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Faith *in the* Family

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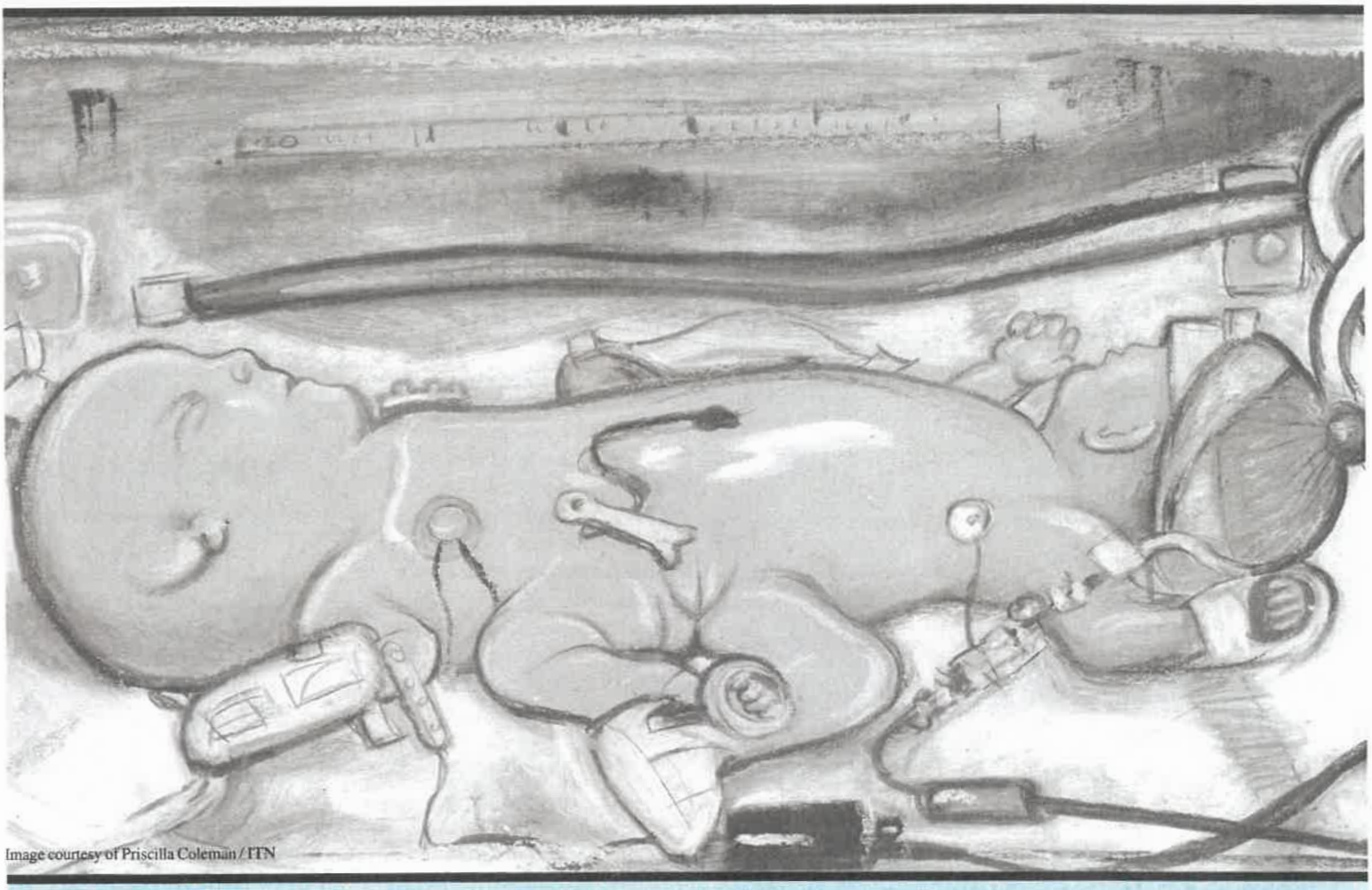


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Killing Mary to save Jodie

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Killing Mary to save Jodie: *The story*

