The right to health between eugenetic selection and the dignity of a person

El derecho a la salud entre selección eugenésica y dignidad de la persona

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Abstract

Right to health between eugenetic selection and dignity of a person.

The article examines the issue about the right to health between the eugenetic selection and human dignity.

The right to health is claimed in assisted reproductive technologies, in abortion, in euthanasia. In these three situations, the right to health is understood as public and as an individual.

In this perspective, the right to health is to be found in the middle between the desire to select eugenically people and the duty to respect their dignity. However, what is the right to health? Moreover, what is dignity? These questions are answered in the following work.

Keywords: right to health, eugenics selection, dignity, medically assisted procreation, abortion, euthanasia.

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Introduction

«Modern men have not been educated in the rightful use of power»: [1, p. 92], this is the way Romano Guardini has justly been recognized on behalf of the technical progress achieved by man in the last century, that has granted men a practically unlimited power unimagined and unimaginable, more than in any other historical time,[1] that is to say that the ability not only to impact on the world around him, for example by modifying the physical and environmental reality through the anthropologization processes, but also and above all impacting on himself through the capabilities to manipulate and administer his own biological existence since before the birth up until death.

Contemporary men live under the context of technomorphism, that is to say, that the dimension in which, as Francesco D'Agostino states, «it becomes naïve to evoke the common datum according to which it is not legal to do all which is possible to do, because the basis of the legality coincides with the basis itself of the possibility. I can, thus I must» [3, p. 197]

Nowadays, in fact, characterized by «a concept essentially technological of the society» [4, p. 198], confirms the prevalence of the idea by which, using the words of Aldo Schiavone, «technology in itself, is neither cold nor hot: it is the pure possibility to do» [5, p. 19].

However, is it precisely so? Is the technology truly indifferent? Does such possibility to do, has any relevance either ethic or judicial whatsoever?

Hans Jonas invites courageously to wake up from this dogmatic dream, considering, conversely, rightly, that «as in general, ethics should have something to say in technology matters, or else that technology is subjected to ethical considerations. The foregone derives from the simple fact that technology is the exercise of human power, that is to say, it is a way to act, and all human action is exposed to a moral exam […]. The problem is this: not only when

technology is malicious that is to say, when it is used in an improper use for bad purposes, but also when it is used in good will and for truly and profoundly legitimate purposes, has in itself a threatening side, that in the long run could have the last word […]. Its internal dynamics, the one that drives it so much to advance, denies to technology the free zone of ethical neutrality, in which it is enough to worry about efficiency. The risk of excess is always present» [6, pp. 28-29].

Technology, which invades all reality, the biological life of man included, cannot, therefore, be separated from the ethical and judicial plane without taking the risk, of emerging as a totalizing element and, as such, always and in any way totalitarian,[2] or else become a constant threat to liberty and, above all, for the dignity of the human being.

Technology is intertwined to such point with every aspect of reality, especially the judicial, to the level of not leaving aside the right to health that, radically reformulated by the technical possibilities, finds itself tensed, stretched and compressed between the eugenetic selection and the person's dignity.

2. The eugenetic selection between MAP (PMA), VIP (IVG) and VIS (IVS)

«It is better for all if, instead of waiting until the degenerated youngsters be executed for the crimes they committed, or that they would die of hunger, because of their own imbecility, society could be able to stop and detain, all those who are clearly a misfit and/or unsociable, unable to continue the species» :[8, p. 143]. That is the way, the widely and renown Justice of The U.S. Supreme Court, Oliver Wendell Holmes, has written considering constitutional in the famous 1927 Case *Buck vs. Bell,* [9], The Virginia State Law, to foster the right to health the right of the community, used to impose forced sterilization of mentally retarded people, le-

gitimizing that way, through the highest judicial and legal instance in the United States 'Law and Regulations, a quite substantially eugenetic vision. [10-14].

"Eugenetics", as we know, is a term invented by Francis Galton, [15, p. 119], who was Charles Darwin´s a cousin, in order to designate several forms of intervention, aimed at improving or making better the human species, by manipulating their genes, or by selectively cross-mating their individuals.

Gallon himself, in fact, has had a way to clarify that «the evolution processes are in constant and spontaneous activity, some of them are positive, and some of them are negative. Our role is to pay attention to the opportunities to intervene, in order to control the negative ones, and give free process to the positive ones» [16, p. XXVII].

Applying to human beings the same concepts of evolution and of selection, made by his cousin Darwin for animals, Galton, had established a utopian design in order to create a new species, a new human species, that one improved and capable of improving itself through the reduction of its own disabilities, and the strengthening of its own quality features.

In a similar perspective, eugenetic way of thinking has being developing, in accordance with its two application modes: «one was in favor and helped the mating between individuals carrying positive genes, in order to increase their frequency among the population (positive Eugenetics). The other modality tended to limit, or even used to forbid, marriages whose children could be carriers of unwanted genetic characters (negative Eugenetics)» [17, p. 874].

Notwithstanding that the eugenetic practice be expressly prohibited or even banned by Article 21 of the Bill of Fundamental Rights, of the European Union.[3] By Article 11 of the Oviedo Convention,[4] and an implicit manner by Article 14 of the European Convention for Human Rights (Rights of Men); in the measure that prohibits discrimination over any other consideration regarding those explicitly

enlisted (Portuguese: elencadas),[5] is widely spread out at all levels, in research and in Bio- Medicine.

Thus, if in fair and normal situations, it is considered that, the eugenetic practice moves along three axes or guidelines, [18-19]: 1) that of a genotypic selection (eliminating defective subjects), [20] 2) that of a germinal selection (choosing the best and most proper subjects),[6] 3) that of the genetic modification (applying genetic modification), [22]. It is also necessary to recognize that today, with the combination of technical capability on one hand, and the judicial legitimation on the other, the eugenetic practice appears especially in three main contexts: the medical assisted pregnancy (artificial insemination), the voluntary interruption of pregnancy (abortion), and the voluntary interruption of life (euthanasia).

2.1 MAP (PMA)

For what it is referred to the medical assisted pregnancy (MAP), it is necessary to specify that with such phrase it is understood an articulated bio-medical practice which implies different techniques (homologous, heterologous), procedures (FIVET,ICSI), phases (pre-gamete-ovary hyper-stimulation and hormone therapy gametic or pre-embryo, embryo pre-implantation, embryo post-implantation) and the resulting situations (pregnancy not achieved, pregnancy, abortion).

The MAP in Italy [23-27], is regulated by the law 40/2004, that in the course of more than a decade has been severely cut in some fundamental parts, by certain constitutional decision which in various modes have modified the spirit, the letter and, obviously, the methodology. [28-30]

Among the various and most important jurisdictional regulations, which are relevant to the purpose of the present reflections, they necessarily but rapidly must consider precisely those that in virtue of the safeguarding of the right to health concern to the pre-implantation genetic diagnosis (PGD);[7] the sentence n. 398/2008 of

the Regional Administrative Court (TAR) of Lazio, the ruling of the European Court of Human Rights n. 54270/10 of August 28, 2012, and lastly those from the Constitutional Court, in particular, ruling n. 162/2014, ruling n. 96/2015 and ruling n. 229/2015.

In 2008, the RAC of Lazio established the legitimacy of the ministerial guidelines for the practice of law 40/2004, regarding the point where such guidelines allowed a diagnosis research about the embryos, only of observational type and non- selective [31].

In 2012, the CEDU had considered Art. Eight of the European Convention of Human Rights violated. This is the right to respect private and family life, by the disposition promulgated in paragraphs "a" and "b" of section 3 from Article13, of the 40/2004 Law, showing the alleged incoherence in the Italian regulation, that on one hand prohibits the embryo selection of eugenic character accepted in the above-mentioned Standard. On the other hand allows it, in order to foster care for women´s right to health, in accordance with Article 4 of the 194/1978 Law, the «Therapeutic Abortion» [32].

On their behalf, The Constitutional Court in ruling number 162/2014, has declared violated the right to health, according to Article 32 Constitutional, due to the constitutional illegitimacy of Section 3 from Article 4, of the 40/2004 Law, which establishes the prohibition to turn to heterologous fertilization, when for any reason whatsoever, a pathology which is the cause of absolute and irreversible sterility or infertility diagnosed and declared. [33].

With ruling number 96/2015, The Constitutional Court has extended the MAP techniques beyond the reach of the Law. The above by enhancing the possibility of access to, besides the sterile or infertile couples, also for the infertile ones which are carriers of genetic transmissible diseases, declaring as illegitimate the prohibition of access to, and diagnosis of, due to violation of Article 3 Constitutional, and specially of Article 32 Constitutional, established by the 40/2004 Law, and as such, capable to undermine the Right to

Health of a fertile woman, healthy carrier of a serious hereditary genetic disease. [34].

Anyway, with ruling number 229/2015, The Constitutional Court has established that, Article 13, Sections 3 subsection b), and 4, of the 40/2004 law is headed to the declaration of constitutional illegitimacy, in the part which precisely, in which it prohibits, putting a penal sanction on it. The conduct of selection of the embryos by the physician, aimed exclusively to avoid the transfer in the uterus of the woman of those embryos, that due to the pre-implant diagnosis, have resulted affected by transmissible genetic diseases according to the seriousness criteria of which Article 6, section 1, subsection b) of the law n. 194 of 1978 deals with, accepted by the proper public structures [35-36].

The jurisprudence, especially the constitutional one, is therefore, focused in the idea by which the PGD cannot but have the result of the embryo selection. This one at the same time could not be legitimately prohibited without violating guaranteed constitutional rights, such as the right to health of a couple in general and the woman in particular, according to constitutional Articles 3 and 32. Especially in light of the fact that the couple or woman to whom the embryo selection would be neglected, could take advantage subsequently of the unhealthy embryo implantation of the VIP, in accordance with 194/1978 law.

The Courts stand position, is that it is necessary to accept with strong honesty and without hypocritical reverential pretenses, and because of the reasons that follow, it is affected by a serious short sight, both in the principle data, as well as especially in the regulatory; having to confirm that in the best of the hypothesis, the judicial essence of the problems at hand would be wrong, and in the worst of the hypothesis assume that it has been intentionally remodeled according to an absolute arbitrary judicial will, ignoring, as in other occassions,[8] the authentic essence of reality [42].

