

Challenges for Bioethics from Asia

- **The Behaviourome Project**
- **Bioethics Education Project**
- **Proceedings of the Fifth Asian Bioethics Conference (ABC5), and Ninth Tsukuba International Bioethics Roundtable (TRT9)**

The ABC5/TRT9 Conference was held under the auspices of the Asian Bioethics Association, Eubios Ethics Institute, United Nations University (UNU-IAS) and the University of Tsukuba, in Tsukuba Science City, Japan in February 2004. This volume contains 140 papers from international authors on a wide range of topics.

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The Eubios Ethics Institute is a nonprofit group that aims to stimulate the discussion of ethical issues, and how we may use new technology in ways consistent with "good life". An important part of this dialogue is to function as an information source for those with similar concerns (<http://www.biol.tsukuba.ac.jp/~macer/index.html>).

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Darryl R. J. Macer, editor

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Human Cloning in Islamic Jurisprudence

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Human cloning is an abnormal human product of science and poses a new question. Jurists have three views on human cloning: 1) It is absolutely illegal. 2) It is allowable just in treatments. 3) It is absolutely legal. Most Sunnits accept the first view; and most Shiites agree with the third one. The Shiites hold this view because of some Islamic jurisprudence like the genuineness of being legal (*esalat-ol-helliat*), the genuineness of being cleared (*esalat-ol-bara'at*) and the genuineness of being allowable (*esalat-ol-ebaha*). On the other hand, Sunnits use the verses of the holy Koran that say that the creation of human beings is specific to God; and they also rely on arguments based on moral beliefs and risks or disadvantages to society. This paper describes the opposing arguments of each group and discusses the conditions in which cloning can be legalized.

Cloning science, like other experimental sciences (for example nuclear energy), has positive and also negative sides, and has animating and useful effects or dangerous and harmful effects. The most important profitable affects are:

1. Its use in multiplying and correction of animals and plants.
2. Helping to recreating and multiplying the endangered or extinct animals.
3. Helping to correcting the genes, that children will be saved from hereditary diseases.
4. Helping to discover ways to care for infertility, that couples can enjoy to be parents.
5. Dividing the completed embryo to several embryos for succeeding each of them instead of another, in front of probable events.
6. Using cloning for producing amputated limbs and multiplying them to be transplanted instead of terminated limbs. Or regenerating organs like liver and heart, to ensure genetic compatibility with the recipient person, whom had been the origin of first cells, is one of its features.
7. Helping to decrease people's sorrows and pains for absence of favourite persons, by cloning.
8. Cloning is a gate to understanding the important principle of religious principles, the resurrection. According to verses of Koran and other lessons of divine religions, believe in bodily resurrection is incumbent.

The question remains "How can we get an alive and complete somatic cell from the composed body?" There are some narratives among Islamic Sunnites' and Shiites' texts that can answer this question. In some of them, we read that any body has pieces that will never terminate and will not become a part of another and if takes place in live food, will not be mixed and never misses its original composition.

This science is new and its products cannot be known, yet it has harms and disadvantages. These probable losses sometimes are from the self for cloning operation and sometimes are external harms that may happen to society or cloned person. Internal harms of genetic science include many doubts and worries about probable happenings and problems of cloning including:

1. Cloned living beings probably will face genetic problems and complications over a long time. The living being resembles people. There will be danger of termination of them. Because there are 3 billion nucleotides in each person's body and this magnificent variety is the origin of existence, of human generation, we could be faced to a serious problem by a virus or something. Howsoever, decreasing genetical variety of a society- the cloning - increases this probability that they might suffer from some disease.
2. Become into a beast, as suggested by Viachlav Tarantol, manager of Russian molecular genetic institute.
3. Biological indispositions. Viachlav Tarantol said "We have been witnesses in our experiences for equalizing animals; that in most cases there were some defects and illnesses, and cancer is the

most famous among them.

External harms include:

1. Harm to beliefs. Some thinkers, the followers of divine religions, believe that the cloning is interfering in creation. Some others think, this operation is changing God's work in creation.
2. Moral and anthropological harms.
3. Cloning opens a gate to not making families and to not tolerate family problems.
4. Cloning is against divine nature

Jurisprudential problems include:

1. Loss of identification and legal entity of events because of cloning, for, there is doubt to call this person a human, because of his birth through an abnormal manner.
2. Uncertainty about parentage of the cloned person to the owner of first somatic cell, that if they are just one and resemble each other, or whether they are two different persons.
3. Uncertainty about relationship between the cloned person and woman who has the first cell in her womb.
4. Original jurisprudential uncertainty about the self of cloning. Also religious rules like forbiddance of marriage, inheritance, alimony, are other legal and jurisprudential problems.

