

allowed. Hence the prohibition of human cloning for reproductive purposes is against the human rights and dignity of women.

The other branches of Biotechnology like Nanotechnology is being used for treating cancer by targetting cancer cells.

The H.I.V. is mostly common among women, particularly the sex-workers who are suffering with this deadly disease. The Clinton Foundation in USA specially committed to pursue research in the field of diseases common among women who are suffering with HIV, cancer, diseases relating to breast-feeding mothers and other sex-workers.

Thus to conclude, the development of Biotechnology and Nanotechnology are influenced by the new trends and response to the protection of human rights of women in providing them the nutritious food to remove the Iron, Calcium and Potassium deficiency, treatment for HIV and cancer and the proper and morally advantageous research in the field of human cloning, which needs a balance to be struck between the life-saving use and the artificially creating a human being.

Thus the human rights of women through biotechnical research and Nanotechnology are likely to be effectively protected which is definitely a welcome effort.

## INDIAN CONSTITUTION, SECULARISM AND MORALITY

By

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(1) Many people entertain their views about secularism. Some people are not aware that our Constitution contemplates of judging the acts mainly with morality. Before delving about secularism and morality one should know about them.

(2) The term secular means as per Encyclopaedia Britannica “non spiritual having no concern with religious or spiritual matter. Anything which is distinct opposed to or not connected with religion or Ecclesiastical things temporarily as opposed to spiritual or ecclesiastical.

According to *Eric S. Waterhouse* “Secularism is an ideology which provides a theory of life and conduct as against one provided by a religion.”

As per Mr. *H.V. Kamath* a prominent parliamentarian “But to my mind a secular

State is neither godless State nor an irreligious nor an anti religious state”. According to Dr. *B.R. Ambedkar* “All that a secular statements is that the parliament shall not be competent to impose any particular religion upon rest of the people.”

According to *Venkatraman* “State is secular which is neither religious nor irreligious nor anti religious but is wholly detached from religious dogmas and activities and thus neutral in religious matters. Constituent Assembly debates Vol.XII page 825 the whole idea of secularism as enshrined in Constitution has been stated vividly by Pandit *Lakshmi Kant Maitra* of West Bengal a Member of Constituent Assembly, “By secular State as I understand it is meant that the State is not going to make discrimination whatsoever on the ground of religion or community against any person professing any particular form of religious faith. This means

in essence that no particular religion in the State will receive any State patronage whatsoever.

The State is not going to establish patronage or endow any particular religion to the exclusion of or in preference to others; that no citizen in the State will have any preferential treatment will be discriminated against simply on the ground that he professed particular form of religion. In other words in the affairs of State the professing of any particular religion will not be taken into consideration at all. This I consider to be essence of a secular state....” It is also clear that Indian secularism envisaged is different from other countries in the world. The word secular has been added in the preamble of Constitution during 1977 *i.e.*, on 3.1.77 under Forty second Amendment Act of 1976. Thus secular means non recognition of any State religion. Yet it is violated by presenting important clothes at the time of religious functions or festivities and making grants *etc.*

(3) I now deal with morality.

Morality is not defined in Constitution. Morality varies from religion to religion, country to country and race to race armed forces *etc.* Manu, Yagnamukga Lord Buddha, Prophet Mohammed, Jesus Christ contemplate moral codes to be followed. It appears to have been left to Courts to determine in each and individual cases where there is a violation of morality.

What is morality ?

As per Collins cobuild English language dictionary published in 1990

Some forms of behaviour are right proper and acceptable and other forms of behaviour one bad or wrong either in your opinion or in the opinion of society.

Piety and morality are but the same spirit differently manifested. Piety is religion with

its face towards god. Morality is religion with its face towards the world. Word morality has been intentionally incorporated under Article 25 and Article 26 of Fundamental Rights of Indian Constitution in the light of secularism.

Before adverting to the same it is necessary to have glance at Article 25 of Constitution which reads as follows :

#### Right to Freedom of Religion

25 Freedom of conscience and free profession, practice and propagation of religion.

(1) Subject to Public order, morality and health and to other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any—

- (a) Regulating or restricting any economic, financial political or other secular activity which may be associated with religious practice.
- (b) Providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindu.

*Explanation 1 :* The wearing and carrying of Kirpans shall be deemed to the included in the profession of the Sikh religion.

*Explanation 2 :* In sub-clause of the Clause (2) the reference to the Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion and the reference to Hindu religious institution shall be construed accordingly.

Article 26 Freedom to manage religious affairs : Subject to public order, morality and health every religious denomination or any section thereof shall have the right.

