How to Make a Human

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Like the political organizations that preceded it historically, the state represents a relationship in which people rule over other people. This relationship is based on the legitimate use of force (that is to say, force that is perceived as legitimate). If the state is to survive, those who are ruled over must always acquiesce in the authority that is claimed by the rulers of the day.

—Max Weber, *Politics as a Vocation*

I.
The Legitimized Use of Force: Animal Acquiescence

To the question of "Whether it is unlawful to kill any living thing" (*Summa Theologica* 2a2ae q. 64, a. 1), Aquinas unsurprisingly answers yes, explaining that in the natural worldly order "animals use plants, and men use animals, for food." This system, which concedes no proper conceptual space to carnivorous animals, has the support of scripture. In Genesis 9, God grants

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2. This food pyramid is from Aristotle, *The Politics and The Constitution of Athens*, ed. Stephen Everson, trans. Benjamin Jowett, Jonathan Barnes, rev. 2nd ed. (Cambridge: Cambridge University Press, 1996), 1256b1, 21: "we may infer that, after the birth of animals, plants exist for their sake, and that the other animals exist for the sake of man, the same for use and food, the wild, if not all, at least the greater part of them, for food, and for the provision of clothing and various instruments. Now, if nature makes nothing incomplete, and nothing in vain, the inference must be that she has made all animals for the sake of man." Aristotle’s position, however, differs somewhat from that of Aquinas. Wolfgang Kullmann, “Different Concepts of Final Cause in Aristotle,” in *Aristotle on Nature and Living Things:*
only humans the right to eat meat; therefore, as Michael Carroll observes, carnivorous animals are hybrid animals, unclean because they straddle classifications. To regard animal carnivorousness as inconceivable or unclean supports the human system, for the animal domination of other animals or even humans, a domination most evident in the conversation of a living animal to edible flesh, might enable animals to enact their own, nonanthropo-centric relationships of violence, which would dilute the singular superiority of the human by multiplying nodes of domination.

To be sure, the human system did not concern itself with most animal violence. Those animals outside human zones of control, outside cities, farms, game parks, and so forth, were unregulated, but only until they encountered humans or humans encountered them. An exemplary twelfth-century Norwegian law explains that “bears and wolves are outlawed everywhere, for no man wants to be answerable for their doings,” then adds that once a human hunter encounters a bear, he becomes the designated beneficiary of the bear’s death: in essence, its owner. The hunter also becomes responsible for the bear’s actions until it dies or escapes back into the wild, which is to say, until it slips from human supervision: “If men go to hunt a bear and approaching the lair above the barricade drive the bear out, they shall pay [for damages] if the bear attacks the [farm beasts of other] men; but if he runs out toward the woods, they shall pay nothing.” Wolves also serve to illustrate this point. Wolves were regarded as a particularly fear-


some animal, but in England they did not face systematic extirpation until the twelfth century, when the English crown enveloped huge sections of the realm in the forest law and thus claimed an exclusive right to violence against now enforested prey animals. Only then did the English crown issue a bounty on wolves and establish the luparii, professional wolf-hunters, for lupine violence had now become criminalized. Wolves were sometimes even introduced into game parks, not to cull herbivores, but to be hunted. The degradation of wolves’ status from feared predator to poacher to prey—and, at that, inedible prey—suggests that such hunts functioned primarily to reaffirm the human, and particularly the elite, position as masters of violence.

Medieval hagiography abounds with stories in which wild animals intrude on human-controlled space only to submit to a divinely supported human dominion. In Gregory the Great’s Dialogues, a seventh-century tale collection read and translated throughout the Middle Ages, the young Saint Boniface needed only to pray to strike dead a hen-eating fox. Iudoc, a seventh-century hermit revered in eleventh-century England, commanded an eagle to return a hen it had just stolen; when it did, “confestim moriens putridum fecitque cadaver” (dying immediately, the eagle made a stinking carcass; 256). In many other stories where wild carnivores encountered saints, the saints spared the animals’ lives to enlist them into service, so transforming the wilderness into a kind of Eden in which animals willingly served humans. Florentius of Norcia’s bear, “by nature a devourer of sheep, curbed its native appetite and pastured [Florentius’s sheep] instead.”

In a twelfth-century life of the Irish saint Modwenna, a wolf that kills a calf becomes the calf’s replacement, the guardian of the calf’s grieving mother, and a protector of the entire herd, giving birth to a race of wolves that “even to the present day” guard cows, eating only wild animals, which is to say, animals outside of human zones of control. Francis of Assisi famously

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forced a wolf to stop terrorizing the town of Gubbio and to subsist, like a friar, on Gubbio’s charity. Secular figures, too, were often nurtured (rather than eaten) by carnivores, a clear reversal of the direction of violence in favor of humans. The best known example is the story of Romulus and Remus being suckled by a wolf. Likewise, in the Middle English romance *Octavian*, a lion seized an infant “hir whelpes with [it] to feede” (to feed her cubs with it; 345), yet, miraculously, “the child slepid in the lyones mouthe” (the child slept in the lion’s mouth; 361), until the lion set it aside to fight and kill a threatening griffin. Apparently forgetting about its own cubs, the lion then sated itself with the griffin’s carcass, while the infant did so with the lion’s milk.

Elite hunting techniques are a particularly rich site for investigating the importance of the control of animal violence to human self-conception. Although the violence of dogs, for example, was often indispensable to many elite hunters, the techniques codified in cynegetic manuals allowed elites to continue to imagine themselves as masters. Per Susan Crane, the use of hunting cries to control hunting dogs demonstrates the hunting party’s “informed mastery,” or what I might call, nuancing Weber, their legitimimized authority, over their world (“legitimimized” rather than “legitimate,” for the authority only becomes legitimate through humans’ manufactured self-conception of themselves as the definers of legality). Humans’ mastery over their hunting animals is even more apparent in techniques that prevented dogs from killing or freely eating the prey. Dogs were allowed to slow, harry, and corner prey, while humans were meant to deliver the killing blow. Hunting rules required that the field butchery reserve a portion of the prey for the dogs, but they also required that the dogs eat only at their master’s command. In practical terms, the restrictions preserved the bulk of the carcass for the human hunters while ensuring that the dogs received the positive


16. For dogs and dog hunting, see Cummins, *Hound and Hawk*, 41.

reinforcement of a reward. At the same time, to restrict dogs’ actions in hunting, restrain them from the kill, and permit them to eat only with human permission ensured that neither the dogs’ violence nor their necessity to human hunting might call human mastery into question. The ritual protection of human mastery encompassed even carrion birds, which were left the scraps from the carcass; as the Middle English *Tristrem* puts it, “þe rauen he ȝaue his ȝiftes, / Sat on þe fourched tre”\(^{18}\) (to the raven he gave his gifts, and set them on the forked branch; 502–3). The ravens now became beneficiaries of the hunters’ largesse, their appetite appropriated by a ritual that indicates that the control not only of violence but also of meat-eating concerned humans (a point I treat in more detail in this chapter’s second section).\(^ {19}\)

The human need to control and supervise the violence of certain carnivorous animals may account for ambiguous attitudes towards domestic cats. Douglas Gray remarks that cats belong “more than other domestic animals, both to the world of the tame and the wild, both to the world of the day and of night.”\(^ {20}\) Their utility to humans only heightened their ambiguity. Isidore of Seville’s *Etymologies* observes that “Common people call it the cat (*cattus*) from ‘catching’ (*captura*),”\(^ {21}\) but since cats exercise this skill independently of human command, and do so, moreover, when most

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18. Alan Lupack, ed., *Lancelot of the Laik; and, Sir Tristrem* (Kalamazoo, MI: Medieval Institute Publications, 1994). Naomi Sykes, “Hunting the Anglo-Normans,” in Aleksander Pluskowski, ed., *Just Skin and Bones?: New Perspectives on Human-Animal Relations in the Historical Past* (Oxford: Archaeopress, 2005), 74, provides evidence for the practice of this ritual by observing that the bone granted to carrion birds—the “corbin-bone”—is in fact missing from the cervid skeletons of post-conquest England (the Normans introduced this elaborate hunting ritual into England along with their forest law).

19. For the latter point, see Britton J. Harwood, “Gawain and the Gift,” *PMLA* 106 (1991): 487. My placement of the corbin-bone ritual in the context of mastering violence differs with the interpretations of both Anne Rooney, *Hunting in Middle English Literature* (Woodbridge: Boydell & Brewer, 1993), and Marvin, *Hunting Law and Ritual*. Rooney, *Hunting*, 88, citing Frazier’s *Golden Bough*, proposes that through this ritual, “the hunter is exonerated from the blame he incurs through killing the beast and ‘makes his peace’ with nature”; similarly, Marvin, *Hunting Law and Ritual*, 126, “As a kind of hunting occult, the corbin’s bone reflects the hunter’s subliminal consciousness of dependency on the natural world, if not also the unease of setting hands to the ‘mortal coil,’ and so dramatizes an economy of give and take with that world by rendering to the overseers their ‘right.’ As such it may function as a talisman for success in the next hunt.”

