

THE CASE OF CONJOINED TWINS: EMBODIMENT, INDIVIDUALITY, AND DEPENDENCE

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[The English courts in November 2000 authorized the surgical separation of conjoined twins known by the pseudonyms "Jodie" and "Mary." The operation resulted in the immediate death of Mary, while giving Jodie real hope of a normal life. Without the operation, both babies would have soon died. The author here considers how the morality of the operation would be assessed from the perspective of two different views of embodiment, the "Bodily Distinctness View" and the "Bodily Relatedness View." After showing how both views would support the operation (although on different grounds), she analyzes the statement opposing the operation that was submitted to the appellate court by Cormac Murphy-O'Connor, the Cardinal Archbishop of Westminster.]

A TEAM OF SURGEONS in Manchester, England, on November 6, 2000, separated two conjoined twins whose real names were not disclosed at that time, but who became known to the world under the pseudonyms "Jodie" and "Mary." As expected, Mary died in the 20-hour operation that severed her connection to Jodie's circulatory system upon which she was completely dependent for her own survival.¹ As hoped, nearly a year after the operation, Jodie continues to do well.² There is a strong possibility that she will lead a normal or virtually normal life, although she may need several more operations over the coming years to reconstruct her reproductive and urinary tracts. Jodie's fate would have been very different had the surgical separation not been performed. Because her heart would have been strained beyond endurance by the demands placed upon it by

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¹ Clare Dyer, "Conjoined Twins Separated After Long Legal Battle," *British Medical Journal* 321 (11 November 2000) 1175.

² Paul Peachey, "Siamese Twin Who Survived is Allowed to Go Home," *The Independent*, 18 June 2001.

two growing babies, medical experts had predicted that both girls would be dead well before their first birthday.

The babies' parents, devout Roman Catholics from the island of Malta, had opposed the surgery, in part because they judged it to be the wrongful killing of Mary in order to save Jodie, and in part because they believed that Jodie would not receive either necessary follow-up services or sufficient societal support and understanding once the family returned to their native land. In order to override the parents' wishes, the babies' physicians brought the matter to the English courts. A lower court judge gave the doctors permission to perform the operation; the parents appealed his decision to an intermediate court, where a three judge panel heard the case over a period of six days. As their opinions demonstrated, the three judges carefully considered testimony not only about the proposed operation's medical feasibility, but also about its moral acceptability. More specifically, in a move that the judges said was exceptional, they accepted the written statement submitted by Cormac Murphy-O'Connor, the Roman Catholic Cardinal Archbishop of Westminster, who forcefully opposed the operation on a number of grounds.³ Nonetheless, in the end, the three appellate court judges concurred with the lower court judge's decision that the operation could and should be performed, although they disagreed with him and to some extent with each other about the appropriate legal grounds for that decision. Rather than bringing a further appeal to the judicial committee of the House of Lords, which sits as the highest court in England, the parents acquiesced to permit the surgery.⁴

The ensuing surgery brought some closure to a human drama that had played itself out not only in the English courts, but also in the international media. Why did the case garner so much attention? In part, no doubt, because of the peculiar combination of fascination and repulsion that the phenomenon of conjoined twins continues to elicit from the general public.⁵ In part, as well, because the elements of that drama could not have pulled more on our heartstrings if they had been crafted by a Hollywood scriptwriter. Two helpless babies, an operation that only one would survive,

³ The court also accepted a submission by the Pro-Life Alliance, the United Kingdom's pro-life political party, also opposing the operation.

⁴ Peter Allen, "Tragic Parents Surrender Over Siamese Surgery; 'We've Had Enough, the Law Has Decided Their Fate'," *Daily Mail*, 29 September 2000, 2.

⁵ See "A Social History of Conjoined Twins," <http://zygote.swarthmore.edu/cleave4b.html>, a report based on "Body Doubles: Siamese Twins in Fact and Fiction," an exhibit constructed by Laura E. Beardsley at the Mutter Museum, Philadelphia, Pennsylvania, Spring, 1995. The name "Siamese Twins" refers to Chang and Eng Bunker, who were born in Siam in 1811. As young men they came to the United States, where they performed in many public exhibitions, including some sponsored by P.T. Barnum in the 1860s. They married two sisters, fathered 21 children between them, and lived until age 63.

virtually penniless foreigners battling a powerful medical-legal system for control of their own children, and a clash between the high priests of scientific progress and the high priests of religion. But is there more at stake here than a sad and sensational story? Now that the media glare has dimmed, can there be some profit in sober reflection on the moral and legal issues raised by this case? I believe so. As demonstrated by the strong responses it evoked, this case has stretched some of our most important moral concepts to the limit and pressed some of our most basic moral commitments into competition with one another.

In this article, I examine one set of issues, namely, how different views on the importance of bodily individuality generate different ways of interpreting respect for bodily integrity.⁶ I argue that there are two distinct ways of approaching these issues, which I call the Bodily Distinctness View and the Bodily Relatedness View. Because they draw upon different aspects of the complex human experience of embodiment, they describe the relationship between conjoined twins in very different ways, and formulate different moral criteria for evaluating a decision to separate them surgically. Both, as far as I can see, rightly situate themselves within the Roman Catholic tradition with regard to anthropology and morality, although they highlight different aspects of that tradition. Each can provide a plausible and internally coherent way of dealing with the anomalous situation of conjoined twins. I also suggest, however, that attempts to combine elements of both approaches can generate a position that is both confusing and inconsistent, because they start from significantly divergent premises about embodiment. Unfortunately, as I suggest below, the Archbishop of Westminster's public contribution to the debate is marred by just such confusion.

FOUNDATIONAL QUESTIONS

The live birth of conjoined twins is an extremely rare occurrence. Estimates range from 1 in 25,000 to 1 in 80,000.⁷ There are a number of different types of conjoined twins, classified according to the manner in

⁶ I will not deal here with a very different set of complicated questions, pertaining to how the civil law should treat the honest but mistaken beliefs of parents and guardians making treatment decisions on behalf of children or other incompetent patients.

⁷ R.M. Hoyle, "Surgical Separation of Conjoined Twins," *Surgery, Gynaecology and Obstetrics* 170 (1990) 549, cited in Sally Sheldon and Stephen Wilkinson, "Conjoined Twins: The Legality and Ethics of Sacrifice," *Medical Law Review* 5 (Summer 1997) 149. See also R. Mark Hole, M.D., and Colin G. Thomas, Jr., M.D., "Twenty-Three Year Follow-up of Separated Ischiopagus Tetrapus Conjoined Twins," *Annals of Surgery* 210 (1989) 673-79, and James A. O'Neill, Jr., M.D. et

which they are joined together. Mary and Jodie were ischiopagus tetrapus conjoined twins, which means that they were joined in the pelvic region and had four lower limbs between them. Viewed externally, the twins shared a single torso, with one baby's head attached on either end. Their legs extended at right angles from the middle of the torso, and their external genitalia appeared on the side of the body. According to medical testimony, with the exception of a large, shared bladder, each twin possessed her own set of internal organs.⁸ Nonetheless, Mary's lungs and heart were severely abnormal; she would not have survived long after her birth had it not been for the fact that her circulatory system was able to draw upon Jodie's for a continuing supply of oxygenated blood.⁹ More specifically, the doctors concluded that "Jodie's aorta feeds into Mary's aorta and the arterial circulation runs from Jodie to Mary. The venous return passes from Mary to Jodie through a united inferior vena cava and other venous channels in the united soft tissues."¹⁰

But the medical testimony does not entirely settle the overriding anthropological and moral questions: The first question is in some ways the most obvious: In the case of a conjoined birth, how do we decide how many live human beings rightfully claim our respect? In making this decision, we intuitively count heads—literally. For example, no one doubts that Abby and Brittany Hensel, conjoined twins happily living in Minnesota, are two individuals. We perceive them as two little girls sharing one body below the neck, rather than as one little girl with an extra appendage (a head).¹¹ In contrast, we would describe a birth in which a baby's head was connected to a torso with two sets of arms or legs as involving one live human being with numerous extra appendages; the other baby to whom these appendages had originally belonged would be perceived as having died in the process of gestation. In this case, since the heads of two babies extended from a common trunk, no one seriously disputed that this case involved two live human babies who in some sense shared one body.¹²

al., "Surgical Experience With Thirteen Conjoined Twins," *Annals of Surgery* 208 (1988) 299–312.

⁸ See the documentation of the English Court: *Re A (children) (conjoined twins)* [2000] 4 All ER 961, 972 (Ward LJ).

⁹ *Ibid.* 975.

¹⁰ *Ibid.* 972.

¹¹ Their external appearance is deceptive. Internally, "each of the Hensel twins has her own heart and stomach, but together they rely on three lungs. Their spines join at the pelvis, and below the waist they have the organs of a single person. Each controls the limbs and trunk, and feels sensations, on her own side exclusively. If you tickle the ribs on the right, only Abby giggles. Yet the girls manage—no one knows exactly how—to move as one being" (Kenneth Miller and Jen M.R. Doman, "Together Forever," *Life* [April 1996] 44 ff.).

¹² I am assuming that an electroencephalogram would reveal some activity in

Second, once we have discerned that there are two live human beings involved, how do we describe their unique embodied relationship? How do we honor their individuality and properly account for any dependence of one upon the other? How do we decide whether or not a particular baby has a just claim on the use of a particular organ, and if so, whether or not that claim is exclusive? How do we decide which organs “belong” to which baby?

It is to these foundational questions that the Bodily Distinctness View and the Bodily Relatedness View provide very different answers. In brief, the Bodily Distinctness View encourages us to identify as precisely as possible the components of each baby’s physical make-up as distinct from her sister’s, while the Bodily Relatedness View is more inclined to accept that the two little girls “share” one body (at least in important respects). In turn, these different anthropological views lead to different descriptions of the relationship between the girls. The Bodily Distinctness View sees Jodie as “supporting” Mary’s life to her own detriment or Mary as “drawing off” Jodie’s blood supply, preserving her own life by slowly draining her sister’s. In contrast, the Bodily Relatedness View would not acknowledge one baby to be “doing” anything to the other, but would understand them both as simply continuing to live with the body that they both share. As explained below, these different understandings of the relationship between the babies generate different moral criteria for attempts to separate them. Biased in favor of independent physical existence, the Bodily Distinctness View would judge surgical separation to be morally required if the life or well-being of the stronger twin (in this case, Jodie) would be significantly compromised if she were to continue to support her sister. The Bodily Relatedness View would not permit separation unless the benefit to one significantly outweighed the harm to the other.