By Dr Seyi Hotonu

On the 8th August 2000 the Siamese twins, later to be known as Jodie and Mary[1], were born at St Mary's Hospital in Manchester. The choice of venue was deliberate. In May the parents had come from Gozo, an island near Malta, to ensure that the babies, when born, would receive expert medical care. At birth both children needed immediate resuscitation but they began breathing and their hearts were beating. Subsequently Mary's heart failed and so did her tiny malformed lungs and so Jodie's heart and lungs began to support both babies.[2] It was later reported by that Jodie appeared to be "...a bright, alert baby, sparkling, sucking on her dummy, moving her arms as babies do.", Mary was described as having a deformed face, and "...no effective heart or lung function. She lives only because of her physical attachment to Jodie. The blood & the O_2 that maintain her life come from Jodie. In the words of one of the doctors, Jodie is her life support machine."[3]

The original medical assessment was of the opinion that if the girls were not separated, both would die within three and six months because of the extra strain on Jodie's heart and lungs.[4] However although a separation operation could well mean Jodie's survival, it was thought that she would have some degree of disability[5] and that her twin Mary would have to be sacrificed. The twins' parents could not accept this advice. They stated that they were unable to consent to a procedure that would intentionally kill one of their daughters to enable the other one to survive.[2] Instead they decided that it was "God's will" for the twins to stay together even if they both die.[6] As a result of this impasse, the courts were asked by Central Manchester healthcare trust to make a decision as to whether the separation operation could proceed.



At the original hearing on 25th August 2000, the high court judge Mr Justice Johnson ruled that the separation operation should proceed. He gave his ruling in public after a private hearing that lasted two days. The Official Solicitor represented Mary. Following this judgment, on 28th August, Cardinal Ersilio Tonini, Archbishop Emeritus of Ravenna, in northeast Italy, and the Vatican's principal commentator on medical ethics, offered a "safe haven" to the twins and their parents in an indefinite and completely free pledge of medical services as an "ethical alternative". This deal was brokered by the ProLife Alliance.[7]

At a result of this judgment the parents lodged an appeal that was heard one week later by three judges, Lord Justice Ward, Lord Justice Brooke, and Lord Justice Robert Walker.[8]

Jodie's prospects

During the appeal hearing, Lord Justice Ward asked for a



Solicitor for the twins' parents

second medical opinion because he wished to confirm the views already expressed and to allay any public concerns. An expert from Great Ormond Street Hospital was called to assess whether the estimate, that the twins had only six months to live without the operation, was correct and to assess the risks that surgery would entail.[9] He was also asked to comment on the quality of life of Jodie, the stronger twin, if she were to survive, and to confirm that Mary did face certain death.[10] Subsequently the medical experts said that the death of the twins was 'not imminent'. A cardiologist from Great Ormond's Street Hospital said that, contrary to previous opinion, they would survive beyond six months without an operation. Whilst a surgeon stated that they could live together for 'many months, perhaps even a few years', but that they would not 'survive long term'.[11]

Throughout the proceedings medical opinion was quoted which asserted that Jodie would have a good quality of life once she had been surgically separated from Mary. Amongst the statistics that have been quoted regarding the success of this operation, Judith Parker QC for Jodie at the court of appeal asserted that whilst there was a 95% possibility that Jodie would survive a planned operation, this would drop to 36% if the operation were performed under emergency conditions. Furthermore it was claimed that if Mary were allowed to die first, Jodie would have a survival rate of 1% or less.[12] Despite these optomistic claims for Jodie, American medical expert Alice D. Dreger can point to nine such sacrificial operations, out of which none has resulted in any long-term healthy survivor.[13] Furthermore Dr Laurence Somers, who performed a sacrificial operation in 1979, recalled that his surviving twin died at 3 months of a massive heart attack and that another 'survivor' of a similar operation, that had taken place 6 months earlier also died at three months old.[14]

Court allows submissions

During the hearing the judges received written submissions from the Cardinal Archbishop of Westminster, Cormac Murphy O'Connor and the ProLife Alliance. The Archbishop said, "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".[15] The ProLife Alliance submitted a written opinion by David Anderson QC. He argued that the operation to separate the twins is contrary to Article 2 (Right to Life), Article 3 (Freedom from Inhuman and Degrading Treatment and Torture) and Article 8 (Respect for Family Life) of the European Convention on Human Rights.[16]

The operation

On 22nd September, the Judges decided that the separation operation should be allowed to proceed. Following this judgment, the twins' parents decided against an appeal to the House of Lords.[17] The operation took place on Monday 6th November 2000 and lasted twenty hours. The aorta was severed killing Mary.[18] Jodie is making "steady progress".[19] ■

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Killing Mary to save Jodie: *The deadly dilemma*

By Colin Hart

The arguments

Not everyone will agree on this case. There are "pro-lifers" on both sides. No one disputes that it is a very tragic case indeed. There are many very difficult issues. But hard cases tend to make bad law. It is precisely this sort of hard case that can set profoundly important precedents.

