacients as poisons. In the Irish and Frankish penitentials and their younger derivatives supplying abortifacient *maleficia* or *veneficia* is again punished in the section on poisoning, and, again, aphrodisiacs and abortifacients are treated as special cases of poisoning, as in Roman and Salian law. The penitential penance is severe, because *maleficia* are regarded as deadly poisonous drugs, an instrument of murder, especially murder of the fetus.

To sum up, medical, legal and Christian texts all intimate that abortifacients can contain dangerous and potentially lethal substances, and that many were aware of the risks for the mother. This is emphasized by the harsh punishments and penances awarded for poisoning and abortion in the early medieval secular and ecclesiastical laws.

We must now ask ourselves: did any of the early medieval methods of abortion, especially the pharmaceutical methods, actually work? In the past many scholars have for many different reasons - ranging from religiously
based moral convictions to demographic arguments - doubted the efficacy of the plant substances in the recipes for abortifacient and contraceptive potions and pessaries.\textsuperscript{197} Some have even banished fertility regulators to the realm of magic, or argued that only the elite could have been familiar with them.\textsuperscript{198} However, the many prohibitions and warnings in the laws and Christian texts strongly suggest that some of the methods must have worked.\textsuperscript{199} Moreover, the number of plants with menses-inducing, contraceptive and abortifacient properties described in classical, late antique and early medieval sources is overwhelming.\textsuperscript{200} The evidence of these texts does, of course, not constitute proof, because until relatively recently testing and assessment of plants occurred on a trial-and-error basis, not in a controlled laboratory environment. According to modern research standards the evidence referred to above would be characterized as ‘hearsay’.

In the twentieth century a number of inventories and comparative studies of contraceptives and abortifacients in classical and medieval texts appeared.\textsuperscript{201} New is that scholars have started to take the contraceptive and aborti-

\textsuperscript{197} On religiously based moral convictions, see: for instance, Barkley 1982 (“The idea that a mother might not want a child was practically unheard of”, p. 177), passim. On others who believed that abortion was ‘unthinkable’ or that the potions were ‘ineffectual’, cf. Riddle 1991, pp. 4-5, 25, and Riddle 1992, pp. 7 ff. and pp. 16 ff. Riddle discusses Himes 1936, Ariés 1953, Rousselle 1988 [1983], Hopkins 1965-1966, Fontanille 1977, Knodel & Van de Walle 1979, and others. Rousselle believes that male asceticism was one the factors that limited the size of Roman aristocratic families (Rousselle 1988 [1983], p. 46). Himes argues that contraceptive methods were not known: “And why was the birth rate low? Because birth control was used. This reasoning is fallacious and contrary to fact; fallacious because the conclusion does not logically follow; false, or contrary to fact, because birth-control knowledge was never sufficiently diffused materially to alter the picture.” Himes goes on to link the invention of printing to the dissemination of contraceptive information - ignoring the fact that much information was also disseminated orally (Himes 1936 [1963], pp. 97, 100).

On abortion and demography, see: Riddle 1997, pp. 13 ff. See also: Prioreschi 1995, who says contraceptives and abortifacients in antiquity were not responsible for population declines, because they were ineffective.

\textsuperscript{198} Cf. for instance, Himes on contraceptives: “The notions of the populace on contraceptive technique have been, until late modern times, essentially magical. (…) until quite late in history only the best contraceptive prescriptions in medical tradition had any raison d’être. They, almost alone, were effective. (…) Most common perhaps are the prescriptions to be taken by the mouth as well as various magical rituals. Often these are on no higher level than those of savages” (Himes 1936 [1963], pp. 183-184). On the ignorance of the ‘masses’ Himes says: “The scanty evidence available suggests that the contraceptive knowledge of antiquity was confined largely to the heads of medical encyclopedists, to a few physicians and scholars. The average citizen was probably quite ignorant of the subject - even, indeed, as he is today (…) In a word, all the social circumstances of the time conspired to prevent the communication of contraceptive knowledge as we understand communication and democratization in our time. But this in no wise dims the torch of knowledge that a few gifted, independent minds of antiquity handed down to the modern world through Islam. (…) But as in the instance of the early West, we shall find that in the East, even when knowledge of effective remedies was lacking, the desire to prevent conception was a characteristic feature of the civilizations” (Himes 1936 [1963], pp. 100, 101).