While both the Bodily Distinctness View and the Bodily Relatedness View offer different moral vantage points on the question of surgical separation of conjoined twins, it is essential at the outset to situate the level on which moral analyses of separation do and do not diverge according as they presuppose or involve one or the other of these views. Most importantly, each view can figure in a moral analysis which understands the operation *not* as the intentional killing of Mary; in fact, both views are compatible with the judgment that the doctors performing it *intended* to separate the babies, and that their intention did not encompass the death of Mary, which figured in their deliberations neither as a means nor as an end, but

both brains. It is likely that a twin whose brain revealed no activity at birth would be deemed stillborn, and legally dead. See Sally Sheldon and Stephen Wilkinson, “Conjoined Twins” 151–53.

only as a foreseen side-effect of the surgical separation.¹³ The fact that the physicians did not intend Mary's death, however, does not entail that they were justified in knowingly bringing it about. We must also ask whether it was *just* to do so. On the one hand, was it fair to deprive Mary of her life-sustaining connection to her stronger sister? On the other hand, was it fair *not* to liberate Jodie from that connection, which was sapping her very life from her? As I explain below, the Bodily Distinctness View and the Bodily Relatedness View supply distinct perspectives from which to address those second-level moral questions.

THE BODILY DISTINCTNESS VIEW

The Bodily Distinctness View easily follows from the basic anthropological premise that each human being is an integrated unity of body and soul, although it may also be compatible with other anthropological commitments. From the perspective of a non-dualist anthropology, our bodies reflect and shape our identities, manifesting our emotions and implementing our intentions; they express not only our enduring underlying personalities, but also our shifting moods. On this view, individuality and bodily distinctness are deeply connected. This is not to deny the importance of sociality. While human persons are essentially social, our sociality cannot be understood in a way that denigrates our individuality as distinct beings. In fact, it is as embodied *individuals* that we are called to participate in some of the most fundamental social bonds, including marriage. More broadly, physical distinctness from every other person facilitates a broad range of social relationships and roles, ranging from giving confidential professional or pastoral advice to enjoying a quiet outing with an old friend. Not insignificantly, it also creates the possibility of being left entirely alone from time to time. Consequently, on this view, it is not only statistically normal for each person to have a bodily identity that is separate from that of other people, it is ontologically normative. A baby being born physically joined to his or her sibling, like a baby being born without the capacity to see, is a serious instance of ontic evil, a *privatio boni* that is ripe for human correction. It may be accepted as part of God's permissive will

¹³ In my view, this is the correct way to describe the operation from a moral perspective. The surgeons' aim was to separate the twins, not to kill Mary. Moreover, Mary's death was in no way a means to the separation; it was a foreseen but unintended side-effect. She died because "her" heart and lungs were damaged beyond repair; she would not have survived long after birth had not her circulatory system been assisted by its connection with the circulatory system "belonging" to Jodie. Unfortunately, English law has been deeply mistaken on the question of intention, as have many contemporary British philosophers. English law now equates effects foreseen as virtually certain with intended effects in the context of prosecutions for murder. See *Reg. v. Woollin* [1999] 1 A.C. 82.

if it cannot be ameliorated, but it is in no way should it be considered part of God's positive will for human beings.

The Bodily Distinctness View generates a corresponding understanding of the moral norm of bodily integrity. Closely connected to the ontological norm of bodily distinctness is the moral norm of bodily integrity. As a negative norm, it protects *each individual* from unwanted and wrongful contact with his or her body. Because bodily integrity has long been recognized in the Western world as an essential aspect of human personhood, there are powerful legal and moral restrictions against its wrongful invasion. For example, in both England and the United States, anyone who touches another person's body (or even an object closely attached to the body, such as a cane or a piece of clothing) without his or her consent commits the tort of battery, *even if* such touching does the victim no lasting harm.¹⁴ In fact, under contemporary American and English law, a physician who performs even a beneficial medical procedure upon a legally competent patient without having first obtained that patient's informed consent has committed a tort. A key piece of individual integrity is co-extensive with individual embodiment; respecting persons' integrity prohibits the invasion of their physical space without their acquiescence.¹⁵

The Catholic moral tradition also has long recognized the importance of bodily integrity. It has long held that an individual can repel attacks on his or her person with proportionate force, including lethal force if necessary.¹⁶ Moreover, in the case of individuals incapable of self-defense, those responsible for their well-being must act on their behalf to repel the threat.¹⁷

The norms of bodily distinctness and bodily integrity also govern the degree to which individuals can be expected to risk their own life for others, not only in general but in the case of organ donation in particular. First, neither positive law nor Catholic moral theology obliges one to come to the aid of another at grave risk to one's own health, bodily integrity, or life, except if one has a special duty toward the person needing aid (e.g., a police officer with respect to a potential victim of a crime or a parent with

¹⁴ See W. Page Keeton et al., *Prosser and Keeton on Torts*, 5th ed. (St. Paul, Minn.: West, 1984) 39–42 (American law) and W.V.H. Rogers, *Winfield and Jolowicz on Tort*, 15th ed. (London: Sweet & Maxwell, 1998) 63–66 (English law). There are certain exceptions, not relevant here.

¹⁵ The law presumes consent in the case of incompetent patients in need of emergency life-saving treatment.

¹⁶ See, e.g., *Catechism of the Catholic Church* (New York: Doubleday, Image, 1994) para. 2264: "Love toward oneself remains a fundamental principle of morality. Therefore it is legitimate to insist on respect for one's own right to life. Someone who defends his life is not guilty of murder even if he is forced to deal his aggressor a lethal blow."

¹⁷ "Legitimate defense can be not only a right, but a grave duty for someone responsible for another's life, the common good of the family or of the state" (*Catechism of the Catholic Church*, para. 2265).

respect to a child).¹⁸ Second, bodily organs are not fungible; they “belong” to a particular person; indeed, on a non-dualistic view, they are an aspect of his or her very being. Each person has an absolute claim on his or her own organs; no one has a claim in justice to a “spare” organ of another person, even if a transplant is necessary to save one’s life. While it can be a praiseworthy act of self-gift to donate an organ under some circumstances, it is ordinarily not permissible to do so under circumstances that would severely compromise the donor’s own independent physiological functioning.

The high priority that this view assigns to an individual’s bodily distinctness directly affects how it approaches the challenge of “assigning” particular organs to each baby in a pair of conjoined twins. Beginning from the premises that human organs are designed to support only one person, and that no person is entitled to more than a full complement of organs, it will assume until proven otherwise that each organ in the common torso of conjoined twins can be assigned to one or the other baby, depending upon a medical determination of how integrally that organ is connected with each of the relevant physiological systems. More specifically, since the common torso shared by Jodie and Mary included two hearts and four lungs, this view would assume that one heart and two lungs could be identified to each baby, by examining how the organs were connected to each baby’s cardiovascular system. An organ would be deemed to be a “shared” organ if and only if it was equally enmeshed with the relevant systems of both babies. In the case at hand, the Bodily Distinctness View would likely accept the doctors’ determination that the functioning heart and lungs “belonged” to Jodie, while the defective organs were Mary’s.

The Babies’ Relationship

After fixing the scope of each baby’s bodily distinctness by determining which organs belong to whom, the Bodily Distinctness View would go on to draw upon the norm of bodily integrity to generate morally salient descriptions of the dynamic relationship between Jodie and Mary. The key thing to note about this perspective is that it presupposes there *is* a relationship and that it is in some sense dynamic; that one baby who should be,

¹⁸ In an example of excessive individualism, most common law jurisdictions (e.g., in the United States and the United Kingdom) do not impose a general “duty to aid,” even in cases where an individual can save another person from grave harm at little or no inconvenience to oneself. In contrast, most civil law jurisdictions (e.g., France) do impose such a duty, provided that those called upon to furnish assistance will not incur an excessive burden or risk in doing so. See Martin Vranken, “Duty to Rescue in Civil and Common Law: Les extrêmes se touchent?,” *International and Comparative Law Quarterly* 47 (1998) 934–42.

but is not, distinctly embodied, is having some impact upon the other baby, who should be, but is not, distinctly embodied. Two descriptions of this relationship spring to mind.

First, we could say that Jodie is “rescuing” Mary by pumping oxygenated blood through her veins. Jodie, at great cost to her own well-being, is preserving her from death, by taking over the functions of her heart and lungs. Since Jodie has no duty to rescue Mary, she can be helped to “let go,” even though it will have fatal consequences for her sister. Second, we could say that Mary is unjustly harming Jodie, albeit unknowingly, unwillingly, and entirely without malice. Someone working within the framework of Roman Catholic casuistry might be tempted to use the phrase “materially unjust aggression” to describe the drain Mary’s cardiovascular system places on Jodie, because it covers situations in which one individual inflicts an unjust harm upon another, although he or she is morally innocent of causing that harm.¹⁹ Since Jodie is not obliged to accept this harm, she (through her parents or guardians) is justified in repelling Mary’s life-threatening attack on her heart and lung capacity.

These descriptions of the relationship between Mary and Jodie are analogous; like all analogies, they are accurate in some ways, and inaccurate in others. They are accurate in that “rescuing” and “aggression” are the most common ways in which one human being can have the sort of effect upon the physical well-being of another human being that Jodie and Mary have upon one another. They are inaccurate in that the concepts “rescuing” and “aggression” both presuppose an element that is lacking from the case of conjoined twins: agency. They usually describe a relationship involving action, generally but not always intentional action. Because two live-born human beings are normally physically distinct from one another, our paradigmatic instances of both concepts involve some kind of act on the part of one that has some physical impact on the other. If we analogously attribute the missing element of agency to Jodie, we describe the situation in terms of one baby “rescuing” the other; if we attribute that element to Mary, we describe it as “aggression upon” or as “harm to” the other.