All three Appeal Court judges accepted that Jodie's interests should prevail over Mary's because Mary was "self-designated for a very early death"[17]. Having decided this there still needed to be a legal basis on which the operation could proceed even though it would involve the killing of Mary.

In English law it is unlawful to kill an innocent person in order to save another. Each judge found a different way to give the go-ahead to the operation whilst still attempting to retain this principle.

Under the law, it is only necessary for a majority of the Appeal Court Judges to agree in order for a decision to be reached. It does not matter *why* they agree or that the arguments for agreeing are logically inconsistent from Judge to Judge. But whilst it may not matter in terms of the legal outcome, it does matter morally. This is why it is important to look at the arguments that were used in the case from the initial hearing with Mr Justice Johnson to the Appeal Court hearing with Lord Justices Ward, Brooke and Walker.

The sanctity of life principle

The law of murder is based on the sixth commandment that "You shall not murder."[18]

The Bible recognises the crucial distinction between one who deliberately kills and "one who kills his neighbour unintentionally, without malice aforethought".[19] The concept of intention is central to the English law of murder.

Lord Justice Brooke argued that the "sanctity of life principle" clearly emanated from the Judaeo-Christian tradition. He argued that the law is still concerned to protect the sanctity of life from birth to death even if it has departed from this principle before birth by permitting abortion.[20]

The Parents' views

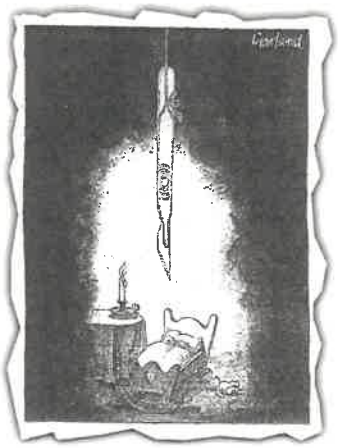
The health authority brought the case in the High Court because doctors wanted to go ahead with the operation *against* the wishes of the parents. Under English law only a court can make this legal. Parents always have to give consent to their child receiving medical treatment, except in the extraordinary circumstance in which a court overrides their objections.

In medical practice very often the views of the parents are simply accepted by the medical team. But as Lord Justice Ward said in his judgment, "In law the parental view is not sovereign."[21]

Lord Justice Walker said of the parents that "Their views might be described as controversial but (unlike the objections to blood transfusion held by Jehovah's Witnesses) they are not obviously contrary to any view generally accepted by our society."[22]

All have accepted that the parents' objections were perfectly rational. They were based on the Judaeo-Christian tradition that underpinned the formation of the law itself.

In a finely balanced case where there are strong moral and legal arguments on both sides, the opinion of parents could well have been the determining factor for a medical team. Indeed, Lord Justice Ward made clear that it would:



Daily Telegraph, Monday 11 September 2000

"have been a perfectly acceptable response for the hospital to bow to the weight of the parental wish however fundamentally the medical team disagreed with it."[23]

Biblically it is the parents, and not the state, who are responsible for taking decisions about their children. Whilst Christians are to submit to "every authority instituted among men" (1 Peter 2: 13), children are to obey their parents (Exodus 20:12). Parental authority within the family stands between children and the state.

Classically the state should intervene to protect the child against clear abuse and to protect the rights of the parents. This is precisely what happened in the "judgment of Solomon" where the king intervened in the case of the two prostitutes to decide which was the real mother of the child (1 Kings 3:16-28).

In the *Jodie and Mary* case the Judges made clear that it would have been perfectly lawful for the doctors to have accepted what the parents said about the operation not going ahead. Even after the court case there is still no law which states that conjoined twins like Jodie and Mary *must* be separated.

The overriding of parental consent was a central issue in this court case, along with a declaration that the operation

involving the killing of Mary would be lawful. Two of the three Appeal Court Judges accepted that under the law, the doctors would have "murderous intent" as they performed the operation. The views of the parents are far from being unusual. Indeed it could be argued that they are naturally in line with the law as has been understood until this case.

