
Murder, Cannibalism, and Indirect Suicide: A Philosophical Study of a Recent Case

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ABSTRACT: Recently, a man in Germany was put on trial for killing and consuming another German man. Disgust at this incident was exacerbated when the accused explained that he had placed an advertisement on the internet for someone to be slaughtered and eaten—and that his ‘victim’ had answered this advertisement. In this paper, I will argue that this disturbing case should *not* be seen as morally problematic. I will defend this view by arguing that (1) the so-called ‘victim’ of this cannibalization is *not* in fact a victim of murder, and that (2) there is nothing wrong with cannibalism.

I. Introduction

RECENTLY, A MAN IN GERMANY WAS PUT ON TRIAL for killing and consuming another German man. Disgust at this incident was exacerbated when the accused explained that he had placed an advertisement on the internet for someone to be slaughtered and eaten—and that his ‘victim’ had answered this advertisement. The man had first castrated his willing victim, and then the two had eaten the removed flesh. Following this, Armin Meiwes administered a drug, stabbed Bernd-Jurgen Brandes to death, cut him into pieces, and placed him in the freezer—a delicacy to be consumed over several months.¹

¹ Armin Meiwes was arrested in December of 2002. He was put on trial in 2003, and convicted of manslaughter in January, 2004. He was sentenced to 8.5 years. The case is currently under appeal: prosecutors want a life sentence, while the defense is arguing that the penalty is already too severe.

In this paper, I will argue that this disturbing case should *not* be seen as morally problematic. I will defend this view by arguing that 1) the so-called ‘victim’ of this cannibalization is *not* in fact a victim of murder, and that 2) there is nothing wrong with cannibalism.

II. Murder and Suicide

In this section, I will argue that murder and suicide are incompatible. I will base this claim on the view that consent can be morally transformative—that the presence of consent is capable of altering the nature of a class of actions. I will begin by considering some common linguistic intuitions about when the term ‘murder’ and the term ‘suicide’ appropriately apply to specific cases. I do not, however, endorse the view that the meaning of these concepts can be determined simply by mining our linguistic intuitions. Our intuitions are, like everything else, subject to criticism. Nevertheless, one must begin somewhere.

Perhaps the most famous definition of suicide if found in Durkheim’s work bearing the same name. Durkheim claims that “suicide is applied to all cases of death resulting directly or indirectly from a positive or negative act of the victim himself, which he knows will produce this result” (Durkheim, 1951, 44). The problem with this definition is obvious enough: it includes too much. Enlisting in the armed forces, smoking, eating meat, and *simply existing* will eventually ‘produce the result’ of death. We thus require a more restrictive definition.

I propose the following: Suicidal behavior is intentionally engaging in actions that will lead to your demise *because* they will lead to your demise. When said behavior results in death, we have a suicide. On this view, suicide has two conditions: 1) the action in question must be known to result in death, or at least to increase the likelihood of death by a significant degree, and 2) the fact that the behavior increases the likelihood of death must be the reason for doing it.²

Eating meat (under this definition) is thus not suicide, even if one *knows* such eating will result in one’s death. Eating meat can only be suicide if the *reason* one eats meat is that one wants to die. This crucial intentional component separates the youth who feels obligated to defend his country even at the expense of his life from the man who puts a bullet into his brain because he wants to shuffle off this mortal coil.

This intentional component—a component constitutive of suicide—enables us to see an important difference between murder and suicide—a difference that warrants the claim that suicide is *not* murder, and this because it is logically impossible to murder yourself. To establish this, we need to generate an adequate definition of murder. Let us begin by noting that the term ‘murder’ is a morally-loaded one. It involves a judgment of moral worth. A murder is, by definition, a killing that is wrong.

Obviously, however, this initial definition will not get us very far. There are many cases of wrongful killing that do not constitute murder. We distinguish, for instance, murder and manslaughter. In many cases, this distinction marks the

² This account of suicide is also found in Graber. For an excellent discussion of some of the problems of this definition, as well as other potential definitions, see Cholbi.

difference between an intentional act and an unintentional one: accidentally killing someone with my car is not morally identical to stabbing that person with the aim of ending his life.