There are two basic objections that can be mounted against these descriptions of the relationship of the twins to one another, each of which reveals a very different sort of unease with the analogy. First, and most radically, one could contend that both descriptions are deeply distorted and misleading, because neither baby in fact is “doing” anything to the other; the babies simply continue to “be” with one another in the very same two-in-one way that they came into existence together. More specifically,

¹⁹ For example, a mentally insane person who chases another person with an ax, thinking him or her to be a chicken, would be a materially unjust aggressor.

the twins' common body is clinging to mortal life as long as it can—the one heart that pumps for them both will pump until it gives out, the one set of lungs will breathe for them both until taxed beyond capacity. This objection cuts down core presuppositions of the Bodily Distinctness View; in effect, it denies that it is appropriate to describe the situation in terms of the effect that one distinctly embodied baby has upon another distinctly embodied baby. Moreover, it points as an alternative toward a very different way of understanding the embodied relationship between the little girls, which I call the Bodily Relatedness View and which will be fully examined later in this article.

There are, however, two related objections to the use of these terms that remain well within the framework supplied by the Bodily Distinctness View. These objections assume that Jodie and Mary should be seen as distinctly embodied persons who properly can be said to be having (or causing) some effect upon one another. They question, however, whether describing those effects in terms of “rescuing,” “aggressing upon,” or “harming” is morally illuminating, because those terms have connotations that are misleading when applied to this case.

The first objection focuses on the fact that these terms generally imply something about the *moral character* of the agent who performs them, and argues that these implications are inappropriate in the case of the babies whose lives are at stake here. To describe Jodie as “rescuing” Mary suggests that she is engaged in a morally praiseworthy act, while describing Mary as “inflicting harm upon” or “unjustly aggressing upon” Jodie implies that she is engaged in a morally culpable act. From the perspective of abstract moral theory, both of these attributions are equally mistaken, because neither baby is capable of an intentional act that is susceptible to praise or blame. From a vantage point that is sensitive to the enormous human tragedy of the situation, however, the second description is far more objectionable; indeed, it is offensive. To describe Mary as an “aggressor” or as a “harmdoer” literally seems to be heaping insult upon injury, casting a tiny, helpless victim—born under the most unfortunate circumstances imaginable—in the role of a villain.

The response to this objection is to examine more carefully how the actual moral character of either baby could bear upon our assessment of the surgical separation, which would be viewed either as ending the “rescue” or putting a stop to the “aggression.” It turns out that its relevance is the opposite of what those mounting the objection may have expected. On the one hand, suppose we view the case through the lens of “rescue.” It is precisely *because* Jodie is not engaged in a fully human act of altruism in “rescuing” her sister that those responsible for her well-being may, indeed, must put a stop to the rescue. If a four-year-old child instinctively ran back into her burning house in order to save her baby brother, her parents would

be obliged to stop her, even if there was a limited chance of success. Such a child is not in a position to make a free choice to expose her own well-being to such grave risk, even for the sake of a loved one.²⁰

On the other hand, if we describe the situation as one of “aggression” or “harm,” the surgical separation is justified *notwithstanding* the fact that Mary is not morally guilty of the harm that she does to her twin sister. The Roman Catholic moral tradition has long recognized that it is proper to use force to repel not only formally (intentionally) unjust aggression, but also materially (unintentionally) unjust aggression (e.g., the case of a mentally disturbed person who attacks a bystander with a knife, thinking she is a cantaloupe). The category of a materially unjust aggressor reveals that it is legitimate for us to stop the aggression with lethal force, while recognizing that it morally *inappropriate* to blame the aggressor. In fact, it cannot be emphasized enough that the category of “material unjust aggression” in and of itself does not impute moral responsibility to the aggressor; rather, it explicitly relieves him or her of such responsibility.²¹

So, one objection to using the terms “rescue” or “harm” or “aggression” to describe the relation of one twin to the other focuses upon the inappropriateness of applying the moral connotations of these terms to newborn

²⁰ In the 1970s, Paul Ramsey and Richard McCormick, S.J., debated the validity of using children and other non-competent individuals in non-therapeutic research. Ramsey argued that enrolling children in research violated our obligation to treat them as children whom we were obliged to protect, not to use as means to our own ends. In contrast, McCormick argued that children, as social beings, have an implied obligation to participate in such research, provided that it involved minimal risk to them. Neither Ramsey nor McCormick would have sanctioned subjecting children to experimental procedures involving substantial risk, since that would involve an act of altruism on behalf of the common good that no child is capable of making. See Richard A. McCormick, S.J., “Proxy Consent in the Experimentation Situation,” in *Love and Society: Essays in the Ethics of Paul Ramsey*, James Johnson and David Smith (Missoula, Mont.: Scholars, 1974) 209–27; Paul Ramsey, “Enforcement of Morals: Nontherapeutic Research on Children,” *Hastings Center Report* 6 (August 1976) 21–29. However, both moralists might have justified parental consent to one child’s donation of blood, bone marrow, or perhaps even a non-essential organ to his or her sibling, on the grounds that the donor is benefitted by the continued presence of the recipient brother or sister in his or her life.

²¹ Note, however, that Pope Pius XI rejected this argument with respect to therapeutic abortions, which he understands to be intentional (“direct”) killing of innocent life. “It is of no use to appeal to the right of taking away life for here it is a question of the innocent, whereas that right has regard only to the guilty; nor is there here question of defense by bloodshed against an unjust aggressor (for who could call an innocent child an unjust aggressor?).” Pope Pius XI, *Christian Marriage* (Washington: USCC, 1969) 22. In my view, the Pope’s understandable sympathy for the fate of the baby obscures the fact that the doctrine of material unjust aggression is designed to safeguard the moral innocence of all such aggressors, not merely those who are sympathetic in size and appearance.

babies. After examining the situation, we have seen how the fact that neither baby is capable of the moral qualities normally associated with such acts does not bar the analogous use of those terms to justify the surgery.

But there is a second, more powerful, objection, which can be seen most clearly by examining another aspect of the resistance to calling Mary even a “*material unjust aggressor*” against Jodie. Rather than focusing on the question whether or not Mary can be said to be “unjust” (culpably or not), this objection concentrates on the logically prior issue whether or not she properly can be said to be an “aggressor.” More specifically, it questions whether Mary is acting in a way that can be said to be *aggressive* (i.e., threatening to Jodie), even when viewed from a purely external perspective that precludes from her moral culpability. This objection can also be posed more radically, questioning whether Mary can even be said to be “acting” at all, let alone acting “aggressively.” These two questions raise a third: Even if Mary cannot be said to be acting in an objectively aggressive way, or even to be “acting” at all, can the threat she poses to Jodie nonetheless properly be repelled?

Aggression and Threats

To those who want to bring the resources of the Roman Catholic moral tradition to bear in grappling with the problem of separating conjoined twins, these questions are by no means insignificant. More specifically, over the past century and a half, the manualists considered the similar question of whether an unborn child could be considered a materially unjust aggressor against its mother for purposes of justifying a craniotomy in order to save the mother rather than allowing both her and the baby to die. Arguing against the permissibility of such an operation, many manualists did in fact argue that the proper use of the category of material unjust aggression required an act of some sort on the part of the aggressor. For example, Marcelino Zalba, S.J., maintains that “it is not held to be aggression without the [aggressor’s] use of powers, which [use] through itself, attacks and wounds a subject separated from the agent; therefore, the mere presence of a human subject, with its inevitable consequences, cannot be called aggression.”²²

The core of Zalba’s point is that material unjust aggression requires: (1) some exertion (2) on the part of the person in question that (3) when viewed purely from an external perspective looks like an act of aggression.

²² Marcelino Zalba, *Theologiae moralis summa 2: De mandatis Dei et ecclesiae, de statutis particularibus* (Madrid: Biblioteca de Autores Cristianos, 1957) 89: “Sane, non habetur aggressio sine usu facultatum qui per seipsum attingat et laedat subiectum ab agente distinctum; unde sola praesentia subiecti humani cum consequentiis necessariis, nequit dici aggressio.”

The key distinction he draws is between a person's "mere presence," which does not trigger the appropriate use of the category of unjust aggression, even if the presence is harmful to another, and his or her "use of powers which through itself attacks and wounds" another. But in what sense, and for what purpose, is this distinction useful? Is it ultimately defensible? I believe not, for the reasons outlined below.

First, consider the following range of seven scenarios in which one person might pose a physical threat to another. Assume in each case that the protagonist Pauline has no alternative to the course of action identified to escape the peril confronting her.

The (Ethically Illuminating) Perils of Pauline

1. Ann, a fully competent adult, attacks Pauline with the intent of beating Pauline to death because Pauline won the lottery instead of her. Can Pauline repel Ann with deadly force?
2. Bob, who is insane, attacks Pauline with the intent of beating Pauline to death, because Bob wrongly believes that Pauline is sending cosmic death rays in Bob's direction. Can Pauline repel Bob with deadly force?
3. Carla, an epileptic, has a violent seizure in a small, closed-in room, placing Pauline in extreme physical danger. Can Pauline repel Carla with deadly force?
4. Don, who wrongly hates Pauline, picks up Edna, turns her into a human cannonball, and hurls Edna directly against Pauline in order to harm her. Can Pauline repel Edna with deadly force?
5. Francis, who does not know that he carries a deadly, highly contagious EBOLA-like virus, is piloting his single-seat private plane and about to land on Pauline's private island, which Pauline shares with 100 helpless orphans. Can Pauline, who knows about his condition, shoot down the plane?
6. Gigi is relaxing on Pauline's private island, when she contracts the deadly, highly contagious virus. Can Pauline kick Gigi off the island into shark-infested waters?
7. Herbert is mountain-climbing with Pauline, and they are roped together for safety. Herbert falls off the edge of a cliff, and slowly but surely is pulling Pauline over the edge with him. Can Pauline cut the rope?