Professor Raanon Gillon, editor of the *Journal of Medical Ethics*, said the Appeal Court decision was wrong because of the issue of parental consent. "It is far better to let the parents decide. I have to say that if I were making the decision myself and if I were convinced that one child would be saved then I personally would choose the operation. But I don't think my view or anybody else's view should be imposed on parents who conscientiously choose the opposite."[24]

Professor Gillon went on "It has quite clearly removed parental consent from these parents and in my view quite illegitimately. There are good reasons for removing parental consent - when the parents are being negligent or when they have really weird views that would result in the deaths of their children. But these parents do not have really weird views. They have very standard views, the most important of which is you don't kill one person in order to save another."[25]

Dr Richard Nicholson, editor of the *Bulletin of Medical Ethics* also protested that the judgment "says that parental beliefs and concerns can safely be ignored".[26]

The court should have held the parents views in very high regard and, given that those views were rational, especially in such a difficult situation, they should have left well-alone. But the court did not do this. Instead, it seized to itself the ability to decide the fate of Jodie and Mary.

Mary's best interests

Clearly the intention of the operation was to benefit Jodie by separating her from Mary. But surely the operation could never have been in Mary's interests?

Mr Justice Johnson thought so. He stated in his judgment that "to prolong Mary's life for these few months would in my judgment be very seriously to her disadvantage". The extra months gained by not operating would "simply be worth nothing to her".[27]

The Court of Appeal divided on the question of whether the operation was against Mary's best interests. Two of the judges (Lord Justice Ward and Lord Justice Brooke) said the operation was not in Mary's interests, whilst Lord Justice Robert Walker said: "The surgery would plainly be in Jodie's best interests, and in my judgment it would be in the best interests of Mary also, since for the twins to remain alive and conjoined in the way they are would be to deprive them of the bodily integrity and human dignity which is the right of each of them."[28]

Lord Justice Ward flatly contradicted this. He argued that for Mary to gain bodily integrity "is a wholly illusory goal because she will be dead before she can enjoy her independence and she will die because, when she is independent, she has no capacity for life."[29]

Lord Justice Ward went on to say: "The sanctity of life doctrine is so enshrined as a fundamental principle of law and commands such respect from the law that I am compelled to accept that each life has inherent value in itself however grave the impairment of some of the body's functions may be. I am satisfied that Mary's life, desperate as it is, still has its own ineliminable value and dignity. In my judgment the learned judge was wrong to find it was worth nothing."[30]

Bland and the withdrawal of treatment

Doctors legitimately decide to withhold medical treatments if giving such treatment is futile and not in the patients best interests. For the first time the *Bland* case[31] allowed doctors to withhold food and water as if they were 'medical treatments'.

Tony Bland went into a persistent vegetative state (PVS) following injuries sustained in the Hillsborough Football Stadium disaster. Patients in PVS have a functioning lower brain stem. They can breathe on their own and respond to touch, but they have altered consciousness and they may require artificial methods of feeding.