The PGD [43-51], therefore, is been highlighted regarding the regulation about the voluntary interruption of pregnancy,[9] in as

much the prohibition of the PGD, or its limitation at an observational level, or the prohibition of embryo selection after the PGD. They are all considered measures in contrast with the constitutional right to health, being guaranteed in general and with the one of the woman in particular.

Setting aside the existing diversity of diagnostic techniques [53], it is necessary to recognize at this point, following the above mentioned multiple jurisprudence declarations, [54-56], that in this meaning, becomes to be modified nature itself, and the function of pre-birth diagnostic, not directed anymore to the verification of the conditions about the integrity of the embryo or the fetus, but used as an ultra- diagnosis instrument, that is to say, selective with respect to the embryos themselves eventually affected for the several various typologies.[10]

The PGD this way understood used to select the embryos carriers of hereditary genetic pathologies, it becomes unavoidably and instrument of eugenic selection. That is to say, a mere use of the subjective power that, as such, cannot but create perplexity regarding the effective protection not only of the right to health, but also especially the dignity of the person, because every classification of pathologies based on which the selection must be carried out, would be always and in any event be totally arbitrary.[11]

Jacques Testart, the father of assisted fertilization himself, has written, and not by chance, that the eugenic derivation of the PGD unavoidably represents a threat for human freedom: «The impossibility to stop the fast insurgency of the PGD derivations is the reason why I have decided to propose its prohibition. If this prohibition should be impossible, it would be necessary to accept that our future is determined» [59, pp. 97-60].

It is also necessary to specify, *EN PASANT (by the way),* that there is no use to consider la eventual difference, at this point fictitious, usually set between the eugenic of the XX century and todays, correctly defined as liberal, [61,p. 55] that is based on the private and facultative use of the PGD. This new eugenic, allows

each individual to build his own and the one of his children's genetic determination even invoking the best interest of these last ones. [62] According to each individual's satisfaction, and without considering that all that can make it look like liberal, and as long as everything about this issue is left to the will of the individual, and not any more to the coercive authority of the State, it does not in effect, make it less totalitarian: thus definitely, paradoxically and equally, liberticidal.

The individual liberal eugenic, in fact, refers only to the *selector*, that is to say, the individual and not the State. Certainly not regarding the *selected*, for whom nothing is different, and therefore of that state tradition, of which in that sense shares, the same coercivity due to essential effects.

2.2 VIP

The second dimension, in which the eugenic selection is emphasized, is the one that refers to the voluntary interruption of pregnancy (VIP) [63-75].

The VIP, as it is known, finds its ruling in law 194/1978. Constituted over the individualized principles by the Constitutional Court with the well-known ruling n.27/1975. Based on this ruling «Constitutional Article 2 recognizes and guaranties the inviolable human rights, among which it cannot be left unlaid, while with its particular characteristics, the legal situation of the conceived [76]. In addition, however, this premise is supplemented with the ulterior consideration that the protecting constitutional interest related to the conceived, may be opposed to other goods that also are favored by the constitutional tutelage and that, in consequence, the law cannot give the former a total and absolute prevalence, denying the latter with proper protection»[77].

Finally, for the Constitutional Court, as we will see afterwards, for the 1978 legislator: the right of life of the conceived is an inviolable right and constitutionally guaranteed, that can find its only limi-

tation, or better its *weakening,*[12] only in another equally inviolable right and in the same way, constitutionally guaranteed. This is to say, notwithstanding that which for some is affirmed,[13] no longer the alleged women's right to abortion,[14] in as much it is not configured and it is not configurable, for what conversely the power of women to interrupt pregnancy, in order to foster her own right to health, that is to her own psycho-physical integrity.

All the above being considered, it is necessary, therefore, to pay attention to the difference set by the same 194/1978 law.

According to Article 4 of the above-mentioned law, the VIP is accepted within the first 90 days of pregnancy «either related to her health status or economic conditions, or social or familiar or the circumstances in which the conception has happened or to previsions of anomalies or malformations of the conceived one».

The above means that a woman can appeal to the VIP also in the case of anomalies or malformations of the conceived, that is to say to a substantial VIP and freely based on motivations of eugenic character, in a free and autonomous way.

The difference or better said, the condition or restriction is set by the following Article 6 of the already mentioned 194/1978 law. The above-mentioned Article 6 is dedicated to regulate the resource to the VP in case that the 90-day period had been passed. In such eventuality, the VIP can be performed only, if there exists a causal link –that is to say a cause-effect relationship– between the anomalies and the malformations of the one who is about to be born, and the serious danger for the physical or psychological health of the woman.

It is true that the existence of the causal link does not eliminate the eugenic characterization of a simple type of VIP. But if it so happens, putting together to the fetus anomalies the serious dangers undergone by the women's health, the eugenics seems only *weakened,* that is to say, that it is not the only determining cause of the VIP by itself, but a remedy to avoid a health harm to women.

This last situation is described by the doctrine and by the jurisprudence, specifically, as a "therapeutic" abortion that, it is necessary to remember, it is perhaps, only referred to the mother and certainly not to the child. On the contrary, when the VIP would be performed only in view of having a healthy child, it would be facing before the prohibited species of a eugenic abortion. The Court of Catania has specified so, with the decree of May 3, 2004, and as well as the Courts of Merits, as the ones of Cassation have reaffirmed in various occasions.[15]

Even though, the eugenic abortion should be considerable, precisely by virtue of the same 194/1978 law, as it has been seen, jurisprudence assumes, that notwithstanding, that such one should not be configurable and because of that a right to a healthy son could not be demanded through a selection by means of the eugenic VIP.

In that sense, the Courts of Merit,[16] have been clear, and even more explicit has been the Court of Cassation, that in more occasions has excluded the configurability of a eugenic abortion in the Italian regulations.

Among the unique rulings of the Cassation about the point,[17] it is necessary to remember ruling n. 14488/2004. In that ruling, the Court specifically so declares: «It is not recognized the eugenic abortion in our regulations, neither as a mother's right, nor as a right which the one about to be born, could enforce its right after the birth, under a legal redress profile, due to the absent exercise».[18]

Definitely: the "therapeutic" abortion, is considered not only legitimate, but above all, different than the eugenic one, that in turn is fundamentally estimated illegitimate[19]

Nevertheless, it is necessary to agree that, beyond the form of the law, beyond the legislator's objectives, and beyond the superhuman hermeneutic weariness of the judges, it is not so. At the moment in which firstly the law, and the jurisprudence afterwards accept, although through the restriction of the "Caudine Forks" of the causal link, the appeal to the VIP due to anomalies and malformations

of the fetus, the eugenic attempt emerges with all its strength, demonstrating that it is put into practice and widely achieved.[20]

Therefore, the VIP, either it is practiced under the *FICTIO (fiction)* of the therapeutics of the intervention in tutelage of the mother's right to health, either under the expressed motivation of the selection of the one who is to be born, due to his pathologies, it is presented as a powerful means of eugenic selection. As such, not only it does not tutelage the mother's right nor the right to health, nor obviously of the conceived one, but also it is shown as a serious violation of the person's dignity, because it is a means for discrimination between the healthy and the unhealthy.[21]

2.3 VIS

«To judge that life is worth living or not, is equivalent to answering the fundamental question of philosophy» [83, p. 7] this is the way Albert Camus, questions today's world.

As up until now, it has been seen, if the genetic pathologies of the embryos are one of the reason for their selection, and the fetus anomalies are the cause of pregnancy interruption. No less relevant can be considered the chronic, degenerating, disabling or terminal pathologies that, afflicting with their baggage of costs and physical and physique sufferings, [84] cannot be but to be understood as legitimating the voluntary interruption of survival (VIS).[22]

Umberto Veronesi, in this sense, seems to answer negatively to the question of Camus, when he writes: «In Italy, each year we have 2500 suicides and many other suicidal attempts. Suicide is not a criminal act, and obviously, neither it is the suicide attempt. Then if suicide or suicide attempt are not a criminal act, I ask myself why a poor little person which is in a profound condition of degradation, of pain, of mental and physical suffering, and who asks painfully and persistently to be able to end his life, should not be addressed in his wish?» [86, p. 81].

Addressing the right of refusal or waiving [87] of medical treatment, [88-107] transiting through the medically assisted suicide, [108-114] up until reaching the right to euthanasia, [115-113] including the infantile, [134-142], the right to health breaks and fragments into the already mentioned versatility of medical-legal methods, tending to the realization of a unique common objective, that is to say the VIS intervention.

The VIS by itself, does not necessarily always imply an eugenic purpose, but such purpose begins to become persecuted when its euthanasian objective is taken to practice by putting an end to existences considered already, not worth living.[23]

At this point, there can be located those, which must be considered as the two main ways of thinking under the argument: the one, which addresses the problem from the social and collective point of view exclusively, definable as "centrifuge"; and the one that conversely includes it, in its peculiarly individual and subjective dimension, definable as "centripetal".

In the first meaning, that is the centrifuge or social, it is necessary to go back many decades back in time. It so happened, that more than twenty years before related to the thanatological mechanism set to run by the national socialist regime, thinkers already authorized had managed to legitimate euthanasia of those lives considered not worth living, as long they were afflicted by several disabling pathologies.[24]

In the remote 1895, Adolf Jost, in its *Das Recht auf den tod (The Right to die) «*says that the control over the death of an individual corresponds definitely to the social organism, the State. This concept is in direct opposition to the Anglo-American tradition of euthanasia, which highlights the right of the individual to die, or to death or to its own death as a supreme human vindication. On the contrary, Jost refers to the State right to kill*»*, [145, p. 70] to feel, and finally «compassion» to grant the *Gnadentod,* that is to say death as a grace.