How would the manualists' restrictions on the use of the category of unjust aggression parse these cases? Clearly, No. 1 is a case of formal unjust aggression justifying *cruenta defensio* (defense with lethal force). Just as clearly, if any case exemplifies what Zalba would count as material unjust aggression, No. 2 does. As we progress down the list, however, we move further and further from these central cases of unjust aggression. At the

same time, it is not clear that Pauline's life-saving actions are not justified in these cases as well.

Consider No. 3. Like Bob in No. 2, we can easily say that Carla has not committed what Aquinas would call a fully human act (because it does not arise from full knowledge and will).²³ We can go further, however, and say that it is not even "an act of a human being" (what Aquinas would call habits such as stroking one's beard),²⁴ because the movements of her epileptic seizure are completely removed from Carla's voluntary control. It is hard to say that she is the subject of the act; in a real sense, she is as much the object of the movements as their subject, although they originate within her because of some abnormality in her nervous system. Nonetheless, her nonvoluntary movements are threatening Pauline's physical safety in precisely the same way that Bob's imperfectly voluntary actions are. For this reason, we may be able to squeeze Carla into the category of a material unjust aggressor, although just barely. If Pauline can repel Bob's threat to her, then it is hard to say that she should not be able to repel Carla's threat.

What can we say about Edna, whose situation is described in case No. 4? As she hurtles through the air, Edna is posing no less a threat to Pauline than do Ann, Bob, and Carla. But there is a crucial difference between her case and those of the others. The energy propelling her movement through the air has its source entirely outside her—in the will of evil-doing Don. This fact itself places the situation outside Zalba's criteria, which presuppose that in repelling the aggression, the threatened party will be directing his or her force against the aggressor. Here however, the two are entirely distinct; Edna is as much an object of unjust aggression—indeed as much a victim of unjust aggression—as is Pauline. Nonetheless, the difference does not seem to be decisive. In the case of both Carla and Edna, Pauline seeks only to repel a physical contact that will do her harm. It seems she is justified in protecting herself from Edna, who is now a human projectile with the likely prospect for Pauline of just the same violent and destructive contact as contact with Carla would cause. Is Pauline also justified in taking several severe life-threatening blows at Don (assuming he had no more projectiles to aim in her direction)? No, because in this case, such blows would not stop the threat to her; they could only be considered an act of private vengeance.

What about Francis and Gigi, who suffer from a deadly virus in Nos. 5 and 6? Again, they fall well outside the range of Zalba's criteria for material unjust aggression. In fact, there is no human "aggressor" at all in

²³ Thomas Aquinas, *Summa theologiae* 1-2, q. 1, ob. 3 and resp.

²⁴ *ST* 1-2, q. 1, a. 1.

either case; Francis and Gigi are both victims of the virus. There is motion in Francis's case, no motion in Gigi's. However, the approach of Francis's plane is not motion that, when viewed from an external perspective, looks like aggressive action. Nonetheless, even if Francis and Gigi are not aggressors in any sense of the word, their presence still poses a threat to Pauline and the other inhabitants of the island. They seem entitled to repel that threat, which cannot be done without at the same time repelling Francis and Gigi.

Finally, consider No. 7, which is one step beyond No. 6 in its removal from Zalba's criteria. Herbert is not an "aggressor." Nor is he engaged in any motion at all, let alone a motion associated with aggression. Furthermore, in this case, there is no agent, human or otherwise, that can even analogously be called an aggressor (like the deadly virus). Nonetheless, under these circumstances, the rope connection between Herbert and Pauline poses a great threat to Pauline's life and well-being; she is entitled to repel that threat by severing the connection. In fact, this example reveals the porous nature of the boundary between a "rescue" and a "threat." For the first (say) twelve hours of their ordeal, we would describe Pauline as "rescuing" Herbert, which she was able to do by the rope connection between them. After it became clear that there was no hope of saving him, Herbert could be viewed as a threat to Pauline, by virtue of that very same connection.

Taken together, I believe these seven examples suggest the following five points. (1) There are times when Pauline is justified in acting with the aim of repelling threats that are made to her physical safety and well-being, even in cases where one consequence of repelling such a threat is the certain death of another human being. (2) One type of threat, but *only* one type, is posed by an agent who acts in a manner that an external observer would characterize as "aggressive" (i.e., an aggressor who attacks Pauline through physical motion that has its source within him or her) and whose aggression can be repelled only through the use of force against the aggressor himself. (3) In cases where there is a separation between the unjust aggressor and the source of the threat, Pauline's only legitimate course of action is to repel the threat, rather than to attack the aggressor. (4) Pauline appears entitled to repel the threat even in cases where her action will cause physical harm to someone who is not only not an "unjust aggressor," but is also neither "unjust," nor an "aggressor," nor even an agent who has engaged in some other type of act than an aggressive act. (5) It appears that Pauline's justification in repelling her various perils depends upon two distinct factors: our sense that her aim or intention is to repel the threat (rather than to do harm to the person who poses it) and our sense that the harm she does cause to that person is not disproportionate or unfair, given the circumstances of the case.

Material Unjust Aggression: An Unstable Category

The category of unjust aggression as formulated by Zalba simply cannot accommodate all of Pauline's perils, as described above. How, then, should we think about his criteria for the defensible use of lethal force (*cruenta defensio*)? The key, I think, is to place him in the context of the casuistical tradition in which he writes. That tradition has long been ambiguous about whether or not it is permissible for a private individual intentionally to kill an unjust aggressor in order to defend him or herself. In a famous passage in the *Summa theologiae*,²⁵ Thomas Aquinas suggests that it is a necessary condition of legitimate self-defense that the death of the aggressor be a side-effect (*praeter intentionem*) of an act whose intent was to repel the aggression. However, other Catholic moralists did not agree with him. While they maintained with Aquinas that it is never permissible intentionally to kill the innocent, they also believed that it was permissible intentionally to kill an aggressor in self-defense. In general, the manualists' treatment of the question of self-defense is framed by their sense that what they may be justifying is intentional killing by a private party,²⁶ although they recognize that the tradition offers an alternative way of framing the issue.²⁷ The category of "unjust aggression" became an important way of both authorizing and limiting intentional killing. In the core instance, it was precisely the unjust aggressor's lack of moral innocence, his or her own intentional efforts to do immediate harm, that for those moralists provided the grounds for intentionally killing him or her.

What, then, can be said about the category of material unjust aggression as it developed in the tradition? I suggest that it is best viewed as a highly unstable extension of the category of morally culpable unjust aggression. First consider why and how it is an extension. When faced with a case involving an assault by a mentally ill person, the manualists confronted a

²⁵ *ST* 2–2, q. 64, a. 7.

²⁶ Zalba's phrasing nicely captures the equivocation and uncertainty: "Cruenta defensio *saltem indirecta*, contra iniustum aggressorem actualem licet ad vitam, integritatem membrorum aliaque bona magni valoris, propria vel aliena, servanda, cum debito moderamine" (Zalba, *Theologiae moralis summa*, 1957 ed., 76, emphasis mine).

²⁷ Augustin Lehmkuhl, S.J., (1834–1918) summarizes the tradition: "Discrepant autem scriptores, si explicandum est, utrum liceat directe velle necem aggressoris, an oporteat sistere in indirecta illius necis volitione. Lugo *de just.* d. 10 n. 148 sqq. aliique non dubitant asserere, licere prorsus directe velle necem aggressoris, si alia via evadendi satis tuta non sit nisi ejus occisio; alii cum S. Thoma II.II. q. 64 art. 7 volunt potius, totam voluntatem ferri tantum posse in conservationem propriae vitae et hinc in repellendas vires aggressivas, mortem alterius non intendi, sed solummodo permitti posse; idem ac de morte dic de gravi seu periculosa laesione" (*Theologia moralis*, 1, 10th ed. [Freiburg: Herder, 1902] 494).

situation that *looked* no different from that of unjust aggression by a person possessed of full powers. Because the action theory of most manualists was heavily externalist (i.e., they frequently described the object of an action in terms of its visible effect, rather in terms of the immediate purpose of the agent performing it), it was easy for them to conclude that the material unjust aggressor was “doing the same thing” as the formal unjust aggressor, and therefore could be treated in the same way.²⁸ Moreover, they assumed that treating the material unjust aggressor “in the same way” as the formal unjust aggressor meant permitting intentional killing. Because they believed themselves to be justifying intentional killing, they held the line at that point, refusing to permit one to engage in self-defense with lethal force in cases that did not “externally” look like aggression.

Now consider why it is an *unstable* extension. On the one hand, as we saw in Pauline’s case, the material unjust aggressor (Bob) is no *less* morally innocent than any of the other individuals who threatened her safety but did not qualify under Zalba’s criteria. So why is it acceptable to take lethal action against him but not them? On the other hand, Bob is no *more* of a threat to Pauline’s safety than are Carla, Edna, and the rest. Why is it acceptable to repel the threat in his case but not theirs? As it appears in the manuals, the category of material unjust aggression uneasily straddles the disagreement between Aquinas and the later manualists: should we conceive of the problem of legitimate *cruenta defensio* (literally, “bloody defense”) as involving intentional killing, or should we see it as intentional self-defense, with death as a foreseen but unintended side effect?

We can no longer tolerate the stress of internal contradictions, but must face the questions head on. If we conceive of *cruenta defensio* as intentional killing, then consistency requires us to limit it to morally culpable unjust aggressors. If we conceive of it as intentional self-defense against a threat to one’s life or well-being, with the foreseen but unintended side-effect of the death of a human person (innocent or not), then consistency requires us to allow such self-defense against all such threats, whether or not the human being who dies fits the external profile of an “aggressor”—provided that we have judged that causing the death of a human being is justified in other respects. What this judgment might involve I address in what follows.

