

PROPOSAL FOR A CHARTER ON THE RIGHTS OF THE UNBORN CHILD

The Preamble to the Charter on the Rights of the Child (1989) affirms that:

“Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, ‘the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth’”

The *Comitato per la Carta dei Diritti dei Concepiti*, composed of the following members:

Representative: *Avvocato* Virginia Lalli, Ph.D. in Protection of Human Rights.

Deputy: *Avvocato* Pietro Guerini.

Alessia Affinito, philosopher; Mariannina Amato, psychologist and psychotherapist; Fabio Massimo Aureli, lawyer; Antonio Baldassarre, ex President of the Italian Constitutional Court; Bernardo Blasio, lawyer; Anna Egidia Catenaro, lawyer and President of *Avvocatura in Missione*; Giorgia Brambilla, bioethicist and moral theologian; Viviana Cabbua, lawyer, *licenza* in canon law and Ph.D candidate in canon law; Giorgio Celsi, nurse; Stefania Coco, lawyer; Alighiero Erba, Emeritus professor of statistical sciences; Debora Impieri, lawyer and President of *Associazione Nazionale Medicina e Consumo* (ANIMEC); Stefano degli Abbati, medical doctor; Luigi Ferrara lawyer; Juan Carlos Gentile, lawyer; Paolo Giovanelli, lawyer qualified abroad; Nicoletta Lalli, lawyer; Emiliano Ferri, lawyer; Professor Pierluigi Pavone, philosopher; Maristella Paiar, lawyer; Giuseppe Noia, lawyer; Daniela Salvatore, lawyer; Antonio Spagnolo Professor, Director of the Istituto Bioetica of the Università Cattolica del Sacro cuore of Rome.

PROMOTES

THE CHARTER ON THE RIGHTS OF THE UNBORN CHILD

Article 1. Human life begins, and is protected, from its natural conception and all of its stages.

Article 2. The unborn child, irrespective of sex, genetic heritage, medical conditions, his or her health conditions and those of his or her mother, economic and social conditions, and means of conception, shall have equal dignity and the right to be born. It shall be prohibited to create embryos artificially and subject them to cryopreservation.

Article 3. The unborn child shall have rights under the law and in all actions concerning him or her, the best interests of the child shall always be the pre-eminent consideration.

Article 4. The unborn child shall have the right to complete his or her development, throughout the entire period of gestation, exclusively within the maternal womb.

Article 5. The unborn child shall have the right to be supported by his or her parent(s) and the right to inherit.

Article 6. The unborn child shall have the right to live his or her prenatal life during the nine months of gestation in peace and with due respect for his or her conditions, in consideration of the importance of this period for his or her psychological and physical development. To the ultimate end of protecting the natural growth and development of the unborn child and the realities of his or her evolving physical, emotional and psychological life, and consequently to foster an adequate and opportune relationship between the unborn child and his or her parent(s), the latter may appoint a *Prenatal Tutor*, who shall elaborate upon the many biophysical and psychological aspects connected to the period of time spanning from conception and fetal life to birth and the nine months following the birth.

Article 7. The unborn child shall have the right to health, and the consequent right to compensation if he or she has suffered harm caused by his or her parent(s) or a third party.

Article 8. The unborn child shall be free from the economic, social and health problems that may affect adults, including his or her parent(s); likewise, he or she shall not be sacrificed because of his or her parents' difficulties. No unborn child shall be penalized for crimes committed by his or her parents, such as rape.

Article 9. The unborn child shall have the right to receive therapeutic medical treatments, including any invasive treatments that may be required to prevent pain (palliative prenatal care). Indeed, harm resulting from pain that may affect the fetus' neuropsychological development shall be avoided. The body of the fetus shall be considered non-disposable; therefore, it shall not be allowed to undertake invasive examinations that are not aimed at the well-being of his or her body, considered as a whole, nor to perform surgery on the fetus' body, if not for the purpose of providing palliative prenatal care or genuine therapy.

Article 10. Acceding States reaffirm that every human being has the inherent right to life and shall take all measures necessary to ensure the effective enjoyment of such right by unborn children with disabilities. The unborn child with disabilities shall have the equal right to respect of his or her physical well-being.

Acceding States commit to prevent discriminatory refusal to provide medical assistance or healthcare and health services, and commit to specifically provide health services required by

unborn children with disabilities precisely because of their disabilities, including early detection and appropriate medical action, as well as services aimed at reducing disabilities to a minimum and preventing the development of further disabilities. In this respect, Acceding States commit to undertake or promote research and development and to promote the availability and use of new technologies, as well as to provide parents with relevant information.

Article 11. The unborn child shall have the right to personal identity and, once born, to know his or her biological father and mother, except in cases of confidential birth, in which the mother shall have the right to be forgotten and the right to the concealment of her identity.

Article 12. The unborn child shall have the right to a decent burial, and his or her body shall not be used for commercial purposes or scientific experiments.

Article 13. A Permanent Commission for the Rights of Unborn Children shall be established, having the function of monitoring the States' application of the present Charter and to examine the reports on the measures adopted to implement the provisions of the present Charter, as well as the progress made in exercising the rights enshrined herein. This Commission shall elaborate opinions and recommendations on the basis of the reports that Acceding States shall submit every three years.

The Commission shall encourage Acceding States to adopt policies that implement the rights enshrined in the present Charter, to cooperate with other international and regional institutions and organizations engaged in the promotion and protection of the rights and well-being of unborn children.

The Commission shall organize meetings, encourage the national and local institutions competent in the matter of the rights and protection of minors and, if necessary, makes governments aware of its conclusions and presents recommendations to them.

The Commission shall establish an Observatory to elaborate detailed studies, statistical studies and guidelines, including with the aim to prevent violations of the rights of unborn children, such as abortion.