\textsuperscript{199} In his book on contraception Noonan 1986 [1965] observes that historical records show that knowledge of the techniques was available, and that it must therefore have happened.

\textsuperscript{200} For examples of abortifacient plants and recipes in classical and late antique medicine, cf. Fontanille 1977, Lewin 1922, Keller 1988. Early medieval medical texts do not often mention contraceptives and abortifacients explicitly; usually emmenagogues and recipes for menstrual retention and to ‘expel a dead fetus’ predominate. Cf. also: Elsakkers, unpublished.

\textsuperscript{201} Marie-Thérèse Fontanille made an inventory of the recipes for abortifacients in a number of Greek medical texts (the Hippocratic Corpus, Dioscorides, Soranus, Oribasius and Aetius of Amida). On Dioscorides and abortifacient plant remedies, see also: Riddle 1985, pp. 58-64. Louis Lewin’s handbook on abortion for doctors and lawyers - first published in 1899 - includes western and non-western legal and medical sources ranging from classical antiquity to the early twentieth century. Lewin comments on the legal texts, provides lists of drugs, explains methods of abortion and complications, and in section nine he discusses the various kinds of poisonous abortifacients; plant substances are discussed on pp. 200-214. Enzo Nardi (1971) collected and translated (into Italian) all the important Greek and Roman legal, theological (Jewish and Christian), medical, legal and literary texts on abortion from the fifth century B.C. to the sixth century A.D.

In 1973 V. J. Brondegaard listed plants reputed to be contraceptives (some are also emmenagogues and abortifacients) in “old school and newer folk medicine”; many are non-European and his sources are often collections made by anthropologists.

Achim Keller’s book (1988) discusses abortifacients in classical Latin texts written in the Roman imperial period (27 B.C. to 476 A.D.). He focuses on medical texts, but also pays attention to literary and legal sources. In part two he discusses the various abortifacient drugs mentioned in the texts and recipes, using information from plant encyclopedias; he includes a useful index of the names of all the animal, vegetable and mineral substances.
facient substances mentioned by the ancients seriously, instead of treating them as anecdotal evidence, and examples of ignorance and superstition.\textsuperscript{202}

[T]heir obviously widespread use may (…) point toward their effectiveness. One is tempted to assume that ineffective principles of this kind would have been abandoned long ago in the vain search of womankind since very early days to avoid unwanted gestations by the least hazardous and least conscience-burdening methods. Only renewed research efforts will verify these notions.\textsuperscript{203}

In the second half of the twentieth century medical historians, such as Brøndegaard, Jöchle and Riddle, published studies that use modern botanical and pharmacological research to determine the (degree of) efficacy of the plant-based abortifacients mentioned in ancient and medieval sources.\textsuperscript{204} Important in this respect is the historian John Riddle’s work as a bridge-builder between medical history and modern pharmacy. In \textit{Eve’s Herbs} Riddle lists eighteen herbs and herb families that are regularly mentioned in historical sources as abortifacients and contraceptives.\textsuperscript{205} He cites laboratory experiments that indicate that most of these herbs are now still considered effective as contraceptives and/or (early stage) abortifacients. One could say that the outcome was to be expected, given the persistence of the ‘evidence’ in the historical sources, but for some the first results of work done in this area came as a surprise. Breaking down the walls between scientific disciplines can be a two-way street that can benefit both parties, because ancient plant recipes might point modern drug research in the direction of safe, reliable and effective methods of birth control and abortion. A quotation from Jöchle on contraceptives:

\begin{quote}
Not all of them (…) are acceptable today due to undesirable side effects or toxicity (…) a thorough study of these drugs (…) may hopefully lead to the discovery of active and safe compounds leading toward new once-a-month pills (…).\textsuperscript{206}
\end{quote}