Fairness and Bodily Integrity

Currently, magisterial teaching has returned to Aquinas’s way of framing the question, appearing to prohibit all intentional killing by private par-

²⁸ By contrast, an adequate action theory that identifies the object by looking at the immediate purpose of the agent would not acknowledge that the two are doing the “same thing” from a moral perspective.

ties.²⁹ Legitimate self-defense with lethal means is not understood as intentionally killing the aggressor, but as intentionally repelling a threat to one's physical safety, foreseeing but not intending the death of another human being in the process. So the category of "material unjust aggressor" can no longer be used to justify intentional killing in the manner contemplated by some manualists. Can we salvage any role for the category, or retrieve any moral wisdom from its use? I believe we can. For an action that foreseeably results in the death of another person to be morally permissible, it is necessary, but not sufficient, that the death not be intended by the agent. Additional criteria must be met. For example, there must be a proportionate reason to use lethal force, which implies both that there must be no other way to repel the threat and that the use of such force is likely to be effective. And it also must be *not unfair* for the person acting in self-defense to cause the other's death.³⁰ But how do we decide what is fair in the context of an action that foreseeably, albeit unintentionally, causes the death of another person? This is a difficult problem. Germain Grisez has proposed not an algorithm, but a method of discernment, to begin addressing it. In particular, he urges us to use the Golden Rule to screen out wrongful partiality in evaluating who should bear the burden of deleterious side effects.³¹

Using any method of discernment, however, requires drawing upon our own complicated, background sense of a baseline of just relations between people. For example, one element of fairness is who brought the problem about in the first place. We might agree that it is not fair for a hit man to repel with deadly force the threat that his intended victim's self-defense posed to him. The hit man, we would say, started it all; if he suddenly decides to act justly, he should refrain from self-defense and recognize that he brought his own death upon himself.

A second element of fairness, I believe, is generated by a baseline sense of what is "me and mine." Consider again case No. 4, involving Pauline and Edna, the human cannonball. Both Edna and Pauline are morally innocent. Assume that we cannot solve the problem by invoking "proportionate

²⁹ *Catechism of the Catholic Church*, para. 2264.

³⁰ This criterion applies to all unintended but foreseen killing, ranging from private individuals engaging in self-defense and to countries engaging in a just war. See John Finnis, Germain Grisez, and Joseph Boyle, "'Direct' and 'Indirect': A Reply to Critics of Our Action Theory," *Thomist* 65 (2001) 26 and National Conference of Catholic Bishops, *The Challenge of Peace: God's Promise and Our Response* (Washington: USCC, 1983) para. 105.

³¹ See Germain Grisez *The Way of the Lord Jesus, 2: Living a Christian Life* (Quincy, Ill: Franciscan, 1993) 482–85 ("Norms for Accepting Death as a Side Effect"); vol. 3, *Difficult Moral Questions* (Quincy, Ill: Franciscan, 1997) 865–67 ("The Golden Rule").

reason.” If Pauline knows that, depending upon her choice, either she or Edna will survive, it seems fair for Pauline to choose to repel the threat that Edna poses. Edna is about to crash into Pauline’s body, to damage her fundamental integrity. Pauline, in contrast, is not about to crash into Edna’s personal space. It is here, I think, that the kernel of truth in the category of “material unjust aggressor” can be found. It captures the sense that we have a basic interest in protecting our bodily integrity from invasion (by which I mean harm caused by an external source) whether or not it is caused by an innocent person, whether or not it can be characterized as “aggression.”³²

But how do we specify that interest; how do we identify what counts as “invasion”? That depends upon which paradigm of bodily integrity we adopt. We all may agree that Pauline has the right to protect herself from Edna, whose functional effect upon her is no more or less than that of a human projectile. But what about the hard cases? What about situations in which the threat arises in the context of an ongoing, close embodied relationship, such as the one that characterizes the conjoined twins? In these cases, I believe that what counts as “fair” will partly be determined by one’s background anthropological views about embodiment and bodily dependence. More specifically, the Bodily Distinctness View and the Bodily Relatedness View are likely to give somewhat different answers in these cases.

In the case of Jodie and Mary, for example, the Bodily Distinctness View would describe the situation as Mary latching onto Jodie’s cardiovascular system. Like Francis and Gigi (virus carriers), and Edna (the human projectile), Mary is as much a victim of the situation as is Jodie. Like Pauline, Jodie is simply trying to protect herself (or her parents and doctors are trying to protect her) from harmful physical contact. She is trying to defend what is hers, at the level of bone and blood and sinew. She is trying to protect her body from a physical contact that will cause great harm to her. In conducting the operation, the physicians are not acting on Jodie’s behalf to repel an “unjust aggressor” in any usual sense of the term. Mary can be considered neither a material or formal unjust aggressor according to Zalba’s criteria. Nonetheless, from the perspective of the Bodily Distinctness

³² Grisez uses the Golden Rule as a device for discerning the requirements of both justice and mercy, both of which he holds are obligations of the Christian. So, for example, he contends that “when no duty requires the use of deadly force in personal self-defense, mercy, the justice of the kingdom, should prompt one to suffer death rather than defend oneself by means that would bring about the death of an assailant, for whose eventual salvation one should hope” (Grisez, *Living a Christian Life* 484). On the Golden Rule as a “moral maxim of complete mutuality,” see John Topel, S.J. “The Tarnished Golden Rule: (Luke 6:31): The Inescapable Radicalness of Christian Ethics,” *Theological Studies* 59 (1998) 475–85.

View, the physicians are repelling a threat to Jodie that is constituted by Mary's harmful physical invasion of Jodie's body, which in some sense is analogous to the harm caused by aggression. This is the significant kernel of truth that can be found in efforts to label her a material unjust aggressor. It helps us to resolve the fairness issue involved in foreseeably but unintentionally causing someone else's death, by asking us to give priority to the person seeking to defend his or her own bodily integrity from unprovoked invasion.

Broader Implications of the Bodily Distinctness View

Finally, I would like to indicate some of the broader implications of the Bodily Distinctness View for the resolution of the more general question whether conjoined twins should be separated. In some respects, the case of Jodie and Mary is the least difficult scenario imaginable, since without the operation, both babies would soon be dead. But suppose a slightly different situation, in which Jodie's heart would be able to support Mary indefinitely. On this view, would the surgical separation be justified even in this case?

Yes. Even if Jodie's connection to Mary does not kill her, it gravely impedes her flourishing. It will prevent her from ever walking, and even from sitting up properly. It will impede her participation in forms of life that are greatly facilitated by bodily distinctness, such as marriage. On the analogy that sees Jodie as providing life support to Mary, one would argue that Jodie has no duty to do so under circumstances that will gravely hamper her own flourishing. Her parents have no right to expect her to sacrifice her own bodily integrity in order to support her sister's failing heart and lungs, any more than they would have a right to expect one non-conjoined twin to donate an organ to save the other's life, if she would sacrifice the expectation of a normal, independent life by making such a donation. On the stronger analogy that treats Mary as similar to a materially unjust aggressor in the nature of the threat she poses to Jodie's well-being, one would argue that an individual is entitled to repel not only threats of death, but also threats of grave bodily harm, with lethal force.

One important question remains. Are there any circumstances under which the Bodily Distinctness View would oppose a surgical separation? Yes, in those cases in which both babies benefit from the connection, and neither one would survive or thrive after a separation. In such cases, neither baby can live a life of bodily independence. The commitment to bodily distinctness is strong; it is not absolute.

It might appear that the Bodily Distinctness View is very permissive with respect to the justification of operations to separate conjoined twins. From one perspective, this appearance is correct, since it gives a high priority to

the stronger twin's ability to live life in a body that belongs to him or her alone. From another perspective, however, the appearance is significantly deceptive. The Bodily Distinctness View protects the physical integrity not only of the stronger baby, but of the weaker baby as well. Consequently, it sets stringent moral limits on the possibility of physicians creating one independently viable baby out of the bits and pieces of two mutually dependent babies. For example, if Mary's lungs had breathed for both babies, while Jodie's heart had pumped for them both, then this view would not authorize a separation, even if it were physically possible to reassign either the lungs or the heart from one baby to the other. In no case may the weaker twin be viewed as a source of "spare parts" to facilitate a better life on the part of the stronger.

THE BODILY RELATEDNESS VIEW

The Bodily Distinctness View does not provide the only way of framing the relationship between conjoined twins. It is also possible to look at the situation from a vantage point that views Bodily Relatedness (and dependence) in a far less negative way. On the Bodily Relatedness View, the fact that conjoined twins share some aspect of their embodied existence may be uncommon, but it is not necessarily a serious ontological evil to be remedied by separation if at all possible. While bodily distinctness and independence are undeniably significant goods, their importance should not be exaggerated. In fact, we might well view conjoined twins as a vivid and radical symbol of the interdependence (or dependence) that most human beings experience during the course of their lives. Unborn children are physically connected to their mothers, upon whom they are completely dependent for nurture and protection. While the bodies of normal infants and small children are physically distinct from their parents, their level of dependence is nearly as great as that of the unborn, as is their need for physical contact with their parents, particularly their mothers. Persons with disabilities, both medical and physical, are to various degrees dependent upon others for their support; like conjoined twins, some of them may be even deprived of the opportunity to be alone for significant periods of time. Finally, those persons fortunate enough to live to a ripe old age may also find themselves physically dependent upon other persons for their care. From the perspective of the Bodily Relatedness View, these aspects of human existence should not be denigrated as abnormal, but must be incorporated into an adequate normative position on the meaning of bodily integrity.

Describing the anthropological implications of the Bodily Relatedness View is far more difficult than describing those of the Bodily Distinctness View. The contours of the latter are ready-made; each embodied person

has or should have a sphere of personal space—a physical zone that is “him and his” or “her and hers,” and that does not belong to anyone else. One can develop a general maxim for the Bodily Distinctness View: “To each person belongs his or her own body, not as a possession, but as a constituent element of himself or herself.” In contrast, there is no generally applicable maxim that outlines the anthropology of the Bodily Relatedness View, which by its nature forces us to attend to the facts and circumstances of each class of relationship, and sometimes, to the facts and circumstances of each particular relationship within the class. The relationship between a pregnant woman and her unborn baby is not the same as the relationship between two conjoined twins; the relationship between conjoined twins who share one torso (like Jodie and Mary) may not be the same as the one between those who are connected only by a single band of skin and cartilage (like Chang and Eng Bunker, the “Siamese Twins”).