A distinction between the intentional and the non-intentional, however, is not enough. Clearly, murder involves an intentional component: if my negligence results in your death, I am in an important sense responsible for your death. It does not follow from this, however, that I have murdered you. In addition to the intentionality requirement, the notion of murder seems to require (at least *prima facie*) that the *victim* of a murder be human.³ This is, I take it, why factory-farmers are not regarded as mass murderers.⁴

If our intuitions thus far can be trusted, murder is the intentional wrongful killing of a human being. There is a third condition that can be added to this definition. We might call this ‘the condition of no prior consent’: a murder requires that the victim of the murder has not given prior consent to his execution.

The force of this condition can perhaps be brought out as follows: If I pull the plug of a life support mechanism, what will determine whether or not I have committed a murder will be, in part, whether or not the patient in question would have *consented* to having the plug pulled. Of course, my intentions are also relevant to assessing the morality of the action—but how much so is an open question. Let us suppose that my aim is to end the suffering of the patient. If the patient would have consented, then my action is not murder.⁵

The force of this example is to bring out the moral relevance of consent for a number of cases. Consent marks the difference between sex and rape, surgery and battery, torture and masochistic pleasure, and, I am suggesting, murder and assisted suicide. The condition of no prior consent specifies that a murder occurs (and not an assisted suicide) only when the person killed would not consent to the killing.

If a violation of autonomy is a constitutive part of the wrongfulness of murder, then (to use Alan Wertheimer’s expression) consent can be morally transformative (Wertheimer 2003; see also Wertheimer 2000). Because the absence of consent is necessary for murder, my giving consent can transform an impermissible act into a permissible one. There is nothing magical about this. There is a class of morally wrong actions that are morally wrong just insofar as they violate an agent’s autonomy. If said agent gives legitimate consent, a violation no longer occurs. Thus, the very thing that made the action impermissible is no longer present.

It does not follow from this that killing someone who has given consent is always morally permissible. It *does* follow that such a killing would not be murder. There are many things that might make a killing impermissible: it might prevent me from carrying out particular duties to others, it might leave my family destitute, it

³ This is one reason for the controversy surrounding fetal homicide legislation. If we can charge someone with murder for the killing of a fetus (as in the recent double homicide case in California), this seems to pave the way for anti-abortion legislation, as it relies on the view that the fetus is a human being (or so some opponents of the legislation have argued).

⁴ It does not follow from this that factory-farming is morally acceptable. Even if we cannot murder an animal, it does not follow that the killing is permissible.

⁵ Similar arguments are sometimes used to defend the death penalty. Famously, Kant claims that the death penalty can be justly imposed because the agent to be put to death has given tacit consent to this punishment by committing crimes punishable by death.

might prevent me (if I kill another) from living a productive life. These moral wrongs, however, are independent of claims about murder: they are the moral wrongs that are (sometimes) associated with death *simpliciter*. What is unique to murder—what makes it particularly wrong (or so I am suggesting)—is that it violates the autonomy of an agent.

If what I have said so far is correct, it follows that in any instance where we take a life *with the consent of the person whose life we take*, this action cannot be called murder (even if our action is wrong for other reasons). The condition of no prior consent also enables us to sharply distinguish murder from suicide. Because suicide involves willingly taking your own life *because you want your life to end*, it cannot be murder. In suicide, consent is always present. In murder, it never is. The difference between murder and suicide is a difference in consent.

The distinction between murder and suicide just drawn allows us to broaden what we typically count as suicide in two useful ways. Recall that suicidal behavior is engaging in behavior that will lead to one's own demise *because* it will lead to one's demise. A suicide is when such behavior successfully achieves its end. Now consider the following sibling concepts.

- 1) Hypothetical Suicide: a hypothetical suicide is when one acknowledges those conditions under which one would no longer want to live. If I specify, in a contract for instance, that I do not want to be kept alive by life support, I am specifying the conditions under which I would engage in behavior that would lead to my death *because* it would lead to my death.
- 2) Indirect Suicide: an indirect suicide is when someone else enables me to take my own life *because* I no longer want to live.⁶

Obviously, there are many conditions that might be specified under hypothetical suicide that would require indirect suicide: if I specify that I do not want to live on life support, and I find myself living on life support, there is a good chance that I will be unable to end my own life. In this case, an intervention seems justified (provided there is little hope of recovery, etc). Given that I have specified that these are the conditions under which I would end my own life, and that you are carrying out my wishes for me *because they are my wishes*, we can reasonably call this an instance of suicide—albeit one that is indirect.

