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Eat What You Kill: Or, a Strange and Gothic Tale of Cannibalism by Consent

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Cover Page Footnote

International Law; Commercial Law; Law

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Dr. Charles J. Reid, Jr. †

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I. The Cannibal's Conundrum

It is a law professor's dream hypothetical, the sort of question students would chuckle at as something so far-fetched as to be impossible. Suppose two men meet over the internet. One has had a lifelong desire to eat another human being; the other has had lifelong desire to be eaten. They exchange consent not once, but repeatedly, videotaping their consent, signing a formal "willingness agreement," and performing other acts making clear the total resolve of the victim as well as the cannibal. Suppose, further, that when the cannibal loses his nerve, it is the victim that

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spurs him on to complete the deed. Suppose further that all of this is captured on videotape. Suppose, also, that the cannibal, who is a very legalistically-minded individual, had released a number of prospective victims because it was clear that they failed to give the same level of free, informed, and repeated consent. Suppose, further, that while there was certainly evidence of emotional unwellness on the part of both men, they were able to hold executive-level responsibilities, maintain friendships, and otherwise assume a large range of everyday duties. Suppose, finally, a statutory regime that did not punish cannibalism and only lightly punished assisted suicide. May the cannibal eat the "victim" under such circumstances?

Such a case actually occurred in Germany in the years between 2002 and 2004. The facts and the trial electrified that nation and much of the world. Two German computer specialists, Armin Meiwes and Bernd Brandes, engaged in precisely this set of behaviors, culminating in Armin's slaughter and consumption of Bernd. This case has attracted significant scholarly attention in legal and criminological circles, which is detailed towards the close of this Article.¹ Michael Sandel, the Harvard legal philosopher, has written about the case, as has Lawrence Friedman, the legal historian at Stanford.² But the case itself has never been subjected to a full-scale English-language analysis. It is the intention of this Article to fill this notable gap in the scholarship.

A second purpose of this Article is to raise questions about the nature and limitations of consent-based jurisprudence. For it seems that a system of law grounded on autonomy and consent, *and nothing more*, is incapable of responding coherently to the facts of this case. Commentators are led either to unqualified, unconditional support for the cannibal and his victim, and believe that their actions can be justified on libertarian premises; or, alternatively, they are horrified at the facts of the case but lack the framework to construct a reasoned alternative jurisprudence of the case.

It is beyond the scope of this Article to construct that alternative jurisprudence in the context of a single law review

¹ See *infra* Section XIII.

² See *infra* notes 799-800 and accompanying text.

article, though some constructive avenues of further investigation shall be developed in the conclusion. But it is not necessary at this stage of investigation to formulate a fully-developed alternative to consent-based jurisprudence. That would be a very large undertaking, indeed.³ This Article, rather, is focused on five related points: first, it will offer a careful reconstruction of the facts of the case and the relevant personalities; second, it will review and analyze the German law that was employed in the trial and the appeal; third, it will evaluate the legal theories used to justify the trial court's verdict and the appellate review; fourth, it will carefully consider existing scholarship on the case, touching especially on some of the weaknesses in current interpretations; and finally, it will conclude that the cannibal and his victim were not justified in their actions.

The method in proceeding is to rely heavily on a narrative history of the case to expose the legal and philosophical issues. Without a careful reconstruction of the facts, it is impossible to understand the degree to which both parties acted freely and non-coercively. And that is what, in the end, makes the case both difficult and significant jurisprudentially: Armin Meiwes and Bernd Brandes did everything one could reasonably expect of two persons consenting to perform a momentous act, and yet society is left deeply uneasy at the final result of their consensual acts.

II. *Essen*

"To eat!" As a verb *essen* carries the meaning of "to eat everything up," "to overeat, to overindulge (in food)[,]" to bask in a warm celebration of friendship and family.⁴ As a noun, *Essen* signifies an abundant table, a feast, a gourmand's infatuation.⁵ Dining delight, gustatory pleasure, a sense of satiety, of fullness, of richness, the joy that comes from quenching one of our most primal, animal urges—the need to eat—these are the connotations suggested by verb and noun alike.⁶

³ I hope to develop these arguments further in a future law review article.

⁴ COLLINS GERMAN DICTIONARY 231 (3d ed. 1997).

⁵ *Id.*

⁶ See, e.g., ANDREA GOLATO, COMPLIMENTS AND COMPLIMENT RESPONSES: GRAMMATICAL STRUCTURE AND SEQUENTIAL ORGANIZATION 80 (2005) (discussing the various cultural nuances involved in gustatory expressions, specifically in response to ingesting cantaloupe).

But if the verb and noun summon up deep feelings of contentment and wellbeing, *Essen* is also a place-name. And it is the city behind the place-name that helped shape and form the earliest years of Armin Meiwes, the German cannibal.

One can recite the tired, worn-out clichés about how Armin was raised in a troubled family of origin, about how his diffident, indifferent father abandoned the family when Armin was not yet nine-years-old, about how his mother, a strong-willed dominatrix of a woman towered over the family clan, commanding but also repulsing those who were nearest to her. But before any of this, there was Essen, the place where Armin was born in December, 1961.⁷

Essen had been around for centuries, long before there was even a political unit known as “Germany.”⁸ By the dawn of the nineteenth century, however, Essen was known for steel and guns. Essen prided itself on being the smelter and armorer of the world. And sitting atop this food chain, dominating the surrounding vistas and valleys, was the Krupp dynasty.⁹

The family firm had begun in modest circumstances early in the nineteenth century, but by 1870 it had grown into the largest steel works in the world.¹⁰ And when it converted its steel-making prowess to the manufacture of the latest large-bore artillery,¹¹ the

⁷ GÜNTER STAMPF, INTERVIEW WITH A CANNIBAL: THE SECRET LIFE OF THE MONSTER OF ROTENBURG 34 (Pat Brown & Lewis Townshend trans., 2008).

⁸ In the ninth century, Essen won fame for its convent, a place that attracted independent-minded noblewomen from across German-speaking lands, who found there a refuge that allowed them the chance to think and dream and speculate free from male manipulation and misrule. Steven Sofferahn, *A Schoolgirl and Mistress Felhin: A Devout Petition From Ninth-Century Saxony*, in 2 WOMEN WRITING LATIN FROM ROMAN ANTIQUITY TO EARLY MODERN EUROPE 25–27 (Laurie J. Churchill, Phyllis Rugg Brown, & Jane E. Jeffrey eds., 2002).

⁹ HAROLD JAMES KRUPP, A HISTORY OF THE LEGENDARY GERMAN FIRM 1-2 (2012).

¹⁰ BRUNO KERL, SIR WILLIAM CROOKES & ERNST OTTO RÖHRIG, A PRACTICAL TREATISE ON METALLURGY 273 (1870).

¹¹ CONAN FISCHER, EUROPE BETWEEN DEMOCRACY AND DICTATORSHIP, 1900–1945 73 (2011) (describing Krupp’s ability to “expand massively its weapon production”); *Krupp Steel Works at Essen, Germany*, 17 SIBLEY J. ENG’G 98, 98 (1902–1903) (describing the full extent of Krupp’s arms manufacturing); *The Big Gun at War*, 82 SCIENTIFIC AMERICAN 184, 184 (Supp., Sept. 1916) (discussing Krupp’s contribution to heavy artillery).

company assumed an almost uniquely controlling position not only in Germany, but in the European economy taken as a whole.¹² When the guns of August echoed across central Europe in August 1914, “[t]he German armaments firm Krupp was the largest single business in Europe.”¹³ By 1945, however, the firm was in ruins, as was Essen—devastated by the Allied war on Nazi power.¹⁴

Like the rest of Germany, Essen set to resurrecting itself from this wreckage in the fifteen years after World War II. It became an important part of the German prosperity that remains a dominant feature of European life to this day.¹⁵ This growth, unlike that which preceded it, aimed to be sustainable environmentally, ecologically friendly, and non-militaristic.¹⁶

Armin was an heir, a direct and primary beneficiary of this past, both its good and its bad. His family had been personally savaged by World War II, but was also privileged to participate in the great post-War German expansion. While the family had severe emotional issues, it did not want economically.

Armin’s father, Dieter Meiwes, supported the family on his income as a police officer.¹⁷ He had enough money left over to sign a lease-to-buy contract, when Armin was two or three-years-

¹² On the eve of World War I, the Krupp firm not only dominated steel and munitions, but it had also aggressively asserted control over raw materials, such as coal and iron, and means of transport, such as railways. See JIU HWA UPSHUR ET AL., *WORLD HISTORY SINCE 1500: THE AGE OF GLOBAL INTEGRATION* 694 (2011) (highlighting Krupp’s beginnings as a steelmaker and eventual famous takeover of iron mines, coal mines, and other manufacturing industries).

¹³ DAVID FROMKIN, *EUROPE’S LAST SUMMER: WHO STARTED THE GREAT WAR IN 1914?* 29 (2004).

¹⁴ SAMUEL W. MITCHUM, JR., *EAGLES OF THE THIRD REICH: MEN OF THE LUFTWAFFE IN WORLD WAR II* 225 (1988); JEFFREY M. DIEFFENDORF, *IN THE WAKE OF WAR: THE RECONSTRUCTION OF GERMAN CITIES AFTER WORLD WAR II* 126 (1993).

¹⁵ See generally ERIC OWEN SMITH, *THE GERMAN ECONOMY* 54 (1994) (discussing the general waves of destruction and development of the German, and specifically the east German, economy).

¹⁶ See Franz-Josef Brüggemeier, *A Nature Fit for Industry: The Environmental History of the Ruhr Basin, 1840–1990*, 19 ENVTL. HIST. REV. 35, 51 (1994) (discussing mid-20th century attempts to propose environmentally friendly industries in the Ruhr Basin of Germany).

¹⁷ STAMPF, *supra* note 7, at 19 (Dieter as police officer). Stampf calls Armin’s father “Detlef,” but Stampf has changed the names of most participants in this case from a desire to preserve their privacy. See LOIS JONES, *CANNIBAL: THE TRUE STORY BEHIND THE MANEATER OF ROTENBURG* 5 (2005) (using Dieter’s real name).

old, on a large, thirty-six-room, 16,000 square-foot mansion in Wüstefeld, a little flyspeck of a hamlet about three or so miles from Rotenburg, in the German state of Hesse, some 120 or 140 miles to the east, southeast of Essen.¹⁸

Despite their material comforts, an emotional miasma hung over the household. Dieter was about twenty-one when he married Waltraud, Armin's future mother, who was nearing forty.¹⁹ There was, in other words, a near nineteen-year age difference between these two.

Waltraud had been married twice previously to two men, ex-soldiers who were psychologically and physically scarred from their service in the Nazi army. She had met her first husband during his convalescence at a hospital after the War,²⁰ while her second husband had been previously "institutionalized" as a way of dealing with unresolved psychic wounds he suffered on the Russian front.²¹ She was on the rebound from these catastrophic marriages when she met Dieter, who was actually too young to marry when they first became acquainted.²² Because of his youth and inexperience, Dieter might actually have been the most vulnerable of all of her husbands.

Armin's birth, far from welcome, was just one more attempt at manipulation by Waltraud, another aspect of her grand design to fasten Dieter permanently to her side.²³ Her first two husbands had escaped her clutches, although each had had a child by Waltraud. Now she would try to ensure that her newest and youngest husband would not take the same exit.²⁴

¹⁸ JONES, *supra* note 17, at 2. STAMPF, *supra* note 7, at 2 (noting the distance between Essen and Rotenburg is about five kilometers, or some three miles). Distance between Rotenburg an der Fulda (Hessen, Germany) and Essen (Nordrhein-Westfalen, Germany), GlobeFeed, <http://globefeed.com/> (follow "World Distance Calculator" hyperlink; then search "Distance From" for "Rotenburg, Germany" and search "Distance To" for "Essen, Germany"; then follow "Calculate Distance" hyperlink) (finding two results indicating the cities are between 120-140 miles apart).

¹⁹ JONES, *supra* note 17, at 5.

²⁰ STAMPF, *supra* note 7, at 12.

²¹ *Id.* at 20 (stating that this husband eventually became violent and attempted "to blow up the house").

²² STAMPF, *supra* note 7, at 19.

²³ *Id.*

²⁴ *Id.*

Waltraud was haunted by possessiveness. It was her massive insecurity that finally drove Dieter away. When Armin was just four years old, Waltraud invented a story of adultery and homicide on Dieter's part. She sorrowfully informed the authorities that Dieter had become friends with a young woman who had murdered her own husband to draw closer to Dieter. The whole flimsy facade fell flat—the police found Waltraud's tale unsupported by evidence and launched an investigation of her harassing conduct. She barely avoided prosecution even while she poisoned her relationship with Dieter.²⁵

By 1969, the family was in shambles. In that year, Armin's two half-brothers—the children by Waltraud's former marriages—moved away from home.²⁶ Dieter had also had his fill of Waltraud's ranting and her constant attempts to destroy him. She had screamed at him and threatened his life.²⁷ "You're having an affair."²⁸ "I'm going to kill her."²⁹ She accused him ever more vehemently of involvement with other women.³⁰ She called Dieter's workplace to report his marital misconduct and demand that he be disciplined.³¹ These spectacular outbursts seem to have been made from whole cloth, the product of delusions, perhaps, and not a reflection of reality.³²

One September afternoon in 1969 matters reached their climax. The seven-year-old Armin was playing hide-and-seek with a friend when he heard his parents battling louder than ever.³³ The fight reached its fateful conclusion as Dieter stormed from the house and headed towards the car. In his inner being, Armin sensed that his life was now about to change irrevocably:

Armin sprints after the car crying, "Papa! Papa! Stop!" Tears run down the boy's suntanned cheeks, streaking them. For some reason, he knows that today is different and that if his father

²⁵ *Id.* at 19–20.

²⁶ JONES, *supra* note 17, at 5–6.

²⁷ *Id.* at 6.

²⁸ *Id.* (quoting Waltraud).

²⁹ *Id.* (quoting Waltraud).

³⁰ STAMPF, *supra* note 7, at 20.

³¹ *Id.*

³² *Id.*

³³ *Id.* at 7.

drives away, he will never come back. "No, Papa! No! Stay here! Please! Stay here!" But his calls go unheeded, and Armin is left standing alone³⁴

Dieter would start a new life, moving in with a twenty-five-year-old woman, more appropriate to his age.³⁵ Dieter was confident that Armin would do just fine, telling himself that boys his age were resilient.³⁶ Dieter's sunny optimism would prove quite horrendously mistaken.

III. Into the Woods

In the landscapes of our minds, cities represent the anonymous life—places where we might drop our old identities and reinvent ourselves.³⁷ They stand for personal freedom, but they are also places where the vulnerable can lose their precarious balance.³⁸ After all, "[t]o live in a city is to live in a community of people who are strangers to each other."³⁹

The rural, on the other hand, the pastoral, the sylvan, represents the garden and stands for paradise itself, the place where we refresh our souls and flourish in harmony with neighbors and loved ones.⁴⁰ The mythic Garden of Eden⁴¹ and Virgil's bucolic verse⁴² stand as sturdy testaments to this habit of

³⁴ *Id.* at 7–8.

³⁵ *Id.* at 8.

³⁶ STAMPF, *supra* note 7, at 8.

³⁷ Peter Burke, *Imagining Identity in the Early Modern City*, in *IMAGINING THE CITY: THE ART OF URBAN LIVING* 23, 25 (Christian Emden, Catherine Keen, & David Midgely eds., 2011).

³⁸ Elmer T. Peterson, *Cities Are Abnormal*, in *CITIES ARE ABNORMAL*, 3–26 (Elmer T. Peterson ed., 1956) (summoning Americans back to lives of rural peacefulness); EDWARD KRUPAT, *PEOPLE IN CITIES: THE URBAN ENVIRONMENT AND ITS EFFECTS* 59–61 (1985) (calling the city "a world of strangers").

³⁹ JONATHAN RABAN, *SOFT CITY* 15 (1974).

⁴⁰ See JAMES COZINE, *SAVING THE BIG THICKET: FROM EXPLORATION TO PRESERVATION, 1685–2003* 167 (2004) (claiming that urbanites "savored a few days' contact with a wilderness environment to escape the crime, pollution, and other pressures of urban living").

⁴¹ See generally JEAN DELUMEAU, *HISTORY OF PARADISE: THE GARDEN OF EDEN IN MYTH AND TRADITION* (Matthew O'Connell trans., 1995) (documenting and explaining the depth and significance of the Garden of Eden in Western literature).

⁴² See generally Seamus Heaney, *Eclogues 'In Extremis': On the Staying Power of the Pastoral*, in 103 *PROCEEDINGS OF THE ROYAL IRISH ACADEMY SEC. C1–12* (2003) (exploring the endurance of the Virgilian ethos in modern literature); Richard Jenkyns,

mind.

Alas, it did not work this way for young Armin. Essen might have been wounded by wars, scarred by Adolph Hitler's unnatural lust for domination, and only beginning to recover, but even in the face of all of this, it was in Essen that the Meiwes family still retained some stability.⁴³ But after Dieter's departure and as Waltraud gravitated towards that old mansion in the woods they had purchased a few years before, a dangerous isolation descended upon her, and by extension her young son, Armin.⁴⁴

The "haunted house" it was called—that rambling old wreck of a structure hidden in the deep forest that the Meiwes family had purchased in happier times.⁴⁵ It was impossibly large, musty-smelling, crumbling, dilapidated.⁴⁶ But as the 1970s progressed, Waltraud found comfort within its encasing walls,⁴⁷ and by 1977 she had left Essen behind, settling permanently in the countryside along with her teenage son, Armin.⁴⁸

The house had fifty-six windows, it sat on 3,000 square meters of land (approximately 10,000 square feet), its driveway boasted an iron gate, and a bronze lion's head knocker graced the front door.⁴⁹ A home had been documented as standing on that exact plot of land as early as 1266.⁵⁰ This was not that home, but the mansion was old enough—its construction dating probably to the seventeenth century.⁵¹

Wüstefeld, the tiny village where the house was located, was

Virgil and Arcadia, 79 J. ROMAN STUD. 26, 26 (1989) (claiming that "[t]he *Eclogues* form probably the most influential group of short poems ever written").

⁴³ See JONES, *supra* note 17, at 12–13 (stating that both Armin and Waltraud both were happy to move to the countryside estate).

⁴⁴ STAMPF, *supra* note 7, at 34–46; JONES, *supra* note 17, at 7–9.

⁴⁵ JONES, *supra* note 17, at 2; see STAMPF, *supra* note 7, at 37 (quoting Armin's neighbor, Farmer Manfred Stuck: "Armin and his mother never had enough money to maintain such an enormous house. It's a crumbling old wreck.").

⁴⁶ JONES, *supra* note 17, at 2.

⁴⁷ *Id.*

⁴⁸ *Id.* Cf. DANIEL DIEHL & MARK P. DONNELLY, *EAT THY NEIGHBOR: A HISTORY OF CANNIBALISM* 242 (2008) (documenting the year Waltraud and Armin moved to their rural mansion).

⁴⁹ STAMPF, *supra* note 7, at 32.

⁵⁰ *Id.*

⁵¹ JONES, *supra* note 17, at 12.

really nothing more than a small, agriculturally-oriented collection of families, its population numbering around twenty-five, including children, at the time Armin's mother bought the manor house.⁵² The neighboring Stücke family raised cattle,⁵³ while the Schnaar family, located behind the manor home, kept 6,000 hens and ran a bakery.⁵⁴ Other neighbors grew crops.⁵⁵

But this was not just another patch of rural landscape. It was a place with history. Wüstefeld, and the neighboring larger city of Rotenburg, were set deep in a wooded area of the State of Hesse, the most densely forested corner of all Germany.⁵⁶

The past stood close at hand, so close you could feel its withering touch on your shoulder. "Storybook Road" this little cranny of Germany was called.⁵⁷ It was a place where tales of cannibalism and vicious, abominable crimes had circulated for many hundreds of years.⁵⁸

These were the woods made famous by the Brothers Grimm,⁵⁹ who took the local folktales and refined and revised them from rough-edged peasant stories into polished, publishable texts.⁶⁰ The Brothers—Jakob, born in 1785, and Wilhelm, born in 1786—never intended to become the retailers of comforting tales of childhood.⁶¹ They were university-trained lawyers, academic

⁵² STAMPF, *supra* note 7, at 80.

⁵³ *Id.* at 33.

⁵⁴ JONES, *supra* note 17, at 14.

⁵⁵ STAMPF, *supra* note 7, at 32 (indicating other families produced "cattle feed and farm products").

⁵⁶ *Id.* at 23.

⁵⁷ Jeffrey Fleishman, *Germans Get a Look at Dark Side of Cyberspace: A loner is charged with killing and eating a willing victim he met in an Internet chat room*, L.A. TIMES, Dec. 31, 2003, <http://articles.latimes.com/2003/dec/31/world/fg-cannibal31>.

⁵⁸ CAROLYN DANIELS, VORACIOUS CHILDREN: WHO EATS WHOM IN CHILDREN'S LITERATURE 151–57 (2006) (tracing the path one folktale, *Little Red Riding Hood*, took from its most extreme and bloody form into the more domesticated versions of today).

⁵⁹ ARTHUR ERWIN IMHOF, LOST WORLDS: HOW OUR ANCESTORS COPE WITH EVERYDAY LIFE AND WHY LIFE IS SO HARD TODAY 48–49 (Thomas Robisheaux trans., 1996).

⁶⁰ GEORGE S. WILLIAMSON, THE LONGING FOR MYTH IN GERMANY: RELIGION AND AESTHETIC CULTURE FROM ROMANTICISM TO NIETZSCHE 81–84 (2004).

⁶¹ JAMES M. MCGLATHERY, Preface to THE BROTHERS GRIMM AND FOLKTALE vii (John McGlathery ed., 1988); see JOHN EDWARD TOEWS, BECOMING HISTORICAL: CULTURAL REFORMATION AND PUBLIC MEMORY IN EARLY NINETEENTH-CENTURY BERLIN

jurists, and were among the first research assistants of Karl-Friedrich von Savigny,⁶² the founder of historical jurisprudence.⁶³

The Brothers Grimm collected their folktales to help in Savigny's great historical project.⁶⁴ They hoped thereby to breathe the vitality of lived human experience into the ancestral customs and procedures von Savigny was identifying as crucial for his own project.⁶⁵ Like Savigny, they were law reformers who believed that the means of improving and perfecting German law was through an understanding of German historical consciousness that was, in turn, gained by steeping oneself in a knowledge of German customary practices, even including ancient sagas and legends.⁶⁶ Only gradually did it occur to the Brothers that their anthologies had other uses—particularly as children's tales that have served to titillate and terrify generations of young people.⁶⁷ Indeed, the Brothers might be astonished—but not displeased—to learn that

321 (2007) (claiming the brothers “had originally matriculated in the law faculty and pursued a career in administration”).

⁶² See TOEWS, *supra* note 61, at 320–25 (discussing the connections between the Brothers Grimm and Savigny); DONALD F. HITTINGA, *THE BROTHERS GRIMM: TWO LIVES, ONE LEGACY* 42–47 (2001). See, e.g., BRIEFE DER BRÜDER GRIMM AN SAVIGNY, HESSISCHE BRIEFE DES 19. JAHRHUNDERTS (1953) (containing, in a voluminous collection, the stead correspondence between the Grimm brothers and their old professor for the remainder of their academic careers).

⁶³ Much has been written about Savigny. See, e.g., Reinhard Zimmermann, *Savigny's Legacy: Legal History, Comparative Law, and the Emergence of a European Legal Science*, 112 L.Q. REV. 576–605 (1996); Susan Gaylord Gale, *A Very German Legal Science: Savigny and the Historical School*, 18 STAN. J. INT'L L. REV. 123–46 (1982).

⁶⁴ See THEODORE ZIOLKOWSKI, *GERMAN ROMANTICISM AND ITS INSTITUTIONS* 106–07 (1990) (discussing the many influential interactions the brothers had with Savigny). But see TOEWS, *supra* note 61, at 321 (2007) (arguing that much of the Grimms work was a critique of their teacher, Savigny).

⁶⁵ See Ruth Michaelis-Jena, *Oral Tradition and the Brothers Grimm*, 82 FOLKLORE 265, 266 (1971) (“Their legal training under Savigny had given them direction.”).

⁶⁶ See ZIOLKOWSKI, *supra* note 64, at 106–07. See generally Jack Zipes, *Dreams of a Better Bourgeois Life: The Psychosocial Origins of the Grimms' Tales*, in *THE BROTHERS GRIMM AND FOLKTALE* 208–209 (John McGlathery ed., 1988) (discussing how Savigny's influence pushed the Brothers to “take an interest in old German literature, customs, and traditions through the study of law”).

⁶⁷ See Siegfried Neumann, *The Brothers Grimm as Collectors and Editors of German Folktales*, in *THE RECEPTION OF GRIMMS' FAIRY TALES: RESPONSES, REACTIONS, REVISIONS* 24–36 (Donald Haase ed., 1993) (discussing the effectiveness of the living poetry being collected).

their tales now count among the most influential books in “world literature.”⁶⁸

Cannibalism was a central feature of these stories. There was *Hansel and Gretel*, of course, with its sorrowful tale of two children who fled into the Hessian woods when they overheard their mother complain that if she did not have two hungry children to feed, she and her husband might not go hungry themselves. Taken captive by a cannibalizing old witch, the two children only made their escape by pushing the witch into her own oven.⁶⁹ And there was *Little Red Riding Hood*, in which a little girl revealed to a talking wolf that she was carrying a basket of delicacies to her grandmother. The wolf found the grandmother’s cottage, ate the older woman, and was trying to eat the little girl when he was shot dead by a passing hunter.⁷⁰

But these are only the most famous of the Brothers’ many horrific tales of cannibalism. In *The Robber Bridegroom*, an apparently wealthy suitor “from the dark forest” sought the hand of a poor miller’s daughter in marriage.⁷¹ When she ventured into the woods to visit him, she discovered that he was the head of a gang of thieves who lured young women to their lair where they first robbed them of their valuables and then butchered and consumed them.⁷² *The Juniper Tree* involved a jealous and possessive stepmother.⁷³ She despised her stepson and wished to be rid of him so her daughter might be the sole object of her husband’s devotions.⁷⁴ Filled with resentment, she killed the boy and made his remains into a meal for her husband, the boy’s natural father.⁷⁵ She was caught in her cruelty when the boy’s bones were transformed into a beautiful bird whose song

⁶⁸ MICHAEL MINDEN, *MODERN GERMAN LITERATURE* 39 (2011).

⁶⁹ *TALES FROM THE BROTHERS GRIMM: A CLASSIC ILLUSTRATED EDITION* 35–45 (Cooper Edens ed. & trans., 2007).

⁷⁰ JAKOB GRIMM & WILHELM GRIMM, *THE CLASSICAL WORKS OF THE BROTHERS GRIMM* 110–12 (2008) (Jerome-Paul ed. & trans., Lulu Press 2008).

⁷¹ JAKOB GRIMM & WILHELM GRIMM, *THE GRIMM READER: THE CLASSIC TALES OF THE BROTHERS GRIMM* 129 (Maria Tatar ed. & trans., W. W. Norton & Company 2010).

⁷² *Id.* at 131.

⁷³ JAKOB GRIMM & WILHELM GRIMM, *THE ANNOTATED BROTHERS GRIMM* 208 (Maria Tatar ed. & trans., W. W. Norton & Company 2004).

⁷⁴ *Id.*

⁷⁵ *Id.* at 213.

denounced the crime.⁷⁶

This steady diet of cannibalistic themes, one modern commentator has observed, represents the struggle between the settled Christian life of the Brothers' audience and "the non-civilized"—the barbaric and pagan elements of old German culture still lurking in the shadows.⁷⁷ Cannibalism, in other words, was an archetype, a richly symbolic means of signifying the enemies of civilization and religion.⁷⁸ The Brothers Grimm never intended to recommend a cannibal lifestyle to their audience but rather to emphasize how such behavior put its practitioners outside the boundaries of the civilized and made them fit for condemnation, if not immolation, like that suffered by the witch in *Hansel and Gretel*.

Young Armin, however, never appreciated the subtlety of this message. Rather than being repulsed, he immersed himself in this dark and macabre fantasy world. If he was physically present in late-twentieth century Germany, his mind, his heart, his psychological and spiritual home were all in the Hessian woods of the Brothers Grimm.⁷⁹ This was the destination to which the Meiwes family retreated on their summer vacations during Armin's early childhood, and this was the place which Armin's mother Waltraud chose to call home in the 1970s.⁸⁰ In retrospect, it should have been expected that an impressionable child might ponder this rich history. But Armin's thoughts began to warp, to dwell upon the forbidden:

Armin Meiwes . . . loved the Brothers Grimm's fantastical tales. His favorite childhood story had always been *Hansel and Gretel*, particularly the passage in which the storybook witch "fattens up little Hansel" in the hope of cooking him and eating him. As a child he used to act out the scene time and again, playing the role of the witch and delighting in the idea of roasting and

⁷⁶ *Id.* at 216.

⁷⁷ CHARLES ZIKA, EXORCISING OUR DEMONS: MAGIC, WITCHCRAFT AND VISUAL CULTURE IN EARLY MODERN EUROPE 445 (2003).

⁷⁸ Christine Goldberg, *Cannibalism*, in ARCHETYPES AND MOTIFS IN FOLKLORE AND LITERATURE: A HANDBOOK 227–28 (Jane Garry & Hasan El-Shamy eds., 2005).

⁷⁹ See JONES, *supra* note 17, at 2 (discussing Armin's childhood, in which he used to act out his favorite fantasies).

⁸⁰ *Id.*

devouring Hansel.⁸¹

As he entered puberty, around the age of twelve or thirteen, Armin became obsessed with the American television program *Flipper*.⁸² *Flipper* had aired for three seasons on American television (1964-1967) and featured a single father, played by Brian Kelly, and two boys, Sandy, a late-teen-aged-adolescent just old enough to help his father in his duties as a park ranger in the Florida Everglades, and Bud, a playfully mischievous child about twelve or fourteen years of age.⁸³ The weekly plots centered on the narrow scrapes and close calls that came from life in the Everglades.⁸⁴ Inevitably, the cast would be assisted by Flipper, the bottlenose dolphin that had become as much a wise and knowing companion and friend as family pet.⁸⁵

Armin was an avid viewer of the program as it entered syndication in the early 1970s.⁸⁶ There was much there for a boy Armin's age to like. But he did not enjoy watching the dolphin perform, or the warm family scenes, or the lush semi-tropical scenery.⁸⁷ No, he had developed a cannibal fixation about Sandy, the older son.⁸⁸ "The young TV star was Armin's ideal: young, fit and blond. Just the kind of perfect, popular and successful boy he wanted to internalize."⁸⁹

IV. Of Witches and the *Bundeswehr*

Witches are evil, a source of pollution, contamination, foulness, sin, the stench of blood, and the assurance of death.⁹⁰

⁸¹ *Id.*; Cf. STAMPF, *supra* note 7, at 27-29 (describing Armin's fixation with the Brothers Grimm).

⁸² JONES, *supra* note 17, at 9.

⁸³ TIM BROOKS & EARLE MARSH, *THE COMPLETE DIRECTORY TO PRIME-TIME NETWORK AND CABLE TELEVISION SHOWS, 1946-PRESENT* 483 (2007).

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ JONES, *supra* note 17, at 9. See BROOKS & MARSH, *supra* note 83, at 483 (providing syndication and network history).