20. Douglas Gray, “Notes on Some Medieval, Mystical, Magical, and Moral Cats,” in *Langland, the Mystics, and the Medieval English Religious Tradition: Essays in Honour of S. S. Hussey*, ed. Helen Phillips (Cambridge: Boydell & Brewer, 1990), 190, a point also made in Salisbury, *Beast Within*, 14–15, or indeed, as Gray 195 cites, the 1773 *Encyclopedia Britannica*, which states that “of all domestic animals, the character of the cat is the most equivocal and suspicious.”

humans are asleep, they seem at best partners with humans rather than their servants. It is therefore unsurprising that cats were associated with heresy and witchcraft, and that the Cathars, for example, were accused of having acquired their name through ritual dalliances with cats: among others, Alan of Lille, in *De Fide Catholica Contra Haereticos*, writes, “Cathari dicuntur a cato, quia, ut dicitur, osculantur posteriora catti, in cujus specie, ut dicunt, apparat eis Lucifer” (Cathars are called this from “cat,” since, it is said, they kiss the posterior of a cat, in which form, they say, Lucifer appears to them; *PL* 210: 366). Such a killer, intractably independent but made useful only through that independence, affronted human superiority by providing no ready site for either approval or proscription.

The human concern with independent animal violence aimed to do far more than just defend humans and their property. It aimed to support the human system by allocating vulnerability differentially. The differential allocation of vulnerability, as Judith Butler has argued, serves fantasies of discrete selfhood by allowing the “properly” invulnerable (for Butler, the United States during the recent Iraq war; in my book, the human) to deny “its dependency [and] its exposure” to others by “exploit[ing] those very features in others, thereby making those features ‘other to’ itself.” It is not that humans deny their vulnerability altogether. Rather, humans reject their involvement in the “primary vulnerability” shared by all worldly beings, all of whom can be damaged; all of whom can cease to be, even die; all of whom, more fundamentally, can not be able: “mortality resides there, as the most radical means of thinking the finitude that we share with animals, the mortality that belongs to the very finitude of life.” Rejecting this primary vulnerability, humans construct themselves as properly vulnerable only before God, other humans—signally, as a result of the Fall, which brought


23. Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (New York: Verso, 2004), 41; I treat Butler in more detail in my third chapter. For an allied statement on vulnerability, see Cora Diamond, “The Difficulty of Reality and the Difficulty of Philosophy,” in Stanley Cavell et al., *Philosophy & Animal Life* (New York: Columbia University Press, 2008), 74, “The awareness we each have of being a living body, being ‘alive to the world,’ carries with it exposure to the bodily sense of vulnerability to death, sheer animal vulnerability, the vulnerability we share with them. This vulnerability is capable of panicking us.”


death into the world, and, in fact, before animal pests, which evidence not animal agency but God’s moral care for humans, as explained by Sidrak, where the ants and flies that “bite man somtide [occasionally]” (2203) serve humans by stifling the sin of pride (2204). Humans and their animal property are not in turn properly vulnerable to animals; however, all animals are potentially properly vulnerable to at least some set of humans, and most are vulnerable to all. Animals cannot resist this allocation of vulnerability without assaulting the human itself. For, to use Žižek’s terminology, which I treated in my introduction, independent animal violence within human zones of control is a subjectively violent offense against the invisible objective violence of the human status quo. The mastery of life and death by which humans arrogate the capacity to permit (only) certain controlled acts of animal violence is therefore yet another tool to preserve human mastery and therefore the human. But this mastery proves to be yet another point of vulnerability for humans, which in turn accounts—as I explain in my next section—for the elaborate, anxious control in the Christian penitentials over the meat it designates as morticinum, carrion.

II.

Carrion in the Penitentials:
The Filth of Animal Appetites

The Annals of Fulda records an incident in a ninth-century famine in which a starving family enters the forest of Thuringia to scavenge for food. Desperate, the father decides that he and his wife should eat their child. While removing the child more deeply into the woods to slaughter it out of its mother’s sight, he spots two wolves devouring a doe’s carcass. After chasing away the wolves, the father saves himself, his wife, and, especially, his child by eating what meat remains. This episode highlights the extremities to which famine drives people: the scavenging of carrion and, eventually, infanticide and anthropophagy. The discovery of the venison is nevertheless not simply good fortune, or a feeble miracle; it is the prelude to a crime: as the Annals explains, “ambo tamen de carnibus lege prohibitis necessitate

26. This was a widespread point; for example, see Gervase of Tilbury, *Otia Imperialia: Recreation for an Emperor*, S. E. Banks and J. W. Binns, ed. and trans. (Oxford: Clarendon Press, 2002), I.8, 55, which explains that God made “cattle, the creeping things, and the beasts—the cattle to help us, the creeping things and the beasts to challenge us—in the last place he fashioned man.”
coacte se recrearunt” (compelled by necessity, the two revived themselves with flesh forbidden by the law). The Annals’ condemnation of the family seems peculiar. It might have praised God’s miraculous provision of food or the righteousness of a parent who, unlike so many Biblical mothers, resisted rather than succumbed to infantophagy; alternately, it might have denounced the indifference of fortune or demanded more strenuous piety to prevent future catastrophes; it might even have denounced the cruelty of fathers. Instead, the episode concludes by condemning as illegal a meal whose repulsiveness and undesirability would seem self-evident. Raoul Glaber’s tenth-century history, for example, records a famine in which the consumption of “carrión [morticinum] and things too horrible to mention” occurs right before people resort to selling human corpses in the marketplace “as if they were livestock”: clearly Raoul expects that carrion will be automatically understood as just this side of anthropophagy. But as unnecessary as the Annals’ prohibition of carrion might seem, it is only one of a host of places in medieval Christian texts that not only characterize carrion as the food of desperation but also expressly forbid consuming it. In warning against carrion, the Annals, like other texts with similar prohibitions, inadvertently raises the question of why anyone, particularly a Christian, would bother to condemn it at all.

For simply in condemning a particular food, albeit a disgusting one, the monks of Fulda counteract an important element of Christian self-perception. As early as the Maccabean revolts, both adherents and enemies of Judaism had identified its food laws as a synecdoche for the whole of Jewish faith and culture. Christianity differentiated itself from Judaism—and later, Islam and various heresies—by imagining itself unburdened by alimentary laws, or, at least, by alimentary laws that distinguished between licit and illicit foods. Whatever their purpose in the early days of the faith, Matthew


15:17–19 (“Do you not understand, that whatsoever entereth into the mouth, goeth into the belly, and is cast out into the privy? But the things which proceed out of the mouth, come forth from the heart, and those things defile a man”) and Titus 1:15 (“All things are clean to the clean: but to them that are defiled, and to unbelievers, nothing is clean: but both their mind and their conscience are defiled”) became the *loci classici* of Christian alimentary permissiveness. According to Augustine’s influential judgment, no food is of any moral importance in itself. In a treatise against the Manichaeans, a vegetarian sect to which he had once belonged, Augustine explains that God “condemns the nature of no food that human society accepts but the sins that wickedness commits,” a point he repeats in *Confessions*:

I know that Noah was given permission to eat any kind of flesh meat that was serviceable as food, that Elijah was sustained with meat, and that John, for all his marvelous grace of abstinence, was not defiled by animal food when he made use of locusts. On the contrary, I am aware that Esau was led astray by craving for lentils, that David condemned himself for his intemperate thirst for water and that our King himself was tempted not by meat but by bread. So too your people deserved rebuke in the desert not because they wanted meat, but because their hunger for food led them to murmur against the Lord.

In Augustine’s system, moderation and charity mattered to the good Christian, not the food in and of itself. Christians could “fast” from vice, attending more to how they ate—with solicitude for community and without gluttony—than to what they ate. This spiritual eating, removed from the

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34. The notion of fasting from vice appears as early as Clement of Alexandria’s pedagogical manuals; see Grimm, *Attitudes to Food in Late Antiquity*, 106, and 57–69, for a review of Paul’s teaching on food. Injunctions to fast from vice persist throughout medieval Christianity; see Giles Constable, “Moderation and Restraint in Ascetic Practices in the Middle Ages,” in *From Athens to Chartres: Neoplatonism and Medieval Thought. Studies in Honour of*
supposedly materialist concerns of Judaism and of other faiths, attested, so far as Augustine was concerned, to the superiority and sophistication of Christianity.

