

MISCELLANEOUS BIBLICAL STUDIES

CHAPTER TWENTY ONE

THE SEPTUAGINT HAS THE CORRECT TRANSLATION OF EXODUS 21:22–23

BY

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THE SEPTUAGINT HAS THE CORRECT TRANSLATION OF EXODUS 21:22–23

When Nina Collins (1993: 290) concluded with reference to Exo 21:22 "Yet the verse as a whole fails to make sense" she was referring to the Hebrew Masoretic text of this verse and its many variant translation, not to the Hebrew *Vorlage* behind the Greek translation in the Septuagint, a translation which makes perfect sense. Consider first the Masoretic text and its varied translations.

EXODUS 21:22–23 (MT)

וְכִרְיַנְצָו אֲנָשִׁים וּנְגַנְפֹּו אֲשָׂה הָרָה
וַיֵּצֵא יְלִדִיה וְלֹא יְהִי אָסֹן
עַנוֹשׁ יַעֲנֶשׁ כַּאֲשֶׁר יִשְׁתַּחַט עַלְיוֹ בַּעַל הָאֲשָׂה
וְנַתֵּן בְּפֶלְלִים:
וְאִם־אָסֹן יְהִי וְנַתֵּתָה נְפֵשׁ תְּחַת נְפֵשׁ:

KJV

"If men strive, and hurt a woman with child, so that her fruit depart *from her*, and yet no mischief follow: he shall be surely punished, according as the woman's husband will lay upon him; and he shall pay as the judges *determine*. And if *any* mischief follow, then thou shalt give life for life."

Targum Onkelos¹

וְאִרְיִ יַצֵּן גְּבָרִין וּמְחוֹן אִיתְחָא מְעִדְיא
וּנְפֻקָּן וְלִדְתָּא וְלֹא יְהִי מוֹתָא אִיתְגַּבָּאָה יְתַגְּבֵי
כְּמָא דִישְׁיִי עַלְוָה בַּעַלְהָ דְאִיתְחָא וְיַתֵּן מְמִימָר
דִינְיָא וְאִם מוֹתָא יְתִי וְתִיתְחַיֵּן נְפֵשָׁא חַלְפֵי נְפֵשָׁא:

Etheridge's Targum Paraphrase²

"If men when striving strike a woman with child, and cause her to miscarry, but not to lose her life, the fine on account of the infant which the husband of the woman shall lay upon him, he shall pay according to the sentence of the judges. But if death befall her, then thou shalt judge the life of the killer for the life of the woman."

Once upon a time there were two distinctly different Hebrew words which were spelled consonantly as אָסֹן. There was the well recognized אָסֹן, cited in all the standard Hebrew lexicons, which was related to the Arabic أَسَى (*asaya*) "he grieved or mourned" (Lane, 1863: 61).³ There was also another אָסֹן in the old Israelite and Alexandrian dialects of Hebrew which became lost in the later Judean and Samaritan Hebrew dialects. This lost אָסֹן was related to the Arabic سُوَى (*sawaya*) "he made it equal, he became full-grown in body" and "of regular build and growth" (Lane, 1872: 1478.) This lost אָסֹן which was in the Hebrew *Vorlage* behind the Septuagint has yet to be recognized by the Hebrew lexicographers.

In the KJV, cited above, the MT אָסֹן became "mischief," which appears also in the WEB and YLT. Other English translations include "harm" (ASV, RSV, NRS, NKJ, JPS), "further harm" (NJB), "injury" (NAB), "serious injury" (NIV, NIB), and "further injury" (NAS, NAB, NAU, NLT).

In the Targum, cited above, the MT אָסֹן was translated as וְלֹא יִהְיֶה מַوְתָּא "and there is no death" [of the woman]. A similar interpretation appears in the Vulgate and DRA, which read:

Si rixati fuerint viri et percosserit quis mulierem praegnantem et abortivum quidem fecerit sed ipsa vixerit subiacebit damno quantum expetierit maritus mulieris et arbitri iudicarint. Sin autem mors eius fuerit subsecuta

reddet animam pro anima..

“If men quarrel, and one strike a woman with child and she miscarry indeed, but live herself he shall be answerable for so much damage as the woman's husband shall require, and as arbiters shall award. But if her death ensue thereupon, he shall render life for life.”

