

# Cultura giuridica e diritto vivente

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## Note e Commenti



### SURROGACY IN THE DOCUMENT *DIGNITAS INFINITA* AND THE IMPORTANCE OF DIGNITY AS A TOOL FOR DIALOGUE

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#### Abstract:

The document *Dignitas infinita* serves as a tool for reaffirming the value of human dignity, including in the context of surrogacy. In promoting the human dimension as the bearer of values, the Church points to avenues for dialogue with institutions, aimed at fostering relational, social and supportive interaction, in order to encourage the development of a shared consciousness founded on human dignity.

#### Key Words:

Surrogacy, parenthood, motherhood, expectant mother, baby

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# Surrogacy in the document *Dignitas infinita* and the importance of dignity as a tool for dialogue

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## 1. The Scope of the Document

The document issued by the Congregation for the Doctrine of the Faith, entitled “*Declaration Dignitas infinita on Human Dignity*” (DI), approved by Pope Francis and published on 25 March 2024<sup>1</sup>, represents an updated articulation of the Catholic Magisterium concerning the fundamental relevance of human dignity within the social context. Dignity is assumed as an indispensable universal archetype for fostering the promotion and realization of a truly human society.

The Declaration is the result of a long process of elaboration<sup>2</sup>, motivated by the need to offer a contribution capable of supporting and reaffirming Christian thought on the subject<sup>3</sup>, also by proposing reflections on emblematic and contemporary cases—widely debated—in which dignity is subject to serious and persistent violations.

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<sup>1</sup> [www.vatican.va](http://www.vatican.va).

<sup>2</sup> The first draft was prepared in March 2019 and subsequently underwent various revisions and interventions over time, both in terms of content and structure.

<sup>3</sup> From the document, there clearly emerges the intention to direct the well-defined Catholic orientation on dignity toward contemporary and socially “sensitive” issues, without promoting an approach inclined to accommodate social and cultural change. Given the significance attributed to subjective conduct, the document seeks to enhance the clarity of the message and of the meaning of the principle of dignity, in order to avoid misunderstandings, partial compressions, or reductive applications of the magisterium.

The intention of the Congregation is to revisit the Magisterium on this theme in order to recapitulate and consolidate it, clarifying the premises and foundations that define the concept of human dignity<sup>4</sup>—more oriented toward a personalist framework than a historical dimension—so as to consider various concrete thematic areas in which it is manifestly transgressed. At the same time, the document highlights those social fictions that attribute responsibility for violations directly to the subject who suffers them, by reason of their existential condition and historical context.

The broad openness promoted by the encyclical *Fratelli tutti*<sup>5</sup> has provided fertile ground<sup>6</sup> for deepening a theme that remains fragile and constantly debated, thereby initiating a path toward the authentic recognition of the centrality of the human person, founded on shared dignity.

The structure of the document follows the methodological framework typically adopted by Catholic institutions in addressing such issues: an introductory section outlining the motivations behind its drafting; followed by an anthropological and theological reconstruction supporting the core principles of Catholic social doctrine<sup>7</sup>; and finally, an extensive review of situations in which clear violations of dignity emerge, offering guidance on paths to be adopted for conduct that respects the person in his or her fullness.

The practice of surrogacy is mentioned among the activities that harm or violate human dignity, although with a lower degree of gravity compared to actions that are instead «against life itself» (*DI*, 34), such as murder, genocide, and abortion. Its classification among practices that undermine personal integrity carries a significance that cannot be exhausted or justified in the few lines dedicated to it and therefore requires a more in-depth reading and contextualization of the indications provided, in light of the principles outlined in the first part of the document.

