AN ARISTOTELIAN-THOMISTIC MORAL ANALYSIS OF TWO CASES OF MEDICAL INDUCTION FOR PREVIABLE INFANTS

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Here, I analyze the moral object of the act of medical induction of a previable infant according to the Aristotelian-Thomist moral rationale articulated by Father Martin Rhonheimer in *Vital Conflicts in Medical Ethics*.[1]

In the book's preface, Rhonheimer shared important background information:

> This wide-ranging study was drafted for the Roman Congregation for the Doctrine of the Faith and completed and submitted to the Congregation in 2000. After it was carefully studied in the Congregation and by its then prefect, Cardinal Joseph Ratzinger, the Congregation in turn asked that it be published, *so that the theses it contains could be discussed by specialists.* [italics mine]

This CDF directive inspired the goal of my ethical analyses of the following OB cases.

I. First Case: Pregnancy following peripartum cardiomyopathy (PPCM+P)[2]

A 23-year-old woman developed peripartum cardiomyopathy. This is a rare condition in which the walls of the heart are damaged so that the heart cannot pump blood effectively through the body. The condition develops during the peripartum period, during the last months of pregnancy or within several months after delivery, and its cause is unknown.

The patient was placed on standard medications to control the myopathy, and was advised not to become pregnant again, since another pregnancy would exacerbate her condition and entail a significant risk of death.

The patient subsequently became pregnant, and had significant shortness of breath when seen by her obstetrician at six weeks gestation. Her obstetrician referred her to a maternal-fetal medicine specialist (MFM) who suggested adjustments to her medications. These changes successfully controlled her symptoms, and it was thought the mother could safely carry the baby to viability if not to term.

To be safe, the MFM specialist referred the mother to a cardiologist, and she underwent a chemical stress test (dobutamine echocardiogram) to evaluate the ability of her heart to function under the strain of the progressing pregnancy. During the test, she experienced ventricular tachycardia (rapid heartbeat), shortness of breath, cardiac ischemia (restricted blood flow to the heart), and test intolerance such that she could not finish the test safely.

The test results confirmed the cardiomyopathy and showed the mother's risk of death was greater than 93 percent. The medical literature recommends termination of the pregnancy when the mortality risk is so high.

The patient sought a second opinion from three more cardiologists and another MFM specialist. All agreed on the severity of her condition, and all agreed that no treatment changes would improve her prognosis. All the physicians concluded that an attempt to carry the pregnancy to viability would result in the death of the mother as well as the death of the baby.

I-A. Analysis of the morality of the act of medical induction[3] in the pregnancy following cardiomyopathy (PPCM+P)

The PPCM+P described here is a vital conflict[4] case: an example of a high-risk obstetric case *in extremis* where the previable child is lost in any case but at least the mother can be saved. This extreme situation leaves the doctor with only two options: do nothing, and lose both mother and baby, or intervene immediately by ending the pregnancy with a medical induction of labor and save the only life that is savable, that of the mother.

The moral question the OB faces in resolving the conflict or dilemma of *only* being able to save the mother's life is this: Is doing nothing—permitting both mom and baby to die—a morally acceptable act of omission? Or: Is performing a medical induction—saving the mother by means of a physically direct act of killing the baby (in the sense of physically causing the baby's death)—a morally good action?

Here are the subsidiary questions that the attending OB would have asked himself before he decided to save the mother's life through a medical intervention:

- What is the only way I can save the mother's life in this PPCM+P?

  Answer: To deliver the pregnancy.

- What specific method of delivery will accomplish that, given the gestational age of the baby?

  Answer: A medical induction.

- Is my physically direct act of killing the baby in a medical induction also morally direct? That is: Is the delivery of the pregnancy in the medical induction an act of direct abortion or murder?

  Answer: In delivering the baby by a medical induction, I am performing a single act that has two effects: the *unintentional* or non-intentional *physical effect* which lies outside my will—the death of the baby—and the *intentional* or willed *moral effect*—saving the mother's life—which, because I will it, decisively specifies the medical induction as a morally good action. Therefore, I am morally justified in using a medical induction to deliver my patient's pregnancy.[5]

In other words, the doctor is justified in doing the medical induction because he understands that what he directly (*deliberately, intentionally*) chooses to do in the medical induction is the good act of *saving the life of the mother.* While what lies outside his will—the death of the baby—is what happens merely *per accidens,* even

though the doctor is deliberately doing or causing it, as the *unintended consequence* or *effect* of his intentional life-saving act. The death of the baby, the prevention of its continued existence, is *not* the means the doctor chooses to save the mother, and, therefore, the doctor's will is *not* a life-negating or unjust will.

Stated differently: The moral object of the *intentional act of medical induction—delivering the previable baby to save the mother*—specifies the exterior act—the physically direct act of killing or causing of the baby's death through medical induction—as a good or just act: an act of saving life.