The introduction of modern scientific research on the chemical properties of plants and herbs into the history of medicine has demonstrated that some of the ingredients of ancient recipes for emmenagogues, purgatives, contraceptives and abortifacients could have worked.\textsuperscript{207} We no longer have to rely on ‘persistence of evidence’ as ‘proof’, but now know for sure that some of the abortifacients were effective.

\begin{itemize}
\item Cf. Grattan & Singer 1952, p. 94: “Anglo-Saxon medicine (…) is the last stage of a process that has left no legitimate successor, a final pathological disintegration of the great system of Greek medical thought”\textsuperscript{208}
\item Jöchle 1974, p. 427, p. 437 on contraception - an observation that also can be made for abortion.
\item In 1964 V. J. Brøndegaard published a short, comparative study of the poisonous, abortifacient plant \textit{juniperus sabina} - sometimes called \textit{Kindermord} (p. 344) - in ancient, medieval and modern medical, literary and historical sources, including the Scandinavian sagas. Brøndegaard describes the qualities and uses of this plant that was forbidden in some municipal parks, using modern herbals and pharmacological handbooks.
\item Wolfgang Jöchle (1974) compared emmenagogic (and abortifacient) plants mentioned in Dioscorides and two early printed Latin herbals by Loniferus and Uffenbach to information in two modern pharmacognostic manuals. He found that many of the plants are still considered to be emmenagogues and abortifacients.
\item More recently comparative historical research on abortifacient and contraceptive plants was done by John Riddle, see: for instance, Riddle 1992 and Riddle 1997. Other authors who “called for a reassessment of received biases toward medieval medicine” are named by Van Arsdall 2008, p. 138 (M. L. Cameron, M.A. D’Aronco, Monica Green, Gundolf Keil, Michael McVaugh, Nancy Siraisi, Jerry Stannard and Linda Voights).
\item Pomegranates, silphium, pennyroyal, artemisia, rue, Queen Anne’s lace, myrrh, squirting cucumber, juniper, aloes, dittany, chaste tree, birthwort, asarum, male fern, willow, cypress, and the mint family, cf. Riddle 1997, pp. 40-63.
\item Comparative historical plant research is still in its infancy. There is still a lot of work to be done, such as the determination of the plant names, the identification of the plants and plant species in ancient recipes, the plants available in ancient Europe and the species that are now available, the exotic herbs that were available, the indigenous herbs that were substituted for exotic herbs, etc.
\end{itemize}
Table 4.2: Soranus, Caelius Aurelianus and Priscianus on the dangers of contraceptives and abortifacients, especially suppositories and pessaries.