The analysis proves to be complex, operating both on the practice itself and on the various subjects involved. The elements identified are initially interpreted in their unified composition—for the sake of systematic coherence—and subsequently considered in

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<sup>4</sup> The principle finds a structured treatment beginning with the Second Vatican Council, particularly in the Pastoral Constitution *Gaudium et Spes*, nn. 12–22, and the Declaration *Dignitas humanae*, n. 12; subsequently in the *Catechismo della Chiesa cattolica*, n. 1700 ff. (1997); in the Instruction of the Congregation for the Doctrine of the Faith, *Donum Vitae*, n. 1 (1987); in the Encyclical of Giovanni Paolo II, *Evangelium Vitae*, n. 3 ff. (2005); in the *Compendio della Dottrina Sociale della Chiesa*, n. 132 ff. (2004); in the Instruction of the Congregation for the Doctrine of the Faith, *Dignitas personae*, nn. 7 and 36 (2008); in the Encyclical of Benedetto XVI, *Caritas in Veritate*, n. 9 ff. (2009); in the Post-Synodal Apostolic Exhortation of Francesco, *Amoris Laetitia*, n. 155 ff. (2016); and in the Encyclical of Francesco, *Fratelli tutti* (2020).

<sup>5</sup> Encyclical Letter *Fratelli tutti*, 3 October 2020, with particular reference to nn. 22 and 213, [www.vatican.va](http://www.vatican.va). The document also recalls interventions on the theme in the modern era, beginning with the Encyclical *Rerum novarum* of Leone XIII and extending to the aforementioned documents produced by the Second Vatican Council. The International Theological Commission had already addressed the issue in 1983 with a document entitled *Dignità e diritti della persona umana*.

<sup>6</sup> The Church acts «in conformity with its mission, which, although of a religious and not social or political nature, cannot fail to consider the human being in his or her integral existence» S. Giovanni Paolo II, Address to the Third General Conference of the Latin American Episcopate (28 January 1979), III.1–2: *Insegnamenti* II/1 (1979), 202–203; K. Trebski, *La surrogazione di maternità nel contesto della procreazione medicalmente assistita: valutazione nella luce della dottrina morale della Chiesa cattolica*, in *Roczniki Teologiczne* 3, 2022, 117 ff.

<sup>7</sup> *Mater et magistra*, nn. 203–204.

their singularity and uniqueness, through a discursive elaboration that nonetheless appears limited and not always adequately substantiated.

## **2. The Objective Dimension of the Practice**

The choice to employ in the document the term *surrogate motherhood*<sup>8</sup> to refer to the phenomenon of gestational surrogacy clearly manifests a condemnation of a distorted practice that places procreation in a dimension external to the natural process, with the consequence of separating the sexual dimension from the marital one, and pregnancy from motherhood. Through this process, there is a complete deviation from responsible motherhood, which no longer finds its proper place within the familial context but is instead externalized, thereby fragmenting the human trajectory that characterizes the procreative experience.

The Magisterium does not distinguish between commercial and altruistic forms of the practice but focuses exclusively on the procedure, deemed offensive to human dignity and injurious to human nature, regardless of the subjective motivations that may have inspired the behaviors in question.

Indeed, the desire to have a child, as well as the willingness to offer one's body to fulfill such an expectation, can never justify the violation entailed in performing an act that undermines the ontological dignity of both the woman and the child, first and foremost.

According to the document, the incorporation of the practice of surrogate motherhood into legal systems may further distort the level of interaction between parenthood and the social dimension within the cultural and communal context in which educational and relational processes develop. Tensions would emerge from the strong emphasis placed on individual desire over shared and participatory engagement, thereby weakening adherence to a system grounded in social cohesion.

From the perspective of the Catholic Magisterium, the presence of a positive aim—namely, generating children and welcoming them into a family environment prepared for their reception and care—does not suffice to include such a practice within the culture of life. Indeed, this mode of generation violates the «dignity of the procreation of human life» (*DI*, 49), and the persistence of good intentions in support of the initiative, even when oriented toward fostering life, neither legitimizes nor ethically validates the conduct adopted. Consequently, the focus remains on the specific act performed.

