

An Investigation of the Rights of Human Cloning

ABSTRACT

Human Cloning is the creation of a genetically identical copy of a human. There are contrary debates about the law of human cloning. This paper aims to consider the law of human cloning from different views. We believe that Islamic law has a better concept of human cloning. In the opinion of most Muslim jurists, cloning, as a great scientific event, would have advantages and limitations. According to its inevitable consequences, reproductive cloning is prohibited due to most Muslim reference decrees. However, stem cell research and cloning for therapeutic purposes are permissible with full consideration and all possible precautions in the pre-ensoulment stages of fetus development. If it is proved, the phenomenon is considered as example of required affairs based on creation of ethical, social and medical disorders, religious and ethical rulings cannot be as permission for it, and it seems that it is a point that only one case can be a response to it and it needs nothing but time.

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Introduction

Cloning, in theory, allows scientists to create a genetic copy of another human individual. The clone would not be an exact physical copy, and he/she would have his/her personality and unique fingerprints and toeprints despite sharing DNA with the person from whom he/she was cloned (spuc.org.uk).

The term is generally used to refer to artificial human cloning; human clones in the form of identical twins are commonplace, with their cloning occurring during the natural process of reproduction (sciencedaily.com). Although genes are recognized as influencing behavior and cognition, "genetically identical" does not mean altogether identical. Almost no one would deny that identical twins, despite being natural human clones with identical DNA, are separate people. With separate experiences and not altogether overlapping personalities (sciencedaily.com). However undramatic as it may sound, the relationship between an "original" and a clone is rather like that between identical twins raised apart; they share all the same DNA but little of the same environment (sciencedaily.com).

There are two commonly discussed types of theoretical human cloning: therapeutic Cloning and reproductive Cloning. Therapeutic cloning involves cloning cells from a human for use in medicine and transplants and is an active area of research. Two common methods of therapeutic cloning that are being researched are somatic-cell nuclear transfer and, more recently, pluripotent stem cell induction. Reproductive cloning involves making an entire cloned human instead of specific cells or tissues (Wikipedia, 2014).

Many researchers have investigated the rights and ethics of cloning such as Jaenisch, 2004; McGee and Caplan, 2004; Robertson, 1997; Nisbet, 2004; Pence, 1998; Andrews, 1998; Kass & Wilson, 1998; Brock, 1998; Lauritzen, 2001; and Annas, 1998. (McGee, & Caplan, 2004)

Larijani and Zahedi (2004) mentioned that recent advances in the field of cloning and stem cell research had introduced new

hope for treating serious diseases. However, this promise has been accompanied by enormous questions. Currently, cloning is a matter of public discussion (Larijani and Zahedi, 2004). A field of science rarely causes debate and challenge not only among scientists but also among ethicists, religious scholars, governments, and politicians (Larijani and Zahedi, 2004). One important concern is religious arguments. Various religions have different attitudes toward the morality of these subjects; even within a particular religious tradition, there is a diversity of opinions (Larijani and Zahedi, 2004). They mentioned that most Muslim jurists distinguish between reproductive and therapeutic cloning. The moral status of the human embryo, the most sensitive and disputed point in this debate, is also discussed according to Holy Quran teachings (Larijani and Zahedi, 2004).

OBJECTIVE

Most scientists, bioethicists, religious scholars, policymakers, and international and national regulatory bodies favor a prohibition of reproductive cloning, but they differ over therapeutic cloning and stem cell research. This paper investigates the rights of cloning in different concepts of rights. Also, we review the law of human cloning in different countries. (Jaenisch, 2004)

METHODS

We investigate the comparative study of current human cloning laws in different countries. We review the current literature and laws in different countries, including developing

and developed countries. Also, we investigate the laws in the Islamic concept.