Josephus, in *Antiquities* 4: 278,⁴ also made the MT **וְלَا יִהְיֶה אָסֹן** apply to the mother, stating:

“He that kicks a pregnant woman, if the woman miscarry, shall be fined by the judges for having, by the destruction of the fruit of her womb, diminished the population, and a further sum shall be presented by him to the woman's husband. If she die by the blow, he shall also die, the law claiming sacrifice of life for life.⁵

Similarly, the **אָסֹן** which is related to the Arabic (*asaya*) “he grieved, mourned” appears in Genesis 42:38,

וַיֹּאמֶר לְאִיּוֹרֶד בְּנֵי עֲמָקָם כִּי־אָחִיו מַתְּהָוֹת
וְהַוָּא לְבָהּוּ נְשָׁאָר וּקְרָאָהוּ אָסֹן בְּדָרְךָ
אָשָׁר תַּלְכִּידְתָּה וְהַוְּרִתָּתָם אַתְּ־שִׁיבְתָּהִי בֵּין־שָׂ奥ָלהָ:

KJV

“And he said, My son shall not go down with you; for his brother is dead, and he is left alone: if mischief befall him by the way in the which ye go, then shall ye bring down my gray hairs with sorrow to the grave.”

Targum Onkelos

“But be said, My son shall not go down with you; for his brother is dead, and he alone remains of his mother; and if death should befall him (**מוֹתָא**) in the way that you go you will bring down my age with mourning to the grave.”

Septuagint

ὁ δὲ εἶπεν οὐ καταβήσεται ὁ υἱός μου μεθ' ὑμῶν ὅτι ὁ ἀδελφὸς αὐτοῦ ἀπέθανεν καὶ αὐτὸς μόνος καταλέλειπται καὶ συμβήσεται αὐτὸν μαλακισθῆναι ἐν τῇ ὁδῷ ἥ ἂν πορεύησθε καὶ κατάξετε μου τὸ γῆρας μετὰ λύπης εἰς ἣδου

“But he said, My son shall not go down with you, because his brother is dead, and he only has been left; and *suppose* it shall come to pass that he is afflicted by the way by which you go, then you shall bring down my old age with sorrow to Hades.”

All of the above translations which read the נָסֹן as נָסֹן

“mischief, harm, injury, death” can be recognized as extensions of the basic meaning of the Hebrew lexeme which was related to the Arabic أَسَى (*asaya*) “he grieved, mourned.” Even the μαλακισθῆναι “to be afflicted” in the Septuagint of Gen 42:38 can be so identified—as well as the נָסֹן in Gen 42:4, γάρ μήποτε συμβῇ αὐτῷ μαλακίᾳ, “lest disease befall him,” and in Gen 44:29, οὐκέτι οὐδὲν οὐδὲν, καὶ συμβῇ αὐτῷ μαλακίᾳ, “lest disease befall him.” Even the נָסֹן in the Hebrew text of Sirach 41:9 (which was published by Cowley and Neubauer⁶ can be related to the Arabic أَسَى (*asaya*) “he grieved, mourned.” It reads as follows:

אִם תְ.... יְדֵי אָסֹן.... לְאַנְחָת
אִם תַכְשִׁלוּ לְשֻׁמָּחַת עֲלֹם וְאִם תִּמְוֹתְוּ לְקָלָלה

If [ye increase, it shall be into]
the hands of bodily mishaps,
and [if ye] begat, it will be for sighing”
If ye stumble it will for perpetual joy;
and if ye die it shall be for a curse.⁷

However, the translation of the נִזְבָּן in the Septuagint of Exodus 21:22–23 cannot be related to this נַזְבָּן which is related to the Arabic أَسَى (*asaya*) “he grieved, he mourned.”⁸ The Septuagint translation of Exodus 21:22–23 reads:

έὰν δὲ μάχωνται δύο ἄνδρες καὶ πατάξωσιν γυναῖκα ἐν γαστρὶ ἔχουσαν καὶ ἐξέλθῃ τὸ παιδίον αὐτῆς μὴ ἐξεικονισμένον ἐπιζήμιον ζημιώθησεται καθότι ἀν ἐπιβάλῃ ὁ ἀνὴρ τῆς γυναικός δώσει μετὰ ἀξιώματος ἔὰν δὲ ἐξεικονισμένον ἦν δώσει ψυχὴν ἀντὶ ψυχῆς

Brenton’s Translation

“And if two men strive and smite a woman with child, and her child be born imperfectly formed, he shall be forced to pay a penalty: as the woman’s husband may lay upon him, he shall pay with a valuation. But if it be perfectly formed, he shall give life for life.”