The Catholic position, centered on dignity as an inherent condition of the human person, does not appear to be influenced by the significant impact that evolving conceptions of motherhood have produced on the social level, where biology is no longer regarded as the exclusive locus of generation. Indeed, the World Health Organization, in 2009, recognized surrogacy as one of the techniques of medically assisted reproduction. It is thus noted that, should the individual desire for parenthood/motherhood assume the role of a guiding principle of action, there exists a risk of legitimizing behaviors which, while not excluding the dimension of life itself, compromise the qualitative value of the person—a value that finds its full realization only in ontological dignity.

The practice of surrogate motherhood, as referenced in the document, is not suited to providing a positive contribution to addressing the needs that have emerged in the

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<sup>8</sup> It should not be overlooked that magisterial documents have employed different terminology, referring to «maternità sostitutiva» (as in *Donum vitae*) and «utero in affitto» (as in *Amoris laetitia*).

sphere of parenthood/motherhood, insofar as it remains an instrument of violation, one that diminishes the indelible character of the human person as expressed in the inviolable dignity of life. What is decisive is the violation perpetrated through an instrumental conduct, the outcome of which cannot be justified by behaviors grounded in social change that privileges subjective needs, even when such needs are of a solidaristic nature.

The process under consideration simultaneously dismantles the constitutive elements of responsible motherhood, whereby reason and will—ordered toward an openness to life—no longer become expressions of the recognition of God’s intention within the familial dimension. The «relational ethics» grounded in the primacy of the other<sup>9</sup> is arbitrarily replaced by the instinct to position oneself at the apex of motherhood, thereby rupturing the relational bond with God, with oneself, with the family, and with society.

Irreparable criticalities also arise with regard to the space in which the procreative process unfolds, which is external to the familial dimension, at least in its initial phase. This violation deprives the conjugal sphere of its role as the natural locus in which conception is to be conceived and realized, thereby undermining the characteristics of unity and fidelity proper to marriage.

On the first level, the practice excludes *in re ipsa* the material relationship between man and woman, not only in the phase of conception—which occurs *in vitro*—but also in the final stage. The commissioning subjects may be a heterosexual couple, but also a homosexual one, without excluding the possibility that the practice may be initiated by a single individual.

Consequently, it becomes impossible to preserve the exclusivity of the relationship, since conception does not occur within a relational context, but rather “on demand,” according to the terms specified in the contractual arrangement by the intending parties. Gestation thus becomes the expression of an absolute arbitrariness over nascent life.

Finally, the tensions and conflicts affecting the gestational carrier must not be underestimated, involving physical, psychological, and moral dimensions, all of which undermine the creation of a truly welcoming environment.

### 3. The Subjective Dimension

The proper and «immense» dignity (*DI*, 48) of the child constitutes the primary good violated by the practice of surrogate motherhood, displacing the individual toward a materialistic reduction, to the point of rendering him or her a “mere object” of contractual exchange. This occurs as a consequence of the functional logic that the process inevitably pursues, the outcome of which denies the right to possess a fully human origin, rather than one artificially induced.

The very physicality of the child is realized through a synthesis involving actors distinct from the “natural” parents, thereby becoming the object of a generative process whose point of origin and justification is not found in the reciprocal and open self-giving of one parent to the other.

Surrogated procreation undermines the dignity of the unborn in relation to the generative space, which is entirely external to its “natural cradle”, promoting recourse to an artificial environment and to a procedure in which technique assumes the role of synthesizing agent. The operative condition adopted entails a further aggravation, encouraging

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<sup>9</sup> A. Cavarero, *Inclinazioni. Critica della rettitudine*, Roma 2025, 17.

the desire for parenthood outside the family nucleus, fostering a self-referential conception of the couple, and thereby subverting the natural order of procreation, gestation, and birth. Within this model, the injury extends also to the right connected to the «fundamental dignity of every human being to always be recognized for his or her own sake and never as a means to an end» (*DI*, 50).