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<td>1.19.62. But one should beware of things [contraceptive pessaries] which are very pungent, because of the ulcerations arising from them.</td>
<td>84. set erunt declinanda que forte fuerint acriora. ex hiis enim sepius ulcerationes fient.</td>
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<td>1.19.63. In our opinion, moreover, the evil from these things [contraceptive and abortifacient remedies] is too great, since they damage and upset the stomach, and besides cause congestion of the head and induce sympathetic reactions.</td>
<td>85. primo enim corruptunt stomachum et caput inflant inlato consensu.</td>
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<td>1.19.65. (...) afterwards one must apply an abortive vaginal suppository. Of the latter one should choose those which are not too pungent, that they may not cause too great a sympathetic reaction and heat.</td>
<td>88. addito pessario corruptivo quod erit ex plurimis lenius eligendum.</td>
<td></td>
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<tr>
<td>1.19.65. Another vaginal suppository which produces abortion with relatively little danger.</td>
<td>89. est etiam collirium quod sine periculo faciat abhorsum,</td>
<td></td>
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<tr>
<td>1.19.65. In addition, many different things have been mentioned by others; one must, however, beware of things that are too powerful and of separating the embryo by means of something sharp-edged, for danger arises that some of the adjacent parts be wounded.</td>
<td>89. multa preterea alia et ab aliiis conscripta sunt, set erunt evitanda que forte fuerint nimiris percutienda.</td>
<td>27. (...) sed quoniam his inconsiderate frequenter ita rebus gestis, vi et vapore adhibitarum specierum haemorrhagiae pro-venerunt, per quas et vulnerationes paene incurabiles cursus laesas feminas occupaverunt, ad haec nos quibus valemus tandem adutoris salubribus obviamus.(^{208})</td>
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\(^{208}\) *Priscianus, Gynaecia* 27. Da aber in diesen Fällen sehr häufig überlegt verfahren wird, und durch die starke und hitzige Wirkung der Mittel Blutungen hervorgerufen werden, durch die auch Verletzungen und ein beinahe unheilbarer Zustand der Frauen erzeugt werden, so will ich die Heilmittel angeben, durch die man diesen Fällen entgegentreten kann’ (Meyer 1909, p. 294).

\(^{209}\) Caelius Aurelianus often translates only part of Soranus’s Greek text.
CONCLUDING REMARKS

The subject of this book on abortion is generally regarded as ‘sensitive’, both morally and politically speaking. It is a subject about which people can have strong moral convictions, and it can arouse strong emotions. It can divide people into camps, and impassioned opinions can cloud a person’s judgment and cause people to lose their objectivity. ‘Medieval abortion’ presents an extra problem, because the idea that ‘medieval’ is synonymous with ‘ignorant’ is a rather persistent misconception. The reaction to the subject of my research is often: ‘but people did not commit abortion in the Middle Ages, did they’, or ‘they did not know anything about abortion or reproduction, did they’. A professor of medical history was even heard to say that people did not know how babies were made in the Middle Ages. There is no reason to assume that conception and reproduction were mysteries to medieval women and men. As in our day and age there were people who knew a little, those who knew more, those who had a faint idea, and those who had no idea at all. Nor is there any reason to assume that women did not have unwanted pregnancies in the medieval period.

Moral opinions, prejudice, presuppositions and preconceived notions about abortion and medieval society can interfere with objective textual interpretation. For instance, Roy Barkley allows his religious and moral convictions on the subject of abortion to prevent him from considering the possibility that abortion happened:

- The idea that a mother might not want a child was practically unheard of, and would have been universally regarded as a callous rejection of maternal feelings - or at least duties - enjoined upon her by the natural moral law. Children were regarded as a joy and a blessing.
- Abortion - that idea would have occurred to the woman only in the rarest of cases (…).
- A society imbued with the Christian ethos, where these crimes are less likely to be contemplated.

Sheila Dickison notes that Enzo Nardi falls into the trap of anachronism in her review of his impressive collection of classical and late antique texts on abortion:

(…) by espousing the right to life argument Nardi is surely imposing our own categories and concepts on pre-Christian thinking. For the abortion question this is a doubly serious fault, because such a view is a single-faceted way of looking at a complex problem.

Overeagerness to believe in medieval women’s knowledge of contraceptives and abortifacients can also lead to anachronism:

Thus knowledge of anti-fertility plants, and how and when to take them, appears from the evidence - scant though it is - to belong to a female culture. Some of the medicinal plants were also salad plants. The implication (…) is that women were eating plants, such as rue and dill, from the same bowl as men who may not even have been aware of what was going on. One must suppose that the women knew what to eat, when and how often, and they would appear not to have learned this through books.

Riddle’s suggestion that medieval women ate (daily?) bowls of salad containing contraceptive herbs seems to be a bit over-enthusiastic.