The social perspective sees in the interruption of survival of the involved subject, a *right* of the State to be able to proceed whenever the conditions are given. In addition, *the duty* of the State to proceed in that sense, [25] or a well-defined purpose, that is to say to foster the health of society, or else, the health of the fundamental element from the State itself. In this line, two jurists of the caliber of Karl Binding and Alfred Hoche, express themselves with extreme clarity, that in their *Die freigabe der vernichtung lebenusnwerten lebens (the liberation by destruction of a life not worth living)* of 1920,[26] build the ethics-medical-judicial platform, that few years later could become the theoretical support of the euthanasia program, for example of the mental patients [147] foreseen by the standard regulations of that which was the national socialist regime.

Under such optics, therefore, the VIS is a non-derogable eugenic measure, as far as it is socially justified, that is to say, with a trend to foster the general health of the community.

The second perspective, the centripetal or individual, conversely, considers that the interruption of survival would not be something else but the ultimate and best affirmation of the absolute and unconditional freedom of the subject. Freedom of the individual, to be able to dispose, as a gift to his above mentioned freedom, also and above all his own life, without intromissions of external character, as assessment of moral, judicial, religious or social order.

Euthanasia, [148-157] in such process, in the same way that the difference, *rectius (better said)* equality, intrinsic to the effect,[27] already outlined between a State eugenic selection, and a liberal eugenic selection. This comes to be presented, not as an instrument of the State's coercive selection, but that it becomes a right claimed by the individual as far as owner of himself,[28] although if not for this, less judicially problematic[160].

In a determined pathologic circumstance,[29] more or less severe, [163] the individual that considers that has lost all dignity after the judgement (arbitrary) of the lack of quality of his own life,[30] tries to legitimize its own VIS not as a mere rejection of the medical

treatment,[31] as over the basis of its own exclusive, absolute –that is to say deprived of its ties– and unquestionable determination[32]

Thus In the already mentioned individualistic optic, the euthanasia's act in which the VIS is verified, is in the assumption of the continuity of the exercise of the own right to health, a measure "auto-eugenic" that the person takes over himself in so far as he tends to eliminate not only the suffering, but the sufferer –that is to say himself–,[33] as it happens fundamentally in all eugenic praxis.

We cannot ignore the considerations of Plato, [167] of Aristotle, [168] of San Agustin,[34] regarding this issue, that from a point of view exclusively rational, show the ethical and judicial illegitimacy of all suicidal acts, without excluding euthanasia. It is good to have in mind that, in fact, such type of act is contrary to reason, for what, as Kant teaches, it attempts against the thinking ability of the same liberty, abusing, disposing of the person: «that defenders of that, claim that men are a free agents […]. For what is referred to the body, he can dispose of it in many ways. For example, having cut and abscess or cutting a limb or disregarding a wound; regarding the body, it is up to him to do freely all those things to be useful and advisable to him: shouldn't therefore also have the power to take his own life, when such a thing would seem to be the most advantageous and advisable thing? […]. We are able to dispose of our own body, in view of the preservation of our person; who, nevertheless, takes his life does not preserve with that his person: he disposes then of his person and not of his status, that is to say he deprives himself of his own person. This is contrary to the highest of the duties towards oneself, because the condition of all the other duties is suppressed» [170, pp. 170-171].

Definitely, if there exist clear and relevant differences, as authorized observers,[35] between the highlighted two mentioned models of VIS, it is also true for what is referred to the effects that is to say, the selection of lives considered by the community or by the individual as not worth of living. There are not distinguishable between

them, due to the violation of the right to life, which is the logic and chronologic basis of that right to health, either social or personal, that is intended for tutelage.

If a life to be submitted to VIS is considered not worthy, it means to already face a process of denial of the being. It is the ontological basis, that, as such, cannot but always cause a denial of human dignity, precisely that same human dignity, that, as in a paradox, it is considered to safeguard it turning to the VIS.

To understand better the sense of all this, we should think of the dramatic pages of the narrative of Albert Camus with the meaningful title: *The happy death*.

When Mersault, widely remunerated by this, was ready to kill who had contracted him for necessity, that is to say the old Zagreus –whose life was considered not in quality to continue, that is to say not worthy of being lived–,[36] trembles. On his behalf Zagreus, tired, sick, deprived of his legs, this way encourages him, justifying his VIS «I only suppress half a man; I pray that it should not be taken into consideration» [172, p. 13].

Zagreus was only considered as half a man, in order to diminish the (in) moral relevance of his suppression. That means substantially to diminish his humanity, definitely, dehumanize him, and in consequence to cancel his nature of a moral entity. Such is always intangible, even without understanding, precisely, that such operation constitutes a direct violation of human dignity as far as, with Abraham Heschel's words: «the moral cancelation leads to the physical extermination» [159. P. 41].

3. The right to health

What is the right to health (RTH)? What range does it have? What corresponding duties does the tutelage of the right to health impose? Does it precede or follow the right to life?

These are some of the questions that can be asked about the right to health, in order to understand its essence, its origin, its function and its purpose.

In this place, it cannot be thoroughly answered all the above mentioned, or any other possible questions regarding this matter. It can briefly highlight a series of essential reflections about the right to health, in order to better understand how it can nowadays be distorted between the *ontological* dimension marked by the eugenic vision, as it has been seen above, and the *deontological* dimension of the person's dignity (which is still to be considered).

Before all ulterior reflection, it seems appropriate to consider briefly, the normative and jurisprudential scenario.

In 1946. The World Health Organization (WHO) tried to, maybe in an attempted neo-encyclopedic, to provide and make sacred the definition of health, universally establishing that it is «*A state of complete physical, mental and social well-being and not merely the absence of disease or infirmity*» [173].

Therefore, according to the WHO, health is a result of a complex process, not only personal, but also that it extends even up to the social well-being.

On its behalf, the European Union Charter of Fundamental Rights [174], recognizes and fosters the right to health in its Article 35, in accordance with the legislations and the practices of each State in particular.[37]

Finally, in the first section of Article 32 of the Italian Constitution, expressly foresees that «the Republic fosters health as a fundamental right of the individual».

In this sense, it is also necessary to keep in mind the contribution of jurisprudence, at least the constitutional one,[38] that has had means to be expressed in various occasions about the right to health. [175-176].

For the Constitutional Court the WHO is «recognized and guaranteed by Article 32 of the Constitution as a primary and fundamental right that imposes full and exhaustive tutelage»[39]

From the rebuilding that the RTH performs of the Constitutional Court, we can gather the three constitutive elements that determine it. 1) It is articulated in various subjective judicial situations, depending on the nature and the type of protection that the constitutional regulation ensures for the well-being of the integrity and the physical and psychological balance of the person. 2) It is an *erga omnes* (for everybody) right directly guaranteed by the Constitution, and thus feasible and directly fostered by the legitimated subjects, related to the authors of the illegal behaviors. 3) Concretely confers the right to medical treatment of which, the determining of the instruments, the times and the means depend on the legislator.

Finally, the RTH seems to be formed in a bipolar mode (negative and positive) both in horizontal as in vertical sense. The horizontal negative, is the one through which, each one of the associates has the right to protect his psychophysical integrity to be harmed by another associate. The horizontal positive, by which after an injury, the legitimate subject can take action to foster all that has been taken from him, with the violation of his own psychophysical integrity. The vertical negative, is the one by which the citizen cannot be forced to receive by the State, medical treatments against his will, and in some way violating his person, that is to say his dignity. The vertical positive, is the one that the citizen may pretend from the State, the tutelage of his own right to health, not only as a principal, but also and above all, concretely, with the legitimate pretention to access medical treatment guaranteed by the regulations, and offer by the health system.

Being established the foregone, in strictly juridical character; nevertheless, it is necessary yet, to clarify what should be understood by health, avoiding at the same time to fall into the utopia of the definition of health provided by the WHO.[40] In addition, in the particularistic eudemonism in which, it would end up in, considering that, it would be health only that it would make a subject happy, but as such, it could not be considered an authentic ethical-judicial reflection on health, in so far as in a Kantian way destructive of all moral.[41]

In a historical and judicial context, in which the person's value has been substantially established as a fundament of all reflection of the right. It is necessary to avoid paternalism on one side and to guarantee the self-determination of the subject on the other side,[42] nevertheless avoiding on one side the non-accountability of the physician, and the ethical-judicial subjectiveness on the other.

Nevertheless, we must reconcile science and the physician's conscience with the will and the right to self-determination of the patient. We cannot stop to recognize that the patient's life can never be considered an object of availability, neither on behalf of the physician, nor on behalf of the patient itself, (especially if it is collectively or individually considered as a life not worth living).[43] The intrinsic logic of the life-health relationship cannot be inverted.

Health, as Hans-Georg Gadamer has reminded us, it is not something measurable.[44] «It is not precisely to feel, but a being there, a being in the world, being together with other men». [181, p. 122] Consequently, the right to health cannot be opposed to, or executing a violation to the right to life, being this last one the logical, chronological and above all axiological fundament, of the same right to health.

The right to health cannot be considered as the right to dispose of our own or somebody else life. If you begin to define life based on that above all, in a substantially arbitrary way (that is to say submitted to the mere will of the legislator, the physician, the patient or of a sum composed of typical elements of an equally arguable contractual bioethics), [182] it is considered worthy or unworthy.

To avoid, so many paternalistic abuses by the physician on the patient or counter-paternalistic of the patient on the deontological autonomy of the physician, as well as the pursuit of eugenic purposes or the degradation of life as a mere attachment to efficient performances, achieving to make the distinction between human being persons and human being non-persons.[45] It is necessary to correctly interpret, according to its essential and substantial rela-

tionship, the right to health and the right to life. The foregone meaning, not any more as the right to life in the optics of the right to health, but exactly the opposite, that is to say the right to health in the optics of the right to life. For example: it can there exist a property without usufruct, but there cannot exist a usufruct without property, equally it can exist a life without health, but not health without life.

4. The dignity of a person

«It is true that the new eugenetic, even if it is oriented to the well-being of an individual, could have negative consequences over the others, as for example over the disabled»: [185, p. 246]. Carlo Alberto Defanti himself recognizes that, explicitly demonstrating the dangerous ambiguity of all eugenic selection, and implicitly, that the search for perfection through the eugenetic selection, [186] is always a risk for a person's dignity.