Objective proof that the death of the baby is an unintended effect, rather than the object of the medical induction, is the constellation of medical facts in this vital conflict case. At 10-12 weeks gestation, the baby's life is un-savable: the pre-viable infant cannot survive outside its mother's womb; *only* the mother's life is savable. Therefore, *because the baby's death can no longer be an object of choice, killing the baby cannot be the reason why the doctor does the medical induction*: the doctor's physical act of medical induction is *not informed by the choice to let the mother survive instead of the child*, but *is informed,* only and alone, *by the choice to save the mother.* Which is to say, Rhonheimer answers the question "Why is saving the mother rather than the death of the baby what the doctor intends in the act of medical induction?" with:

> Precisely because the *will* of the doctor, as a will that *chooses a means*, is not aimed at the death of the fetus, but exclusively at a treatment that saves the mother. But it is not in fact entirely opportune to say that the [doctor's] will is aimed "indirectly" at the fetus. Rather, it is *not* aimed at the fetus at all. Simply put there is *no* direct [moral] killing of the fetus here at all.[6]

In the case of PPCM+P, since causing the death of the baby in the medical induction, despite it being a physically direct act, is not the *reason why* the doctor does the medical induction, the death of the baby is accidental to his will. In short, the direct character of the act of delivery (the physical expulsion of the fetal body) is *not* what morally specifies the medical induction; only if the doctor would do the physically direct act of medical induction *with the intent to kill the baby* would the delivery be an act of moral killing.

In other words, the physician's action of medical induction, while it admittedly causes the death of the fetus, does not involve a decision to deprive the child of its life or the choice to kill the baby as a means to an end, and, therefore, the medical induction is not a direct or an induced abortion. Furthermore, in the vital conflict case under scrutiny, for the doctor to say he is intentionally doing the medical induction to kill the baby would be to contradict the reality of the medical facts on the ground.

It is of utmost important for our discussion here to reflect on the reason why not every physically direct act of killing (or why not every physically direct act of causing death) is murder. The act of killing a human being is absolutely forbidden (1) in the sense that one may never *will* or *choose* to kill another as a means or as an end, but *not* (2) in the sense that one may never, given appropriate circumstances, cause a death. As Aquinas teaches (*ST* II-II, q. 64, art 7, sed contra), neither the physically direct act of killing in a *just* war (where, today, the aggressor might be blown apart by a drone missile) nor the physically direct act of killing in *just* capital punishment (where, today, the criminal's entire body is destroyed by a lethal injection) is murder

or a violation of justice. Hence, it is not the physical directness of the destruction of the baby's body in the medical induction or that of the combatant's body in the war bombing or that of the criminal's paralysis, suffocation, and cardiac arrest in lethal injection that morally specifies their respective physical acts of killing.

It is the just intentionality with which the respective agents (doctor, soldier, public authority) do what they are doing—to save the life of the mother by delivering the baby or to restore justice either through just collective self-defense or through punishment—that defines the morality of the physically direct act of killing in medical induction, in war, and in capital punishment, respectively.

In other words, the directness and ferocity of these physical acts of killing do not essentially alter the reality that their lethal physical effect—death of the baby, the combatant, and the criminal—lies *outside*, not within, the respective wills of the doctor, soldier, or public authority.

To sum up: the *genus moris* or moral species of the doctor's physical act of medical induction in the PPCM+P—saving the life of the mother by delivering the baby—is what definitively specifies the morality of the medical induction.

Furthermore, and very importantly, the reasonableness of specifying the doctor's act of delivery as a morally good act of therapy is substantiated by the objective medical facts of this case. First, the mother's life is the *only* life that can be saved and, second, there is *nothing* the doctor can do to save the life of the previable baby; the latter will die whether or not he intervenes. Therefore, the good of saving the mom's life is the *only* thing the doctor could objectively (i.e., reasonably) intend in his act of medical induction.

Thus, the doctor's physically direct act of killing or causing the death of the baby in the medical induction can reasonably be judged to be good in terms of it being the simple delivery of the baby to save the mother's life, that is, without considering the lethal effect of the baby's death *as the reason why* he chose to induce. Given the regrettable medical fact of this PPCM+P—the maternal cardiomyopathy kills the baby—it would be contrary to good logic for the doctor to say, "The reason I am doing the medical induction is to kill the baby." And, given the other incontrovertible fact—the only savable life is that of the mother—it makes perfect sense for the OB to say, "The *only reason* I am doing the medical induction is *to save the life of the mother*."