- (a) To establish and maintain institutions for religious and charitable purposes.
- (b) To manage its own affairs in matter of religion
- (c) To own and acquire movable and immovable property and
- (d) To administer such property in accordance with law

Morality is linked with morals and has to be judged with reference to morals

Moral means and concerned with judgment of the goodness or badness of human action and character pertaining to discernment of good and evil morality is defined in Reader's Digest Universal dictionary as follows :

Morality : A set of customs of a given society class or social group which regulate personal and social relationship and prescribes mode of behaviour to facilitate the groups existence or ensure its survival.

Sometimes a set of ideas of right and wrong annunciated including virtuous conduct.

(4) All religious prescribe moral principles or ethics. The existence of religions is interdependent with moral ethics and its strict following. No religion can exist when moral principles are detached and *vice versa*. Different religions prescribe different moral principles or ethics. Some principles may be common. Indian moral principles as well as Hindu, Buddhist, Sikh and Jain are attached to religions and differ sometimes with Islam and Christian and Zorastrian *etc*. The Constitution of India left it to Courts to Judge morality which has to be ascertained in given set of facts men and matter and

nature of violation alleged or nature of right infringed. By subjecting the fundamental right to certain restrictions allowing the acts to be Judged. The Constitution has showed reverence and great respect to the moral values and moral principles which are part of morality. One should remember that from Vedic age till today saints advocated moral principles. In the beginning Vedas mentioned morals and subsequently the saints and religious pontiffs have interpreted Vedas. Some differences are bound to occur in the moral principles. This is highly relevant in these days when observance of moral values are at its lowest ebb. The Freedom speech of expression as enshrined in Article 19(1) of Constitution is also subject to reasonable restrictions as the exercise of right has to be judged by judging decency or morality and when State passes any law or operation of existing law. Most of the people are ignorant of Constitution. Violation of moral principles appears to be increasing day by day. It is clear from Article 25 of Constitution all persons have got right freely to profess, practice and propagate religion. This is a restricted right as can be seen from the opening words used in the article subject to public order, morality and health. State is also empowered to pass law as per Article 25(2) restricting the right. The same thing appears as per Article 26 where freedom to manage religious affairs envisaged.

(5) I express my random thoughts over secularism and morality.

- (1) Morality is given recognition under the Constitution. It includes giving respect to National Anthem and Flag as per Article 51-A.
- (2) Religious activity has to be judged subject to morality and Indian moral principles or ethics.
- (3) Religious moral principles or ethics have no absolute say while Judging morality

- as they vary from Religion to religion, region to region and State to State and armed forces *etc.*
- (4) The individual and religious persons can profess, practice and propagate so long as they do not come in conflict with other religions or belittle the greatness. Decency has to be observed. The word decency is not defined.
- (5) Each violation has to be judged taking into facts into consideration with reference to violations alleged supra.
- (6) State has to maintain secular activity. It shall dissociate itself from religious activity.
- (7) Supreme Court is the zealous guardian of Fundamental rights and its violations throughout, country.
- (8) High Court right to judge violation of fundamental right is restricted to State.
- (9) Right to conversion is not a fundamental right.
- (10) State can pass laws regulating and restricting any economic, financial political or other secular activity, which may be associated with religious practice.
- (11) Religions are given right to administer property in accordance with law.
- (12) With regard to religious activity it can manage its own affairs in the matter of religion.
- (13) State can pass acts to provide social welfare and reform and also to throw open to all classes and section of Hindus which are public in character.
- (14) Article 19(1) is subjected to reasonable restrictions. No incitement of offence can be made
- (15) Parliament can determine by law the extent of rights applicable to armed forces and others under Article 33.
- (6) Constitution shows reverence to morality as well as Religions which profess practice and propagate. The same is subjected to decency and thereby shall not injure the feelings of others. State can restrict the activity when it effects public order, morality, decency or health and it is in violation of any law. State shall maintain secular activity with reference to religious activity. It shall not participate in religious activity. Supreme Court has stated in *Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Association*, 2007 SC 282, that right to enjoy freedom of speech under Article 19(1)(a) freedom of religion under Articles 25 and 26 are subjected to dicta which should not adversely affect the right of others. If someone disturb the others of playing voice amplifiers and disturbing the silence of the others Constitution does not recognize such right. The right to freedom of speech is also subject to law of defamation” It cannot apply to contempt of Court or incitement of offence. Determination of morality and guiding principles are left to discretion of Courts. As per justice coke discretion is a science or understanding to discuss between falsity and truth, between right and wrong between shadows and substance between equity and colourable glasses and pretences and not to do according to theirs and private effection. Ever vigilant people will be able to protect their valuable Constitutional rights better than Courts in Democratic setup and morality has its own major role to play.