Nevertheless, human dignity, dormant up to the moment, it becomes obvious, in the manifest and suffering double sense.

The eugenetic, practiced as a fostering of the right to health through the PGD, the VIP, and the VIS, represents the most direct violation of the dignity (of the person) for at least five orders of reason.

In the first place: the physician's nature is the first dimension to be misrepresented, because, in the optics of the eugenic selection, hidden behind the exercise of the right to health, he loses its own dignity as soon as he is deprived of his own autonomy of science and conscience. He is reduced to a mere executer of the State or the patient's will, without taking into account the ethical and juridical objectivity of health and of life of which he cannot dispose of. As it has been seen, he does it neither directly, nor indirectly with the patient's consent.

Behold in what sense Karl Jaspers has had the form to specify, «The modern patient does not want to be treated in a personal

way. He goes to a clinic the same way as to a business, to be attended the best way possible, by an impersonal apparatus» [187, p. 47]

The physician and medicine, in this logic, are harmed in their own dignity, because they are reduced to one of the many gear systems in which the consumer and commercial mind are shown. The Hippocratic model, is substituted by a new model that oscillates between what is technocratic and what is commercial, that have come to equate «the health organization to the enterprise figure; and the image, on the other hand, inherited from the Anglo-sax culture, of the patient, as a consuming citizen» [188, p. 75].

The physician-patient relationship is no longer human, but contractual. The relationship between the patient and death is no longer natural, but artificial. The relationship between the physician and death is no longer antithetic, but synthetic, or better said, *catalytic,* highlighting the fair and punctual worries of Hans Jonas when he writes that «the patient must be absolutely sure that his position does not become his executioner, and that no decision will ever authorize him to become such» [6, p. 170].

In the second place: a man's dignity is not something that is acquired or it degrades according to circumstances, the phases of life, the functions and the developed or lost capabilities; but it is the distinctive feature of man's being, which distinguishes him from the rest of the reality being.

A man's dignity is that which makes a man human, not simply avoiding to be treated as a thing, or to be treated in the measure of other creatures,[47] because that would not be sufficient to understand in what sense the person has his own dignity.

The person's dignity is given for being an entity provided with knowledge,[48] that is the organ, *implicit*, [191] which allows us to distinguish between good and evil, not according to an individual whim, but in an absolute sense,[49] that is to say, according to the truth, or else according to the single effective guarantee of the human relations.[50]

Precisely, dignity is the truth about the essence of a person. It cannot be considered the person itself available, not even with his consent, as Kant teaches: «Humanity in itself is a dignity, because man cannot be treated by no one as a simple medium, but must be treated at the same time as an end, and precisely in that, consists his dignity» [194, pp. 333-334].

In the third place: from all this, it is derived that, precisely, the concept of a person which as such, [195-197] «is not the most wonderful object in the world», [198, p. 130] as Emmanuel Mounier teaches.

Therefore, under this perspective, the person or his life cannot become unworthy or not useful,[51] because the person is formed by, besides by its conscience and by the unavailability, and above all by the non-replaceability.

Moreover, John Harris has established the "principle of replaceability", that based on which it is «morally wrong to introduce in the world avoidable sufferings, and that suffering is avoidable when an individual that is, or will be, disabled could be substituted by a healthy individual» assuming that the replaceability of individual does not present problems [200, p. 127].

On the other hand, as Romano Guardini has well explained, «the person is essentially unrepeatable (Einmaligkeit) "and men are «a qualitative singularity (Einzigkeit)"», [201, pp. 36-37] that is to say, this man is the one who is here in an unrepeatable manner.

In the fourth place: the exercise of the right to health with an explicit or an implicit eugenic purpose, is not an expression of liberty anymore, but exactly the opposite, and as such, also offensive for a person´s dignity.

Freedom, in fact, does not consist of absolute discretion or of free will, that is to say, it is disconnected from any consideration and/or principle of ethical or juridical character, but it is linked to act or behave according to what is right, meaning, within the limits of good and evil.

It was not by a chance, when Hegel well recognized that «when it is heard of people saying that freedom in general, consists in being able to do whatever somebody wants, such claim can only come from somebody who completely lacks of intellectual training» [202, p. 103].

Lastly, the right to health exerted in order to reach collective or individual objectives, either coercive or consensual, of eugenic character, constitutes a harm to a person's dignity. Also to the law itself, because it reduces the law to a mere instrument of will formalization, deprived of all argument, susceptible to any opinion, dispensing of its truth, that is, of justice.

Piero Calamandrei whose considerations in this line of thinking are reinforced, and for whom «there exists the case where the inexpert and the amateur (which is even worse) philosophers, should come out and claim that rightful law consists only in granting to everybody their own comfort» [203, p.69].

If however, Calamandrei's criticism would not be right, as the current bio-juridical praxis up to here tragically represented, saying yes to everything. The previous sentence meaning leads to accept the end of law and therefore of all rights, including obviously the right to health, because, as Albert Camus precisely noted, «saying yes to everything, implies saying yes to homicide» [204, p. 89].

5. Conclusions

Thus, the omnipotent and omnipresent technology, would risk distorting or perverting the human being, the law, the right to health, medicine, and the person's own dignity.

In fact, not only Nicolai Berdyaev has pointed out precisely, «the power mechanism atrophies men, and wants to capture them to its image and resemblance», but society as a whole is also captured, also the culture as a whole is captured, because it establishes a true and self «culture of disposal» [205, p. 35].[52]

Under these conditions, it is not about abolishing technology or the mechanisms of power. as Georges Bernanos has observed, «it has to do with highlighting man, that is to say to restitute to him the faith in the freedom of his spirit, jointly to the conscience of his dignity […] before anything else and above all it is necessary to re-spiritualize men. In order to do this, it is already time to mobilize, fast and at any cost, all the forces of spirit» [207, p. 35].

Bibliographic references

[1] "The age of technology produces conditions in which nothing of what has emerged in the past can survive K. Jaspers, *Piccola scuola del pensiero filosofico*" [2, p. 34]

[2] "There is no other relationship between man and nature, all the unions set, complex and fragile, that man had patiently waved, poetic, magical, mythical, symbolic, disappears: it only remains the technical mediation that overcomes and becomes total": J Ellul, *Il Sistema tecnico* [7, p. 56].

[3] "It is forbidden any form of discrimination particularly based on sex, race, color of skin or the ethnical or social origin, the genetic characteristics …".

[4] "Every form of discrimination related to a person by reason of his genetic patrimony is forbidden".

[5] "The enjoyment of the rights and liberties recognized in this Convention must be ensured without any discrimination, in particular those based on sex, race, color, language, religion, political opinions or those of another kind, of national or social origin, belonging to a national minority, wealth, birth or any other condition".

[6] Think of the biological banks, such as the Repository for Germinal Choice, which have obtained the Nobel prizes sperms; [21, pp. 79-80].

[7] This 40/2004 law states in its letter "b" on section 3 of its Article 13, the following: «Every form of selection of the embryos and the gametes with an eugenic purpose, the interventions that through the selection techniques, the manipulation or by means of artificial procedures, would be aimed to alter the genetic patrimony of the embryo or of the gametes, in order to predetermine the genetic characteristics of them with the exception of the interventions with diagnostic and therapeutic purposes, of which it is spoken in section 2 of the present Article, are forbidden».

[8] Think about the famous n. 151/2009 sentence of the Constitutional Court, which was the one with what, the prohibition stated in the second section of Article 14 of the 40/2004 law was declared as illegal. It has been issued specifically against the

production of more than three embryos, precisely in contrast with the scientific data, given the outcomes of very important and relevant international studies that precisely advise to produce and implant less than three embryos [37-41].

[9] For a confrontation with the two regulations, the one that has MAR as an issue, and the VIP issue, cf. [52]

[10] This way Harry Harris recognizes in *Diagnosi prenatale y aborto selettivo*: «In conventional medicine, diagnostic is made, to provide the conditions for the patient's treatment in the most efficient way, and in cases in which an incurable disease is diagnosed, at least it is searched the best way to improve as soon as possible his conditions. The pre-birth diagnostic objective of the genetic diseases conversely is exactly the opposite. The purpose of reaching and discovering if the fetus [or the embryo n.d.a.] presents some defined anomaly that unavoidable would lead to the birth of an abnormal baby, and in that case provoke abortion» [57, p. 3]

[11] «The criterion, based on which it is recognized a pathology or a negative characteristic in a way to justify an exclusion, appears as critical and ever changing, precisely due to the cultural dimension that is able to distinguish it. Let us think on the hypothesis of multifactorial pathologies where the genetic profile is not the determinant factor. The life perspective is sacrificed based on a merely probabilistic calculation» in A. Schuster, *La selective procreation [*58, p. 1411].

[12] The Constitutional Court in Ruling n. 229/2015 speaks about weakening when precisely clarifies that, even though the right of the embryo should weaken, it never reduces to such a point where it can be considered as any livestock (thing). «With the above cited ruling n.151 of 2009, this Court has already recognized, as a matter of fact, the Constitutional basis of the embryo's tutelage, related to the general precept of Article 2 of the Constitution; and if so is that considering susceptible of "weakening" (parallel to the conceived one tutelage: ruling n.27 of 1975), even though only in the case of conflict with other interests of similar constitutional importance (as the right to health of a woman) that, in terms of balance, they would result in the given the prevailing situations. In the specific situation under examination, the VULNUS (affectation) to the tutelage of the embryo's dignity (even though it is) sick, as it would derive from its suppression TAMQUAM RSES (as a thing), nevertheless, it does not find justification, in terms of a counter weight, in the tutelage of another rival interest».

[13] «The pressing interventions of women, have affirmed the right to abortion as a necessary basis in order to guaranty the equality of gender between man and woman» [78, p. 19].

[14] «The court declares, that in the notion of private life it is also included the right to choose to have or not to have children, nevertheless specifying that the conventional standard or norm does not derive into a right for an abortion»: CEDU, Grand Chamber session, and 16/12/2010 n. 25579.

[15] Court of Lecco, 9/11/2009; Court of Brindisi 1/09/2009; Civil Cassation n. 25559/2011.

