Is the Moral Species of Craniotomy a Direct Killing or a Saving of Life?*

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Introduction

IN A VERY ASTUTE article for *The Thomist*, Germain Grisez, John Finnis, and Joseph Boyle Jr., wrote a clear and precise study on the morality of craniotomy, arguing that it is not always wrong when the immediate intention is not to kill the fetus.[1] In essence they hold that while killing innocent people is always wrong, the act of craniotomy is not wrong because the moral species of the act is that of saving the mother's life by reshaping the head of the fetus that is too large to leave the mother's womb and where a caesarian operation is not feasible. Describing what goes into the operation does not go to the heart of the moral act, but the immediate intention does.

Two years later, *The Thomist* published three essays under the title "Aquinas on the Object of the Moral Act" by three authors—Steven Long, Tobias Hoffman, and Kevin Flannery, SJ.[2] Long and Hoffman attempt to answer some of the arguments of the Grisez, Finnis, and Boyle

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[1] Germain Grisez, John Finnis, and Joseph Boyle, Jr., "'Direct and Indirect,'" *Thomist* 65 (2001): 1–44.

[2] Steven Long, "A Brief Disquisition Regarding the Nature of the Object of the Moral Act According to St. Thomas Aquinas," *Thomist* 67 (2003): 45–71; Tobias Hoffman, "Moral Action in a Human Action: End and Object in Aquinas in Comparison with Abelard, Lombard, Albert and Duns Scotus," *Thomist* 67 (2003): 73–94; Kevin L. Flannery, SJ, "The Multifarious Moral Object of Thomas Aquinas," *Thomist* 67 (2003): 95–118.

article and Flannery's article only obliquely. I hope to show by a partial variation of the Long article that the Grisez, Finnis, and Boyle analysis of this question (not their criticism of Jean Porter contained therein) is flawed based upon the nature of the causality involved as well as the consequences of using their method when applied to other bioethical problems. As will be shown, when the Church's teaching uses the phrases "direct" and "indirect," part of the nub of the question, these phrases have to do with the nature of causality and the specific difference between a substantial and an accidental change. These realities have to be taken into account, as well as the immediate intention of the acting person, when deciding the morality of craniotomy.

The Past Teaching of the Church on Craniotomy

When Grisez, Finnis, and Boyle refer to Leo XIII, they correctly interpret him to mean that craniotomy cannot be safely taught or done because the Holy Office itself, in accordance with the pope's approval, asserted that not only can the practice not be *safely taught*, it cannot be *done*.[3] This was in response to a request for clarification by a physician who had been killing fetuses in the womb in order to save the life of the mothers. Hence the Church's teaching was not a matter of disciplinary teaching:[4]

> [From the reply of the Holy Office to the archbishop of Cambresis, July 24, 25,1895]
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> 1890a When the doctor, Titius, was called to a pregnant woman who was seriously sick, he gradually realized that the cause of the deadly sickness was nothing else than pregnancy, that is, the presence of the fetus in the womb. Therefore, to save the mother from certain and imminent death, one way presented itself to him, that of procuring an abortion, or ejection of the fetus. In the customary manner, he adopted this way, but the means and operations applied did not tend to the killing of the fetus in the mother's womb, but only to its being brought forth to light alive, if it could possibly be done, although it would die soon, inasmuch as it was not mature.
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> Yet, despite what the Holy See wrote on August 19th 1889, in answer to the Archbishop of Cambresis, that it could not be taught safely that any operation causing the death of the fetus *directly*, even if this were necessary to save the mother, was licit, *the doubting Titius clung*

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[3] Grisez. Finnis, and Boyle, " 'Direct and Indirect,' " 21 note 33, and providing, on 26–27, an interpretation that seems to be plausible.

[4] Cf. Denzinger, nos. 1885–88. *The Sources of Catholic Dogma,* trans. Roy J. Deferrari, in Henry Denzinger, ed., *Enchiridion symbolorum,* 30th ed. (St. Louis, MO: B. Herder Book Co., 1957), 473–74.