DISCUSSION

In their article, Larijani and Zahedi (2004) mentioned that: "in the opinion of most Muslim jurists, cloning, as a great scientific event, would have advantages and limitations. According to its inevitable consequences, reproductive cloning is prohibited due to most Muslim reference decrees. However, stem cell research and cloning for therapeutic purposes is permissible with full consideration and all possible precautions in pre-ensoulment stages of fetus development" (Larijani and Zahedi, 2004)

Nisbet (2004) explains that the controversy over human embryonic stem cell research and therapeutic cloning remains unresolved, and the issue may mark a new era of divisive and deadlocked "biopolitics." (Nisbet, 2004). The review of the polls shows that public attention was captured by this emerging conflict during the summer of 2001 but has waned since, as media coverage has subsided, and many other competing issues have come to dominate the political and media agenda (Nisbet, 2004). Despite Americans' elevated attention to the issue in 2001, the public appears to be in the dark about the science and policy driving the controversy (Nisbet, 2004). Despite limited knowledge about the specifics of the issue, the public appears to have strong reservations about research that destroys embryos, preferring that if the research must move forward, scientists make use of either extra embryos left over from in vitro clinics or adult cells (Nisbet, 2004). Additionally, evidence indicates that survey question-wording can strongly affect the public's stated response to these volatile issues (Nisbet, 2004). On the matter of cloning, the public is strongly opposed to reproductive cloning. However, resolve softens regarding medical applications, with about a third of Americans supporting this research, while a substantial proportion of Americans remain unsure about the matter. The analysis points to an important role for the media in shaping future public judgments of stem cell research and human Cloning (Nisbet, 2004). Evidence of strong question-wording effects, combined with the findings relative to low levels of public knowledge, suggest that the public may be highly susceptible to changes in media attention and media characterization of the issue (Nisbet, 2004).

Caulfield (2003) critiques one of the most commonly used ethical justifications for cloning laws – the idea that reproductive cloning necessarily infringes notions of human dignity (Caulfield, 2003). He points out that there is, in fact, little consensus on the point and that counter-arguments are rarely reflected in formal policy (Caulfield, 2003). Rarely do domestic or international instruments provide an operational definition of human dignity, and there is rarely an explanation

of how dignity is infringed in reproductive cloning (Caulfield, 2003). It is Caulfield's position that the lack of thoughtful analysis of the role of human dignity hurts the broader public debate about reproductive cloning, trivializes the value of human dignity as a normative principle and makes it nearly impossible to critique the actual justifications behind many of the proposed policies (Caulfield, 2003).

There are different laws on human cloning in different countries. We describe some of these laws as follows:

Australia has prohibited human Cloning (National Health and Medical Research Council, 2007). though as of December 2006, a bill legalizing therapeutic cloning and the creation of human embryos for stem cell research passed the House of Representatives. Within certain regulatory limits and subject to state legislation, therapeutic cloning is now legal in some parts of Australia (Legal Aspects Deutsches Referenzzentrum für Ethik in den Biowissenschaften, 2014).

Canadian law prohibits the following: cloning humans, cloning stem cells, growing human embryos for research purposes, and buying or selling embryos, sperm, eggs or other human reproductive material (Philipkoski, 2004). It also bans making changes to human DNA that would pass from one generation to the next, including the use of animal DNA in humans. Surrogate mothers are legally allowed, as is the donation of sperm or eggs for reproductive purposes. Human embryos and stem cells are also permitted to be donated for research (Philipkoski, 2004). There have been consistent calls in Canada to ban human reproductive cloning since the 1993 Report of the Royal Commission on New Reproductive Technologies. Polls have indicated that an overwhelming majority of Canadians oppose human reproductive cloning, though the regulation of human cloning continues to be a significant national and international policy issue. The notion of "human dignity" is commonly used to justify cloning laws. The basis for this justification is that human reproductive cloning infringes on human dignity notions (Overview of World Human Cloning Policies, 2011, Questia, 2011, Wired, 2011).