The Augustinian approach was complicated by the few but definite food prohibitions of the Christian scriptures. Acts 15:20 and Acts 15:29, the Apostolic Decree, prohibit “the pollutions of idols” (that is, food that has been used in pagan religious ceremony), “things strangled [suffocatum],” and blood. Early Christians did follow this law. In his Apology Against the Gentiles, Tertullian (c. 200) writes about the attempts by pagans to trick Christians into eating blood sausages; and an account of the martyrs of Lyons in 177 preserved in Eusebius’s History of the Church includes the story of Biblis, who even under torture denies charges of Christian infanticide by crying out, “How could children be eaten by people who are not even allowed to eat the blood of brute beasts?”

The Western Christian church forbade the consumption of blood at least into the eleventh century, and even later for clergy: the twelfth-century Decretum of Gratian declares anyone who violates the prohibitions of Acts anathema. Yet nothing in the Apostolic Decree immediately suggests the value of charitable eating, nor does it make allowances for the good hearts of Christians so dedicated to celestial things that they regard all food with indifference; moreover, the Decree itself apparently requires Christians to follow laws modeled on the reviled Jewish food laws. Faced with these problems, later Christian commentators struggled to justify the continued adherence to the Apostolic Decree, or, at least, to explain why it should have ever have been imposed at all. Origen, for example, argued that the Apostolic Decree protects Christians from pollution by demons, which thrive both on blood and on the...

Edouard Jeuneau, ed. Edouard Jeuneau and Haijo Jan Westra (Leiden: E. J. Brill, 1992), 318, where Constable observes that “physical mortifications must be inspired by pure intentions and love of God and were seen as a means towards an end rather than as an end in themselves.”


36. Laurioux, Manger au Moyen Âge, 102–3.

37. Decretum D. 30, c. 13 (PL 187: 167A) reads, “Si quis carnem manducantem ex fide cum religione, praeter sanguinem et idolo immolatum et suffocatum, crediderit condemnandum, tanquam sperm non habentem, qui eam manducat, anathema sit.” See also the Glossa Ordinaria, “Hoc praecptum convenit servare illis, qui uncti sunt oleo spirituali, ne comedant illud, cujus sanguis non est effusus, quod epistola apostolorum servandum decrevit” (This precept is fit to keep for those who were anointed with spiritual oil; they should not eat that from which blood is not drained, because the letter of the apostle decreed this should be followed; PL 114: 475C).
meat sacrificed to them. Another approach interpreted the laws as ascetic prohibitions. Cassian’s *Conferences* and Bede’s *Commentary on Acts* (PL 92: 977A–B) both argue that the Church instituted the Apostolic Decree as minimal rules to follow once the early Church had lost its original purity. As Cassian wrote:

But when at the death of the Apostles the multitude of believers began to wax cold, and especially that multitude which had come to the faith of Christ from diverse foreign nations, from whom the Apostles out of consideration for the infancy of their faith and their ingrained heathen habits, required nothing more than that they should “abstain from things sacrificed to idols and from fornication, and from things strangled, and from blood.”

Working in this tradition, some early explanations utilize the Apostolic Decree to distinguish good from bad asceticism: the fourth-century Council of Gangra (in Northern Asia Minor) condemned the asceticism of the followers of Eustathius of Sebaste as heretical by declaring, among other things, that “if anyone condemns those who with reverence and faith eat meat that is without blood, has not been sacrificed to idols, and is not strangled, claiming that because of their partaking they are without hope, let such a one be anathema.” No doubt to help justify the Apostolic Decree as an ascetic rule, some exegesis characterized the flesh of strangled animals and meat with blood as pleasurable. In *On the Work of the Holy Spirit*, the early-twelfth-century Benedictine abbot Rupert of Deutz denounced the consumption of bloody flesh both because “belluarum atque ferarum est” (it is suitable for beasts and savage animals; *PL* 167: 1715C) and because it also “nasci fornicatio” (gives birth to fornication). To solidify his argument, Rupert cites Exodus 32:6, “and the people sat down to eat, and drink, and they rose up to play” to link the abstinence “a suffocatis et sanguine” (from suffocated things and blood) to the abstinence “ab omni turpi et inordinata devoratone” (from all base and immoderate devouring). Similarly, Rufinus of Bologna’s twelfth-century *Summa decretorum*, in commenting on *Decre-

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tum D. 30, c. 13, characterizes bloody meat as a delicacy (“curiosi sunt et divitiarum”) and therefore to be condemned as a hindrance to asceticism.\textsuperscript{40} By contrast, Augustine’s hostility to “materialist” alimentary laws required that he dismiss the Apostolic Decree altogether. In \textit{Contra Faustum}, an anti-Manichaean treatise, he explains that while early evangelists instituted the prohibitions to avoid discouraging converts who wished to continue following Jewish dietary laws, in his day those “who are afraid to touch these things . . . are laughed at by the rest.”\textsuperscript{41} In essence, to preserve the logic of the Christian supersession of Judaism, Augustine must call upon the faithful to join him in mocking their own scripture. His “historicist” rejection, if not his mockery, appears in such widely influential works as Aquinas’s \textit{Summa Theologica} (1a2ae, q. 103, art. 4, ad. 3, “Whether since Christ’s Passion the legal ceremonies can be observed without committing mortal sin”) and Nicholas of Lyra’s \textit{Postilla}, which explains:

hunc enim cibum conversi de iudaismo abhorrebant. Et ideo licet esse cibus licitus tamen propter amicabilem societatem scriptum fuit gentilibus ut abstinerent a talibus sicut frequenter contingit quem aliquis abstinet a cibo quem scit abominabilem socio suo. Procedente autem tempore cessante causa cessavit effectus.\textsuperscript{42}

Converts from Judaism abhorred this food. For that reason, the food was allowed to be licit, yet for the sake of the community harmony it was written to the gentiles that they should abstain from such food just as frequently as it happened that another of their associates abstained from food that he thought abhorrent. With time, the cause ceased.

\textsuperscript{40} Rufinus of Bologna, \textit{Summa decretorum}, ed. Heinrich Singer (Aalen: Scientia Press, 1963), 70–71. Note that another commentary, contemporary with Rufinus’s, follows the historicist approach by explaining that the law was instituted “ad removendum scandalum Judaeorum” (so as not to scandalize the Jews; Terence Patrick McLaughlin, ed., \textit{The Summa Parisiensis on the Decretum Gratiani} [Toronto: Pontifical Institute of Mediaeval Studies, 1952], 30). For bibliographic material on these two works, see Kenneth Pennington, “Medieval Canonists: A Bio-Bibliographical Listing,” http://faculty.cua.edu/pennington/biobibl.htm.


\textsuperscript{42} Nicholas of Lyra, \textit{Postilla super Actus apostolorum, Epistolas canonicales, et Apocalypsem, cum additionibus} (Mantua: Paul von Butzbach, 1480), on Acts 15:20 and 29 (no page number; abbreviations expanded). Nicholas then cites, as is usual in this context, Matthew 15:17–19 and 1 Timothy 4:4, “For every creature of God is good, and nothing to be rejected that is received with thanksgiving.”
To cite an example of an Augustinian reading contemporary with the *Annals of Fulda*, Pope Nicholas I’s ninth-century letter on Christian practices to the newly formed Bulgarian church records the following doctrinal inquiry, “Animalia sive volatilia, si sine ferro mactentur, et solo ictu hominis percussa moriantur, si liceat comedi sciscitamini” (You ask whether animals and birds are permissible to eat if they are slaughtered without being wounded by a weapon and die solely from human blows; *PL* 119: 1011B–D), that is, if flesh is licit for eating if the animal has not been bled after being killed. Nicholas answers by quoting Augustine’s point about the obsolescence of the Apostolic Decree (although, having struck down one stricture, Nicholas adds another: animals hunted by Christians but killed by pagans, and vice versa, are forbidden to Christians).  

Nonetheless, these various approaches to the Christian food laws better provide a context for medieval Christian attitudes toward alimentary laws in general than they provide any direct explanation for the attitude toward carrion taken by the Fulda *Annals*. Clearly neither apostates nor epicures, the Thuringian family violates the strictures of their own faith—and, as I will argue, abdicates their human mastery of violence—only because of starvation. The doctrinal rationale for the condemnation in the *Annals* must therefore be sought, at least initially, in Jerome’s commentary on Ezekiel 44:31, “The priests shall not eat of any thing that is dead of itself [morticum] or caught by a beast, whether it be fowl or cattle.” Jerome explains that morticum (carrion) is the same thing as the suffocatum (strangled things) prohibited in Acts. As a result, Christians should shun not only suffocatum but also any animal “captum a bestia” (seized by beasts; *PL* 25: 444A–B). Jerome’s interpretation radically differs from Augustine’s historicist, anti-Judaic interpretation of the Acts prohibitions. Jerome at once preserves the contemporary applicability of Acts and strengthens the lines between the Apostolic Decree and Jewish food prohibitions, for Ezekiel 44:31 is only one of several places in the Hebrew scriptures that condemn carrion. Jerome’s interpretation and preservation of the Acts laws also changed the character of the

43. Readings of the precept in the later Middle Ages tended to give it a moral interpretation; for example, Blangez, *Ci nous dit*, vol. 1, chapter 153, “Interdiction de la chair étouffée” (*The Prohibition of Suffocated Meat*), 152–53, explains that the demand that blood be drained from meat signifies the need to reveal one’s sins to one’s confessor, or that eating blood is like committing rapine against the weak and poor. For further discussion of the dynamics of meat-eating in the Christian intellectual tradition, with special attention paid to the paradox of simultaneous calls for abstinence and condemnations of (heretical) asceticism, see Dianne M. Bazell, “Strife among the Table-Fellows: Conflicting Attitudes of Early and Medieval Christians toward the Eating of Meat,” *Journal of the American Academy of Religion* 65 (1997): 73–99.