> *to the licitness of surgical operations by which he not rarely procured the abortion, and thus saved pregnant women who were seriously sick.*
>
> Therefore, to put his conscience at rest Titius suppliantly asks: Whether he can safely repeat the above mentioned operations under the recurring circumstances. (emphasis added)

The reply is:

> *In the negative, according to other decrees, namely, of the 28th day of May, 1884, and of 19th day of August, 1889.*
>
> But on the following Thursday, on the 25th day of July . . . our most holy Lord (Pope Leo XIII) approved the resolution of the Most Eminent Fathers, as reported to him.[5]

The Proposed Defense of Fetal Craniotomy as a Moral Good

The clinical rationale for performing a fetal craniotomy occurs when a fetus's head is so large that it cannot pass through the birth canal without killing the mother; the skull, therefore will be crushed. Grisez, Finnis, and Boyle argue that such a procedure is morally permissible because it is not an intended killing but the saving of the mother's life; the doctor's object, the "what" or scope of the act, is only to re-shape the baby's skull so that it can be withdrawn from the mother. Granted that the baby will undoubtedly die, as an unwanted side-effect, such is not the immediate intention specifying the action; rather, it is an unintended result that is not a direct means of saving the mother's life. Moreover, this external act is merely a reshaping of the fetus's skull to facilitate its delivery or expulsion from the womb of the mother. If the skull were not crushed in this process, so much the better as is the case with caesarian sections that normally bring forth into the world living babies. Despite the actual but unintended harm to the fetus, the preservation of the mother's life is an intended end that influences the moral object of the act. Thus Grisez, Finnis, and Boyle conclude that the fetal craniotomy is permissible when the intention is not to kill.

An Intuition?

If the first right is that to respect human life, then any act that violates this right, especially in the case of the killing of an innocent, would seem prohibited independent of the immediate intention behind it. Yet, as St. Thomas Aquinas teaches concerning self-defense, "if a man engages in legitimate activities and uses due care, he is not guilty of any homicide that may ensue" (*ST* II–II, q. 64, a. 8). In light of the principle of double

[5] Ibid., emphasis added.

effect, this possibility extends to the case of bombing a munitions factory in a hostile nation as a means of preserving the lives of a nation's own soldiers and winning the war, even though doing so may bring about the regrettable and undesired result of killing innocent civilians, since self-defense in just war is morally good.[6] Likewise, the *Catechism of the Catholic Church*, numbers 2263 and 2264, teaches that the killing of enemy soldiers in a just war must be a side-effect of the intention of defending one's country, a view defended by Grisez, Finnis, and Boyle in their work *Nuclear Deterrence, Morality, and Realism*.[7]

Though it is much more than *merely possible* that an unborn child will die as the unintended result of a fetal craniotomy, craniotomy is not an abortion or the deliberate termination of a human life according to the analysis of Grisez, Finnis, and Boyle. If they had quoted the *Catechism of the Catholic Church*, they could have added that craniotomy with the correct intention is not wrong "either as a means or an end." This has to be so because the doctor's immediate intention is not to kill the fetus but only to reshape the skull, a procedure that intends to save the mother's life but not the child's, which it cannot.

One objection to their interesting theory should be this: If crushing the skull is only reshaping it, what is its new form? In fact there are now many forms giving existence to many body parts. Mere body parts cannot be actuated by a new form. From this observation, one has to conclude that a substantial change has occurred, not an accidental one. What and who caused it needs to be remembered in making any moral evaluation.

Further, the moral proportionality of this act of reshaping eludes the analysis of Grisez, Finnis, and Boyle because they only focus on how this act does not deliberately intend the infant's death. I grant that the child's death may be outside the doctor's intention. However, because such an outcome is a foreseeable result of this procedure, of its very nature always and everywhere, the analysis of immediate intentionality by Grisez, Finnis, and Boyle seems to be too narrow in scope to conclude to a differing moral species of this procedure other than Leo XIII's.[8] The

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[6] See Francisco de Vitoria, *Political Writings,* ed. Anthony Pagden and Jeremy Lawrance (Cambridge: Cambridge University Press, 1991), 315.

[7] Germain Grisez, John Finnis, and Joseph Boyle, Jr., *Nuclear Deterrence, Moraltiy, and Realism* (Oxford University Press, 1988), 315–16, n 3.

[8] I believe that Rhonheimer is correct when he warns moralists that an immediate intention can be a disguise of a hidden goal of using the false principle that the end justifies the means. See his work *Natural Law And Practical Reason: A Thomist View of Moral Autonomy,* trans. Gerald Malsbary (New York: Fordham University Press, 2000), 464.

intended immediate end alone of an action is not always a sufficient basis of moral assessment of all human acts. The theologian must also consider the very nature of the means by which it is pursued.

