



## PHILOSOPHY AND THEOLOGY

Fulton Sheen once said, “Whenever I have a new idea, I read the ancients to see how they put it.” In his article “History of Treatment of Conjoined Twins,” Krzysztof Kobylarz explores the causes and kinds of conjoined twins as understood by thinkers like Democritus, Empedocles, and Aristotle all the way through to writers in the late twentieth century.<sup>1</sup> The article contains twenty-six drawings and photographs of conjoined twins united at the head, at the chest, at the rump, and in virtually every other combination imaginable. Kobylarz notes the ancient dehumanizing habit of describing such people as “monsters.” Unfortunately, he perpetuates this dehumanizing tradition by speaking of one conjoined twin who was dependent on a sibling as “a parasite foetus.” “Despite the doctors’ efforts,” writes Kobylarz, “the child died shortly after separation from the parasite.”<sup>2</sup>

It is hard to imagine words more likely to contribute to dehumanization than speaking of an innocent human being as a “parasite fetus.” As John Finnis said at “Open Hearts, Open Minds, and Fair-Minded Words: A Conference on Life and Choice in the Abortion Debate” held at Princeton University,

About the moral status of the phrase “the fetus,” I will just say this. As used in . . . [non-medical] contexts, it is offensive, dehumanizing, prejudicial, manipulative. Used in this [non-medical] context, exclusively and in preference to the alternatives, it is an F-word, to go with the J-word, and other such words we know of, which have or had an acceptable meaning in a proper context but became in wider use the symbol of subjection to the prejudices and preferences of the more powerful. It’s not a fair word, and it does not suggest an open heart. Those of you who have an open mind or a fair heart may wish to listen to every speaker at this conference, and see whether they are willing

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<sup>1</sup> Krzysztof Kobylarz, “History of Treatment of Conjoined Twins,” *Anaesthesiology Intensive Therapy* 46.2 (April 2014): 116–122.

<sup>2</sup> *Ibid.*, 122.

to speak, at least sometimes, of the unborn child or unborn baby, and to do so without scare quotes or irony.<sup>3</sup>

It is wrong, theoretically wrong and practically wrong, to use language to dehumanize human beings. It is theoretically wrong because it is untruthful, and it is practically wrong because it contributes to rationalizations for treating human beings as less than human. So let us not speak of conjoined twins as “fetuses,” or “parasites,” or “monsters,” for such ways of speaking may lead us and others to begin to forget that people are equal in basic dignity. Although some people have denied this basic equality to human conjoined twins, my remarks here will presuppose that all human beings, conjoined or not conjoined, are created equal and endowed with inalienable rights.

Although they were not innocent of using the language of “monster” for conjoined twins, ecclesiastical writers both in theory and in practice recognized the humanity of human beings with fused bodies. In his article “Conjoined Twins, Medieval Biology, and Evolving Reflection on Individual Identity,” Irven Resnick explores the fascinating way in which medieval scholastics dealt with the topic of conjoined twins.<sup>4</sup> Much of the discussion arose from this passage from St. Augustine’s *De civitate Dei*: “Some years ago, quite within my own memory, a man was born in the East, doubled in his upper members, but single in his lower ones. For he had two heads, two chests, four hands, but one belly and two feet like one man; and he lived so long that rumor [of him] drew many people to see him.”<sup>5</sup> Much of the debate in the Middle Ages was about the causes leading to conjoined twins, a topic explored by Albert the Great. Often spurred by questions posed at quodlibetal sessions in the universities, Resnick chronicles how medieval scholastics also sought to understand how the sacraments applied to conjoined twins.

Concerning Baptism, the consensus view seemed to have been that if there are two heads and two hearts, then there are two souls, and hence need for two Baptisms. However, other additional body parts, such as additional fingers or toes, were not viewed as constituting additional people. But questions remained. Part of the medieval dispute centered on whether the head or the heart was the principle organ of the body sufficient for identifying an individual person. Henry of Ghent argued that if there are two heads but only one heart, then just one Baptism was required because the second head was just an appendage of one human body.<sup>6</sup> On the other hand, if there are two hearts, then Henry concluded, “it is necessary to assert that such a monster has two rational souls, with the result that they are truly two persons and two human

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<sup>3</sup> John Finnis, “The Other F-Word,” *Public Discourse*, October 20, 2010, <http://www.thepublicdiscourse.com/2010/10/1849/>.