[16] Courts of Bari, 24/02/2014 n. 973; Court of Bologna, 14/08/2014.

[17] Civil Cassation n. 6735/2002; Civil Cassation n. 16123/2006; Civil Cassation n.10741/ 2009.

[18] On the issue, the problem of *WRONGFULL BIRTH* and *the one of WRONGFULL LIFE affect the issue*: in this sense, EX PLURIMIS (of many) cf. also Cassation SS.UU. n. 25767/2015, which denies the existence of that which can be considered the extreme and synthetic point of the eugenic praxis, that is to say the claim of the right to not-be born; cf. besides [79].

[19] «It is stated how the specific mention made by the legislator of the relevant anomalies or malformations of the one who is about to be born, it had turned wrong opening the way to the praxis that in fact perform typical situations of eugenic abortion» in A. Aprile, *Interruzione volontaria della gravidanza* [80, p. 1726].

[20] Cf. E. SGRECCIA: «It has to do, therefore, with the hypothesis through which under the name of «therapeutic abortion» cases of eugenic abortion are identified (malformation or fetus illness)» [81, p. 574].

[21] Cf. L. EUSEBI: «The eugenic optics undermines from the root up, the concept itself of democracy and, particularly, the principle of equality. The foregone stands in as much as it breaks the fundamental thesis according to which, the respect for human rights and, in particular, the right to life, depends exclusively in the living existence of an individual, and not about a judgement of his conditions. The risk is the one of the step to getting closer, covered up to now, of therapeutic character, related to sick individuals, to the use of genetic data, each time more easily found in an early stage, where to acquire predictive elements about the future health conditions in a specific individual, in order to perform a selection among the human beings (in a similar way to what happens in the zoo technical environment) to whom it might be or might not be allowed to continue in their existential process» [82, p. 44].

[22] «I don't know if it deserves more repression or more sarcasm the title of the law Project: "norms to regulate the voluntary interruption of survival", presented to Congress in the last legislature. That is because even in the extravaganza of the used acronym (VIS, a clear copy of the already consolidated VIP) helps us to understand the bio-politics essence of the issue about the end of the human life. The fact that it has been looking for to introduce the expression interruption of survival, to grade death, indicates the acclaimed incapacity of the bio-political paradigm of thinking life, as an IN SÉ (in itself)» in F.D'Agostino, *Bioetica e biopolitica* [3, p. 58].

[23] «It is a matter of quality of life in its terminal phases, and nobody can avoid that people could feel all that, as a threat to the integrity of their own personal identity, which is part of that we understand a a person's dignity» in N. Riva, *Diritti e procreazione assistita* [143, p. 58].

[24] «The lack of memoory referred to the fact that the criterion of "the undignified life", theorized in 1922 by two illustrious German thinkers, later was the support to the euthanasian Nazi program, that from 1939-1941 carried out the killing of more than 70,000 mental patients»: Mantovani F. voice "Euthanasia", in Enciclopedia di bioetica e scienza giuridica [144, p. 994].

[25] Think in that sense in the words of the German physician Karl Brandt: «I think that the physicians of the future, will be capable to establish a rightful scientific basis for the theory of euthanasia, that the theologists will help, including it in their teaching, and finally the jurists, as a representative of the State's authority on the physician, shall grant him again to offer assistance to the humankind, including such unfortunate creatures» as it is referred by MARKER, R.L., STANTON, J.R., RECZNIK, M.E. *Euthanasia: a historical overview* [146, p. 273]. Translation by me.

[26] Even Hoche writes that the murder of people defined as human scum or empty peles of human beings, as the idiots in psychiatry or the chronic or terminal patients, «cannot be put in the same plane as other types of murder, but it is a legal and useful act», as it is referred by R.J., LIFTON, *I medici nazisti* [145, p. 71]

[27] «A moral point of view which does not give weight to the value of the outcomes as a whole cannot be right», T. NAGEL, *Questioni mortali. Le risposte della filosofia ai problemi della vita* [158, p. 184].

[28] «Life is something that I am. That that I have is mine. That that I am is not mine. Life does not belong to me». A. HESCHEL, *Chi e l'uomo?* [159, p. 62]

[29] The abuses harming psychiatric patients is increasing in the countries where the voluntary euthanasia has been legalized, which very soon has become involuntary; about the extensive literature on this regard, in the process of increasing cf. EX PLURIMIS (of many) [161-162]

[30] «The concept of quality of life, is certainly not of deontologic inspiration»: J.Y., GOFFI, *Pensare l'eutanasia* [164, pp. 93-94]

[31] Cf. Court of Modena 13/05/2008; Council of State n. 4460/2014; Cassation in criminal matters n. 37077/2008.

[32]This way ring out the words of Zaratustra de Nietzsche: «Here I praise my death, the free death that comes to me because I want it» [165, p.90].

[33] «In a certain condition it is improper to continue living any longer. To continue vegetating in a despicable dependence on the physicians and their practices, after the meaning of life has been lost, the right to life, should attract upon him, a deep despise in society […]. To die with pride if no longer is possible to live with dignity. Death chosen by own will, death performed in the right moment, in clarity and joy, among children and witnesses». F. NIETZSCHE, *Il crepusculo degli idoli ovvero come fare filosofia col martello* [166, pp. 107-108].

[34] «And rightfully in no place of the canonic sacred books, it can be found that it has been ordered or allowed to kill ourselves in order to reach immortality or else to avoid or free ourselves of evil. On the contrary, it has to be understood, that it has been prohibited for us, in that passage in which the Law says: Thou shall not kill. It must be highlighted that it does not add "to your fellow man", as when it prohibits false testimony: not to give false testimony against your fellow man. Nevertheless, if someone gives false testimony against himself, in cannot be considered immune to this crime, because who loves has received by himself the measure of love to his fellow man. It has been said precisely: "Thou shall love thy neighbor as thyself". Therefore, it is no less guilty of false testimony who testifies falsely about himself, than if he would have done it against his neighbor. In the commandment

in which it is prohibited false testimony, it is prohibited against the neighbor, and who does not interpret it rightfully, it could seem that it is not prohibited to present false testimony against himself. Hence, therefore, it must be understood that it is not legal to kill himself, because in the precept of not to kill, without any extension, nobody, not even the individual to whom the commandment is given, must be understood excluded. Of this matter, some people try to extend also the commandment to the wild and domestic beasts, in such a way that it would not be legal to kill any of them. Why is it then, that the herbs and all the vegetables that feed joining the soil with their roots, are not included? These beings also, even though do not have feelings, are considered living, and thus can also die, and consequently be murdered, if violence is used against them. Because of this the apostle also, speaking about seed, has said: that which you plant does not become alive if it does not die; and in the psalms, it has been written: It killed their vines with hail. However, not for this when it is heard saying not to kill, it must be understood that it is prohibited to cut a branch, and profess faith stupidly, to the mistake of the Manichean. Let us leave these delusional theories. Thus, when it is read not to kill, it must not be understood that it has been said of the fruit trees, because they have no feelings, nor the irrational animals, which fly, swim, walk, wriggle, because they are not linked to us by reason. It has not been given to them to have it jointly with us, and for this with a rightful commandment from the creator, their life and death has been subordinated to our usefulness. It is therefore to be understood by man, the saying thou shall not kill, therefore, not to somebody else nor to yourself. Who kills himself, in fact, kills a man»: S. AGUSTÍN, *La cittá di Dio* [169, pp. 41-42].

[35] «It is necessary to be clear. There is no relationship between these two cases. Today, those who stand by and defend medical euthanasia, so they belief, human dignity […]. This being said, it is necessary to make the proper distinctions and say that, for as much are those theories pernicious, they have nothing to do with the motivations presented by the Nazis to eliminate the weak or the abnormal, dispensing their physical health»: L. ISRAËL, *Contro l'eutanasia* [171, p. 83].

[36] «Listen and look at me. They help me to do my physiological needs. Then, they clean and dry me. There is more, I pay a person to do this»: A. Camus, *La morte felice* [172, p. 41]

[37] «Every individual has the right to access to medical prevention and to get healthcare according to the conditions established by the national legislatures and praxis. In the definition and the performing of all the policies and activities of the nation, it is guaranteed a high level of human health protection».

[38] Constitutional Court ruling n.: 88/1979; 184/1986; 559/1987; 992/1988; 1011/1988; 307/1990; 282/2002; 338/2003.

[39] Constitutional Court n. 455/1990.

[40] «The right to health statement is loaded with ambiguity. It is, in fact, a kind of container formula, capable of opening law to a new dimension, which still has the need for specifications and of clarifications»; C. Bresciani, voice «Health», in Bioethics and Sexology Encyclopedia [177, pp. 1535-1536].

[41] «If you substitute eudemonia (the principle of happiness), for the eleutheromania (the principle of freedom, on which the internal legislation in supported), the consequence shall be the euthanasia (that is the joyful death) of every morale»: I. Kant, *La metafísica dei costumi* [178, p. 225].
[42] «In accordance with the progress towards paradigms of more complex and personalized health and cure, the search for the patients wellbeing, cannot forego the requirement of active inclusion of the patient himself, the consideration of his values and preferences, and the respect to his self-determination. A relationship model is imposed, that goes decisively that goes with a prevailing paternalistic attitude, to a sincere appreciation and promotion of the patient's autonomy»: S. Spinsanti, voice "Health", in Leone S, Privitera S. Nuovo dizionario di bioetica [179, pp. 1050-1051].
[43] «During the war, the mobilization of physicians to the front, and the progressive lack of medication, reduced for the public health officials, the possibilities of sterilized unworthy lives. Nevertheless, the preparations for the war had the effect of accelerating the plans to murder the useless mouths or the scum existences»: P. Fritzsche, *Vita e morte nel Terzo Reich* [180, p. 114].
[44] «Health cannot be seen […]. It is not possible to measure health»: H.G. GADAMER, *Dove si nasconde la salute* [181, p. 117].
[45] Let us think about the functionalist perspective of Mary Ann Warren: «She claims that, in order for there to exist a person, an individual must possess at least one of the following attributes: conscience, reasoning, self-motivated activity, communication capabilities and self-knowledge. Warren follows Locke in the consideration that some human beings are not persons»: M. POTTS, *L'inizio e la fine della vita: verso la coerenza filosofica* [183, p. 216].
[46] «The concept of the right to a gradual life, if it is taken seriously, he is suitable for distinguishing the right to life itself. The right to life, if persists, corresponds to men by its nature, as far as a man. It is not granted to him in the established moment. Only this way it is a human right. Its meaning is derived to existence to life and to survival, precisely by itself. It is not linked to conditions of usefulness of health, or of a developed self-conscience. This right cannot be gradual, it cannot survive only partially either survives or not survives» E.W. BÖCKENFÖRDE, *Dignità umana e bioetica* [184, pp. 80-81].
[47] «Dignity is not something that every human being possesses, such as the nose, or the bellybutton […]. To state that dignity can be attributed to human beings, contrary to animals, means once more to link it with those characteristics that distinguish a man from an animal, such as thinking, or the imagination, the sense of beauty, freedom, friendship and moral life, and not the simple presence of life» L. Kass, *La sfida della bioetica* [189, p. 345].
[48] «Therefore knowledge constitutes a person's dignity»: R. SPAEMANN, *Persone* [190, p. 164].
[49] «There is a difference between better and worse, between good and evil. This is a difference which is not only related to human individual needs that are involved

in a specific situation, but it expresses an absolute value judgement»: R. SPAEMANN, *Concetti morali fondamentali* [192, p. 33].