It is *very important* to note that the credible explanation for saying the doctor is not intentionally killing the baby is not found in some kind of *subjective* "shifting" of his intention away from the consideration that his physical action directly results in the baby's death. The credibility of the doctor's intent is dictated by the *objective medical facts of this vital conflict case* which make it *impossible* for the OB to reasonably say he is choosing the baby's death (either as an end in itself or as a means to save the life of the mother). As Rhonheimer argues:

> The death of the child can be claimed to be *praeter intentionem,* not because the intention is related solely to the removal of the pregnancy with the end of saving the mother's life, but because the intention in the action here in question *can* be directed *only* at saving the mother's life, i.e., because the removal of the pregnancy in this case *cannot* include any decision against the life of the child, since the child has no

known chance of survival. **No other outcome is even in question for the child, nor can any other outcome, (i.e., saving the child) be conceived of as a rational basis for action, nor can the action be criticized as an injustice against the life of the child.** Consequently, the death of the fetus *is not chosen;* rather, it is similar to an unintentional side effect, which is to say that it is not a "direct killing."[7] [bolding is mine]

In sum, **it is objectively impossible to argue that the doctor in the PPCM+P chooses to perform the medical induction as a means to kill the baby. Only the survival of the mother can be a matter of the doctor's choice, and this choice defines the object of the intentional action of medical induction as a good, that is, a life-saving, act.**

It follows, then, that the moral object of the doctor's act of medical induction in this PPCM+P is a non-direct abortion or, to use the terminology of the *Ethical and Religious Directive*[8] #47, is a directly curative intervention. ["Operations, treatments, and medications that have as their direct purpose the cure of a proportionately serious pathological condition of a pregnant woman are permitted when they cannot be safely postponed until the unborn child is viable, even if they will result in the death of the unborn child."]

Finally, from the perspective of a currently accepted, justice-inspired Judeo-Christian medical ethic, the attending OB in the PPCM+P would view his act of medical induction as one that *conforms to* the ethical norm requiring healthcare professionals to try to save every human life that is savable. And the same doctor would view any regulation that requires him to allow mother *and* child to die, *even though he can save the mother's life*, as a *direct contravention* of that same justice-based norm.

II. Second Case: A cerebrovascular accident pregnancy (CVA-P)

Melissa, a 27 year-old woman (G3P2), is currently at 11 weeks gestation. Her first pregnancy resulted in a 28-week fetal demise, cause undetermined. She delivered a five pound baby with her second pregnancy, but suffered an acute right parietal temporal CVA (cerebrovascular accident) at 9 weeks gestation that caused speech problems and left-sided numbness and weakness. These symptoms gradually resolved after the patient was placed on therapeutic anticoagulation therapy.

Despite initiation of full therapeutic anticoagulation before the start of her third pregnancy, the patient suffered another stroke at 10 weeks gestation which resulted in speech difficulties and left-sided numbness and weakness. An extensive workup did not reveal an underlying cause other than the risk associated with the hypercoagulable state of pregnancy and the fact that the patient is a smoker.

Although the current situation could have been managed, the significant risks for additional strokes, with the possibility of permanent neurologic damage or death, prompted the patient and her doctor to decide to terminate the pregnancy with a medical induction.

II-A: Analysis/Discussion of the morality of the act of medical induction in the cerebrovascular accident pregnancy (CVA-P)

The CVA-P just described is *not* a vital conflict case where the doctor is only able to save the mother's life. Which is to say, the medical induction in this case is not a dual-effect act like that in the PPCM+P where the good of what the doctor intends, saving the mother by removing the baby, defines the morality of the act, and the bad effect—the unintended consequence of the death of the baby—falls outside the moral content of the medical induction.

The induction in the CVA case is one where, despite the fact the baby *could survive* the situation, and despite the fact the doctor, through expectant management, could save the lives of mother *and* baby, the OB decides *not* to save the life of the baby who would otherwise survive. Therefore, despite his *ulterior* motive for doing the medical induction—to save the mother's life, the doctor's *immediate* reason for choosing the induction is *to terminate the pregnancy—to kill the baby.*

Although the physically direct act of medical induction is done *remotely* for the purpose of protecting the mother, it is true to say that the sole *immediate* effect of what the doctor in the CVA-P chooses to do in his physically direct act of delivery is to *kill the baby.* And the goodness of the doctor's remote or ulterior motive of saving the life of the mother cannot reverse the evil of *what he immediately chooses to do—the immediate reason why he does* the medical induction—namely, *to kill the baby.*

For this reason, the *moral object* of the act of medical induction in the CVA-P—the choice of the doctor to do the medical induction as a means of killing the baby—also makes his physical act of killing the baby in medical induction a *moral killing*: that is, a direct or intentional act of *abortion*, an act *against justice* by dint of depriving the baby *who would otherwise survive* of its equal right to life.

Proof that the doctor commits a moral act of killing lies in the incontrovertible, objective medical facts on the ground: because the CVA is not directly threatening the life of the child, the only way the doctor could terminate the pregnancy for the sake of the mother's health is to intentionally use the act of medical induction to kill the baby.