In addition to the well recognized נִזְבָּן which was related to the Arabic أَسَى (*asaya*) “he grieved, mourned,” there was, as noted above, also the word נַזְבָּן which was related to the Arabic *sawayha* “he made it equal, he became full-grown in body” and “of regular build and growth.”⁹ This נַזְבָּן is a perfect match for the Septuagint’s ἐξεικονισμένον, “to make like, to be perfectly/fully formed.”¹⁰ Thus the נַזְבָּן in the *Vorlage* of the Septuagint could have been read as נַזְבָּן (*aswon*) or נַזְבָּן (*aswan*) from the stem סָוָה — with (a) a prosthetic נ,¹¹ (b) an affixed נ,¹² and (c) the נ of the נַזְבָּן being a consonant rather than a vowel letter.¹³

Contra the MT plural וַיֵּצְא אֶל־דִּינָה “and her children come out,” the Septuagint has the singular καὶ ἐξέλθῃ τὸ παιδίον αὐτῆς, “and her child came out,” which is in agreement with the Samaritan

Pentateuch which has the singular וַיָּצֹא וְלֶדֶת. Once the singular “and her child came out” is in focus it becomes obvious that the subject of the masculine singular verb יִהְיֶה in the phrase וְאֵם אֲסֹן יִהְיֶה אֲסֹן (v. 22) and וְלֹא יִהְיֶה אֲסֹן (v. 23) is the singular “her child,” permitting the following translation of these phrases: “... her child come out but he is not fully formed, ... but if he is fully formed. . . .” The masculine לֶדֶת “child” is obviously gender inclusive like the מִנְחָה “man” in Gen 1:27 and 5:2.

Simply by substituting the antecedent noun *child* for the pronoun *HE* the Septuagint text in 21:22–23 stipulated:

“And if two men strive and smite a woman with child, and her *child be not fully formed*, he shall be forced to pay a penalty as the woman's husband may lay upon him, he shall pay what seems fitting. But if the *child be fully formed*, he shall give life for life.”

This law was so perfectly clear that Sprinkle (1993:247) well noted:

The penalty paid is assessed on the basis of the stage of the development of the dead fetus. The rationale for this view is that the later the stage of pregnancy, the more time has been lost to the woman, the greater the grief for the loss of a child, and the more difficult. This may have been the view of the LXX, which paraphrases וְלֹא יִהְיֶה אֲסֹן as “imperfectly formed child” and translates בְּפָלוּלִים “with valuation.” Furthermore, Speiser’s¹⁴ view gains credibility in that penalties for miscarriage actually do vary with the age of the dead fetus in the parallel ancient Hittite Law §17, which states, “If anyone causes a free woman to miscarry—if (it is) the 10th month, he shall give ten shekels of silver, if (it is) the 5th month, he shall give five shekels of silver and pledge his state as security.”¹⁵

A fetus aborted in an accidental miscarriage which is not fully formed—nor equal to an infant born prematurely—was to be treated as *property*.¹⁶ However, if the aborted fetus was fully formed—and equal to an infant born prematurely—it was to be treated as a *person*. A *property* which is accidentally destroyed called for a fine to be paid by the destroyer. But the *lex talionis* became applicable when a *person*—including a fully developed fetus—was accidentally injured or killed. Accordingly, in Mosaic law a woman's fertilized egg or an imperfectly formed fetus was not considered to be a נָפֶשׁ, a *person*.¹⁷ Only a fetus that was אָסָוֹן / אָסָוָן (^oaswon / ^oaswan) “fully formed” was recognized as a נָפֶשׁ, a *person*.¹⁸

Unfortunately the Septuagint translators were the only ones who recognized the rare *hapax legomenon* אָסָוֹן (= אָסָוָן / אָסָוָן) “fully formed.” They did not confuse it with the well attested נָסָא. But the rare אָסָוֹן / אָסָוָן never made it into the Masoretic or rabbinic texts nor the Hebrew lexicons. Instead every נָסָא in Hebrew became נָסָא, with its various translations cited above: “mischief, injury, harm, death, etc.”