[50] «If there does not exist a transcendent truth, abiding by which man acquires his full identity, then, it does not exist any safe principal, that would guarantee fair relationships among men»: Giovanni Paolo II, *Lettera Enciclica Centesimus annus* [193, n. 44].

[51]«The handicapped person has been immediately considered useless»: M. BENASAYAG, *La salute ad ogni costo* [199, p. 20].

[52] As Pope Francis states "This «culture of disposability" tends to become common thinking, which infects everybody. Human life, and the person, are not perceived anymore as a primary value to be respected and tutored, especially if it is poor or handicapped, if it is not useful any longer –as the one who is about to be born, or is useless already– as an elderly person» [206].

Bibliographic

1. Guardini, R. La fine dell'epoca moderna. Brescia: Morcelliana; 1993.
2. Jaspers, K. Piccola scuola del pensiero filosofico. Milano: SE; 1998.
3. D'Agostino, F. Bioetica e biopolitica. Ventuno voci fondamentali. Torino: Giappichelli; 2011.
4. Jonas, H. Il principio di responsabilità. Torino: Einaudi; 2002.
5. Schiavone, A. L'uomo e il suo destino. En: Monti, D (curator). Che cosa vuol dire morire. Torino: Einaudi; 2010.
6. Jonas H. Perché la tecnica moderna è oggetto dell'etica. En: Tecnica, medicina ed etica. Torino: Einaudi; 1997.
7. Ellul, J. Il sistema tecnico. Milano: Jaca Book; 2009.
8. Wendell Holmes, O. Opinioni dissenzienti Milano: Giuffrè; 1975.
9. United States Supreme Court. Buck v. Bell (1927), N. 292 (access of 6.4.2017, in: http://caselaw.findlaw.com/us-supreme-court/274/200.html)
10. Fiori, A. La selezione eugenetica individuale e di massa. Medicina e Morale 2005; 1: 11-18.
11. Poggi, F. I figli degli uomini. Considerazioni concettuali ed etiche sull'-eugenetica umana. Ragion Pratica 2010; 34: 235-266.
12. Savulescu, J., Kahane, G. The moral obligation to create children with the best chance of the best life. Bioethics 2009; 5: 274-290.
13. Taglialatela, E. Lebensunwerte leben. Biopolitica e strage eugenetica. Il Punto 2002; 40: 131-141.
14. Testart, J. Sur l'eugenisme, suite et fin. Esprit 1994; 10: 175-182.
15. Pollo, S. Voce "Eugenetic". En: Dizionario di bioetica. Bari; Laterza: 2002.
16. Galton, F. Hereditary genius. London: MacMillan & Co.; 1892.
17. Montinari, M.R. Voce "Eugenetica". En: Enciclopedia di bioetica e scienza giuridica. Napoli: Esi; 2012.

18. Serra, A. Voce “Eugenica”. In: Leone, S., Privitera, S. Nuovo dizionario di bioetica. Roma: Città Nuova; 2004.
19. Gambino, G. Voce “Eugenetica”. In: Philosophical Encyclopedia. Milano: Bompiani; 2006.
20. Vitale, A.R. Escursioni biogiuridiche in tema di maternità surrogata. *Medicina e Morale* 2016; 2: 167-186.
21. Sandel, M. Contro la perfezione. L’etica nell’età dell’ingegneria genetica. Milano: V&P; 2008.
22. Centini, M. La sindrome di prometeo. L’uomo crea l’uomo: dalla mitologia alle biotecnologie. Milano: Rusconi; 1999.
23. Riva, N. Diritti e procreazione assistita. Sociologia del diritto 2010; 1: 39-64.
24. Campiglio, C. La procreazione medicalmente assistita nel quadro internazionale e transnazionale. En: Aa.V.v. Trattato di biodiritto. Il Governo del corpo, ii. Milano: Giuffrè; 2011.
25. Dolcini, E. La procreazione medicalmente assistita: profili penalistici. En: Aa.V.v. Trattato di biodiritto. Il Governo del corpo, ii. Milano; Giuffrè: 2011.
26. Poli, L. La diagnosi genetica pre-impianto al vaglio della European Court dei Diritti dell’Uomo. Rivista di diritto internazionale 2013; 1: 119-134.
27. Vallini, A. La diagnosi e selezione preimpianto: da illecito penale a questione deontologica. Eterogenesi dei fini di un legislatore irragionevole. Rivista italiana di medicina legale e del diritto in campo sanitario 2011; 6: 1405-1430.
28. De Marinis, G. Il ruolo della giurisprudenza nell’evoluzione della disciplina in tema di procreazione medicalmente assistita. Responsabilità civile e previdenza 2014; 5: 1716-1736.
29. Sanfilippo, P. La riscrittura giurisprudenziale della legge 40/2004: un caso singolare di eterogenesi dei fini. Rivista italiana di diritto e procedura penale 2015; 2: 851-879.
30. Santosuosso, F. La legge n. 40/2004 dopo gli interventi della Consulta. Iustitia 2010; 2: 175-185.
31. Tar del Lazio, n. 398/2008 (Access of 6.4.2017, inn: http://www.federalismi.it/nv14/articolo-documento.cfm?artid=9126).
32. Cedu Costa e Pavan c. Italia, August 28, 2012. Access of 6.4.2017, in: http://hudoc.echr.coe.int/
33. Corte Costituzionale n. 162/2014 (Access of 6.4.2017, in: http://www.giurcost.org/decisioni/index.html).
34. Corte Costituzionale n. 96/2015 (Access of 6.4.2017, in: http://www.giurcost.org/decisioni/index.html)
35. Corte Costituzionale n. 229/2015 (Access of 6.4.2017, in: http://www.giurcost.org/decisioni/index.html.)
36. Vallini, A. Ancora sulla selezione preimpianto: incostituzionale la fattispecie di selezione embrionale per finalità eugenetiche, ma non quella di embrionicidio. Diritto penale contemporáneo 2015; 21 dicembre: 1-4.
37. Aa.V.v. Effect of age on decisions about the numbers of embryos to transfer in assisted conception: a prospective study. The Lancet 2012; 1: 1-7.

38. A.A. V.V. Elective single-embryo transfer versus double-embryo transfer in vitro fertilization. New England Journal of Medicine 2004; 351: 2392-2402.
39. A.A.V.V. Preferences of subfertile women regarding elective single embryo transfer: additional in vitro fertilization cycles are acceptable, lower pregnancy rates are not. Fertility and sterility 2007; 4: 1006-1009.
40. A.A.V.V. Multiple birth resulting from ovarian stimulation for subfertility treatment. The Lancet 2005; 4: 1-10.
41. BERGH, C. Single embryo transfer: a mini-review. Human Reproduction 2005; 2: 323-327.
42. GAZZONI, F. Osservazioni non solo giuridiche sulla tutela del concepito e sulla fecondazione artificiale. Diritto di famiglia 2005; 1: 168-210.
43. BANCHETTI, S. Procreazione medicalmente assistita, diagnosi preimpianto e (fantasmi dell') eugenetica. Ragiusan 2006; 23: 280-291.
44. BELLINA, M. Il divieto di diagnosi preimpianto: profili penali. Famiglia e diritto 2007; 12: 1156-1161.
45. COSTA, G. Diagnosi genetica preimpianto e selezione della prole. Bioetica 2004; 4: 634-645.
46. GILDA, F. Fecondazione in vitro e diagnosi preimpianto dopo la decisione della Corte Costituzionale. Bioetica 2009; 3: 717-738.
47. DI PIETRO, M.L., GIULI, A., SERRA, A. La diagnosi preimpianto. *Medicina e Morale* 2004; 3: 469-500.
48. FRATI, P., MONTANARI, VERGALL,O G., DI LUCA, N. La diagnosi genetica preimpianto tra libertà della coppia e tutela della vita prenatale. Rivista Italiana di Medicina Legale 2007; 4-5: 693-992.
49. GOLSER, K. La diagnosi prenatale e preimpianto ed il Magistero della Chiesa Cattolica., *Medicina e Morale* 1999; 2: 301-320.
50. SUAUDEAU, J. La diagnosi preimpiantatoria: Lo stato dell'arte scientifico e gli interrogativi etici, Part I. *Medicina e Morale* 2007; 3: 491-531.
51. SUAUDEAU, J. La diagnosi preimpiantatoria: Lo stato dell'arte scientifico e gli interrogativi etici, Part II. *Medicina e Morale* 2007; 4: 717-751.
52. VITALE, A.R. Note biogiuridiche sulla recenté sentenza della CEDU su PMA, IVG e DGP. *Medicina e Morale* 2012; 5: 763-781.
53. A.A.V.V. Voce "Diagnosi prenatale e postatale". In: Enciclopedia di bioetica e scienza giuridica. Napoli; ESI: 2011.
54. CASINI, C., CASINI, M., DI PIETRO, M.L. La legge 40/2004 e la diagnosi genetica preimpianto nelle decisioni di Cagliari e di Firenze. *Medicina e Morale* 2008; 1: 35-67.
55. ARIANO, C. Diagnosi preimpianto: analisi della giurisprudenza italiana e delle linee guida alla legge 40/2004. En: Palazzani L (curator). Genius. La consulenza tra genetica e diritto, Roma;
Edizioni Studium: 2011.
56. CORDIANO, A. Procreazione medicalmente assistita e diagnosi preimpianto: a proposito di una recente sentenza del Tar Lazio. Familia 2008; 3: 21-54.