Several years ago in his message for World Day of the Sick, John Paul II reminded all theologians of the following principle:

> It is never licit to kill one human being in order to save another. And when palliative treatment in the final stage of life can be encouraged avoiding a "trial at all costs" mentality, it will never be permissible to resort to actions of omission which *by their nature* or in the intention of the person acting are designed to bring about death.[9]

At the conclusion of a meeting held at the Augustinianum, the Holy Father likewise noted the following (4e):

> In this regard, I recall what I wrote in the encyclical *Evangelium vitae*, making it clear that "by euthanasia in the true and proper sense must be understood an action or omission which *by its very nature* and intention brings about death with the purpose of eliminating all pain"; such an act is always "a serious violation of the law of God, since it is the deliberate and morally unacceptable killing of a human person."[10]

Recently in an article for *America* magazine, Grisez himself pointed out the following concerning the evil of abortion:

> However, choosing to support abortion funding also has a *built-in intention*. Whoever engages and pays someone to do something intends that it be done. Thus, when Mr. M's wife, girlfriend, secretary . . . tells him that she is pregnant with his child and he offers to take her to an abortionist and pay for the abortion, Mr. M intends that the woman get an abortion. If she took his money and used it to buy diapers and a crib for the baby she meant to have, keep, and raise—in part with the help of Mr. M's regular child support payments—his intention in providing the funds would be frustrated.[11]

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[9] Catholic World News, "Pope's Message for World Day of the Sick," February 7, 2003, emphasis added, http://www.cwnews.com/news/viewrec.cfm?RefNum=19883.

[10] John Paul II, "Persons in Vegetative State Deserve Proper Care," address of John Paul II to the participants in the International Congress on "Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas," *L'Osservatore Romano* (English), March 30, 2004, quoting *Evangelium Vitae*, no. 65, emphasis added.

[11] Germain Grisez, "Catholic Politicians and Abortion Funding," *America Magazine* 191 (2004): 5, emphasis added.

I hope to show that it would also follow that craniotomy of its very nature has a built-in intention against human life and, therefore, cannot be used to save the life of a mother.

Not Merely a Question of Unsafe Teaching

Grisez, Finnis, and Boyle are not ignoring this teaching of Leo XIII; indeed they mention it on pages 26 to 29 of their article. Their analysis of the question concerns the philosophical perspective from which they question its validity. While the word "craniotomy" does not appear in the official document of Leo XIII, the Holy Office in principle means precisely craniotomy. This is a theological teaching of the Church that has never changed up to this present.

Some decades later, Pope Pius XI would also speak out against craniotomy, also without using the word, by saying that the fetus cannot at all be assessed as in any way similar to an unjust aggressor:

> As for the "medical and therapeutic indication," We have already said, Venerable Brethren, how deeply we feel for the mother whose fulfillment of her natural duty involves her in grave danger to health and even to life itself. But can any reason ever avail to excuse the direct killing of the innocent? For this is what is at stake. The infliction of death whether upon mother or upon child is against the commandment of God and the voice of nature: "Thou shalt not kill!" The lives of both are equally sacred and no one, not even public authority, can ever have the right to destroy them. It is absurd to invoke against innocent human beings the right of the state to inflict capital punishment for this is valid only against the guilty. *Nor is there any question here of the right of self-defense, even to the shedding of blood, against an unjust assailant, for none could describe as an unjust assailant an innocent child. Nor, finally, does there exist any so-called right of extreme necessity which could extend to the direct killing of an innocent human being. Honorable and skillful doctors are therefore worthy of all praise when they make every effort to protect and preserve the life of both mother and child.* On the contrary, those who encompass the death of the one or the other, whether on the plea of medical treatment or from a motive of misguided compassion, act in a manner unworthy of the high repute of the medical profession.[12]

Nevertheless, Grisez, Finnis, and Boyle stake their claim on a more sophisticated understanding of what it means to will an act in a way that includes something beside the intention in itself. Indeed they proceed by

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[12] Pius XI, *Casti connubii,* in *The Human Body*, ed. the Monks of Solesmes (Boston: Daughters of St. Paul, 1960), 31, emphasis added.

drawing on the thought of St. Thomas Aquinas.[13] Since their approach seeks to evolve the papal teaching on craniotomy from a philosophical perspective, it could open the door to other medical procedures that will raise other ethical issues, such as the premature termination of other unhealthy pregnancies, which are understood to be proscribed by most theologians.[14] On the other hand, if the doctor's intention is to simply perform a therapeutic act other than crushing a living fetus's skull with the proper intention of healing the fetus and saving the mother's life, then its untimely death properly would be a side effect of an accidental cause.