44. Exodus 22:3; Leviticus 7:24, 17:15, and 22:8; Deuteronomy 14:21; Ezekiel 4:14.
prohibitions, as Jerome’s definition of “suffocatis et sanguine” concerns not
only inept or forbidden modes of butchery, that is, proscribed outcomes of
human labor, but also flesh made unclean by the acts of animals.

The Poematum, the sixth-century Biblical epic of Avitus of Vienne,
alludes to Jerome’s combination of the proscriptions of morticinum and
suffocatum by describing antediluvian mankind as “vitam brutorum more
tenebat” (living like beasts; IV.21), “sanguine potus erat” (IV.23; drunk with
blood), great meat-eaters with throats smeared with gore, who, worse still,
routinely “quadrupes, propria qui morte necatus, / saevior aut certe quem
vincens bestia cepit, / pastus erat, quem nulla fides, lex nulla vetabat” (fed
on animals that had died a natural death, or that a more ferocious creature
had captured and killed, restrained by neither faith nor law; IV.25–27).45
Far more significant, however, was the use of Jerome’s interpretation by
the penitentials, works whose influence must be directly responsible for the
condemnation of the Thuringian family, and whose importance in shaping
attitudes toward human and animal violence should not be understated. The
penitentials, which were handbooks for the application of Christian law and
instruction in Christian behavior, developed in sixth-century Ireland and
spread to Britain and the Continent through Irish and eventually Anglo-
Saxon missionaries. Modern editions of the penitentials include works pro-
duced in what are now England, France, Germany, Ireland, Italy, and Spain.
Although no penitentials were produced or even copied after the twelfth
century, many of the penitential prohibitions made their way both into canon
law and into the confessional manuals of the later Middle Ages. For example,
Robert of Flamborough’s thirteenth-century Liber poenitentialis exemplifies
the format and detailed psychological concerns of the confessional works of
its era, but it also draws on the specific proscriptions of the eleventh-century
work of Ivo of Chartres and Burchard of Worms and the twelfth-century
canons of the Bishop Bartholomew of Exeter (which themselves draw on
still earlier works such as the eighth-century penitential of Egbert of York),
to condemn those who worship rocks and trees, sacrifice to demons, or drink
blood or semen, or any woman who places her son on a roof or in an oven
to cure his fever.46 In short, penitentials were widely influential throughou
virtually all the areas overseen by either by the Roman church or, in the earlier period, Irish Christianity for at least half a millennium, if not far longer, affecting both clerics, who used them for training and for compiling canon law, and laypeople, who were overseen and instructed by priests. Common topics treated by the penitentials include prohibitions of murder and theft, guidance in the proper treatment of the Eucharistic Host, and the censure of rituals and sexual acts at least implicitly identified, through the condemnation, as non-Christian. Their instruction on proper Christian eating—how to keep Lent, whether it is allowed to swallow the blood from one’s own bleeding gums—follows Jerome in defining and prohibiting carrion: flesh polluted by animal violence is labeled as morticinum or suffocatum, and its consumption is forbidden or, at least, restricted. An important example of food laws in the penitentials can be found in the seventh-century Irish penitential of Adomnan, eighteen of whose twenty canons are alimentary prohibitions. Because many of its canons proscribe carrion and because many later penitentials preserve these canons in some form, I quote the Adomnan penitential at length:

1. Marine animals cast upon the shores, the nature of whose death we do not know, are to be taken for food in good faith, unless they are decomposed.
2. Cattle that fell from a rock, if their blood has been shed, are to be taken; if not, but if their bones are broken and their blood has not come out, they are to be rejected as if they were carrion.


3. [Animals] that have died in water are carrion, since their blood remains within them.

4. [Animals] seized by beasts and half-alive are to be taken by bestial men (bestialibus hominibus).

5. A half-alive animal seized by sudden death, an ear or other part being torn off, is carrion.

6. Swine’s flesh that has become thick or fat on carrion is to be rejected like the carrion by which the swine grow fat. When, however, it has been reduced and returned to its original thinness, it is to be taken. But if [a swine] has eaten carrion once or twice or thrice, after this has been ejected from its intestines it is to be taken in good faith.

7. Swine that taste the flesh or blood of men are always forbidden. For in the Law an animal that pushes with the horn, if it kills a man, is forbidden; how much more those that eat a man.

8. Hens that taste the flesh of a man or his blood are in a high degree unclean, and their eggs are unclean; but their chicks may lawfully be preserved since the uncleanness of their mothers does not pollute them. . .

14. Things drowned in water are not to be eaten, since the Lord hath prohibited the eating of flesh that contains blood. For the flesh of an animal drowned in water the blood remains coagulated. This the Lord prohibits, not because in those days men ate raw flesh, since it would be none too sweet, but because they had been eating drowned and carrion flesh. And the law written in metrical form says: “Thou shalt not eat carrion flesh” . . .

18. A beast that has only been seized with a deadly bite and not quite killed is to be eaten by beasts and by bestial men—the ear or any part which the beast contaminated with its teeth having been cut off and given to the dogs. For it seems to him fitting that human beasts should eat the flesh that has been served to beasts.

19. In like manner he forbids the eating of marrow of the bones of stags of which wolves have eaten.

20. Likewise he also forbids the eating of stags of whose blood we see a small quantity to have flowed out through their legs broken in a trap, affirming that they are carrion on the ground that the higher blood had not flowed, which is the guardian and seat of life; for, though the extremity of blood has flowed through whatever extreme member, yet

the thicker and denser blood in which the life has its seat remains clotted within the flesh. Thus, unless the infliction of a wound disturbs the seat of life, there is no shedding of blood but merely injury to an extreme part; and therefore he who eats such flesh shall know that he has eaten flesh with blood. For since the Lord has forbidden the eating of flesh with blood, what was lacking is not the cooking of the flesh but the draining of the blood; and what has been said above must be understood also of beasts that have died in extreme weakness after the cutting off or cutting of an ear. Their fat, however, and their hides we shall have for diverse uses.50

Influential rearticulations of such laws on the continent, Britain, and Ireland include the ninth-century penitential of Halitgar of Cambrai, which decrees that “he who eats the flesh of animals whose [manner of] death he does not know shall do penance for the third part of a year”51 and the early-eleventh-century Corrector of Burchard of Worms, which, following the format of a model dialog between confessor and penitent, outlaws the Christian consumption of carrion: “Comedisti morticina, id est animalia quae a lupis seu a canibus dilacerabantur, et sic mortua inventa sunt? Si fecisti, X dies in pane et aqua poenitere debes” (Did you eat carrion, that is, animals that have been torn by wolves or dogs, and thus were found dead? If you did so, you must do penance for ten days on bread and water; PL 140: 698D). An eighth-century penitential that may have been composed by Bede’s follower Egbert of York was translated into Old English in the eleventh century, and, like so many other penitentials, it also identifies carrion and forbids its consumption.52 Later lawcodes also circulate the prohibition: the twelfth-

50. Ludwig Bieler, ed. and trans., The Irish Penitentials (Dublin: Dublin Institute for Advanced Studies, 1963), 177–81. For other references to carrion in the Irish penitentials, see ibid., The Preface of Gildas on Penance, 13 at 63; The Penitential of Cummean, IX.3 at 125, IX.16 at 127; The Irish Canons, 14 at 161; The So-Called Bigotian Penitential, 217; The Old-Irish Penitential, I.3 at 260 (in this and subsequent footnotes, in those cases where penitentials have numbered canons, the first number indicates the canon number—and perhaps, as in the Cummean and Old-Irish penitentials, the section number—and the second the page number of the edition).


century Icelandic Grágás allows only animals whose cause of death is known to be eaten and, elsewhere, using a somewhat different albeit allied method, distinguishes meat from carrion by declaring that meat is animal flesh that comes from slaughter;\(^{53}\) the Gulathing (c. 1150) and Frostating (c. 1260) laws of Norway allow carrion to be eaten only after it is purified with holy water and suspended to empty the carcass of all blood;\(^{54}\) and the Panormia of Ivo of Chartes (c. 1095) states that “Qui manducat carnem immundam, aut morticinam, aut dilaceratam a bestiis, 40 dies poeniteat” (whoever eats unclean flesh, or carrion, or animals torn by beasts should do penance for forty days; \(PL\) 161: 884B), although, like several other penitentials of its era, it draws on the seventh-century penitential of Theodore of Canterbury by requiring only light fasting for people compelled by starvation to eat carrion.\(^{55}\) Further evidence for the persistence of the carrion prohibition


\(^{54}\) Larson, \textit{Earliest Norwegian Laws}, 58 and 242–43. In chapter 31, 58, “Concerning Forbidden Meats and Animals that have Died of Themselves,” the laws allow the flesh of animals that have drowned, fallen off a cliff, or even been savaged by wolves to be eaten, but only if “salt and water . . . be consecrated and sprinkled upon the carcass.”