However, Philo followed the Septuagint’s translation of οὐσάν as ἔξεικοντσμένον, “fully formed.” In his *Congressu Quaerendae Eruditionis Gratia*, xxiv 137,¹⁹ he wrote:

And with respect to these matters the following law has been enacted with great beauty and propriety: “If while two men are fighting one should strike a woman who is great with child, and her child should come from her before it is completely formed, he shall be muled in a fine, according to what the husband of the woman shall impose on him, and he shall pay the fine deservedly. But if the child be fully formed, he shall pay life for Life.”{35}. For it was not the same thing, to destroy a perfect and an imperfect work . . .”

Similarly in *De Specialibus Legibun*, iii 108–109,²⁰ Philo wrote:

But if any one has a contest with a woman who is pregnant, and strike her a blow on her belly, and she miscarry, if the child which was conceived within her is still unfashioned and unformed, he shall be punished by a fine, both for the assault which he committed and also because he has prevented nature, who was fashioning and preparing that most excellent of all creatures, a human being, from bringing him into existence. But if the child which was conceived had assumed a distinct shape in all its parts, having received all its proper connective and distinctive qualities, he shall die; for such a creature as that is a man, whom he has slain while still in the workshop of nature, who had not thought it as yet a proper time to produce him to the light, but had kept him like a statue lying in a sculptor's workshop, requiring nothing more than to be released and sent out into the world.²¹

Other than being quoted by Philo the Septuagint translation of Exodus 21:22–23 has not been taken seriously. For example Bernard Jackson (1973: 293) stated:

The LXX and Philo preserve the meaning of the original in that they take *aswn*, both in v. 22 and in v. 23, to refer to the child But if *aswn* refers to the foetus, does not Exod. xxi 23 indicate that causing a miscarriage was treated as homicide, and thus that legal personality was accorded the foetus? Once Exod. xxi 23 is freed from the context forced upon it by the addition of vv. 24–5, this phrase does not have to indicate the death penalty. . . . But though the MT uses *aswn* in reference to the foetus, it is impossible to read into it the LXX's distinction based on viability.²²

William Propp in his Anchor Bible Commentary, *Exodus 19–40* (2006), simply concluded, “this [translation of נִצָּח] as “fully formed.”] cannot be a straight rendering of a Hebrew *Vorlage*.” Having dismissed the Septuagint translation and being unaware of the rare *hapax legomenon* נִצָּח “fully formed,” Propp concluded that the Hebrew text is deliberately ambiguous, stating:

Something comes out of the pregnant woman. There are four possible outcomes: healthy mother and child, dead-or-injured mother and healthy child, healthy mother and dead-or-injured child, and dead-or-injured mother and child.

The Septuagint though is unambiguous: aborted the fetus may or may not be fully formed. Once its form was decided (be it נָסָן or לֹא נָסָן) a penalty was fixed. If it was נָסָן “fully formed” the penalty was death (תְּחִנָּת נֶפֶשׁ). If it was לֹא נָסָן “not fully formed” the penalty was a fine.²³

CONCLUSION

The Septuagint translators understood correctly the meaning of Exodus 21:22–23 which states quite clearly that a fully developed fetus was a person protected by the *lex talionis*, but a fetus which was not fully formed was not a person but was a property properly protected by the *lex pensitationis*. The Hebrew dialect of the Septuagint translators in Alexandria included two words spelled נָסָן, namely, (a) the נָסָן which was translated as μαλακία, “affliction, disease” (Gen 42: 28) and (b) the נָסָן / נָסָן which was translated as ἐξεικονιζομένη, “to be fully formed” (Exo 21: 22–23) The word נָסָן / נָסָן did not survive in the Judean and Samaritan Hebrew dialects.

Thanks to Septuagint translation of Exo 21:22–23 and the Arabic cognate سُوَى (*sawaya*), “he made it equal, he became full-grown in body,” the lost lexeme נָסָן / נָסָן has been recovered. Exo 21: 22–25 can be properly interpreted once the accuracy of the Septuagint translation is duly recognized. This old lost lexeme נָסָן / נָסָן, “fully formed / full-grown,” needs to be included in all the new commentaries of today and the Hebrew lexicons of tomorrow.²⁴