To fully appreciate the evil of saying the doctor's act of medical induction in the CVA-P is an act of intentional abortion, we must acknowledge what that means in terms of the virtue of justice. The OB is choosing or intending to end and sacrifice the baby's life for the sake of the mother's health and survival which, in turn, means the doctor is essentially choosing the intrinsic injustice of preferring the mother's life *over that* of the baby, thereby depriving the baby of its equal right to life.

As John Paul II explains in *Veritatis splendor*, 80: While it is true to say that the object of a doctor's act of induced abortion, like that in this CVA-P, is immediately chosen *for the sake of* "ending the baby's life" and therefore, *per se,* constitutes an intrinsically evil act, it is *not* true to say that the doctor's *ulterior or remote good intention* of saving the mother's health and life *can make that intrinsically unjust act of killing good or just.*

Consequently, in the CVA-P considered here, the doctor's physical act of killing the fetus is also a moral act of killing, an intentional abortion, an act condemned by ERD 45 ["Abortion (that is, the *directly intended* termination of pregnancy before viability or the *directly intended* destruction of a viable fetus) is never permitted. Every procedure whose sole immediate effect is the termination of pregnancy before viability is an abortion."] and by *Evangelium vitae,* 57.5 ["The deliberate decision[9]

to deprive an innocent human being of his life is always morally evil and can never be licit either as an end in itself or as a means to a good end."], and by *EV,* 58.2 ["Procured abortion by whatever means it is carried out" is defined as "the deliberate and direct killing . . . of a human being."].

Finally, from the perspective of a Judeo-Christian medical ethic, the attending OB in the CVA-P would have to view his intentional act of killing in the medical induction as *a contravention of* the justice-based norm that healthcare professionals are required to save every human life that is savable and are prohibited from depriving one patient of his right to life in order to save another.

I-B & II-B: Background Discussion

Key questions whose answers shaped the aforesaid conclusions about the morality of the act of medical induction in the respective PPCM+P and CVA-P:

- **What are the two effects of the act of medical induction in the PPCM+P? How does its exterior, physical level (its *genus naturae*) differ from its interior, moral level (its *genus moris*)?**

Rhonheimer employs appropriate English translations for the Latin terms Aquinas uses to designate the two effects of a single act (cf. *Summa Theologiae* II-II, q. 64, a.7). For the effect that the agent wills, that is, the moral effect (the Latin: *id quod intenditur*), Rhonheimer uses the English term *intended* or *intentional* and, for the effect that is not intended, that is, the physical effect which lies outside of, or accidental to, the agent's will (Latin: *praeter intentionem/per accidens*), he uses the English terms *unintended/accidental.*

Rhonheimer argues the designation "'indirect' willing" that is used in the traditional presentation of the Principle of Double Effect is a contradiction in terms. *There is no such thing as "'indirect' willing."* Either one wills something or one does not. Although Rhonheimer concedes one could use the term non-direct instead of "indirect" to more accurately reflect the idea of *praeter intentionem* (the physical effect that lies outside the agent's intention or will), he prefers the term *unintended.* In other words, for Rhonheimer, the clearest English terms to describe Aquinas's teaching regarding the dual effects of a single act (cf. *ST* II-II, q. 64, a.7)—the moral effect the agent wills and the physical effect the agent does not will—are *intended* and *unintended,* respectively.

The moral, interior effect of the dual-effect act, on the one hand, is *intended*; the physical, exterior effect of the act is *unintended,* that is, not what the acting agent intends or wills but that which lies outside of, or is accidental to, the agent's will. Of course, the morality of a dual-effect act can only be specified as good or evil by its moral effect, by its moral object, by that which the acting agent *intends* or *chooses* as a means or as an end. The moral effect, the reason *why* the agent is doing *what* he is doing, qualifies the dual-effect act as either good or evil.

In other words, the exterior act is related to the interior act in the same manner a human being's body is related to his soul. Just as the soul of the person informs his material, physical body, making it a specific kind of body, viz., rationally intelligent and free, so the interior, moral dimension of an act informs the exterior, physical act,

making it to be a *specific kind* of human act (i.e., a *specific* kind of a rational and free act), viz., a good or an evil act.

The act of the medical induction in the PPCM+P has *two effects*: an *unintended effect,* which from its exterior, natural, physical level is *a physically direct act of killing* (causing the death of a previable baby through medical induction), and an *intended effect,* which from its interior, formal, moral level is *a maternal life-saving act.* The physical act of medical induction is morally good because that which the doctor *chooses* or *intends* both as a means and as an end in performing it—*removing the baby* [the means] *in order to save the mother* [the end]—is a morally good act. The lethal effect of the act of delivery, the death of the baby, is *unintentional* or *accidental to* the doctor's intentional life-saving act. And that which is accidental to his will—the physically direct act of killing or causing the death of the previable baby—is neither good nor bad, but simply the unintended consequence or effect of what he does intend in his life-saving act.