Homicide as a Genus Is Not Morally Indifferent, Simply Speaking

To identify the specific object of moral acts, it is often essential to abstract from the agent's immediate intention and remote intention(s). To be sure, some acts considered in themselves are morally indifferent such as scratching one's head or picking flowers randomly. However, in the case of the death of a human person, moral issues are not neutral. For example, in his *Questiones quodlibetales* 9, 7, 2 (15), Aquinas writes:

> There are some actions which, absolutely considered, involve a definite deformity or disorder, but which are made right by reason of particular circumstances, as the killing of a man . . . involves a *disorder in itself*, but, if it be added that the man is an evildoer killed for the sake of justice . . . it is not sinful, rather it is virtuous.[15]

It is unusual for St. Thomas to speak of an action in the abstract as a "disorder" without it being a sin. This is particularly true when such elements as the immediate intention, circumstances, and motives dictate otherwise. Significantly, human killing is of sufficient importance to show the need for considering such factors. For example, today, if St. Thomas were responding to the Magisterium's current teaching on capital punishment,

[13] See Joseph M. Boyle Jr., "Double-Effect and a Certain Type of Embryotomy," *Irish Theological Quarterly* 44 (1977): 303–18.

[14] See Thomas J. O'Donnell, SJ, *Medicine and Christian Morality,* 3rd ed. (Staten Island, NY: Alba House, 1996), 183–92, especially 186. This can also be a problem with several articles by Edward Krasevac, OP, "Two Unresolved Issues for the Third Millenium," *New Blackfriars* 82 (2001): 177–81; and idem, "The Good We Intend and the Evil that We Do: A New Look at *Praeter Intentionem* in Aquinas," *Angelicum* 79 (2002): 839–54.

[15] Quoted in Germain Grisez, *The Way of the Lord Jesus,* vol. 1, *General Moral Principles* (Chicago, IL: Franciscan Herald Press, 1983), 149, emphasis added. The translation was done by Richard McCormick, and Grisez goes on to state that "supervening circumstances can totally empty out the disorder."

whereby "an evildoer is killed for the sake of justice," he perhaps could revise it along the following lines and say: "Capital punishment *may* be virtuous or right under certain unusual circumstances," and then he might outline one or some of those special circumstances. The teaching of the revised *Catechism of the Catholic Church*, number 2267, which leaves only a small window open for this possibility, clearly addresses this issue:

> Assuming that the guilty party's identity and responsibility have been fully determined, the traditional teaching of the Church *does not exclude* recourse to the death penalty, if this is the only possible way of effectively defending human lives against the unjust aggressor. . . .
>
> If, however, non-lethal means are sufficient to defend and protect people's safety from the aggressor, authority will limit itself to such means, as these are more in keeping with the concrete conditions of the common good and more in conformity with the dignity of the human person. (emphasis added)

These passages arguably may or may not influence governments to withhold or abolish criminal execution in many jurisdictions. Nevertheless what St. Thomas saw as morally justifiable killing is now deeply modified because of conceptual advances of theologians and the papal Magisterium itself reflecting upon the gospel of life.

However, as Aquinas notes in other contexts, some acts admit the permitting of a human person's death and may not be morally disordered when the effect is either a proportionate or side-effect of the action itself. Thus the killing of someone that is not intended as self-defense but is purely unintentional or accidental would not be morally evil per se (*ST* II–II, q. 62, a. 3). However, such a killing could be morally evil by neglecting to use proportionate means even though a defensive act.

The Necessity of Distinguishing Efficient Causality from Occasional Causality

If we begin with an example from the life of Christ, one could argue that his preaching and teaching caused Judas's betrayal and eventual suicide, but even more remotely, caused the Crusades, and even further, the destruction of the World Trade Center. However Christ's death is not really understood to lead to any of these actions per se. Instead they were caused by other more immediate acts by others. In other words, Christ's first coming may be construed as the occasion of these horrible deeds but not as their immediate or per se cause. So, Judas killed himself, Christ did not kill him. Some crusades came about from some erroneous ideas related to Christ but not flowing per se from Christ's human/divine acts.