<sup>4</sup> Irven Resnick, “Conjoined Twins, Medieval Biology, and Evolving Reflection on Individual Identity,” *Viator* 44.2 (May 2013): 343–368.

<sup>5</sup> Augustine, *De civitate Dei*, ed. Bernhard Dombart and Alfons Kalb, *Corpus Christianorum Series Latina* vol. 48 (Turnhout, Belgium: Brepols, 1955), 16.8.53–56: “Ante annos aliquot, nostra certe memoria, in oriente duplex homo natus est superioribus membris, inferioribus simplex. nam duo erant capita, duo pectora, quattuor manus, uenter autem unus, et pedes duo, sicut uni homini; et tamdiu uixit, ut multos ad eum uidendum fama contraheret.”

<sup>6</sup> Resnick, “Conjoined Twins,” 362.

beings.”<sup>7</sup> Other scholastics argued that two heads were enough, even with a single shared heart, to constitute two persons. For example, the English Franciscan and Archbishop of Canterbury John Peckham argued that each head should be baptized, and if there was some question, after the first Baptism, the other Baptism could be conditionally made: “If you are not already baptized, I baptize you in the name of the Father, and of the Son, and of the Holy Spirit.” The view that eventually prevailed in the Catholic tradition was that there should be as many Baptisms as there are heads.<sup>8</sup>

May conjoined twins enter into the sacrament of Matrimony? At least in cases of conjoined twins with two heads capable of giving consent but with only one body below the head, Parisian master Eustache de Grandcourt—who was active at the University of Paris around 1303—saw a serious difficulty. He felt that for such persons marriage was impossible. A wife may only be sexually intimate with her husband, but in the case of conjoined male twins, she would be intimate with not only the one twin she consented to marry but also with the other twin in virtue of the twins sharing “only one instrument of generation.” So in consummating the marriage, she and her brother-in-law would be committing adultery. On the other hand, if she attempts to consent to marry both twins, this too would be impossible, for monogamy rather than bigamy is the Christian form of marriage.

Despite raising this objection, Eustache concluded that conjoined persons may indeed get married because they have been given everything necessary for marriage. They can give consent, and they can consummate the marriage. Nature does not act in vain. Resnick does not indicate how Eustache resolved the adultery dilemma he had earlier posed.

Let us consider one possible solution to the dilemma. Consider Chad and Peter, conjoined twins having two heads but having just one body below the head. Chad wants to marry Laura, Laura wants to marry Chad, and both are otherwise eligible to marry. Christian marriage excludes bigamy, so Chad and Peter cannot both consent to marry Laura, and Laura may only consent to marry either Chad or Peter. Chad and Laura exchange marriage vows, so far, so good. However, in consummating the marriage, are Laura and her brother-in-law Peter committing adultery? At least on some accounts of intention (more on this later), Laura and Peter are not necessarily intending to join themselves together in a sexual way. The sexual union of Peter and Laura is a foreseen side effect rather than something either one necessarily chooses. Since the consummation of their marriage need not involve adultery, conjoined twins with two heads but only one body may enter into marriage.

Contemporary discussions of conjoined twins have focused not so much on questions of sacramental validity (these seemingly having been settled), but on the ethics of separating conjoined twins. A sound answer to the question of separation depends on both relevant biological details and on philosophical considerations. As

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<sup>7</sup> *Ibid.*, 363.

<sup>8</sup> This medieval debate finds an analog in contemporary discussions of human identity and individuality. For example, Eric Olson examines questions such as whether conjoined twins are two organisms but only one person. See, Eric Olson, “The Metaphysical Implications of Conjoined Twinning,” *Southern Journal of Philosophy* 52.S1 (August 2014): 24–40.

a matter of biology, conjoined twins are found in a wide variety of conditions and are often classified based on their point of union.<sup>9</sup> For example, thoracopagus twins are joined at the chest, omphalopagus twins are joined at the abdomen, and craniopagus twins are joined at the head. Another classification is as symmetrical (both twins well developed) or asymmetrical (one twin well-formed and the other not). In heteropagus twinning, one twin is dependent for life on the other twin. One can also imagine a case in which both twins are dependent on each other, for instance, one has a functioning heart and the other has a functioning liver.