- **Which of the two effects of the act of medical induction in the PPCM+P is decisive in morally specifying the act?**

In *ST* II-II, q. 64, a.7, Aquinas deals with killing in self-defense and the concept that not all physically direct acts of killing are murder. The principle Aquinas sets down is applicable beyond the case of self-defense: *What lies outside the intention (praeter intentionem) of the acting person cannot morally specify an action.* The essence of this passage:

> Nothing hinders one act from having two effects, only one of which is intended, while the other is beside the intention, which is *per accidens.* Now moral acts take their species according to what is intended, and not according to what is beside the intention." [*Nihil prohibit unius actus esse duos effectus, quorum alter solum sit in intentione, alius vero sit praeter intentionem. Morales autem actus recipient speciem secundum id quod intenditur, non autem ab eo quod est praeter intentionem, cum sit per accidens.*]

In the first sentence of this quote, the mention of a human act—"one act"—refers to *the physical act* (the physical effect or object) that *characterizes a human action of killing in a purely exterior way* (e.g., the act of a more or less well-aimed gunshot or, in Aquinas's time, perhaps a stab with a sword or a lance or, in our day, an immediately lethal act of medical induction in the PPCM+P and the CVA pregnancy, respectively) and *not yet* to the human or intentional act.

Aquinas answers our immediate question—which of the two effects of the physical act of medical induction is decisive for the species of the act viewed as a moral act—by arguing: *only the effect of the act which the agent intends* is morally decisive, not the effect which is *beside the agent's intention* (*praeter intentionem*) or *incidental* (*per accidens*) *to* the agent's intention. In the second sentence, "*Morales autem actus recipient speciem secundum id quod intenditur,*" the term "*actus*" refers to *the moral act* (the moral effect or object), the human act viewed according to its moral species (the *morales actus*).

To repeat: The principle set down by Aquinas in *ST* II-II, q. 64, a.7 teaches that acts are defined, informed, or specified by their moral species, that is, by that which is willed or intended on the level of both the end and the means, and *not by* what

is *praeter intentionem* or *per accidens* and occurs as the immediate effect of the intentional action. *Such an occurrence is, therefore, no longer the content of (the object of) the agent's action but an accidental event (per accidens accidit).*

In the PPCM+P, the moral object of the doctor's intentional act of medical induction—the good of what he intends both as a means and an end—is to deliver the pregnancy (the means) in order to save the mother's life (the end). In other words, the reason he does the medical induction is to save the mother's life, not to kill the baby. The death of the baby is simply the unintended consequence of his intentional maternal life-saving act; it is that which *occurs* as the immediate effect of the doctor's intentional act of delivery and, therefore, not that which is a part of the moral content of what he wills.

We must not lose sight of the fact that *the occurrence of the death of the baby is no longer the content of the doctor's act of delivery but its accidental effect.* Since the physical effect of killing the baby does not morally define the object of the act of delivery, the doctor's chosen means can legitimately be described as "removing the baby" or "delivering the pregnancy" rather than "killing or dismembering the baby."

As Rhonheimer explains:

> Human actions are not simply physical events that are causally stimulated or otherwise brought about by agents. Precisely the same holds for the so-called "object" of actions. ...the objects of human actions are not "things," but rather activities, types of behavior. Thus, even in the classical manuals, which were oriented to St. Thomas, the object of "theft," for example, was not defined simply as *res aliena* (something belonging to another), but as *ablatio rei alienae* (taking a thing belonging to another), and thus as an action. The objects of actions must be indicated with verbs rather than nouns (*Vital Conflicts*, p. 53).

The "object" of the act of medical induction in the PPCM+P, then, is not simply the fetus or the fetal body. Therefore, even if the death of the fetus is caused immediately, *in a physical sense*, by the pharmacological intervention of the medical induction, one can still pose this question:

- **Is the object of the act of medical induction in the PPCM+P the intentional killing of the fetus with the purpose of saving the mother? Or, is the *whole act* to be viewed, regarding its object, as a maternal life-saving medical intervention?**

To answer this question, one must put oneself in the perspective of the acting person, and analyze precisely what the doctor actually *chooses* on the level of the concrete act of medical induction and not simply *what happens physically in*, or is *causally stimulated by*, this act.

As soon as the doctor *chooses* the action of medical induction, we cannot escape describing it as an object of reason, which again entails understanding it as a purposeful, intentional action oriented toward an end. Defining the act as a human act is only possible within an ethical context, a context through which the act can be grasped not only in its *genus naturae* or natural species but also in its *genus moris* or moral species.