57. HARRIS, H. Diagnosi prenatale e aborto selettivo. Questioni biologiche, etiche e sociali. Torino; Einaudi: 1978.
58. SCHUSTER, A. La procreazione selettiva. En: Trattato di biodiritto. Il Governo del corpo, II. Milano; Giuffrè: 2011.
59. TESTART, J. La procreazione medicalmente assistita. Milano; Il Saggiatore: 1996.
60. TESTART, J. Il mondo verso una nuova eugenetica. Vita e Pensiero 2004; 1: 71-76.
61. HABERMAS, J. Il futuro della natura umana. I rischi di una genetica liberale. Torino: Einaudi; 2010.
62. SAVULESCU, J. Procreative beneficence: why we should select the best children. Bioethics 2001; 5-6: 413-426.
63. ATIGHETCHI, D. Le leggi sull'aborto in alcuni Stati islamici. *Medicina e Morale* 1998; 5: 969-988.
64. BACCARINI, F. L'aborto nel cinema. Studia bioetica 2008; 1: 155-160.
65. BLANGIARDO, G.C. L'aborto oggi dopo trent'anni dall'avvio della legge 194. Studia bioethica 2008; 1: 93-102.
66. CANTELMI, T. Aborto volontario e salute mentale della donna. Studia bioetica 2008; 1: 142-147.
67. EUSEBI, L. La legge sull'aborto: problemi e prospettive. Iustitia 1996; 3: 239-294.
68. SPAZIANTE, E. L'aborto nel mondo. *Medicina e Morale* 1998; 2: 313-368.
69. AGNOLI, F. Storia dell'aborto. Verona; Fede & Cultura: 2008.
70. A.A.V.V. Mamme che piangono. Il dolore che resta dopo un aborto. Verona; Fede & Cultura: 2012.
71. A.A.V.V. Contraccezione e aborto. Città di Castello; Gribaudi: 2004.
72. MORRESI, A, ROCCELLA, E. La favola dell'aborto facile. Miti e realtà della pillola RU486. Milano; FrancoAngeli: 2010.
73. MORI, M. Manuale di bioetica. Firenze; Le Lettere: 2011.
74. A.A.V.V. Introduzione alla bioetica. Napoli; Liguori Editore: 1992.
75. D'AGOSTINO, F. Introduzione alla biopolitica. Roma; Aracne: 2009.
76. BALDINI, G. Il nascituro e la soggettività giuridica. Diritto di famiglia 2000; 1: 334 y ss.
77. CORTE COSTITUZIONALE n. 27/1975 (Access of 6.4.2017, in: http://www.giurcost.org/decisioni/index.html)
78. MORI, M. Aborto e morale. Capire un nuovo diritto. Torino; Einaudi: 2008.
79. IANNONE, R. Responsabilità medica per omessa o tardiva diagnosi di malformazioni fetali. Giustizia civile 2013; 12: 711 y ss.
80. APRILE, A. Interruzione volontaria della gravidanza: casistica medico-legale, in Trattato di biodiritto. Il Governo del corpo, II. Milano; Giuffrè: 2011.
81. SGRECCIA, E. Manuale di bioetica. I. Fondamenti ed etica biomedici. Milano; V&P: 2007.
82. EUSEBI, L. Voce "Aborto". En: Enciclopedia di bioetica e scienza giuridica. Napoli: ESI; 2009.

83. CAMUS, A. Il mito di Sisifo. Milano; Bompiani: 2009.
84. VERONESI, U. Ii diritto di non soffrire. Cure palliative, testamento biologico, eutanasia. Milano: Mondadori; 2011.
85. VERONESI, U. Il diritto di morire. Milano: Mondadori; 2006.
86. COMITATO NAZIONALE PER LA BIOETICA. Rifiuto e rinuncia consapevole al trattamento sanitario nella relazione paziente-medico, 24 ottobre 2008.
87. CRICETI, G. Il diritto di rifiutare le cure. Critica delle distinzioni irrilevanti. Europa e diritto privato 2011; 3: 681 y ss.
88. BALESTRA, L. L'autodeterminazione nel fine vita. Rivista trimestrale di procedura civile 2011; 4: 1009 y ss.
89. AA.V.V. Tra autonomia professionale e autonomía del paziente. Diritto di famiglia 2010; 3: 1391 y ss.
90. CAPELLI, C. Punti fermi, questioni aperte e dilemmi in tema di rifiuto di cure: la prospettiva civilistica. Diritto di famiglia 2010; 3: 1311 y ss.
91. BARNI, M. La autolegittimazione dell'attività medica e la volontà del paziente. Responsabilità civile e previdenza 2009; 10: 2170 y ss.
92. GUARNERI, A. Profili giuridici della fine della vita umana. Responsabilità civile e previdenza 2009; 9: 1707 y ss.
93. FERRATO, A. Il rifiuto alle cure e la responsabilità del sanitario: il caso Nuvoli. Responsabilità civile e previdenza 2009; 5: 1148 y ss.
94. COCCO, G. Un punto sul diritto di libertà di rifiutare terapie mediche anche salva vita. Responsabilità civile e previdenza 2009; 3: 585 y ss.
95. PAGLIANI, G. Trattamenti sanitari, fine vita e amministrazione di sostegno. Giurisprudenza di merito 2009; 8: 1776 y ss.
96. BOLOGNA, E. Il diritto e le decisioni di fine vita nella tradizione giuridica occidentale. Diritto di famiglia 2009; 1: 450 y ss.
97. TARUFFO, A. Rifiuto di cure e doveri del medico. Rivista italiana di diritto e procedura penale 2008; 1: 437 y ss.
98. SIMEOLI, D. Il rifiuto di cure: la volontà presunta o ipotetica del soggetto incapace. Giustizia civile 2008; 8: 1727 y ss.
99. LOMBARDI, A. Direttive anticipate, testamento biologico ed amministrazione di sostegno. Giurisprudenza di merito 2008; 10: 2518 y ss.
100. CAPELLI, C. Il diritto del paziente di rifiutare e il dovere del medico di non perseverare. Cassazione penale 2008; 5: 1807 y ss.
101. VIGNAO', F. Decisioni mediche di fine vita e attivismo giudiziale. Rivista italiana di diritto e procedura penale 2008; 4: 1594 y ss.
102. DELLA BELLA, A. L'integrità fisica: un diritto illimitatamente disponibile da parte del titolare? Rivista italiana di diritto e procedura penale 2004; 4: 1393 y ss.
103. INTRONA, F. Il suicidio è un omicidio ruotato di 180°? Rivista italiana di medicina legale 2002; 2: 576 y ss.
104. VALLINI, A. Il diritto di rifiutare le cure e i suoi risvolti. Rivista italiana di medicina legale 2014; 2: 495 y ss.
105. DELLA ROCCA, P. Capacità di volere e rifiuto elle cure. Europa e diritto privato 2014; 2: 387 y ss.

106. FUCCI, S. Rilevanza giuridica del rifiuto delle cure da parte del paziente. Bioetica 2000; 1: 123-144.
107. ZADECOLA, G. Rifiuto delle cure e diritto di morire. *Medicina e Morale* 2007; 1: 91-99.
108. A.A V.V. Killing us softly: the dangers of legalizing assisted suicide. Disability and health journal 2010; 3: 16-30.
109. BOGNETTI, G. La legge olandese su eutanasia e suicidio assistito. Corriere giuridico 2001; 6: 705-706.
110. KEOWN, J. No right to assisted suicide. Cambridge law journal 2002; 1: 8-10.
111. BIFULCO, R. Esiste un diritto al suicidio assistito nella CEDU? Quaderni costituzionali 2003; 1: 166-167.
112. RIPKE, R. Why not commercial assistance for suicide? Bioethics 2015; 7: 516-522.
113. VÁZQUEZ, R. Ancora su suicidio assistito ed eutanasia. Il consenso in pazienti competenti e incompetenti. Ragion pratica 2000; 14: 197-207.
114. POSSENTI, V. Annotazioni sul suicidio e l'indisponibilità della vita. Rivista quadrimestrale di bioetica 2009; 9: 30-36.
115. CANESTRARI, S. Le diverse tipologie di eutanasia: una legislazione possibile. Rivista italiana di medicina legale 2003; 5: 451 y ss.
116. CASSANO, G. È lecito il diritto all'eutanasia? Familia 2002; 1: 241 y ss.
117. VISENTIN, D. La legge olandese sull'eutanasia: un esempio da seguire? Diritto di famiglia 2002; 3: 663 y ss.
118. CASSANO, G. L'eutanasia. Diritto di famiglia 2002; 3: 618 y ss.
119. A.A.V.V. Eutanasia, giudici e diritto penale. Cassazione penale 2003; 4: 1369 y ss.
120. FORTUNA, E. Il consenso informato e l'eutanasia nella casistica giudiziaria di Stati Uniti, Europa e Italia. Rivista italiana di medicina legale 2008; 5: 991 y ss.
121. A.A.V.V. Prima della morte. I diritti civili dei malati terminali. Politica del diritto 2002; 3: 361-523.
122. ALAGNA, R. Eutanasia e diritto penale in Germania. Rivista italiana di medicina legale 2012; 3: 873 y ss.
123. BARON, C. Decisioni di vita o di morte. Giudici vs. legislatori come fonti del diritto in bioetica. Ragionpratica 2002; 19: 131-147.
124. BECCHI, P. L'imperialismo giudiziario. Note controcorrente sul caso Englaro. RIFD 2009; 3: 379 y ss.
125. A.A. V.V. Eutanasia e dignità del morire. *Medicina e Morale* 2001; 4: 729-739.
126. D'AGOSTINO, F. Diritto e eutanasia. Bioetica 1999; 1: 94-108.
127. D'AGOSTINO, F. Eutanasia: non è di una legge che abbiamo bisogno. Archivio giuridico 2001; 4: 461 y ss.
128. DALLA TORRE, G. Qualche considerazione su eutanasia e principi costituzionali. Legalità e giustizia 2003; 1: 238 y ss.
129. DEFANTI, C.A. Uno stimolo al dibattito per una buona morte. Bioetica 2001; 2: 253 y ss.