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NOTES

1. A. Berliner, *Targum Onkelos: Herausgegeben und Erläutert.* (Berlin: Gorzrlanczyk, 1884).
2. J. W. Etheridge, *The Targums of Onkelos and Jonathan Ben Uzziel On the Pentateuch With The Fragments of the Jerusalem Targum From the Chaldee.* (2 vols. London: Longman, Green, Longman and Roberts, 1862-1865. Reprinted in one volume by KTAV Publishing House, New York, 1968). The Hebrew אַל־יְהִי מוֹתָא “and there not be death” is paraphrased as “but not to lose her life,” and the נֹאָם יְהִי מוֹתָא became “if death befall her.”
3. See *sub voce*: (a) Francis. Brown, S. R. Driver, and C. A. Briggs, *A Hebrew and English Lexicon of the Old Testament with an Appendix Containing the Biblical Aramaic.* (Boston: Houghton, Mifflin, 2nd ed., 1906; reprint 1962, Oxford: Clarendon Press). (b) David J. A. Cline, *The Dictionary of Classical Hebrew* (Sheffield: Sheffield Academic Press, 1993), and (c) Ludwig. Koehler and W. Baumgartner, *The Hebrew and Aramaic Lexicon of the Old Testament* (Leiden: Brill). (Click here to view Lane, 1863: 61).
4. H. St. J. Thackeray, *Josephus*, Vol. IV [Loeb Classical Library], Cambridge, MA: Harvard University; London: Heinemann, 1967. This quotation from Josephus was also noted by Stanley Isser (1990: 33)
5. In light of all these varied translations it is not surprising that scholars like Nina Collins (1993: 290), as noted above, would conclude ”Yet the verse [21:22] as a whole fails to make sense.” Note the statement of Bernard Jackson (1973: 292), “Exod. xxi 22 refers not to a miscarriage, but rather to a pre-

mature birth, a *Frühgeburt*, not a *Fehlgeburt* In fact, *aswn* did not originally refer to the mother, but to the child.” Compare the following opinion of Joe Sprinkle (1993: 253):

On the other hand, the case of the pregnant woman cannot be used to prove the humanity of the fetus either. Contrary to the exegesis common among certain anti-abortion Christian theologians, the most likely view is that the death of the fetus is to be assumed throughout the entire case. It cannot be proven whether the formula “life for life” applies to the fetus since it occurs in the instance with γίνονται (“serious injury”), which deals exclusively with injuries to the mother. The wording of the case does not rule out the possibility that the fetus was considered subhuman

6. A. E. Cowley and Ad. Neubauer, 1897. *The Original Hebrew of a Portion of Ecclesiasticus (xxxix. 15 to xl. 11) Together with the Early Versions and an English Translation* . . . (Oxford: Clarendon Press), pp. 8 and 10.

7. The Greek text Sirach 41:9 is καὶ ἐὰν γεννηθῆτε εἰς κατάραν γεννηθήσεσθε καὶ ἐὰν ἀποθάνητε εἰς κατάραν μερισθήσεσθέ, “when you were born, you were born to be accursed, and when you die, that curse will be your portion.”

8. Note the conclusion of Stanley Isser (1990: 30):

Either the translators worked from a Hebrew text that differed from MT, i.e., it had a different word in the place of *’âsôن*, or the translation represents an interpretation of *’âsôن*, whose original meaning may have been unclear to the translators. In any case LXX relates *’âsôن* not to the mother but to the fetus—whether it be formed or unformed—and *wenātan bipēlilim* to a determination of the value of the unformed fetus. Thus there were two separate legal traditions concerning the law of Exod 21:22–23, one based on damage to the woman, and one based on the stage or age of the embryo.

9. E. W. Lane, *Arabic-English Lexicon*, 1872: 1478 and H. Wehr, *A Dictionary of Modern Written Arabic*, 1979: 519. The Arabic سوى (*sawaya*) “he became full-grown in body, of full vigour, or mature in body and intellect” is a synonym of بلغ (*balaǵa*) “he attained his manly vigor or full maturity,” which appears in the Qur'an in 12:22, “When Joseph attained his full manhood ([*balaǵa əšuddahu*]), We gave him power and knowledge” (Lane 1863: 250). (Click here to view Lane 1863: 250 or here to view Lane 1872: 1478).
10. H. G. Liddell and R. Scott, *A Greek-English Lexicon*, New (ninth) edition, 1966: 589.
11. Wilhelm Gesenius, *Gesenius' Hebrew Grammar*, E. Kautzsch, editor, A. E. Cowley, translator. 1974: §19^m.
12. Wilhelm Gesenius, *Gesenius' Hebrew Grammar*, E. Kautzsch, editor, A. E. Cowley, translator. 1974: §85^u.
13. Stanley Isser (1990: 42, 45) considered the possibility of emending the נָסָן, stating:
- The Greek version reads *'âsôn* as an adjective referring to the embryo and does not translate it as *malakia*. There have been suggestions that either the Greek translator misunderstood the Hebrew or that his Hebrew *Vorlage* had something beside *'âsôn*. Given its odd appearance in the Hebrew text and the problem of phrasing, the latter is not unlikely. We can only speculate how to emend the original text to give it the sense of “unformed . . . formed.” Was there a term commonly used in reference to a fetus, functionally similar to the rabbinic *ben qayyâmâ* or *mérûqam*? . . . As difficult as it may be to make a case for emending the text, that the reading *'âsôn* may be corrupt should not be dismissed out of hand.