Rhonheimer argues:

> Human acts are, according to Aquinas, acts proceeding from a deliberate will (the rational appetite . . .). This is why "moral objects," i.e., what morally specifies a human act as this or that kind of human act, are to be considered as objects of the will; they are the "proximate end" of an act of choice. The choice, informed by reason, refers (even if not in all cases) to *a describable external behavioral pattern*, which itself is a kind of "doing." This kind of doing, *conceived and ordered by reason* and presented to the will as a good, is what morally specifies the choice and the action performed on the basis of this choice.[10] [emphasis mine]

If one does not want to limit the definition of the act of induction in each OB case to a purely physical event or "a describable external behavioral pattern" or a physically direct act of killing, one must demonstrate *that through which* the doctor's act of medical induction becomes *this* kind of *human or intentional action*—that is, one must describe the *genus naturae* or natural species of the medical induction according to its *genus moris* or moral species.

The species or object of the physical act of medical induction in the PPCM+P—by virtue of the good intentionality of *both* its means and its end: delivering the pregnancy (the means, the "what") in order to save the mother's life (the end, the "why")—is morally good. And it is accurate to describe the doctor's choice of means as "delivery of the pregnancy" or "the removal of the baby" rather than "the killing of the baby" because the death of the baby is not *the reason why* the doctor does what he does, the medical induction; *saving the mother's life is the reason he delivers the pregnancy.* The baby's death, then, is the unintended consequence or accidental effect of his intentional *life-saving act of delivery.* The death of the baby falls back into the mere *genus naturae* of the moral (intentional) action of "saving the life of the mother."

It follows that what the doctor *chooses as a means* of saving the mother's life can be described apart from its unintended lethal effect as simply that of *delivering the pregnancy* or *removing the baby.*

- **How does the physical object of the act of medical induction in the CVA-P differ from its moral object? And which effect is decisive in morally specifying the act?**

The *physical object or effect* of the medical induction in the CVA-P is the physically direct destruction of the life of the 11-week-old baby. However, since the violent destruction of the infant could also be realized by an earthquake or by a computer-guided drone missile, the physical act of killing the baby is not yet qualifiable in a moral sense. And even when, as in these OB cases, the direct physical destruction of human life is done by human beings, their physically direct act of killing is not *in every case* a violation of justice or the deprivation of another person's right to life. For instance, the physical destruction of life in the respective cases of killing in a just war and capital punishment do not violate but restore justice and, therefore, do not constitute moral killing or murder. Similarly, the physical directness of the medical induction in the CVA-P is *not* the decisive criterion to judge whether the doctor also chooses the physical act of killing the baby in a moral sense.

What *decisively* defines the morality of the act of medical induction in the CVA-P is its *moral object or effect*—the doctor's *intent* or the sole, immediate reason why he does the medical induction. The only immediate *reason why* the doctor in

the CVA-P chooses to perform the medical induction is to kill the baby. It cannot be said the physician does the induction to save the mother's life because, even though the mother's life may be in some danger, the likelihood that the CVA would kill both the mother and the baby before the baby is viable would be small. Hence, the evil intentionality of the doctor's act makes his choice of the physically direct act of killing in the medical induction an act of moral (i.e., direct) killing, that is, an evil act that is against justice. By preferring the life of the mother over that of the baby *who would otherwise survive*, the doctor deprives the preborn of case #2 of its equal right to life. And, even though the doctor has the good remote motive of securing the health and life of the mother, the goodness of that further intention cannot expunge the intrinsic evil of his moral act of killing.

- **Is the object of the act of medical induction in the CVA-P the killing of the fetus with the purpose of saving the mother? Or is the *entire act* to be viewed, regarding its object, as a direct abortion?**

The act of delivery in the CVA-P is *not* a dual-effect act where the immediate intent of the doctor's act of induction is to save the mother's life and the death of the baby is the effect that lies outside his will. In the CVA-P, the sole, immediate reason the doctor chooses the act of medical induction is to kill the baby (that is, to terminate the pregnancy, to deprive the baby of his life). This evil intentionality specifies the physically direct act of medical induction as an act of direct abortion, an act of direct [moral] killing. The fact that the doctor does the medical induction with the ulterior or *remote* good end of saving the mother's life cannot erase the *immediate* evil of his intentional act of killing.

- **Does the act of a medical induction in either the PPCM+P or CVA-P violate the right to life of the preborn baby?**

A physically direct act of killing a baby is moral killing *only* when it violates justice. Thus, we must analyze the physical act of killing in a medical induction, however physically direct it may be, in its relation to the ethical context of the virtue of justice: Does the act of induction deprive the baby of what is due to him, that is, his right to life?

