

AT WHAT PRICE?

TOWARDS THE ABOLITION OF SURROGACY: PREVENTING THE EXPLOITATION AND COMMODIFICATION OF WOMEN AND CHILDREN

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INTRODUCTION

Gabriella Gambino

Under-Secretary of the Dicastery for Laity, Family and Life

Honourable Minister,
Your Excellencies,
Ladies and Gentlemen,

I am very pleased to be here with you today to moderate this meeting. I have been the Under-secretary of the Holy See's Dicastery for Laity, Family and Life since 2017. I thank the Permanent Mission to the United Nations in Geneva and the *Caritas in Veritate Foundation* for the invitation, and for organising this meeting which is co-sponsored by the Permanent Mission of Italy and the Sovereign Order of Malta.

Today's aim is to reflect on the urgency of an international response to the phenomenon of surrogacy. We are all aware of the fact that 'procreative tourism' generated by different domestic legal frameworks regarding surrogacy is still the cause of the transnational exploitation of women and children through this practice. Therefore, it is necessary to deepen the possibility of a common commitment to ensure the universal safeguarding of the dignity and fundamental human rights of those involved.

In reaffirming the dignity of every human being and their right to be "recognised ... individually and never as an instrument for another", the Declaration of the Holy See's Dicastery for the Doctrine of the Faith – *Dignitas infinita* – stresses that "every child possesses an intangible dignity ... from the moment of conception" (n. 49-50). Therefore, each "child has the right to have a fully human ... origin and to receive the gift of life that manifests both the dignity *of the giver and that of the receiver*" (n. 49).

The way one comes into the world is not irrelevant, neither for the individual, nor for society, nor for the law. This means that not all methods of reproduction are lawful, and there is no strictly legal "right to a child" capable of justifying any procreative practice.

Surrogacy raises numerous serious issues that demand the attention of the international community. As well as making the birth a depersonalised procedure, it represents a form of commodification and

exploitation of women and children. It is also a form of arranging fundamental human relationships, which will forever impact the identity and life of the woman and of the child.

We all know that the presence of the unborn child in a mother's womb generates a singular bond which has a unique human, moral and legal value: the mother, already in the prenatal period, establishes a biological and psychophysical relationship with her child that contributes to structuring not only the child's organism, but also its human nature. All of this – which is amply demonstrated by several scientific studies – has a great relevance to the development not only of the child, but also for the woman.

Pope Francis reminded us that, during pregnancy, a woman “is aware of a *presence* growing within her, one that pervades her whole being. Now she is not only a woman but also a mother”.¹

To think that this bond can be annulled and that a woman can be estranged from her gestational experience by means of a contract is a seriously invasive and violent operation – it involves control over the woman and the loss of a profound anthropological dimension, such as the development of her maternal identity (*Dignitas infinita*, 50).

In addition to this, there is what literature calls the *fragmentation of motherhood*, that is, the separation of the genetic mother (who donates or sells her oocyte) from the gestational mother and the social mother. This fragmentation is also bound to dramatically affect the life of the woman and the child.

The protection of the child's genuine interest and identity entails the need to guarantee a relationship based on veridical filiation. Surrogacy is, instead, the *institution of abandonment to indulge the claim of a right to a child*. It is quite different from the abandonment that gives rise to the institution of adoption, which originated as a remedy focused on upholding the best interests of a child.

Moreover, from a legal viewpoint, surrogacy is a *social practice* which involves many people, often located in various countries around the world, and medical procedures that put women's health at risk by exerting invasive and harmful forms of control over them and the children they produce and trade.

Particular forms of commodification of the human body are also evident in frequent cases of exploitation of women in economically and socially disadvantaged conditions, recruited by clients who take advantage of their vulnerability.

The international community must therefore feel called upon to reflect on the urgency of placing an absolute ban on all forms of surrogacy. The global nature of this phenomenon requires us to think of such a ban in terms of universality.

Conscious of this, Pope Francis explicitly called for “an effort by the international community to prohibit this practice universally”.² Similarly, the Italian President of the Council of Ministers,

¹ Pope Francis, Address of His Holiness Pope Francis to Participants in the Conference ‘*Yes to Life! – Taking Care of the Precious Gift of Life in its Frailty*’, 25 May 2019.

² Pope Francis, Address of His Holiness Pope Francis to Members of the Diplomatic Corps Accredited to the Holy See, 8 January 2023.

Giorgia Meloni, has proposed prosecuting surrogacy as a universal crime, calling it “an inhuman practice”.

Today’s meeting is in line with these calls. We want to explore how surrogacy undermines certain fundamental human rights, and how we can respond internationally in an effective way to avoid loopholes that would continue to harm the most vulnerable.

I am therefore pleased to introduce the speakers present, whom I thank for accepting our invitation.

Ms Eugenia Roccella serves as the Minister for Family, Birth Rate and Equal Opportunities of Italy. Prior to her election, she studied modern literature at La Sapienza, worked as a professional journalist since 2000, and began her political career at the age of 18 as part of the Women’s Liberation Movement. In 2013 she founded ‘Di mamma ce n’è una sola’ an organisation opposed to surrogacy.

She will explore the issue of surrogacy from the Italian legislation perspective.

Ms Olivia Maurel was 17 when she learned that she had been conceived and born through a traditional surrogate in Kentucky, USA. This discovery created many mental health issues for Olivia, including depression, alcoholism and suicide attempts. Today she is the spokeswoman for the Casablanca Declaration and leads the campaign for the universal abolition of surrogacy, ensuring no child has to suffer as she has suffered.

She will explore the issue of surrogacy from a child rights perspective.

Ms Eva Maria Bachinger studied journalism at the Danube University, Krems. She has been a journalist and author since 2004. She co-founded the ‘Stop Surrogacy’ initiative in Vienna in 2015 and has authored three books on this issue: ‘Child to Order, a Plea for Clear Boundaries’, ‘Towards the Abolition of Surrogate Motherhood’ and ‘The New Birthing Machines’.

She will explore the issue of surrogacy from the women’s rights perspective.

Ms Bettina Roska serves as a Legal Officer with ADF International in Geneva, Switzerland. She has previously worked at Lawyers Without Borders and completed a Masters in Transitional Justice, Human Rights and the Rule of Law at the Geneva Academy of International Humanitarian Law and Human Rights.

She will explore the issue of surrogacy and legal dimensions of this issue, painting a picture of the international legal landscape and highlighting gaps and challenges.

CONCLUSION

In conclusion, I would like to thank the speakers for attending this meeting which allowed us to reiterate that surrogacy is a serious violation of the dignity and rights of women and children.

Human dignity, before and after birth, is and must continue to be a universal barrier to any form of person exploitation.

The human rights system precedes any national law and more than ever, in relation to surrogacy, needs to be explicitly and unanimously stated for the effective protection of women and children. As we have heard, this includes protection against human trafficking and children commodification. However, because of the ways surrogacy can take place, it cannot be limited to these bans and needs a specific and universal prohibition.

Furthermore, we continue to see how a consensus is emerging globally around a strongly negative view of surrogacy, even from different political, ethical and religious positions.

It would be significant if an increasing number of governments and public organisations became aware of the serious issues involved, and that this would give rise to concrete steps at the UN level to protect the dignity of women and children and to abolish surrogacy once and for all. We hope that such steps can be taken as soon as possible.

Thank you again to all present and have a good work.