\(^{55}\) McNeill and Gamer, \textit{Handbooks}, 191, “He who eats unclean flesh or a carcass that has been torn by beasts should do penance for forty days. But if the necessity of hunger requires it, there is no offense, since a permissible act is one thing and what necessity requires is another.” Also, Delen, “Paenitientiale Cantabrigiense,” 363, “Qui manducat carnem immundam aut morticinam aut delaceratam a bestiis, xl dies peniteat. Si necessitate famis cogente, multo levius” (let whoever eats unclean meat or carrion or flesh torn by beasts fast for forty days. If necessitated by the exigency of famine, let the penance be much lighter). For more instances of carrion law, see Rob Meens, ed., \textit{Het Tripartite Boeteboek: overlevering en betekenis van vroegmiddeleeuwse biechtvoorschriften (met editie en vertaling van vier tripartita)} (Hilversum: Verloren, 1994); the \textit{St. Gall Penitential}, 35 at 336 and 36 at 342; the \textit{Vienna Penitential}, II.1 at 7–8 and 14 at 362–63; the \textit{Capitula Iudiciorum} I and 1k, at 465; and the \textit{Parisian Penitential}, 77, 81, 87 at 496–97. See also Pierre Michaud-Quantin, “Un manuel de confession archaique dans le manuscript Avranches 136,” \textit{Sacrís Erudiri} 17 (1966): 49. Finally, see most of the penitentials in Raymund Kottje, ed., \textit{Paenitentialia franciae, italicæ et hispaniae saeculi VIII–XI}, 2 vols. CCSL 156–156A (Turnhout: Brepols, 1994), \textit{Paenitentialia: the Simple Paris Penitential}, 36 at 77; the \textit{Oxford I Penitential}, 47 and 43 at 92; the \textit{Florence Penitential}, 100; the \textit{St. Hubert Penitential}, 59 at 115; the \textit{Merseburg Penitential}, 147; the \textit{Merseburg Penitential B}, 15 at 174; the \textit{Oxford II Penitential}, 52 and 56–58 at 200–201; and, in volume 156A, the \textit{Vigilanum Penitential}, 105–7 at 12 and the \textit{Silensian Penitential} 221 and 224–26 at 40. The works in Meens and Kottje date from the ninth to the twelfth centuries. Pierre Bonnassie, “Consommation d’aliments immodes,” 1038–39, provides a useful list of further references to morticina, mostly tagged to the foundational editions of penitentials in Hermann Wasserschleben, ed., \textit{Die Bussordnungen der abendländischen Kirche} (Halle: C. Graeuger, 1851). Bonnassie does not note the unique role played by animal violence in turning edible into inedible flesh; instead, he lists carrion under headings dealing with general animal pollution (fecal contamination and so forth).
in the later Middle Ages is uncertain. To cite a few, admittedly random, examples: in the twelfth-century life of the Welsh hermit Elgar, when Elgar discovers the carcass of a white stag in the forest, and God commands him to eat it, Elgar protests only about being given too much to eat;\textsuperscript{56} in William of Canterbury’s late-twelfth-century \textit{Life and Miracles of Thomas Becket}, a sheep injures itself, and its owner stabs it in the throat to kill it himself “ne morticinum fieret” (lest it become carrion);\textsuperscript{57} and the \textit{Cursor Mundi}, a late-thirteenth-century Middle English doctrinal compendium and retelling of Biblical and apocryphal history, includes the injunction “be flesshe þat beest bifo[r]e haþ taast / Ete þe not þerof þe last”\textsuperscript{58} (the flesh that beasts have tasted before [you], do not eat even a little bit of it; 6817–8). Patterns of deletion and inclusion from the earlier to the later manuscripts of the \textit{Cursor Mundi} reveal a desire to keep the work current with the most up-to-date concerns of piety;\textsuperscript{59} because the carrion law survived editorial culling, while other elements of the work did not, several copyists must have decided that it was still relevant.

The penitentials themselves and other lawcodes tend not to explain the rationale of the carrion laws. An exception, the \textit{Silensisian Penitential}, ascribes the prohibition of blood and suffocated meats to Jerome and Cassian and finally adds, “Similiter ad Noe vel ad Moysen dominus sanguinem comedi prohibuit” (similarly, the Lord prohibited Noah and Moses from eating blood).\textsuperscript{60} In their influential anthology of penitentials, John T. McNeill and Helena M. Gamer echo this point by suggesting that the penitentials are in part an “attempt to apply the regulations of Exodus and Leviticus to the conditions of seventh-century Ireland.”\textsuperscript{61} At least a portion of the Adomnan penitential, cited above, supports this opinion, as the final phrase

\begin{itemize}
\item[56.] William Jenkins Rees, ed. and trans., \textit{The Liber landavensis, Llyfr Teilo} (Llandovery: Welsh Manuscript Society, 1840), 6 and 285; for discussion of this episode, see Alexander, \textit{Saints and Animals}, 25–27.
\item[60.] Kottje, \textit{Paenitentialia}, 221 at 39.
\item[61.] McNeill and Gamer, \textit{Handbooks}, 131. See also Hugh Connolly, \textit{Irish Penitentials and Their Significance for the Sacrament of Penance Today} (Dublin: Four Courts Press, 1995), 42–43, who (incorrectly) explains that “in contrast to Old Testament teaching, there are no unclean foods in the New Testament. . . . [O]ne would expect the only regulations concerning food and drink to be those which would serve the demands of temperance, health and hygiene in order that the individual would not be unduly impeded in his daily activity.”
\end{itemize}
of its twentieth canon quotes Leviticus 7:24, “adipem cadaveris morticini et eius animalis quod a bestia captum est habebitis in usus varios” (The fat of a carcass that hath died of itself, and of a beast that was caught by another beast, you shall have for divers uses). However, as Rob Meens observes, had the penitentials merely been a recrudescence of the Mosaic dietary laws, they would have prohibited shellfish or, especially, pork, whose prohibition had become perhaps the chief alimentary characteristic of Judaism. But pigs appear in the penitentials only when they themselves eat carrion; otherwise, they are not proscribed, nor even considered.

Unlike the laws of the Pentateuch, but like the laws of Acts and Jerome’s gloss, the penitentials’ food prohibitions generally concern themselves more with the animal’s manner of death than with its species. Barring horses, whose flesh many penitentials prohibit, all animals are alike for the eater: what matters is how they die.

Nonetheless, even if the carrion laws had derived from Jewish laws, this in itself would not provide an explanation for why the penitentials prohibit carrion, but would rather only shift the need for an explanation elsewhere. Faced with this problem, both medieval and modern scholarship has tried to identify hygiene as the rationale for the carrion laws. McNeill and Gamer observe, for example, that “most of the prohibitions commend themselves on sanitary grounds as providing a necessary minimum of protection to health,” and Augustine’s Contra Faustum avers that carrion is forbidden only because it is unhygienic (“the flesh of animals which have died of themselves is diseased, and is not likely to be wholesome, which is the chief thing in food”). Hygiene may in fact work as an explanation, but only

62. The persecutors of the Jews in the Maccabees often tried to force Jews to apostatize by consuming pork: in 1 Maccabees 1:43–52, the Greek tyrant Antiochus forbade the Jews to follow their laws; he outlawed circumcision, the Sabbath, and all Jewish holy days, and also “commanded altars to be built, and temples, and idols, and swine’s flesh to be immolated, and unclean beasts”; in 2 Maccabees 6:18–31, Eleazar, chief of the scribes, suffered martyrdom specifically because of his refusal to eat pork.