Since the subject of cloning, is a new subject, there are naturally disputes among Muslim lawyers, jurisprudists and Islamic societies. According to offered theories on internet, magazines, books and scientific societies of sunnits, they believe that cloning is an absolutely illegal fact (even for medical cures), while some believe it as a legal operation just for medical cures such as limb cloning). But most shiite thinkers and scientific societies believe it as a lawful fact, absolutely, and just consider it an unlawful manner when it would be used in negative applications (Alazhar, Egyptian council of (efta), council of (efta) of Palestine, saiiid muhammad saiiid tantavi sheikh - ol- Azhar doctor sheikh mohammad saeid Al- booti, doctor Nasr farid vassel, doctor Abdul moati boyumi.)

For jurisprudists and clergymen, only by studying the subject and conforming with the principles of Islamic law, finding reasons and evidences, can we declare cloning as an illegal operation. The evidences explained below will either declare it as an illegal operation and stop its progress, but if there was not any reason for being illegal, we must declare it as a lawful operation, based upon two principles - the Genuineness of permitting and genuineness of lawfulness.

Islamic jurisprudists have three ideas about cloning: 1: It is absolutely unlawful; 2. Its use in medical operations, is legal and lawful, but human cloning is unlawful; 3 It is absolutely lawful.

Explaining the third view: This group use three practical principles to prove their Theory. The genuineness of lawfulness: by studying and knowing the subject and then conforming the matter with principles of Islamic law, we understand that there is no reason for it being illegal. Thus we use practical principles, that are used when there would be some doubts, and according to genuineness of lawfulness. They conclude that because there is no reason to being illegal, thus cloning is a lawful fact. The second principle is the genuineness of permitting, which means when there is a doubt for an act to be permitted or being unlawful, they use this evidence, so, that a doubtful thing is permitted.

Explaining the first view (unlawfulness): There are two groups. The first believe it as an absolutely unlawful act. Egyptian jurisprudist, Doctor Nasr Farid Vassel, says: "We declare the human cloning as an unlawful operation even in medical cures and infertility, because it makes doubts in our religious beliefs. The second group argues that they know that the cloning is unlawful, not because of itself, but for its harms. They declare belief, social, ethical and legal harms for it, and according to prevention of unlawful prefaces, they have opposed human cloning.

Explaining and criticizing the evidences used by these opposites of human cloning we can summarize below. First evidence: Cloning is creating and producing a human. Even though, in Islam, human creating is only God's work. For criticizing this Idea, we can say firstly, the cloning is not making a thing from non-existence that can be compared to divine creation and is only another way for human generation and multiplying. Secondly, according to the direct verse of Koran, that says: The God creates you and your acts, acts of human are also creatures of God,

human cloning is a kind of human act as God's creature, because God has donated this science to him, like in this verse of koran says: "Nobody knows his science until the same rate that He wants." Body, and if soul comes into the cloned child, this is a sign of God, the creator.

Second evidence: It has been said that if cloning is not creation, it would be also changing the manner of God's creation. And God, according to his words in the koran (Vesa, vers 119), declares the change in creation as ugly act and evil work - the corruption after the correction, and it is unlawful. For answer against this evidence, we say: The verse seems to mean changing the Creation, Confrontation of the evil act versus God's work, but cloning, actually has contact with God's work. Cloning multiplies and resembles, and it is not a real change in creation and it is not included in the verse which says: "There is no revolution in creation".

The claim, destruction of humanity values like friendship, kindness, and devotion, is also an imaginary matter and it has no definite reason. Because the cloned person has body and soul and it is possible by correct teachings to put kindness and devotion into him, like in other persons. But this point, which says that cloning makes recognition impossible, is a solvable problem because we can enact some rules. To recognize people, and to recognizing these people, ID cards with specific codes can be used, for example. The ages may also be different. At last, cloning has not any harm to the human soul to distract spiritual values.

From the legal point of view, normally, until a theory is actually ready to be applied practically in real world, there would be no rule for it (the exceptions are special cases). Because human cloning has not come into the real world completely and has not passed its evolution levels, most countries and owners of cloning techniques do not have any complete rule for it. Conditions under which permission of human cloning operation could be given could include:

- 1) In cloning, the man and the woman who give the cells must be known, because there is no legal, lawful, and even common descent for unknown persons.
- 2) At the operation levels, there must be not any illegal subject that could cause denial of the legal descent. For example, if the sexual cell is taken from in an adulterous manner, legal descent will not be proved by it, because in Islam religion there is no respect to the descent of adulterer.
- 3) There must be no junction with another cells and sperms, in the operation of taking somatic and sexual cells and exitation and fertilization levels. Doubt means the legal descent will be unproven.
- 4) Persons who do the cloning operation must be specialists and be aware of secrets of the operation, for there should not be harms and hurt to the future child or to human society. This is according to the principle that there should be no harms and harmful acts in Islam, which means that a harmful operation, reasonably and traditionally would be illegal.

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