This case is relatively close to cases where the wishes of the deceased are carried out *simply because they are the wishes of the deceased*. When we provide funeral services that meet the particular wishes of our loved ones, we act as the agents of these loved ones. What justifies our action is precisely that, if the deceased were alive to plan his own funeral, he would have done it just this way. Similarly with indirect suicide: when we enable someone to end her life *because she wants*

⁶ 'Assisted suicide' might work here too, given the appropriate provisos. The trouble with the notion of assisted suicide is that it is frequently tied to euthanasia—to ending someone's life because of the pain they are experiencing. Indirect suicide is meant to be a broader notion. It is meant to include ending someone's life *for any reason*, provided the person wants his life to end. In this respect, it is not a mercy killing. The phrase 'assisted suicide' has this connotation. I have thus chosen 'indirect suicide' instead.

her life to end, we act as the agent of another. We are the means through which her will is carried out.

It is important to recognize that our reasons for facilitating a suicide might be over-determined. I might want to end your life because you want it to end *in addition* to wanting to end your life because it pains me to see you suffer, I'll get an inheritance, or whatever. There can be *numerous* incentives to facilitate your demise. It is absolutely crucial, however, that the acting agent acts *with the consent of the person on behalf of whom he acts*.

The difference between suicide and murder, then, is the consent of the agent killed. There are two important cautionary notes, however, that need to be added to the analysis thus far given: First, to specify that an act is indirect suicide (and not murder) does not definitively show that the act was morally permissible. Suicide is, after all, sometimes morally reprehensible. Nevertheless, I contend, suicide is much easier to justify than murder.

Second, the entire analysis thus far has hinged on an unanalyzed notion of consent. While it is not my charge to provide a complete account of consent, I will suggest two legitimacy conditions for a consensual act. Consent that is produced through deception, coercion, or misinformation is not legitimate consent.⁷ Moreover, to speak of legitimate consent presupposes that the person consenting is *competent* to consent (they are not mentally impaired, for example). Thus, for consent to be legitimate, it must be *informed*, and it must be the consent of a competent agent.⁸

III. A Willing Victim: Indirect suicide or murder?

If what I have been claiming is correct, we are in a better position to assess the action of Armin Meiwes. First, we should point out that Bernd-Jurgen Brandes (the killed and cannibalized) answered an ad that had been placed on the internet.⁹ He lived in Berlin (a considerable distance from Meiwes), and he was interviewed before consumed. There is thus considerable evidence that Brandes was a willing participant in his own execution and cannibalization. Provided that we have the consent of Brandes, then, we cannot say that Brandes was murdered. The condition of no prior consent has not been met.¹⁰

It is also worthy of notice that Brandes's actions fit the above definition of suicide perfectly. A suicide is intentionally engaging in action that will lead to one's own death *because it will lead to one's death*. Brandes answered the ad placed by Meiwes with knowledge of what was to become of him. Brandes reported that he

⁷ To put it otherwise: consent means *informed* consent.

⁸ There are surely other legitimacy conditions. Feinberg (for example) suggests that consent requires legitimate alternatives. This strikes me as correct. I limit myself to the above two conditions because they here prove most relevant.

⁹ The following information on the Meiwes case has been widely reported. I have relied primarily on the BBC for my information. See www.bbc.co.uk for the relevant articles.

¹⁰ Of course, it does not follow from the fact that Brandes consented to be killed that there was nothing morally reprehensible about his execution. Suicide is, on occasion, morally reprehensible (when one abandons those dependent on one, for example, or otherwise skirts one's duties). Brandes did not have any dependents, however. Moreover, he does not appear to have had any substantial obligations.

had long fantasized about being killed and eaten by another human being. Brandes thus answered the ad to fulfill a fantasy, the content of which involved his own death. This course of action, I am suggesting, is completely compatible with the definition of suicide just offered: Brandes answered the ad (an action that would lead to his own death) because he wanted to die. It is irrelevant that his wish to die was part of a fantasy.

