

PROTECTION OF HUMAN RIGHTS OF WOMEN AND THE BIO-TECHNOLOGY

By

—NAGHMA FARHEEN, Asst. Professor
Sultan-ul-Uloom College of Law,
Hyderabad, A.P.

Women being weaker section of the society has been suffering through centuries in the man-dominated world. But slowly and gradually, recognition of civil, moral and ethical values called upon the civilised society to provide the much needed protection of this class of society. Social thinkers and philanthropists contributed a lot to this cause and compelled various Governments of the World-Countries to pass legislation for the protection of women in almost all walks of life, including domestic affairs. Now the human rights of women are recognised throughout the world and several International and National efforts made a dynamic contribution to protect the women and recognised their rights as human right. The discrimination between men and women is considered as Constitutional violation if it is based on sex, including other grounds of discrimination. Convention of Elimination of All Forms of Discrimination Against Women (CEDAN) is a comprehensive international convention which prohibits all forms of discrimination against women. The role of ILO is very remarkable which has adopted a large number of conventions relating to various aspects of women workers.

The Indian Labour Legislation, too, a greater extent has legislated upon the above-mentioned aspects of women workers. Prohibition of night work by women workers, shorter period of working-hours and workload and other protection and benefits have been provided to the woman worker.

While the law relating to women has taken care of women, the scientists too, have shown their concern for the protection and development of women through Scientific

and Technological development. To retain the efficiency of women workers the deficiency of Calcium, Iron and Potassium is attempted to maintain at the required level so that the women who usually suffers with these deficiencies, should be able to retain her health and preserve their efficiency as workers and as human beings.

Genomics is the branch of science concerning stem-cell generation. The human cloning experimented by man, created artificially developed baby who is given the name of Dolly.

Human cloning is a form of cloning which is designed to result in a copy of human being or human body parts. However such efforts have raised eyebrow of several religious leaders, philanthropists and human right activists. Their effective objection persuaded several countries to ban human cloning.

The religious objections were raised by the Roman Catholic Church which condemned the practice of human cloning and it stated thus, "It represents a grave offense to the dignity of that person as well as to the fundamental equality of all people".

Sunni Muslims potentially objected the human cloning and declared it against the principles of Islam and therefore, forbidden by Islam. The Islamic Fiqh Academy in its 10th Conference proceedings, convened in Jeddah during 28th June, 1997 to 3rd July, 1997, issued a Fatwa stating that human cloning is Haraam (sinful). The objections of Islamic Scholar *inter alia*, is based on the involvement of the womb of the mother in

the whole process, at one point or the other, which affects the moral, genetical and religious values. It also creates question with regard to the Rights and obligations of father in relation of the child created.

In addition to the above religious issues, the human cloning also raised ethical and moral questions about cloning. The scientists are now facing serious objections to engage themselves in the Genomics research as the methods used in the process of cloning involve fertilized embryos and the egg would be stimulated so that it began to divide and grow producing stem-cells which would eventually develop into another human being. This has given rise to the criticism by the religious leaders who described this process as "Playing God".

While the serious religious, ethical and moral objections are raised, the beneficial advantage for saving human life cannot be ignored and at least they need a reference to be made. Thus the other aspect of human cloning relates to therapeutic cloning which could be used to make clones of human organ to replace the defective ones. Therefore the possibilities of such research include cloning of skin and other tissues for the purpose of transplantation. For example, someone who needs a new heart could have a cloned heart made, rather than waiting for a donor heart to become available. Thus a human life could be saved. This paradoxical scenario posed a mixed question of religious and moral issues confronting the beneficial aspects of life-saving utilisation of biotechnology.

However, the current trend of national and international bodies seems to be in favour of banning the human cloning and the United Nations itself adopted a Convention on 13th December, 2001 elaborating against the reproductive cloning of humans. Thus the member-countries including Spain, Italy, Philippines, United States and Costa Rica are now engaged in the

debate that human cloning violates human dignity. It resulted in adoption of a **non-binding** Convention known as "United Nations Declaration on Human Cloning" calling for the ban of all forms of human cloning contrary to human dignity.

Australia has prohibited human cloning, subject however, to certain regulatory limits within which human cloning is now legal in some parts of Australia. European Union has adopted European Convention on Human Right and Bio Medicine and prohibits human cloning. The Charter of Fundamental Rights of the European Union explicitly prohibited reproductive human being.

United States discussed the issue in 1998, 2001, 2004 and 2007, each time with a division in the Senate over the therapeutic cloning. On 10th March 2010 a Bill was passed with a section banning federal funding for human cloning. However, presently there is no federal law in U.S.A. prohibiting human cloning completely.

United Kingdom enacted Embryology Act, 1990 extending allowable reasons for embryo research for replacement of human organs. But the Parliament passed the Human Reproductive Cloning Act, 2001 explicitly prohibiting reproductive cloning.

Canada prohibited human cloning and growing human embryos for research purposes, sex selection and buying or selling of embryos.

Thus the notion of "human dignity" is commonly used to justify the ban on human cloning necessarily infringes notion of human dignity.

Thus the use of human cloning particularly for the purpose of reproduction of human being is considered against human dignity as the reproducing human cloning is distinguishing characteristic of women which would be replaced by human cloning if

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

—Justice CH. S.R.K. PRASAD
Former Judge High Court of A.P.
Hyderabad, A.P.

(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