Moreover, the Tradition sees that the devil is an occasional cause of individual sins, but not their efficient cause. Human beings are rightly understood to be directly responsible for their human acts but the devil in some way, *per accidens,* is sometimes responsible by his influence when freely consented to. Occasional causes do not bring about their effects, simply speaking, but serve as circumstances by which some other agent or force actually brings about a particular effect. If occasional causes are human beings attempting to influence other human persons, they may share in the merits of the receptor's virtuous deeds or they may be morally accountable for the evil done depending upon their intentions and motives.

So, likewise, when examining medical procedures, the theologian must distinguish per se causes from *per accidens* causes. He can do so by careful observation and analysis of external acts. The doctor legitimately removes a cancerous uterus, which, in turn, may lead to the death of a fetus as an unintended effect. Let us suppose that this in turn induces a depression in the mother that is so acute that it leads the woman to kill her other children. The doctor was the efficient cause of removing the cancerous womb. However, the doctor did not per se cause the abortion syndrome of the woman nor the death of the mother's children if she went into a rage afterward and murdered them. Going backward from all the effects to the cause, only the removal of the uterus was directly and efficiently attributable the doctor, but not the other deleterious effects.

To take the Grisez, Finnis, and Boyle case, the doctor "redesigns" an infant's skull by crushing it. This permits him to remove parts of the fetus through the birth canal and save the life of the mother. From observation and analysis of this action, not a mere description, the doctor acts not as an occasional or *per accidens* cause in a string of events but as a per se necessary and direct cause. This is known because it is in the teleology of smashing skulls (the end *of itself*) that the procedure of its nature directly and immediately kills an innocent fetus. If the skull could be compressed in such a way that the fetus's life would not be lost, then the doctor would not be directly and physically killing the fetus. In other words, it is reasonable to hold that there is a direct and immediate link between crushing a skull and the death of the fetus, no matter what a doctor immediately or personally intends. Here it is noted that the doctor directly causes or initiates a substantial change. Of course, if the fetus is already dead, crushing its skull does not cause the substantial change by killing it (though for Grisez, Finnis, and Boyle, skull crushing in both cases seems to be the same act physically).[16] In the latter case, the surgeon

[16] Grisez. Finnis, and Boyle, "Direct and Indirect," 25.

causes an accidental change by removing dead body parts from the womb. As is clear for Grisez, Finnis, and Boyle, intending some other effect and crushing the skull of a living human being is not killing because it is not an intended death-dealing action. However, this assertion goes counter to a realistic observation of and reflection on the facts of what is done regardless of intentions. But, to employ Thomistic moral terminology, the morally upright death of craniotomy should merely be the outcome of an occasional not an efficient cause contra John Finnis.[17]

The Importance of the Terminology: Direct and Indirect

One should also ask if a theological discussion can allow itself to void the distinction between "direct" and "indirect."[18] How can one simply overlook *Declaration on Procured Abortion* (no. 14), the instructions of *Evangelium vitae* (nos. 58b and 72), or the *Catechism of the Catholic Church*, which uses the terminology *direct* (nos. 2268, 2269, 2271, 2277, and 2291) and *indirect* (nos. 2269, 2281, and 2412)? For one example, when it comes to "direct" killing, this distinction is found in *Evangelium Vitae*, number 57:

> Therefore, by the authority which Christ conferred upon Peter and his successors, and in communion with the bishops of the Catholic Church, I confirm that the *direct and voluntary* killing of an innocent human being is always gravely immoral. This doctrine, based upon that unwritten law which man, in the light of reason, finds in his own heart (cf. Rom 2:14–15), is reaffirmed by Sacred Scripture, transmitted by the Tradition of the Church and taught by the ordinary and universal Magisterium. (emphasis added)

According to Grisez, Finnis, and Boyle's theory of voluntary action, the act of craniotomy would not be either direct or voluntary because it is done with a different moral object in mind and chosen by the will, and therefore the ensuing death of the baby is only a side effect. I claim that this act of violence, in this case, treads on the inviolable dignity and sanctity of human life because the direct action of its nature, apart from intentionality, efficiently causes a substantial change, the separation of soul from the body, and so, is not a mere side effect. If someone were to light a fuse attached to dynamite to see if it is in working order and not intending that it go off, he would be guilty of grave negligence in his own death from

[17] See John Finnis, *Thomist* 55 (1991): 10–24, where he argues that the doctor's emptying out the oversized head of the baby is an object of *choice (genere moris)* but is not a *cause*.