The point of joining does not seem morally significant: for example, in cases of twins joined at the head, they might be superficially joined and thereby easily separated, restoring natural bodily integrity to both and endangering the life and well-being of neither. On the other hand, some instances of twins joined at the rump might be so profoundly fused that to separate them risks or even necessarily brings about the death of one or both.

In the most ethically difficult cases, separating conjoined twins may be medically necessary to save one twin but will certainly kill the other twin. Such was the case of Jodie and Mary. The heart and lungs most closely associated with Mary's body could not circulate blood for her, so oxygenated blood came by way of Jodie's heart and lungs. Physicians foresaw that Jodie's lungs and heart were incapable of sustaining long-term support for both girls. The choice facing the physicians, parents, and courts was whether or not to separate the girls. If the girls were not separated, they would both die. If they were separated, Jodie would likely survive, but Mary would surely die. Is separating them intentional killing? Is unjoining them intentional mutilation? Is there an obligation to separate them?<sup>10</sup>

The answer to such questions depends in part on the account of intention adopted. In contemporary discussion of natural law ethics, two accounts of intention have emerged, what might be called the narrow view and what might be called the broad view. Advocates of the new natural law theory, such as Germain Grisez, John Finnis, and Joseph Boyle, argue for the narrow account of intention in which only those effects which are chosen as a means or as an end in the proposed plan of an agent count as intended. All other effects are foreseen. So the man who goes jogging does not intend to perspire or to wear out his running shoes. One could, of course, imagine some odd case in which the goal of the jogging was wearing out the shoes, since say, he knows a much better pair of shoes is coming his way as soon as this pair is worn out. But normally, wearing out running shoes is not part of what is intended either as a means or as an end. Wearing out running shoes is *praeter intentionem*. Advocates of what might be called classic natural law theory, such as Stephen Brock, Rev. Lawrence Dewan, OP, and Rev. Kevin Flannery, SJ, argue that intention cannot be limited to only such chosen effects precisely as a means or as an end, but must include other

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<sup>9</sup> Michelle Lee, Arun K. Gosain, and Devra Becker, "The Bioethics of Separating Conjoined Twins in Plastic Surgery," *Plastic Reconstructive Surgery* 128 (October 2011): 328e–334e.

<sup>10</sup> I have attempted to answer these questions elsewhere: "The Tragic Case of Jodie and Mary: Questions about Separating Conjoined Twins," *Linacre Quarterly* 70.2 (May 2003): 159–170.

effects as well.<sup>11</sup> The broad view holds that other effects must be included in the agent's intention, for example, those effects that are closely related, or foreseen with certainty, or part of the act as a reasonable person would understand the act, and so forth. Although they may disagree about what effects should be included as intended and on what grounds, the critics agree in rejecting the narrow view.

Classic natural law advocates Matthew O'Brien and Robert Koons offer a detailed contribution to this discussion in their article "Objects of Intention: A Hylomorphic Critique of the New Natural Law Theory."<sup>12</sup> New natural law defender Christopher Tollefsen has supplied a spirited rejoinder to O'Brien and Koons.<sup>13</sup>

One thing on which O'Brien, Koons, and Tollefsen all agree is that counterfactual criteria for determining intention do not work. O'Brien and Koons ask us to imagine that "artificial wombs and restorative operations became available to reconstitute and bring to term the dismembered fetus; if the mother and surgeon would take advantage of them were they available, then in the actual world where they are unavailable, the mother and surgeon need not intend the child's death by chopping it to pieces."<sup>14</sup> This way of distinguishing intention from foresight surely fails. After all, in garden variety murder in order to cover a theft, the killer could truthfully say to his gagged and bound victim, "If there were any other way I could secure your silence about my theft, if only there were a pill you could take to erase your memory of this whole event, I would certainly spare your life. But since no such pill exists, I have to kill you to make sure that you don't reveal my identity." He then shoots her in the head, twice. If this is not intention killing, then nothing is.

Aside from this agreement, much separates the broad and the narrow views of intention, including the proper interpretation of Aquinas, whether the new natural law theory is Cartesian in its account of intention, and whether the broad view or narrow view best accounts for our intuitions about various concrete cases such as, for example, craniotomy or the use of methotrexate to treat ectopic pregnancies. A full consideration of the arguments for and against the narrow view of intention falls outside the scope of this essay.<sup>15</sup> It will be enough to consider how these two views would approach the case of conjoined twins such as Jodie and Mary.