⁸⁷ JONES, *supra* note 17, at 9.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ MONTAGUE SUMMERS, *WITCHCRAFT AND BLACK MAGIC* 64 (1946); DIANE PURKISS, *THE WITCH IN HISTORY: EARLY MODERN AND TWENTIETH-CENTURY REPRESENTATIONS* 97 (1996). See EDA SAGARRA, *A SOCIAL HISTORY OF GERMANY*,

This much German folk tradition taught.⁹¹ One might ordinarily flee from these associations, but as a teenager Armin was drawn into witchcraft by Ulla von Bernus, the most famous witch and Satanic priestess in all of Germany⁹² and, as bad luck would have it, Waltraud's new next-door neighbor in Wüstefeld.⁹³

Ulla (1912-1998) was the daughter of Alexander von Bernus (1880-1965), himself world-famous in his day as a novelist, a playwright, a poet, and an essayist.⁹⁴ But Alexander had more exotic interests as well. "He combined his literary interests with a passion for alchemy and esoteric spirituality."⁹⁵ The field, as Alexander understood it, conferred on those daring enough to enter its ranks fantastic hidden powers, intimate contact with the occult, and the capacity to work the profoundest transformations, both natural and spiritual.⁹⁶ Ulla absorbed these lessons from her father and made them a part of her own life.⁹⁷

1648–1914 167–70 (2002) (discussing the deep historical roots in Germany of the nexus between witchcraft, Satan, sin, and unspeakable evil).

⁹¹ See SAGARRA, *supra* note 90, at 167-68 (describing how Germany too was involved in witch culture).

⁹² Max Hidringer, *Zwänge Zwingen: Über den magischen Willen*, in *HEXEN HEUTE: MAGISCHEN TRADITIONEN UND NEUE ZUTATEN* (Dieter R. Bauer & Dieter Harmening eds., 1991) (translating "Ulla von Bernus, Deutschlands berühmteste Hexe und Satanspriesterin."). *Id.* at 117. ("Ulla von Bernus, the most famous witch and Satanic priestess"—Author's translation).

⁹³ JONES, *supra* note 17, at 15.

⁹⁴ ALEXANDRA LEMBERT, *THE HERITAGE OF HERMES: ALCHEMY IN CONTEMPORARY BRITISH LITERATURE* 33, 94 (2001) (discussing Alexander's career and notoriety); Alexander von Bernus, *Biographical Sketch* (last updated Jan. 12, 2005), <http://www.bernus.de/bernusbio-en.htm> (last visited Oct. 2, 2013) (describing Alexander's literary success, noting that at age 23, "he went public with his own literary works and met immediate success"); CHRISTINE CASAGRANDE, *PRAXIS SPAGYRIK: NACH ALEXANDER VON BERNUS* 5–6, 14–16 (2011) (highlighting Alexander's career); *cf.* the remainder of the book (applying Alexander's alchemical and astrological ideas to various forms of new-age therapies and healing rituals).

⁹⁵ Charles D. Gunnoe, 91 *ISIS* 209, 209 (2000) (reviewing *DIE ALCHEMIEMBIBLIOTHEK DES ALEXANDER VON BERNUS* (Anneliese Stöckinger & Joachim Telle eds., 1997)).

⁹⁶ See generally, MARK S. MORRISON, *MODERN ALCHEMY: OCCULTISM AND THE EMERGENCE OF ATOMIC THEORY* (2007) (discussing modern accounts of alchemy); JOSEPH LEWIS HENDERSON & DYANE N. SHERWOOD, *TRANSFORMATION OF THE PSYCHE: THE SYMBOLIC ALCHEMY OF THE SPLENDOR SOLIS* (2003) (presenting an account of the developing modern interest in early versions of alchemy).

⁹⁷ JONES, *supra* note 17, at 15-18 (describing how Ulla practiced spiritual spell-

It was this same Ulla who quickly became Waltraud's very best friend and who took a warm liking to the inquisitive young Armin.⁹⁸ A skeptical onlooker might view Ulla as a comical personality, given to over-the-top theatrics and ridiculous claims. Her home, situated next to the Meiwes manse, was coated "in thick black paint. A skull's head, out of which popped a tongue, served as a doorbell on the black-painted front door. She decorated her walls with pictures of Lucifer and erected an altar to Satan, complete with a black mirror, a dagger and candles."⁹⁹

Ulla and Waltraud frequently visited each other's homes.¹⁰⁰ And in all their visitations, Ulla made time for Armin.¹⁰¹ She encouraged him in his dark fantasies about the Brothers Grimm.¹⁰² She introduced him to the whole occult world of Satanism.¹⁰³ She ushered Armin into her black-painted, richly-lacquered inner sanctum where she kept her altar to Satan and celebrated satanic masses, calling upon the spirits of Hell to reveal their greatness.¹⁰⁴ She assured her avid young acolyte that she was in contact with extraterrestrial powers, that she knew that Atlantis would soon again rise from the ocean depths, that unlike the common run of humanity, who saw reality as if through a veil, she knew that the entire world stood poised on the brink of chaos.¹⁰⁵ She sang hymns to Satan's magnificence, and yearned and longed for the day when Satan would finally cast that wicked God from the throne he so foully usurped at the dawn of time.¹⁰⁶

But even Satan's finest priestesses have to make a living, and Ulla made hers by casting spells for all occasions. An advertisement declared:

casting, including her desire to discuss esoteric issues with the Pope).

⁹⁸ JONES, *supra* note 17, at 15.

⁹⁹ *Id.* at 15–16.

¹⁰⁰ *Id.* at 16.

¹⁰¹ *Menschenfresser-Mord: Die Hexe und der Kannibale*, SPIEGEL ONLINE, Dec. 17, 2002, <http://www.spiegel.de/panorama/menschenfresser-mord-die-hexe-und-der-kannibale-a-227555.html>.

¹⁰² *Cannibal's Fairy Tale Obsession*, SYDNEY MORNING HERALD, Dec. 18, 2002 (LEXIS).

¹⁰³ JONES, *supra* note 17, at 16–17.

¹⁰⁴ *Id.* at 16.

¹⁰⁵ *Id.* at 17.

¹⁰⁶ *Id.* at 18.

My hexes and spell-casting are superior to all others. . . . I can help you achieve anything you want; just tell me what you need done and through my extremely powerful spell work it will be done immediately. . . . Come to me with any problem and be rid of it tomorrow.¹⁰⁷

Ulla's specialty was "death spells" cast upon unsuspecting victims, usually men.¹⁰⁸ She held herself out to frustrated housewives everywhere—do you want to be rid of your no-account husband? Is he wasting money? Does he drink too much? Womanize?¹⁰⁹ For a fee, she would cast a spell that will ensure his gruesome death in an accident or by some dread disease.¹¹⁰ She found business brisk, especially after several judges and a prosecutor whom she cursed suffered heart attacks or died in accidents.¹¹¹ "I kill," she boasted, "when Satan commands it."¹¹²

Finally, in the 1980s, Ulla was sued.¹¹³ Some customer's husband did not die at the appointed hour, indeed, the old reprobate seemed as healthy as ever, and now the woman, who had paid some 30,000 Deutschmarks to be rid of him, demanded her money back.¹¹⁴ The court, which was genuinely annoyed at what appeared like an abuse of judicial process, held that Ulla did not really attempt murder, although its analysis did not stop there.¹¹⁵ She was guilty of an "illusory crime" that looked more like fraud than homicide, and so she had to reimburse her disappointed customer even if she did not have to spend time in jail or acquire a criminal record.¹¹⁶

Ulla's spell-casting continued to cause her troubles. A couple of years later she was once again accused of criminal

¹⁰⁷ *Id.* at 17 (quoting Ulla).

¹⁰⁸ *Id.*

¹⁰⁹ JONES, *supra* note 17, at 17.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.* at 16. *Die Hexe von Nebanen*, DER TAGESSPIEGEL, Dec. 16, 2002 (translating "Ich töte, wenn Satan es befiehlt").

¹¹³ JONES, *supra* note 17, at 17.

¹¹⁴ *Id.*

¹¹⁵ JONES, *supra* note 17, at 17 (noting the court stated that Ulla's business "had been objectively impossible from the start").

¹¹⁶ *Id.*

activity—this time, she was said to have caused the deaths of two people.¹¹⁷ Like the failed-death-spell case, no conviction was ever obtained, although the prosecutions alone apparently deterred Ulla from subsequently plying her trade.¹¹⁸

The teenaged Armin put his faith in Ulla, believing that she possessed power over life and death itself.¹¹⁹ He paid rapt attention to her outrageous claims, hanging on every semi-crazed word.¹²⁰ “I have sent twenty men to eternal damnation via a ritual distance killing.”¹²¹ “I bewitched them to death. And each time I made it look like an accident.”¹²²

One of the court-appointed psychiatrists who examined Armin following his arrest, concluded that “[e]verything happens [with Armin Meiwes] on the fantasy level”¹²³ Undoubtedly, Armin’s close relationship with Ulla von Bernus did not help him overly much to distinguish reality from the most bizarre illusion.

Having Ulla as a mentor and guide surely made it difficult to keep a close connection with the world of the here-and-now. But Waltraud’s declining mental state helped to sap Armin’s psychological wellbeing even further.¹²⁴ In the years after Dieter abandoned the family, Waltraud took increasing solace in a rich fantasy world of her own devising.¹²⁵ Although she had been born to some wealth, she found herself scrambling continuously to make ends meet in ways that must have been humiliating—selling Avon products and vacuum cleaners, delivering pamphlets and newspapers.¹²⁶ All the while Dieter worked a bloody-minded

¹¹⁷ See STAMPF, *supra* note 7, at 31 (claiming “the so-called ‘Witch of Berlingen,’ allegedly harried a couple of people to their deaths”).

¹¹⁸ *Id.* at 31 (stating Ulla chose to spend her time at the casino in lieu of casting spells).

¹¹⁹ See JONES, *supra* note 17, at 18 (discussing the conversations between Ulla and Armin, including “the religion of a world ruled by Satan, of the flesh, the carnal, and of death”).

¹²⁰ *Id.* at 17.

¹²¹ *Id.* at 16.

¹²² *Id.*

¹²³ STAMPF, *supra* note 7, at 76 (quoting the report).

¹²⁴ *Id.* at 10-11 (quoting the January 30, 2004 District Court of Kassel opinion).

¹²⁵ JONES, *supra* note 17, at 12-13.

¹²⁶ STAMPF, *supra* note 7, at 25-26.

revenge, fighting her on alimony and child support.¹²⁷

Waltraud found refuge from this ugly reality by retreating to dreams of past familial glory.¹²⁸ She wrote long journal accounts of her family history, doting over the details of an imagined medieval past, recollecting how her family must have survived the horrors of the Napoleonic conquest and the butchery of World War II, fabricating or embellishing heroic feats as required.¹²⁹

The Wüstefeld estate was perfect for rhapsodic daydreaming, and Waltraud lost herself there for days at a stretch.¹³⁰ She fancied herself living in a castle.¹³¹ She bestowed regal sounding names on her favorite rooms.¹³² She motored around town in a large Mercedes-Benz, even though it was completely unaffordable.¹³³ It fit the manorial image, after all—she and Armin might think of themselves as “king and queen” of all that they surveyed.¹³⁴

In all of this fantasizing about a past that never was and a present that did not exist, Waltraud neglected Armin’s emotional wellbeing.¹³⁵ To be sure, she did nice things for him. When Armin was eleven, she bought him a pony, a gentle, elegant white horse that Armin had enormous fun riding around Wüstefeld, Rotenburg, and the countryside in between.¹³⁶

Armin never wanted for all the toys and trinkets of childhood.¹³⁷ Waltraud’s failures were emotional. She rarely hugged her son, or kissed him, or showed him the elementary

¹²⁷ See *id.* at 26 (quoting Armin as saying, “My father took all our money with him”).

¹²⁸ JONES, *supra* note 17, at 7.

¹²⁹ *Id.*; STAMPF, *supra* note 7, at 4.

¹³⁰ STAMPF, *supra* note 7, at 4.

¹³¹ See *id.* (quoting the January 30, 2004 District Court of Kassel opinion, stating that Waltraud thought of herself as living “in the middle ages among lord of the manor”).

¹³² JONES, *supra* note 17, at 13. Waltraud’s room became *Sonnenglanz* (“Sunlight”), and her dressing room was known as *Frütau* (“Morning Dew”). *Id.*

¹³³ STAMPF, *supra* note 7, at 37.

¹³⁴ *Id.*

¹³⁵ *Id.* at 10-11 (quoting the January 30, 2004 District Court of Kassel opinion).

¹³⁶ *Id.* at 11. See *id.* (illustrating the horse).

¹³⁷ See Keith Dovkants, *The Sick Hatred That Turned a Mother’s Boy into a Cannibal*, EVENING STANDARD, Jan. 5, 2004 (LEXIS) (stating that Waltraud kept and collected Armin’s favorite toys in a separate room, including a German castle model and a toy train set).

kindnesses expected of a parent.¹³⁸ She preferred to practice domination and control.¹³⁹ Force, compulsion, command, and a rigid insistence on doing things “her way” characterized Waltraud’s parenting style.¹⁴⁰

Years later, neighbors recalled the many ways in which Waltraud ruled and reigned over her hapless son. One young boy, Armin’s age, remembered watching him pull the lawnmower from the shed and trim the lawn, all the while Waltraud yelled at him without cease or surcease.¹⁴¹ “Her tone is so shrill she seems a nasty old maid . . .”¹⁴² This same neighbor recalled how Waltraud barked a relentless stream of orders at Armin—move that chair, that cake looks good, go get me some.¹⁴³ The orders were so loud, so incessant, so staccato-like and frenzied, that on warm summer days he could hear them at a great distance and knew to stay away.¹⁴⁴ “Controlling,” “[d]ominant,” “[d]ecisive,” “[w]ounding,” “[h]urtful” is how Armin summarized his mother’s steady stream of verbal abuse.¹⁴⁵ His friends agreed: “What she said was law. She was not like other mothers.”¹⁴⁶

Armin’s hatred for his mother was steadily building. He thought about throwing her down a flight of stairs, telling himself that this might be just like Gretel pushing the wicked witch into the fiery furnace she had prepared to roast Hansel.¹⁴⁷ He was emotionally stunted and cultivated dark, morbid fantasies about cannibalism. The comparatively mild daydreaming about Sandy from *Flipper* was replaced by much more dangerous thoughts about raping and cannibalizing his high school classmates: “When I was sixteen or seventeen, I imagined how I would . . . drug [a

¹³⁸ STAMPF, *supra* note 7, at 41–43.

¹³⁹ *Id.*

¹⁴⁰ *Id.* at 12 (quoting Armin as saying, “She gave me love, certainly, but not in the way I would have liked”).

¹⁴¹ *Id.* at 36.

¹⁴² *Id.* at 35.

¹⁴³ *Id.* at 36.

¹⁴⁴ STAMPF, *supra* note 7, at 36.

¹⁴⁵ *Id.* at 43.

¹⁴⁶ *Victim Wanted to Be Mutilated*, CANBERRA TIMES, Jan. 14, 2004 (quoting Armin’s childhood friend, Bertold Sieberg).

¹⁴⁷ STAMPF, *supra* note 7, at 43.

schoolmate], and take him into myself.”¹⁴⁸ He envisioned how he might walk into a supermarket where the meat counters were stacked with recently-slaughtered human flesh.¹⁴⁹ “In his mind’s eye, he sees the names and photos of his school friends on the descriptive signs. It would be better if, on the meat sections, there could be something like this: ‘Michael, blond, lightly muscular, charming and friendly, liked playing football and doing handicrafts.’”¹⁵⁰

Armin enjoyed smearing ketchup across his body, pretending that he had been butchered.¹⁵¹ At ages ten and eleven, he would lie in bed hours at a time with dismembered Barbie dolls, or he would “smear himself” with ketchup and mix in pork to resemble freshly torn flesh, the ketchup oozing across his abdomen, dripping down his ribcage, staining the sheets.¹⁵² On the basis of his fantasies alone, Armin pronounced that he had been “a fully realized cannibal” from the age of twelve.¹⁵³

No surprise that Armin was confused sexually. He tried to date women and had early sexual experiences with them.¹⁵⁴ He once misinterpreted a woman’s acceptance of a ring he gave her as a sign that they had now become engaged.¹⁵⁵ As he aged, in his twenties and thirties, he thought a wife and family might cure him of his secret cannibalistic obsessions.¹⁵⁶ He hired a couple of dating services to find girlfriends for him,¹⁵⁷ but invariably these relationships ended disastrously.¹⁵⁸ Either Armin’s mother broke

¹⁴⁸ *Id.* at 51.

¹⁴⁹ *Id.* at 48–49.

¹⁵⁰ *Id.*

¹⁵¹ Allan Hall, *As a Boy He Ripped Apart Dolls, Smeared Ketchup on Himself, and Dreamed of Eating His Classmates*, THE DAILY MIRROR (London), Jan. 31, 2004, at 31.

¹⁵² *Id.*; JONES, *supra* note 17, at 18–19.

¹⁵³ STAMPF, *supra* note 7, at 40.

¹⁵⁴ *Id.* at 52.

¹⁵⁵ *Id.* at 66.

¹⁵⁶ *See id.* at 68 (summarizing Armin’s failure to have a relationship with a woman, noting “his dream of becoming a father and leading a completely normal family life had evaporated”).

¹⁵⁷ *Id.* at 63–64.

¹⁵⁸ *See id.* at 67 (quoting Armin saying that his fiancé wanted a “living Barbie” as opposed to an actual husband).

things up,¹⁵⁹ or Armin bungled things himself by telling his prospective new girlfriend how eager he was to have children by her.¹⁶⁰

Armin idolized women, put them on a pedestal, and vowed never to eat a woman. "Girls were too valuable to kill."¹⁶¹ If we did not have women, who would be the mothers? Who would tend to the next generation? Who would bring it into being?¹⁶² Besides, Armin had stronger attractions for men.¹⁶³ A man might bond with him forever.¹⁶⁴ Armin saw cannibalism as the means of resolving his deep loneliness, a way of finding someone who would never abandon him, never leave him, as his father and his brothers did when he was such a tiny child.¹⁶⁵ "I felt completely alone. I wanted an imaginary brother. . . . The fantasies were always the same—cut him open, take out the intestines and then cut up the flesh into pieces."¹⁶⁶ He felt sexually drawn to men and women and considered himself to be bisexual.¹⁶⁷ But mostly he did not want intercourse with men, he wanted to eat them.¹⁶⁸

On New Year's Day, 1981, at the age of nineteen, Armin decided to enlist in the West German Army.¹⁶⁹ The *Bundeswehr*,

¹⁵⁹ Ian Bell, *A Haunting House of Pain Where Humanity Was Not An Option*, THE HERALD, Mar. 2, 2004, at 19; JONES, *supra* note 17, at 22; STAMPF, *supra* note 7, at 65.

¹⁶⁰ *Cannibal Wanted to Get Married*, BBC NEWS, Jan. 9, 2004, <http://news.bbc.co.uk/2/hi/europe/3384037.stm>.

¹⁶¹ JONES, *supra* note 17, at 11.

¹⁶² *Id.*

¹⁶³ *See id.* at 23 (stating Armin "knew that it was men [that] he was sexually attracted to").

¹⁶⁴ *See* STAMPF, *supra* note 7, at 6 (quoting Armin as saying, "For me, I imagine that the person I eat stays with me forever . . . [M]y desire has always been to find a 'brother'").

¹⁶⁵ *Id.* at 12.

¹⁶⁶ Tony Paterson, *Cannibal Says He Was Lonely and Dreamt of a Brother to Disembowel*, THE INDEPENDENT (London), Dec. 4, 2003, at 15.

¹⁶⁷ *See* Allan Hall, *I Ate My Guest for Lunch: Real Life Hannibal the Cannibal*, THE MIRROR (London), Dec. 4, 2003 (LEXIS) ("[Armin] said he enjoyed relationships with both men and women and was bisexual."); *see also* JONES, *supra* note 17, at 23 (declaring that Armin "knew that it was men [that] he was sexually attracted to"). *But see* STAMPF *supra* note 7, at 39 (quoting Armin as saying, "In regards to sex, I am chiefly oriented towards women. When we are talking about friendship and affection, I don't care what body it lives in").

¹⁶⁸ STAMPF, *supra* note 7, at 55.

¹⁶⁹ JONES, *supra* note 17, at 20; STAMPF, *supra* note 7, at 62.

as it was called, was a member of NATO, a serious fighting force,¹⁷⁰ and the frontline of European defense against a Soviet Union that still kept a large number of army divisions stationed directly across the border, in East Germany.¹⁷¹ But contingents of the *Bundeswehr* almost never deployed abroad.¹⁷² Even though it was a well-equipped and sophisticated fighting force, the *Bundeswehr* was really little more than a highly-armed home defense force.¹⁷³

This meant that Armin never had to serve very far from his beloved Hessian woods. Indeed, his military career, which lasted twelve years, from 1981 to 1993, could be seen as an extension of his adolescence.¹⁷⁴ Armin was a quiet, serious-minded young man who was quickly promoted to the rank of supply sergeant and was assigned to a unit stationed just outside of Rotenburg.¹⁷⁵ Initially, Armin performed reasonably well. He received promotions, was given positions of trust, and sent for advanced training.¹⁷⁶ For much of his active duty, Armin had command responsibility for twelve men.¹⁷⁷ It seemed that the Army might become his career.

Even so, Armin displayed his share of eccentricities. He found it difficult to mingle with others, he could not make small talk, he did not play sports, nor did he have any skill in those other past-times—such as card-playing—that helped to lubricate social relations in settings like military barracks.¹⁷⁸

Further complicating matters and despite his secret loathing of

¹⁷⁰ FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, GERMANY: A COUNTRY STUDY 459 (Eric Solsten ed., 3d ed. 1996).

¹⁷¹ JOHN M. COLLINS, *GRAND STRATEGY: PRINCIPLES AND PRACTICES* 134 (1973).

¹⁷² Thus when Saddam Hussein invaded Kuwait in 1990, Chancellor Helmut Kohl refused to deploy German forces to the Middle East despite great diplomatic pressure to do so. See MAJA ZEHFOSS, *CONSTRUCTIVISM IN INTERNATIONAL RELATIONS: THE POLITICS OF REALITY* 104 (2002) (stating the German leadership “reached an understanding to the effect that the Bundeswehr would not be sent to the Gulf and that such a deployment would be unconstitutional”).

¹⁷³ MAX OTTE & JÜRGEN GREVE, *A RISING MIDDLE POWER: GERMAN FOREIGN POLICY IN TRANSITION, 1989-99* 30 (2000).

¹⁷⁴ STAMPF, *supra* note 7, at 62–63.

¹⁷⁵ *Id.* at 61.

¹⁷⁶ *Id.* at 63.

¹⁷⁷ *Id.*

¹⁷⁸ JONES, *supra* note 17, at 21.

her, Armin continued to make his mother his constant companion, even on base.¹⁷⁹ He came in for his share of ribbing and joking because of this: "Does she make you wash behind your ears before you go to bed? Do you have to ask her permission to go to the toilet too?"¹⁸⁰ Despite the occasional ridicule, Armin came to be respected by his men.¹⁸¹ One young private later testified: "He was my superior. . . . I can say of him that as a superior he was a hundred percent, and one could go to him with any question or problem."¹⁸²

Much more damaging to Armin's career was his drinking. He had an automobile accident in December 1986, while in a state of severe intoxication.¹⁸³ His license was suspended for nine months.¹⁸⁴ Soon after his driving privileges were reinstated, he had another accident, again while driving drunk.¹⁸⁵

Thanks to these drunken exploits, Armin's military career sputtered to a halt.¹⁸⁶ He was no longer sent for advanced training, no longer given chances for promotion, and no longer regarded as fit for command.¹⁸⁷ Retention required Armin to accumulate a steady number of points through continuing education, and he was now prevented from enrolling in the classes that he needed to take to obtain those points.¹⁸⁸

With all his quirks and oddities, Armin had managed to lead a cocooned and cosseted life—one might almost call it "sheltered."¹⁸⁹ Indeed, this was the term Armin applied to his existence.¹⁹⁰ But it was a life that could not last. It was bound to

¹⁷⁹ See STAMPF, *supra* note 7, at 61–62 (quoting a fellow soldier as saying, "We noticed, though, that he took his mother along on trips by the Noncom corps, while the others brought their girlfriends and wives").

¹⁸⁰ JONES, *supra* note 17, at 22 (quoting an unnamed soldier).

¹⁸¹ STAMPF, *supra* note 7, at 63.

¹⁸² *Id.* at 61 (quoting an unnamed soldier).

¹⁸³ *Id.* at 68–69. Armin's blood alcohol level was .14 milliliters. *Id.* at 69.

¹⁸⁴ *Id.* at 69.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.* at 69.

¹⁸⁷ STAMPF, *supra* note 7, at 69.

¹⁸⁸ *Id.*

¹⁸⁹ *Id.* at 11.

¹⁹⁰ See *id.* (explaining that, although his mother provided everything for him, Armin was still very lonely).

crumble to dust when the wheels and cogs that made it work were removed one-by-one. The Cold War phased down between 1989 and 1991.¹⁹¹ The West German *Bundeswehr* merged into the East German Army¹⁹² and was transformed into a very different type of military—one that had no time for bibulous, idiosyncratic supply sergeants like Armin.¹⁹³ Waltraud, furthermore, was injured in an automobile accident around this time.¹⁹⁴ Her care placed an additional constraint on Armin's freedom.¹⁹⁵ In 1992, Ulla von Bernus renounced Satan, embraced Christianity, and swore to follow the path of righteousness.¹⁹⁶ Six years later, she was dead.¹⁹⁷ One year after that, in 1999, Waltraud herself passed away.¹⁹⁸

Thus everything and everyone who had given Armin's life structure and discipline, everything that had supported him in his always tenuous self-control, everything that had stabilized him and kept him from realizing his own darkest fantasies, had disappeared in the course of six or seven years. Could Armin find the inner resources to overcome these numerous blows to his highly brittle, highly fragile, and tightly structured world? Or would his own delicate psyche disintegrate as precipitously as the world around him had done?

V. Preparations for the Feast

Armin appeared to observers as if nothing had changed.¹⁹⁹

¹⁹¹ KELLEHER, *infra* note 193, at 3.

¹⁹² *Id.*

¹⁹³ CATHERINE M. KELLEHER, *The New Germany: An Overview*, in THE NEW GERMANY AND THE NEW EUROPE 11, 20–22 (Paul B. Stares ed., 1992). The *Bundeswehr* of the early 1990s managed two transitions simultaneously: first, the shift from a heavily mechanized armed force designed to wage set-piece tank battles with a powerful Soviet invader from the East into a much nimbler and more flexible fighting force; second, the absorption of East German personnel into this new structure. *Id.*

¹⁹⁴ JONES, *supra* note 17, at 24.

¹⁹⁵ *Id.*

¹⁹⁶ SUSANNE RIDDIG, EINBLICK INS UNSICHTBARE: ERFAHRUNGEN MIT DER GEISTIGEN WELT 119 (2010).

¹⁹⁷ *Witch in Cannibal Murder Mystery*, NEW ZEALAND HERALD, Dec. 12, 2002, ¶ 10 (LEXIS).

¹⁹⁸ JONES, *supra* note 17, at 27.

¹⁹⁹ JONES, *supra* note 17, at 147 (stating that his neighbors noticed nothing “new about him” during their conversations).

According to his neighbors, he seemed somewhat strange, but “ultimately harmless.”²⁰⁰ Nevertheless, he remained “extremely polite,”²⁰¹ “the perfect gentleman, or so his neighbors thought.”²⁰² Despite his personal awkwardness, he was always eager to do favors for his neighbors.²⁰³ “It was kind of clear to us that he had a different perspective on life than we did, . . . [b]ut he was a normal person to speak to, drink a glass of beer with just like you and me.”²⁰⁴ He even amused the village’s children when he dressed up as Santa Claus at the annual Christmas pageants.²⁰⁵ People saw Armin as endearing; a friendly, somewhat odd fellow; he did not seem to pose a threat to anyone.²⁰⁶

Armin was infatuated with childhood, and surrounded himself with little boys and girls. The Wüstefelder women described him “as a gentle soul who loved children.”²⁰⁷ He babysat whenever he had the chance.²⁰⁸ A witness at his trial attested that Armin was “very childlike[.] [W]hen he played with children, [it was] as if he were a child himself”²⁰⁹ Women who dated Armin reached the same conclusion. One of them declared that he is “a very childish person. He is a child.”²¹⁰ His capacity for mature, adult interaction was obviously limited.²¹¹

²⁰⁰ *Id.* at 30.

²⁰¹ *Id.* at 29.

²⁰² Ruth Elkins, *Beyond Hannibal*, INDEPENDENT ON SUNDAY (London), Nov. 30, 2003, ¶ 2 (LEXIS).

²⁰³ See Luke Harding, *Victim of Cannibal Agreed to Be Eaten*, THE GUARDIAN, Dec. 3, 2003, ¶ 1 (documenting various kindnesses Armin performed for his neighbors); JONES, *supra* note 17, at 29.

²⁰⁴ Derek Scally, *Two Men, One Horrific Death Wish*, IRISH TIMES, Nov. 29, 2003, at A53.

²⁰⁵ JONES, *supra* note 17, at 29.

²⁰⁶ See *id.*

²⁰⁷ Allan Hall, *Born to Be a Cannibal*, THE DAILY MIRROR (London), Jan. 31, 2004, at A8.

²⁰⁸ JONES, *supra* note 17, at 30; STAMPF, *supra* note 7, at 99-100.

²⁰⁹ *Cannibal Kind, Say Women*, THE SUNDAY TIMES (Perth, Austl.), Jan. 11, 2004, ¶ 3 (quoting an unidentified witness).

²¹⁰ Allan Hall, *My Cannibal Lover Is Such a Gentle Man*, THE EXPRESS, Jan. 10, 2004, at A30 (quoting Martina Elsholz).

²¹¹ See *German Psychiatrist Says Cannibal Not Nuts*, UNITED PRESS INTERNATIONAL, Dec. 29, 2003, ¶ 7 (quoting court-appointed psychiatrist Dr. Heinrich Wilmer as stating that Armin “was immature and lacked self-control”).

Armin immersed himself in Donald Duck comic books, of which he had a vast collection.²¹² He boasted as well that he purchased “every new Mickey Mouse book in our supermarket at Wüstefeld.”²¹³ He systematically collected Walt Disney films²¹⁴ and amassed a large stockpile of data tapes and drives.²¹⁵ He was fond of science fiction, especially Star Trek, and owned videos of the television series, the movies, and even the books that were spun off of this successful franchise.²¹⁶

With Waltraud’s death, however, Armin’s collecting took a disturbing turn. No longer was he principally fascinated by the memorabilia of a childhood that could never be his. He was now free to explore the dark themes of sado-masochism and cannibalism. He discovered that the internet provided him with boundless opportunities to slake an increasingly bizarre set of sexual fantasies.²¹⁷ Police later described his collection of pornography as encyclopedic—embracing “every perversion imaginable.”²¹⁸ Torture was a particularly favorite theme of Armin’s.²¹⁹ On one CD-Rom alone, police stated, there were 3,000 pictures of torture victims in every kind of agony.²²⁰ “[V]iolent death and violent pornography” were obsessions for Armin.²²¹

Serial killing was another focus of Armin’s. He assiduously researched the case of Jeffrey Dahmer, the Milwaukee mass-murderer who slaughtered at least seventeen victims, dismembering them and hoarding various body parts—severed

²¹² Scally, *Two Men, One Horrific Death Wish*, *supra* note 204, at A53.

²¹³ STAMPF, *supra* note 7, at 107.

²¹⁴ Andy Geller, *Total Whack Job*, THE NEW YORK POST, Dec. 10, 2003, at A27.

²¹⁵ STAMPF, *supra* note 7, at 311.

²¹⁶ BRUCE M. HOOD, *THE SCIENCE OF SUPERSTITION: HOW THE DEVELOPING BRAIN CREATES SUPERNATURAL BELIEFS* 178 (2010) (stating that Armin read a Star Trek novel while waiting for Bernd to die).

²¹⁷ JONES, *supra* note 17, at 38–39.

²¹⁸ Allan Hall, *Cannibal Fiends Reunited*, THE EXPRESS, Jan. 6, 2004, at A18.

