

Human Cloning: Perspectives, Ethical Issues and Legal Implications

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Abstract

The prospect of cloning animals and Homo sapiens and the ethical and legal implication of such astounding development remained remote and unexplored until recently. People have diverse and strongly held opinions regarding the morality of cloning humans. The ethical aspects of cloning depend upon our perspectives about its process. Different religions have different attitudes towards cloning and within each faith there is diversity of opinion. Ethical arguments are based on more general guidelines for behavior that do not stem from any particular religion. Ethics usually vary more by culture than by religion. In general, society does not disagree on what is ethically wrong; rather society disagrees on how to weigh different ethical considerations. There is no consensus on the morality of human cloning, even within particular religious traditions. The development of law in this regard might be a mere speculation now, but those who promote human cloning, have to show and establish with evidence how they are going to deal with different situations, which pose a problem as a consequence of human cloning.

Keywords: Human cloning, homo sapiens, legal implication, religion.

Introduction

Human cloning is the creation of a genetically identical copy of an existing human or growing cloned tissue from that individual. 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. The word "clone" derives from the Greek term *Klon*, meaning, "sprout" or "twig". Each person is unique by virtue of his unique genetic make-up barring naturally occurring identical twins. In 1997, there was much notoriety surrounding the cloning of Dolly, the Sheep in Scotland. This leads many people to believe that the

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same technology could be applied to clone human beings¹. Mammalian cloning, through somatic-cell nuclear transfer process, has resulted in the birth of hundreds of organisms to date² Three decade ago cloning attracted public attention in England. The scientists used the technique of nuclear transplantation after successful asexual reproduction to produce a clutch of tadpole clones. Joshua Lederberg, a Noble Laureate geneticist and a man of large vision is responsible for bringing the chances and promise of human cloning to public attention. The most common objection to cloning humans is that the current technology is unsafe. The animal clones that have survived after birth have a high chance of dying from heart and blood vessel problems, malformed arteries, diabetes, immune system deficiencies and physical deformities. There is no reason to believe that the outcome of attempted human cloning will be any different³. By undertaking asexual reproduction, the gene pool will be narrowed and humanity's ability to overcome disease will be constrained. As such, motives for human cloning are based on increasing personal notoriety rather than the greater good⁴. Cloning represents an unprecedented control over the genetic make-up of another individual. Indeed, this concept of control over the genetic makeup of successive generations is evocative of practice of eugenics, science of altering human evolution so as to encourage desirable traits and discourage undesirable ones, which was rejected by the world community after the Second World War⁵. Cloning is said to breach a fundamental right to individuality. Uniqueness of identity and individuality are some of the most deep- felt and inherent signifiers of self. Just as a great artwork would lose its value in identical reproduction, so human beings can be said to lose their intrinsic inimitability in reproductions of themselves⁶. Cloning cannot be undone. We cannot destroy our mistakes or purge the world of any baby born via means we disagree with. Political and academic ostracization and even expelling of the cloners from the International Infertility Association would do little to deter them from their objectives. What we need is an unambiguous international law on human

¹ Wilmut I., Schnieke, A.E., McWhir, J. et al. *Viable offspring derived from fetal and adult mammalian cells*. Nature. 1997; 385; 810-13.

² Campbell, K.H.S., McWhir, J., Ritchie, W.A. et al. *Sheep cloned by nuclear transfer from a cultured cell line*. Nature. 1996; 380, 64-6.

³ Jaenisch, R., Wilmut, I. *Don't clone humans*. Science Magazine. 2001; 291, 2552-54.

⁴ Watson, J. *Moving towards the clonal man*. Atlantic Monthly. 1971; 227; 50-3.

⁵ Kelves, D.J. *Eugenics and human rights*. BMJ. 1999; 319, 435-38.

⁶ Gogarty, B. *What exactly is an exact copy? And why it matters when trying to ban human reproductive cloning in Australia*. J Med. Ethics. 2003; 29; 84-89.

cloning. Till date, cloning laws and policies are far from uniform across the globe and the legal position in some countries remain uncertain. The Indian council of Medical Research has declared that research on cloning with intent to produce an identical human being, as of today, is prohibited but has not declared therapeutic cloning to be so prohibited⁷. Some scientists might take an undue advantage by creating an embryo for the purpose of obtaining stem cells, which could be used for a number of degenerative diseases like Parkinson's disease, Alzheimer's disease etc. Ultimately, it raises the moral status of an embryo, if any. A recommendation in favor of this idea was publically rejected by President Clinton in December 1994⁸.