The conduct that gives rise to such a process alters and distorts the very practice of procreation, orienting it toward a form of life that does not fully express the dimension of self-gift. The subject who results from it embodies a dignity marked by a deficiency in comparison to those who are called to express—albeit *in vitro*—their sexuality, which does not occur physically within the familial context. Similarly, the genetic imprint received by the unborn is profoundly lacking, among other elements, in affective dimensions, in the mutual self-offering and acceptance of the spouses, thereby removing fundamental elements necessary for the constitution of a community of life.

Nor should the emotional context that characterizes the “programmed” transfer of the child from the gestational mother to the commissioning family be overlooked—a transfer originating from a parental will that imposes specific conditions both on the procreative level (in the choice of insemination techniques and of donor subjects) and on the economic level, as well as on the timing and modalities of the development of the “product-child”, so that the generative process may be brought to completion.

Within the practice of surrogate motherhood, the child emerges as the most vulnerable element, lacking any capacity to determine his or her own position, becoming merely the product of others’ choices. For this reason, the Magisterium reiterates that procreation must take place within marriage, the only space in which the newborn can be welcomed as a gift in himself or herself and as the expression of the synthesis of the dignity of the parents in their mutual self-giving<sup>10</sup>—for a parenthood “according to nature” rather than “according to science”.

With regard to the gestational carrier, the violation of the woman’s dignity within this practice manifests itself in multiple aspects which, despite differing degrees of gravity, alter and fracture the role of the woman both as mother and as spouse. On the conjugal level, the intervention of a third party external to the husband-wife relationship introduces an unsustainable disruption, even when directed toward procreation. Conjugal unity is corrupted, and the relational dimension is compromised<sup>11</sup>.

On the maternal level, «the detachment from the child growing within her» (*DI*, 50) represents the utmost compression of dignity, whereby the feminine dimension is exalted only in an instrumental sense, in order to bring to completion a process characterized by decision-making and arbitral power entrusted to others. This aspect is emphasized in the document in both forms that the practice may assume. The concern is not limited to cases in which the woman is compelled to undertake the practice for economic reasons, thereby

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<sup>10</sup> Giovanni Paolo II, in the *Lettera alle famiglie* (1994), clarifies that «when a man and a woman in marriage give themselves to each other and receive each other in the unity ‘of one flesh’, the logic of sincere self-gift enters into their lives», vatican.va.

<sup>11</sup> This framework is comparable to that expressed during the Fascist period in the Italian Civil Code of 1942. However, following the reform of family law in 1975 and, above all, that of 2012, the Italian legal system no longer distinguishes between legitimate and illegitimate natural children born of extramarital relationships. Consequently, it is no longer legally tenable to invoke extramarital birth as an indicator of lesser value or of ontological disparity in filiation.

reducing her to a means rather than an end within the procreative process. It also encompasses situations in which «the woman freely decides to subject herself to it» (*DI*, 50), with implicit reference to altruistic surrogacy.

Even in this case, the violation persists: «the autonomous choice in favor of pregnancy for others is situated within a cultural process of a general reductive reinterpretation of the dignity of human life and of the conditions necessary for its respect»<sup>12</sup>. Even when starting from the standpoint of a woman who willingly chooses this experience, the intrinsic value of her person remains inalienable—a value that cannot be diminished or nullified.

Attention is thus directed toward doctrines that ground the legitimacy of the entire practice in the right to women’s self-determination, understood as the full availability of one’s body in accordance with the possibilities offered by technology; such a perspective tends to attribute to the woman’s will a value superior to the life of the person being generated.

A non-marginal role is also played by the commissioning parents, who bear responsibility for initiating a practice that involves, first and foremost, their own dignity, insofar as they seek to fulfill their desire by resorting to a means that commodifies the child and deconstructs the gestational woman, considering her solely in terms of her instrumental utility.

The overall framework that emerges—across the various forms that the process may assume, depending on the role played by the intending parents, whether as mere commissioners or also as donors—does not, in any case, legitimize the conduct undertaken. From an ecclesial perspective, what further aggravates the condition is the full awareness that surrogacy does not arise in order to support a precarious situation or to restore justice to an uncertain condition; rather, the desire for parenthood prevails to the point of nullifying or significantly diminishing collective dignity, in the pursuit of the outcome of having a child, regardless of the means employed. One thus witnesses an attempt to conjoin the desire to procreate—taking on the character of “will”—with parental responsibility over another life.

