

Law decided fate of Mary and Jodie

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The twin daughters of the Maltese couple Michelangelo and Rina Attard, known to the British public as Mary and Jodie, were joined at the pelvis with a fused spine. Although operations to separate other infants joined in such a manner have been relatively straightforward, doctors knew from before the girls' birth in October 2000 that both babies could not survive.

Mary, the smaller and weaker twin, was fatally compromised. Her lungs and heart were not properly formed and her brain was primitive, although capable of sustaining life.

If the operation had not taken place, both babies would have died.

"The only way [Mary] could have survived was [by the] link to her sister who was acting as her life-support machine," neonatal surgeon Adrian Bianchi told Mary's inquest.

"Over the previous 10 days [Jodie's heart] had begun to show signs of strain, consequent to taking on two bodies."

The doctors had little doubt about what had to be done, but the parents, devout Catholics who had come to Britain to consult leading specialists in conjoined twins, were not prepared to agree to the ending of Mary's life, even though it would be the saving of Jodie's.

The case went to the high court which ordered that the separation should go ahead, and then quickly on to the court of appeal, where judges said they had been faced with an agonising decision.

In the end they came down in favour of Jodie's right to life. "Mary has always been fated for early death," said the senior judge, Lord Justice Ward. "Though Mary has the right to life she has little right to be alive.

"She is alive only because, to put it bluntly but nonetheless accurately, she sucks the lifeblood of Jodie and her parasitic living will soon be the cause of Jodie ceasing to live.

"Jodie is entitled to protest that Mary is killing her. The best interests of the twins is to give the chance of life to the child whose actual bodily condition is capable of accepting the chance to her advantage even if that has to be at the cost of the sacrifice of a life.

"I am left in no doubt at all that the scales come down heavily in Jodie's favour."

The Catholic church and other campaigners vigorously protested at the decision, but the parents decided not to take the case to the House of Lords.

In a 20-hour operation, the bones and internal organs shared by the twins were separated and neurosurgeons delicately divided the spinal cord.

When the main blood vessel connecting Mary to Josie was severed, the weaker twin died. It was an incision the two surgeons, Alan Dickson and Mr Bianchi, made together in silence and, they said, with "great respect".

Jodie - whose real name, Gracie, was disclosed after the operation - is living with her parents on their native island of Gozo and is said to be doing well. Doctors say she should be able to lead a normal life and have children of her own.

Rose - Mary's real name - is buried on the island.

Some views on the morality of the case

"There is a fundamental moral principle at stake - no one may commit a wrong action that good may come of it. The parents in this case have made it clear that they love both their children equally and cannot consent to one of them being killed to help the other. I believe this moral instinct is right. It would set a very dangerous precedent to enshrine in English case law that it was ever right to kill a person that good may come of it."

Cormac Murphy-O'Connor, Archbishop of Westminster

In the case of Jodie and Mary, performance of the utilitarian calculation might seem a fairly straightforward matter. We are presented with two courses of action. We can operate and save Jodie by killing Mary, or we can refuse to operate, with the inevitable result that both children will die. From a utilitarian perspective, it might seem clear that we should operate, for that will at least produce one happy individual rather than none.

Stephen Law, *The Philosophy Gym*

"In a situation like this when there isn't an obvious right answer, do we not need to put the onus for the decision back on to those for whom it will mean the most, those who are going to have to live with the consequences of the decision? Surely we have to give great power and credence to the parents?"

Richard Nicholson, editor of the *Bulletin of Medical Ethics*

"The fundamental instinct of every doctor is to save life where possible. The court has resolved the dilemma in favour of intervening to save the life of the stronger twin."

Dr Michael Wilks, Chairman of the Ethics Committee of the British Medical Association

"Medicine is all about supporting ill people. There are disabled people all over the country who without medical help would die. Are they all non-persons?"

Helen Watt, research fellow at the Linacre Centre for Healthcare Ethics

Under the rule of double effect, directly killing one twin is the bad effect and cannot be the means of achieving the good effect, a chance for the other to live. Yet, in the case of Jodie and Mary, it is not the death of the weaker twin that is the means of survival for the stronger... death is not a means; rather, it is a foreseen side effect.

Jonah Patel, *The Divisive Case of Conjoined Twins Jodie and Mary: The Principle of Double Effect*

The Doctrine of Double Effect: The theory, first formulated by Thomas Aquinas in the 13th century as a justification for self-defence, holds that while one may never directly intend an evil such as the death of an innocent person, such an evil may be permitted if it is not intended in itself but is an indirect consequence of intending a corresponding good.