²¹⁹ See JONES, *supra* note 17, at 37 (stating that Armin enjoyed collecting photos and recordings of “torture”).

²²⁰ *Id.*

²²¹ Matthew Schofield, *A Gruesome Death and Defense: The Victim Wanted to Be Eaten*, THE PHILADELPHIA INQUIRER, Jan. 23, 2004, at A3.

heads, hands, carefully-extracted hearts—as valued trophies.²²² Nor was Dahmer the only serial killer in whom Armin had an interest. There was Fritz Haarman, the German butcher, who capitalized on the food shortages that followed the collapse of the German monarchy at the end of World War I to kill at least twenty-four young men and boys and sell their flesh as cheap cuts of meat.²²³ The Chicago master butcher Adolph Luetgert was yet another role-model Armin admired.²²⁴ Circumstantial evidence indicated that he reduced his wife, with whom he was having problems, to a gelatinized mass and fed her remains through his sausage-making machine.²²⁵ No body was ever recovered and the case gained fame in legal circles because Luetgert was convicted of murder even in the absence of the deceased's corpse.²²⁶

If Armin's inner mind had fallen into these dark crevasses, he was still able to deal with the larger external world. His discharge from the army coincided with the great computer technology boom of the 1990s, and Armin secured financial support from the German government to assist him in making the transition from supply sergeant to computer technician.²²⁷ After completing a two-year training program, Armin went to work for a software firm and a chain of German banks servicing "their computers, printers, and other office equipment."²²⁸

Armin enjoyed genuine professional success. He was not just some struggling soul, barely getting by. He was always impeccably groomed.²²⁹ He made sure to shave, to keep his hair trimmed, and to wear clean, well-pressed clothing—"suits, shirts

²²² BRENT E. TURVEY, *CRIMINAL PROFILING: AN INTRODUCTION TO BEHAVIORAL EVIDENCE ANALYSIS* 106 (2011).

²²³ On Haarman's career, see MOIRA MARTINGALE, *CANNIBAL KILLERS* 26–33 (1995); on Armin's interest in Haarman, see JONES, *supra* note 17, at 34.

²²⁴ JONES, *supra* note 17, at 34–35.

²²⁵ LAURA ENRIGHT, *CHICAGO'S MOST WANTED: THE TOP 10 BOOK OF MURDEROUS MOBSTERS, MIDWAY MONSTERS, AND WINDY CITY ODDITIES* 362–63 (2005).

²²⁶ John H. Wigmore, *The Luetgert Case*, 32 AM. L. REV. 187, 190–91 (1898). The case has also been subjected to a book-length study. See generally ROBERT LOERZEL, *ALCHEMY OF BONES: CHICAGO'S LUETGERT MURDER CASE OF 1897* (2003) (describing the life and trial of Adolf Luetgert on his charges of murdering his wife).

²²⁷ STAMPF, *supra* note 7, at 71.

²²⁸ JONES, *supra* note 17, at 24.

²²⁹ *Id.* at 26.

and ties.”²³⁰ His mother had taught him that he must always present himself well, to be professional in appearance and in action, and that the world would respect him if he did.²³¹ And his employers reciprocated, holding Armin in high esteem.²³² His evaluations were fairly ecstatic.²³³ One reviewer declared: “You’re hard working, technically skilled and get the job done.”²³⁴

Internally, however, Armin’s life was beginning to disintegrate. He allowed his home to fall into stunning disrepair except for a small living quarters and his mother’s old rooms, which he kept almost as a shrine to her memory.²³⁵

Armin also remained passionately attached to the collected detritus of his own childhood. He still maintained the model railroad set he had as a child and a large, looming toy castle.²³⁶ He kept his old bicycle and some boxes of “wooden toys.”²³⁷ His old hobby horse still stood sentry in the front yard, while a swing set gathered rust nearby.²³⁸ The whole scene was of a child’s memory garden gone to hell.²³⁹

Finally, Armin’s descent into madness grew apparent—at least to more discerning neighbors. He began to act out the role of his mother in front of friends.²⁴⁰ He tried out Waltraud’s dresses and mimicked her mannerisms.²⁴¹ As Bertold Sieberg, a friend, testified:

His world was frozen in the time [his mother] was still alive. It was spooky. He became his mother. [Bertold] went on: He dressed up in his mother’s clothes. One day we were all going to a fancy dress do and he was at the door wearing a floral frock,

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.* at 24.

²³³ *Id.*

²³⁴ JONES, *supra* note 17, at 24.

²³⁵ Dovkants, *supra* note 137, at A20.

²³⁶ *Id.*

²³⁷ STAMPF, *supra* note 7, at 120.

²³⁸ Fleishman, *supra* note 57, ¶ 12.

²³⁹ See *id.* (describing Armin’s home as “an edifice of creepy images”).

²⁴⁰ Allan Hall, *Cannibal Dressed Up as Psycho*, THE EXPRESS, Jan. 13, 2004, at A23.

²⁴¹ *Id.*

make-up and wig. It was very convincing. He even spoke like her.²⁴²

To this point, Armin had not acted on his fantasies. But that began to change when he discovered what the internet had by way of cannibal websites. For the first time, he learned that there were other people who seemingly shared the same desire he had to eat another human being:

Yes, yes, that was unbelievable for me! [Armin] says happily. For over thirty years I've dreamed of eating a man, and now men are offering themselves voluntarily! All my life I've been thinking I was the only one with such fantasies. But there were hundreds, no, thousands, on the Internet exactly like me. I began to explore this Internet jungle systematically.²⁴³

Armin was correct in judging that there were many people in cyberspace with the same fetish.²⁴⁴ One study concluded: "The internet has highlighted that there are at least one million people who harbor sexualized cannibalistic fantasies. . . . Users of these services fantasize about eating, or being eaten, by members of their sexually preferred gender."²⁴⁵ Armin had just joined a large and growing, but highly clandestine, club.

At first, Armin researched recipes, very earnestly seeking to find what made for the tastiest dishes of human flesh.²⁴⁶ Soon, he began to play a game of make-pretend. "Even when he was dating women by day he baked marzipan dolls by night—anatomically correct male dolls—which he ritually 'killed' and ate."²⁴⁷

But if Armin was still socializing with others when he

²⁴² *Id.* (internal quotations removed).

²⁴³ STAMPF, *supra* note 7, at 124 (internal quotations removed).

²⁴⁴ See JONES, *supra* note 17, at 39 (indicating that there were approximately 800,000 cannibalism websites available).

²⁴⁵ CHRISTOPHER BARRY-DEE & STEVEN MORRIS, ONLINE KILLERS: PORTRAITS OF MURDERERS, CANNIBALS AND SEX PREDATORS WHO STALKED THE WEB FOR THEIR VICTIMS 21–22 (2010).

²⁴⁶ See Hannah Cleaver, *Cannibal Gets Eight Years for Manslaughter*, THE DAILY TELEGRAPH, Jan. 31, 2004, at A7 (describing how he secretly collected human dish recipes at home); Allan Hall, *Eight Years for the Cannibal Who Claimed Victim Wanted to Be Eaten*, EVENING STANDARD (London), Jan. 30, 2004, at A24 (listing examples of his recipes found including "biceps in Marsala" and "breaded young man's liver").

²⁴⁷ Hall, *Eight Years for the Cannibal Who Claimed Victim Wanted to be Eaten*, *supra* note 246, at A24.

commenced this obsession, very soon he cut off nearly all human contact, so absorbed was he in what the internet offered.²⁴⁸ Night after night, he hovered over his computer as the hours passed—3:00 AM, 4:00 AM.²⁴⁹ Police estimated that he spent so much time poring over cannibal websites and downloading their contents that it took two trucks to haul the printouts away.²⁵⁰

Gradually, cautiously at first, Armin moved from browser and researcher to willing and, finally, enthusiastic participant. He founded a YAHOO! chat room devoted to cannibalism.²⁵¹ At its height, the chatroom had more than 800 members.²⁵² He took a new e-mail address—"antrophagus"—Greek for "man-eater."²⁵³ He adopted an online name, "Franky."²⁵⁴ As with so much else about Armin, there were maudlin reasons for his choice of identities. "Franky" had been an imaginary friend of Armin's between the ages of eight and twelve.²⁵⁵ He could talk to Franky, confide in him his fears, his worries, his secrets, and his joys.²⁵⁶ Armin outgrew Franky. Franky had to go.²⁵⁷ But now Franky was back as Armin's online alter ego. Using this pseudonym, Armin bombarded cannibal websites with e-mails, seeking to initiate conversations and contacts.²⁵⁸

Talk was talk, however, and Armin wanted more. He sought a victim, someone who felt as passionately about cannibalism as he did, not as a consumer of human flesh but as a provider.²⁵⁹ If he

²⁴⁸ JONES, *supra* note 17, at 38.

²⁴⁹ *Id.* at 37.

²⁵⁰ Hall, *Cannibal Fiends Reunited*, *supra* note 218.

²⁵¹ STAMPF, *supra* note 7, at 137.

²⁵² *Id.*

²⁵³ *Id.* at 131.

²⁵⁴ *Id.* at 149.

²⁵⁵ JONES, *supra* note 17, at 8.

²⁵⁶ *Id.* at 8-9.

²⁵⁷ *See id.* (suggesting Franky's friendship only lasted until Armin was twelve-year-old).

²⁵⁸ Allan Hall, *He Could Be Out Hunting Humans Within Four Years*, DAILY RECORD, Jan. 31, 2004, ¶ 8.

²⁵⁹ *See* Helen Macbeth, Wulf Schiefenhövel & Paul Collinson, *Cannibalism: No Myth, But Why So Rare?*, in CONSUMING THE INEDIBLE: NEGLECTED DIMENSIONS OF FOOD CHOICE 189, 191 (Jeremy M. MacClancy et al. eds., 2007) (describing the painstaking process of finding his victim).

found such a volunteer, he determined he needed an appropriate slaughter-room.²⁶⁰ There was a room on the top floor perfect for the task.²⁶¹ Previous owners had used it as a smoke-room, a place where they cured sausage and ham, fish and bacon.²⁶² The walls were discolored by years of smoke and heat, but the room otherwise fit Armin's needs perfectly.²⁶³

Armin prepared the room for slaughter.²⁶⁴ He made a table from some benches.²⁶⁵ He attached meat hooks to the walls.²⁶⁶ He bought four large butcher's knives and, being a thoroughly well-organized man, he also purchased several gallon-sized buckets to handle blood drainage.²⁶⁷ He installed a bed,²⁶⁸ and attached ropes to the bed, in the event he needed to restrain his chosen sacrifice.²⁶⁹

All that was missing was a victim. Armin decided to advertise on German and English-language cannibal websites: "I am Franky from Germany," he wrote in halting, ungrammatical English, "and I search for a young Boy, between 18 and 30 y/o. Have you a normal build body and will you di [sic], than come to me, [I] butchering you and eat your horny flesh."²⁷⁰

VI. Finding a Willing Victim

It was important to Armin that he not only obtain a victim, but that the victim was willing, even eager, to go forward with being devoured.²⁷¹ To Armin, cannibalism was about achieving a deep, everlasting union with someone he thought of as a brother, a member not only of the family, but of his very essence as a human

²⁶⁰ JONES, *supra* note 17, at 46.

²⁶¹ STAMPF, *supra* note 7, at 125–26.

²⁶² *Id.*

²⁶³ For descriptions see STAMPF, *supra* note 7, at 125–26; JONES, *supra* note 17, at 47.

²⁶⁴ See STAMPF, *supra* note 7, at 126.

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ STAMPF, *supra* note 7, at 125.

²⁶⁸ JONES, *supra* note 17, at 47.

²⁶⁹ *Id.*

²⁷⁰ *Id.* at 42.

²⁷¹ Harding, *Victim of Cannibal Agreed to Be Eaten*, *supra* note 203 (stating that Armin advertised to find a man "who wanted to be eaten").

being.²⁷² And that required consent of a highly formal, explicit sort.²⁷³

Hence, Armin's advertisement.²⁷⁴ To his astonishment, he was swamped with interested inquiries. "Between May and August 2001, Meiwes corresponded with over four hundred would-be cannibals and victims from all over Europe and the USA."²⁷⁵ Confronted with this unexpected bounty, Armin decided, like the chairman of an executive search committee, to screen his candidates.²⁷⁶ He adopted guidelines intended to ensure not only the victim's voluntariness, but the succulence and flavor of the flesh he was likely to provide.²⁷⁷ Armin did nothing without research and that was never truer than now. He decided that a young man, well-proportioned and healthy, between the ages of eighteen and twenty-five was best,²⁷⁸ although he later raised the maximum age to thirty.²⁷⁹

About thirty names made the list of those invited for in-person interviews.²⁸⁰ One of the first to be invited was Matteo, from Italy, whom Armin had met through a website called "Flesh and Bone."²⁸¹

Matteo proved to be an excitable young man, who craved pain and sado-masochistic experiences and who saw Armin's fantasy as a means of achieving at least temporary sexual release.²⁸² Matteo teased Armin and led him on.²⁸³ Before traveling to Wüstefeld, he

²⁷² See Brian Masters, *Inside a Cannibal's Mind*, SUNDAY MAIL (Adelaide, Austl.), Feb. 1, 2004, at A46 (indicating that the cannibal keeps body and spirit together within his body).

²⁷³ See DIEHL & DONNELLY, *supra* note 48, at 203.

²⁷⁴ Harding, *Victim of Cannibal Agreed to Be Eaten*, *supra* note 203.

²⁷⁵ DIEHL & DONNELLY, *supra* note 48, at 203.

²⁷⁶ See *id.*

²⁷⁷ See *id.* at 203-04 (noting that he looked for someone "to sate his culinary peculiarities").

²⁷⁸ *Id.* at 203.

²⁷⁹ *Id.*

²⁸⁰ JONES, *supra* note 17, at 43.

²⁸¹ Hall, *Born to Be a Cannibal*, *supra* note 207.

²⁸² See STAMPE, *supra* note 7, at 124-31 (indicating that Matteo requested Armin to send real photos of his instructions before being beaten to death, including a procedure to make cuts on his sex organ).

²⁸³ See *id.* at 128 (noting that Armin improved on Matteo's suggestion and that

insisted on seeing pictures of the slaughter room and made suggestions about other appliances that should be added.²⁸⁴ He told Armin that he needed a cross large enough to support a man's weight when crucified.²⁸⁵ Not just any cross, he added.²⁸⁶ It should be a diagonal cross, forming an "X"—the kind of cross that legend had it St. Andrew the Apostle was crucified upon.²⁸⁷

Armin humored Matteo on all of these requests.²⁸⁸ They spoke on the phone, they e-mailed one another ever more ardently.²⁸⁹ Matteo finally agreed to come for a visit.²⁹⁰ But first he wished to specify the means of death: he wanted to be nailed to the cross and then have his testicles burnt off with a flamethrower.²⁹¹ But then Matteo kept putting off his visit to Germany. The flight was too expensive, he pleaded as one excuse; he added later that he met a girlfriend and that she changed his mind.²⁹² Armin finally wearied of the temporizing.²⁹³ He dismissed Matteo as "weird" and dropped the idea of bonding with him in cannibalistic brotherhood.²⁹⁴

Armin next interviewed Jörg, who was a professional chef and proudly bore the internet moniker "Meatboy."²⁹⁵ Armin must have considered these as promising signs. Jörg was physically fit—a "competitive swimmer" and an accomplished "Alpine ski[er]."²⁹⁶ Jörg told Armin that he had two colleagues at work just as fit as he was.²⁹⁷ He wanted to eat his two colleagues with Armin, then

gave Matteo pleasure).

²⁸⁴ *Id.* at 126–28.

²⁸⁵ *Id.* at 129.

²⁸⁶ *Id.*

²⁸⁷ *Id.* at 126.

²⁸⁸ STAMPF, *supra* note 7, at 126–29 (describing Armin's efforts in preparing the slaughter room according to Matteo's requests and sending him photos of the room).

²⁸⁹ *Id.* at 124.

²⁹⁰ *Id.* at 129.

²⁹¹ Allan Hall, *Mr. Ordinary, the Cannibal*, DAILY MAIL, Dec. 4, 2003, at A21.

²⁹² STAMPF, *supra* note 7, at 129.

²⁹³ *Id.* at 128–29.

²⁹⁴ Hall, *Mr. Ordinary, the Cannibal*, *supra* note 291.

²⁹⁵ STAMPF, *supra* note 7, at 135.

²⁹⁶ *Id.* at 136.

²⁹⁷ *Id.* at 135–36.

offer himself to Armin.²⁹⁸ Armin and Jörg exchanged photographs and arranged to meet.²⁹⁹ Armin offered to subject Jörg to a “slaughter fitness” examination, to which Jörg eagerly assented.³⁰⁰ The two of them adjourned to a hotel room, where Armin made Jörg undress and lie down in bed while he examined his body’s edibility—judging the shoulders and upper arms as exceptional, and the buttocks as quite suitable as well.

By now, however, Jörg arrived at the frightening conclusion that Armin was serious. Jörg enjoyed the role-playing and was thrilled by the make-pretend that surrounded the fitness examination.³⁰¹ But he was not prepared to volunteer himself as a victim.³⁰²

Next up was Andreas from Regensburg.³⁰³ Andreas had a fetish about being slaughtered like a farm animal and he asked Armin to kill him “like a pig.”³⁰⁴ He begged Armin “to pick him up in a cattle truck.”³⁰⁵ Always polite, Armin tried his best to accommodate Andreas, but, like the others, he backed out: “We went back to the butchery at the house . . . we just fooled around, drank some beer and ate some pizza and he went home.”³⁰⁶ Armin rejected another candidate for being overweight and not sufficiently talkative.³⁰⁷ “My mother always insisted on lean meat,”³⁰⁸ Armin informed his astonished visitor, and besides he could not be bound forever with a man who was utterly unable to carry on a decent conversation.³⁰⁹

The potential victims kept coming, but continued to wash out

²⁹⁸ *Id.*

²⁹⁹ *Id.* at 137.

³⁰⁰ *Id.* at 138.

³⁰¹ JONES, *supra* note 17, at 44.

³⁰² *Id.*

³⁰³ Hall, *Born to Be a Cannibal*, *supra* note 207.

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ *Id.*

³⁰⁷ Peter Leathley, *Wanted—Young Man for Slaughter and Consumption*, THE JOURNAL, Jan. 7, 2004, at A49.

³⁰⁸ Roger Boyes, *Unmasking of Urbane Cannibal*, THE AUSTRALIAN, Dec. 24, 2003 (FACTIVA).

³⁰⁹ See Masters, *supra* note 272 (indicating that Armin believes that the cannibal provides future life through ingestion).

as fast as they arrived. Armin hung one would-be victim on a meat hook, wrapped him in cellophane, and marked his body where the best cuts were.³¹⁰ This man backed off, however, complaining of a sudden chill.³¹¹ Another prospective victim expressed a desire to be slaughtered in time for Russian Orthodox Christmas, but he never showed up for his appointment with destiny.³¹² Armin was even approached by both a dentist and a teacher.³¹³ There were many people titillated by the prospect of cannibalism, aroused by role-playing the part of a victim, but it seemed as if there was no one who was serious about following through and actually serving as the sacrificial offering.

Armin grew fairly despondent. He prepared to abandon his quest, regretting that all of the chatter he encountered on the internet was nothing more than empty fantasizing and role-playing.³¹⁴ Armin had trouble understanding how other people found cannibal-play arousing but then refused to follow through.³¹⁵ He wanted the real thing.³¹⁶

Just then Armin received a promising e-mail: "I offer myself to you and will let you dine from my live body. Not butchery, dining! Whoever REALLY wants to do it will need a REAL VICTIM!!" read the missive signed by "devoted pig for slaughter."³¹⁷

Two years older than Armin, Bernd Brandes was the author of the e-mail.³¹⁸ Like Armin, he had been raised in affluent but

³¹⁰ Peter Fray, *Horror Becomes Chic*, THE SYDNEY MORNING HERALD, Jan. 16, 2004, at A14.

³¹¹ Roger Boyes, *Chilling Smile of a German Cannibal*, THE AUSTRALIAN, Dec. 5, 2003, at A19.

³¹² *Id.*

³¹³ Boyes, *Unmasking of Urbane Cannibal*, *supra* note 308, at A7; Luke Harding, *Dentists and Teachers Part of Vast Cannibal Scene, Court Told*, THE GUARDIAN (London), Dec. 9, 2003, at A13.

³¹⁴ JONES, *supra* note 17, at 40–41, 44.

³¹⁵ *Id.*

³¹⁶ *Id.*

³¹⁷ Abigail Wild, *Why on Earth Would Anyone Want to Be Eaten By This Man? The Shocking Trial of a Man for Killing and Consuming Another Person is Linked to Sado-Masochistic Fetishes, Say Experts. But What Leads to Such Bizarre Behavior?*, THE EXPRESS, Dec. 6, 2003, ¶ 2.

³¹⁸ STAMPF, *supra* note 7, at 147.

troubled circumstances. Both of his parents were physicians, but Bernd barely knew his mother since she committed suicide when Bernd was five years old.³¹⁹ Following this tragedy, Bernd's father grew emotionally remote,³²⁰ entrusting Bernd's upbringing to a series of "au pair" girls, at least until Bernd turned eight.³²¹ Bernd's father eventually remarried and he and his wife (Bernd's stepmother) bonded well, but Bernd was left to fend for himself, with catastrophic results:

Bernd Brandes seems not to have gotten along well with this stepmother, but was inconspicuous and adaptable in his subsequent development. His psychosexual development, however, may have been highly unusual; the available information leaves . . . not the slightest doubt that in Bernd Brandes, an authentic desire for his penis to be cut off existed along with a sensation of (considerable) pain in the buildup of sexual arousal.³²²

Bernd was someone for whom success—academic and professional—came easily. He graduated from one of the leading German scientific academies, the Berlin Technical University, with a degree in electrical engineering.³²³ To gain admission to such a prestigious institution, especially in the German context, Bernd must have shown considerable aptitude indeed.

Like so many other promising young engineers who came of age in the latter 1980s and the 1990s, Bernd committed himself to a career in computer science.³²⁴ Hired shortly after graduation by the multinational conglomerate Siemens, promotions came quickly and easily for Bernd: "In 1992, the thirty-four-year-old Bernd Brandes advanced to Division Chief with executive pay and

³¹⁹ She drove her car into a tree after blaming herself for the death of a patient. STAMPF, *supra* note 7, at 149; JONES, *supra* note 17, at 52–53.

³²⁰ JONES, *supra* note 17, at 53.

³²¹ *Id.* at 54.

³²² STAMPF, *supra* note 7, at 150 (quoting official psychiatric report on Bernd Brandes).

³²³ *Id.* at 151. The Berlin Technical University (formerly known as Technical University of Charlottenburg) was once home to Nobel-Prize winning chemist Carl Bosch. See FRANCIS LEROY, A CENTURY OF NOBEL PRIZES RECIPIENTS: CHEMISTRY, PHYSICS, and MEDICINE 36 (2003).

³²⁴ STAMPF, *supra* note 7, at 151.

worked in a responsible position.”³²⁵

Bernd rose swiftly to genuine eminence in his chosen calling, and was described as “a world specialist in his work on telecommunications.”³²⁶ Within his inner being, however, he felt an emptiness, a desire for complete oblivion.³²⁷ Thus one cannibal chat room he frequented was termed “Nullo,”³²⁸ Latin for “nullity” or “nothing,” and his pseudonym was “Cator,” who was simply “born as flesh,”³²⁹ “born as meat.”³³⁰

While never ceasing to maintain a high level of professionalism at Siemens, Bernd’s longing for self-destruction became evident in his sexual life. He had a series of girlfriends in the course of the 1990s, but found these relationships unsatisfying.³³¹ By the end of the decade,³³² he moved in with a male lover,³³³ while also experimenting with sadomasochism³³⁴ and violent sex acts.³³⁵ He hired prostitutes to inflict “torture” on him.³³⁶ This craving for self-harm manifested itself finally in an irrepressible desire to be eaten by another.³³⁷

Bernd and Armin began their communication on February 5, 2001.³³⁸ Almost immediately, the intensity of Bernd’s desire to be eaten shone through powerfully. Knowing that Armin had strict guidelines on the proper age of his victim, Bernd lied, telling

³²⁵ *Id.*

³²⁶ JONES, *supra* note 17, at 54.

³²⁷ *Id.* at 55.

³²⁸ STAMPF, *supra* note 7, at 148.

³²⁹ JONES, *supra* note 17, at 60.

³³⁰ STAMPF, *supra* note 7, at 148.

³³¹ He had a live-in relationship with a woman named Bettina, who described Bernd as “[a] normal, loving, caring soul.” Diane Hill, *Cannibal’s Victim Was Tasty in Bed*, DAILY STAR, Dec. 14, 2003, at A23. Cf. Luke Harding, *Victim of Cannibal Agreed to Be Eaten*, *supra* note 203, ¶ 19 (adding further detail on Bettina); JONES, *supra* note 17, at 56 (documenting that Bernd had at least two other heterosexual relationships).

³³² JONES, *supra* note 17, at 56.

³³³ Bernd met his male lover, a man named René, in 1999. STAMPF, *supra* note 7, at 151, 173.

³³⁴ *Id.* at 151–52.

³³⁵ *Id.* at 161–64.

³³⁶ JONES, *supra* note 17, at 58–59, 187.

³³⁷ STAMPF, *supra* note 7, at 147.

³³⁸ *Id.* at 178.

Armin that he was seven years younger than his actual age.³³⁹ He informed Armin that “he had had the desire since he was a child to be slaughtered and eaten.”³⁴⁰ He assured Armin—“It was the same with me as with you.”³⁴¹ As their communication went back and forth, Bernd kept upping the ante. He encouraged Armin “to rip out my vitals with your teeth.”³⁴² Bernd’s desire to be devoured could not have been more explicitly expressed.

Their correspondence finally resulted in an exchange of consent. Bernd agreed to become Armin’s victim at a cannibal feast. “Yes, I really do want it,” Bernd reassured Armin, who must have been wary after getting so close so many times before.³⁴³ “[E]at me up.”³⁴⁴ Armin expressly told Bernd about the others who had backed out and hoped that Bernd would be different.³⁴⁵ Bernd promised Armin: “[I w]ant to be a good meat deliverer.”³⁴⁶ To demonstrate his sincerity, Bernd even initiated an elaborate discussion on how the inedible parts of his body should be concealed so as to avoid police suspicions.³⁴⁷

Indeed, it was Bernd who lifted Armin’s spirits in his moments of doubt.³⁴⁸ There is “absolutely no way back, only forward between your teeth and deeper in,” he relieved Armin’s gripping fear that he might yet be disappointed.³⁴⁹ A pattern of near-constant communication, extending over weeks and preserved on

³³⁹ JONES, *supra* note 17, at 61. Cf. Stuart Wavell, *Modern Man-Eaters Seek New Flavour in Old Taboo*, THE AUSTRALIAN, Dec. 8, 2003, at A15 (claiming that Bernd actually tried to present himself as seven years younger).

³⁴⁰ Allan Hall, *He Wanted Me to Burn His B***S with a Flamethrower, Nail Him Down, and Whip Him to Death. I Found That a Little Weird*, THE DAILY MIRROR (London), Dec. 4, 2003, at A23.

³⁴¹ STAMPF, *supra* note 7, at 180.

³⁴² *Id.* at 181.

³⁴³ *Id.* at 175.

³⁴⁴ *Id.*

³⁴⁵ *Id.* at 183.

³⁴⁶ *Id.*

³⁴⁷ See Roger Boyes, *Cannibal Trial Shock as E-Mails Come to a Head*, THE AUSTRALIAN, Dec. 31, 2003, at A7 (indicating that Bernd suggested to bury his skull in a cemetery so nobody would notice); Ben Aris, *Self-Confessed Cannibal Is Ruled Sane by Psychiatrist*, THE GUARDIAN, Dec. 29, 2003, ¶ 20 (adding further detail on disposition of Bernd’s bones).

³⁴⁸ See *infra* notes 368–381 and accompanying text.

³⁴⁹ STAMPF, *supra* note 7, at 201.

Armin's computer, established beyond dispute that the two men were unwaveringly serious about putting into effect their twisted plan and that both parties exchanged a willing and knowing consent.³⁵⁰ They drafted and signed a formal contract of consumption, which they styled "a Willingness Agreement."³⁵¹ They set a date for the slaughter and meal—March 9, 2001.³⁵²

Realizing that he had to conceal his movements so as not to betray Armin, Bernd took a number of additional steps to ensure that he would vanish without a trace.³⁵³ He purged his computers of all correspondence with Armin or even any indication that he might be traveling.³⁵⁴ All references to cannibalism, all e-mail exchanges with Armin, anything that might reveal his plan, disappeared as the keystrokes fell.³⁵⁵

Bernd took other steps to demonstrate his intent to die at Armin's hands. He executed a will declaring that he was dying of his own free choice.³⁵⁶ By its terms, he left all of his personal effects to his roommate.³⁵⁷ He sold his car.³⁵⁸ He took time off from Siemens³⁵⁹ and explained that he needed to travel to London to consult a specialist regarding a hair transplant.³⁶⁰ Three days before the scheduled date, Bernd e-mailed Armin to tell him of his mounting eagerness.³⁶¹ The day before he was to depart Berlin, Bernd fasted,³⁶² in accord with advice he received that this made

³⁵⁰ See *id.* at 179–205 (reprinting and translating relevant e-mail exchanges).

³⁵¹ *Id.* at 186.

³⁵² JONES, *supra* note 17, at 60–62.

³⁵³ STAMPF, *supra* note 7, at 185–86.

³⁵⁴ *Id.*

³⁵⁵ STAMPF, *supra* note 7, at 185.

³⁵⁶ Tony Paterson, *Victim 'Wanted to be Mutilated'; Boyfriend Offered Money to Bite Off Penis, Court Told*, CANBERRA TIMES (Austl.), Jan. 14, 2004, at A12.

³⁵⁷ *Id.*

³⁵⁸ Annabel Crabb, *The Cannibal and His Copyright*, THE SUNDAY AGE (Melbourne, Austl.), Mar. 5, 2006, at A11.

³⁵⁹ JONES, *supra* note 17, at 64.

³⁶⁰ *Id.*

³⁶¹ *My Dinner with Antrophagus*, HARPER'S (N.Y.), Jan. 2008, at 29 (noting that Armin tried to temper Bernd's enthusiasm, to which Bernd replied, "Still, I would have rather met you yesterday and felt your teeth," came Bernd's prompt reply).

³⁶² JONES, *supra* note 17, at 65.

for a better cannibal experience.³⁶³ He even refused food after becoming faint and dizzy.³⁶⁴

Finally, Bernd paid cash for a one-way railway ticket from Berlin, where he worked, to Kassel, the nearest large town to Rotenburg, for the morning of March 9, 2001.³⁶⁵ Armin waited anxiously at the Kassel depot, worried that Bernd would be like all the others and fail to follow through.³⁶⁶ Armin's fears evaporated, however, as Bernd emerged from the bowels of the train and greeted him warmly: "I am your flesh. . . . I hope you'll find me tasty."³⁶⁷

VII. The Cannibal's Banquet

The two men drove from Kassel to Wüstefeld,³⁶⁸ had coffee together at Armin's mansion,³⁶⁹ and engaged in small talk, which was really a macabre game of one-upsmanship of cannibal factoids and trivia.³⁷⁰ Before departing Kassel, they stopped at a pharmacy and purchased narcotic cough syrup and sleeping pills, which Bernd rapidly consumed.³⁷¹ Bernd then brought the conversation back to the matter at hand. He was here for a particular purpose, and he wanted Armin to bite off his penis as a prelude to being consumed whole and entire.³⁷²

Armin tried but failed to perform as Bernd requested, and Bernd exploded in a tone equal parts frustration, contempt, and rage: "You're too nice, too weak. . . . You're not tough enough to carry it through."³⁷³ Angry and disgusted, he asked Armin to take him back to the train station.³⁷⁴

³⁶³ See *id.* (noting, according to cannibal websites, abstaining makes "slaughter easier and his meat tastier").