Types of Cloning

There are basically two types of cloning:

- Reproductive cloning
- Therapeutic cloning

Reproductive cloning: The cloning technology involved in generating a living being that has the same nuclear DNA as another already existing organism is called as reproductive cloning. This type of cloning uses the process called somatic cell transfer. This process makes the process of genetic material from the nucleus of a donor cell to an egg cell possible. The process, in fact removes the nucleus from the egg cell so that all the genetic material present in that egg is separated. After that the genetic material present in the donor cell is inserted into it. After the stimulation and once the cell division starts, the clone embryo is placed in the uterus of a female.

Human cloning: Scientists have been cloning elementary substances such as genes and cells for so many years. Today, more routine biological research and many important pharmaceutical applications depend on that sort of cloning, which involves many ethical dilemmas presented by the cloning of human beings. The creation of human life by human has led to the continuing erosion of respect for the mystery of procreation of human beings. The men or women on the street and the intellectuals, theist and atheist, humanists and scientists all consider human cloning to be "offensive, grotesque, revolting, repugnant and repulsive." The ethical aspects involved in the

⁷ Indian Council of Medical Research. Ethical Guidelines for Biomedical Research on Human Subject. 2000; New Delhi, p. 48.

⁸ Schwartz, J., Devory A. *Clinton to ban US funds for some embryo studies*. Washington Post. 1994; 3 December.

process of human cloning make people develop a repulsive attitude towards it. A large number of look like clones, compromised in their individuality and the combination of father-son or mother-daughter twins and a woman being able to give birth to and rearing a genetic copy of herself, her spouse or her deceased father, disturbs the whole fabric of the society. In view of the recent developments in biotechnology and genetic research, there seems probably nothing to prevent the process of human cloning from happening and this makes people more revolting and rethinking. Ethical values seem the only voice left that speaks up to defend the central core of our humanity. More so, when everything is held to be permissible so long it is freely done, in which our given human nature no longer commands respect, in which our bodies are regarded as mere instruments of our autonomous rational wills. Ethical view of human cloning should be evaluated by how people criticize it descriptively, through the situation into which we place it.

Legal approaches to cloning

International attempts to harmonize policies in the area of biomedical ethics and human research, such as the 1997 Council of Europe's Convention on Human Rights and Biomedicine, and most recently, the United Nations' efforts to adopt an international convention against human reproductive cloning, have been insufficient to trigger a substantial global policy design process on issues relating to these new technologies. While global consensus exists in favour of banning human reproductive cloning, lack of consensus among countries regarding policy approaches to other technologies, such as research or "therapeutic" cloning research, have undermined efforts to develop any international regulatory framework, thereby fragmenting policy action across issues and borders. This inability to develop a global policy response to these technologies has fostered a global milieu where the developing world is playing an increasingly prominent role. However, many less developed countries with a strong science base have been more active than the industrialized world in pursuing embryonic stem cell research and cloning technologies and have become influential actors in this arena⁹. Creating embryo specifically for

⁹ A recent UNESCO-IBC report has highlighted this phenomenon: "The notion of 'developed' and 'developing countries' must itself be redefined in the context of biotechnology. Some countries, traditionally classified as developing, are playing an active part in research on the human genome, while others are not. Report of the IBC on Solidarity and International Cooperation between Developed and Developing Countries Concerning the Human Genome, UNESCO (April 6, 2001).