63. A letter of Pope Zachary to the missionary Boniface, martyred by the Germans in 754, is a rare exception. Zachary censured the consumption not only of horseflesh but also of the beaver, hare, jackdaw, stork, and crow. See Reinhold Rau, ed., Briefe des Bonifatius. Willibalds Leven des Bonifatius. Nebst einigen zeitgenössischen Dokumenten (Darmstadt: Freiherr vom Stein-Gedächtnisausgabe IVb, 1968), letter 87, 294. On prohibitions against horseflesh, see Meens, “Eating Animals in the Early Middle Ages,” in Craeger and Jordan, The Animal-Human Boundary, 4–9; and Sigaut, “La viande de cheval,” 85–91. The imposition of four years’ penance upon eaters of horseflesh in an eighth-century Irish penitential is unusual; more typical is the statement of a tenth-century penitential (Capitula Iudiciorum C. 1i at 465, in Meens, Tripartite Boeteboek, “equus non prohibetur ad manducandum, tamen non est consuetudo” [the horse is not prohibited for eating, but eating it is not customary]). Bonnassie, “Consommation d’aliments immodes,” 1037, lists every reference to horseflesh in the many penitentials edited in Wasserschleben, Bussordnungen.

64. McNeill and Gamer, Handbooks, 131.
if “hygiene” is understood as a cultural system rather than in its modern meaning within the context of germ theory. Carrion, like meat in general, is the flesh of a dead animal, and it is not necessarily rotten: for example, the *Annals* gives no indication that the doe had been dead for long. It is nonetheless carrion, and hence unhygienic: the question is why the wolves’ violence should have been thought to pollute the meat. Decades ago, Mary Douglas influentially reexamined the Levitic food laws’ own system for dividing clean from unclean animals, dislodging centuries of anachronistic and otherwise inadequate rationales for the Levitic prohibitions. The common assertion that trichinosis made pigs unpalatable to the Hebrews relies upon an explanation unavailable to the writers of Leviticus and ignores the equally dangerous diseases to which cows and goats are prone; other such explanations, wherein pigs’ wallowing or unsuitability to desert survival constitute “uncleanness,” likewise substitute scientific explanations for the nonscientific culture promoted and enshrined in the Pentateuch. As Douglas observed, pigs, shellfish, and all the other forbidden animals were unclean because of morphological and behavioral differences from the ideal characteristics of the animals in Pentateuchal taxonomic groups. Edible terrestrial beasts should have cloven hooves and chew the cud (Leviticus 11:3; Deuteronomy 14:6): pigs have divided hooves, but do not chew the cud, so they are unclean for eating. This is a self-referential, culturally specific structural system, evidencing psychological desires for order and fear of the monstrous rather than concerns sensible to modern notions of disease or ecology (which are themselves surely not free from their own culturally specific schema). Inspired by Douglas’s methodology, Rob Meens argues that scientific explanations can no more account for the penitential food laws than for the alimentary laws of the Pentateuch. Germ theory, for example, cannot explain many of the penitentials’ alimentary codes: germ theory would not proscribe the honey of bees that have stung a human to death—a stricture in many penitentials—or require that carrion be distributed to dogs or “bestial men” rather than destroyed or discarded. Instead, as Meens asserts, when

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65. For a review of scholarship on the pork prohibition, see Frederick J. Simoons, *Eat Not this Flesh: Food Avoidances from Prehistory to the Present*, 2nd ed. (Madison: University of Wisconsin Press, 1994), 13–102. At 66–67, Simoons observes that trichinosis is not pig-specific, nor did it even appear in the Near East prior to the thirteenth century. It should be clear from my discussion above which side I have chosen in the symbolist vs. materialist debate for explaining food laws.


68. Ibid., 10.
the penitentials link the words *inmunda* (unclean) and *morticina*, they refer not to the carrion’s material putrescence but to its *social* filth.

Meens suggests that the alimentary laws of the penitentials establish concentric circles of increasing impurity, with “the most pure, i.e., the monks, in the center, the less pure, the *manaig*, in a second orbit, and in an outer circle the not fully human, the *hominès bestiales*.” However, Meens’s chart must be expanded, since there is at least one circle outside the *hominès bestiales*, namely actual beasts, domestic and wild, the very creatures whose illicit actions pollute food. The kinds of pollution caused by animals can be classified according to what responses the penitentials require. The responses evidence a culture most keenly concerned with policing those forms of pollution that involve violence against and between animals and thus with establishing a human monopoly on legitimized violence. Beasts might pollute grain by eating part of it; they might pollute any food by defecating in it. The food, however, can still be cleansed. The *Paenitentiale Vindobonense B*, for example, explains that:

> Si aues stercorant in quacumque liquore, tollatur ab eo stercus et sanctificetur aqua et mundus erit cybus. Si ceciderit sorix in liquore, tollatur foras et hoc potum spargatur aqua sanctificata et sumatur, si uiuens sit. Si autem mortua fuerit inuenta, omne liquore proiciatur foras et mundetur uas.

If birds defecate into any beverage, let the feces be taken out from it and let it be blessed with [holy] water and the food will be clean. If a mouse falls into the beverage, let [the mouse] be taken outside and let the drink be sprinkled with holy water and accepted, if the mouse is alive. If however


70. On violence in the food laws, see Jean Soler, “The Semiotics of Food in the Bible,” in *Food and Drink in History: Selections from the Annales*, ESC, ed. Robert Forster and Orest A. Ranum, trans. Elborg Forster and Patricia M. Ranum (Baltimore: Johns Hopkins University Press, 1979), 131, where Soler argues that God first reserved all killing to himself and then, after the Flood, reserved only blood, which symbolized life and death (this point is not uncommon in medieval Christian doctrine: e.g., Rufinus of Bologna, *Summa decretorum*, 70: “quia enim sedes anime in sanguine est, recte per sanguinem anima designatur” [for since the seat of the soul is in the blood, the soul is rightly indicated by “blood”]). While Soler concentrates on the distinctions between humans and God, I focus on those between humans and animals; but he and I accord in our concentration on violence. Also see Stéphane Boulch, “Le statut de l’animal et la notion de pureté dans les prescriptions alimentaires chrétiennes du haut Moyen Âge occidental,” in *Le statut éthique de l’animal: conceptions anciennes et nouvelles. Journée d’étude Université de Liège, 18 mars 1995*, ed. Liliane Bodson (Liège: Université de Liège, 1996), 41–59; I differ with Boulch’s argument that Christians sought to expel violence of all sorts from their communities; clearly, violence against animals, or at least the control of violence, could not be abandoned.
the mouse is found dead, let all the liquid be thrown outside and the vessel cleaned.

The same penitential is much stricter about the consumption of carrion: “Qui manducat carnem aut morticinam aut delaceratam a besteis, XL dies peniteat”\(^71\) (whoever eats flesh or carrion that was torn by beasts, let him do penance for 40 days). The differentiation between, on the one hand, food polluted by animal defecation, clumsy animals, and the appetites of pests for grain, and, on the other hand, meat polluted by animal violence is usual throughout the penitentials. In the penitentials, escalating levels of illicit animal agency correspond to escalating levels of pollution, and animals that killed and ate other animals exhibited the most agency. Notably, while humans might kill and eat an animal belonging to someone else, and while in some penitentials human might produce carrion by killing an animal without draining its blood (by strangling or smothering it, for example), for the most part only animals can create morticina. The crime is not simply one of illicit slaughter or theft, but a crime whereby animals claim the dominion over other animals that should belong exclusively to humans. Thus the eighth-century pope Gregory III, in his *Excerptum de Diversis Criminibus et Remediis Eorum*, stresses the illicitness of any animal carcass that humans just “find”:

Suffocatum dicimus quod sine sanguinis effusione perimitur, vel quod in laqueo necatur. Si quis a lupo vel a cane aut in laqueo suffocatum invenerit nullatenus manducetur: nec sanguinem alicuius bestiae quis manducare aut bibere praesumat. Quod si quis fecerit, quadraginta dies poeniteat.

We call “suffocated” what is killed without an outpouring of blood, or what is killed in a snare. If anyone should find [an animal] “suffocated” by a wolf or dog or in a snare, he absolutely should not eat it: neither should anyone presume to eat or drink the blood of any kind of animal. And whoever does this, let him do penance for 40 days. (*PL* 89: 595D–596A)

The particular control over animal violence may explain a peculiarity in the twentieth canon of the Council of Orleans (533). After forbidding Christians who have reverted to idolatry or eaten food sacrificed to idols to associate with members of the church in good standing, it likewise anathematizes those who “bestiarum morsibus extincta vel quolibet morbo aut *casu* suf-

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focata vescuntur” (my emphasis; eat [the flesh of animals] killed by the bites of animals or from any disease or suffocated by accident). The Council follows the prohibitions of Acts 15 fairly closely, but modifies them by implicitly allowing good Christians the flesh of any animal suffocated deliberately. The loophole, only suggested by Jerome’s gloss, permits humans to eat any animal—barring those polluted in pagan rituals—whose death they have intended: the chief concern is to preserve the difference between human and animal agency in the enormously important realm of violence against animals.