Imposing modern research standards on ancient and medieval medicine can also lead to anachronism. In his article “Contraception and Abortion in the Greco-Roman World” Plinio Prioreschi concludes that “ancient physicians did not have at their disposal effective contraceptives and abortifacients other than those that acted mechanically.” Prioreschi suggests that, if contraceptives and abortifacients had been effective, they would have been responsible for the population declines that are attested in some periods of classical antiquity. He

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210 Cf. note 13 of the ‘Introduction’.
214 Jobse 1995, p. 158: “De salade is een gerecht dat uit de late middeleeuwen dateert”. In her book on Anglo-Saxon food and drink Hagen mentions “green salads with onions, garlic, oil, vinegar and salt dressing” (Hagen 1994, p. 126).
dismisses Riddle’s claims that some of the herbal recipes contained active abortifacients, because “some passages suggest that they were not always effective”. He concedes that some plants could have been effective, but fails to acknowledge the competence and experience of ancient physicians:

as a general rule, the finding that among the many plants used for a particular purpose some have the pharmacological capacity of producing the desired effect does not allow us to conclude that the ancient physician used them because he knew that they possessed such a capacity.

Prioreschi concludes “that the effective plant was included in the therapeutic regimen by chance”. He requires that a plant should be used “more than others in the particular clinical situation”, and that the right doses and the right usage must be prescribed for an ingredient to be called an effective abortifacient. By judging ancient (and medieval) herbal abortifacients by the standards of modern pharmacological research, and demanding the same high degree of safety, effectiveness and reliability, Prioreschi confuses effectiveness and reliability. The fact that ancient (and medieval) abortifacients were not as reliable as modern, lab-tested abortifacients does not mean that they could not be effective. Many ancient and medieval recipes for abortion probably worked, and physicians, midwives, herbariae, and wise women knew this based on generations of trial and error - mostly transmitted orally. The fact that the drugs were not always reliable, was probably well-known, and accepted as a fact of life.

The various texts studied in this book indicate that both intentional and violent abortion happened and were punished, but not always in the same way and to the same extent. Some condemn abortion, others only prohibit poisoning. In Roman law supplying abortifacients is punished, because abortifacient drugs were classed as dangerous poisons. The Roman law on poisoning was enacted to protect people from being poisoned, not to protect unborn life. The classical world takes a scholarly interest in the fetus and its development, but has no qualms about ending pregnancy. It is not interested in the fetus, unless inheritance or property is involved. Christianity is concerned with the protection and preservation of life, including the life of the fetus. It considers abortion to be the murder of unborn life. The Aristotelian distinction between a ‘formed’ and an ‘unformed’ fetus is found in the Septuagint version of the biblical law on abortion and in the writings of most of the western Church Fathers, especially Augustine. It is regularly used in the penitentials to differentiate between early term and late term abortion. Late term abortion is regarded as murder, because the fetus was ‘formed’ or ‘ensouled’, and early term abortion is a less serious sin, because the fetus was not yet recognizable as a human being. Only one Old Germanic law punishes intentional abortion by the mother, the others punish ‘supplying’, and as in Roman law abortifacients are regarded as poisons. Old Germanic law on abortion by assault punishes causing a woman to abort as murder or as a serious injury equivalent to a major amputation. Some of the secular laws also employ the Aristotelian criterion for abortion. If my suggestion that the Old Germanic laws on violent abortion can be reinterpreted is followed, secular law can also punish intentional abortion. Usage of the Aristotelian criterion for abortion in secular and ecclesiastical law can be interpreted as a loophole for women contemplating abortion, because early stage intentional abortion is punished as a lighter offense.