Even more precarious is the position of the single commissioning individual, who is entirely deprived of a familial project within which to share the intention and to raise the child<sup>13</sup>.

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<sup>12</sup> Cf. P. Polieri, *Aborto e maternità surrogata all'interno della Dichiarazione Dignitas infinita circa la dignità umana*, in *RatioIuris*, 11 April 2025, 14.

<sup>13</sup> Unlike other legal systems, in the Italian legal framework individuals may, under certain conditions, adopt. This is possible, first of all, in the case of *adozione in casi particolari*, provided for by Article 44 of Law No. 184 of 4 May 1983, which paragraph 3 extends also to unmarried persons. Case law has particularly emphasized letter (d) as a “closing clause” of the system, aimed at concretely safeguarding the minor’s emotional and educational continuity: see *Cass.*, order of 26 June 2019, No. 17100.

A single person may also adopt, by way of exception, within the framework of full national adoption when, during the pre-adoptive placement, one of the spouses dies or becomes incapacitated, or in the event of separation: this is provided for by Article 25, paragraphs 4 and 5, of Law No. 184/1983. Finally, with regard to international adoption, the Constitutional Court, in judgment No. 33 of 21 March 2025, declared unconstitutional the absolute exclusion of single individuals from the possibility of applying for eligibility for international adoption, affirming that even a single person may, in abstract terms, offer a stable and harmonious family environment, subject to concrete judicial assessment.

Finally, the figure of the donor—whether of the ovum or the sperm necessary for initiating the practice—opens the way to a series of individual and relational violations. In this manner, the generation of life is displaced from its natural context, ultimately losing its proper identity, including in relation to the right of the unborn to know his or her origins.

#### **4. Contribution to the Dialogue**

The methodological framework adopted in the document, aimed at recalling the various cases in which violations of dignity clearly emerge, makes it possible to establish a form of “gradation” in relation to the gravity of the conduct undertaken. The violations described across the different examples produce a disaggregation of the dignity of the person, ultimately depriving it of that human significance which can find protection only in its unity.

In the case of surrogate motherhood, the practice not only offends human dignity as an intrinsic value, but also gives rise to a violation that compromises the very nature of the subjects involved—first and foremost the child and the woman—each removed, within their respective spheres, from their natural space of expression and realization.

The specification provided in the document should be understood as both a reminder and an encouragement to raise awareness of the dynamics generated by recourse to this practice, wherein the process entails a mode of action that deconstructs and disrupts the parental and filial dimensions—dimensions that ought to be situated within their natural social context.

Otherwise, there is a risk of promoting a fragmented and disjointed interpretation of the practice, in which the individual rights involved are assessed and safeguarded in isolation, thereby losing sight of the act itself, which is capable of undermining a shared dignity that constitutes the foundation of humanity.

The ongoing attempt within various legal systems to promote an analysis of the phenomenon beginning from the primary position of the woman, in her full freedom of self-determination<sup>14</sup>, fails to do justice to the complexity of the process that unfolds—a process that continuously shifts from a subjective to an objective plane, encompassing multiple dimensions, each producing distinct effects.

Nevertheless, the framework advanced by the document, while fully expressing the magisterial perspective, does not seek to emphasize the various doctrinal positions on the issue, whether regarding the relative significance of the subjects involved or the guarantees required for a methodologically secure practice. Rather, it clearly foregrounds dignity as a fundamental archetype grounded in the constitutive aspects of human nature, whose shared foundation calls for the safeguarding of every action involving human life.

The Church has demonstrated a progressive development in its approach to the theme of human dignity, moving from a conception centered on a static notion of dignity—as it presents itself—to one more closely tied to the relational dimension, that is, to how dignity is to be concretely situated within the space of coexistence and which conditions must be preserved for its effective application within the social and legal order.