³⁶⁴ See *id.* at 65.

³⁶⁵ *Id.*

³⁶⁶ *Id.* at 68.

³⁶⁷ *Id.*

³⁶⁸ STAMPF, *supra* note 7, at 222.

³⁶⁹ JONES, *supra* note 17, at 79–81.

³⁷⁰ *Id.* at 80–82.

³⁷¹ STAMPF, *supra* note 7, at 222.

³⁷² JONES, *supra* note 17, at 86.

³⁷³ *Id.* at 87.

³⁷⁴ *Id.*

Armin was truly committed to the principle of free consent, and did as requested, even though Bernd had made himself vulnerable through his heavy use of intoxicants and sedatives.³⁷⁵ He could have had his way with Bernd, he could have killed him on the spot and Bernd would have been powerless to resist. But Armin insisted that he “only wanted to consume someone who also really wanted it of his own accord”—thus he explained his readiness to assist Bernd in returning to Berlin.³⁷⁶

They arrived at the station in the early afternoon and Bernd paid cash for a one-way ticket back to Berlin.³⁷⁷ But Bernd was not yet ready to abandon the well-crafted plan he had made to efface his very existence, and so he told Armin he would go to the men's room for a while to think this through.³⁷⁸ He returned a few minutes later, his confidence restored.³⁷⁹ He quizzed Armin about his resolve.³⁸⁰ Bernd insisted to Armin: “I need you to be *tough*. Do you think you can castrate me? Please, Armin, I'm begging you. I want this more than anything. This isn't going to work otherwise.”³⁸¹

By late afternoon, they were once again back at the old mansion and now the pace quickened. Armin set up video equipment and proceeded to “record[]” “[e]verything.”³⁸² Bernd continued to consume a mixture of cough medicine and sleeping pills.³⁸³ They agreed on a plan—when Bernd grew sleepy, they should sever the penis, and then Armin should feel free to finish the job, cutting Bernd's throat.³⁸⁴

As Bernd continued to ingest intoxicants, he became entirely

³⁷⁵ STAMPF, *supra* note 7, at 220.

³⁷⁶ *Id.*

³⁷⁷ *Id.* at 220–21.

³⁷⁸ JONES, *supra* note 17, at 92–93.

³⁷⁹ *Id.* at 93.

³⁸⁰ *Id.* at 94.

³⁸¹ *Id.* (quoting Bernd Brandes) (emphasis in original).

³⁸² *The World's Gone Potty, And Now It's Giving Us the Willies*, WESTERN DAILY PRESS (Bristol), Dec. 9, 2003, available at 2003 WLNR 2453596; see also Allan Hall, *Cannibal Ate Victim Who Volunteered to Be Carved Up and Killed—On Film, Eaten Alive*, THE EXPRESS (London), Dec. 4, 2003 (LEXIS).

³⁸³ STAMPF, *supra* note 7, at 222.

³⁸⁴ *Id.* at 226–32.

numb to pain.³⁸⁵ They adjourned to the kitchen, where Armin finally succeeded in severing Bernd's penis.³⁸⁶ Bernd began to bleed "profusely."³⁸⁷ Bernd laid back down on the bed while Armin went to the kitchen and cooked Bernd's member.³⁸⁸ They tried consuming the penis, but soon agreed it was too tough to eat.³⁸⁹

They next retreated to the bathroom, where Bernd soaked in the tub, allowing the blood to drain from his body.³⁹⁰ He repeated his instruction to Armin: "As soon as I'm asleep, cut my throat."³⁹¹ It was now about 8:00 PM.³⁹² The video cameras continued to roll, recording every move and utterance the two men made.³⁹³

Armin thought to give Bernd his privacy, hoping he would drift into unconsciousness.³⁹⁴ He returned to a room that must have held special fondness for him, his old childhood bedroom.³⁹⁵ There, he read a Star Trek novel as the hours passed.³⁹⁶ He fantasized about life on other planets, wondering whether, out there somewhere, in some alternative universe, a place existed where cannibalism was the height of social acceptability.³⁹⁷

In the early morning hours, Armin's thoughts circled back to the more pressing matter of Bernd. Had he succumbed?³⁹⁸ He returned to the bedroom about 3:30 AM, where he found his

³⁸⁵ *Id.* at 226 ("So Bernd was high? . . . He was outright euphoric."); Fleishman, *supra* note 57 ("[Bernd] numbed himself with sleeping pills and schnapps.").

³⁸⁶ STAMPF, *supra* note 7, at 227–28 (providing an extremely gruesome account of the procedure based on the videotape of the event and interviews conducted with Armin).

³⁸⁷ *Id.* at 228.

³⁸⁸ *Id.*

³⁸⁹ *Id.*

³⁹⁰ *Id.* at 232.

³⁹¹ *Id.*

³⁹² STAMPF, *supra* note 7, at 232.

³⁹³ Roger Boyes, *A Mercy Killing, Not Murder, Accused Cannibal Claims*, THE AUSTRALIAN, Dec. 10, 2003, available at 2003 WLNR 7127131.

³⁹⁴ STAMPF, *supra* note 7, at 232.

³⁹⁵ *Id.*

³⁹⁶ PAUL BLOOM, *HOW PLEASURE WORKS: THE NEW SCIENCE OF WHY WE LIKE WHAT WE LIKE* 25 (2010).

³⁹⁷ JONES, *supra* note 17, at 109–10.

³⁹⁸ *Id.* at 110.

victim in a semi-conscious state.³⁹⁹ Bernd muttered some words, interpreted by the court as “put me out of my misery.”⁴⁰⁰ Earlier in the bathroom he had steeled Armin’s nerves for what had to come next: “You’ve no idea how glad I am about this. It’s the most pleasure I’ve ever had. It’s what I always wanted.”⁴⁰¹

Armin kissed Bernd⁴⁰² and began to pray over his near-lifeless body.⁴⁰³ Armin struggled to move Bernd from the bed to the slaughter table.⁴⁰⁴ Thinking Bernd could not possibly remain alive, he said some more prayers, thanking God for creating Bernd and leading him to his doorstep.⁴⁰⁵ He beseeched God’s forgiveness for the killing and pleaded with God to please understand the inner compulsions that drove him to this point.⁴⁰⁶

Armin then proceeded to run a butcher’s knife through Bernd’s throat.⁴⁰⁷ A review of the videotape, however, revealed, even to Armin, that Bernd was still very much alive, his chest rising and falling in labored breathing.⁴⁰⁸ Armin had killed a living victim.⁴⁰⁹ Expert analysis of the tape by police subsequently showed that Bernd must also have experienced a great deal of pain in these final minutes.⁴¹⁰

Armin proceeded to butcher the corpse. He ran smaller, less select portions of flesh through a meat grinder,⁴¹¹ while he fileted

³⁹⁹ STAMPF, *supra* note 7, at 232–33.

⁴⁰⁰ Derek Scally, *Cannibalism Accused Says He Would Eat Others*, THE IRISH TIMES, Dec. 9, 2003 (LEXIS).

⁴⁰¹ JONES, *supra* note 17, at 103 (quoting Bernd).

⁴⁰² Masters, *supra* note 272, at 25.

⁴⁰³ *Id.*; JONES, *supra* note 17, at 115; STAMPF, *supra* note 7, at 234, 242–43.

⁴⁰⁴ STAMPF, *supra* note 7, at 233.

⁴⁰⁵ JONES, *supra* note 17, at 115–16.

⁴⁰⁶ *Id.*

⁴⁰⁷ STAMPF, *supra* note at 7, 234–35.

⁴⁰⁸ *Id.* at 234.

⁴⁰⁹ *Id.*

⁴¹⁰ Allan Hall, *Cannibal’s Victim Died in Great Pain*, THE MIRROR (London), Dec. 13, 2003 (LEXIS). Neither man, oddly enough, wanted the end to be painful. As Brian Masters, a journalist-observer at the trial, wrote: “[B]izarre as it may sound—neither man intended to inflict harm, in the sense of committing injury which the other sought to avoid. And neither man would have regarded their private piece of theatre as ‘wrong’ in any absolute sense.” Masters, *supra* note 272, at 46.

⁴¹¹ STAMPF, *supra* note 7, at 247.

steaks from the shoulders, the biceps, the rump, the thighs, and the calves.⁴¹² By the time he finished, he had collected about sixty pounds of edible flesh.⁴¹³ He wrapped the greatest portion of meat in freezer bags and placed them underneath a false bottom in his freezer.⁴¹⁴

The next day was Sunday and Armin had planned ahead for a fine Sunday feast. He regarded the events of the last two days as something sacred.⁴¹⁵ As church bells pealed outdoors summoning the worshipers to their prayers, Armin busied himself in the kitchen looking forward to his own “precious spiritual ceremony.”⁴¹⁶ He had bought Brussels sprouts for the occasion, and a fine South African cabernet.⁴¹⁷ He selected a steak from Armin’s thigh and “flavoured [it] with garlic and Muscat wine.”⁴¹⁸ He dressed for the occasion, in a jacket and necktie.⁴¹⁹ Armin described what happened next: The eating took place in the living room. Quite ceremoniously, with a candelabra. I got out the black porcelain and the finest tablecloth from the china cabinet. I sat down at the table and enjoyed the solemn moment.⁴²⁰

This meal, he recalled, was “like Communion” in church.⁴²¹ “[w]ith every piece of flesh I ate, I remembered him.”⁴²² “Belief and memory of the person are renewed,” Armin phrased it poetically.⁴²³

With all reverence, Armin eventually buried Bernd’s head and

⁴¹² *Id.* at 251; JONES, *supra* note 17, at 124–25.

⁴¹³ DIEHL & DONNELLY, *supra* note 48, at 207.

⁴¹⁴ STAMPF, *supra* note 7, at 251; Boyes, *A Mercy Killing*, *supra* note 393 (describing the false bottom).

⁴¹⁵ JONES, *supra* note 17, at 115 (describing how, as Armin killed Bernd, he remembered his mother’s funeral and was struck by the sanctity of the moment).

⁴¹⁶ STAMPF, *supra* note 7, at 250.

⁴¹⁷ Christopher Hudson, *Smile of a Cannibal*, DAILY MAIL (London), Dec. 6, 2003 (LEXIS).

⁴¹⁸ *Id.*

⁴¹⁹ JONES, *supra* note 17, at 133.

⁴²⁰ STAMPF, *supra* note 7, at 255.

⁴²¹ *Court in a Dilemma With Cannibal’s Confessions*, CANBERRA TIMES (Austl.), Dec. 6, 2003 (LEXIS).

⁴²² Mark Landler, *German Court Convicts Internet Cannibal of Manslaughter*, N.Y. TIMES, Jan. 31, 2004, at A3.

⁴²³ *Court in a Dilemma With Cannibal’s Confessions*, *supra* note 421.

the inedible parts of his remains on his property, and accompanied the funeral with intense praying: The Lord's Prayer and the Twenty-Third Psalm: "The Lord is my shepherd, there is nothing I shall want" ⁴²⁴

VIII. Apprehended

As spring turned into summer, 2002, Armin steadily depleted his supply of cannibal meat, forcing him to try to locate another victim. ⁴²⁵ And so he was back on the internet, this time describing himself as "Master Butcher," boasting of the way he had killed and cooked Bernd. ⁴²⁶ If you were interested in ending your life, "but you wanted something decent to come out of you, then come to me." ⁴²⁷ Once again, he was swamped with a strikingly large number of "volunteers." ⁴²⁸

Armin invited Jörg back, but he proved as hard to get as ever. He playfully allowed himself to be trussed up on meat hooks, ⁴²⁹ but he was not about to consent to being eaten. ⁴³⁰ Then there was Dirk Möller, who worked as a conference organizer for posh London hotels. ⁴³¹ Like Bernd, he was a well-regarded professional, having previously worked in Switzerland and Saudi Arabia. ⁴³² Unlike Bernd, however, he was interested only in cannibal fantasy, not the real thing. ⁴³³

Other men made their way to Armin's vast sepulchral

⁴²⁴ STAMPF, *supra* note 7, at 263.

⁴²⁵ JONES, *supra* note 17, at 148.

⁴²⁶ *Id.*

⁴²⁷ *Id.*

⁴²⁸ *Id.* at 148–50.

⁴²⁹ Crabb, *The Cannibal and His Copyright*, *supra* note 358.

⁴³⁰ *Id.*

⁴³¹ Allan Hall, *Meal Is in Worst Taste For Cannibal*, THE MIRROR (London), Dec. 19, 2003, at A9.

⁴³² JONES, *supra* note 17, at 152. Stampf identifies Dirk as an international banker, but this is another instance of Stampf altering some factual details to obscure the identities of those whose reputations might be compromised by association with the case.

⁴³³ STAMPF, *supra* note 7, at 270; *Cannibal Trial Hears of Big Mac Appetizer*, UNITED PRESS INTERNATIONAL, available at http://www.upi.com/Top_News/2003/12/16/Cannibal-trial-hears-of-Big-Mac-appetizer/UPI-69531071587161/; Roger Boyes, *Cannibal 'Mapped' Witness For Butchery*, THE AUSTRALIAN, Dec. 17, 2003, available at 2003 WLNR 7159742 (providing further information on Armin and Dirk).

mansion.⁴³⁴ Stefan was a teacher from a nearby town who enjoyed being “chloroformed,” rendering himself unconscious and placing himself entirely in others’ hands.⁴³⁵ Then there was Daniel, whom Armin bound at the feet and the hands and carefully marked where he might find the choicest cuts.⁴³⁶ Armin even drove to several major European cities—Dresden, Hamburg, Amsterdam—to interview other men who had expressed interest in serving themselves up as future meals.⁴³⁷

Armin did not kill these men, or maim or mutilate their persons. Rather, when they inevitably expressed their reservations, frightened by Armin’s obvious earnestness, he let them walk free, but only after buying them gifts or taking them out to dinner.⁴³⁸ What he wanted, after all, was a genuine bonding of spirit and mind.⁴³⁹ He came to view his cannibal longings as a kind of earthly Eucharist, a sacred communion with a sacrificial offering.⁴⁴⁰ And such an offering could only be given with the consent of the victim.⁴⁴¹ Over and over, Armin made it clear that “he was a *cannibal* who only wanted to slaughter a man who was willing.”⁴⁴²

By the summer of 2002, Armin must have felt himself invincible, judging from the ever greater risks he was taking online. He posted a picture of himself, armed with a carving knife, “skin[ning] Bernd Brandes’ right arm.”⁴⁴³ A second photograph featured a beaming Armin posing before Bernd’s “headless corpse.”⁴⁴⁴ A third picture was of Bernd’s foot.⁴⁴⁵ He

⁴³⁴ STAMPF, *supra* note 7, at 271–74.

⁴³⁵ *Id.* at 271.

⁴³⁶ *Id.* at 273–74.

⁴³⁷ *Id.* at 272.

⁴³⁸ See, e.g., *Cannibal Trial Hears of Big Mac Appetizer*, *supra* note 433 (taking one visitor out for a meal); Boyes, *Cannibal ‘Mapped’ Witness For Butchery*, *supra* note 433 (going out to a movie with a “victim” who said “no”).

⁴³⁹ JONES, *supra* note 17, at 151–54 (describing how consent was of utmost importance to Armin and he considered himself a cannibal not a serial killer).

⁴⁴⁰ *Id.* at 126 (focusing on the emptiness he felt after his mother’s funeral and how now his friend could join him forever in body and spirit).

⁴⁴¹ *Id.* at 151.

⁴⁴² *Id.* (emphasis in original).

⁴⁴³ STAMPF, *supra* note 7, at 278.

⁴⁴⁴ *Id.*

thought he might sell these images and reap some financial benefit from his cannibalism.⁴⁴⁶

Now this attracted attention. A bored medical student searching for vicarious thrills came across the photographs in the summer of 2002,⁴⁴⁷ realized that Armin was serious, and engaged him in a series of e-mail exchanges.⁴⁴⁸ He reported his dealings with Armin to the police.⁴⁴⁹ Law enforcement was sluggish in its follow-up—it seemed investigators thought they might be dealing with nothing more than a deranged fabulist and could not imagine that what they were confronting was real.⁴⁵⁰ But when they did finally look into the matter, Armin found himself under arrest in December 2002.⁴⁵¹

Armin immediately retained counsel—a man named Harald Ermel, who had long represented Armin in other matters.⁴⁵² Ermel was strictly a small-town lawyer with a modest general practice.⁴⁵³ But he and Armin prepared nonetheless to put on a strong and sophisticated defense of Armin's actions.⁴⁵⁴

IX. The Law

The relevant law could be found in the German *Strafgesetzbuch*, the German Criminal Code.⁴⁵⁵ It was here that provisions governing the taking of human life are found. Section

⁴⁴⁵ *Id.*

⁴⁴⁶ *Nothing is Taboo Any More*, CANBERRA TIMES (Austl.), Dec. 8, 2003 (LEXIS) (“There is quite a demand for such things among foot fetishists.”).

⁴⁴⁷ H. THOMAS MILHORN, CRIME: FROM COMPUTER VIRUSES TO TWIN TOWERS 135 (2004).

⁴⁴⁸ JONES, *supra* note 17, at 157.

⁴⁴⁹ STAMPF, *supra* note 7, at 279–82; JONES, *supra* note 17, at 157.

⁴⁵⁰ STAMPF, *supra* note 7, at 283; Dan Rather & Richard Roth, *German Man on Trial For Murder and Cannibalism*, CBS NEWS TRANSCRIPTS, Dec. 4, 2003.

⁴⁵¹ STAMPF, *supra* note 7 at 286–98; JONES, *supra* note 17, at 160–65.

⁴⁵² STAMPF, *supra* note 7 at 292–93.

⁴⁵³ *Id.* at 293–94 (describing that Ermel's practice comprises matrimonial law, real estate, and construction contracts); JONES, *supra* note 17, at 168 (describing Ermel's practice dealing mostly with matrimonial law).

⁴⁵⁴ JONES, *supra* note 17, at 175.

⁴⁵⁵ Strafgesetzbuch [StGB] [PENAL CODE], Nov. 13, 1998, Bundesgesetzblatt [BGBL.] (Ger.), translated in TRANSLATION OF THE GERMAN CRIMINAL CODE (Michael Bohlander, Fed. Ministry of Justice trans., 2009) available at http://www.gesetze-im-internet.de/englisch_stgb/german_criminal_code.pdf.

211 defined the crime of *Mord* (“Murder”) and declared that a murderer might be subject to perpetual deprivation of liberty where he or she, acting from *Mordlust*, killed for sexual desire, or for greed, or for some other base motive; or where the accused killed stealthily, or by some cruel means; or where the means used posed dangers to the public; or where the killing was done to conceal some other crime.⁴⁵⁶

Mord is the most serious form of killing under German law. At least one commentator has compared it to aggravated homicide under American law.⁴⁵⁷ The term “base motive” (*niedrigen Beweggründen*) was chosen deliberately for its ambiguity;⁴⁵⁸ a zealous or creative prosecutor could certainly find room to prosecute a whole variety of homicides under its terms.⁴⁵⁹ The use of the term *Mordlust* spoke to the question of intent—the accused had to act with the specific intent to kill; i.e., the killer had to “enjoy” or be thrilled by it.⁴⁶⁰

Section 212, captioned *Totschlag*—literally “death blow”⁴⁶¹—spoke to those who killed outside the scope of section 211.⁴⁶² If section 211 identified aggravating factors that mandated life imprisonment,⁴⁶³ then section 212 addressed the broad run of cases outside those specially-mentioned circumstances.⁴⁶⁴ English-

⁴⁵⁶ STGB, *supra* note 455, § 211.

⁴⁵⁷ GEORGE P. FLETCHER, *RETHINKING CRIMINAL LAW* 326 (2000) (“The German code contains the most detailed listing of the motives that are sufficient to classify a killing as aggravated homicide (*Mord*).”).

⁴⁵⁸ *Id.* at 327 (“After listing these three motives, the German statute concludes with a catchall clause covering all cases of intentional killing for ‘base motives’ (*niedrige Beweggründe*).”).

⁴⁵⁹ *Id.* at 327–28 (“As elaborated in the case law these ‘base motives’ include vengeance and jealousy avoiding arrest and racial hatred.”).

⁴⁶⁰ Thomas Weigend, *Germany*, in *THE HANDBOOK OF COMPARATIVE CRIMINAL LAW* 252, 277 (Kevin Heller & Markus Dubber eds., 2011).

⁴⁶¹ COLLINS GERMAN DICTIONARY, *supra* note 4, at 572, 655 (providing definitions of *Schlag* and *Tot*).

⁴⁶² JÖRG EISELE, *DIE REGELBEISPIELEMETHODE IM STRAFRECHT: ZUGLEICH EIN BEITRAG ZUR LEHRE VON TATBESTAND* 24–25 (2004) (discussing the relationship between section 211 and section 212).

⁴⁶³ STGB, *supra* note 455, § 211 (“Whosoever commits murder under the conditions of this provision shall be liable to imprisonment for life.”).

⁴⁶⁴ *Id.* § 212 (“Whosoever kills a person without being a murderer under section 211 shall be convicted of murder and be liable to imprisonment of not less than five

language writers have compared this section to “manslaughter in its effects.”⁴⁶⁵ Those found guilty under this provision may be imprisoned not less than five years, but in extreme instances may be sentenced to life.⁴⁶⁶

Section 213 then addressed diminished capacity—one who kills (*Totschläger*) in the heat of anger or to escape an abusive situation.⁴⁶⁷ Violation of this statute was still categorized as an impermissible killing—*Totschlag*—but the punishment was potentially very much reduced⁴⁶⁸—confinement of one to ten years,⁴⁶⁹ although judges enjoy wide latitude to relax sanctions further in particular cases.⁴⁷⁰

Although sections 212 and 213 each offered the possibility of mitigating circumstances,⁴⁷¹ neither statute held much appeal to Armin. He saw his act as justified, and he rejected efforts to label him as mentally ill.⁴⁷² On the other hand, a statute that Armin

years.”).

⁴⁶⁵ See, e.g., Christopher Birkel & Harald Dern, *Homicide in Germany*, in HANDBOOK OF EUROPEAN HOMICIDE RESEARCH: PATTERNS, EXPLANATIONS, AND COUNTRY STUDIES 315, 315 (Marieke C.A. Liem et al. eds., 2011).

⁴⁶⁶ StGB, *supra* note 455, § 212 (“In especially serious cases the penalty shall be imprisonment for life.”).

⁴⁶⁷ StGB, *supra* note 455, § 213 (“If the murderer under section 212 was provoked to rage by maltreatment or serious insult perpetrated on him or a relative by the victim and immediately lost control and committed the offense, or in the event of an otherwise less serious case, the penalty shall be imprisonment from one to ten years.”).

⁴⁶⁸ Michael Bohlander, *When the Bough Breaks: Defences and Sentencing Options Available in Battered Women and Similar Scenarios Under German Law*, in LOSS OF CONTROL AND DIMINISHED RESPONSIBILITY: DOMESTIC, COMPARATIVE, AND INTERNATIONAL PERSPECTIVES 247, 247–48 (Alan Reed & Michael Bohlander eds., 2011) (discussing the use of section 213 in battered women cases).

⁴⁶⁹ StGB, *supra* note 455, § 213.

⁴⁷⁰ Frieder Dünkler, *Reducing the Population of Fine Defaulters in Prisons: Experiences With Community Service in Mecklenburg-Western Pomerania (Germany)*, in COUNCIL OF EUROPE, CRIME POLICY IN EUROPE: GOOD PRACTICES AND PROMISING EXAMPLES 127, 127 (2004) (discussing the preference for fines rather than imprisonment and the importance of prevention as opposed to retribution in the German criminal justice system).

⁴⁷¹ Bohlander, *supra* note 468, at 247 (discussing how, though section 213 specifically takes into account provocation, provocation, under section 46, or diminished responsibility under section 21, can limit the sentence imposed for any crime without shifting the statutory basis for punishment).

⁴⁷² *Cannibal is ‘Mentally Sound,’ German Court Hears*, DEUTSCHE PRESSE-AGENTUR, Jan. 19, 2004 (LEXIS) (“The defence has actively chosen not to portray

found most attractive indeed was section 216. Entitled “Killing Upon Request” (*Tötung auf Verlangen*), the law punished with confinement of between six months and five years those who killed at the victims’ “emphatic” (*ausdrückliche*) and “sincere” (*ernsthafte*) request.⁴⁷³

The inclusion of this provision in the *Strafgesetzbuch* was no recent innovation; indeed, a precursor to the statute, with nearly identical language, appeared in the very first edition of the *Strafgesetzbuch* in 1871.⁴⁷⁴ A commentary published simultaneously with this first edition indicated that the clause owed its origin to the law-giver’s desire to distinguish between those who murder intentionally and those who merely meet the insistent demands of those desperate persons who “consent” (*entwillingend*) to death.⁴⁷⁵

Section 216 seems to have been noticed for the first time by an American law review in 1922, when the author declared that the statute often went unenforced by German judges who either imposed suspended sentences in such a case or no sentence at all even where a conviction was obtained, since it was generally conceded that those seeking death were terminally ill or suffering from grave, untreatable conditions.⁴⁷⁶

By the latter twentieth century, this clause came to figure prominently in ongoing debates over euthanasia.⁴⁷⁷ In 1986, in the wake of a controversial arrest of a euthanasia practitioner,⁴⁷⁸ a survey of physicians assured of anonymity, revealed that “forty

Meiwees as mentally deranged or incompetent.”).

⁴⁷³ STGB, *supra* note 455, § 216 (“If a person is induced to kill by the express and earnest request of the victim the penalty shall be imprisonment from six months to five years.”).

⁴⁷⁴ STGB, *supra* note 455, § 216.

⁴⁷⁵ HANS RÜDORFF, STRAFGESETZBUCH FÜR DES DEUTSCHE REICH MIT COMMENTAR 348 (1871).

⁴⁷⁶ S. Miles Bouton, *Penal Laws in the United States and Europe*, 5 AM. L. SCH. REV. 509, 512 (1922) (describing how even after conviction the sentence is usually suspended especially when the victim was suffering from a fatal disease and the perpetrator was a friend or family member of the victim).

⁴⁷⁷ Torsten Verrel, *Euthanasia in Germany*, in EUTHANASIA IN INTERNATIONAL AND COMPARATIVE PERSPECTIVE 107, 107 (Marc Groenhuisjen & Floris van Laanen eds., 2006).

⁴⁷⁸ Lynn Tracy Nerland, *A Cry for Help: A Comparison of Voluntary, Active Euthanasia Law*, 13 HASTINGS INT’L & COMP. L. REV. 115, 129–30 (1989).

percent of the respondents admitted having killed incurably ill patients.”⁴⁷⁹ In the same year, Norbert Hoerster, a law professor at the University of Mainz, argued that section 216 should be amended, reiterating the illegality of taking life, even when one has consented to one’s own death, but immunizing from prosecution those who render assistance where the request is made by someone suffering from a medically-confirmed diagnosis of terminal, incurable illness.⁴⁸⁰

Another high profile arrest, freighted with much greater significance than the 1986 matter, occurred in January, 1993, when Hans Atrott, the president of the single largest German euthanasia advocacy group, was arrested as part of a “sting” for selling cyanide at a substantial profit.⁴⁸¹ This episode briefly slowed the momentum in favor of assisted suicide. Thus medical professors spoke out against euthanasia⁴⁸² as did political figures like Chancellor Gerhard Schroeder’s spokesmen and German Justice Minister, Herta Däubler-Gmelin.⁴⁸³

⁴⁷⁹ *Id.* at 130 (citing *Four in Ten German Doctors Said to Have Applied Mercy Killing*, REUTERS, Jan. 18, 1986).

⁴⁸⁰ Norbert Hoerster, *Rechtsethische Überlegungen zur Freigabe der Sterbehilfe* 39 NEUE JURISTISCHE WOCHENSCHRIFT 1789, 1792 (1986).

⁴⁸¹ Adrian Bridge, *Germany's Seller of Death is Arrested*, 306 BRIT. MED. J., Feb. 6, 1993, at 351 (JSTOR); Adrian Bridge, *German Euthanasia 'Expert' Arrested for Sales of Cyanide*, TORONTO STAR, Jan. 1993 (LEXIS). Atrott was found not guilty of violating section 216. Rather, according to a press report, “[a]s helping people to kill themselves is not a crime in Germany, Mr. Atrott was convicted of contravening pharmaceutical laws and evading income tax on some 220,000 Deutschmarks . . . that he earned from the sale.” Adrian Bridge, *Fury in Bonn Over 'Dealers in Poison'*, THE INDEPENDENT (London), Mar. 16, 1994 (LEXIS). *Cf. Right-to-Die Campaigner Guilty of Profiteering in Cyanide Sales*, THE HERALD (Glasgow), Mar. 15, 1994 (LEXIS) (indicating that at its height in the 1980s, Atrott’s organization had upwards of 60,000 members); ALY GÖTZ, CLEANSING THE FATHERLAND: NAZI MEDICINE AND RACIAL HYGIENE 4 (1994) (describing “Atrott and his followers [as] a ruthless Mafia of potassium cyanide dealers”).

⁴⁸² See *Active Euthanasia and Physician-Assisted Suicide: The German Discussion*, 5 LEGAL MEDICINE S22–S28 (Supp. Mar. 2003) (“[A]rguments . . . in favor of active euthanasia have undoubtedly led to a weakening of the strict injunction ‘Thou shall not kill’. It can be assumed that this is one of the causes of the recent spate of serial killings in hospitals and homes for the elderly.”).

⁴⁸³ See, e.g., *We Won't Permit Euthanasia, German Minister Proclaims*, CHI. TRIB., Dec. 1, 2000, § 1, at 7 (describing active euthanasia as the “breaching of a taboo”); *Germany Rejects Following Holland's Euthanasia Legalisation*, DEUTSCHE PRESSE-AGENTUR, Apr. 11, 2001 (LEXIS) (discussing the extreme negative reaction in Germany

Even so, in late 1994, a German court ruled in favor of passive euthanasia—endorsing the cessation of nutritional support for patients who were both terminally ill and comatose.⁴⁸⁴ Assisted suicide began again to gain momentum among the German public and, in 2000, a survey of public opinion reported by the British flagship medical journal, *The Lancet*, revealed that “[m]ore than 80 [percent] of Germans [were] in favour of assisted euthanasia.”⁴⁸⁵ In fact, 71 percent believed that section 216 should be repealed to de-criminalize killing upon request entirely in some circumstances.⁴⁸⁶ Even opposition in official circles had begun to soften as the German Medical Association published guidelines in the fall of 1998 that permitted passive, but not active, euthanasia in certain limited circumstances.⁴⁸⁷

Armin and his attorney, Harald Ermel, thought that they had a fighting chance of prevailing on the basis of section 216 and Bernd’s right to take his own life with Armin’s assistance.⁴⁸⁸ After all, as Ermel recollected in an interview he gave following the trial: “It was clear that the Berlin party [Bernd] wanted to die. I could prove that easily, with the films, with the chat exchange, and

to the Dutch legislation of euthanasia).

⁴⁸⁴ Helmut Karcher, *German Court Rules on Euthanasia*, 309 BRIT. MED. J., Oct. 1, 1994, at 830, 830–31 (JSTOR).

⁴⁸⁵ Neigel Glass, *Survey Finds Most Germans In Support of Assisted Euthanasia*, 355 THE LANCET 2057 (2000).