It is far more difficult, I believe, to grasp the inner logic of the Bodily Relatedness View than that of the Bodily Distinctness View, particularly in Western cultures that prize individual autonomy. In particular, it is hard to resist the temptation to characterize the relationship of support and dependence as a purely voluntary one, which was begun and continues as a matter of choice, at least on the part of the stronger party. Those who succumb to this temptation will continue to believe that each party’s true identity is not affected by the relationship; giving and receiving support is something that one *does* (and continues to do) by choice, not as an aspect of who one *is*. They thereby will quickly take refuge in presuppositions more in line with the Bodily Distinctness View, without ever attempting to view the world through the lenses provided by the Bodily Relatedness View. Consequently, we need to pay attention to first-person descriptions of how one might perceive dependence and connection from this perspective before proceeding with anthropological and moral analysis.

For example, drawing upon her own experience, the feminist sociologist Barbara Katz Rothman has described how many mothers and babies who sleep side-by-side synchronize their sleep-wake cycles.³³ She contends that American society, with its emphasis on individualism and penchant for

³³ Barbara Katz Rothman, *Recreating Motherhood: Ideology and Technology in a Patriarchal Society* (New York: W.W. Norton, 1989) 98. See also Stephanie A. Demetrakopoulos, “The Nursing Mother and Feminine Metaphysics: An Essay on Embodiment,” *Soundings* 65 (1982) 430–43; Sidney Callahan, “Self and Other in Feminist Thought,” in *Duties to Others*, Courtney S. Campbell and B. Andrew Lustig (Boston: Kluwer, 1994) 55–69. I do not mean to suggest that there is only one perspective on the meaning of motherhood or the nature of the mother-child relationship in feminist thought; that is clearly not the case. See the essays in Joyce Trebilcock, ed., *Mothering: Essays in Feminist Theory* (Totowa, N.J.: Rowman & Allanheld, 1983).

mind-body dualism, does not pay sufficient attention to the social relationship between mother and child, which begins before birth. "If we were to recognize the continuity, the continuing connection between a mother and her fetus/baby, we would not destroy their intimate rhythms. We would not treat the baby as if 'delivered' from outside, and bring that baby home from the hospital as if it came from the hospital to start with."³⁴ This notion of mothers and babies as bound together, as somehow "two-in-one," has now begun to shape the world views of physicians, psychologists, and sociologists, many of whom now speak and write of the "maternal-fetal dyad" and the "mother-infant dyad."

Pregnancy, childbirth, and lactation are natural phenomena; they are also temporary phases in the life of both mother and child, who move gradually toward greater physical and emotional independence from one another. Are there also examples of a positive perspective on the more permanent forms of interdependence experienced by conjoined twins? Yes. We can find one example in life as experienced by Abby and Brittany Hensel, conjoined twins born in 1990, who share one body below the neck. As a recent segment of NBC's *Dateline* news program shows, they are happy and active little girls. In their interview, the girls emphasized that they can do everything from dress themselves to swim. When asked if there was anything they could not do, their answer was only "cartwheels."³⁵ The Hensel twins are two individuals; each has her particular likes and dislikes. Yet they have achieved all that they have by relying on one another in a seamless way: Abby controls the right side of their shared body; Brittany the left. They walk and run without any difficulty; without prompting, they scratch each other's arm when it itches.³⁶ The importance of this example should not be exaggerated; doubtless matters will become far more complicated for the Hensel twins once they enter puberty. Nonetheless, it shows that the inseparable bond between conjoined twins does not automatically condemn them to an entirely miserable life.

The foregoing examples give some indication of what shape Bodily Relatedness might take in two different contexts. While there are two identifiable selves present in each example, the physical (and emotional) boundaries of each person are not as sharply delineated as they are on the paradigmatic examples of the Bodily Distinctness View. This does not mean, however, that there is no place for the norm of bodily integrity. While insisting upon the continued importance of that norm, the Bodily Relatedness View stresses that it needs to be interpreted in a way that

³⁴ Ibid.

³⁵ Rob Stafford, "Sisters: The Hensel Twins," *Dateline NBC*, NBC News Transcripts, 21 March 2000.

³⁶ Ibid.

accommodates the unique relationship between the two interdependent parties in any given case. Most importantly, the Bodily Relatedness View would block any attempt to *equate* bodily integrity with bodily distinctness. It would also reject any evaluation of the relationship between the two physically interdependent parties that tacitly relied upon such an equation.

More specifically, in the case of conjoined twins, the Bodily Relatedness View would contend that the complex, intertwined, two-in-one body that the twins share has its own integrity meriting our respect, precisely as the body of two-in-one. On this view, it would be entirely inappropriate to use the word “invasion” or “aggression” to describe the relationship between the twins, although one could use those terms with respect to the actions of a third party toward them both. The concepts of “aggression,” “invasion,” and even “threat” are inapplicable even analogously to the twins *vis à vis* each other, because their application depends upon there being some prior state of affairs in which the twins each had a separate bodily existence, with no effect upon each other’s bodily life. That state of affairs does not need to be temporally prior (impossible in the case of conjoined twins); it is sufficient that it be logically prior. As we saw with the Bodily Distinctness View, the analogous application of such concepts depended upon comparing the actual relationship between Jodie and Mary to the logically (but not temporally) prior conception of two distinctly embodied babies. The Bodily Relatedness View, however, does not give bodily distinctness the same normative status. It therefore is not willing to describe the babies as “doing” anything harmful to each other, but will insist that they are simply “being” together.

Second, based on its holistic understanding of bodily integrity, this view addresses the moral task of allocating internal organs between the babies in a way that differs from the Bodily Distinctness View in both its fundamental presumption and its method of allocation. Rather than presuming that each organ morally belongs either to one twin or to the other, the Bodily Relatedness View begins with the opposite presumption. It presumes that both babies have a rightful claim upon all essential organs, until it is proven otherwise. Moreover, what it would take to “prove otherwise” is much more onerous on this view, because it frames the issue of how the organs should be allocated in an entirely functionalist manner. As we saw above, from the perspective of the Bodily Distinctness View, the fact that diagnostic imaging demonstrates that an organ is more integrated with the relevant systems of one baby than with those of the other is morally decisive for identifying whose organ it is. That fact, however, is *not* morally decisive for the Bodily Relatedness View, which holds that we can determine to whom an organ belongs only by looking to see whom it supports. An organ will be said to belong exclusively to one twin if and only if it does not provide essential support to the other.

Not surprisingly, the Bodily Relatedness View approaches the question of separation of the twins very differently from the Bodily Distinctness View. Assuming as a baseline the integrity of their two-in-one embodiment, it would insist that the benefits and costs to both babies be taken into account in assessing the prospect of separation. If both will be better off after the separation, then the procedure should be performed. If, however, the operation will benefit only one baby, it becomes more difficult to justify. Germain Grisez, whose writings seem to me to offer the clearest example of the Bodily Relatedness View with respect to conjoined twins,³⁷ advocates the following test for surgical separation: “If the surgery will not be beneficial to both, it will be unfair to the baby whose prospects are poorer unless the detriment to that baby is slight and the benefit to his or her twin considerable.” One might articulate a different standard. For example, one might argue for a more relational evaluation, maintaining that the benefit of separation to one baby must “substantially outweigh” its detriment to the other. I will evaluate the case of Jodie and Mary according to Grisez’s standard, on the assumption that if separation is justified by its application, it will also be justified by the application of the less stringent relational standard.

Separating Jodie and Mary

In the case of Jodie and Mary, the Bodily Relatedness View would judge that the one working heart “belongs” to both twins because it supports them both, despite the fact that (1) this heart is more enmeshed in Jodie’s circulatory system than in Mary’s; and (2) there is another, non-functioning heart more tightly connected with Mary’s circulatory system. Consequently, the Bodily Relatedness View would not justify separation on the grounds that Jodie has a right to defend herself against Mary’s “parasitic” dependence upon “her” heart. This does not mean, however, that the Bodily Relatedness View would be opposed to surgical separation of these two particular twins; in fact, it probably would justify the procedure, although on very different grounds. Since the operation is not beneficial for both babies, Grisez’s criterion holds that it can be justified only if the benefit to Jodie is “considerable” and the corresponding detriment to Mary is “slight.” How should we go about applying this criterion?

In most cases of medical-moral decision-making, we have no choice but to rely upon the judgments of physicians and other caregivers about the likely benefits and risks of a contemplated procedure. In many cases, decision-makers need to assess those judgments for bias in favor of a par-

³⁷ Germain Grisez, “Under What Conditions May Surgeons Attempt to Separate Siamese Twins?” *Difficult Moral Questions* 287–92, at 290.

ticular course of action before relying upon them. In this case, however, that assessment has already been performed by the appellate court in the context of a full-blown adversarial proceeding, after hearing from attorneys representing all points of view with respect to the separation. Consequently, in applying Grisez's criterion, it makes sense to rely upon the appellate court's findings of fact with respect to the condition and likely prognosis of each baby with and without surgery. The judgment that reviews the evidence and makes the assessment does not even hint there was evidence of medical opinion opposing the court's conclusions in this regard.