130. EUSEBI, L. L'eutanasia come problema biogiuridico. Ragion pratica 2002; 19: 99-114.
131. GAZZONI, F. Sancho Panza in Cassazione. Diritto di famiglia 2008; 2: 107 y ss.
132. MORI, M. Dal vitalismo medico alla moralità dell'eutanasia. Bioetica 1999; 1: 109 y ss.
133. POCAR, V. L'eutanasia come libertà. Diritti dell'uomo 2002; 1: 32-35.
134. A.A.V.V. Infanticide, moral status and moral reasons: the importance of context. Journal of medical ethics 2013; 39: 289-292.
135. DI NUCCI, E. Killing fetuses and killing newborns. Journal of medical ethics 2013; 39: 19-20.
136. GEORGE, R. Infanticide and madness. Journal of medical ethics 2013; 39: 299-301.
137. GIUBILINI, A., MINERVA, F. After-birth abortion: why should the baby live? Journal of medical ethics 2012; 10: 1-4.
138. KODISH, E. Paediatric ethics: a repudiation of the Groningen protocol. The Lancet 2008; 371: 892-893.
139. SAVULESCU, J. Abortion, infanticide and allowing babies to die 40 years on. Journal of medical ethics 2013; 39: 257-259.
140. SINGER, P. Discussing infanticide. Journal of medical ethics 2013; 39: 260 y ss.
141. TOOLEY, M. Philosophy, critical thinking and 'after-birth abortion: why should the baby live? Journal of medical ethics 2013; 39: 266-272.
142. VERHAGEN, E. The Groningen Protocol for newborn euthanasia; which way did the slippery slope tilt? Journal of medical ethics 2013; 39: 293-295.
143. NERI, D. Eutanasia. Valori, scelte morali, dignità delle persone. Bari; Laterza: 1995.
144. MANTOVANI, F. Voce "Eutanasia". En: Enciclopedia di bioetica e scienza giuridica. Napoli; ESI: 2012.
145. LIFTON, R.J. I medici nazisti. Milano; Bur: 2002.
146. MARKER, R.L., STANTON, J.R., RECZNIK, M.E. Euthanasia: a historical overview. Maryland journal of contemporary legal issues 1991; 2: 270-280.
147. RICCIARDI VON PLATEN, A. Il nazismo e l'eutanasia dei malati di mente. Firenze; Le Lettere: 2000.
148. A.A.V.V. Eutanasia. Il senso del vivere e del morire umano. Bologna; EDB: 1987.
149. A.A.V.V. Quando morire? Bioetica e diritto nel dibattito sull'eutanasia. Padova; Gregoriana Libreria Editrice: 1996.
150. AMATO, S. Eutanasie. Il diritto di fronte alla fine della vita. Torino; Giappichelli: 2011.
151. ARAMINI, M. L'eutanasia. Commento giuridico-etico della nuova legge olandese. Milano; Giuffrè: 2003.
152. BOMPIANI, A. Dichiarazioni anticipate di trattamento ed eutanasia, Bologna; EDB: 2008.

153. De Septis, E. Eutanasia. Tra bioetica e diritto. Padova; Marcianum Press: 2007.
154. Humphry, D. Liberi di morire. Le ragioni dell'eutanasia. Milano; Eleuthera: 2007.
155. Lagrotta, I. L'eutanasia nei profili costituzionali. Bari; Cacucci Editore: 2005.
156. Pessina, A. Eutanasia. Della morte e di altre cose. Siena; Cantagalli: 2007.
157. Tripodina, C. Il diritto nell'età della tecnica. Napoli; Jovene: 2004.
158. Nagel, T. Questioni mortali. Le risposte della filosofia ai problemi della vita. Milano; Il Saggiatore: 2015.
159. Heschel, A. Chi è l'uomo? Milano; SE: 2005.
160. Letellier, P. L'eutanasia. Aspetti etici e umani. Bologna; Council of Europe publishing: 2004.
161. A.a V.v. Euthanasia and assisted suicide of patients with psychiatric disorders in the Netherlands 2011 to 2014. Jama Psichiatry 2016; 10 febbraio: 2-7.
162. Jochemsen, H., Keown, J. Voluntary euthanasia under control? Journal of medical ethics 1999; 25: 16-21.
163. A.a. V.v. Euthanasia and physician-assisted suicide among patients with amyotrophic lateral sclerosis in the Netherlands., New England Journal of Medicine 2002; 21:1638-1644.
164. Goffi, J.Y. Pensare l'eutanasia. Torino: Einaudi; 2006.
165. Nietzsche, F. Così parlò Zarathustra. Milano: Fabbri Editori; 1996.
166. Nietzsche, F. Il crepuscolo degli idoli ovvero come fare filosofia col martello. Milano; Adelphi: 2008.
167. Platone. Le leggi. Milano: Bur; 2007.
168. Aristotele. Etica nicomachea. Milano; Bompiani: 2000.
169. S. Agostino. La città di Dio. Roma: Città Nuova; 2000.
170. Kant, I. Lezioni di etica. Bari: Laterza; 2004.
171. Israël, L. Contro l'eutanasia. Un grande medico, laico e non credente, ci spiega perché non possiamo accettare l'eutanasia. Torino: Lindau; 2007.
172. Camus, A. La morte felice. Milano: Bur; 2008.
173. Organizzazione Mondiale della Sanità. Acceso del 6.4.2017, En: http://apps.who.int/gb/bd/PDF/bd47/EN/constitution-en.pdf?ua=1
174. Oddenino ,A. Profili internazionali ed europei del diritto alla salute, in Trattato di biodiritto. Milano: Giuffrè; 2010.
175. Teresi, I. La tutela della salute nelle decisioni della Corte Costituzionale. Rassegna di diritto civile 1998; 1: 114-150.
176. Ferrara, R. Il diritto alla salute: i principi costituzionali. En: A.a V.v. Trattato di biodiritto. Milano; Giuffrè: 2010.
177. Bresciani, C. Voce "Salute". In: Enciclopedia di bioetica e sessuologia. Torino; ElleDiCi: 2004.
178. Kant, I. La metafisica dei costumi. Bari; Laterza: 1973.
179. Spinsanti, S. Voce "Salute". In: Leone, S., Privitera, S. Nuovo dizionario di bioetica. Roma; Città Nuova: 2004.

180. FRITZSCHE, P. Vita e morte nel Terzo Reich. Bari; Laterza: 2010.
181. GADAMER, H.G. Dove si nasconde la salute. Milano; Cortina Raffaello Editore: 1994.
182. VITALE, A.R. Rischi di un'epistemologia contrattualista in bioetica. *Medicina e Morale* 2013; 6: 1159-1167.
183. POTTS, M. L'inizio e la fine della vita: verso la coerenza filosofica. En: De MATTEI, R (curador). Finis Vitae. Catanzaro; Rubbettino: 2007.
184. BÖCKENFÖRDE, E.W. Dignità umana e bioetica. Brescia; Morcelliana: 2010.
185. DEFANTI, C.A. Eugenetica: un tabù contemporaneo. Torino: Codice Edizioni; 2012.
186. BRAMBILLA, G. Il mito dell'uomo perfetto. Le origini culturali della mentalità eugenetica. Morolo: If Press; 2009.
187. JASPERS, K. Il medico nell'età della tecnica. Milano: Raffaello Cortina Editore; 1991.
188. PESSINA, A. Eutanasia. Della morte e di altre cose. Siena: Cantagalli; 2007.
189. KASS, L. La sfida della bioetica. Torino: Lindau; 2007.
190. SPAEMANN, R. Persone. Sulla differenza tra qualcosa e qualcuno. Bari: Laterza; 2007.
191. MCINERNY, R. Conoscenza morale implicita. Soveria Mannelli: Rubbettino; 2006.
192. SPAEMANN, R. Concetti morali fondamentali. Casale Monferrato: Piemme; 1993.
193. GIOVANNI, PAOLO II. Lettera Enciclica "Centesimus annus"; 1 maggio 1991.
194. KANT, I. La metafisica dei costumi Bari: Laterza; 1973.
195. BAUZON, S. La persona biogiuridica. Torino: Giappichelli; 2005.
196. PALAZZANI, L. Il concetto di persona tra bioetica e diritto. Torino; Giappichelli: 1996.
197. POSSENTI, V. Il principio-persona. Roma: Armando Editore; 2006.
198. MOUNIER, E. Il personalismo. Roma: AVE; 2006.
199. BENASAYAG, M. La salute ad ogni costo. Medicina e biopotere. Milano: V&P; 2010.
200. HARRIS, J. Wonderwoman e superman. Manipolazione e genetica e futuro dell'uomo. Milano: Baldini & Castoldi; 1997.
201. GUARDINI, R. Persona e personalità. Brescia: Morcelliana; 2006.
202. HEGEL, G.W.F. Lineamenti di filosofia del diritto; Milano: Rusconi; 1996.
203. CALAMANDREI, P. Fede nel diritto. Bari: Laterza; 2009.
204. CAMUS, A. L'uomo in rivolta. Milano: Bompiani; 2009.
205. BERDJAEV, N. L'uomo e la tecnica. Rapallo: Il Ramo; 2005.
206. FRANCESCO. Udienza generale, 5 giugno 2013.
207. BERNANOS, G. Rivoluzione e libertà. Milano: Borla; 1970.