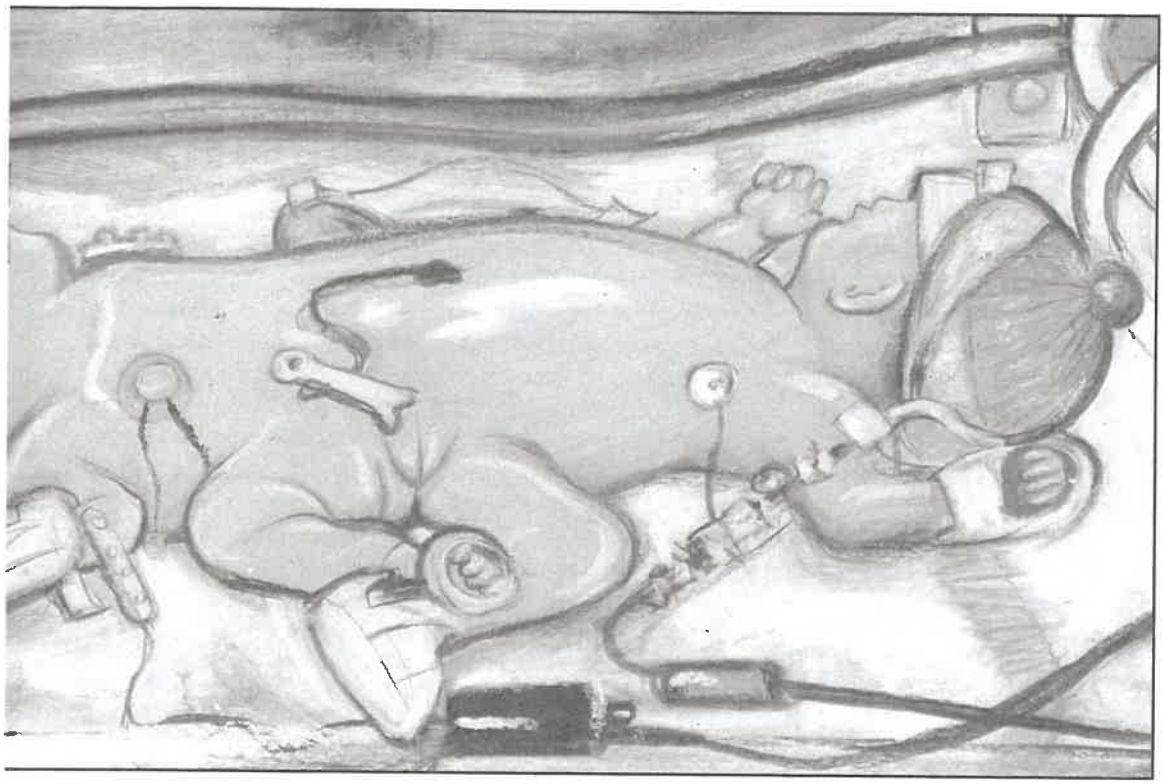
With the support of Mr Bland's relatives the local health authority sought a Court ruling that they could withhold food and water and so cause death by starvation. The House of Lords agreed to this request.

When considering the fate of Mary, Mr Justice Johnson drew direct parallels with the Bland case. The killing of Mary was said by the judge to be in Mary's best interests. The operation to separate the twins was equated



Mary (left) and Jodie (right)

The law of murder was never intended to condemn to death someone whose only "crime" was to be joined to her sister - a situation over which she had no control.



with withdrawing Mary's blood supply.

The central issue of the Bland case is whether food and water given by artificial means constitutes a medical treatment. The House of Lords ruled that it did. The judges argued that withdrawing food and water was an act of omission that would not be murder. By contrast the Lords said that any active attempt to intentionally kill Mr Bland would have been murder.

In the original judgment in the *Jodie and Mary* case at the end of August, Mr Justice Johnson directly followed the logic of *Bland*. He stated "I have concluded that the operation which is proposed will be lawful because it represents the withdrawal of Mary's blood supply".[32]

The effect of this would have been to classify the operation to separate the twins as the withdrawal of medical treatment. Thankfully the Appeal Court unanimously rejected this argument.

Lord Justice Ward said using Bland was "utterly fanciful".[33] Lord Justice Brooke stated "the judge's approach was wrong...These acts would bear no resemblance to the discontinuance of artificial feeding sanctioned by the House of Lords in the Tony Bland case".[34] Lord Justice Robert Walker agreed.[35]

Lord Justice Robert Walker: Double effect

Doctors cannot be charged with murder every time one of their patients dies. Many perfectly sensible medical treatments involve risk. Many involve predictable but acceptable side-effects.

In some cases drugs given to relieve pain have an unintended effect of shortening life by a matter of a few days. The intention is to relieve pain but, at the same time, it can be foreseen that the drug treatment may actually hasten death. This is called 'double effect'. The law does not prevent a doctor acting in this way and Christian theology recognises the moral validity of a doctor taking such action (see the last edition of *Advocate*).

Professor Robert Twycross puts it this way: "Broadly speaking, the principle of double effect states that if measures taken to relieve physical or mental suffering cause the death of a patient it is morally and legally acceptable provided the doctor's *intention* is to relieve the distress and not to kill the patient. This is a universal principle without which the practice of medicine would be impossible. It follows inevitably from the fact that all treatment has inherent risks." [emphasis added][36]

Lord Justice Robert Walker was convinced by the "double effect" argument: "The surgery would not be intended to harm Mary but it would have the effect of ending her life, since her body cannot survive on its own (and there is no question of her life being prolonged by artificial means or by a heart-lung transplant).[37]

It was on this basis that Lord Justice Robert Walker held that the operation could proceed. The central problem with this argument is that although the operation was for the benefit of Jodie, it could never have been for the benefit of Mary since it would kill her. The fundamental basis of double effect - benefit to the patient - is simply absent.