According to the court, if the operation were not performed, both twins would die, probably within the year. "Jodie's heart may fail in three to six months or perhaps a little longer. But it will eventually fail. That is common ground in this case."³⁸ During that time, Jodie would suffer from increasing breathlessness, and perhaps a respiratory infection. If Jodie were not taken ill, she would try to roll over, and to crawl. She would be hampered and frustrated in these efforts by her connection with Mary, which would prevent her from moving in a normal manner.³⁹ For her part, Mary would have a "75% or more chance of developing hydrocephalus which would be 'extremely difficult' to treat" because of her connection to Jodie. She was also at risk of suffering from epileptic seizures. At the time of the examination, the doctors were uncertain of the degree to which she suffered pain. They testified that she responded to a pinprick and to gentle stroking with the same grimace.⁴⁰

With the operation to separate the twins, "Mary will be anaesthetised against all pain and death will be mercifully quick."⁴¹ Assuming that the surgery was performed as a planned procedure rather than under emergency conditions, the risk of death for Jodie was estimated to be very low; estimates ranged from one to two percent to five to six percent.⁴² After the separation, Jodie would probably need several more operations to reconfigure her pelvic area. The surgeon testified that "all the indicators and all the experience from the literature suggest that she should be able to stand and she would be able to walk on her own."⁴³ He was optimistic about reconstructing her anorectal area, her bladder function, and her reproductive tract to achieve normal functioning in all these areas. In the worst case scenario, she might need to get around with a wheelchair or a crutch, and would need a colostomy bag and a urinary bag.⁴⁴

In sum, the evidence suggests that with the operation, Jodie had a sub-

³⁸ Re A (children) (conjoined twins), 4 All ER at 979.

³⁹ Ibid. 980.

⁴¹ Ibid. 981–83.

⁴³ Ibid.

⁴⁰ Ibid. 983–84.

⁴² Ibid. 980.

⁴⁴ Ibid. 980–81.

stantial chance of living a long and normal life; without it, she would soon die. If the operation was performed, Mary's death would be painless and instantaneous. Without it, she would live only a few more months. Furthermore, the time left to her might very well be increasingly uncomfortable, if not downright painful. This evidence supports a judgment that the benefit of separation to Jodie is considerable. It also supports the judgment that the detriment to Mary is slight, provided that one does not rule out that description *ab initio* with respect to any foreshortening of an individual's life, no matter what the circumstances. Consequently, the separation of Jodie and Mary can be defended on the Bodily Relatedness View.

Broader Implications

The Bodily Relatedness View converges with the Bodily Distinctness View in justifying surgical separation in the particular case of Jodie and Mary. It is important to note, however, that they would call for divergent judgments if the facts were only slightly different. Suppose that the working heart had been able to pump for both babies indefinitely. As noted above, the Bodily Distinctness View would have approved the separation even in this case, reasoning that Jodie should not be forced to provide life support to Mary with "her" heart at the expense of her own normal personal and social development. The Bodily Relatedness View, however, would not yield a clear judgment in favor of separation. Not acknowledging the heart to be exclusively Jodie's, it would focus its moral analysis on the costs and benefits of separation to both babies.

Under these hypothetical conditions, the benefits of surgical separation to Jodie would still be considerable. The detriment to Mary, on the other hand, might or might not continue to qualify as "slight." On the one hand, on this hypothetical, she would be deprived of years of life. Under the vast majority of circumstances, this deprivation would be significant. On the other hand, the medical testimony raises the possibility that the operation might be justified all the same in this hypothetical case. Further investigation would be required. If Mary's physical condition is likely to bring lifelong pain and discomfort, and her mental disability will prevent her from understanding and thereby transcending her pain (or from being comforted by others) then the prospect of a normal life span will not hold much benefit for her.⁴⁵

⁴⁵ While not identical, this judgment is not dissimilar to that which must be made by parents deciding whether to authorize life-prolonging treatment for children with severe disabilities. It is important—and sometimes difficult—to distinguish appropriate patient-centered judgments about the benefits and burdens of treatment from invidious judgments about the quality of life experienced by a mentally and physically handicapped person. In my view, judgments that focus on pain—and

Finally, just as we saw that the Bodily Distinctness View did not justify a more permissive view with respect to every aspect of surgical separation, so we need to point out that the Bodily Relatedness View is not in every respect more stringent. In a case like Jodie's and Mary's, in which it holds separation to be justified, this Bodily Relatedness View would more easily permit physicians to allocate tissue to the surviving twin at the expense of the twin destined for death. Unlike the Bodily Distinctness View, it would not have made a prior decision that such tissue "belonged" to the dying twin exclusively.

THE MURPHY-O'CONNOR STATEMENT

The Bodily Distinctness and Bodily Relatedness Views provide two different ways of framing the question whether to separate conjoined twins. Each of these views is internally coherent. Because, however, they begin from very different premises about the importance of bodily distinctness and the meaning of bodily integrity, an attempt to forge a hybrid approach by mixing mix elements of both is likely not to exhibit the same coherence. Unfortunately, the written statement submitted to the Court of Appeal by Cormac Murphy-O'Connor, the Cardinal Archbishop of Westminster, is flawed in precisely this manner.⁴⁶

Murphy-O'Connor's statement laudably brings two fundamental principles of the Judeo-Christian moral tradition to the attention of the court: the prohibition against intentionally killing the innocent; and the equal dignity of all human beings, no matter what their state of dependence. His opposition to the separation of Jodie and Mary is in large part rooted in his deep concern that the judicial justification of the operation would run afoul of one or both principles, which, he said, are not narrowly sectarian, nor even simply Catholic, but the bedrock of a just legal system.⁴⁷

the child's inability to transcend it or to be comforted in the midst of it—are the least likely to be discriminatory on the basis of handicap. See the helpful following discussion on quality of life judgments: Kevin W. Wildes, S.J., "Ordinary and Extraordinary Means and the Quality of Life," *TS* 57 (1996) 500–12; Gilbert Meilaender, "Ordinary and Extraordinary Treatments: When Does Quality of Life Count?," *TS* 58 (1997) 527–31; and Kevin W. Wildes, S.J., "When Does Quality of Life Count? A Response," *TS* 59 (1998) 505–8.

⁴⁶ Cormac Murphy-O'Connor, "Siamese Twins, Jodie & Mary," a submission by Archbishop Cormac Murphy-O'Connor, Archbishop of Westminster, to the Court of Appeal in the case of *Central Manchester Healthcare Trust v. Mr. and Mrs. A and Re A Child (by Her Guardian Ad Litem, The Official Solicitor)*, 14 September 2000, available online at <http://www.westminsterdiocese.org.uk/arch/subtwins.htm> and in *Origins* 30 (October 5, 2000) 269–72.

⁴⁷ See, e.g., Murphy-O'Connor, "Siamese Twins," para. 21(2): "Any attempt (as in Johnson J.'s judgement) to justify intentionally ending her life on the ground that

Murphy-O'Connor concedes, however, that some people "including no doubt many Catholics," might legitimately argue that Mary's death was the foreseen but unintended effect of an operation aimed at saving Jodie.⁴⁸ He argues that the operation is nonetheless unfair to her, on grounds that are distinct from his objection to any invidious quality-of-life judgments that might be made in her regard. More specifically, he judges that the operation is impermissible, because it will "amount to an unjust invasion of Mary's bodily integrity."⁴⁹

But how is the scope of Mary's "bodily integrity" determined? Given the relationship between the babies, under what conditions should we consider an "invasion" of Mary's bodily integrity on Jodie's behalf to be "unjust?" As I have argued in the preceding pages, the Bodily Distinctness View and the Bodily Relatedness View give different answers to these two questions, although they converge in concluding that the operation is morally permissible and therefore not unjust to Mary. How, then, does Murphy-O'Connor reach the opposite conclusion that the operation is morally impermissible? As I demonstrate below, he does so by mounting an argument that can be broken down analytically into three distinct steps, in which he relies on shifting and inconsistent premises drawn from each view in turn.

Step One: Bodily Distinctness

Murphy-O'Connor asserts that even if the operation does not involve intentionally killing Mary, the "invasion of her bodily integrity is nevertheless intended. The process of separation cannot be thought of with any plausibility as one of cutting into Jodie's body alone; Mary's body is necessarily cut into. And that violation of her bodily integrity is in the nature of the case lethal for her. It therefore cannot be justified."⁵⁰ He goes on to cite approvingly the statement of Lord Justice Ward (made during oral argument in court): "The moment the knife goes into the united body, it touches the body of unhappy little Mary. It is in that second an assault. You fiddle about, rearrange the plumbing. An hour later you put a clamp on the

her life is without any value—indeed, has negative value—should be rejected as incompatible with the truth which should govern all our dealings with each other, viz. the basic equality in worth of every human being. . . . The right not to be unjustly killed is the core of the doctrine of the sanctity of life, which the criminal law has historically upheld and which it is essential that the law should continue to uphold." The Archbishop's articulation of these principles clearly had an effect on the court; the lead opinion of the case explicitly acknowledged their force and relevance. *Re A (children) (conjoined twins)*, 4 All ER at 1000-01.

⁴⁸ *Ibid.* para. 18.

⁴⁹ *Ibid.* para. 21(3).

⁵⁰ *Ibid.* para. 18.

aorta. You cannot pretend that is not actively engaged in assaulting her integrity. For what justification? None of hers.”⁵¹

In this strand of Murphy-O’Connor’s argument, the dominant theme is clearly drawn from the Bodily Distinctness View. Mary has a right to bodily integrity that cannot be intentionally violated even to achieve a good end—saving the life of her twin.⁵² She cannot be cut into and cut up solely for the benefit of another person, even her sister. A consistent advocate of this view, however, would readily grant this point—but immediately go on to raise a decisive counterpoint: what about *Jodie’s* heart? If bodily integrity is decisive, does not Jodie have a right to refuse to support Mary, if doing so will cut short her own life? More strongly, under these circumstances does not Jodie have a right to repel what from the Bodily Distinctness View can be characterized as Mary’s death-dealing invasion of her own body?

Step Two: Bodily Relatedness

In order to escape the force of these objections, Murphy-O’Connor must and does tacitly shift to the framework of the Bodily Relatedness View. Nothing in the operation to which he objects involves changing anything in the functioning of Mary’s vital organs—its lethality is simply a result of the inadequacy of Mary’s own heart and lungs. Therefore, in claiming the “violation of her bodily integrity is in the nature of the case lethal for her,” he is implying that Mary has a just claim on the one functioning heart. More specifically, he presumes that from a moral perspective, the *cause* of Mary’s death is her separation from a blood supply to which she has some right; or to put it another way, he must presume access to that blood supply is *part* of Mary’s bodily integrity. From the perspective of the Bodily Relatedness View, this presumption is perfectly intelligible. An advocate of the Bodily Distinctness View, however, would insist that the true cause of Mary’s death is not the surgical separation, but the malfunction of her own heart and lungs.⁵³

Second, Murphy-O’Connor dismisses without serious consideration the

⁵¹ Ibid. para. 19, citing *Daily Telegraph*, 6 September 2000.