The delivery in the PPCM+P does not violate justice because it is impossible to deprive an unborn baby who has no prospects for survival of its right to life. In respect to the death of the fetus, there is no longer any willing needed: the baby will die in any event, whether the doctor chooses to do nothing or whether the doctor chooses to intervene with a medical induction. Therefore, in the PPCM+P, the doctor, in his act of delivery by medical induction to save the mother's life, is not, and cannot be, preferentially choosing to save the mother's life *over* that of the child's. The physician cannot intend to physically cause the death of a baby whose life is already judged to be non-savable. The physical action of killing through inducing premature birth is intentionally characterized *only* by the physician's will to save the mother's life.

On the contrary, the medical induction in the CVA-P—with its *direct intent to kill the baby who* ***would otherwise survive***—does violate justice: the doctor, in his medical induction, is preferentially choosing the mother's life over that of the child and, in so doing, deprives the baby of its equal right to life.

- **How can one argue the doctor in the PPCM+P is *not* intentionally killing the baby when he is very consciously and deliberately giving the meds that expel the body of the baby from the mother's uterus?**

It is clear the lethal removal of the baby in the medical induction is something the doctor in the PPCM+P deliberately and consciously does with full knowledge that the act will immediately cause the baby's death. But to say "the doctor consciously does the act of medical induction which foreseeably kills the baby" is not at all the same thing as saying that "the doctor consciously does the medical induction *with the intent to kill the baby*," in the sense that *killing the baby is the reason why he chooses to do the medical induction.*

The confusion originates from the failure to distinguish between "what is intentionally done" and "*what is intended* in what is intentionally done." In the first sense of the term, "intentionally" doing something means nothing other than doing it *on purpose and knowingly.* The physician in the PPCM+P is certainly doing the medical induction on purpose and knowingly, and the doctor also knows full well the immediate lethal effect he will bring about in purposefully doing the medical induction. Yet saying, "the doctor purposefully brings about the death of the baby" is *not* the same thing as saying, "the doctor *intends* the lethal effect of killing the baby." Nor is saying, "the doctor brings about or causes the baby's death" the same thing as saying, "the reason the doctor purposefully removes the baby is to kill it."

In other words, the question of what the doctor is really doing (directly willing) in the act of induction in either case under scrutiny cannot be deduced by viewing the act of induction from its natural species, that is, from the physical level of killing the baby which the doctor causes as a result of doing the induction. To know what the object of the act of induction is, we have to ask: What is "the good thing to do" that the doctor's reason proposes to his choosing will when presenting the delivery (or destruction) of the baby's body?

According to Rhonheimer: In vital conflict cases (like that of the PPCM+P), the practical good the doctor's reason presents to his will is not that of destroying the baby's body (killing the baby) but rather that of delivering the pregnancy or *removing the baby from the mother's womb.* That removing the baby causes the death of the baby *does not imply* that the natural effect of the baby's death is *the reason for which* he removes the baby. In other words, in the PPCM+P discussed here, *the doctor's choice* to remove the baby is *not* involved in the physical act of destroying the baby's body through a medical induction.

In the PPCM+P, the doctor performs the medical induction within a vital conflict situation and does it *in extremis*, that is, as an emergency intervention after exhausting all efforts to save both mother and baby. Simply, and sadly, put: the baby's life is unsavable and, therefore, doomed. As such, the doctor performs the medical induction *without having a will to end the baby's life* and that "lack of the will to kill the baby" informs his rationale for causing the baby's death, *despite* the fact he knowingly ends it. For this reason, the baby's death can be considered *praeter intentionem* and explains why *physically causing* the baby's death is *not* to be considered a *direct killing* in the sense of *EV, 57*, which describes "the direct and voluntary killing of

an innocent human being" as "the deliberate decision to deprive an innocent human being of his life . . . either as an end in itself or as a means to a good end."

And, following the Thomistic principle that the *genus moris* specifies the object of the physical act, we can then conclude that the *moral species* of the doctor's physical act of medical induction in the PPCM+P—delivering the pregnancy to save the mother's life—defines the medical induction as a morally good action.

In the CVA-P, where the doctor does the medical induction *with the sole, immediate intention of killing the baby*, the *genus moris* defines his physical act of medical induction as a morally bad action.

- **How should the Principle of Double Effect (PDE) be used to evaluate the morality of the intentional act of medical induction in the PPCM+P?**

- Only after one has fulfilled *the first criterion* of the PDE [*The act itself must be morally good or at least indifferent.*] as we have done here, viz., specified the act of medical induction in the PPCM+P as a morally good act of saving the mother's life, can one use its other criteria to verify that conclusion:

- criterion #2: [*The agent may not positively will the bad effect but may merely permit it.*] The doctor intends (i.e., wills) the good effect of removing the baby to save the life of the mother but does not intend the bad effect of the baby's death. As the unintended effect or consequence of the doctor's good act of saving the life of the mother, the baby's death lies outside of, or is accidental to, the doctor's intent. (Therefore, the physically direct act of killing in the medical induction is *not* also an act of moral killing.)