[18] Grisez, Finnis, and Boyle, "Direct and Indirect," 1; see also St. Thomas Aquinas, *Summa theologiae* I–II, q. 76, a. 1; q. 80, a. 4, among many other texts.

the nature of things. Similarly there is a distinction between giving a drug to kill someone as in euthanasia, and a drug to sedate so that machines can be turned off in order that the patient whose death is naturally immanent will not die in grave pain. In the first case, the drug is directly killing (efficient cause) someone with my consent (formal cooperation); in the second case, the disease process is the killer, and the medications are making it easier for a patient to endure or even eliminate all pain.

Long-Term Effects of Instruments of Violence and Their Varying Moral Objects

Similarly, one can suppose that somewhere in Germany's Black Forest a child steps on a landmine, which instantly kills him. Who is responsible for this act? Everyone knows what caused his death, but identifying the responsible party is another matter. Whether the landmine was placed by a member of the German army or by the Allies may not be ascertainable, but it seems fair to say that it was placed for military purposes, for example, to blow up enemy vehicles or troops. It can be allowed further that after the war both sides earnestly tried to remove all the landmines they placed; however, because of the tumult and chaos following the war, they were unable to be completely successful. If this were so, then we may conclude that because no one is directly responsible, the child's death is the accidental result; it is an *indirectly* caused death by those who laid down the mines. This unfortunate accident is remotely caused by whoever placed the landmines and, less remotely, by those who did their best in a non-negligent manner but, by accident, failed to clear the roads of all of them. These actions were done without the intention of harming any innocent child who happened to become a victim after the hostilities ended.

Difficulties in Formulating Moral Objects

Some years ago, Martin Rhonheimer wrote of moral acts that their "*debita proportion, convenientia* or *debita materia* must be ordered by reason in acts that have already been thoroughly analyzed."[19] Contraception provides one example. The papal Magisterium teaches that the sin of contraception occurs in the particular context of two people who freely attempt to engage in sexual intercourse in which either party renders infecund the act itself either physically or chemically.[20] Though one may

[19] Rhonheimer, *Natural Law,* 422.

[20] Cf. *Humanae Vitae*, no. 12. See Pontifical Council for the Family, *Vademecum for Confessors,* no. 13, which speaks of a special kind of material cooperation in the evil of contraception.

wish to argue that such an act is intended to promote family life, the couple are still freely and deliberately seeking to avoid the possibility of children, one of the goods of marriage, with a contralife will[21] by using a physical, violent[22] means that attacks the goodness of the act.[23]

Willed Immediate Intentions Where the Act Is Proscribed

Without doubt to this writer, a deliberate crushing of the child's skull violates the physician's *raison d'être*. There is no possibility that the skull can be reshaped and the child returned to life. Though this effect may be beside the doctor's immediate intention, the result directly flows from the doctor's causal action. His immediate intention, in this instance, seems to become a subjective rationalization to save the life of the mother. It would be similar to the issue of separating Siamese twins. Supposing one twins possessed the lungs and the other possessed the heart. Separating them would kill them both since human beings cannot live without a heart or lungs. Right intentions in this circumstance would not change the murderous action, objectively speaking.

The Medical Use of Violence

Physical, chemical, or biological violence to another human person is rarely permissible, and only after due consideration has been carefully rendered with respect to the relevant circumstances. But experience and medical analysis may show that, for the most part, the wounds or pain inflicted by a well-designed operation or chemical intervention will eventually subside and heal. The patient will feel better physically and psychologically, if such are done under the care of a skilled physician, all things prudently considered. But mistakes in practical judgments can and

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[21] Cf. Germain Grisez et al., "Every Marital Act Ought To Be Open to New Life," *Thomist* 52 (1988): 369–90.

[22] I use the word "violent" in the metaphysical sense because the sexual act does not contribute of itself to an "aptitude" in the nature of the sexual act but is forced upon it by an extrinsic principle in this case a contraceptive. Cf. St. Thomas Aquinas, *Com. Met.,* V., lect. 6, note 835; VII, lect. 8, note 1442c.