The two other Judges robustly dismissed the double effect argument. Lord Justice Ward said: "I simply fail to see how it can apply here where the side-effect to the good cure for Jodie is another patient's, Mary's, death, and when the treatment cannot have been undertaken to effect any benefit for Mary."[38]

Likewise Lord Justice Brooke stated: "...the doctrine of double effect can have no possible application in this case, as the judge [Mr Justice Johnson] rightly observed, because by no stretch of the imagination could it be said that the surgeons would be acting in good faith in Mary's best interests when they prepared an operation which would benefit Jodie but kill Mary."[39]

Lord Justice Ward: 'Quasi self-defence'

The European Convention on Human Rights has now been incorporated into English Law. Article 2 guarantees the "right to life". Clearly this applies to both Jodie and Mary. Whilst rejecting the notion that Mary was an *unjust* aggressor, Lord Justice Ward argued that Jodie

needed defending from her sister. He said: "Though Mary has a right to life, she has little right to be alive. She is alive because and 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."[40]

It was on this basis that Mary's Article 2 right to life was set aside by Lord Ward who justified the operation by broadening and reinterpreting the self-defence plea.

Lord Justice Ward argued that if a six year old was "indiscriminately shooting all and sundry in the schools playground" he might be killed in self defence of others. He then went on to say: "I can see no difference in essence between that resort to legitimate self-defence and the doctors coming to Jodie's defence and removing the threat of fatal harm to her presented by Mary's draining her life-blood. The availability of such a plea of quasi self-defence, modified to meet the quite exceptional circumstances nature has inflicted on the twins, makes intervention by the doctors lawful."[41]

Lord Justice Brooke: The doctrine of necessity

In an emergency, on very rare occasions, the law has permitted the lesser of two evils to be committed. During the Great Fire of London, for example, houses were destroyed to prevent the spread of fire.

The argument ran that Mary was going to die anyway, but whilst alive she was killing Jodie. Lord Justice Brooke therefore argued that the doctors had a defence of necessity. They were forced to choose between the lesser of two evils.

The doctrine of necessity has rarely been used by the Courts. Lord Justice Brooke, admitted that "This doctrine is so obscure and it has featured so seldom in our case law..." [42]

The leading case on this legal doctrine concerns the gruesome story of four sailors who had to abandon their yacht, the *Mignonette*.

Queen v Dudley and Stephens [1884]

Following a storm, the crew of *Mignonette* were compelled to leave the yacht and take to a life boat. They were 1000 miles off land. After 20 days of survival on the open sea without water or food (apart from two tins of turnips) two of the sailors decided to murder and eat the cabin boy. The third sailor who had dissented from the murder also fed on the remains of the boy.

In their defence the sailors argued they had no other course open to them. The cabin boy was weak and thought likely to die. There was no sail in sight and they reasoned that unless they fed upon the boy they would very soon die of starvation.[43]

High Court Judgment: August 28th



Mr Justice Johnson

✓ ***Key argument :*** *Use of Bland:* "the operation...will be lawful because it represents the withdrawal of Mary's blood supply"[1]

× *Double effect:* "no possible application"[2]

× *Mary's best interests :* "To prolong Mary's life...would be very seriously to her disadvantage" [3] "Mary's life would be nothing to her"[4]

Appeal Court Judgment: September 22nd



Lord Justice Ward

× *Use of Bland:* "utterly fanciful"[5]

× *Double effect:* "I simply fail to see how it can apply..."[6]

× *Mary's best interests :* "It cannot be. It will bring her life to an end..."[7] "Johnson J. was wrong to find that Mary's life would be worth nothing to her" [8]

✓ ***Key argument :*** *'Quasi self-defence' of Jodie:* "makes intervention by the doctors lawful" [9]

The case eventually was heard in London before five Judges. The sailors were found guilty. Lord Coleridge, the Chief Justice said:

"Though law and morality are not the same, and many things may be immoral which are not necessarily illegal, yet the absolute divorce of law from morality would be of fatal consequence; and such divorce would follow if the temptation to murder in this case were to be held by law an absolute defence of it....." [44]

The Chief Justice noted the strength of temptation and the suffering the men endured. Nevertheless, he said, temptation could never be an excuse. The men were guilty of wilful murder. The only course open to Judges, he said, was to ascertain the law and to declare it: "If in any case the law appears to be too severe on individuals, to leave it to the Sovereign to exercise that prerogative of mercy..." [45]

This is exactly what happened. Following the trial, the Crown commuted the death penalty to six months' imprisonment.