⁴⁸⁶ *Id.*

⁴⁸⁷ Stephen W. Sohm, *Palliative Care versus Euthanasia: The German Position: The German General Medical Council’s Principles For Medical Care of the Terminally Ill*, 25 J. MED. & PHIL. 195, 199–200 (2000); WINFRIED P.G. HOCHGREBE, LEGALISIERUNG DER AKTIVEN STERBEHILFE IN DER BUNDESREPUBLIK DEUTSCHLAND? EINE ANALYSE DER AKTUELLEN DISKUSSION UNTER MEDIZINISCHEN, PHILOSOPHISCH-ETHISCHEN UND RELIGÖS-THEOLOGISCHEN ASPEKTEN 26–28 (2005). In 2001, the German courts were presented with a difficult case. A young man, nearly totally paralyzed by muscular dystrophy, convinced a rather gullible nursing-home orderly to wrap him in a garbage bag, tape his mouth shut, and leave him outdoors, assuring the orderly that someone would be there to claim him. In fact, it was a ruse by which the “victim” was enabled to commit suicide despite his paralysis. The trial court acquitted the orderly, but the appellate court reversed, finding him guilty of violating section 216. See Ralph Grunewald & Christoph J.M. Safferling, *Report—Bundesgerichtshof in Strafsachsen (Federal Court of Justice, Criminal Law)—2002/2003*, in 2/3 ANNUAL OF GERMAN & EUROPEAN LAW 378, 383–86 (Russell A. Miller & Peer Zumbansen eds., 2004/2005).

⁴⁸⁸ STAMPF, *supra* note 7, at 317.

with Mr. Brandes' assent to his own unmanning."⁴⁸⁹

X. Preparing for Battle

There was little doubt Armin Meiwes' trial would become a spectacle, a carnival that would attract voyeuristic onlookers from across the globe.⁴⁹⁰ Journalists quickly concluded that the most apt comparison was to the cinematic cannibal Hannibal Lecter.⁴⁹¹

In December 2003 the trial opened.⁴⁹² German prosecutors brought the case not in Rotenburg, but in Kassel, the much larger capital city of the State of Hesse.⁴⁹³ Typical of high profile cases, the court consisted of a collegial panel, chaired by Judge Heinze Völker Mütze,⁴⁹⁴ joined by two other trained jurists⁴⁹⁵ and by two lay associates who served as a kind of popular "jury."⁴⁹⁶

The press corps of every inhabited continent in the world was well-represented at trial⁴⁹⁷ and the crush for access was so great

⁴⁸⁹ *Id.* (quoting Harald Ermel, who continued; "In plain view of us all, Bernd Brandes encouraged Mr. Meiwes [] to do the deed. He requested, 'Please do it this way. Get another knife.' . . . It wasn't at all Mr. Meiwes's wish to cut off his penis. His mind was on something else entirely. It was on the flesh, not on such sexual machinations.").

⁴⁹⁰ *Id.* at 306–07 (listing numerous articles about the case from around the world).

⁴⁹¹ Peter Finn, *Cannibal Case Grips Germany: Suspect Says Internet Correspondent Volunteered to Die*, THE WASHINGTON POST, Dec. 4, 2003, at A26; STAMPF, *supra* note 7, at 308.

⁴⁹² JONES, *supra* note 17, at 177.

⁴⁹³ *Id.*

⁴⁹⁴ Born in 1958, Völker Mütze was young and new to the bench, having been appointed only two and half years prior to the case, in July 2000. See Landgericht Kassel, VATERNOTRUF.DE, <http://www.vaeternotruf.de/landgericht-kassel.htm> (last visited Sept. 26, 2013).

⁴⁹⁵ These were Dr. Alexander Wachter and Patrick Gerberding. JONES, *supra* note 17, at 178.

⁴⁹⁶ *Id.* On judicial procedures in Germany, see Denis Salas, *The Role of the Judge*, in EUROPEAN CRIMINAL PROCEDURES 488, 502 (Mirielle Delmas-Marty & John R. Spencer eds., 2002).

⁴⁹⁷ See, e.g., *German Cannibal Trial Opens in Complexity*, XINHUA NEWS AGENCY, Dec. 3, 2003 (LEXIS) (China); *Police Uncover Global Cannibal Network*, TAIPEI TIMES, Jan. 7, 2004 available at <http://www.taipetimes.com/News/world/archives/2004/01/07/2003086676> (Taiwan); *German Cannibal in Murder Trial Says Victim Was Willing*, CHANNEL NEWS ASIA, Dec. 3, 2003 (LEXIS) (Singapore); Australia (David Crossland, *Cannibal Trial Set to Make Legal History*, THE COURIER MAIL (Queensland, Austl.), Dec. 4, 2003 (LEXIS) (Australia); Boyes, *Chilling Smile of a German Cannibal*, *supra* note 311 (Australia); *The Week: The Good, the Bad, the Weird*, THE DOMINION POST (Wellington), Dec. 6, 2003 available at 2003 WLNR 5452841 (New Zealand); *Details*

that reporters had to participate in a lottery to get court seats.⁴⁹⁸ A daily queue formed just after midnight each day of the trial so that the public at large might claim the thirty-six remaining seats.⁴⁹⁹

Harald Ermel, Armin's lawyer, had prepared himself well for trial, but he was entirely unready for the media onslaught and poorly bungled through this necessary aspect of trial management. Television commentators mocked Ermel's client.⁵⁰⁰ Publishers brought Armin book deals and hoped he would sign off on them.⁵⁰¹ Rosa von Praunheim, Germany's most shocking and notorious underground movie producer,⁵⁰² announced plans to produce a film about cannibalism.⁵⁰³ Other film producers lined up, hoping to sign an exclusive rights contract with Meiwes.⁵⁰⁴

A canny lawyer, one well-versed in the management of the press, would have been alert to quiet this sort of speculation.⁵⁰⁵

Unfold in Cannibal Trial, NEW ZEALAND HERALD, Dec. 17, 2003 (LEXIS) (New Zealand); Jordan, *German Cannibalist Spared Life*, BAHRAIN NEWS AGENCY, Jan. 31, 2004 (LEXIS) (Bahrain); Jeff Mahoney, *So You Think You've Got a Lot on Your Plate? Cannibalism Case With a Willing Victim Is a Tragedy and Comedy at the Same Time*, THE HAMILTON SPECTATOR (Ont.), Dec. 5, 2003 available at Q4K028840303303 (Newspaper Source Plus) (Canada).

⁴⁹⁸ JONES, *supra* note 17, at 177; Scally, *Two Men, One Horrific Death Wish*, *supra* note 204.

⁴⁹⁹ JONES, *supra* note 17, at 176.

⁵⁰⁰ Thus Keith Olbermann joked about the book deal Armin might sign. "To Serve Man" seemed like a good title; "My Mother the Sandwich" even better. See Keith Olbermann, *Countdown*, MSNBC TRANSCRIPTS, Dec. 12, 2003.

⁵⁰¹ *Publishers Line Up For German Cannibal's Memoirs*, DEUTSCHE PRESSE-AGENTUR, Dec. 5, 2003.

⁵⁰² ALICE A. KUZNIAR, *THE QUEER GERMAN CINEMA* 88 (2000) (Rosa von Praunheim, whose given name was Holger Mischnitzky (before changing it upon entrance into the gay rights movement), was one of the founders of the gayrights movement in Germany and has been described as "unquestionably the most important figure in the Queer German Cinema"). See Michael Pinfold, *Praunheim, Rosa von*, in *ROUTLEDGE INTERNATIONAL ENCYCLOPEDIA OF QUEER CULTURE* 463–64 (David A. Gerstner ed., 2012).

⁵⁰³ Scott Roxborough, *Feature Planned on Cannibalism*, HOLLYWOOD REPORTER, Dec. 5, 2003 (LEXIS) (announcing that Rosa von Praunheim entitled his project *Your Heart is in My Brain* and planned to begin shooting in the summer of 2004).

⁵⁰⁴ See, e.g., Ed Meza, *Grisly Feast*, DAILY VARIETY (N.Y.), Dec. 22, 2003. It seems that at long last, the Armin Meiwes story will become a Hollywood film. See Rachel Abrams, *A 'Taste' For Cannibals*, DAILY VARIETY (N.Y.), July 2, 2012, ¶ 2 (shooting on a feature-length film entitled "Taste" may begin in late 2013).

⁵⁰⁵ In the American context, press-savvy lawyers are now making a specialty of

Ermel, however, did just the opposite—his glib, off-handed comments succeeded in stoking these fires to a white-hot intensity. As the rumors spun wildly about books and movies, Ermel probably should have energetically denied them, defending his client's honor above all else. Instead, however, he confirmed them.⁵⁰⁶ If it was ever possible to see Armin sympathetically, that time was now irretrievably past. Armin now inescapably appeared like someone trying to abuse the laws of God and man, get away with murder, and enrich himself all at the same time.⁵⁰⁷

The Kassel courthouse on the morning of December 3, 2003, was a scene unto bedlam. A “freak show” were the words the Irish writer Derek Scally used to describe the sorry spectacle.⁵⁰⁸ A crush of spectators waited outside the courthouse for a glimpse of Armin, pushing forward for a better view.⁵⁰⁹ There were the merely curious onlookers, wondering what the infamous Armin Meiwes look like. Was he truly mad? Did he “have red eyes [or] pointed teeth[?]”⁵¹⁰ Then there were the sensation-seekers, a small but intense body of “self-confessed cannibal groupies.”⁵¹¹ One of them boasted to the English journalist Allan Hall: “There are lots of us out there: we admire Armin because he had the guts to see this thing through.”⁵¹²

Armin soon appeared, cadaverously thin but also impeccably attired.⁵¹³ Always formal in his choice of clothing, this was one

serving in the dual capacity of trial advisors and public-relations professionals. See Mark Curriden, *Pressing Your Point: More Legal Teams Using Lawyer-Spokespersons to Take on the Media*, ABA JOURNAL 20 (Dec. 1998).

⁵⁰⁶ Martin Wortmann, *German Cannibal Discusses Movie Deal*, THE AGE (Melbourne, Austl.), Dec. 13, 2003 (“[Armin] is in talks over a movie deal about his story, his defence lawyer said Friday . . . Armin Meiwes has already begun writing a book in prison about his life and actions.”).

⁵⁰⁷ Justin Sparks & Peter Conradi, *Bidding War For ‘Caring Cannibal’—Film-makers Rush to Tell Story of Real-Life Hannibal Lecter*, THE AUSTRALIAN, Feb. 2, 2004, at A15 (describing Ermel's continuous negotiations for the film rights of his client, even after a guilty verdict was handed down).

⁵⁰⁸ Scally, *Two Men, One Horrific Death Wish*, *supra* note 204.

⁵⁰⁹ JONES, *supra* note 17, at 177.

⁵¹⁰ *Id.*, at 176–77.

⁵¹¹ Allan Hall, *Cannibal on Trial for Murder*, THE EVENING STANDARD (London), Dec. 3, 2003, ¶ 16.

⁵¹² *Id.*

⁵¹³ JONES, *supra* note 17, at 177–78.

morning where attention to detail mattered even more than usual. For the occasion, Ermel brought Armin a “gray-blue suit,” specially pressed, together with a dress shirt, necktie, and black shoes.⁵¹⁴ And Armin struck an impressive figure before the bench. “Relaxed and self-confident” were the adjectives Paula Zahn used on CNN.⁵¹⁵

The prosecution chose to go for high stakes. Marcus Köhler, the lead prosecutor, decided to rely on section 211, alleging that Armin killed for “sexual satisfaction,” even though such prosecutions were rare.⁵¹⁶

To establish Armin’s guilt, Köhler called as an expert witness Rudolph Egg, the director of the Criminological Institute in Wiesbaden and an internationally-respected expert on sexual crimes.⁵¹⁷ Egg interviewed Armin extensively⁵¹⁸ and proposed that his crime was entirely motivated by sex. Ingestion of another person, Egg testified, is “an extreme form of a desire that ‘I want you to be in me.’”⁵¹⁹ This much was appreciated as long ago as the days of Sigmund Freud.⁵²⁰

“When you have sex with someone, you have a very high level of personal contact,” Egg stressed.⁵²¹ “Sexual cannibalism is just a

⁵¹⁴ *Id.* at 178.

⁵¹⁵ CNN TRANSCRIPT NO. 120800 CN.V99 (Dec. 8, 2003).

⁵¹⁶ JONES, *supra* note 17, at 179.

⁵¹⁷ Egg has written extensively on forensic psychiatry in both German-language and English-language venues for over twenty years. For a sampling of his work, see Rudolph Egg, *Therapy and Sentencing of Drug Addicts*, in SOCIAL PREVENTION AND THE SOCIAL SCIENCES: THEORETICAL CONTROVERSIES 479–88 (Günter Albrecht et al. eds., 1991); Rudolph Egg, *Therapy Versus Reality: An Evaluation Study*, in PSYCHOLOGY AND LAW: INTERNATIONAL PERSPECTIVES 175–81 (Friedrich Lösel et al. eds., 1992); Rudolph Egg, *Rückfälligkeit nach Straf-Massregelvollzug*, in KRIMINOLOGIE UND WISSENBASIERTE KRIMINALPOLITIK: ENTWICKLUNG-UND-EVALUATIONSFORSCHUNG 247–267 (Friedrich Lösel et al. eds., 2007); Cynthia Calkins Mercado, Hannah L. Merdian, & Rudolph Egg, *The Internet and Sexual Offending: An International Perspective*, in INTERNATIONAL PERSPECTIVES ON THE ASSESSMENT AND TREATMENT OF SEXUAL OFFENDERS: THEORY, PRACTICE, RESEARCH 507–524 (Douglas P. Boer et al. eds., 2011).

⁵¹⁸ Stephen McGinty, *Body Shock: The Man Who Ate His Lover*, THE SCOTSMAN (Edinburg, Scot.), Mar. 2, 2004, <http://www.scotsman.com/news/consumer-show-with-a-difference-1-515914>.

⁵¹⁹ *Cannibalism: Hard Act to Swallow*, THE STRAITS TIMES (Singapore), Dec. 14, 2003, at A3.

⁵²⁰ *Id.*

⁵²¹ Elkins, *supra* note 202.

more extreme version; it is the 'highest' form of intimate behaviour."⁵²² Egg related every aspect of Armin's conduct to this thesis.⁵²³ Thus, his desire to preserve cuts of meat and to eat these portions at regular intervals merely meant that Armin might prolong the sexual gratification. As one reporter recalled Egg's testimony, "[i]f he really derived pleasure from eating a man . . . then he could not possibly eat everything in a single day. . . . So he froze the body parts; the act of eating then took on the aspect of a ritual and could be drawn into his sexual fantasies."⁵²⁴ Egg pandered to the fears of his audience, raising the specter of invisible cannibals even now walking among us, lurking, stalking victims, rounding like stealthy birds of prey on unsuspecting victims. "There are several hundred people with cannibalistic tendencies in Germany alone," he . . . told the court. "And many thousands around the world. . . ."⁵²⁵

There was an elegant logic to this theory of the case. If the court accepted it, the argument closed the door on Armin's effort to rely on section 216 so as to mitigate criminal liability.⁵²⁶ Section 211 punishes sexually-motivated crimes with life imprisonment.⁵²⁷ Cannibalism is always sexual. Armin was a cannibal. Therefore, he committed a sexually-motivated murder. Every step he took—from refrigerating Bernd's flesh to ritualized dining by wine and candlelight—now fit the overall profile. To deter an invisible army of cannibals, furthermore, the enforcement of the law must be harsh and unforgiving. If one bought Köhler's and Egg's logic, then legal defense became impossible.

Armin's only hope, therefore, was to attack the prosecution's major premise—that his killing and eating of Bernd was necessarily sexual. Ermel and Armin, furthermore, must have decided that the best way of making this case was to rely on Armin's transparent sincerity. What else, after all, could explain

⁵²² *Id.*

⁵²³ *Id.*

⁵²⁴ Roger Boyes, *Cannibal Case Hits Raw Nerve*, THE WEEKEND AUSTRALIAN, Dec. 14, 2002 (LEXIS).

⁵²⁵ Peter Fray, *Horror Becomes Chic*, SYDNEY MORNING HERALD, Jan. 16, 2004 (LEXIS) (quoting Egg).

⁵²⁶ STGB, *supra* note 455, § 216 (providing that the maximum punishment for euthanasia under German law is five years imprisonment).

⁵²⁷ STGB, *supra* note 455, § 211.

the decision to permit Armin to make the defense's opening statement personally?

Solemnly, Armin set forth the defense's theory of the case. It all began with his childhood.⁵²⁸ He had been emotionally starved by his "domineering" mother.⁵²⁹ His childhood was nothing but a vast aching loneliness, as his two older brothers moved out of the family home before Armin turned ten.⁵³⁰ He longed for companionship, he hungered for friendship, he craved completeness.⁵³¹ "I felt completely alone,"⁵³² Armin confessed to the court, "and I wanted an imaginary brother."⁵³³

In this vulnerable state, Armin began to fixate on cannibalism. The old tale of *Hansel and Gretel* first stoked his interest.⁵³⁴ But soon he moved on to zombie movies,⁵³⁵ the old television series *Flipper*,⁵³⁶ and grisly daydreams of filleting and consuming his schoolmates.⁵³⁷

As an adult, his cannibal fantasies did not wane in their intensity.⁵³⁸ Armin appeared relaxed at the Kassel state court as he recounted that there were "hundreds, thousands" of men and women who shared the same cannibalistic enthusiasms as he.⁵³⁹

⁵²⁸ Inge Treichel, "He Asked to Be Killed and Eaten," THE DAILY TELEGRAPH (London), Dec. 5, 2003 (LEXIS).

⁵²⁹ Hall, *I Ate My Guest for Lunch: Real Life Hannibal the Cannibal*, *supra* note 167.

⁵³⁰ *Inside Mind of Cannibal Killer*, HERALD SUN (Melbourne, Austl.), Dec. 5, 2003 (LEXIS).

⁵³¹ See *Murder By Consent: Cannibal Confesses in Court*, TOWNSVILLE BULLETIN/TOWNSVILLE SUN (Australia), Dec. 5, 2003 (LEXIS) (indicating that Armin longed for a younger brother, and fantasized about finding someone to become a part of him).

⁵³² *Court in a Dilemma with Cannibal's Confessions*, *supra* note 421.

⁵³³ *Id.*

⁵³⁴ JONES, *supra* note 17, at 2.

⁵³⁵ Hall, *I Ate My Guest for Lunch: Real Life Hannibal the Cannibal*, *supra* note 167.

⁵³⁶ See *supra* notes 82–89 and accompanying text.

⁵³⁷ See *supra* notes 147–153 and accompanying text.

⁵³⁸ Peter Finn, *Cannibalistic Murder Horrifies German Public*, HAMILTON SPECTATOR (Ontario), Dec. 4, 2003 (LEXIS).

⁵³⁹ *Alleged Cannibal Tried for Murder*, CNN WORLD NEWS, Dec. 3, 2003, http://articles.cnn.com/2003-12-03/world/germany.cannibal.trial_1_armin-meiwes-cannibal-life-sentence?_s=PM:WORLD.

He commenced to advertise on the Internet for a volunteer willing to make the final sacrifice.⁵⁴⁰

Some 400 men stepped forward,⁵⁴¹ but Armin realized that most of them were not serious about being eaten.⁵⁴² They were thrill-seekers, interested in playing make-pretend games and finding sexual arousal in role-playing.⁵⁴³ Armin stressed that he was not like these other men. He did not crave exotic sexual experiences.⁵⁴⁴ He had had some rather mundane long-term relationships with both men and women, he informed the court, and described them as "quite normal."⁵⁴⁵ He bluntly declared: "I didn't want to have sex with the partner I chose to slaughter [T]hat had nothing to do with it."⁵⁴⁶

What Armin sought with his cannibalism was a brother for all time, not some transitory thrill-ride of masochistic adventure.⁵⁴⁷ A brother had to be serious and committed to giving himself fully and forever to Armin.⁵⁴⁸ It was just then that Bernd appeared. Bernd was special, Armin realized—he wanted to be devoured as much as Armin wished to consume him.⁵⁴⁹

Armin emphasized Bernd's autonomy and freedom in the choice he made to end his life. "He knew he could have stopped

⁵⁴⁰ *Cannibal Filmed Killing*, WESTERN DAILY PRESS (Bristol, U.K.), Dec. 4, 2003 (LEXIS).

⁵⁴¹ *Man Confesses to Eating Internet Acquaintance*, L.A. TIMES, Dec. 4, 2003 (LEXIS); see also *Murder by Consent*, *supra* note 531.

⁵⁴² See Scally, *Two Men, One Horrific Death Wish*, *supra* note 204 (illustrating that most of the replies to Armin's internet advertisement were hoaxes).

⁵⁴³ See Elkins, *supra* note 202 (demonstrating also that most of the responses to Armin's advertisement were hoaxes).

⁵⁴⁴ JONES, *supra* note 17, at 180.

⁵⁴⁵ *Self-Declared Cannibal Tells German Court of Killing*, DEUTSCHE PRESSE-AGENTUR (Hamburg, Ger.), Dec. 3, 2003 (LEXIS).

⁵⁴⁶ *Cannibal Relishes Fantasy*, MX (Melbourne, Austl.), Dec. 4, 2003 (LEXIS) (quoting Armin).

⁵⁴⁷ Harding, *Victim of Cannibal Agreed to Be Eaten*, *supra* note 203; *Cannibal Filmed Killing*, *supra* note 540.

⁵⁴⁸ See Court in a Dilemma With Cannibal's Confessions, CANBERRA TIMES, Dec. 6, 2003 (explaining that Meiwes felt totally alone, and that he imagined that somebody could be with him forever and never leave him again) (LEXIS).

⁵⁴⁹ Hall, *I Ate My Guest for Lunch: Real Life Hannibal the Cannibal*, *supra* note 167.

at any time, but he didn't. He wanted to die and to be eaten."⁵⁵⁰ "My friend enjoyed the dying, his death," Armin added.⁵⁵¹ He longed for the immolation that came from being consumed by another person. He wanted to "disappear without a trace."⁵⁵²

In fulfilling his own life's plan, Armin also assisted Bernd in achieving his own life-long ambition.⁵⁵³ He was being nothing less than respectful of Bernd's deepest hope and desire.⁵⁵⁴ Armin spoke movingly about how he prayed over Bernd's dying body, how he kissed him, and cradled him in his arms.⁵⁵⁵

Armin denied any sexual motivation.⁵⁵⁶ Thus, he was legally justified in acting as he did: "I regarded the killing as an act of support, as euthanasia, aiding suicide."⁵⁵⁷ He acknowledged that he broke a "taboo," and for that he must stand trial—to make his case "to God and the whole world" that what he did was right and proper.⁵⁵⁸ Hence, Armin concluded that he cannot and must not feel remorse: "After I had done it, I felt hate, anger, happiness all at once. But I couldn't regret it because this is what we both wanted. That is why I am not guilty of murder—I helped a man fulfill his biggest wish too."⁵⁵⁹

It was surely a dramatic movement. It was as if Armin uttered those famous words, familiar to every German's ears, "Here I stand, I can do no other."⁵⁶⁰ Like the German patriot Martin

⁵⁵⁰ Boyes, *Chilling Smile of a German Cannibal*, *supra* note 311.

⁵⁵¹ Treichel, *He Asked To Be Killed and Eaten*, *supra* note 528.

⁵⁵² STAMPF, *supra* note 7, at 183.

⁵⁵³ *Fast & Loose*, TIME OUT, Dec. 10, 2003 (LEXIS) (quoting Armin as saying, "He told me he had had the desire since he was a child to be slaughtered and eaten. He was very intelligent and I didn't see any sign that he was disturbed").

⁵⁵⁴ See Allan Hall, *Smiles of the Devil: Cannibal Killer Has No Shame*, DAILY RECORD (Glasgow), Dec. 4, 2003 (LEXIS) (illustrating that the killing was "consensual").

⁵⁵⁵ Treichel, *He Asked to Be Killed and Eaten*, *supra* note 528.

⁵⁵⁶ Finn, *Cannibalistic Murder Horrifies German Public*, *supra* note 538.

⁵⁵⁷ Scally, *Cannibalism Accused Says He Would Eat Others*, *supra* note 400.

⁵⁵⁸ *Id.*

⁵⁵⁹ Hall, *I Ate My Guest for Lunch: Real Life Hannibal the Cannibal*, *supra* note 167.

⁵⁶⁰ Thus, Martin Luther spoke to the Diet of Worms in 1521, which sought to convict him on heresy charges. See TED BYFIELD, A CENTURY OF GIANTS, AD 1500-1600: IN AN AGE OF SPIRITUAL GENIUS, WESTERN CHRISTENDOM SHATTERS 31 (2010).

Luther, who declared his independence from the antiquated medieval order,⁵⁶¹ Armin Meiwes, this masterless man, this dawn herald of a brave new world of radical human autonomy, confronted the German court with a deep legal, moral, and even spiritual quandary.

The remainder of the trial was waged, trench-warfare like, between these two irreconcilable opposites—Armin as sexually-motivated predator, or Armin as gentle killer by consent who, by a single act, fulfilled his own and another's most cherished and well-conceived desires.

XI. The Trial

Armin's courtroom behavior was candid and brutally dispassionate—leaving observers aghast.⁵⁶² Even some veteran journalists grew nauseous, excusing themselves from the proceedings to vomit.⁵⁶³ Armin certainly did nothing to convince the gallery that he was a sympathetic figure, but the larger question was, did he unsettle the ineluctable logic of the prosecution's case? Was the court more inclined after Armin spoke to apply section 216 and show leniency?

It was thought that the trial might last as long as six weeks, with a verdict expected sometime in late January or early February of 2004.⁵⁶⁴ The Court planned to hear expert testimony and to review Armin's extensive videotaping⁵⁶⁵ and e-mail exchanges. Altogether, "[t]hirty-eight witnesses [were] listed to testify in the trial."⁵⁶⁶

The prosecution quickly overplayed its hand. It sought to prove that Armin's case was not an isolated, random occurrence

⁵⁶¹ See generally *id.* (discussing these same words spoken by Martin Luther to the Diet of Worms in 1521, which sought to convict him on heresy charges).

⁵⁶² See generally Jenny McCartney, 'I Do Think That, By and Large, Eating People is Wrong', SUNDAY TELEGRAPH (London), Dec. 7, 2003 (LEXIS) (explaining journalists' response to Armin Meiwes' courtroom behavior).

⁵⁶³ *Id.*

⁵⁶⁴ *German Cannibal Denies Sexual Motive For Killing*, THE INDEPENDENT, Dec. 9, 2003 (LEXIS); *Cannibal Killer Tried to Recruit New Victim*, BIRMINGHAM POST (Eng.), Dec. 9, 2003 (LEXIS).

⁵⁶⁵ See *Cannibal Filmed Killing*, *supra* note 540 (explaining the types of evidence discussed in court).

⁵⁶⁶ Treichel, *He Asked to Be Killed and Eaten*, *supra* note 528.

that had no chance of repeating, but that it reflected deeper pathologies in society, and so posed a serious threat to public order, a contagious global pestilence in need of quarantine. Armin's butchery of Bernd, in other words, was "the tip of an iceberg of depravity."⁵⁶⁷

To make this point, the prosecution's first witness was Wilfried Fehl, the detective in charge of investigating the Meiwes matter.⁵⁶⁸ Fehl testified that his officers "had discovered a flourishing cannibal scene in Germany."⁵⁶⁹ These aspiring man-eaters were not "sad losers on the dole. This goes across a broad spectrum of the population."⁵⁷⁰ Cannibalism, Fehl told the court with a straight face, was a middle-class phenomenon: "These are people who come from the middle reaches of society."⁵⁷¹ It was frightening to contemplate how educated, affluent people were drawn to this alarmingly risky fantasy world: "Dentists, teachers, cooks, government officials—even computer experts like Brandes and Meiwes—are in on it."⁵⁷²

Fehl stressed that this fermenting cesspool menaced not only Germany, but the entire world.⁵⁷³ "Thousands of blood-thirsty perverts around the globe satisfy their gruesome lust for human flesh by finding victims through the internet."⁵⁷⁴ Fehl asked the court to consider the sad plight of the many thousands of people who disappear every year without a trace. Perhaps they have been eaten: "Part of the problem is knowing whether people reported missing have actually succumbed to the clutches of one or more cannibals. Brandes destroyed his computer records before he went to his death and others do too."⁵⁷⁵

⁵⁶⁷ See Harding, *Dentists and Teachers Part of a Vast Cannibal Scene*, *supra* note 313 (depicting a "vast cannibal scene in Germany," which includes dentists, teachers, cooks, government officials—people from the middle reaches of society).

⁵⁶⁸ *Id.*

⁵⁶⁹ *Id.*

⁵⁷⁰ Ross Kaniuk, *Perverts Find Feast on the Net: Rise of the Cannibals*, DAILY STAR, Dec. 10, 2003 (LEXIS).

⁵⁷¹ Harding, *Dentists and Teachers Part of a Vast Cannibal Scene*, *supra* note 313.

⁵⁷² Kaniuk, *supra* note 570.

⁵⁷³ See Harding, *Dentists and Teachers Part of a Vast Cannibal Scene*, *supra* note 313 (explaining that Fehl believes that the Meiwes case is not an isolated one).

⁵⁷⁴ Kaniuk, *supra* note 570.

⁵⁷⁵ *Id.*

Dutch writer, Jacques Buval, co-author of an encyclopedia on serial killers,⁵⁷⁶ was on hand to give Fehl's testimony greater weight. "They are everywhere—those who want to eat and those who want to kill or eat. Both achieve the same sexual thrill—the hunter and the hunted, the consumed and the consumer."⁵⁷⁷ In the face of this barely-capped volcano of primal appetites, conviction with the stiffest possible penalty, it went without saying, was required for society's safety.⁵⁷⁸

The testimony concerning these plotting, scheming, underground networks of cannibals was delivered with such confidence and force that credulous journalists reported it as literal truth.⁵⁷⁹ An Irish writer, with no evident irony, wondered why so many dentists appeared to have cannibalistic tastes—perhaps it was because they spent so much time working in people's mouths.⁵⁸⁰

But while Fehl's and Buval's testimony did not bear cool-minded scrutiny, it was sufficient to open the door to the next point the prosecution wished to establish—that Bernd, especially, was suffering from a psychological disability, a "death wish," that the subtle and conniving Armin exploited.⁵⁸¹ Following his mother's death, Bernd had been raised without affection or emotional warmth.⁵⁸² He internalized guilt for his mother's death

⁵⁷⁶ MICHAEL NEWTON & JACQUES BUVAL, *DIE GROSSE ENZYKLOPÄDIE DER SERIENMÖRDER* (2000).

⁵⁷⁷ Kaniuk, *supra* note 570.

⁵⁷⁸ See *Cannibal Killer Tried to Recruit New Victim*, *supra* note 564 (explaining the sentence sought by the prosecution).

⁵⁷⁹ A reporter fretted about the existence of a "man-eating maze" that the Meiwes trial was bringing to light. Roger Boyes, *Cannibal Helps Lift the Lid on a Network of Man-Eaters*, *THE AUSTRALIAN*, Jan. 7, 2004 (LEXIS). A feature story in the *Daily Mail* predicted that the pervasiveness of the Internet will inevitably result in "more cases like this, for there are people who like the idea of eating their fellow men" and can now connect with willing victims. Christopher Hudson, *Smile of a Cannibal*, *DAILY MAIL* (London), Dec. 6, 2003 (LEXIS).

⁵⁸⁰ See Kevin Myers, *An Irishman's Diary*, *THE IRISH TIMES*, Dec. 9, 2003 (LEXIS) (demonstrating a tone of shock and disbelief in response to the thought that many dentists could be involved in the world of cannibalism).

⁵⁸¹ See Harding, *Victim of Cannibal Agreed to Be Eaten*, *supra* note 203 (displaying—through his actions—that Bernd Brandes was clearly suffering from a psychological disability); *Cannibal Had New Menu Plan*, *THE AUSTRALIAN*, Dec. 9, 2003 (LEXIS) (indicating that Brandes had a "death wish").