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<sup>14</sup> L. Ronchetti, *Autodeterminazione femminile nelle scelte procreative*, in *GenIUS*, online first, 15 June 2025.

In this regard, the document presents itself as open to the ongoing dialogue on the issue<sup>15</sup>, affirming rational capacity as an effective resource for identifying, discerning, and independently understanding the essential value of dignity, emphasizing that «reason alone is sufficient to recognize the inviolable value of every human being»<sup>16</sup>.

This orientation fosters a space for reflection<sup>17</sup> grounded in dignity as an instrument of dialogue: the acknowledgment that dignity is knowable even by reason<sup>18</sup> alone opens the inquiry to other contexts and underscores its multicultural contribution. An increasingly shared recognition of the importance of human dignity—even in relation to surrogacy—makes it possible to situate the Church's position on a dialogical plane, as a contributive rather than obstructive element in contemporary debate on the issue.

The appeal to rationality—where true reason is understood as an open reason that places human dignity at the center as its measure—makes it possible to interpret and situate the condition of the subjects involved in the practice within a broader «ethical horizon»<sup>19</sup>, in which the concept of dignity is enriched by new elements of an objective and collective nature, contributing to the strengthening of its ontological value.

Further enhancing the contribution of the Catholic perspective, through its emphasis on rational capacity, is the strong focus on the human being in his or her polyvalence, rather than on the person as a concept shaped by policies of ethical and juridical recognition. In promoting this approach, the Magisterium hopes that the protections ensured by institutions in relation to the practice of surrogate motherhood should not be limited solely to the subjects directly involved in the process, but should instead be oriented toward the relational, social, and solidaristic dimension that characterizes the human network within which individual subjectivities are situated.

This dialogical space promotes a form of cultural pluralism centered on the human dimension as a bearer of values, fostering recognition of shared historical and cultural roots within the European context—roots shaped also by a religious identity capable of generating a common awareness of values grounded in human dignity. However, this space for dialogue cannot be regarded as either a minimal point of agreement or a final objective, but rather as a shared foundation upon which to anchor the value of human dignity.

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<sup>15</sup> This approach demonstrates the Church's respect for humanity «by entering into dialogue with it on various issues», Pastoral Constitution *Gaudium et Spes*, 3.

<sup>16</sup> It is also stated that it is «a conviction [regarding human dignity, Ed.] to which human reason can arrive through reflection and dialogue» (*DI* 6). Then, in note 25, we read: «Some great Christian thinkers of the nineteenth and twentieth centuries, such as St J.H. Newman, Blessed A. Rosmini, J. Maritain, E. Mounier, K. Rahner, H.U. von Balthasar, and others, have succeeded in proposing a vision of the human person that can engage meaningfully with the currents of thought at the beginning of the twenty-first century, whatever their inspiration, including post-modern thought». The document specifies that faith can assist reason in perceiving and defining the essential features of dignity in order to avoid potential distortions, *DI*, 47.

<sup>17</sup> The Church does not fail to emphasise that human beings possess an intrinsic dignity derived from the fact that they are created in the image and likeness of God, *DI*, 11.

<sup>18</sup> The text describes human dignity as «a conviction to which human reason can arrive through reflection and dialogue», *DI*, 6.

<sup>19</sup> F. Stanizzo, *La dignità della persona umana nella Dottrina Sociale della Chiesa*, in *La Società* 3, 2021, 35.

The participatory space of inquiry, grounded in a dialogical anthropology<sup>20</sup>, thus contributes to strengthening the core from which to situate the human person in a position that allows for the full expression of his or her authentic and individual essence, balancing individuality with social roles and relationships with others.

It is evident that the space for influence and dialogue remains largely to be filled. It should not be overlooked that the Italian Constitutional Court, in Judgment No. 162 of 2014, affirmed the relevance of an «incoercible right to become parents»<sup>21</sup>, a position later reiterated in Judgment No. 221 of 2019, albeit not in an expansive sense, and while denying that procreative self-determination establishes a full right to the chosen means of procreation<sup>22</sup>.