⁵² Note that the consequences of the Bodily Distinctness View are even more extreme than Murphy-O’Connor suggests. On that view, one would not be justified in undertaking a nonlethal surgical invasion of Mary in order to repair a defect in Jodie that would not also affect Mary’s well-being in the long run.

⁵³ To clarify the difference between the two views on this issue consider the following question: would Murphy-O’Connor have been satisfied if the aorta pumping blood from Jodie to Mary had been clamped on Jodie’s “side,” with no incision being made into Mary until after her death had occurred? Clearly not; otherwise, he would have focused far more attention on the manner in which the operation was structured rather than its consequences for Mary.

possibility that Mary should be considered a materially unjust aggressor against Jodie, a possibility that at least merits close examination from anyone consistently committed to the Bodily Distinctness View.⁵⁴ Significantly, the justification he offers for this dismissal is completely in line with the Bodily Relatedness View: he writes that “dependence which has resulted from developmental processes, however abnormal, is not aggression.”⁵⁵

Third, and relatedly, the perspective offered by the Bodily Relatedness View appears to occlude from his sight an obvious and plausible counter-argument to the claim that the *surgical separation* counts as an invasion of Mary’s bodily integrity. Why not view it instead as a *remedy* for Jodie’s prior invasion of Mary’s bodily integrity? One might contend that the surgeon’s knife should not be seen as a new invasion, but simply as taking the place of an already existing one for one short instant before severing its power over her. Murphy-O’Connor might be tempted to reply that in contrast to the surgeon’s knife, Jodie’s invasion is welcome to Mary, because it benefits her. But that reply would be beside the point. Murphy-O’Connor’s argument here depends solely on the extent of the invasion of Mary’s body. He has not argued (and could not plausibly argue on the Bodily Distinctness View) that she has any right to the benefit from Jodie. Rather, an effective response to this argument requires Murphy-O’Connor to maintain that unlike the surgeon’s knife, Jodie’s bodily interconnections with Mary do not count as an “invasion” at all-entirely apart from the question of benefit or harm. As described above, this is precisely the stance toward the twins’ embodied relationship taken by the Bodily Relatedness View.

Step Three: Return to Bodily Distinctness

If the Bodily Relatedness View provides so much intellectual force to Murphy-O’Connor’s position that the surgical separation should not be performed, why does he not he adopt it wholeheartedly? Because its consistent application would also undercut that judgment. More specifically, the Bodily Relatedness View holds that the one functioning heart “belongs” to both twins, so that *Jodie* cannot treat it as exclusively hers for purposes of generating a protest of material unjust aggression against

⁵⁴ He writes that “the law should not stretch the concept of an ‘unjust aggressor’ to include human beings incapable of entertaining aggressive intentions.” Murphy-O’Connor, “Siamese Twins,” para. 21(4). Murphy-O’Connor completely ignores the category of material unjust aggression, as it has been developed by the Roman Catholic moral tradition; but see also Pius XI in *On Christian Marriage*, as cited above in n. 21.

⁵⁵ *Ibid.*

Mary. If this is the case, then should not the skin and muscle and other tissue that will be touched by the surgeon's knife also be viewed as "belonging" to both twins, so that *Mary* cannot treat them as exclusively hers for purpose of mounting such a protest against the physicians acting on Jodie's behalf? Consistently applied, the Bodily Relatedness View undermines Murphy-O'Connor's basic point that the surgery counts as an unwarranted invasion of Mary's body on behalf of Jodie. Therefore, he is forced to return to the Bodily Distinctness View in order to generate an absolute bar against surgical invasion of Mary.

In sum, then, this facet of Murphy-O'Connor's moral argument against the surgical separation of Mary and Jodie incorporates an unstable and ultimately incoherent combination of premises drawn from two very different views of bodily integrity. His commitment to an absolute prohibition against an invasion of Mary's bodily integrity depends on Bodily Distinctness; his tacit assumption that the functioning heart "belongs" to both babies rather than Jodie alone drives him to Bodily Relatedness; his refusal then to consider the possibility that the conjoined skin and muscle and other tissue belongs to both babies rather than to Mary alone pushes him back to Bodily Distinctness. All three stances are necessary to justify his rejection of the operation on moral grounds; all three, however, are not available together within the framework of one or the other internally consistent view.

CONCLUSION

The case of Jodie and Mary is morally perplexing. How do we fulfill our obligations to care for and respect two helpless babies so physically intertwined with one another? As I have argued in the foregoing pages, in answering this question, we have available to us two different conceptions of bodily integrity, conceptions which guide our reflections about the babies' relationship in very different ways. Both are legitimate and both capture important aspects of the human experience of embodiment. For much of our life, we are distinct individuals who shape our identities by the choices we make and carry out through and in our bodies. Significant aspects of human life, however, are characterized by dependence and bodily interrelationship. How do we decide whether it is more appropriate to analyze a particular situation in terms of the Bodily Distinctness View or the Bodily Relatedness View, and therefore determine the anthropological presuppositions that will be used assessing whether one party has an ongoing duty to provide bodily life support to the other? While full consideration of this question is beyond the scope of this article, I would like to offer a few reflections in bringing this article to a conclusion. As a touchstone, it is instructive to compare the following cases of bodily relatedness

and dependency: (1) the case of a pregnant woman and the child she carries; (2) the case of conjoined twins; (3) Judith Jarvis Thomson's example of a woman who wakes up to find herself plugged into an unconscious famous violinist, who will die unless she provides him with bodily life support for the next nine months.⁵⁶ These cases show, I think, that three interrelated factors bear on which view we invoke in order to evaluate the obligations of each party to the other and our obligations to them both.

First, our normative assessment of the relationship as a whole is key. The first example is a relationship of dependency that is normal in view of human physiology; the second is abnormal, resulting from the failure of two fertilized eggs to separate properly soon after conception, and the third is bizarre and highly contrived.⁵⁷ The more the relationship itself is given ontological weight and value, the more likely we are to apply the Bodily Relatedness View.

Second, the precise nature of the relationship matters. At least in this genetic age, the existence of a familial relationship entails some overlapping of physical identities that facilitates the invocation of the Bodily Relatedness View. Under normal circumstances, we expect a pregnant woman to carry her unborn child for a nine-month term and to deliver it safely.⁵⁸ We do not expect one newborn baby to support a twin brother or sister. A fortiori, we do not expect persons to provide nine months of bodily life support to complete strangers. It may be a matter of mercy to do so; it is not a matter of justice.⁵⁹

Third, the nature and extent of the dependence entailed by the relationship in question is also relevant. With respect to conjoined twins, it seems more appropriate to apply the Bodily Relatedness View in a case of mutual dependence (such as Abby and Brittany Hensel) than in a case where the

⁵⁶ Judith Jarvis Thomson, "A Defense of Abortion," *Philosophy & Public Affairs* 1:1 (1971) 47–66.

⁵⁷ On the use of analogy in arguments about abortion, see Lisa Sowle Cahill, "Abortion and Argument by Analogy," *Horizons* 9 (1982) 271–87.

⁵⁸ The limits of that expectation, are of course, subject to heated dispute. Does she have such an obligation under circumstances where the burdens of pregnancy are certain to threaten her health or her life? Does a woman have an obligation to extend bodily support to a child that has been conceived as the result of rape? See Grisez, *Living a Christian Life* 501–4. The three subsections of these pages are: "Abortion, Even if Not Intentional Killing, Usually Is Wrong," "Sometimes the Baby's Death May be Accepted to Save the Mother," and "Sometimes the Baby's Life Should Be Given Priority." See also Patricia Beattie Jung, "Abortion and Organ Donation: Christian Reflections on Bodily Life Support," in *Abortion & Catholicism*, ed. Patricia Beattie Jung and Thomas A. Shannon (New York: Crossroad, 1988) 141–71. Grisez draws more upon the Bodily Relatedness View in analyzing pregnancy, Jung is more indebted to the Bodily Distinctness View.

⁵⁹ As Thomson argues, a Good Samaritan might agree to do so; a Minimally Decent Samaritan need not.

dependence runs in entirely one direction (such as Jodie and Mary). In the latter situation, the Bodily Relatedness View is more likely to be applied if the dependence is not indefinite, but extends only for a reasonable length of time. Moreover, what counts as “reasonable” depends upon the relationship between the parties. For example, provided that they agreed that the procedure should not be characterized as intentional killing, I doubt that many people would argue that it would be fair to expect a 25-year-old pregnant woman to carry her unborn child for twenty years, in a hypothetical situation in which the baby would neither grow too big for the womb nor survive outside it.⁶⁰ On the other hand, if Mary could have been saved by postponing her separation from Jodie for five years, it is far more likely that the delay would have been justified by arguments running along the line of the Bodily Relatedness View.

These three criteria do not resolve the question of how to describe the relationship of Jodie and Mary. They do, however, reveal something important about why the twins’ situation is so riveting and perplexing. We are not drawn to reflect upon their fate simply because of their uniqueness, their radical difference from us. Jodie and Mary are not examples of another life form, like those encountered in science fiction movies. They are not “aliens.” Rather, they are human babies, *our* babies, whose unusual situation reveals a deep truth about *us*. We experience ourselves both as distinct individuals whose boundaries are marked by the borders of our own physicality and as members of families and communities whose mental, emotional *and* physical boundaries are far more porous, far less certain. The case of Jodie and Mary forces us to acknowledge the tension between these two perspectives. In deciding how to think about them, we are deciding how to think about ourselves.

⁶⁰ This analysis presupposes, of course, the intention of inducing labor would be terminating the burdens associated with pregnancy, and *not* killing the unborn life. For an argument that some abortions are appropriately so described, see Grisez, *Living a Christian Life*, 501–4, Finnis, Grisez, Boyle, “‘Direct’ and ‘Indirect,’” 1–44.