The three legal obstacles to necessity being used

Lord Justice Brooke accepted that previous legal cases had set up at least three main obstacles which limit the use of necessity.

The first legal obstacle (created by *Queen v Dudley and Stephens*) was the generally accepted assumption that necessity is no defence to a charge of murder. [46] Lord Justice Brooke argued that it could be. The second legal obstacle was that necessity had generally been held to apply only to an emergency situation. Lord Justice Brooke argued that this need not be so.[47]

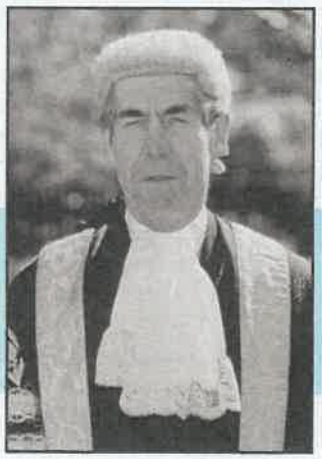
The third legal obstacle was that if necessity was a defence for the doctors in the case of Jodie and Mary, surely the same defence would also be available to the *Mignonette* sailors? One of the main reasons why Lord Justice Brooke argued that it would not be available was because morality would prevent it. As Chief Justice Coleridge said in 1884, morality cannot be absolutely divorced from the law.

In this way morality made a surprising re-entrance to the case after Lord Ward asserted "This is not a court of morals but a court of law".[48] Because of morality Lord Justice Brooke believed he was safe from opening a loophole to allow people to commit murder. Morality would prevent the defence of necessity being used wrongly by the Courts.

Killing according to schedule

In the operation to separate Jodie and Mary it was essential that there be no emergency. It was claimed during the legal proceedings that, if surgeons could choose the timing of the operation, Jodie had a 95% chance of survival. If surgeons had to act in an emergency this would have fallen to 36%. In both cases Mary had to be killed during the operation and not before.[49]

It was also claimed that if Mary had died before the operation



Lord Justice Brooke

× *Use of Bland:* "the judge's approach was wrong...no resemblance to...the Tony Bland case" [10]

× *Double effect:* "no possible application in this case..." [11]

× *Mary's best interests :* "by no stretch of the imagination could it be said that the surgeons would be acting in... Mary's best interests" [12]

✓ ***Key argument :*** *Necessity: "I consider that... requirements [for the doctrine of necessity to apply] are satisfied in this case"* [13]



Lord Justice Robert Walker

× *Use of Bland:* "the judge erred in law" [14]

✓ ***Key argument :*** *Double effect:* "The surgery would not be intended to harm Mary but it would have the effect of ending her life..." [15]

✓ *Mary's best interests :* "Continued life...would hold nothing for Mary..." [16]

Jodie would have had a survival rate of 1% or less.[50] It was therefore regarded as imperative for Jodie that Mary be kept alive until she could be killed during the operation. This was killing according to schedule.

Precedent

The Judges themselves were at pains to emphasise that, in the words of Lord Justice Ward, "this is a very unique case".[51] It was very significant that the Court of Appeal dismissed some alarming arguments put forward by Mr Justice Johnson, the first judge to hear the case. The Appeal Court came up with their own alarming arguments, but their legal effect will be much narrower than Mr Justice Johnson's cavalier use of the *Bland* case to justify the withdrawal of someone's blood as if it was a medical treatment.

The higher Court unanimously rejected this use of *Bland*. By a two to one majority the Appeal Court Judges also accepted that the operation would *intentionally* kill Mary. Also by a two to one majority the Appeal Court rejected the view that the operation to kill Mary could be said to be "in her interests". From a pro-life perspective these are all positive developments which will limit the extent to which the case can be cited as a precedent.

Despite all these reassuring comments, there can only be a sense of misgiving arising from the ethical and legal arguments that have been used to justify the separation operation and to interpret Mary's status.

There must also be unease about the deliberate timing of Mary's death in order to increase the chances of success for the operation.

There can be no doubt that many of the disturbing arguments on self-defence and necessity will be cited as a precedent in future cases affecting the sanctity of human life and the power of the courts, and doctors, to intervene.

Conclusion

Arguments crucial to one Judge in deciding to give the go-ahead were often rejected by other judges. This is hardly a basis of sound legal principle.