⁵⁸² STAMPF, *supra* note 7, at 150.

and grew increasingly masochistic.⁵⁸³ He sought out pain and made his genitals a special target of his self-hatred.⁵⁸⁴ He had “[a] life-long desire to be castrated.”⁵⁸⁵

But depressed, masochistic tendencies were, according to the prosecution, only a few of the psychological ailments plaguing Bernd.⁵⁸⁶ It was also possible that he suffered from a personality disorder—body dysmorphic disorder (BDD), to be precise.⁵⁸⁷ “BDD is an extremely serious illness. Part of it is disassociation, where the person doesn’t feel connected to the body and doesn’t feel connected to the world, to the extent that they actually don’t feel pain.”⁵⁸⁸ In its extreme form, BDD can drive its sufferers to suicide⁵⁸⁹—a fate that Bernd sought out, albeit at the hands of another.⁵⁹⁰ Regardless whether Bernd sought pain, or simply so comprehensively despised his body that he was immune to it, the prosecution had made its point: Bernd was extraordinarily susceptible to Armin’s advertisement for a willing victim and so did not act freely or autonomously.

Armin, the prosecution insisted, preyed on Bernd’s many psychological flaws.⁵⁹¹ He searched specifically for men who were experiencing “suicidal tendencies” and he lured them to his “remote home.”⁵⁹² He manipulated “vulnerable characters” to his

⁵⁸³ *Id.*

⁵⁸⁴ PAUL H. BLANEY & THEODORE MILLON, OXFORD TEXTBOOK OF PSYCHOPATHOLOGY, 533 (2d ed. 2008) (identifying Bernd Brandes as among the most extreme genital masochists in the literature).

⁵⁸⁵ JONES, *supra* note 17, at 59.

⁵⁸⁶ Abigail Wild, *Why On Earth Would Anyone Want to Be Eaten By This Man? The Shocking Trial of a Man For Killing and Consuming Another Person Is Linked to Sado-Masochistic Fetishes, Say Experts*, THE HERALD (Glasgow), Dec. 6, 2003 (LEXIS).

⁵⁸⁷ *Id.*

⁵⁸⁸ *Id.*

⁵⁸⁹ KATHARINE A. PHILLIPS, UNDERSTANDING BODY DISMORPHIC DISORDER 16 (2009); DAVID VEALE & FUGEN NEZIROGLU, BODY DYSMORPHIC DISORDER: A TREATMENT MANUAL 10 (2010).

⁵⁹⁰ SHEILA JEFFREYS, BEAUTY AND MISOGYNY: HARMFUL CULTURAL PRACTICES IN THE WEST 169 (2005) (connecting hatred of one’s sexuality, body dysmorphic disorder, and Bernd Brandes).

⁵⁹¹ *Cannibalism Trial Under Way in Germany*, CNN INT’L NEWS (Dec. 8, 2003, 5:00 PM), available at http://transcripts.cnn.com/TRANSCRIPTS/0312/08/i_ins.00.html.

⁵⁹² *Id.*

slaughter room and there tried to coax them into being eaten.⁵⁹³

This background, the prosecution continued, should cause the court to conclude that Armin's claim that he acted consistently with section 216 was a sham.⁵⁹⁴ Killing upon request, as the law-giver understood it, was intended as a way of softening the penalty of murder in cases where an unsophisticated defendant attempted to show mercy to a suffering victim, usually a loved one.⁵⁹⁵ Where someone was truly in her final torments, already dying of some unbearable disease, and begged to have her end hastened, then section 216 might be invoked to mitigate the punishment.⁵⁹⁶ But since section 216 was clearly meant to address misguided, other-directed acts of love, it must be reserved to the special case of end-of-life decisions infused with sympathy and fellow-feeling.⁵⁹⁷ Armin's killing of Bernd, however, was little more than the necessary first step in an act of cannibalism as "recreation."⁵⁹⁸

This elaborate foundation permitted Markus Köhler, the lead prosecutor, to connect Armin's sex life to cannibalism. Armin, Köhler commenced, did not actually intend his videotape of Bernd's final moments as some dry legal record of consent offered and accepted.⁵⁹⁹ No, he informed the court, Armin spent many evenings in front of his cassette player, watching the videotape and masturbating.⁶⁰⁰ Alone in the privacy of his den, he was sexually pleased not only from the butchering and consuming of Bernd, but from the constant reliving of that singular moment of triumphal, gory blood-letting.⁶⁰¹

Köhler called Armin to the witness stand to answer some questions he had prepared. Was he ever sexually aroused when he recalled his murderous deeds? And what about those incriminating e-mails? Wasn't he really just a would-be serial

⁵⁹³ *Id.*

⁵⁹⁴ *Id.*

⁵⁹⁵ *Id.*

⁵⁹⁶ *Id.*

⁵⁹⁷ *Cannibalism Trial Under Way in Germany*, *supra* note 591.

⁵⁹⁸ Eddie Holt, *Consuming Passions*, THE IRISH TIMES, Dec. 13, 2003 (LEXIS).

⁵⁹⁹ Paterson, *infra* note 627.

⁶⁰⁰ Paterson, *Cannibal Says He Was Lonely and Dreamt of a Brother to Disembowel*, *supra* note 166.

⁶⁰¹ *Id.*

murderer using lofty pretenses to cloak his bloody-mindedness? If he wasn't, how might he explain the e-mail where he volunteered to a correspondent that "I hope I will soon find another victim, the flesh has almost all gone?"⁶⁰² Wasn't it the case that he wished to share the last of Bernd's remains with his next victim?⁶⁰³ What about the e-mail where he gave instructions on how to "'chat up' a potential victim?"⁶⁰⁴

Armin was left to reiterate his claim that the killing of Bernd was "the worst moment in his life."⁶⁰⁵ He did not enjoy killing others. His murder of Bernd was genuinely altruistic: "I saw the killing as helping him, helping him to die, helping him to kill himself."⁶⁰⁶ No, he answered prosecutors, he did not harbor sexual fantasies of serial murder and cannibalism.⁶⁰⁷ His e-mails, which prosecutors read luridly to suggest that he was an incipient serial killer, could easily be reconciled with his fixation to slaughter and eat only a willing subject, not engage in sexually-stimulated mass murder perpetrated against an unsuspecting public.⁶⁰⁸

Yes, he conceded, he did experience some sexual arousal where cannibalism was concerned.⁶⁰⁹ But this tendency lacked relevance to his butchering and consumption of Bernd: "One has sex with a partner in bed, not with a piece of meat. It had nothing to do with sexual arousal. By eating, I wanted to make this person become part of me."⁶¹⁰

Armin, however, had to do more than reiterate the claim that his intentions were pure. He had to prove that Bernd's mental health was sound at the time he elected to die and that he

⁶⁰² "I Wanted To Kill Again," *Says German Cannibal*, CHANNEL NEWS ASIA, Dec. 8, 2003 (LEXIS).

⁶⁰³ *Id.*

⁶⁰⁴ *Id.*

⁶⁰⁵ *Cannibalism Trial Under Way in Germany*, *supra* note 591.

⁶⁰⁶ *Cannibal Had New Menu Plan*, THE AUSTRALIAN, Dec. 9, 2003 (LEXIS).

⁶⁰⁷ "I Wanted to Kill Again," *Says German Cannibal*, *supra* note 602 (explaining that Armin argued that he had no sexual motive).

⁶⁰⁸ *Id.* ("It was . . . my wish to slaughter a human, in other words, to dissect a body.").

⁶⁰⁹ *Inside Mind of Cannibal Killer*, HERALD SUN (Melbourne), Dec. 5, 2003 (LEXIS).

⁶¹⁰ Tony Paterson, *German Cannibal Denies Sexual Motive For Killing*, THE INDEPENDENT, Dec. 9, 2003 (LEXIS).

accordingly chose his fate freely.⁶¹¹ To establish this point, Armin called as witnesses two of Bernd's lovers, Bettina L., his former girlfriend, and René Jasnik, his roommate at the time of his death.⁶¹²

Bernd had met Bettina in October 1996.⁶¹³ Their friendship blossomed quickly and by February or March 1997, they were living together.⁶¹⁴ By May 1997, they took an extended, almost month-long vacation to Florida.⁶¹⁵ But by the following fall, when Bettina moved back into her own apartment, their relationship had cooled considerably.⁶¹⁶ It was around this time that Bernd admitted to her that he was sexually attracted to men as well as women.⁶¹⁷

Bettina thought that Bernd showed no signs of depression for the entire time she knew him. "He loved life so much."⁶¹⁸ "He was a normal, loving, caring soul," she added.⁶¹⁹ "He was the nicest man I ever met. He was always happy and joking"⁶²⁰ There were no signs of masochistic tendencies, Bettina swore.⁶²¹ All of this supported Armin's case, but she also testified, more ominously: "[h]e would never have allowed anyone to kill him voluntarily."⁶²²

René Jasnik, Bernd's male lover, was also interrogated. He

⁶¹¹ See STGB, *supra* note 455, § 216 (explaining that to prove "euthanasia," which carries a much lighter sentence than homicide, the defense must show that the killing was done in accordance with the express and earnest request of those killed to be killed).

⁶¹² STAMPF, *supra* note 7, at 165, 173-74.

⁶¹³ STAMPF, *supra* note 7, at 165 (continuing Stampf's practice of changing the names of uninvolved third parties, he calls Bettina by the name "Alexandra").

⁶¹⁴ *Id.*

⁶¹⁵ *Id.* at 165-66.

⁶¹⁶ *Id.* at 166.

⁶¹⁷ *Id.*

⁶¹⁸ Diane Hill, *Bettina's Lost Love: Cannibal Victim Was Tasty in Bed*, DAILY STAR (London), Dec. 14, 2003 (LEXIS).

⁶¹⁹ *Id.*

⁶²⁰ Paterson, *Victim 'Wanted to Be Mutilated'*, *supra* note 356 (respecting apparent German privacy laws, this article also uses the name "Alexandra" to describe Bettina, but identifying information in the article make it clear that Bettina is the one to whom they are referring).

⁶²¹ Hill, *Bettina's Lost Love*, *supra* note 618.

⁶²² *Id.*

stated that he had a steady, subdued, but romantic relationship with Bernd.⁶²³ They were living together at the time Bernd traveled to Rotenburg to meet Armin. Between the two of them, René indicated he was the more sexually active partner, Bernd the more passive.⁶²⁴

René indicated that he was wholly unaware of Bernd's suicide plans.⁶²⁵ And like Bettina, René was baffled by Bernd's decision to end his life.⁶²⁶ Just before his death, Bernd had purchased a "new television and kitchen equipment to furnish their Berlin apartment."⁶²⁷ "I had no idea that my partner had gone to meet Meiwes," René testified.⁶²⁸ Far from being suicidal, Bernd "showed no sign of suffering depression or suicidal tendencies."⁶²⁹ René and Bernd were "happy as a couple."⁶³⁰ René summarized his testimony: "[H]e had no thoughts of suicide or direct problems. . . . To this day, I can't explain his death."⁶³¹

Taking Bettina's and René's testimony together, it is hard to avoid the conclusion that Bernd was acting in a free and autonomous fashion. He was not only a highly competent professional who rose effortlessly to the upper echelons of the Siemens Corporation research hierarchy, he was equally capable of carrying on normal relations with others. He communicated openly with both men and women, he had a sense of humor, and a zest for life. He took vacations. He made plans. He looked forward to the future. If he finally chose to end his life as Armin's victim then, the implication was clear: his decision was freely made and was not the result of some irresistible psychopathology.

And if Armin wished to normalize Bernd, to present him as a man capable of rational, reasoned choice, then three other witnesses whom Armin summoned were able to say much the same about him. These were women who had befriended him

⁶²³ STAMPF, *supra* note 7, at 173–74.

⁶²⁴ *Id.* at 174.

⁶²⁵ *Id.*

⁶²⁶ *Id.*

⁶²⁷ Paterson, *Victim 'Wanted to Be Mutilatedm,' supra* note 356.

⁶²⁸ *Id.*

⁶²⁹ *Cannibal Victim a Happy Man*, DAILY TELEGRAPH, Jan. 14, 2004 (LEXIS).

⁶³⁰ *Id.*

⁶³¹ *No Wish To Die*, LIVERPOOL DAILY POST, Jan. 13, 2004 (LEXIS).

during the 1990s and early 2000s. Among these women was Martina Elsholz, whom Armin met in the year 1999 or 2000.⁶³² “A single mother of three children,” she was attracted to Armin because of the interest he showed in her children,⁶³³ although she was eventually put off by his slovenliness and childishness.⁶³⁴ Still, she testified to Armin’s good character and his perceived inability to commit a crime with the mental intent the prosecution was alleging.⁶³⁵

The other two women had similarly kind things to say. Nicole Agaficioaei had known Armin for most of the 1990s, and “if something was going on at school or in kindergarten, I called up Armin and he was there immediately. The kids were always glad when he came. I had absolute confidence in him.”⁶³⁶ At the same time, she continued to trust him implicitly. Would she still allow Armin to baby-sit her children? “Yes, I would again entrust my children to Armin Meiwes, unreservedly, at any time.”⁶³⁷ Marion Reich, who testified in closed session because of the sensitive nature of her relationship to Armin,⁶³⁸ added: “He is not a monster—he is a good man, a gentle man. It makes me so angry to see him portrayed in the newspapers in this light. I know him better.”⁶³⁹

Two conflicting interpretations of this testimony were, of course, possible. One interpretation would have it that Armin was no monster. Indeed, he just might be a gentle soul who performed an act of mercy killing he found personally disgusting so as to realize a purpose he had sought since his tragic adolescence. On the other hand, the women might have been duped by an expert killer who had erected a disguise that allowed him to pass unobtrusively through a society that he saw, through the warped

⁶³² Allan Hall, *Woman Defends Killer Who Butchered and Ate His Victim, And Tells Court: ‘He is not a Monster;’ My Cannibal Lover Is Such a Gentle Man*, THE EXPRESS, Jan. 10, 2004; STAMPF, *supra* note 7, at 120.

⁶³³ STAMPF, *supra* note 7, at 120.

⁶³⁴ Hall, *Woman Defends Killer*, *supra* note 632.

⁶³⁵ *Id.*

⁶³⁶ See STAMPF, *supra* note 7, at 283–84 (describing an interview with Stamf and Nicole).

⁶³⁷ *Id.* at 284 (quoting Nicole Agaficioaei).

⁶³⁸ Hall, *Woman Defends Killer*, *supra* note 632.

⁶³⁹ *Id.*

lens of his appetites, as a series of victims waiting to be taken in.

And so the trial proceeded, with each side offering differing understandings of facts that were not in dispute. Thus the Court reviewed the videotapes Armin had made of his slaughter.⁶⁴⁰ The slicing off of the penis, the verbal exchanges, Bernd's obvious longing for death—these were all there.⁶⁴¹ The videotape made it plain that Bernd was killed by a knife thrust to the throat and that he experienced great pain.⁶⁴² A hideous, revolting, stomach-churning spectacle, no doubt.⁶⁴³ Even so, the film did not undermine Armin's defense. Bernd never wavered, never hesitated, never expressed misgivings, never asked Armin to stay his hand, even as the reality of being sacrificed sank in.⁶⁴⁴ His voluntariness, his stoic steadfastness of purpose, remained the great constant from the video's opening scene to its bloody, mind-twisting denouement. As Harald Ermel, Armin's lawyer put it: "[Armin] did nothing against the will of another human being."⁶⁴⁵

Judge Völker Mütze then turned his attention to the e-mail exchanges. He "spent hours reading [the two men's] correspondence to the court. He repeated the swear words and sexual descriptions that littered their e-mail exchanges in the same monotone in which he read the more mundane passages."⁶⁴⁶ Bernd's enthusiasm at the thought he might be consumed by Armin was scarcely contained: "I'm looking forward even more to our first and only encounter."⁶⁴⁷ Bernd "wanted to feel and see [Armin's] teeth in other fleshy parts."⁶⁴⁸ From the start of their

⁶⁴⁰ See Allan Hall, *Court Sees Gruesome Film of Cannibal Killing*, THE EXPRESS, Dec. 9, 2003 (LEXIS) (explaining the court's review of the videotapes Meiwes made of his slaughter).

⁶⁴¹ *Eat Me Movie*, THE MIRROR (London), Dec. 9, 2003 (LEXIS); Hall, *Court Sees Gruesome Film of Cannibal Killing*, *supra* note 640; Geller, *Total Whack Job*, *supra* note 214.

⁶⁴² Hall, *Cannibal's Victim Died in Great Pain*, *supra* note 410.

⁶⁴³ At one point or another, a court official informed the press, "everyone [in the courtroom] had been forced to look away" from the horror on the screen. *German Cannibal Looking For Movie Deal: Lawyer*, CHANNEL NEWS ASIA, Dec. 13, 2003 (LEXIS).

⁶⁴⁴ *Id.*

⁶⁴⁵ *Movie Bid By Video Cannibal*, THE EXPRESS (London), Dec. 13, 2003 (LEXIS).

⁶⁴⁶ JONES, *supra* note 17, at 189.

⁶⁴⁷ STAMPF, *supra* note 7, at 180.

⁶⁴⁸ *Id.* at 179.

correspondence, Bernd's biggest fear was that Armin might falter, lose his resolve, and fail to carry through on his plans: "I only hope you won't stand me up, can really go through with it, and don't have a problem about doing away with me."⁶⁴⁹ Three days before the scheduled meeting, Bernd insisted that Armin set his alarm clock so as not to be late in greeting him.⁶⁵⁰

Five potential victims Armin had interviewed, men he had rejected as unsuitable for consumption, or who had gotten cold feet and backed out, were summoned as witnesses.⁶⁵¹ A salesman had sought Armin out but when he admitted he was not interested in being personally consumed, Armin was fine with that.⁶⁵² One of Armin's male lovers testified that he was "kind, helpful, and happy," hardly the sort who would kill the unwilling.⁶⁵³ A male receptionist requested that Armin behead him, but Armin politely deferred.⁶⁵⁴ And then there were Jörg and Dirk Möller, both of whom had given every indication they wished to be eaten but were released when they experienced second thoughts.⁶⁵⁵

The implications were clear: Armin possessed sufficient self-control to slaughter and consume only a truly willing victim. He was not a danger to society at large. And if Armin engaged in controlled, rational decision-making, it was also the case that Bernd was truly capable of rational choice. If, as seemed evident, he was able to frame and fulfill real human intentions, then he

⁶⁴⁹ *Id.* at 183. Bernd was even able to crack jokes about the impending slaughter, as this exchange illustrates. "'Are you a smoker?' [Bernd] asked. 'Yes, but my teeth are still pretty white.' 'That's good; I smoke too. I hope you like smoked meat.'" Bill Hoffman, *Court Digests Cannibal E-Mails*, N.Y. POST, Dec. 30, 2003 (LEXIS).

⁶⁵⁰ STAMPF, *supra* note 7, at 187.

⁶⁵¹ *Cannibal's Rejects Testify*, THE DAILY TELEGRAPH (Sydney), Dec. 24, 2003 (LEXIS).

⁶⁵² *Id.*

⁶⁵³ *Id.*

⁶⁵⁴ Mark Landler, *Eating People is Wrong! But Is It Homicide? Court to Rule*, N.Y. TIMES, Dec. 26, 2003 (ProQuest), available at <http://www.nytimes.com/2003/12/26/international/26CANN.html>.

⁶⁵⁵ Hall, *Cannibal Fiends Reunited*, *supra* note 218 (regarding Dirk); Allan Hall, *He Was Naked, and Hanging From Feet: "Cannibal Was Going to Eat Me. . . But Then I Saw Pics of Victim,"* DAILY STAR (London), Dec. 16, 2003 (LEXIS) (regarding Dirk); *Cannibal Let Chef Off the Hook*, HERALD SUN (Melbourne, Austl.), Dec. 17, 2003 (LEXIS) (regarding Jörg); *Cannibal 'Mapped' Witness For Butchery*, THE AUSTRALIAN, Dec. 17, 2003 (LEXIS) (regarding Jörg).

really did want to be slaughtered. Armin and Bernd were thus perfectly matched.

As the trial wended its way towards conclusion, at least one legal expert proposed a compromise verdict. Dr. Arthur Kreuzer informed the press that “[t]his is killing undertaken for both killer and victim and cannot be regarded as the worst case of premeditated killing.”⁶⁵⁶ Neither prosecution nor defense, he feared, could meet its burden of proof.⁶⁵⁷ Perhaps, Dr. Kreuzer mused, another path might yet be available: “The simplest way to keep Meiwes off the streets . . . would be for the panel of three judges to rule that he was suffering from ‘diminished responsibility’ at the time of the killings and send him to a well-guarded psychiatric hospital for treatment.”⁶⁵⁸

XII. Judgment

Closing arguments occurred on January 26, 2004. Markus Köhler repeated his theory of the case: Armin sought to kill so as to “satisfy a sexual impulse.”⁶⁵⁹ For this reason, he should “spend life behind bars.”⁶⁶⁰ Armin also addressed the court. “I very much regret everything that I did,” he confessed to the empaneled judges.⁶⁶¹ But Armin did not stop there. He reminded the court that he did not consider himself a murderer, since Bernd volunteered for the role of victim: “Bernd came to me of his own free will to end his life For him, it was a nice death.”⁶⁶² “He wanted it so badly, it was his heart’s desire.”⁶⁶³ And then Armin

⁶⁵⁶ David Crossland, *Complex Case of Cannibalism*, THE DAILY TELEGRAPH, Dec. 4, 2003 (LEXIS).

⁶⁵⁷ *Id.* While Kreuzer believed that the terms of section 211, had not been satisfied, neither had the exonerating provisions of section 216, since Armin had killed for “egoistic” and not “altruistic” reasons. *Id.*

⁶⁵⁸ Landler, *supra* note 654.

⁶⁵⁹ *Cannibal ‘Should Be Jailed For Life,’* WESTERN MORNING NEWS (Plymouth, UK), Jan. 27, 2004 (LEXIS).

⁶⁶⁰ *Id.*

⁶⁶¹ *German Man Regrets Killing, Eating Victim*, THE GLOBE & MAIL (Toronto, Ontario), Jan. 27, 2004 (LEXIS).

⁶⁶² *I Had My Big Kick and Don’t Need to Do It Again: Cannibal*, THE AUSTRALIAN, Jan. 28, 2004 (LEXIS).

⁶⁶³ Ernest Gill, *German Cannibal: “I’ve Had the Kick of a Lifetime,”* DEUTSCHE PRESSE-AGENTUR, January 30, 2004 (LEXIS).

volunteered some haunting self-destructive words: "I've had the kick of a lifetime. You don't need to worry that I'll ever need to do this again."⁶⁶⁴

Three days later the judges pronounced their verdict before a courtroom "packed" with journalists and spectators.⁶⁶⁵ Meiwes himself "looked calm, chatting with his lawyer and occasionally grinning for cameras "as he awaited the court's judgment."⁶⁶⁶

As Kreuzer had predicted,⁶⁶⁷ the court's decision amounted to a compromise. Armin's crime was not killing upon request—a violation of section 216. But neither was it *Mord*, murder, a violation of section 211.⁶⁶⁸ Judge Völker Mütze reviewed the facts. Bernd was a "deeply psychologically disturbed man."⁶⁶⁹ And so was Armin. "These were two psychologically sick people who found each other."⁶⁷⁰ The evidence, furthermore, was clear that Armin did not take prurient satisfaction from the act of murder: "Meiwes did not enjoy killing his victim. The video clearly demonstrates that he found the act highly unpleasant. He was purely interested in dismembering and consuming the corpse in order to realise his psychological perversion. That was the high point of his ambitions."⁶⁷¹ And so Völker Mütze went on: "The famous lust for murder was not there. . . . There were no base

⁶⁶⁴ *Id.*

⁶⁶⁵ *Cannibal Sentenced*, CNN NEWS TRANSCRIPT #013007CN.V85 (Jan. 30, 2004) (LEXIS). About 100 journalists were in the courtroom together with "dozens" of local spectators. David Crossland, *8 1/2 Years' Jail Because His Victim Asked to Be Eaten*, THE SUN HERALD (Perth.), Feb. 1, 2004, at A60.

⁶⁶⁶ Frank Leth, *Cannibal Jailed But Escapes Life Term for Killing*, THE ADVERTISER, Jan. 31, 2004 (LEXIS).

⁶⁶⁷ See *infra* notes 637–638 and accompanying text.

⁶⁶⁸ STGB, *supra* note 455, § 211.

⁶⁶⁹ Tony Paterson, *Cannibal of Rotenburg Gets Eight Years for Eating a Willing Victim*, THE INDEPENDENT, Jan. 31, 2004 (LEXIS).

⁶⁷⁰ Luke Harding, *Cannibal Who Fried Victim in Garlic Is Cleared of Murder: "Psychologically Sick" Killer Jailed For Manslaughter*, THE GUARDIAN, Jan. 31, 2004 (LEXIS). They were not capable of true solicitude for one another, but only using one another to further their own twisted ends: "Each had something to get and each had to give something. They were not interested in each other or each other's fantasies or wishes." Hannah Cleaver, *Cannibal Gets Eight Years For Manslaughter*, THE DAILY TELEGRAPH (U.K.), Jan. 31, 2004 (LEXIS) (quoting Völker Mütze).

⁶⁷¹ Paterson, *Cannibal of Rotenburg Gets Eight Years*, *supra* note 669.

motives.”⁶⁷²

And so the court split the difference. Armin was guilty of *Totschlag*—“manslaughter.”⁶⁷³ His “intention was not evil, but ‘the fulfillment of his fantasy.’”⁶⁷⁴ He had engaged in an act “viewed with repulsion in our civilised society,”⁶⁷⁵ “a behaviour that is condemned in our society—namely, the killing and butchering of a human being.”⁶⁷⁶ And for this crime against civilization and human society, his sentence was eight and one-half years, with the possibility of parole after about five years served.⁶⁷⁷

A week later, Kreuzer authored an extensive commentary on the case for the German publication *Die Zeit*.⁶⁷⁸ The Court, he explained, was deeply conscious that it was “feeling its way at the margins of the criminal law.”⁶⁷⁹ Kreuzer defended as appropriate the Court’s rejection of *Mord*. Meiwes “experienced nothing sexually from” the killing.⁶⁸⁰ Conviction on the basis of *Mord* demanded proof of sexual depravity or absolute contempt for human life, and Armin had not sunk to that level.⁶⁸¹ It was, in fact, Brandes who sought Armin out, steadied him in his weaker moments, and continuously pressed him to complete the gruesome task.⁶⁸² But neither was Armin acting compassionately. Like Bernd, he viewed the whole proceeding instrumentally, as a means

⁶⁷² Harding, *Cannibal Who Fried Victim in Garlic*, *supra* note 670; Masters, *supra* note 272 (noting that there was no criminally culpable “sadism or cruelty in any of it because the victim had given his approval”).

⁶⁷³ *Cannibal Spared Murder Verdict—8 Years for Manslaughter*, DEUTSCHE PRESSE-AGENTUR, Jan. 30, 2004 (LEXIS).

⁶⁷⁴ *Smiling Cannibal Cleared of Murder in Horror Trial*, BIRMINGHAM POST, Jan. 31, 2004 (LEXIS) (quoting Völker Mütze).

⁶⁷⁵ *Id.*

⁶⁷⁶ Kevin McElderry, *Cannibal Chased the Ultimate Kick*, THE DAILY TELEGRAPH, Jan. 31, 2004 (LEXIS).

⁶⁷⁷ *Id.*

⁶⁷⁸ Arthur Kreuzer, *Sind Menschenfresser Mörder? Die Tötungsparagrafen des Strafrechts müssen reformiert werden*, ZEIT ONLINE, Feb. 5, 2004.

⁶⁷⁹ *Id.* (translating “[w]ir bewegen uns im Grenzbereich des Strafrechts”).

⁶⁸⁰ *Id.* (translating “empfand dabei sexuell auch nichts”).

⁶⁸¹ *Id.*

⁶⁸² *Id.*

to satisfying a strange, long-standing “craving.”⁶⁸³ The verdict, in this sense, was proper, Kreuzer concluded, although he wanted a reform of the law—at the very least the State must close the door to Armin’s commercial exploitation of the very crime he committed.⁶⁸⁴

And, indeed, at the very moment Kreuzer was calmly explaining the outcome, the press was wild with speculation about the ways Armin was about to cash in on the lenient verdict and his global notoriety.⁶⁸⁵ For one, the rumors about blockbuster movie deals would not subside.⁶⁸⁶ Brad Pitt and Hugh Grant were reportedly to be cast as Bernd and Armin in a Hollywood extravaganza.⁶⁸⁷ And then Harald Ermel continued throw kerosene on the fire with revelations that he and Armin were entertaining requests “from media wanting interviews and . . . book publishers.”⁶⁸⁸

The idea that Armin would greatly profit from his crime released a backlash at what seemed like the unjustifiably light sentence the court imposed. Germans, it was reported, were “aghast.”⁶⁸⁹ And their sense of horror and dread soon shared the world over. The Russians crudely laughed at the verdict as

⁶⁸³ The word Kreuzer employed, *Sehnsucht*, is difficult to render into English. “*Sehnsucht* is one of those German words that it is almost impossible to translate adequately. . . . Tender longing goes hand in hand with the painful knowledge that the thing longed for will never quite be attained.” Christoph Blocher, *When Sehnsucht (Desire) Leads You Up the Garden Path*, Speech at Ninth International Woodcarvers Symposium at Brienz (July 10, 2006), www.ejpd.admin.ch/content/ejpd/dokumentation/red/archiv/reden_christoph_blocher/2006/2006-07-10.html.

⁶⁸⁴ *Id.*

⁶⁸⁵ See, e.g., Allan Hall, *Cannibal Killer Wants One Million Pounds for His Memoirs*, THE SCOTSMAN, Jan. 25, 2004, <http://www.scotsman.com/news/world/cannibal-killer-wants-163-1m-for-his-memoirs-1-1298533>; Luke Harding, *Now Cannibal Will Tell His Story*, THE GUARDIAN, Feb. 1, 2004, <http://www.theguardian.com/world/2004/feb/01/books.germany>.

⁶⁸⁶ See, e.g., Sparks & Conradi, *supra* note 507, at A15.

⁶⁸⁷ *Dinner Actually*, THE AGE, Feb. 5, 2004, <http://www.theage.com.au/articles/2004/02/04/1075853944428.html>.

⁶⁸⁸ *Filmmakers Get Taste for Cannibal*, COURIER MAIL (Queensland), Feb. 6, 2004, at A14; see also, Harding, *Now Cannibal Will Tell His Story*, *supra* note 685; Sparks & Conradi, *supra* note 507.

⁶⁸⁹ *Germans Aghast over Cannibal Trial*, CNN, Jan. 29, 2004, <http://www.cnn.com/2004/WORLD/europe/01/29/otsc.germany.cannibal/>.

opening the door to kinky, debauched tourist cannibalism.⁶⁹⁰ The right-wing American pundit Debra Saunders hurled barbs at the German justice system.⁶⁹¹ John O'Sullivan and Chuck Colson claimed to witness in the verdict the sprightly downhill march of western civilization into barbarism.⁶⁹² The hard-bitten British journalist Allan Hall grimly spat: "Cannibal killer Armin Meiwes could be on the streets and hunting again in just four years after being found guilty of manslaughter, rather than murder."⁶⁹³ Even the owner-operator of a pornography studio specializing in the production of cannibal videos was appalled at the verdict.⁶⁹⁴ Surveying the scene, the Australian bioethicist Michael Cook opined:

The concept of human dignity has become eroded. Don't cannibals have rights too? The absurdly lenient sentence handed down in a German court last week to a computer technician who killed, butchered and ate a man he had met on the Internet highlights the shaky status of human dignity among lawyers and philosophers Many people were so revolted by reports of Meiwes' crime that they could not bear to read about it Here was evil beyond the imagination of the most lurid pot-boiler, evil not seen in Germany since the depravities of the Nazis.⁶⁹⁵

Under German law, no criminal verdict is final until all

⁶⁹⁰ See Guy Archer, *Outward Bound*, MOSCOW NEWS (Russia), Feb. 4, 2004, at A4.