- criterion #3: [*The good effect must be produced directly by the action, not by the bad effect.*] The doctor does not choose the act of killing as the means of saving the mother's life; the doctor chooses to deliver the pregnancy as the good or reasonable means of saving the life of the mother.

- criterion #4: [*The good effect must be sufficiently desirable to compensate for the allowing of the bad effect.*] The doctor considers saving the life of the mother a proportionately serious reason to physically cause the baby's death.

Endnotes

1. *Vital Conflicts in Medical Ethics*, Washington, D.C.: The Catholic University of America Press, 2009.
2. This case, presented by a colloquium organized by Ascension Health, was analyzed in "Medical Intervention in Cases of Maternal-Fetal Vital Conflicts: A Statement of Consensus," *National Bioethics Quarterly*, 14.3 (Autumn 2014): 477-489. The case analyzed by the colloquium—and used here—is based on an actual case in which the mother's risk of mortality was about 50 percent. The colloquium authors admitted to raising the maternal mortality rate to 93 percent "for the sake of argument." My Rhonheimerian evaluation of this case, while it agrees with the conclusion of the consensus authors—it is morally acceptable to induce labor in PPCM+P,

diverges substantively from the latter in the way I argue to my conclusion. I invite readers to study the NCBQ article and mine and decide for themselves which discursion makes the most sense both medically and ethically.

3. Medical induction is the pharmacological stimulation of uterine contractions to deliver a pregnancy at any gestational age. The online physician resource, *UpToDate*, which relies on the most current clinical data from medical literature, defines medical induction thus: "Misoprostol administration in pregnancy induces cervical effacement and uterine contractions at all gestational ages, thereby facilitating uterine evacuation. The potency of misoprostol's effect, however, varies with gestational age, as well as with route of administration, dose, dosing interval, and cumulative dose." [http://www.uptodate.com/contents/misoprostol-as-a-single-agent-for-medical-termination-of-pregnancy?source=search_result&search=medical+induction&selectedTitle=1%7E150] Although not specified, I would estimate the gestational age of the previable infant in the first case to be within the 10-12 week period.
4. The common *assumption* behind the term "vital conflict" is that of a contest between two innocent human lives which requires the doctor to choose "either mother *or* child." Rhonheimer points out that, in vital conflict cases (like the PPCM+P under scrutiny here) where both "mother *and* baby" would most probably die as a result of doing nothing, but the mother could be saved through medical intervention, *there is no situation of conflict* in the sense that the doctor *should not be conflicted over choosing* "either the mother *or* the child." There is, after all, *only* one life that can be saved. Hence, when the doctor chooses medical induction in the PPCM+P, he does not choose to kill the child, but only to save the mother.

   However, by rejecting the option of expectant management, the doctor in the CVA-P does treat the case as if it were an "either mother *or* child" situation, *as a situation of conflict*. And, despite the fact only the mother's life is threatened by the CVA, the doctor decides to neutralize the threat to mom by terminating the baby. So, in his choice of a medical induction, the doctor in the CVA-P *does prefer* the mother's life over that of the child. In short, he resolves the perceived conflict by deciding in the mother's favor.
5. An important footnote to the doctor's conclusion: Given that Aquinas's notion of *praeter intentionem* implies justification through exculpation, the fact that the doctor in the PPCM+P has caused, *not willed or intended*, the death of the baby also means the doctor bears no moral responsibility for the death of the child.
6. *Vital Conflicts, p. 52.*
7. Ibid., p. 125.
8. The *Ethical and Religious Directives for Catholic Health Care Services* are concerned primarily with institutionally based Catholic health care services. They address the sponsors, trustees, administrators, chaplains, physicians, health care personnel, and patients or residents of these institutions and services. Since they express the Catholic Church's moral teaching, these Directives also will be helpful to Catholic professionals engaged in health care services in other settings. The moral teachings that are professed here flow principally from the natural law, understood in the light of the revelation Christ has entrusted to his Church. From this source the Church has derived its understanding of the nature of the human person, of human acts, and of the goals that shape human activity.
9. Rhonhemier points out that, with these formulations of *EV*, the act of "direct killing" or "direct (procured) abortion" is defined as an "intentional action," i.e., "it is defined without reliance on physical categories and independent of those elements of acting that exist *in the purely physical dimension of the act of killing*. Indeed, these are unsuitable for grasping the distinction between 'direct' and 'non-direct.'" *Vital Conflicts*, p. 34.
10. "*The Perspective of Morality* Revisited: A Response to Steven J. Jensen," *American Catholic Philosophical Quarterly* 87.1 (2013) p. 172 (emphasis mine).

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