Meiwes's actions here fit the definition of indirect suicide, but not quite as easily. For Meiwes's actions to count as facilitating an indirect suicide, we must hold that Meiwes killed Brandes *because Brandes wanted to be killed*. Obviously, this was not the only reason. After all, Meiwes put out an ad well before he ever knew Brandes. Recall, however, that incentives for indirect suicide can be overdetermined. Even if Meiwes had other incentives (wish fulfillment, for example), his action can still fall under the definition of indirect suicide *provided* that the following counter-factual is true: he would not have killed Brandes if Brandes had not wanted to be killed.

There is no proof that this counterfactual is true, but there is evidence to suggest that it is. Meiwes did not simply find a victim randomly. He called for volunteers. This suggests that it was important to him that he had a *willing* victim (if you will permit me what might be an oxymoron). It has even been reported that his first partner was released from bondage moments before his execution because the partner decided that he did not want to die. Presumably, if Brandes had changed his mind at any point during his interaction with Meiwes, Meiwes would not have carried his fantasy through.

This is by no means proof that the actions of Meiwes were morally acceptable—but it does tell us where we need to look to determine whether or not those actions were permissible. First, we need to determine whether or not *actual* consent was given by Brandes—consent that meets the legitimacy conditions specified above. Second, we need to determine whether or not Meiwes's actions *depended* on this consent (i.e. we need to know whether or not Brandes's consent was a necessary prerequisite for Meiwes). If we could discover that it was, we would then know that the action was indirect suicide, not murder. If Brandes's death did not result in an inability to fulfill his duties, one could plausibly argue for the moral permissibility of his suicide.

I have already given sufficient reason to think that Meiwes's actions were dependent on Brandes's consent. There is also reason to think that Brandes did not abandon any duties to other in accepting Meiwes's offer (he was single, not in debt, etc). The most significant challenge, then, lies in establishing that Brandes gave actual, legitimate consent. Despite the fact that the entire episode was video-taped, that Brandes traveled a good distance to participate in this fantasy, and that he was interviewed before his execution, there are still those who will object that his consent was not legitimate. I would like to quickly deal with one such objection.

The quick argument against the view that Brandes consented runs as follows: Cannibalism/suicide are manifestations of mental illness. The mentally ill are not competent. Thus, because competence is a prerequisite for legitimate consent, Brandes did not consent.

There are two responses I would like to make to this objection. First, it begs the question. Second, it relies on a politically-loaded notion of mental illness. If one assumes that it is impossible to consent to cannibalism, one assumes that cannibalism is in some way an illegitimate action—it is immoral, or irrational, or vicious. But that is the very question that is here at issue. Thus, to assume that one cannot consent to cannibalism is to beg the question. To justify the argument, one must establish that cannibalism does *in fact* stem from mental illness. This, I suggest, cannot be done.

One way of specifying illness is in terms of physiological states.¹¹ To treat an illness is to attempt to change the physiological conditions that constitute it. If we specify diseases in this way, it becomes very difficult to call cannibalism a disease. Cannibalism is a behavior, not a physiological state. Thus, it is a category mistake to call cannibalism a disease—this is simply to conflate disease and symptom. Moreover, there is no evidence to suggest that cannibalism results from any abnormal physiological condition. This would make cannibalism a symptom without a disease—a position that is close enough to absurdity to reject out of hand.

Of course, my objector might concede this and go on to claim that ‘mental health’ is a statistical notion. When there are no underlying physiological conditions under consideration, the term ‘mental illness’ picks out regularity/normalcy, and no more. This sounds exactly right—but it is morally pointless. It is not normal to eat people—much as it is not normal to defend cannibalism—but it hardly follows from this that doing either is wrong.

There *are* other arguments against cannibalism (which I will consider in the following section). The argument that consent to cannibalism is impossible (for reasons of mental health), however, fails. Given that it fails, we have reason to think that Brandes did give actual, legitimate consent to Meiwes, and hence that he was not murdered, but willingly participated in his own execution.¹²

IV. But he ate him...

Even if the action in question was an instance of indirect suicide, one might still argue that the entire scenario was morally reprehensible, as it was designed for the

¹¹ The most famous advocate of this model of disease is certainly Thomas Szasz. However, I think this picture of disease is a fairly common and intuitive one.