Three ninth-century works express the logic of the carrion prohibition even more overtly. Two penitentials, the St. Hubert and Merseburg B, forbid the consumption of any fish found dead in a river, “since it was not hunted by men.” The other work, an anonymous cleric’s response to a king, possibly Louis the German, King of the Eastern Franks, expands on this point at far greater length; to the best of my knowledge, it is the most detailed discussion of suffocatum in the Middle Ages. The letter first restates Jerome’s gloss on Ezekiel 44:21: “Suffocatum vocamus animal, quod a lupo seu urso et aliqua bestia strangulatum vel laceratum est. Huiuscemodi carne abstinendum dicimus, nec in usum vescendi tale aliquid presumendum” (We call an animal “suffocated” that is throttled or mangled by a wolf or bear or another beast. We say that this sort of flesh is to be abstained from and is not for use for eating or for any other consumption). Were this a penitential, the explanation would likely have stopped here, but a letter need not confine itself to the unornamented brevity of penitential prose. More to the point, the letter is addressed not to a general Christian audience but to a nobleman: the prohibition of animals mangled by “alia bestia” would forbid meat obtained with the assistance of falcons or dogs during the hunt, a restriction that could only have deeply dissatisfied its recipient, undoubtedly a devotee of hunting. Because the cleric has room to elaborate, and also because he


73. For the penitential of St. Hubert, a monastery in the Ardennes, see Kottje, Paenitentialia, V01.165, 59, at 115. For the Merseberg B penitential, see Kottje, 15 at 174. The other Merseberg penitential, also edited in Kottje, does not contain this canon. My points about the importance of policing animal violence in Christian food laws echoes and—by focusing on violence particularly—refines points in Salisbury, Beast Within, 66–69, where she observes that “if animals had begun to eat it, it was animal food,” a point she supports by citing penitentials and food codes from Bieler, Irish Penitentials, Wasserschleben, Die Bussordnungen, and Larson, Norwegian Laws.

must, he permits Christians to eat meat caught with the assistance of hunting animals, explains why, and, through this justification, lays bare the otherwise unexpressed logic of the prohibition of carrion:

Quod vero a cane captum fuerit, non computamus inter suffocata, quia hominis est venatio, quem canis comitatur, cuius sagaci oderatu et pernici agilitate homo utitur in animalis captione, ipsaque captio non cani, sed homini assignatur. Nam et nos, cum scribimus, scripturam ipsam non calamo, quo litterae caraxantur, sed scriptoris manui deputamus. Pari modo de pedicis vel laquies ceterisque huiuscemodi sentiendum, quae omnia humanum ingenium et artificiosa repperit industria. Universaliter itaque licet concludere: quicquid hominis exercitio, arte vel calliditate capitur, non debere inter suffocata numerari, nec aliquo delicto adstringi eum, qui huiuscemodi cibum cum gratiarum actione presumperit.

To be sure, that which was captured by a dog, we do not count among suffocated things, since man is the hunter, accompanied by a dog, whose acute sense of smell and quick agility are used by man in the capture of animals, and so this capture is assigned not to the dog but to man. For when we ourselves write, we assign the writing not to the pen that scratches the letters, but to the hand of the writer. It should likewise be thought about snares or other suchlike traps, all of which human ingenuity and skillful industry has invented. And so one may universally conclude: whatever is captured by human effort, art, or skill should not be numbered among suffocated animals, nor does anyone offend who consumes this kind of food with thanksgiving.

Terrestrial animals drowned in water are likewise fit for eating, so long as they were chased into the water by hunting dogs. Fish suffocated by being removed from water are also licit. Contradicting several penitentials, the letter similarly allows the consumption of birds captured by tamed raptors, nets, or birdlime. In every case, the letter exempts dead animals from the category of *suffocatum* so long as humans intended their deaths, that is, so long as they died because of human agency. This is the most important

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75. For example, the Viennese Penitential in Meens, *Tripartite Boeteboek*, II.8 at 362 reads “Aues uero et animalia cetera, si in retibus strangulantur, non comedenda ab hominibus, nec si accipiter obpresserit, si mortua inuenuiuntur, quia quattor [*sic*] capitula actus apostolorum precipiunt abstinere: a fornicatione et sanguine et suffocato et idolatria” (Birds and other animals, if strangled in nets, are not to be eaten by men, nor if they are taken by raptors, if found dead, since the fourth chapter of Acts teaches us to abstain “from fornications and blood and suffocated things and things sacrificed to idols”).
point. Dogs might be helpful or even necessary to the hunt, just as the pen is necessary to writing, but human agency encompasses whatever independent agency either of these tools might be thought to have. In praising canine skill while denying canine agency, the letter joins with a tradition stretching at least from Ambrose and Isidore of Seville to Sidrak and Bokkus. Ambrose praises the Dog of Antioch, which refused to abandon the corpse of its murdered master and then identified the killer. Isidore alludes to this story by listing, among the many laudable traits of dogs, that “they do not leave the body of their master even when he has died.” Sidrak declares the dog the “wittiest beste” and the most nimble (“lighter noo beste renne can” [no beast can run more lightly; 6961]). But Ambrose declares, “that dogs are devoid of reason is beyond all doubt”; Isidore asserts that “it is part of their nature not to be able to live apart from humans”; and Sidrak combines its admiration for a dog’s skill with admiration for the dog’s submissiveness to humans: they are “trewest unto call” (the most responsive to being called; 6960) and “kyndelokere to man” (more beneficent to man; 6962) than any other animal. In my first chapter, I discussed the refusal of Ci nous dit to recognize monkeys as having authentically upright bodies. It was precisely the monkey’s similarity to humans that made monkeys such a threat to human supremacy; in turn, the neutralization of such a potent threat by declaring simian posture inauthentically bipedal allowed humans to claim mastery all the more strongly. Regardless of how much the animal resembled humans or vice versa, Ci nous dit demonstrated that humans had not just the agency to act but also, more importantly, the capacity to decide what actions meant, even in the face of obvious contradictions. So too with this letter’s declaration that a hunting dog has no more independent agency than a pen. The analogy is clearly ill-fitting: no pen would write a charter on its own, but a poorly trained or high-spirited dog might, like a human, exercise its “quick agility” to hunt independently. The very ineptitude of the analogy contributes greatly to its effectiveness. By declaring the agency of hunting dogs illusory, and by doing so with an analogy whose obvious ineptness announces that humans can classify the world any way they see fit, the carrion letter demonstrates human supremacy all the more forcefully.  

76. Isidore, Etymologies, 253.  
78. In reading prohibitions on carrion this way, I differ from Fiddes, Meat, 83–84, who,
One final point in medieval carrion law remains to be considered. The Mosaic laws, cited above, often require that morticina be given to dogs. The Viennese Penitential and the Capitula Iudiciorum likewise demand that carrion “porcibus et canibus dentur” (be given to pigs or dogs), while the Adomnan penitential, also cited above, demands that such flesh be given to “bestial men.” Despite appearances, this is not an act of charity. Certain animals and bestial men are not so much receiving a gift as being dragooned into helping dispose of a pollutant; and the humans who distribute carrion do so not out of generosity but because they must. Even when illicit animal violence could be punished, the material evidence of the crime—the flesh of dead or wounded animals—persisted as a reminder of the violation of human control. Because carrion assaulted the human monopoly on legitimized violence against animals and hence assaulted the human itself, it could not simply be ignored. The required distribution of carrion enabled humans—at least the dominant humans—to repair their supremacy. Through the distribution, carrion will be consumed, but now only on terms set by dominant humans. Carrion cannot, however, be given to just anybody or anything. By refusing to eat carrion and by distributing it to eaters that were disdained, despised, or pitied, dominant humans showed that they had control over carrion, yet, at the same time, that they scorned it and anyone who would eat it. The combined condemnation and distribution restores what

after observing that “only meat from animals that humans have slaughtered is regarded as edible,” explains that “For were we to eat animals that had died other than under our control then by our own definition we would be scavengers and that is not our favoured self-image.” As I see it, it is not that humans wish to avoid being scavengers, but rather that they want to avoid being equal partners with animals.