At the same time, attention is drawn to the necessity of considering other interests at stake, such as the protection of the dignity of the woman—in light of the Court’s affirmation of the disvalue of surrogacy, which «intolerably offends the dignity of the woman and profoundly undermines human relationships»<sup>23</sup>—as well as the right of the child to a family (for example, through adoption in particular cases)<sup>24</sup>, and the importance of human relationships, which may in certain circumstances generate bonds regarded as stronger than genetic (as in medically assisted reproduction) or biological (as in gestational surrogacy) ties.

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<sup>20</sup> See R. Maier, *Dignità umana e antropologia teologica*, in *Dizionario di dottrina sociale della Chiesa. Le cose nuove del XXI secolo* 3, 2024, and the bibliography cited therein, in which he states that the Church «cannot fail to call upon theology to engage in close dialogue with the disciplines that deal most closely with the human person».

<sup>21</sup> The constitutional importance of reproductive self-determination cannot, however, be exercised without limits and does not justify unreasonable absolute bans in the case of heterologous fertilisation.

<sup>22</sup> The judges, in their ruling, exclude that Article 2 of the Constitution may give rise to a constitutionally guaranteed right to the *quomodo* of procreation, and affirm that the Constitution does not establish a notion of family inseparably linked to the presence of children. See also Constitutional Court No. 230/2020.

<sup>23</sup> Cf. Constitutional Court No. 272/2017, *Considerato in diritto* 4.2; see also Constitutional Court No. 33/2021, which considers adoption in special cases as a usable but not fully adequate instrument, and Constitutional Court No. 79/2022. The formulation concerning the dignity of the woman and human relationships has been particularly emphasized by United Sections of the Supreme Court of Cassation No. 38162/2022.

<sup>24</sup> See Constitutional Court ruling No. 79/2022. In Italy, gestational surrogacy (*GPA*) is classified as a criminal offense, in the form of carrying out, organizing, or advertising surrogacy arrangements. Conduct carried out by Italian citizens in relation to this criminal offense is subject to Italian jurisdiction even if committed abroad (cf. Law No. 169 of 4 November 2024). However, the legalization of the practice in other countries—such as Ukraine, the Netherlands, Greece, and the United Kingdom, to name but a few—raises significant issues concerning the procedures to be adopted for the recognition in Italy of children born abroad through GPA. Most recently, Constitutional Court Sezioni Unite No. 38162/2022, while denying the possibility of transcription, nevertheless acknowledged a «fundamental right of the child to legal recognition of the relationship established», a position also expressed in United Sections of the Supreme Court of Cassation No. 12193/2019. On the necessity of applying the institution of adoption in special cases, see Constitutional Court No. 79/2022.

It thus emerges<sup>25</sup> that the Court's reference<sup>26</sup> to human relationships as the “subject” holding the interests harmed by the practice of surrogate motherhood contributes to conferring a public dimension upon the interest in truth. This, in turn, enables the preservation of further avenues of dialogue with diverse social formations, through which spaces for deeper reflection may be cultivated, ensuring the protection of ontological dignity as a «meta-value»<sup>27</sup>, both the synthesis and the source of the fundamental rights at stake.

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<sup>25</sup> S. Cecchini, *Il divieto di maternità surrogata osservata da una prospettiva costituzionale*, in *BioLaw Journal – Rivista di BioDiritto* 2, 2019, 15 ff.

<sup>26</sup> Constitutional Court No. 272/2017.

<sup>27</sup> M. R. Morelli, *La dignità della persona tra inviolabilità dei diritti fondamentali e dovere di solidarietà, nel quadro del pluralismo delle fonti nazionali e sovranazionali*, in [www.cortecostituzionale.it/documenti/interventi\\_relazioni/2015](http://www.cortecostituzionale.it/documenti/interventi_relazioni/2015).

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