research also puts women at risk as sources of ova for projects that provide them no benefit¹⁰. The human fertilization and embryology Act 1990 in U.K., contains a clear prohibition on replacing the nucleus of an embryonic cell with a nucleus taken from another human embryonic or adult cell. Section 3 (3) (d) states that a licence granted under the 1990 Act "cannot authorize replacing a nucleus of a cell of an embryo with a nucleus taken from a cell of any person, embryo or subsequent development of an embryo." Cell nucleus replacement (CNR), on the other hand, is not expressly prohibited by the 1990 act; nor is "embryo splitting", the process by which twinning occurs naturally and which can also be done in vitro to produce identical- cloned embryos¹¹. So far as CNR research within the UK was concerned, it was unregulated until 2001 when Human Reproductive Cloning Act and Human Fertilization and Embryology (Research Purposes) Regulations were enacted¹². The Council of Europe's additional protocol¹³ to the convention for the protection of human rights and the dignity of the human being with regard to the application of biology and medicine, on the prohibition of cloning human beings, explicitly declares that "any intervention seeking to create a human being genetically identical to another human being, whether living or dead, is prohibited". Worldwide cloning is prohibited it is allowed in in-vitro condition in laboratory only for animal, it is yet not approved for human.

Ethical issues

Cloning of a human being to produce a child is chiefly aimed to provide a 'biologically related child' to an infertile couple. Human cloning can put an end to genetic disease otherwise generally passed on to generations after generations. It also permits reproduction for single individuals and to secure a genetically identical source of organs or tissues perfectly suitable for transplantation. There are a section of people who welcome the idea of human cloning to produce children. They proclaim that in the modern globalized society each individual is a master of his own mind and has the freedom to decide as to what is right and

¹⁰ Healy, B.P., Berner, L.S. *A position against federal funding for human embryo research: words of caution for women, for science, and for society*. J. Women's Health. 1995; 4; 609- 12.

¹¹ Human Fertilisation and Embryology Act (1990). London. HMSO, 1990.

¹² Human Reproductive Cloning Act 2001. London. The Stationary Office Ltd. 2001.

¹³ Council of Europe (1997). Additional protocol to the Conventions for the protection of human rights and the dignity of the human being with regard to the application of biology and medicine, on the prohibition of cloning human beings. Strasbourg: Council of Europe.

what is wrong for him. The United State Supreme Court in *Eisenstadt v. Baird*¹⁴ spelled out a new principle relating to reproductive freedom: "If the right to privacy means anything, it is the right of the individual, married or single, to be free from unwanted governmental intrusion into matters so affecting a person as a decision whether to bear or beget a child." Hence the utilization of a new infertility technique falls under the reproductive freedom. If 'in vitro fertilization' is accepted as a technology to procreate, human cloning for producing children also forms part of the advanced technology. Another moral value argued by this section of people is that through cloning we are able to instill certain basic necessities of the modern society. This includes good health of the child, fulfilling the dreams of a couple to beget a biologically related child. The ultimate goal is to achieve a fit and healthy world: an infertile couple desperately seeking a child; replacing a beloved spouse or child who is on the deathbed or is dead; attempting to conquer the genetic or hereditary disease; permitting reproduction of homosexual men and lesbians who want nothing sexual to do with the opposite sex; getting a child with genotype of one's own choosing, not excluding oneself; replicating individuals of great talent and genius; creating large set of genetically identical humans suitable for research.

For instance, in the debate over nature versus nurture or for special mission in peace and war in which using identical humans would be an advantage. In India, government has officially banned cloning of human being. The department of Biotechnology has banned any research towards human cloning. It also lays down specific guidelines permitting research stem cell biology with adequate safety measures.

Conclusion

This article has concentrated on present ethical issues involved in the process of human cloning. Nevertheless, human cloning is not possible now. One cannot make law in vacuum. The research in this particular area of science cannot be stopped. The meaning of human cloning is often misunderstood. Although genes are recognized as influencing behaviour and cognition, "genetically identical" does not mean altogether identical because some important genes are also present in the mitochondria of the egg-cell. It could spell problems in stem-cell treatment for a good deal of diseases where compatibility is essential because of the risk of rejection. With additional experimentation on other animals we

¹⁴ Leon R. Kass and James Q. Wilson, *The Ethics of Human Cloning*.

can enhance the accuracy of therapeutic cloning. The temptation to manipulate another human life is almost irresistible for some as the history is replete with practice of eugenics in some parts of the world. The genesis of the 21st century is a period of unequalled technological prowess combined with unparalleled moral vacuity. In order to curb the abuse of the technology, reproductive cloning should be banned internationally till the global community including the scientists, ethicist and theologians finds out answers to morality of human cloning thoroughly and satisfactorily.