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217 Prioreschi 1995, p. 82. The author also ignores the fact that many recipes could be prescribed for a number of different ailments, and that this might also have to do with the often large amount of different ingredients.
218 Christian texts are greatly concerned with the ‘morality of abortion’, and the morals of those who resort to abortion. Not only is abortion a sin, but many of the motives for abortion are in themselves also serious sins.
219 Christianity is concerned for the fate of the fetus, which is the reason that denying baptism to a newborn baby is punished.
The various texts by no means present a consistent picture of early medieval abortion. If we look at the stand-
points and opinions on abortion and the punishment of abortion in our own time, we see that they fluctuate
every few years. The main-stream opinions sometimes tend to be strict and uncompromising, opposing abortion
whatever the circumstances, but a few years later they can become more lenient and tolerant. Laws are regularly
altered to reflect the current main-stream (political) opinions. The same probably holds good for western Euro-
pean society in the early medieval period. Because the early medieval period covers about six centuries and a
huge geographical area, we should not try to read consistency into early medieval texts on abortion, nor expect
or want the laws to be consistent. However, one thing is clear. There are so many condemnations and prohibi-
tions of abortion in the early medieval secular and ecclesiastical laws, the writings of the Church Fathers, and
especially the texts of practical Christianity - the sermons and penitentials - that it cannot be denied that abortion
happened. The reasons women committed abortion did not significantly differ from those of today, and a wide
variety of methods of abortion could have been used and were apparently available.\footnote{Schmidt 1924, Lopez & Raymond 1955, Miller 1969 on the availability of some of the more ‘exotic’ ingredients in the
recipes. Cf. also: Van Ardsdall: “As to claims that most of the plants would not have been available outside the Mediter-
reanean world, evidence in fact shows that nonnative medicinal plants were grown in monastery gardens and subsequently
some became naturalized to other regions. There was, of course, trade for many items, including medicines. So a pan-Euro-
pean stock of medical supplies was available from very early times” (Van Arsdall 2008, p. 139).

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The method of abortion mentioned most in the Old Germanic laws and Christian texts is the abortifacient po-
ton. One wonders what the recipes for potions looked like, and whether they were easy to prepare. This is the
reason the sample of late antique and early medieval women’s recipes in article IX was added to this book. Of
course, we cannot determine what abortifacient recipes were used. Many early medieval medical manuscripts
are now lost or destroyed; moreover, recipes that were part of the oral tradition - almost by definition - did not
survive the ravages of time. But the evidence of the early medieval medical manuscripts that we do have does
offer some information. Surprisingly, there are very few recipes for abortion. This seems strangely inconsistent
with the references to abortifacient potions in the legal and Christian texts. Sigerist noticed the strange lack of
abortifacients in the early medieval recipe books he edited, and suggested that some of the recipes for the ex-
pulsion of a dead fetus, difficult birth and menstrual retention were probably ‘verschleierte Abortivmittel’. Sigerist
is probably right, and it seems possible that the abortifacient ‘indications’ of these - mostly originally Greek -
recipes were edited out, just as pessaries were also almost completely edited out of these recipe books.
The sample of recipes shows us that there were a few recipes for abortifacients, and it suggests that some of the
abundant recipes for emmenagogues and purgatives could also have been used as abortifacients.

The recipe books bring us to the question of literacy and accessibility. The fact that written medical texts - but
also laws and Christian teachings - were in the first place available only to an upper class of educated, mostly
male literates complicates our understanding of the transmission of medical and normative information on abor-
tion. The Greco-Roman recipes were part of the literary tradition, and first-hand knowledge was therefore re-
stricted to the literate, that is, doctors, monks with medical training, and possibly some midwives. There was a
low rate of literacy among women, so that it seems as if the recipes could hardly have reached the women they
were written for. Either the recipes were only known to the literate or other methods of transmission were also
used. In the preface to his translation of Soranus’s \textit{Gynaecia} Muscio tells us that his \textit{Gynaecia} was meant to be

\footnote{It is very likely that recipes were transmitted in the same way. It is also very likely
that there was a separate oral tradition in which recipes and advice on gynecological matters were handed down