[23] Contraceptive acts are intrinsically evil when freely chosen by both parties. Not every use of contraception (unless it is also an abortifacient) is wrong, such as protection from unjust acts, as in the case of rape, because these acts violate the integrity of the individual's will. A woman, for example, can defend herself because rape concerns itself by the forced introduction of sperm into the vagina, when this is a real foreseeable possibility as in the case of a marauding army about to rape women in a village. See William May, *Catholic Bioethics and the Gift of Human Life,* (Huntington, IN: Our Sunday Visitor, 2000): 140–42.

do occur. Even if some patients may die as the result of the simplest of procedures, these accidents of their nature will be in fact beside the intention of the physician and the unfortunate outcome of one or many *per accidens* cause(s) beyond his or her control. However, if the patient dies by willful negligence on the part of the doctor, then the doctor becomes a per se cause of the action of killing.

Whatever its motivation, crushing the skull of an unborn child is still the taking away of an innocent life.[24] Whatever the primary motive or other secondary motives, the act is per se or an objectively per se causal act of killing, not a *per accidens* death. Even though it is not motivated by the desire to avoid the reception of children, it is a moral species in line with abortion, no matter how much one tries to redefine the moral species. If this is true, then a fetal craniotomy is rightly referred to, in the language of Pius XI as a "direct killing of the innocent."[25] Further, this is an instance of one person being sacrificed for the sake of another. It is not the sacrifice of a *part* of one person for the sake of the whole body of that same person.[26]

Realigning the skull of an infant to save the life of the mother may save her, but the doctor is doing so by objectifying or instrumentalizing the child as a means to an end. The child is no longer sacred but an obstacle to someone's continued life, even if its situation is aggressive or death-dealing to the mother. The baby is not *intentionally* harming the mother; this is only the result of the incongruity between his or her head and the size of the birth canal. The objective purpose of any medical enterprise is to aid in the healing of physical problems, not to terminate a life that poses various terrible "inconveniences." And if a medical problem is irremediable, except through an act that objectively and essentially kills, then the mother would heroically die for life; however, such a case is rare in the modern world because of a medical procedure called caesarian section.[27] Unfortunately, in many countries in Eastern Europe, craniotomy is the normal practice.

Conclusion

It seems as if Grisez, Finnis, and Boyle's defense of craniotomy presupposes that the action of killing in craniotomy, as they describe the act, is

[24] Scientists have actually devised tests to show that the fetus is feeling pain in any operation that is death-dealing.

[25] Pius XI, *Christian Marriage* (Washington, DC: United States Catholic Conference, 1969), 22.

[26] See Benedict Guevin, OSB, "The Principles of Informed (Proxy) Consent and Totality in the Reputable Practice of Medicine," *American Journal of Jurisprudence* 41 (1996): 189–202.

[27] Recently John Paul beatified Gianna Beretta Molla who chose to die that her child might live. See http://www.gianna.org where her story is told.

not a grave disorder, so that one's immediate intention of a moral object could rule out any immediate and objective death-dealing blow even though the redescribed action does that. But, direct or immediate intervention with a doctor's hands and tools on a fetus's very life is not at all an indifferent act. The act of an efficient cause necessarily kills the little child, even if reluctantly.

Can a doctor licitly perform a dangerous experiment on an individual when no benefit can accrue to that individual, and without his permission? Will crushing a skull, or euphemistically reshaping it, produce any benefit to the fetus? Is it better to kill directly than let a child die from a debilitating disease? Can I hurry up his death or harvest his organs while he is dying? Of course not, according to the other well–known writings of Grisez, Finnis, and Boyle.

The reason for invoking the terms "direct" and "indirect" is that the kinds of physical causality of the act are what is in question. *Per se* and occasional/*per accidens* causes are clearly different in their influences on an effect. When there is an efficient cause that of itself wounds, maims, and kills, that cause of itself is a direct force doing the killing, whereas if a lethal action is directed to something else (such as self-defense against a potential murderer), and a deadly effect as byproduct may or may not occur, then the cause is an occasional one, not a direct cause.

It would appear, if this previous analysis is correct, that the solution of Grisez, Finnis, and Boyle to the problem of craniotomy is really based upon the notion (in my terminology) that reshaping the head is an occasional causal action, whereas common-sense realism based on observation understands the procedure to be precisely of itself an efficient cause of killing. It has the necessary property of being death-dealing without the due circumstances of defending against a guilty party or an unjust aggressor. Hence, in my view, craniotomy, contra Grisez, Finnis, and Boyle, is a direct killing of innocent human life, and not a side effect of an occasional cause beside the intention. NV