¹² I think that other objections to the possibility of consenting to be killed and cannibalized face the same problems: they are question-begging. One might argue that it is logically impossible to consent to be killed, for example, in order to show that Brandes’ consent was not legitimate. One might begin by noting that there are things to which one cannot consent (i.e. slavery), and then argue that being killed is among these. The structure of such an argument is clear. I simply deny, however, that such consent is impossible—there are simply too many counter-examples.

I should also note that I think objections from the tradition of virtue ethics suffer the same type of flaw as this objection. Appeals to human flourishing, as useful as these can be, by no means establish that cannibalism (or consent to cannibalism) is morally impermissible. To establish this, one must first establish a particular picture of human flourishing, then establish that said picture *cannot* allow cannibalistic practices. To my knowledge, this has not been done—and the task seems prohibitively difficult (think about how contentious every vision of human *arête* has thus far been). Until we can come up with a robust, defensible picture of human flourishing, then, the virtue theorist will have to attempt other forms of objection: she cannot simply insist that eating people is wrong (at least if she does not want to beg the question).

purpose of consuming human flesh. I do not find this compelling, if only because it relies on an intuition without determining whether or not the intuition has any rational basis.

There are several arguments one can offer in defense of the cannibalism prohibition, most of which are not very good. I will consider three here, arguing that the one effective argument does not demonstrate that Meiwes's cannibalism was morally impermissible.

1. Argument from Consequences (it will kill you)

There has recently been speculation about the relation between cannibalistic practices and a disease known as Kuru.¹³ This is a disease similar to Creutzfeldt-Jakob Disease.¹⁴ A popular view now seems to be that the consumption of human flesh is a cause of this disease. If this is true, it seems, we have a reason not to consume human flesh: namely, it will kill us.

There are two things I want to say about this argument: first, it relies on an empirical thesis the evidence for which is not very substantial. To be explicit: *there is evidence*, but more research needs to be done to substantiate the postulated link between cannibalism and Kuru. Because Creutzfeldt-Jakob Disease occurs spontaneously at a rate of 1/1,000,000 per year¹⁵, it is possible that outbreaks of Kuru in Papua New Guinea were caused by the consumption of spontaneously infected CJD or Kuru victims. If this is correct, cannibalism itself is not the cause of Kuru. Rather, Kuru is caused (like Mad Cow Disease) by eating those infected with warped prion proteins—proteins which might have occurred spontaneously.

But ethics need not wait on empirical science. Let us assume that there is a definitive link between cannibalism and this debilitating disease. It does not follow from this that it is wrong to consume human flesh. This conclusion would follow *only* if engaging in self-destructive behavior were also morally wrong. Most of us do not think it is morally wrong to eat fatty foods, to smoke cigarettes, to sun bathe, or to drink alcohol. But all of these activities can lead to disease. In fact, the probability of some of these activities leading to disease is (I speculate) greater than the probability of cannibalistic practices doing so. Given that it is *not* generally morally reprehensible to engage in life-shortening activity, the possibility that one can contract a brain disease from cannibalism does not establish its impermissibility.

2. Argument from Consequences (it will upset people)

Another approach to justifying the cannibalism prohibition is to note the negative effects a lift of this prohibition is likely to have on members of the society in which it is lifted. The sense of general disgust that pervaded that population, the

¹³ See: "Brain Legacy of Ancient Cannibals" 10 April 2003, BBC News; or Prusiner 1997.

¹⁴ Both diseases are caused by a warped prion protein.

¹⁵ This figure is found in numerous places. This is the figure reported by the US Center for Disease Control and Prevention on the official CDC website at www.cdc.gov.

argument goes, and the moral outrage that accompanied this disgust, would far outweigh whatever meager culinary benefits might accrue by consuming the dead.

This utilitarian argument suffers, I think, from a major flaw: it tacitly accepts a principle of conservatism that ought to be rejected in moral theory. If anthropophagic behavior resulted in moral outrage among the populace, that by itself is no indication of whether or not anthropophagic activity is immoral. People are sometimes outraged by perfectly innocuous things. Moreover, it seems clear that moral outrage is not a *necessary* result of cannibalism (there have, after all, been societies that routinely practiced cannibalism). If there is only a contingent relation between disgust and cannibalism, then, the utilitarian must rely on a principle of conservatism to justify the current cannibalism prohibition: because there will be a period of disgust (say) resulting from lifting the prohibition, we ought never to lift the prohibition.