⁶⁹¹ Debra J. Saunders, *The Victim Asked for It*, THE SAN FRANCISCO CHRONICLE, Feb. 3, 2004, at A17.

⁶⁹² John O'Sullivan, *Blind Alley of Nihilism: How We Got a Slap on the Wrist for a Cannibal*, NATIONAL REVIEW, Feb. 6, 2004, <http://www.nationalreview.com/articles/209432/blind-alley-nihilism>; Chuck Colson, *Consenting Adults: Responding to a Cannibal*, BREAKPOINT, Mar. 19, 2004, <http://www.breakpoint.org/commentaries/4968-consenting-adults>.

⁶⁹³ Allan Hall, *He Could Be Out Hunting Humans Within 4 Years: German Cannibal Killer Jailed for Manslaughter*, SCOTTISH DAILY RECORD, Jan. 31, 2004, at A30.

⁶⁹⁴ Katherine Gates, *Eat Me!*, THE VILLAGE VOICE, Dec. 6, 2005, <http://www.villagevoice.com/2005-12-06/people/eat-me/>. Cannibalism, the pornographer explained, should be about erotic fantasy and aesthetics; it loses its attractiveness the instant it moves from the world of dreams to deadly, bloody reality. *Id.*

⁶⁹⁵ Michael Cook, *Cannibal Sentence Touches Raw Nerve*, COURIER MAIL (Queensland, Austl.), Feb. 4, 2004, at A17.

appeals are exhausted,⁶⁹⁶ and the prosecutors took advantage of this rule to move the appellate court for a review of the trial's outcome.⁶⁹⁷

Before the outrage at the perceived leniency could wane, while the appeal was still pending, in October 2004, not quite ten months after Judge Völker Mütze handed down his sentence, a man walked into a police station in Berlin.⁶⁹⁸ He needed to unburden himself.⁶⁹⁹ Inspired by Armin Meiwes,⁷⁰⁰ he confessed to police that he had killed an innocent victim, preserved some body parts,⁷⁰¹ fed other parts to his cat,⁷⁰² and now pleaded with police to arrest him before he succumbed to the compulsion to consume the remainder of the dead man's body himself.⁷⁰³ He was quickly convicted and sentenced to thirteen years.⁷⁰⁴

When Ermel reiterated at the appellate level the arguments he had previously made at trial, he was greeted by a judiciary in no mood to humor him. Ermel tried repeating the defense he used at trial—Armin's crime was nothing more than killing on request and should be protected by section 216.⁷⁰⁵ The prosecution similarly

⁶⁹⁶ Grunewald & Safferling, *supra* note 487, at 384–85.

⁶⁹⁷ *State to Appeal over Cannibal Sentence*, THE INDEPENDENT, Feb. 3, 2004, at A10; *Prosecutors File Appeal after Cannibal's Sentencing*, ORLANDO SENTINEL, Feb. 3, 2004, http://articles.orlandosentinel.com/2004-02-03/news/0402030272_1_germany-sexual-impulse-sentencing.

⁶⁹⁸ *Stop Me! I'm a Killer Cannibal*, SCOTTISH DAILY RECORD, Oct. 8, 2004, <http://www.thefreelibrary.com/Stop+me!+I'm+a+killer+cannibal.-a0122968530>.

⁶⁹⁹ Allan Hall, *German Killer Confesses He Wanted to Eat His Victim*, THE AGE (Melbourne), May 5, 2005, at A12.

⁷⁰⁰ *World Briefs*, NEWSDAY, May 11, 2005, at A22.

⁷⁰¹ Roger Boyes, *Cannibalism Copycat Who Kept a Man in His Fridge*, THE TIMES (London), May 4, 2005, at A34.

⁷⁰² *Id.*

⁷⁰³ Hall, *German Killer Confesses*, *supra* note 699. Hall noted that unlike Meiwes, the victim in the second case was not suicidal and did not desire to make a meal of himself. Furthermore, the victim was the son of a well-known German Protestant minister, thus adding to the infamy of the case. *Id.*

⁷⁰⁴ *Cannibal Killer Jailed*, THE DAILY MIRROR (London), May 11, 2005, at A22.

⁷⁰⁵ Tony Paterson, *German Cannibal Should Be Retried for Murder*, *Appeal Court Told*, THE INDEPENDENT, Apr. 14, 2005, <http://www.independent.co.uk/news/world/europe/german-cannibal-should-be-retried-for-murder-appeal-court-told-6148292.html> (“Before the killing, the two men reached an agreement, a sort of pact. One man wanted to kill and eat, the other wanted to be killed. . . . [The victim] was the driving force.”) (quoting Ermel).

reiterated its charges, stressing the de-humanizing character of Armin's acts and the danger that he would reoffend.⁷⁰⁶ The court ruled that grounds existed for concluding that Armin violated section 211 and that he committed *Mord*, murder with aggravating circumstances.⁷⁰⁷ The court remanded the case for retrial, now not in Kassel, which had been traumatized by the first trial, but in the much larger metropolis of Frankfurt.⁷⁰⁸ The Appeals Court encouraged the trial judges to use an expansive definition of sexual gratification unbounded by narrow time limits, and informed the lower tribunal that it might also take account of the way in which Armin's first offense "glamouris[ed] violence and spread[] pornography."⁷⁰⁹

The trial court duly followed the script written for it by the appellate tribunal. The second trial opened in mid-January of 2006. Ermel gamely put on the defense that Armin could be convicted of nothing worse than killing on demand and should receive a correspondingly light sentence.⁷¹⁰ Once again, Armin looked to be outwardly relaxed and confident as he viewed the proceedings.⁷¹¹

⁷⁰⁶ *Id.* ("His crime sank to the lowest possible level in moral terms. His victim was reduced to a mere object as a result of his perverted desires. There were several aspects of the case which imply murder and these have been ignored. He will kill again.") (quoting Federal Prosecutor Lothar Senge).

⁷⁰⁷ *German High Court Orders Cannibal to be Retried*, DEUTSCHE PRESSE-AGENTUR, Apr. 22, 2005 (LEXIS) ("Killing for sexual gratification was murder, not manslaughter, and it was possible that Meiwes had meant to use the video later for sexual arousal. Presiding Judge Ruth Rissing-van Saan said the killing itself may have been sexual.").

⁷⁰⁸ *Id.*

⁷⁰⁹ *Retrial for German Killer Cannibal*, THE GUARDIAN, Apr. 22, 2005, <http://www.theguardian.com/world/2005/apr/22/germany>. It was noted that Armin's act had aroused unsettling emotions among Germans, including a certain nihilism and a "culture of death." *State Seeks Tougher Penalty in German Cannibal Case*, DEUTSCHE PRESSE-AGENTUR, Jan. 10, 2006 (LEXIS).

⁷¹⁰ *Cannibal Faces New Trial*, THE SYDNEY MORNING HERALD, Jan. 12, 2006, <http://www.smh.com.au/news/world/cannibal-faces-new-trial/2006/01/12/1136956283891.html> (Ermel argued that "his client . . . 'had someone in front of him who wanted to die.'" Armin, Ermel continued, "was not a violent man but had given in to 'an obsession for human flesh.'" (quoting Ermel). Ermel, indeed, insisted that the sentence be reduced in length. See *German Cannibal to Testify Monday at Re-Trial*, DEUTSCHE PRESSE-AGENTUR, Jan. 12, 2006 (LEXIS).

⁷¹¹ *Cannibal Relaxed at Start of Re-Trial in Germany*, DEUTSCHE PRESSE-AGENTUR, Jan. 12, 2006 (LEXIS); *Cannibal Back in the Dock*, GEELONG ADVERTISER,

The prosecution, on the other hand, strengthened by the favorable rulings it had received from the appeals court, pressed its case with renewed aggressiveness: "Driven by lust, [Armin] laid [Bernd] on a bench to be slaughtered," Markus Köhler asserted.⁷¹² The amputation and attempted consumption of the penis, by itself, proved the sexual nature of the crime.⁷¹³ So also did Armin's video-taping.⁷¹⁴ The prosecution, furthermore, made the tactical decision to confront Armin's defense head-on. Brandes' consent mattered not at all, the prosecution team asserted.⁷¹⁵ "What we're saying is that you can't agree to such a thing."⁷¹⁶ Furthermore, they added, Armin was under a duty to know that anyone who presented himself for a cannibal meal was for that reason alone mentally incompetent to consent.⁷¹⁷

Armin resolved to prevail once again at trial. In the hope of swaying public opinion favorably, he sat for an interview prior to trial, appearing "calm and contrite."⁷¹⁸ He conceded a need for therapy and hoped he might "start a normal life afterwards."⁷¹⁹ Once again, he also took the stand in his own defense. He recited the familiar refrain about how he "wanted to eat [Bernd], but . . . didn't want to kill him."⁷²⁰ Bluntly he told the court, "[e]verybody

Jan. 13, 2006, at A18.

⁷¹² Stefanie Haxel, *Convicted German Cannibal May Get Harsher Sentence*, BLOOMBERG NEWS, Jan. 12, 2006, <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aN9o24I9XB2o> (quoting Markus Köhler).

⁷¹³ David Crossland, *Perversion and Cannibalism: German Maneater on Trial Again*, SPIEGEL ONLINE, Jan. 12, 2006, <http://www.spiegel.de/international/perversion-and-cannibalism-german-maneater-on-trial-again-a-394887.html>.

⁷¹⁴ *Prosecutor Demands Full Murder Conviction for German Cannibal*, DEUTSCHE PRESSE-AGENTUR, May 3, 2006 (LEXIS) ("He was making a hit film for the movie theatre inside his head.") (quoting Markus Köhler). Addressing Armin, Köhler added that this was intended as "a film that [Armin] could play again and again so that [he] could satisfy [himself] sexually." Roger Boyes, *Cannibalism Is Murder—Even if the Victim Requests to Be Eaten*, THE TIMES (London), May 10, 2006, at A3.

⁷¹⁵ David Crossland, *NEWSDAY*, Jan. 11, 2006, at A19.

⁷¹⁶ *Id.* (quoting Doris Möller-Scheu of the federal prosecutor's office, Frankfurt).

⁷¹⁷ David Fickling, *Cannibal Killer Gets Life Sentence*, THE GUARDIAN, May 9, 2006, <http://www.theguardian.com/uk/2006/may/09/ukcrime.world>.

⁷¹⁸ David Crossland, *Cannibal Goes on Charm Offensive*, SUNDAY TIMES, Jan. 8, 2006, at A21.

⁷¹⁹ *Id.* (quoting Gunter Stampf).

⁷²⁰ *German Cannibal 'Not a Murderer,'* BBC NEWS, Jan. 16, 2006, <http://news.bbc.co.uk/2/hi/4618216.stm>; *Cannibal of Rotenburg Says Victim Begged for*

has the right to decide themselves about their own life and their body.”⁷²¹ “Eating human flesh,” he coldly reminded the judges, “is legal.”⁷²² A sex expert testified that he had interviewed Armin and had concluded on the basis of his investigation that Armin’s killing of Bernd was not sexually motivated.⁷²³

But if Armin seemed for a while to be on the offensive, he faltered badly when asked if he still fantasized about eating people. Yes, Armin candidly admitted.⁷²⁴ Indeed, he obsessed about eating A-List celebrities.⁷²⁵ He wanted to eat Hugh Grant for starters.⁷²⁶ But he didn’t want to stop there.⁷²⁷ Barry Manilow had captured his fancy, as had English singer-songwriters Liam Gallagher and Robbie Williams.⁷²⁸ “I want to eat people who are beautiful,” Armin testified.⁷²⁹ Using this testimony, the prosecution argued forcefully that there was “a high risk” that Armin “would commit the same crime again.”⁷³⁰ He had developed a “fetish for human flesh” that might never be slaked.⁷³¹

Slaughter, DEUTSCHE PRESSE-AGENTUR, Jan. 16, 2006 (LEXIS).

⁷²¹ *Retrial Delivers Tougher Sentence: German Cannibal Gets Life for Eating Willing Victim*, SPIEGEL ONLINE, May 9, 2006, <http://www.spiegel.de/international/retrial-delivers-tougher-sentence-german-cannibal-gets-life-for-eating-willing-victim-a-415313.html>.

⁷²² ‘Kannibalen’-Prozess: ‘Menschenfleisch essen ist Legal’, STERN.DE, Jan. 17, 2006, <http://www.stern.de/panorama/kannibalen-prozess-menschenfleisch-essen-ist-legal-553441.html>.

⁷²³ *Sex Expert Says German Cannibal Is Not Murderer*, CHINA DAILY, Apr. 20, 2006, http://english.peopledaily.com.cn/200604/20/eng20060420_259740.html.

⁷²⁴ *Cannibal Still Craves*, HERALD SUN, Feb. 23, 2006, at A34.

⁷²⁵ Iain Burchell, *Cannibal Wants Robbie for Lunch*, DAILY STAR, Feb. 23, 2006 (WEST).

⁷²⁶ *Id.*

⁷²⁷ He admitted that his fantasies were constant, “like a film that goes on in [his] mind.” *German Cannibal Says He Still Has Fantasies about Butchering People*, DEUTSCHE PRESSE-AGENTUR, Feb. 21, 2006 (LEXIS).

⁷²⁸ *Id.*

⁷²⁹ *Id.*

⁷³⁰ *Cannibal of Rotenburg Faces Life Sentence as Retrial Nears End*, DEUTSCHE WELLE, May 3, 2006, <http://www.dw.de/cannibal-of-rotenburg-faces-life-sentence-as-retrial-nears-end/a-1992042>. A psychiatric expert supported the prosecution’s contentions. *Thinner Victim Please*, DAILY STAR, Apr. 30, 2006 (WEST).

⁷³¹ *German Cannibal Guilty of Murder*, BBC NEWS, May 9, 2006, <http://news.bbc.co.uk/2/hi/4752797.stm>.

In May, the Frankfurt trial court handed down its verdict.⁷³² Armin was found guilty of *Mord*, murder, and given a life sentence,⁷³³ although the Court held out the possibility of parole after fifteen years, conditioned on proof that Armin no longer represented a threat to society.⁷³⁴ Presiding Judge Klaus Drescher condemned Armin's crime as "a particularly perverse murder."⁷³⁵

Chief prosecutor Markus Köhler was publicly very pleased. "The Court left no doubt that anyone who kills another human being to fulfill such a monstrous breaking of taboos makes himself guilty of murder," he said.⁷³⁶ The police added their fervent hope that would-be cannibals would forever more be deterred from killing even where they thought they had secured the consent of their victims.⁷³⁷ Appreciating, perhaps for the first time, the finality of the verdict, Armin no longer appeared smug, but rather impressed onlookers as "despondent."⁷³⁸ Thus, there drew to a close "[t]he longest running horror show in modern German legal history."⁷³⁹

⁷³² *Eating In For a While*, THE GOLD COAST BULLETIN (Queensland), May 11, 2006 (LEXIS).

⁷³³ *Id.*

⁷³⁴ *German Cannibal Jailed For Life for Murder*, DEUTSCHE PRESSE-AGENTUR, May 9, 2006 (LEXIS); *Appeal Flagged: Life Sentence For German Cannibal*, MX (Melbourne), May 10, 2006, at A8.

⁷³⁵ Inge Treichel, *Cannibal Confesses to Killing Partner Invited to 'Slaughter and Consumption'*, THE NEW YORK SUN, May 10, 2006, <http://www.nysun.com/foreign/cannibal-confesses-to-killing-partner-invited/32500/>.

⁷³⁶ David Crossland, *Life in Prison for German Cannibal*, NEWSDAY, May 10, 2006, at A23 (quoting Markus Köhler).

⁷³⁷ Allan Hall, *Cannibal Life in Jail at Retrial*, THE MIRROR, May 10, 2006, <http://www.thefreelibrary.com/Cannibal+life+in+jail+at+retrial.-a0145541784>.

⁷³⁸ *Murder Verdict as Cannibal Is Tried for the Second Time*, YORKSHIRE POST, May 9, 2006, <http://www.yorkshirepost.co.uk/news/main-topics/local-stories/murder-verdict-as-cannibal-is-tried-for-the-second-time-1-2616741>. Ermel described Armin as "shocked" by the verdict. Luke Harding, *German Court Finds Cannibal Guilty of Murder*, THE GUARDIAN, May 9, 2006, <http://www.theguardian.com/world/2006/may/10/germany.lukeharding>.

⁷³⁹ Roger Boyes, *German Cannibal Jailed for Life after Retrial*, THE AUSTRALIAN, May 11, 2006, at A10. In writing on the decision of the appellate court, Arthur Kreuzer found some points of agreement. Armin Meiwes had suffered from a personality disorder, but he had also "fetishized" human flesh. This sufficed to establish a "self-serving motive" (translating "das Fleish eines Mannes als Fetisch, das Motiv also eigennützig"). But Kreuzer nonetheless criticized the appellate tribunal's one-sided handling of the case. To be sure, Kreuzer noted, a copycat crime had occurred since the

XIII. Afterlife

Armin Meiwes appealed his conviction but the German appellate courts affirmed it.⁷⁴⁰ He remains in prison today, although he occasionally makes news, as when he informed an interviewer that human flesh tastes like pork⁷⁴¹ or when he joined the Green Party in 2007.⁷⁴² He now claims to be reformed and believes that his cannibal impulses were traceable to the carnivore diet he once routinely consumed but has now renounced in favor of a strict vegetarianism.⁷⁴³

It is no surprise that the Armin Meiwes case has flourished in both the popular culture and in the scholarship of several distinct disciplines. The “death metal” band *Macabre*, from Chicago, produced a song entitled *The Wüstenfeld ManEater*, celebrating Armin’s exploits,⁷⁴⁴ while the German group *Rammstein* has given

first trial. There was thus a need to deter future pathological conduct. And there was always a danger of relapse. Still, Kreuzer stood by his previous conclusions: the appellate tribunal bowed to public pressure and simply declined to consider the consent-based elements of the crime, and this was erroneous. See Arthur Kreuzer, *Fleisch als Fetisch*, ZEITONLINE, May 10, 2006, http://www.zeit.de/online/2006/19/urteil_kannibalismus_rothenburg. The Armin Meiwes case continues to haunt the German consciousness in macabre ways. As this article was going to print, news reports out of Germany indicate yet another copy-cat killing, this time involving a police forensic investigator who allegedly lured a willing cannibal victim to a mountain retreat where they proceeded to replicate at least some aspects of the Meiwes crime. See Daniel Politi, *German Police Officer Arrested in Alleged Cannibalism Case*, SLATE (Nov. 29, 2013), http://www.slate.com/blogs/the_slatest/2013/11/29/german_police_officer_arrested_in_alleged_cannibalism_case.html; *New Cannibalism Case? Germany Probes Suspicious Murder*, SPIEGEL ONLINE (Nov. 29, 2013), <http://www.spiegel.de/international/germany/german-gay-cannibal-murder-allegedly-takes-place-in-saxony-a-936329.html>.

⁷⁴⁰ Diana Niedernhoefer & Kerstin Gehmlich, *German Cannibal Loses Appeal in Murder Case*, REUTERS, Oct. 24, 2008, <http://www.reuters.com/article/2008/10/24/us-germany-cannibal-idUSTRE49N3MR20081024>; *Court Rejects Appeal of German Cannibal*, CBC NEWS, Oct. 24, 2008, <http://www.scotsman.com/news/world/cannibal-killer-wants-163-1m-for-his-memoirs-1-1298533>.

⁷⁴¹ *First TV Interview with German Cannibal: ‘Human Flesh Tastes like Pork,’* SPIEGEL ONLINE, Oct. 16, 2007, <http://www.spiegel.de/international/zeitgeist/first-tv-interview-with-german-cannibal-human-flesh-tastes-like-pork-a-511775.html>.

⁷⁴² Allan Hall, *World’s Most Infamous Cannibal Becomes a Vegetarian*, MAIL ONLINE, Nov. 20, 2007, <http://www.dailymail.co.uk/news/article-495132/Worlds-infamous-cannibal-vegetarian.html>.

⁷⁴³ *Id.*

⁷⁴⁴ “In the German internet classifieds, was an ad for a man’s demise, then after death he’d eat his prize, a cannibal in modern times,” reads one stanza. MACABRE, THE

us *Mein Teil* ("My Part").⁷⁴⁵ Marilyn Manson credits Armin Meiwes as the inspiration for his album, *Eat Me, Drink Me*.⁷⁴⁶ Several low-budget films have been released about the case, as well as at least one stage production.⁷⁴⁷ The Meiwes case has figured in pulp fiction⁷⁴⁸ and lurid true crime collections.⁷⁴⁹ Armin has even given some writers the opportunity for low comic relief.⁷⁵⁰

The Meiwes case has been widely studied in the field of criminology. Gabriel Hallevy uses the case to introduce his book, which is concerned with the relationships between theories of

WÜSTENFELD MAN EATER (Decomposed Records 2003).

⁷⁴⁵ RAMMSTEIN, *MEIN TEIL* (Universal Music Group 2004). In the summer and fall of 2004, this was the second-most popular song in Germany. See Wolfgang Spahr, *Rammstein's Grammy Nom Fires Up Universal*, BILLBOARD, Feb. 11, 2006, at A82; Claire Berlinski, *Playing with Fire: German Metal*, INTERNATIONAL HERALD TRIBUNE, Jan. 10, 2005, <http://www.highbeam.com/doc/1P1-104146990.html>. Cf. JENNIFER BROWN, *CANNIBALISM IN LITERATURE AND FILM 2* (2012); Robert G.H. Burns, *German Symbolism in Rock Music: National Signification in the Imagery and Songs of Rammstein*, 27 POPULAR MUSIC 457, 463, 470 n.27 (2008) (both discussing the remarkable success of this song).

⁷⁴⁶ ROY F. BAUMEISTER & BRAD J. BUSHMAN, *SOCIAL PSYCHOLOGY AND HUMAN NATURE* 290 (2010).

⁷⁴⁷ See Scott Ruth, "*Grimm Love*" or "*Cannibal*"? Which Film Best Captured the Tale of Armin Meiwes?, EXAMINER, Apr. 10, 2011, <http://www.examiner.com/review/grimm-love-or-cannibal-which-film-best-captured-the-tale-of-armin-meiwes> (reviewing two English-language films on the case. Several German films have also been produced, which are mentioned briefly in Ruth's review). *Grimm Love*, known in Germany as *Rothenburg*, was scheduled for release during Armin's retrial, but the courts blocked its opening for fear of causing prejudice. See Scott Roxborough, *Cannibal Movie Banned in Germany*, HOLLYWOOD REPORTER, Mar. 6, 2006 (WEST). Regarding the play based on the Meiwes case, see Glenn Mitchell, *All-Consuming Act*, HERALD SUN, Jan. 25, 2006, at A69. A made-for-television British documentary was also produced entitled *Body Shock: The Man Who Ate His Lover* (reviewed in Stephen McGinty, *TV Review: Consumer Show with a Difference*, SCOTSMAN, Mar. 2, 2004, at A21).

⁷⁴⁸ SARAH WENDELL & CANDY TAN, *BEYOND HEAVING BOSOMS: THE SMART BITCHES' GUIDE TO ROMANCE NOVELS* 8 (2009).

⁷⁴⁹ See, e.g., SONDRALONDON & NICOLAS CLAUX, *TRUE VAMPIRES: BLOOD SUCKING KILLERS PAST AND PRESENT* 50–54 (2003); PHIL CLARKE ET AL., *EXTREME EVIL: TAKING CRIME TO THE NEXT LEVEL* 18–25 (2011); RAY BLACK, *CANNIBALS AND EVIL CULT KILLERS* 287–91 (2006); PETER HAINING, *CANNIBAL KILLERS* 299–316 (2006).

⁷⁵⁰ KARL SHAW, *10 WAYS TO RECYCLE A CORPSE: AND 100 MORE DREADFULLY DISTASTEFUL LISTS* 156 (2011).

personal and derivative criminal responsibility.⁷⁵¹ Anthony Walsh and Lee Ellis discuss the case as representing the outer limits of victimless crimes.⁷⁵² The British criminologist Jonathan Herring in his casebook on criminal law recommends the Meiwes case as a worthy discussion topic on criminal consent.⁷⁵³ Peter Morrall notes the unusual nature of the Meiwes case: It is rare when one person acts on fantasies as lurid as Armin's and Bernd's, and almost unheard of when two do so.⁷⁵⁴

Professor Jacqueline Helfgott of the University of Seattle sees the case as representing the difference "between sexual deviance and sexual crime."⁷⁵⁵ Sado-masochism, she notes, is sexually deviant but not usually criminal when "engaged in by consenting adults."⁷⁵⁶ Alone among criminologists, she expresses some sympathy for the case Ermel presented on Armin's behalf.⁷⁵⁷

Psychologists have also explored the Meiwes case extensively. Paul Blaney and Theodore Millon, in their Oxford Textbook of Psychopathology, describe Bernd Brandes as representing "[o]ne of the most dramatic cases of sexual masochism" on record.⁷⁵⁸ Bruce Hood profiles Armin and Bernd in his study of superstition and taboo-breaking.⁷⁵⁹ In his study of the forms of leisure, Tony Blackshaw classifies Armin's feast as "[t]he example of abnormal

⁷⁵¹ GABRIEL HALLEVY, *THE MATRIX OF DERIVATIVE CRIMINAL LIABILITY* ix–x (2012).

⁷⁵² ANTHONY WALSH & LEE ELLIS, *CRIMINOLOGY: AN INTERDISCIPLINARY APPROACH* 7 (2006).

⁷⁵³ JONATHAN HERRING, *CRIMINAL LAW: TEXT, CASES, AND MATERIALS* 46 (5th ed. 2010).

⁷⁵⁴ PETER MORRALL, *MURDER AND SOCIETY* 167 (2006). The forensic criminologist Eric Hickey, however, classifies Armin Meiwes as a case study under sexual predation and paraphilia and finds the case extreme but not remarkable. ERIC W. HICKEY, *SERIAL MURDERERS AND THEIR VICTIMS* 126 (2010).

⁷⁵⁵ JACQUELINE B. HELFGOTT, *CRIMINAL BEHAVIOR: THEORIES, TYPOLOGIES, AND CRIMINAL JUSTICE* 192 (2008).

⁷⁵⁶ *Id.*

⁷⁵⁷ "[O]ne could argue, as Meiwes' defense attorney did, that Meiwes committed a mercy killing, which should be construed as an assisted suicide." *Id.* The forensic biologist Alan Gunn uses the Meiwes/Brandes case as a case study in the detection of cannibal killers. See ALAN GUNN, *ESSENTIAL FORENSIC BIOLOGY* 79–80 (2d ed. 2009).

⁷⁵⁸ PAUL H. BLANEY & THEODORE MILLON, *OXFORD TEXTBOOK OF PSYCHOPATHOLOGY* 533 (2008).

⁷⁵⁹ HOOD, *supra* note 216, at 178–79.

leisure *par excellence*.”⁷⁶⁰ In his major new study of the science behind human pleasure, Paul Bloom opens his discussion of food with Armin’s butchery of Bernd.⁷⁶¹

The Canadian scholar Mark Morton proposed that the legal system reacted as harshly as it did because of a natural human abhorrence at the idea that someone might consent not only to his own death but his own cannibalistic immolation.⁷⁶² Another Canadian scholar, Roger Davis, saw in the case the literary typology of Western consumerist society consuming itself.⁷⁶³ Roberto Gutierrez and Roger Giner-Smith noted at the outset of their paper *Anger, Disgust, and Presumption of Harm as Reactions to Taboo-Breaking Behavior* that their investigation was prompted by the feelings stirred up by the Armin Meiwes case.⁷⁶⁴ The common denominator in the psychological literature is an effort to understand how two human beings succeeded in meeting, planning, and consummating an act that transgressed deeply-held taboos and seemingly threatened rationality itself.

Theodore Dalrymple, an atheist psychiatrist, an avowed conservative with libertarian leanings, an editor of the *City Journal* and a fellow at the Manhattan Institute,⁷⁶⁵ wrote provocatively, if a little ironically in Armin’s defense even before the conclusion of his first trial.⁷⁶⁶ “If everything is possible

⁷⁶⁰ TONY BLACKSHAW, LEISURE 35 (2010).

⁷⁶¹ BLOOM, *supra* note 396 at 25–27.

⁷⁶² Mark Morton, *Joie de Mort*, 9 GASTRONOMICA J. FOOD & CULTURE 9, 10 (2009).

⁷⁶³ ROGER DAVIS, *You Are What You Eat: Cannibalism, Autophagy and the Case of Armin Meiwes*, in TERRITORIES OF EVIL 151, 151–67 (Nancy Billias ed. 2008).

⁷⁶⁴ Roberto Gutierrez & Roger Giner-Smith, *Anger, Disgust, and Presumption of Harm as Reactions to Taboo-Breaking Behaviors*, 7 EMOTION 853, 853 (2007).

⁷⁶⁵ “Theodore Dalrymple” is a pseudonym for A.M. Daniels, a British-trained doctor who practiced psychiatry in Rhodesia (now Zimbabwe) and London’s East End. His writings generally focus on declinist themes, understanding the Western predicament as grounded on a failure of the elites to observe or even recommend the requirements of cultured existence and as therefore willing to tolerate high levels of aberrant conduct. His biography can be found on the website of the Manhattan Institute For Policy Research. The themes of his writing are well-documented in such works as THEODORE DALRYMPLE, OUR CULTURE, WHAT’S LEFT OF IT: THE MANDARINS AND THE MASSES (2005); THEODORE DALRYMPLE, IN PRAISE OF PREJUDICE: THE NECESSITY OF PRECONCEIVED IDEAS (2007); THEODORE DALRYMPLE, NOT WITH A BANG BUT A WHIMPER: THE POLITICS AND CULTURE OF DECLINE (2008).

⁷⁶⁶ Theodore Dalrymple, *The Case for Cannibalism: If Everything Is Permissible between Consenting Adults, Why Not?*, CITY JOURNAL (Jan. 5, 2004), <http://www.city-journal.org>

between consenting adults, why not?" he asked.⁷⁶⁷ He dismissed claims that this was a choice made by two madmen. "There is a circularity to this argument," Dalrymple asserted, and besides everybody copes with a certain degree of "emotional problems."⁷⁶⁸ There was no evidence that Armin's and Bernd's psychological issues were so exceptionally severe as to impair consent.⁷⁶⁹ "The case is a *reductio ad absurdum* of the philosophy according to which individual desire is the only thing that counts in deciding what is permissible in society."⁷⁷⁰

Though Dalrymple might have been writing ironically—he never decisively tipped his hand—there quickly followed on his piece a large number of blog postings by libertarian leaning thinkers and writers expressing support for Armin and Bernd. Katrina Fox, who maintains *Camp Vamp* and describes herself as an Australian freelance writer, stated:

Ironically, as someone who hasn't consumed any mammalian flesh for nearly 30 years for ethical reasons, I'm probably less grossed out by this consensual cannibalism than [sic] most. Quite frankly[,] I'd prefer to see slaughterhouse workers in jail than Armin Meiwes. He's not your average murderer—consent was so important to him that when a previous 'victim' apparently ducked out at the last minute, he let him go.⁷⁷¹

Answering a challenge by the conservative journalist Rod Dreher,⁷⁷² the Christian libertarian manager of the *Vox Populi* blog argued that the secular State must never be in the business of defining substantive moral norms, that all state authority is grounded on radically free consent, and that under the circumstances "Brandes clearly granted Meiwes permission to

journal.org/html/eon_01_05_04td.html.

⁷⁶⁷ *Id.*

⁷⁶⁸ *Id.*

⁷⁶⁹ *Id.*

⁷⁷⁰ *Id.*

⁷⁷¹ Katrina Fox, *Consensual Acts*, THE CAMP VAMP (Jan. 31, 2007, 5:54 PM), <http://katrinafox.blogspot.com/2007/01/consensual-acts.html>.