14. E. A. Speiser, “The Stem פָלַل in Hebrew,” *Journal of Biblical Literature* 82 (1963) 536-541.

15. Russell Fuller (1994: 171, n. 8) noted that Albrecht Goetze, (in *Ancient Near Eastern Text Relating to the Old Testament*, edited by James Pritchard) cited this Hittite law on page 190 §17.

16. Note Joe Sprinkle’s statement (1993:247) :

The LXX seems to imply the view that an imperfectly formed child who is not yet viable independently of the mother is not yet fully human; consequently, there can be no case of אֲסֹלֶן (“deadly injury”) in the case of the death of the fetus.

Note that Russell Fuller (1994: 174, 179, 180) argued as follows for the personhood of every fetus:

Consistent with the culture and society of the ancient Near East, the Exodus covenant code also refutes the argument that differences in punishments imply differences in personhood by showing various legal statuses, the parade example being the slave. . . . Hence whereas Exod 21:22 does not directly address the personhood of the fetus, the passage does intimate, by using *yeled* instead of *gōlem* or *nepel*, that the fetus is more than just parental property. It is a *yeled*, a human being, a child, a fetus with personhood. . . . Various Biblical passages and Exod 21:22, by specifying the fetus as a *yeled*, clearly suggest the personhood of the fetus. . . . Exodus 21:22 does not indicate that the Bible values the fetus as less than human or as non-human.

17. In light of the Septuagint’s reading of Exodus 21:22–23 whereby only a fully formed fetus required the *lex talionis* it is impossible to concur with Robert Congdon (1989: 146) who affirmed, “It has been shown that the unborn fetus was regarded as fully human life from the time of conception. However, the valuation placed on the unborn was less than that placed on a

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Hebrew adult or child.” Likewise it is not possible to concur with Meredith Klien (1997: 200) who stated:

It is of particular importance for the Biblical view of the nature of the fetus that the life-for-life formula is applied to the destruction of a fetus, with no qualification as to how young the fetus might be. The fetus, at any stage of development, is in the eyes of this law a living being, for life (*nepes*) is attributed to it. . . . But if it is the fetus of a human mother that is identified by the life-for-life formula as a living being, there can be no question that this living being is a living *human* being.

18. Note the rabbinic conclusions in the Babylonian Talmud, Tractate Niddah III, about a woman’s status after an abortion. (Click here or the text of Folio 21a.)

19. Yonge’s Chapter 18, ”On Mating with the Preliminary Studies,” which he entitled “A Treatise on the Meeting for the Sake of Seeking Instruction.” (Click here.)

20. Yonge’s Chapter 29, Special Laws III, which he entitled *A Treatise on Those Special Laws Which Are Referrable to Two Commandments in the Decalogue, the Sixth and Seventh, Against Adulterers and All Lewd Persons, and Against Murderers and All Violence.* (Click here.)

21. The references to Philo’s following the Septuagint were well noted by Nina Collins (1993: 292 note 14).

22. Jackson (1973: 293) argued at length that Exo 21:24–25 was a late interpolation, noting,

Only the LXX and PHILO (*DSL*. iii 108–9) took the view that the death of a foetus could be homicide, by interpreting Exod. xxi 23 to mean that if a viable foetus was miscarried, the penalty was death. The view of the interpolator of vv. 24–5 was reaffirmed by the Rabbis, who gave damages, whether the

foetus was viable or not.

23. Given the fact that the Latin technical term *lex talionis* was not available to Moses and the lawyers who followed him the *lex talionis* was fully spelled out in verses 21:23–25. These three verses in the MT could be paraphrased simply as “If any harm follows, then you shall implement the *lex talionis*. ”

24. The Septuagint translation of Exo 21:22–23, which is the oldest available translation of the Hebrew Scriptures, needs to be included in the current political debate about whether or not *personhood* begins at conception or when an embryo is fully developed.

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