As a general moral principle, I think, the principle of conservation of customs (to give it a name) ought to be rejected. The meager fact that abandoning a custom might cause some unhappiness is an insufficient reason for maintaining the custom—particularly if the morality of the custom is suspect. Upon reflection, I think, any good utilitarian would accept that the preservation of customs to avoid immediate unhappiness is not a defensible doctrine. To determine whether or not a custom can be defended requires looking beyond the immediate reactions of the population to the greater consequences of the abandonment of said custom. Unfortunately, it is difficult (and perhaps impossible) to determine what our society might look like (and the amount of happiness that might be produced) if we routinely ate human flesh. In any case, because this is an open question, the argument from bad consequences fails to justify the cannibalism prohibition.

3. Argument from Obligation to the Dead

The final argument against cannibalism is an argument from obligation to the dead. On this view, cannibalism violates the general principle that we ought to respect the dead, and hence, cannibalism is morally impermissible.

The first step in this argument involves establishing that there are in fact obligations to the dead. There are several lines of argument available here. First, one might claim (with Aristotle) that it is possible to benefit and harm the dead. Spreading harmful lies about the dead actually harms the dead person, and hence is morally impermissible. The consumption of a dead person would harm them in much the same way, the argument goes.

There are two significant problems with this view: 1) it relies on a very controversial thesis (namely, that harm can befall the dead). Some philosophers have gone so far as to claim that *death itself* is not harm, let alone things that occur after death.¹⁶ 2) Even if we grant that harm can befall the dead, it is by no means clear that the consumption of the flesh of the dead would *constitute* a harm. When we speak of harming the dead, we frequently speak of harming the reputation or the memory of the dead. We do not generally think of what befalls the body as a harm.

¹⁶ The most famous advocate of this view is certainly Epicurus.

If decomposition counted as a harm to the dead, death would certainly be something to fear (*pace* Socrates).

If we examine some examples of obligations to the dead, I think, it becomes clear that our obligations here center around *agents*, not around harmful states-of-affairs. Consider these examples: giving someone a religious funeral service because they have requested it, donating a body to science, cremation, even the annual presence of Bentham's corpse in the meeting room. Even those who reject the view that harm can befall the dead might accept that these are legitimate cases of obligation. The living specified her wishes concerning her mortal remains; we are obligated to carry out those wishes, not because a harm would befall the dead if we did not, but *because they were the wishes of the deceased*.

I take this account of obligation to the dead to be a (roughly) Kantian one. We recognize in our agency a value-conferring capacity: we make ends meaningful by adopting them. One of the features of moral agency is to respect those ends adopted by other agents precisely because they have been so adopted. Respect for agency involves respecting the (morally-permissible) ends of agents; indeed, it even involves *promoting* those ends where possible. We have obligations to the dead because we had obligations to the ends of the living, and those ends live beyond the grave.

But we are a far cry from showing that cannibalism disrespects the dead. Indeed, we can see why, in certain cases, anthropophagic behavior might be a sign of *respect*. If I have as an end to be consumed by someone who wants to consume me (as Brandes did), it might well be a sign of respect for my agency to carry out this action. Obviously, our ends are checked and limited by the ends of others: we are not required to do whatever the deceased want. But in cases where the deceased do not care if they are cannibalized (I do not care), or when the deceased actually *want* to be cannibalized, cannibalism does not violate our obligations to the dead. In carrying out their ends, we do not treat them *merely* as means.

V. Conclusion

In this paper, I have argued that the indirect suicide of Bernd-Jurgen Brandes was not murder—and indeed *could not* be murder. I have further argued that Armin Meiwes's cannibalization of Brandes cannot be shown to be morally reprehensible. Too often we allow our disgust at some behavior to govern our thinking about it. I will not dispute that the consumption of flesh (from *any* animal) is disgusting. It does not follow from this, however, that said consumption is wrong. I have defended this controversial position in the name of argument over dogma, reason over taboo. I welcome rebuttal.¹⁷

¹⁷ I wish to thank the participants of the 2004 meeting of the Society for Philosophy in the Contemporary World, as well as an anonymous referee, for many helpful comments and criticisms of earlier versions of this paper.

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