⁷⁷² At the time, Dreher was an editor of the *Dallas Morning News*. Vox Populi, *What's Wrong with Cannibalism*, VOX DAY (Jan. 7, 2004), <http://voxday.blogspot.com/2004/01/whats-wrong-with-cannibalism.html>. He is presently an editor of *The American Conservative*. See Rod Dreher, THE AMERICAN CONSERVATIVE, www.theamericanconservative.com/dreher/.

make culinary use of his body and so there is no crime.”⁷⁷³

The website *Revolutionbox*, dedicated to “uniting and igniting the liberty movement,” hosted a forum on the Meiwes case in the summer of 2012.⁷⁷⁴ One commenter, using the *nom de guerre* “Occam’s Banana,” wrote: “What Brandes did was just an elaborate (though bizarre) form of assisted suicide . . . which, in turn, is just an elaborate form of ‘regular’ suicide . . . which, in turn, has no business being against the law in the first place.”⁷⁷⁵ Commenters on *Free Dominion*—a libertarian blog from Western Canada—offered similar observations: “I don’t see a problem here,” wrote Heywood Floyd. “If the victim commits suicide, well, that’s their call Just will your body to the cannibal and bada-bing, you’re good to go.”⁷⁷⁶ “JDSM,” on the *Crooked Timber’s* website defended the soundness of Bernd’s decision: “It’s not like a guy is in a momentary state of depression and tries to kill himself—he responds to an advert for someone to eat him. That amount of planning suggests he knows full well what he is doing.”⁷⁷⁷

Yet another blog, by Micha Ghertner at *The Distributed Republic*, rushed to Armin’s defense.⁷⁷⁸ From a libertarian vantage point, Ghertner asserted, Armin’s and Bernd’s cannibalistic compact is an easy case. “[I]t’s disturbing, yes, it violates the yuck factor, but why should any of us care what other people do if they don’t affect our lives in any meaningful way?”⁷⁷⁹ Indeed, Ghertner feared that if libertarians yielded even a little on the cannibal case, the “paternalists” will try to restrict people’s freedom in all sorts of other nasty ways: “suicide, smoking,

⁷⁷³ Popoli, *What’s Wrong with Cannibalism*, *supra* note 772.

⁷⁷⁴ See *Suicide, Assisted Suicide, and Cannibalism* (June 5, 2012, 12:47 PM), <http://www.revolutionbox.org/Thread-Suicide-Assisted-Suicide-and-Cannibalism>.

⁷⁷⁵ *Id.* Emblazoned beneath this statement was a headshot of Congressman Ron Paul.

⁷⁷⁶ *What Are the Limits to Adult “Consent?”*, FREE DOMINION (Dec. 2, 2003, 9:11 PM), <http://www.freedominion.com.pa/phpBB2/viewtopic.php?f=1&t=16517>.

⁷⁷⁷ Chris Bertram, *Between Consenting Adults*, CROOKED TIMBER (Dec. 3, 2003, 10:21 PM), <http://crookedtimber.org/2003/12/03/between-consenting-adults/>.

⁷⁷⁸ Micha Ghertner, *Why Don’t Cannibals Eat Clowns?*, THE DISTRIBUTED REPUBLIC (Dec. 4, 2003, 5:53 AM), <http://distributedrepublic.net/archives/2003/12/04/why-dont-cannibals-eat-clowns>.

⁷⁷⁹ *Id.*

drinking, fast food; you name it.”⁷⁸⁰ In another blog posting on the case, Ghertner distinguished between two issues: Bernd’s death and the cannibalism that followed.⁷⁸¹ One must always ensure that consent is validly exchanged, but once that matter is settled then eating human flesh presents only issues of hygiene, not morals.⁷⁸² And the claim that cannibalism is “icky,” Ghertner added, is not an argument.⁷⁸³

Writing in a more strictly academic venue and relying on a series of thinkers who posit autonomy as the defining value of philosophical liberalism, Andrew Jason Cohen was conditionally willing to defend Bernd Brandes’ decision to end his life in the way he chose, provided his consent was truly well-informed and voluntary.⁷⁸⁴ Jeremy Wisnewski of Hartwick College offered a more robust defense of Armin’s and Bernd’s actions.⁷⁸⁵ Bernd’s consent, extended repeatedly and unambiguously, transformed

⁷⁸⁰ *Id.* In a subsequent blog, Ghertner acknowledged one argument that might contain some force—a third party would be needed to ensure that consent on something this grave was truly free and the administrative costs involved might justify restrictions on that freedom’s exercise. See Micha Ghertner, *The Economics of Cannibalism*, THE DISTRIBUTED REPUBLIC (Jan. 21, 2004, 6:15 PM), <http://distributedrepublic.net/archives/2004/01/21/the-economics-of-cannibalism>.

⁷⁸¹ Micha Ghertner, *Cannibal! The Speech*, THE DISTRIBUTED REPUBLIC (July 7, 2005, 7:33 PM), <http://distributedrepublic.net/archives/2005/07/11/cannibal-the-speech>.

⁷⁸² *Id.*

⁷⁸³ *Id.* Mano Singham, Professor of Theoretical Physics at Case Western University and a self-described believer in personal freedom and the free exchange of consent, acknowledged that he had trouble identifying what moral norms Bernd and Armin violated. If we permit the Zoroastrian custom of feeding the deceased human body to the vultures, there is nothing problematic in eating the body ourselves. So, it comes down to consent and, Singham adds, the videotape demonstrates repeated exchanges of free consent. So, without answering the question, Singham asks, perhaps we are troubled because we are just not sure whether Bernd was “in a state of sound mind.” See Mano Singham, *Limits to Consensual Actions*, FREETHOUGHTSBLOGS (June 17, 2011), <http://freethoughtsblog.com/singham/2011/06/17/limits-to-consensual-actions>.

⁷⁸⁴ Andrew Jason Cohen, *What the Liberal State Should Tolerate within Its Borders*, 37 CANADIAN J. PHIL. 479, 491 (2007). Cohen states that “there are reasons to doubt the consent of . . . Brandes,” but if Cohen did not, his article suggests that he would defend Brandes’ choice. See *id.* at 483-92.

⁷⁸⁵ J. Jeremy Wisnewski, *Murder, Cannibalism, and Indirect Suicide: A Philosophical Study of a Recent Case*, 14 PHILOSOPHY IN THE CONTEMPORARY WORLD 11 (2007), available at <http://www.hartwick.edu/Documents/PHILOSWisnewskiMurderandCannibalism.pdf>.

what would have been a case of murder into assisted suicide.⁷⁸⁶ Furthermore, the prohibition on the consumption of human flesh, which was the end towards which both Armin and Bernd strove, relies on a moral intuition itself lacking “any rational basis.”⁷⁸⁷

Other philosophers rejected these conclusions. Roger Kimball, an editor at *The New Criterion* and, like Dalrymple, a fellow at the Manhattan Institute,⁷⁸⁸ sees at work in the many defenses of Meiwes and Brandes an over-reliance in modern philosophical thought on that *bête noire* of sensible conservatism, John Stuart Mill.⁷⁸⁹ “[I]t is worth pondering what Mill would have had to say to Herr Meiwes. Some people like their steak well-done, some like it rare. Some, apparently, like it cut from the flanks of their friends. So long as the friend doesn’t mind, who are we to judge?”⁷⁹⁰

Nigel Biggar, Regius Professor of Theology at Oxford, similarly wrote to object to philosophical defenses of Armin’s and Bernd’s actions.⁷⁹¹ Biggar did not really respond to the libertarian defenses of Bernd and Armin as much as parade them before his readership as an object lesson in the dangers of untrammelled human autonomy:

BUT why shouldn’t we go the whole libertarian hog and grant all rational adults the right to die or be killed on

⁷⁸⁶ *Id.* at 13, 15–17 (“Because the absence of consent is necessary for murder, my giving consent can transform an impermissible act into a permissible one.”). *Id.* at 13.

⁷⁸⁷ *Id.* at 18. Indeed, Wisniewski continues, Armin’s consumption of Bernd might have been the highest form of respect, honoring what he made clear in word and action was his most deeply cherished life’s goal. *Id.* at 20. Bennett Gilbert, long-time rare-book-dealer-turned-philosopher, wrote to refute Wisniewski, asserting that non-violence is one of the greatest human goods, and that the pacifist stance he wishes to defend demands that persons be treated non-violently even if they wish violence to be done to their persons. See Bennett Gilbert, *The Case of Meiwes Ate Brandes* (Feb. 14, 2010), http://www.porlockspensum.com/assets/text/meiwes_and_brandes.pdf.

⁷⁸⁸ Kimball is best known for his book, *TENURED RADICALS: HOW POLITICS HAS CORRUPTED OUR HIGHER EDUCATION* (3d ed. 2008).

⁷⁸⁹ Roger Kimball, *Eating People Is Wrong—Isn’t It?*, *ARMAVIRUMQUE* (Apr. 12, 2005), <http://www.newcriterion.com/posts.cfm/eating-people-is-wrong-isnt-it-3890>.

⁷⁹⁰ *Id.* This article’s author takes a different view of Mill. See *infra* notes 828–836 and accompanying text.

⁷⁹¹ Nigel Biggar, *Autonomy’s Suicide*, 1 J. OBSERVATIONAL PAIN MEDICINE 1, 65–72 (2012), available at <http://www.joopm.com/index.php?journal=joopm&page=issue&op=view&path%5B%5D=3>. This article is an expansion of Biggar’s earlier essay, *The Road to Death On Demand*, *STANDPOINT* (Mar. 2010), <http://standpointmag.co.uk/node/2726>.

demand. . . ? One objection emerges when we roll libertarian logic out to its logical conclusion. If we were to reform the law so as to allow competent adults absolute, arbitrary autonomy over their own lives, then it would have to permit consensual vivisection and killing In case this sounds too bizarre to be worth considering, we should remember that in 2004 Armin Meiwes was tried in Germany for mutilating, killing, and eating a 43-[year]-old computer engineer, who consented⁷⁹²

The moral psychologist Jonathan Haidt offers one of the most sophisticated justifications for objecting to Armin's cannibal banquet.⁷⁹³ Human beings are autonomous agents, but our autonomy is always—and quite properly—hedged in by social restraints, taboos that ought to remain inviolate.⁷⁹⁴ Haidt terms this taboo-making process the “Sanctity” principle and uses the Meiwes case to illustrate its operation.⁷⁹⁵ Human beings, he notes, are omnivores, and food poses a special dilemma for omnivores: Humans need to know what it is they must not eat, and for omnivores who live in close company with one another, they need to know “that the human body is more than just a walking slab of meat.”⁷⁹⁶ Hence our moral revulsion to Armin's cannibalism is grounded on something more than purely subjective disgust or irrational, ancestral taboo, but the need to maintain boundaries and battlements against impermissible conduct that will, over time, coarsen and corrode human intimacy.⁷⁹⁷ And so humans sanctify that which they must never touch or try.⁷⁹⁸

⁷⁹² Biggar, *supra* note 791, at 4.

⁷⁹³ JONATHAN HAIDT, *THE RIGHTEOUS MIND: WHY GOOD PEOPLE ARE DIVIDED BY POLITICS AND RELIGION* 146–50 (2012).

⁷⁹⁴ *Id.* at 149.

⁷⁹⁵ *Id.* at 146–50.

⁷⁹⁶ *Id.* at 149.

⁷⁹⁷ *Id.* at 149–50.

⁷⁹⁸ Aviva Briefel, Professor of English at Bowdoin College, uses the Armin Meiwes case to investigate the moral boundaries of consent in the disposal of one's body. See *Take Me: The Rhetoric of Donation*, in T. CHRISTINE JESPERSEN ET AL., *THE ANATOMY OF BODY WORLDS: CRITICAL ESSAYS ON THE PLASTINATED CADAVERS OF GUNTHER VON HAGENS* 44, 49 (2009). Briefel's point is that there may be uses of one's deceased remains that we are prohibited from consenting to on the basis of human dignity and that “victimhood” and “free agency” “are not mutually exclusive terms.” *Id.*

Academic lawyers have also contributed to the Armin Meiwes controversy. In defending his philosophy of the common good, Michael Sandel uses the Armin Meiwes case as a *reductio ad absurdum* by which to discredit libertarianism.⁷⁹⁹ Lawrence Friedman published an essay on Armin Meiwes in 2011 considering an ancillary aspect of the case—the German courts' zealous efforts to safeguard the privacy rights of the participants, including even Armin himself.⁸⁰⁰

Iain Brassington, professor of law at Manchester University, in the course of defending assisted suicide, attempted to distinguish the Meiwes-Brandes matter from other more typical cases of assisted suicide.⁸⁰¹ Either Brandes' mental capacities were so gravely impaired that he was unable to give informed consent, Brassington comforts himself, or the example of consensual cannibalism is so rare it should have no influence on the overall debate on assisted suicide.⁸⁰² Youngjae Lee transposes the Meiwes case to American law to argue that while Bernd and Armin might, under some moral theories, possess the right to do what they did, their choice should not be accorded any constitutional protection.⁸⁰³

Vera Bergelson, finally, has addressed the Meiwes case in several articles and in her book, *Victim's Rights and Victim's Wrongs: Comparative Liability in Criminal Law*.⁸⁰⁴ She makes the

⁷⁹⁹ "Cannibalism between consenting adults poses the ultimate test for the libertarian principle of self-ownership and the idea of justice that follows from it. It is an extreme form of assisted suicide. Since it has nothing to do with relieving the pain of a terminally ill patient, it can be justified only on the grounds that we own our bodies and lives, and may do with them what we please. If the libertarian claim is right, banning consensual cannibalism is unjust, a violation of the right to liberty. The state may no more punish Armin Meiwes than it may tax Bill Gates and Michael Jordan to help the poor." MICHAEL J. SANDEL, *JUSTICE: WHAT'S THE RIGHT THING TO DO?* 74 (2009).

⁸⁰⁰ Lawrence M. Friedman & Nina Louisa Arold, *Cannibal Rights: A Note on the Modern Law of Privacy*, 4 NW. INTERDISC. L. REV. 235, 235-46 (2011). Cf. Lawrence M. Friedman, *Front Page: Notes on the Nature and Significance of Headline Trials*, 55 ST. LOUIS U. L. J. 1243, 1256-57 (2011) (further considering Armin's case).

⁸⁰¹ Iain Brassington, *Five Words for Assisted Dying*, 27 LAW & PHIL. 415 (2008).

⁸⁰² *Id.* at 427-28.

⁸⁰³ Youngjae Lee, *Minimalism versus Perfectionism in Constitutional Theory: Valuing Autonomy*, 75 FORDHAM L. REV. 2973, 2982-88 (2007).

⁸⁰⁴ VERA BERGELSON, *VICTIMS' RIGHTS AND VICTIMS' WRONGS: COMPARATIVE LIABILITY IN CRIMINAL LAW* (2009); Vera Bergelson, *The Right to Be Hurt: Testing the Boundaries of Consent*, 75 GEO. WASH. L. REV. 165, 166-67, 216-17 (2007); Vera

point that the criminal law evolved from a kind of medieval *laissez faire*⁸⁰⁵ into a deliberately more intrusive body of norms in order to protect two crucial interests—the State’s requirement of public order and the individual’s need for dignity and respect. Even had Bernd granted the most robust consent imaginable, Bergelson asserts, cannibalism fails these tests “*by its very terms*.”⁸⁰⁶

It should seem clear that the opponents of Armin’s and Bernd’s cannibalistic enterprise do not fare especially well when contrasted with the simple premises and tight logic of those who would defend their choices. Kimball is content to grump—that awful John Stuart Mill, he was wrong in the nineteenth century and he is wrong today, look at the fine mess his commitment to personal autonomy has caused for us. Biggar’s argument is not significantly different. He doesn’t so much contest the libertarian position as he uses Armin and Bernd for their shock value. This is nothing but foot-stomping, or maybe just a primal scream. It is not reasoned argument. Bergelson’s reliance on human dignity is also problematic. Where does the violation of human dignity lie, exactly? What if, after giving Armin instructions to eat his mortal remains, Bernd had died of the narcotics and alcohol he ingested? Does the violation of Bernd’s dignity lie in the manner of his death or in the disposal of his corpse? And if it is the manner of his death,⁸⁰⁷ then why shouldn’t Bernd’s firmly resolved intent to dispose of his body in a cannibal feast be undeserving of dignity and respect? Haidt’s moral psychology offers some promise, but even that position is not especially well developed.⁸⁰⁸

Bergelson, *Rights, Wrongs, and Comparative Justifications*, 28 CARDOZO L. REV. 2481, 2501 n.75 (2007); Vera Bergelson, *Consent to Harm*, 28 PACE L. REV. 683, 706 (2008); Vera Bergelson, *Autonomy, Dignity, and Consent to Harm*, 60 RUTGERS L. REV. 723, 730–32 (2008); Vera Bergelson, *Consent to Harm*, in *THE ETHICS OF CONSENT: THEORY AND PRACTICE* 163, 179 (Franklin Miller & Alan Wertheimer eds., 2009).

⁸⁰⁵ She indicates that English lawyers of the fourteenth century used the Romanist maxim *volenti non fit injuria*—“there is no injury to one who consents”—to justify a rather extreme hands-off approach to consent-based injuries, although by the seventeenth century consent ceased to be a complete defense at criminal law. See Bergelson, *The Right to Be Hurt*, *supra*, note 804, at 171–73.

⁸⁰⁶ BERGELSON, *VICTIMS’ RIGHTS*, *supra* note 804, at 66 (emphasis added).

⁸⁰⁷ Which Bergelson herself is unaware of, since she concedes that Armin did not violate Bernd’s rights when he assisted in his death. Bergelson, *Consent to Harm*, *supra* note 804, at 706.

⁸⁰⁸ See *supra* notes 793–797 and accompanying text.

XIV. Conclusion

Armin Meiwes' case threatens our jurisprudential self-understanding. This may be an unconscious reason many of the scholars who have addressed this case tend to underplay the radically consensual nature of it. Armin secured the consent of his victim, if you can even call Bernd a victim. Bernd, after all, answered Armin's advertisement and encouraged him at every stage of the process, even after he had undergone emasculation. He signed documents evidencing his consent, he videotaped his consent, he made his will and sold his belongings, and he can be seen on the home movies Armin made of the slaughter telling Armin not to lose heart and insisting that he finish the job.

Armin and Bernd's cannibalism has to be seen as an autonomous act. And autonomy is the foundation-stone of so much about Western law. Our legal philosophers instruct us to aim at policies that maximize freedom in our personal lives and insist that society be non-judgmental as to the ways others define themselves and their private pursuits.⁸⁰⁹ Autonomy, in other words, is the "key component" of the "good society."⁸¹⁰ Courts, in the United States, in Canada, and in Europe, have elevated human autonomy to constitutionally-protected status.⁸¹¹

And this autonomy, commentators have made clear, embraces decisions about ultimate goods, such as life and death itself. To be sure, the United States Supreme Court rejected arguments that the notion of liberty implicit in the Due Process Clause included the right to assisted suicide.⁸¹² Even so, the State of Oregon has moved in this direction statutorily.⁸¹³ So also has the nation of the

⁸⁰⁹ Ronald Dworkin's theory on this point has been well-summarized: "[T]he liberal theory of equality supposes that political decisions must be, so far as possible, independent of any particular conceptions of the good life, or of what gives value to life." GERALD DWORKIN, *THE THEORY AND PRACTICE OF AUTONOMY* 4 (1988) (summarizing Ronald Dworkin, *Liberalism*, in *PUBLIC AND PRIVATE MORALITY* 127 (Stuart Hampshire ed. 1978)).

⁸¹⁰ JUDITH HENDRICK, *LAW AND ETHICS* 97 (2004).

⁸¹¹ MARY DONNELLY, *HEALTH-CARE DECISION-MAKING AND THE LAW: AUTONOMY, CAPACITY, AND THE LIMITS OF CONSENT* 97 (2010).

⁸¹² *Washington v. Glucksberg*, 521 U.S. 702 (1997).

⁸¹³ OR. REV. STAT. §§ 127.800–127.995 (2011) (allowing terminally ill Oregon citizens voluntarily to end their lives through the administration of lethal medications, prescribed by a physician for that purpose). *Cf.* John Roberts, *Oregon Reaffirms Assisted*

Netherlands.⁸¹⁴ The New Jersey case of *Zygmaniak v. Kawasaki Motors*, furthermore, while not precisely recognizing a right to die, has been interpreted by commentators as standing for “a clear instance of voluntary euthanasia.”⁸¹⁵

And, truly, all Bernd did was will his own death. To be sure, in the end, he died at the hands of another, but the evidence overwhelmingly supports the conclusion that this was the fate he devoutly longed for and desired. Suicide for exalted purposes has not only not been condemned in western literature, it has been celebrated. Cato the Younger passed sanguinary judgment on Julius Caesar’s dictatorship by shedding his own blood, taking his own life as an ultimate act of protest.⁸¹⁶ For this, he won the praise and glory of fellow republicans, his name enduring down the generations.⁸¹⁷ Some of Shakespeare’s greatest plays—*Othello*, *Romeo and Juliet*—end with the suicides of the protagonists.⁸¹⁸

Modern existentialist writers have felt the need to justify not suicide, but the decision to live. Albert Camus,⁸¹⁹ Jean-Paul

Suicide, 315 BRITISH MED. J. 1253 (Nov. 15, 1997) (providing news coverage of Oregon referendum ratifying assisted suicide statute).

⁸¹⁴ On the evolution of Dutch law on this subject, see RAPHAEL COHEN-ALMAGOR, EUTHANASIA IN THE NETHERLANDS: THE POLICY AND PRACTICE OF MERCY KILLING 2 (2004).

⁸¹⁵ PETER SINGER, PRACTICAL ETHICS 177 (1993). George Zygmaniak was severely injured in a motorcycle accident caused by a defect in manufacture. His younger brother Lester killed George with a shotgun blast after George repeatedly and urgently pleaded with him to do so. Lester was acquitted by a jury of all charges after deliberations of a little more than two hours. See GERALD TOMLINSON, MURDERED IN JERSEY 151–52 (1994). The New Jersey courts permitted a wrongful death action to proceed against Kawasaki even though the proximate cause of George’s death was Lester’s voluntary euthanasia of his brother. See *Zygmaniak v. Kawasaki Motors Corporation*, 131 N.J. 403, 330 A.2d 56 (1974), *appeal dismissed*, 68 N.J. 94, 343 A.2d 97 (1975).

⁸¹⁶ On the historical details surrounding Cato’s suicide, see Alexei V. Zadorojnyi, *Cato’s Suicide in Plutarch*, 57 CLASSICAL Q. 216, 216–30 (2007).

⁸¹⁷ “Powerful as he was in life, he was never so powerful as in death.” ROB GOODMAN & JIMMY SONI, *ROME’S LAST CITIZEN: THE LIFE AND LEGACY OF CATO, MORTAL ENEMY OF CAESAR* 309 (2012). Cato’s suicide in defense of liberty even influenced the imagination of America’s founding generation. *Id.* at 310. Cf. Nathaniel Wolloch, *Cato the Younger in the Enlightenment*, 106 MODERN PHILOLOGY 60, 60–82 (2008) (tracing the influence of Cato’s suicide from Cicero to Jean Jacques Rousseau).

⁸¹⁸ For one contemporary academic treatment, see ERIC LANGLEY, *NARCISSISM AND SUICIDE IN SHAKESPEARE AND HIS CONTEMPORARIES* 108–36 (*Romeo and Juliet*) (2010); see also *id.* at 253–82.

⁸¹⁹ “Camus emphasizes that staying alive is an expression of revolt, while suicide is

Sartre,⁸²⁰ and others have spoken in these terms.⁸²¹ Why should society not regard Bernd as the brave man, the free man, the quintessentially autonomous man, who has decided that his life might be put to a higher and more beneficial purpose by being united physically, in the most intimate way imaginable, with another human being?

While classically a philosopher like Immanuel Kant objected to suicide as morally wrong and inherently incompatible with human nature (as a misuse of human freedom),⁸²² even he faced opposition in his own day from thinkers like David Hume.⁸²³ Some modern philosophers are willing to find defensible at least some suicidal acts.⁸²⁴ Libertarian writers have in particular

a form of resignation.” ABRAHAM SAGI, ALBERT CAMUS AND THE PHILOSOPHY OF THE ABSURD 68 (2002).

⁸²⁰ For Sartre, we always possess absolute freedom over the circumstances of our lives because we can always, if matters are desperate enough, choose to bring our lives to an end. See CHRISTINE DAIGLE, JEAN PAUL SARTRE 50 (2010).

⁸²¹ See, e.g., JEAN AMÉRY, ON SUICIDE: A DISCOURSE ON VOLUNTARY DEATH (John D. Barlow trans., 1999).

⁸²² In his *Groundwork of the Metaphysics of Morals*, Kant argues that suicide violated the categorical imperative because the suicide treats his own person as a means to an end—namely, his own extinction. See IMMANUEL KANT, *GROUNDWORK OF THE METAPHYSICS OF MORALS* 38 (Mary Gregor trans., 1998). In his *The Metaphysics of Morals*, Kant termed suicide a “crime.” See *id.* at 176. In his essay *Of the Duties to the Body in Regard to Life*, Kant writes: “[T]he body constitutes a part of ourselves. If a man destroys his body, and so his life, he does it by use of his will, which is itself destroyed in the process. But to use the power of a free will for its own destruction is self-contradictory.” (quoted in LIFE, DEATH, AND MEANING: KEY PHILOSOPHICAL READINGS ON THE BIG QUESTIONS 299–300 (David Benatar ed., 2010)). Cf. Michael Cholbi, *Kant and the Irrationality of Suicide*, 17 HIST. OF PHIL. Q. 159 (2000) (criticizing Kant’s arguments against suicide as “diverse, sporadic, and all too brief”).

⁸²³ For different aspects of Hume’s argument, see G.R. McLean, *Hume and the Theistic Objection to Suicide*, 38 AM. PHIL. Q. 99 (2001) (evaluating Hume’s challenge to theistically-grounded objections to suicide); Tom L. Beauchamp, *An Analysis of Hume’s Essay, ‘On Suicide,’* in REVIEW OF METAPHYSICS 73 (1976) (providing an extended analysis of the strengths and weaknesses of Hume’s philosophical claims).

⁸²⁴ Michael Cholbi, for instance, while concluding that most suicides are morally objectionable on the grounds that the person considering suicide is suffering emotional pain that obscures the full reality of death, does concede that there are some range of suicidal acts that are permissible, provided the individually is “rationally autonomous.” MICHAEL CHOLBI, *SUICIDE: THE PHILOSOPHICAL DIMENSIONS* 95 (2011); see also Donald S. Klinefelter, *The Morality of Suicide*, 67 SOUNDINGS: INTERDISC. J. 336, 352 (1984) (summarizing his argument for a class of suicides that might be called “grateful” or “virtuous”).

developed arguments such as the total ownership of one's self to justify a kind of personal sovereignty over the decision whether to live or die.⁸²⁵ And even many non-libertarians will defend assisted suicide in cases where an individual is terminally ill.⁸²⁶

So, if it is conceded that Bernd, on at least some contemporary readings of the scope and nature of human autonomy, was justified in permitting Armin to take his life, still ought society not recoil from sharing Armin's perspective? It ought not to want to justify his killing of Bernd to satisfy his fixed and settled craving—his *Sehnsucht*, his fetish for flesh, as it has been called.⁸²⁷ But even at this outer boundary society should not be too quick to judge. After all, if Armin had a fetish for human flesh, he had a fetish every bit as strong, perhaps even stronger, for free and autonomous consent. It was part of his fantasy that he could only consume the flesh and blood of someone who gave repeated, obvious, and free consent. He wanted everlasting unity with a brother, after all, and such unity could only be the product of absolutely free consent. Was Armin a danger to others? Was he likely to repeat his crime? Perhaps, but, the evidence suggests, only with another victim as resolved to die as Bernd.

So, perhaps Bernd and Armin were right in their actions after all. Perhaps those libertarians who see support for their cause as a litmus test for freedom are correct. This is likely not the ideal solution. John Stuart Mill is taken by many as the founder and paradigm of modern libertarianism.⁸²⁸ But this is a misreading of Mill's great essay *On Liberty*. In that essay, Mill defended the

⁸²⁵ This is the argument Jan Narveson develops. See JAN NARVESON, *MORAL MATTERS* 39–56 (2d ed. 1999). Narveson concludes that “suicide is in principle legitimate.” *Id.* at 56. See also C.G. PRADO, *THE LAST CHOICE: PREEMPTIVE SUICIDE IN ADVANCED AGE 1* (1998) (“My aim in this book is basically to recapture for our times the pre-Judeo-Christian view of suicide as sometimes the wisest course of action.”). Cf. Brian Mishara & David N. Weisstub, *Ethical and Legal Issues in Suicide Research*, 28 INT’L J. LAW & PSYCHIATRY 23, 25 (2005) (reviewing libertarian position on suicide).

⁸²⁶ See, e.g., the famous “Philosophers’ Brief,” filed in *Washington v. Glucksberg*. Authored jointly by Ronald Dworkin, Thomas Nagel, Robert Nozick, John Rawls, Thomas Scanlon, and Judith Jarvis Thomson, this brief was republished at 15 ISSUES IN LAW AND MEDICINE 183 (Fall 1999).

⁸²⁷ See Kreuzer, *Fleisch als Fetisch*, *supra* note 739.

⁸²⁸ See generally DON A. HABIBI, JOHN STUART MILL AND THE ETHIC OF HUMAN GROWTH 127–36 (2001) (providing an important review and criticism of these libertarian interpretations).

proposition that “there is a sphere of action in which society . . . has only an indirect interest,” in which human beings may interact with others on the basis of “free, voluntary, and undeceived consent.”⁸²⁹ So long as harm does not result to others, individuals should be free to act within this sphere “without impediment from our fellow-creatures.”⁸³⁰

If this was the totality of Mill’s *On Liberty*, one might be justified in reading his work as the libertarian urtext, the cornerstone of consent-based jurisprudence. But Mill argued, additionally, that his notion of liberty was the product of contingent historical events—the struggle against tyrannical kings, the wars of religion, resistance to a modern tyranny of the majority.⁸³¹ Mill saw in this grand historical movement a process of societal maturation. Liberty, as he conceived it, could not be practiced in “[the] backward states of society,”⁸³² and could only be adhered to by “human beings in the maturity of their faculties.”⁸³³

Mill, clearly, was much more than a modern libertarian. He thought deeply and profoundly about proper standards of human conduct and what it meant to live in a civilized society.⁸³⁴ While he was certainly not a recognizably Christian thinker, Mill even proposed a “Religion of Humanity” as a code to live by.⁸³⁵ Stressing altruism and sympathy for others,⁸³⁶ Mill, at least, a

⁸²⁹ JOHN STUART MILL, *ON LIBERTY* 82 (David Bromwich & George Kateb eds., 2003).

⁸³⁰ *Id.*

⁸³¹ *Id.* at 73–80.

⁸³² *Id.* at 81.

⁸³³ *Id.*

⁸³⁴ Mill felt a tremendous commitment to the belief that societies and individuals progress, hand-in-hand, towards a better, more civilized future: “For Mill personal and social development were parallel concerns. In both instances, he looked for improvement. The individual has to be educated towards the higher pleasures, the society to civilization. The civilizing process, then, is necessary to both the individual and the society.” MICHAEL LEVIN, *J.S. MILL ON CIVILIZATION AND BARBARISM* 2 (2004).

⁸³⁵ See LINDA C. RAEDER, *JOHN STUART MILL AND THE RELIGION OF HUMANITY* (2002).

⁸³⁶ JOSEPH HAMBURGER, *JOHN STUART MILL ON LIBERTY AND CONTROL* 137–39 (2001) (reviewing the commitment of Mill’s religion of humanity to altruism). Mill rejected the divine status of Jesus, but still claimed him as a great moral exemplar and teacher. *Id.* at 139.

liberal from another age, would find it difficult to accept the legitimacy of Armin's and Bernd's essentially uncivilized acts. And I would share Mill's disquiet at Armin's and Bernd's atrocious act.