220 Schmidt 1924, Lopez & Raymond 1955, Miller 1969 on the availability of some of the more ‘exotic’ ingredients in the
recipes. Cf. also: Van Ardsdall: “As to claims that most of the plants would not have been available outside the Mediter-
reanean world, evidence in fact shows that nonnative medicinal plants were grown in monastery gardens and subsequently
some became naturalized to other regions. There was, of course, trade for many items, including medicines. So a pan-Euro-
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220 Schmidt 1924, Lopez & Raymond 1955, Miller 1969 on the availability of some of the more ‘exotic’ ingredients in the
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some became naturalized to other regions. There was, of course, trade for many items, including medicines. So a pan-Euro-
pean stock of medical supplies was available from very early times” (Van Arsdall 2008, p. 139).

from woman to woman and from mother to daughter. Oral recipes probably circulated among illiterate, semiliterate and literate women for generations. Some of them may occasionally have been absorbed into the literary tradition, but chances are that many of these oral recipes were ultimately lost. The language of these recipes would have been the regional vernacular, and not the medieval Latin language of literacy. That the recipe books and herbals - which also contained many recipes - were considered useful is apparent from the fact that we have relatively early Old English translations of important medical texts, such as the Old English *Herbarium*. This indicates that the literary and oral medical traditions were not completely separate. However, information on the methods, recipes and other practical medical aspects of abortion was probably mainly transmitted orally. With regard to the laws the illiterate were probably informed periodically through law speakers or asegas. The tenets and rules of Christianity reached the illiterate masses on a more regular basis, because they were conveyed through the texts of practical Christianity, the sermons and penitentials.

Whereas abortion is now a relatively safe procedure, this cannot be said for medieval abortion. It was a risky procedure. The repeated warnings in the laws and Christian texts indicate that abortifacients could be dangerous and poisonous, not only lethal for the unborn child, but also potentially lethal for the mother. Chances were that the mother would not survive the procedure: she could be poisoned or bleed to death as a result of complications. Being pregnant itself involved risks, miscarriages were probably not infrequent, and maternal and infant mortality were high, but having an abortion was probably more dangerous than carrying a pregnancy to full term. Why, then, was intentional abortion committed? Why did women resort to abortion? The Christian church condemned and outlawed it, considered it morally reprehensible, equated it with murder, and punished it as a serious sin, and whether secular law punished intentional abortion or not, it certainly penalized those who aided and abetted. All in all abortion hardly seems to be a choice worth considering, if all the facts are laid on the table. But women did consider it, and they carried it out despite warnings of toxicity and health risks, the lack of a guarantee of efficacy, and rational, legal and moral objections. Sometimes the other options such as infanticide, exposure or abandonment were simply not feasible, and a decision to abort cannot be put off for very long. The anguish, the fear the pregnancy would be discovered, and the fear of the consequences probably increased the woman’s stress, putting pressure on her, so that decisions were made quickly, and sometimes naïvely, ignoring the warnings, objections and prohibitions. In most cases abortion must therefore have been a last resort, and whatever the original motive for abortion was, it is clear that desperation was - and still is - an important factor in the decision to abort. Interestingly, some of the penitential authors seem to feel compassion for poor women who are driven to abortion. They seem to understand that a woman expecting a child she cannot take care of can be at her wit’s end.

The question ‘how often were abortions committed’ is difficult. As we saw above, Prioreschi claims that there would have been a significant impact on population growth, if ancient contraceptives and abortifacients had been effective, that is, usage would have been reflected in a slump in the birth rate. Again I think that Prioreschi is implicitly and anachronistically transposing the effects of our use of contraceptives and abortifacients into the

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222 In many books and articles on ancient and medieval abortion references to Greek and Latin texts are quoted freely and randomly without taking into account the fact that the knowledge of Greek was fading in early medieval western Europe, and that early medieval Latin and vulgar Latin were gradually evolving into written languages, while at the same time the Romance vernaculars were developing, and in other parts of western Europe only a regional Germanic vernacular was understood. Quoting Greek and Latin texts at random without regard for the time frame or the region under discussion - often unjustifiably - conveys the impression that these texts were known, permanently available and understood.