Denmark has not currently agreed to any genetic laws or bans and does not appear to show any interest in banning human cloning and human transgenics (Overview of World Human Cloning Policies, 2011)

The European Convention on Human Rights and Biomedicine prohibit human cloning in one of its additional protocols, but this protocol has been ratified only by [Greece](#), [Spain](#), and [Portugal](#). The [Charter of Fundamental Rights of the European Union](#) explicitly prohibits human reproductive cloning. The charter is legally binding for the institutions of the [European Union](#) under the [Treaty of Lisbon](#) (Overview of World Human Cloning Policies, 2011).

India does not have specific cloning laws but guidelines prohibiting whole human or reproductive cloning. India allows therapeutic cloning and the use of embryonic stem cells for research purposes (Bagla, Pallava, 2009).

On January 14, 2001, the [British government](#) passed The Human Fertilisation and Embryology (Research Purposes) Regulations 2001 to amend the [Human Fertilisation and Embryology Act 1990](#) by extending allowable reasons for embryo research to permit research around stem cells and cell nuclear replacement, thus allowing [therapeutic cloning](#). However, on November 15, 2001, a [pro-life](#) group won a [High Court](#) legal challenge, which struck down the regulation and effectively left all forms of cloning unregulated in the UK. They hoped that Parliament would fill this gap by passing prohibitive legislation. Parliament quickly passed the [Human Reproductive Cloning Act 2001](#), prohibiting reproductive cloning. The remaining gap with regard to therapeutic cloning was closed when the appeals courts reversed the previous decision of the High Court (BBC News Online, 2003).

The first license was granted on August 11, 2004, to researchers at the [University of Newcastle](#) to allow them to investigate treatments for [diabetes](#), [Parkinson's disease](#), and [Alzheimer's disease](#) (HFEA, 2004). The [Human Fertilisation and Embryology Act 2008](#), a major review of fertility legislation, repealed the 2001 Cloning Act by making amendments similar to the 1990 Act. The 2008 Act also allows experiments on hybrid human-animal embryos (BBC News Online, 2008).

On December 13, 2001, the [United Nations General Assembly](#) began elaborating an international convention against the reproductive cloning of humans. A broad coalition of States, including [Spain](#), [Italy](#), the [Philippines](#), the [United States](#), [Costa Rica](#) and the [Holy See](#), sought to extend the debate to ban all forms of human cloning, noting that, in their view, therapeutic human cloning violates human dignity. Costa Rica proposed the adoption of an international convention to ban all forms of human cloning. Unable to reach a consensus on a binding convention, in March 2005, a non-binding United Nations Declaration on Human Cloning, calling for the ban of all forms of Human Cloning contrary to human dignity, was adopted (United Nations Declaration on Human Cloning, 2005)

In 1998, 2001, 2004, and 2007, the [United States House of Representatives](#) voted on whether to ban all reproductive and therapeutic human cloning. Divisions in the Senate over therapeutic cloning prevented either competing proposal (a ban on either forms or reproductive cloning only) from passing. On March 10, 2010, a bill (HR 4808) was introduced with a section banning federal funding for human cloning. If passed, such a law would not prevent research from occurring in private institutions (such as universities) with private and federal

funding. There are currently no federal laws in the United States that ban cloning completely, and any such laws would raise difficult [Constitutional](#) questions similar to the issues raised by [abortion](#). Thirteen American states ([Arkansas](#), [California](#), [Connecticut](#), [Iowa](#), [Indiana](#), [Massachusetts](#), [Maryland](#), [Michigan](#), [North Dakota](#), [New Jersey](#), [Rhode Island](#), [South Dakota](#), and [Virginia](#)) ban reproductive cloning, and three states ([Arizona](#), [Maryland](#), and [Missouri](#)) prohibit the use of public funds for such activities (NCSL, 2008).

CONCLUSION

There are different opinions on different laws about human cloning. We believe that Islamic law has a better concept of human cloning. In the opinion of most Muslim jurists, cloning, as a great scientific event, would have advantages and limitations. According to its inevitable consequences, reproductive cloning is prohibited due to most Muslim reference decrees. However, stem cell research and cloning for therapeutic purposes are permissible with full consideration and all possible precautions in the pre-ensoulment stages of fetus development.

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