Jurnalul de Studii Juridice

JOURNAL OF LEGAL STUDIES

ISSN: 1841 – 6195 (print), ISSN: 2067 – 8509 (electronic)

Coverd in: CEEOL, Index Copernicus, Ideas, RePeC, EconPapers, Socionet

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REVIEW
REPRODUCEREA UMANA MEDICAL ASISTATA. ETICA INCRIMINARII VS. ETICA BIOLOGICA. STUDIU DE DREPT COMPARAT/ MEDICALLY ASSISTED HUMAN REPRODUCTION. CRIMINALIZATION ETHICS VS. BIOLOGICAL ETHICS. COMPARATIVE LAW STUDY - ALEXANDRA HUIDU (2010), (LUMEN PUBLISHING HOUSE, IASI, ROMANIA)

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Jurnalul de Studii Juridice, Anul VI, Nr. 1-2,
Iunie, 2011, pp: 209-212

The online version of this article can be found at:

http://jls.upa.ro/

Published by:

Lumen Publishing House

On behalf of:

Legal Research Center of Petre Andrei University from Iasi

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Antonio SANDU[1]

Transferring creative power in the technological development seems at first to work on the biblical apotheothic idea of biblical human beings, of being of the human in the image and likeness of God. Medically assisted reproductive techniques are part of contemporary human demiurgic effort to apply technology on humanity itself in the ultimate challenge "to control the origins of life" (Huidu, 2010). Ethical dilemmas arising from contemporary developments in medicine require a number of special legal regulations in areas such as: international human rights law, where a series of international conventions are necessary regarding the rights of patients, research involving human subjects, the redefinition of the person's and species' dignity etc.; civil law: the definition and redefinition of individual and property rights over their own embryos, etc.; criminal law by the sanction of some practices in organ trafficking, including human embryos, the ban on reproductive cloning, medical negligence, etc. These areas tend to be combined in an interdisciplinary field called bio-law (Scripcaru, Ciucă, Astărăstoaie, Scripcaru, 2003), which develops in close correlation with the development of medical practice and bioethics.

Tech motherhood (Huidu, 2010) separates the biological roles from social roles of parents on one hand, and the role of provider of genetic material from the gestational role of the woman (Huidu, 2010). Bioethical dilemmas generated by the active control of reproduction act outside the reproductive function is related to the legal status of human embryo and "the need to protect the dignity and right to dignity of the unborn" (Huidu, 2010; Vicol, Stinga, 2007; Astarastoaie, Ungureanu , Stoica, 2003).

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Alexandra Huidu shows in this regard, an ethical dilemma emerged on one hand from the need to preserve human dignity (Huidu, 2010; Olaru, 2005, Manea, 2005) and on the other hand from the fact that they can not invoke the rights and interests of persons found in nonexistence, in the stage of embryo, or unfertilized ovule or sperm. Treating an unborn person in an analogous manner to the deceased one, denying the existence of the products of conception interest is dangerous in the author's vision (Huidu, 2010) because the manner and context in which an individual is born may lead his development (Cohen, 1996, 2002).

The legal solution identified is "protecting the dignity of the human species" (Huidu, 2010) which includes in the scope of protection human beings with potential of being born. Treatment of human embryos and of the offspring produced invitro as a collection of cells over which ownership may be applied (Sieck, 1998) that is justified (Huidu, 2010; Dumea, 1998) through the post-Kantian concept on the human person as a being generating conscious and free actions is disputed in bioethics and legal literature starting from the argument of presence of all structures of the human body in the fertilized egg in the form of genetic information (Huidu, 2010).

Another bioethics issue that deserves reported is cryo-preservation of gametes and embryos and fertility posthumous (Scripcaru, Ciucă, Astărăstoaie, 2004). This puts in contradiction the individual's right to decide autonomously on reproductive activity even after the death of his partner and the right to identity of the child resulted. With the decryption of the genetic human code has become possible to detect hereditary transmitted diseases and possible mutations. Eugenics to improve the genetic potential of species creates the risk of new forms of social inequality of Nazi-style superior race.

Starting from the works of Constantin Maximilian and Robertson, Huidu (2010) shows the risk of using genetic engineering improperly by a process of changing mentalities in a permissive sense of eugenics. The selection criteria of invitro embryo to be implanted in the womb may have to bear a eugenic process not only on strictly medical criteria but also on avoidance of disability risks and the arbitrary selection of the characteristics of the unborn child. It is highlighted that "it diverges from the natural process of evolution" (Huidu, 2010) with risks for identity construction of children.

It brings into question the distinction between therapeutic cloning and that with reproductive purposes (Buţureanu, Lupaşcu, 2001). Reproductive cloning is regarded as affecting human dignity and even the human species which is placed in a state of risk through the cancellation process of natural selection. Cloning as a form of asexual reproduction and transmission of genetic identity is generally prohibited in law (Huidu, 2010).

But the identity of the human person is much more than simple genetic identity, it is constituted in a complex socialization process that transforms the biological potential in a socially meaningful act therefore the dream to recreate

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Einstein, Charles the Great, or Jesus Christ using cloning and genetic engineering in our opinion is doomed to failure. In our opinion is much more likely that such an undertaking to complete with the creation of Frankenstein than a virtuous saint. On the other hand we can not ignore the fact that a person born through cloning could become virtuous because of the environment in which it developed even if the original clone was a vicious person. Finally we propose an imaginary interrogation on ethical and legal status of an entity produced entirely artificially through a technology that unifies research regarding the artificial creation of life developed by Craig with those about cloning and those related to pregnant human body. Would such an entity receive the status of a person? And therefore should he have rights?

If so, a lot of questions would arise concerning the definition of the human species. If not, new forms of slavery could be invented. Ethical reflection in general and the ethical evaluation of technologies in particular must respond to unprecedented questions about the status of the human species and how we relate to our future generation.

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