medieval past. The two periods cannot be compared without more historical research on the birth rates in early medieval western Europe. Moreover, the factors that determine population growth should be comparable variables. There are at least three factors that differ significantly and must be reconciled in some way before a comparison between the two timeframes can be made: the safety, effectiveness, and reliability of the drugs, the rates of infant and maternal mortality (which are now low compared to the early medieval period), and the social acceptance of family planning. The last factor is very important. Nowadays family planning is usually socially accepted as a basic human right. The same cannot be the same for the early medieval period. This means that the scale on which abortion was practised and birth control measures were implemented, cannot have been the same as it is now. For example, today the use of oral contraceptives is considered a ‘normal’ part of family planning. The evidence presented here indicates that abortion happened, but we must not overrate or overstate it, and its occurrence cannot certainly be said to have been ‘widespread’, nor was it as easy to ‘arrange’ an abortion as it is today. Abortion was one of the methods of fertility regulation early medieval women resorted to - probably in circumstances of desperation. How often abortion was committed cannot be determined, but that it happened is evident, and it happened so frequently that secular and ecclesiastical authorities noticed it and condemned it. The early medieval texts studied in this book indicate that women were the ones who were punished for fertility management, and also that they were the ones who were responsible for family planning - men are hardly mentioned. Women were also the ones who took responsibility, and in many cases probably no one else besides the pregnant woman and her (female) helpers would ever know about the abortion. It seems that resourceful women would have been aware of how their bodies worked, they would have known what to do, and whom to consult, when coping with an unplanned pregnancy and an unwanted child.

The studies in this book are certainly not the last word on early medieval abortion. Much more work remains to be done to complete the picture of abortion in the early medieval West. For instance, as yet unedited early medieval sermons need to be edited and studied, and studies on contraception, infanticide, abandonment and fostering need to be integrated into the studies on abortion, so that a more complete picture of early medieval family planning can be created. The evolution of the meaning of the words *maleficium* and *veneficium* needs to be studied in order to see when (and if) their double meaning ‘poison’ - ‘magic’ tilts over into ‘magic’ - ‘poison’, and if (and how) an association with (women and) superstition emerges in the later medieval period. I plan to publish the overview of Old Germanic law on abortion (chapter 1) and the analysis of the early medieval penitential articles on abortion (chapter 3) separately, and I intend to finish my inventory of the ancient and early medieval medical texts and recipes on abortion and women’s diseases that were available in the early medieval West, both those written in Latin and those written in the Old English vernacular (the Old English *Herbarium* and Leechbooks).

Many studies of medieval abortion have appeared in the past twenty or thirty years. The studies in this book focus on Old Germanic law on abortion. An unpublished sample of late antique and early medieval women’s recipes in sixth-, seventh- and eighth-century recipe books was added, because I was curious if there were any recipes on abortion. The articles on later medieval Old Frisian law were included, because of the interesting and unique ‘hair and nails’ abortion criterion. In chapter 2 a short overview of past research on ecclesiastical and theological texts on abortion was expanded with an original study of early medieval penitentials. In my textual analyses I have tried to let the texts speak for themselves, so to speak, reading between the lines. The studies of Old Germanic law, ecclesiastical law and early medieval penitential texts included in this book
indicate that abortion was one of the methods of fertility management in the early medieval West, along with other methods of reproductive control such as contraception, infanticide, exposure, abandonment, coitus interruptus, non-fertile intercourse, abstinence or sexual restraint, celibacy and late marriage. This study hopes to have contributed to the study of abortion in the early medieval West. I hope to have been able to show that, whether one is pro or contra, the condemnations and prohibitions of abortion in the early medieval secular and ecclesiastical texts indicate that abortion happened.