The very great danger is that the finely balanced arguments in a highly unusual case will be seized upon by 'moral innovators' to legitimate clearly wrong and indefensible actions in other cases.

Lord Justice Ward put forward a self-defence argument. But by no stretch of the imagination was Mary an aggressor. She was joined to Jodie from conception. To use the word "aggressor" of Mary is to do violence to language. The law of murder was never intended to condemn to death someone whose only "crime" was to be joined to her sister - a situation over which she had no control.

Lord Justice Robert Walker used double effect as his key argument. This was rightly attacked by his fellow judges as "having no possible application".

It is the argument by Lord Justice Brooke concerning the defence of necessity which would probably have convinced the House of Lords if the case had reached them. Like self-defence, necessity has been used *in extremis* to justify the taking of human life.

But to allow necessity to apply where there is no emergency is a very dangerous step to take. Surely Lord Justice Brooke is wrong to argue that a defence of necessity should be available outside an emergency and in the case of pre-meditated murder. In this case the killing was planned weeks before and furthermore the parents did not consent.

Doctors are not infallible. Mary thrived when the doctors thought she would not. The second medical opinion estimated the survival times in years rather than in months, unlike the first opinion. At the end of the day, doctors can only make educated guesses.

There have been many successful operations to separate conjoined twins. But no operation has ever succeeded in this type of case where one twin is dependent on the other. In these cases both twins have always died. There never was as much certainty as was claimed.

There has most definitely been a tragedy, but there was no 'catastrophic event' - as the term is commonly understood - justifying this legal intervention. Mary and Jodie were conjoined because of the way they were conceived and developed in the womb. No one is responsible for this. It is an act of God. It is a tragedy. Parents are normally the natural arbiter in such cases, but their views have been ignored.

The operation should not have gone ahead because there was:

- strong disagreement amongst the judges about the legal basis on which it should go ahead;
- no emergency;
- no catastrophic event;
- a lack of reasonable certainty; and
- no parental consent, surely necessary where the issues are so finely balanced. ■

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22 The Judgment of Lord Justice Robert Walker, *Op Cit*, section 28
23 The Judgment of Lord Justice Ward, *Op Cit*, Part II section 14
24 Quoted by the BBC on news.bbc.co/hi/english/health/newsid_937000/937057.stm (as at 25 September 2000)
25 *Loc Cit*
26 *The Independent on Sunday*, 27 August 2000
27 Quoted in the Judgment of Lord Justice Ward, *Op Cit*, Part II section 15
28 The summary of the Judgment of Lord Justice Robert Walker, *Op Cit*
29 The Judgment of Lord Justice Ward, *Op Cit*, Part IV (Family Law) section 7.2
30 The summary of the Judgment of Lord Justice Ward, *Op Cit*
31 *Airedale NHS Trust* v *Bland* [1993] AC 789

[32] Quoted in the Judgment of Lord Justice Ward, *Op Cit*, Part II section 15
[33] The Judgment of Lord Justice Ward, *Op Cit*, Part IV (Family Law) section 7.7
[34] The Judgment of Lord Justice Brooke, *Op Cit*, section 13
[35] The Judgment of Lord Justice Robert Walker, *Op Cit*, section 30
[36] Twycross, Robert, Letter to the Editor BMJ vol 319, 4 Sept 1999. Page 639
[37] The Judgment of Lord Justice Robert Walker, *Op Cit*, section 34
[38] The Judgment of Lord Justice Ward, *Op Cit*, Part IV (Criminal Law) section 4.2
[39] The Judgment of Lord Justice Brooke, *Op Cit*, section 15
[40] The summary of the Judgment of Lord Justice Ward, *Op Cit*
[41] The Judgment of Lord Justice Ward, *Op Cit*, Part IV (Criminal Law) section 7.7.
[42] The Judgment of Lord Justice Brooke, *Op Cit*, section 16.
[43] R v Dudley and Stephens (1884) 14 QBD 273
[44] *Ibid*, 287
[45] *Ibid*, 288
[46] The Judgment of Lord Justice Brooke, *Op Cit*, sections 19 & 20.
[47] *Ibid*, section 26
[48] The summary of the Judgment of Lord Justice Ward, *Op Cit*
[49] *The Times*, 5 September 2000
[50] *Loc Cit*
[51] The Judgment of Lord Justice Ward, *Op Cit*, Part VI (Conclusion)

Government plans to reform sex offences