79. Meens, *Tripartite Boeteboek*, 363. For the Capitula Iudiciorum, see Meens, *Tripartite Boeteboek*, 567: “Animalia, quae a feris et canibus consumuntur, non sunt comedenda ab hominibus, nisi forte adhuc viva occiduntur, sed porcis et canibus dentur” (Animals that have been consumed by wild beasts and dogs are not to be eaten by humans, unless by chance they are killed while still living, but are to be given to pigs and dogs). As Moisà, “Rotten Gift,” observes, the carrion distribution requirement in the penitentials resembles a late-medieval English hunting law requiring that flesh from carcasses found in hunting preserves, if the animal was a deer killed by a poacher or another animal, be distributed either to lepers or to the poor. For the law, see the Assizes of the Forest in the appendix to The Statutes at Large from the Second Year of the Reign of King George the Third to the End of the Last Session of Parliament. . . . With a Copious Index. And an Appendix, Consisting of Obsolete and Curious Acts, . . . Volume the Ninth (London: Printed for Mark Basket and by the Assigns of Robert Basket; and by Henry Woodfall and William Strahan, 1765), 25–26. See also the two Scottish versions edited in John M. Gilbert, *Hunting and Hunting Reserves in Medieval Scotland* (Edinburgh: J. Donald, 1979), 297. For evidence of its enforcement, see G. J. Turner, ed., *Select Pleas of the Forest, Selden Society XIII* (London: B. Quaritch, 1901), 82, 83, 84, 87, 89, and several other places in this volume, and, for further discussion, ibid., xxxvii–xxviii, which dates the portion of the laws containing the carrion law as potentially early as the reign of King John (xxxvii–xxviii n4). I plan to treat this law and elite hunting ideology at length in a separate article.
Derrida’s exploration of violence, the law, and the possibility of just decision making in his “Force of Law: The ‘Mystical Foundation of Authority’” helps to illustrate what is at stake in such policings of animal violence. Through his exploitation and critique of Pascal’s and Walter Benjamin’s considerations on justice, Derrida defends deconstruction—again—from charges of nihilism while frustrating his critics’ and in fact his own self-satisfaction, or “good conscience,” in purportedly just judgments. In his call “for an increase in responsibility,” he discerns “excess and inadequation” in all supposedly self-contained, coherent legal systems; as he argues, any decision worthy of the name should attempt to consider the infinite demands of the “singularity of the other” rather than relying upon the “calculations” of some universal law. This demand advances his Lévinasian ethical project, perhaps best expressed by the maxim “responsibility is excessive or it is not a responsibility.” Essential to Derrida’s project is his argument that law does not “rest on anything” except the repeated acts through which the law continually comes into being. Thus it is ethically and indeed intellectually indefensible to appeal to any foundation of law to justify a decision. Acts establishing law should not be understood as legal or illegal; they occur in an aporia outside, or rather prior to, any system of law. Drawing on interpretations of the psychoanalytic concept of Nachträglichkeit, retroactive rather than deterministic causality, Derrida observes that acts establishing a new system of law can possess only “anterior legitimacy,” since they themselves create the conditions of (a new) juridical system:

A “successful” revolution, the “successful foundation of a State” . . . will produce après coup what it was destined to read in return, to give sense, necessity, and above all legitimacy to the violence that has produced, among others, the interpretative model in question, that is, the discourse of its self-legitimation.

80. Jacques Derrida, Acts of Religion, ed. Gil Anidjar (New York: Routledge, 2002), 248, for the several phrases above. See also 244, where he writes, “Every time that something comes to pass or turns out well, every time that we placidly apply a good rule to a particular case, to a correctly subsumed example, according to a determinant judgment, law perhaps and sometimes finds itself accounted for, but one can be sure that justice does not.”


83. Ibid., 234. For Nachträglichkeit, see the discussion of “deferred action” by Jean Laplanche in vol. 1 in Alain de Mijolla, ed., International Dictionary of Psychoanalysis (Dictionnaire International De La Psychanalyse) (Detroit, MI: Macmillan, 2005), 377–79.

Derrida’s argument on retroactive legitimation clearly anticipates his elaboration of the dynamics of carnophallogocentrism; in fact, “Force of Law” includes one of Derrida’s several early considerations on the question of the animal, when he writes:

In the space in which I am situating these remarks or reconstituting this discourse one would not speak of injustice or violence toward an animal, even less toward a vegetable or a stone. An animal can be made to suffer, but one would never say, in a sense said to be proper, that it is a wronged subject, the victim of a crime, of a murder, of a rape or a theft, of a perjury.  

Domination comes first and the human follows. Even this says too much for the foundational act. As I argued in my previous chapter, the human never comes completely into being; it is always trying to justify itself. Because the foundational act “always takes place and never takes place in a presence,” the human can never “catch up to the law” to grant their law anterior legitimacy. For this reason, the supposedly foundational act of the human can never cease, since it can never be founded on anything but the act itself.

The policing of animal violence in the carrion laws witnesses to, and attempts to counteract, the contingency of the categories of both human and animal, both of which are structural categories of dominance and dominated rather than absolute identities. Because the hierarchical arrangement of the structure depends upon subjugation, any animal able to establish a position of dominance over other animals, especially in the presence of humans, has supplanted, or at least joined, humans in being “able to justify, to legitimate . . . or to transform the relations of law . . . and so to present itself as having the right to law.” The human monopoly on legitimized violence requires that all such threats from independent animal violence in the presence of humans be marked as illicit. Because the routine conversion of animals into meat is the clearest physical expression of human mastery, it is therefore especially important that such violence be policed and monopolized. François Duceppe-Lamarre observed that late-medieval records of the forests in Hesdin and Northern France counted as mere nuisances those wild animals not favored as game and that did not eat meat, but that the records were far more negative about nongame predators or carrion eaters, creatures that, like humans, ate other animals, so enacting a prerogative reserved

85. Ibid., 246–47.
86. Ibid., 269–70; original emphasis.
87. Ibid., 270.
88. Ibid., 268.
to humans.\footnote{François Duceppe-Lamarre, “Une économie de l’imaginaire à l’oeuvre: Le cas de la réserve cynégétique d’Hesdin (Artois, XIIIe-XVe siècles),” in Les forêts d’occident du moyen âge à nos jours: Actes des XXIVes journées internationales d’histoire de l’abbaye de Flaran, 6, 7, 8 septembre 2002, ed. Andrée Corvol-Dessert (Toulouse: Presses universitaires du Mirail, 2004), 43.} So too in the penitentials and a host of other documents and practices. Derrida has spoken of “anterior legitimacy.” Surely the necessary companion to this concept is anterior illegitimacy, which is precisely how the carrion laws shape animal violence. The laws prevent animal violence from being able to claim the structural position of the human for itself: anteriorly caught up in these laws, independent interanimal violence will not have been able to produce carnes, a legitimate, desirable food, but only morticinum or suffocatum, filth, disorder, in short, a category violation. The laws also return control of the violated flesh to humans by having humans commandeer it and distribute it either to animals or to “homines bestiales,” who are further degraded simply by accepting this filth.

The Annals’ scorn for the deer flesh the Thuringian family eats and for the lupine violence that killed the deer returns the family to the fold of the human and registers worry about what would happen to the human if it shared a meal with a wolf. But its scorn should not simply be understood as disapproval of a criminal act or prevention of a human-lupine companionship. I have described the Thuringian family’s discovery of the wolves and the doe’s carcass as a “prelude to a crime,” that of eating “carnibus lege prohibitis” (flesh prohibited by law). It could be understood, however, as the prelude to two crimes: one against the church and the human itself, and another against the wolves. The twelfth-century abbot Norbert of Xantan, founder of the Premonstratensian order, identified human scavenging in just this way: several of his monks discovered a wolf eating a deer in the forest, chased off the wolf, and took the carcass back with them to their monastery. But the wolf followed, and waited outside like a domesticated dog, until Norbert, realizing that no wolf would act so calmly without reason, compelled his monks to confess the injury they had done it. Norbert then ordered his monks to return what was not theirs, and the wolf, “accepta denique lupus praeda sua” (finally receiving its prey), left in peace.\footnote{Vita Norberti, ed. Roger Williams, in Georg Heinrich Pertz, Historiae aevi Salici, MGH SS 12 (Hanover: Impensis Bibliopolii Aulici Hahniani, 1856), 692. I thank Alexander, Saints and Animals, 116–17, for directing me to this story.} Monks had no more right to eat carrion sinlessly than anyone else did: little could have driven them to this crime except their own desperation. Despite their need, despite their humane generosity within this need to deliver the carcass over to their community, despite what might have been his own need, Norbert ruled
against himself and his community. He decided to do justice, though that justice meant he and his monks might starve. He gave back to the wolf—or the wolf, suffering no charity, took back what was his (for *accepta* means “receiving” and “taking”)—and, in so giving, in so having food snatched from his own hands, Norbert suspended his humanity, perhaps to the point of death. The wolf in the *Annals* not only lacked such a champion; it may well have also suffered a worse crime, for it must be recalled that it killed its deer during a time of famine. The primary cause of the famine may have been unequal distribution of goods within the human community. But it may just as well have been due primarily to bad weather: it was perhaps a time of crop failure, excessive or insufficient rain, perhaps a too bitter winter or an overdry summer. Other animals would not be immune to what afflicted humans. Deer might have been starving, weakened, which would have been at first advantageous to the wolves; eventually, however, wolves would have more and more difficulty in finding prey. The good fortune of the wolves in the Thuringian forest may have saved their lives, or it could have had they not suffered the bad luck of meeting with a human family. Having lost their meal, what became of the wolves? Being a merely human document, without Norbert of Xantan’s expansive concern, the *Annals* spares the wolves no sympathy. Being merely human, the *Annals* cannot consider the wolves wronged without wronging its own exclusive human community, founded as it is on such thefts.