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<sup>11</sup> See, for example, the following articles that appeared in the Winter 2008 issue of *Nova et Vetera*: Stephen Brock, "Veritatis Splendor §78, St. Thomas, and (Not Merely) Physical Objects of Moral Acts," 1–62; Laurence Dewan, "St. Thomas, Rhonheimer, and the Object of the Moral Act," 63–112; Kevin L. Flannery, "Aristotle and Human Movements," 113–38; and Stephen Long, "Veritatis splendor §78 and the Teleological Language of the Moral Act," 139–56; see also Steven J. Jensen, *Good and Evil Actions: A Journey through Saint Thomas Aquinas* (Washington, DC: Catholic University of America Press, 2010).

<sup>12</sup> Matthew B. O'Brien and Robert C. Koons, "Objects of Intention: A Hylomorphic Critique of the New Natural Law Theory," *American Catholic Philosophical Quarterly* 86.4 (Fall 2012): 655–703.

<sup>13</sup> Christopher Tollefsen, "Response to Robert Koons and Matthew O'Brien's 'Objects of Intention: A Hylomorphic Critique of the New Natural Law Theory,'" *American Catholic Philosophical Quarterly* 87.4 (Fall 2013): 751–778.

<sup>14</sup> O'Brien and Koons, "Objects of Intention," 656.

<sup>15</sup> My own views may be found in Christopher Kaczor, "Distinguishing Intention from Foresight: What Is Included in a Means to an End?," *International Philosophical Quarterly*

On the narrow view of intention, the separation of Jodie and Mary is not a case of intentional killing, since physicians separating the twins are not seeking the death of Mary as a means or as an end of their procedure. Yes, the death of Mary will result from the procedure, but, like the prenatal death that occurs in the removal of a gravid cancerous uterus, this death is not intended as a means or as an end. In the case of Mary and in the case of a removal of a cancerous uterus early in pregnancy, the death of the human being is a foreseen side effect—*praeter intentionem*, to use Aquinas's phrase—of a morally legitimate action.

On the broad account of intention, as understood by O'Brien and Koons, the separation of Jodie and Mary might seem to be intentional killing. The doctors in this case knew with full certainty that separation from Jodie would inevitably cause the death of Mary. However, if the separation were understood as akin to the removal of a tubal pregnancy, the broad account of intention might still be able to account for Mary's death as a side effect. About ectopic pregnancy, O'Brien and Koons write,

In removing the tube the surgeon is not depriving the embryo of a condition that is sufficient for its survival, nor of a condition that is natural for the embryo at that point in its development, and the embryo doesn't have a claim on its mother to extend momentarily its unnatural growth at the cost of her death. By removing the fallopian tube, the surgeon is removing an unnatural delayer of the child's death: he is not thereby causing, or even hastening her death, which is due to the absence of the supply of oxygen and nutrients from a placenta properly implanted in the womb. Removing the tube and removing the cancerous uterus are similar because both are targeted remedies of defective biological functioning.<sup>16</sup>

Similar reasoning could be used to justify the separation of Jodie and Mary. The conjunction of Jodie and Mary is an unnatural union. In separating Jodie and Mary, the surgeons are not depriving Mary of a condition that is sufficient for her survival, nor of a condition that is natural for her in terms of human functioning, and she doesn't have a claim on Jodie to extend indefinitely her unnatural union with Jodie at the cost of Jodie's death. By separating Mary and Jodie, the surgeon is removing an unnatural delayer of Mary's death. The surgeon is not thereby causing, or even hastening Mary's death, which is due to the absence of sufficient oxygenated blood from her own malfunctioning heart. Separating Jodie and Mary and removing the ectopic pregnancy in a fallopian tube are similar because both are targeted remedies of defective biological functioning in Jodie and in the mother respectively. If this analysis is correct, the separation of Jodie and Mary would not be a case of intentional killing, but a case of letting die, even on a broad account of intention.<sup>17</sup>

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41.1 (March 2001): 77–89; and Christopher Kaczor, "Intention, Foresight, and Mutilation: A Response to Giebel," *International Philosophical Quarterly* 47.4 (December 2007): 481–486.

<sup>16</sup> O'Brien and Koons, "Objects of Intention," 687–688.

<sup>17</sup> I am grateful to the James Madison Program at Princeton University for the support provided in writing this essay.