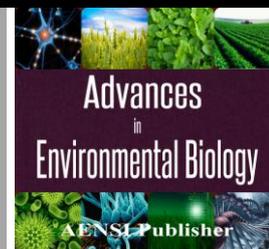




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Juridical Investigation of Human Cloning from the Viewpoint of the Sunnite

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ABSTRACT

Cloning, especially producing humans is one of the most astounding technologies of genetics. The most important ethical reason of its opponents is the violation of human dignity and the most important reason of its proponents is helping infertile couples. In the religion of Islam, particularly the Sunnite, there is consensus of rejecting this phenomenon. The major reasons of the Sunnite to oppose it include altering creation, rejecting God, violating the tradition of couples, etc. in Shia, there is no consensus regarding this matter, but there are four perspectives among the scholars of Shia: absolute permission, which absolutely approves the cloning by virtue of the principle of Abahh.

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INTRODUCTION

After successful experiments of cloning mammals and the prediction of scientists regarding its possibility at the current state of human knowledge, human cloning has led to disputes in the domains other than empirical knowledge including ethics, religion, and law. The act of cloning in biology refers to duplication of living creatures without sex, in which case, in contrast to the sexual reproduction, the resulting creatures do not possess the features of the male and the female, but are similar versions of the initial creature from which they were created. It means that we can consider them as “Certified Copies” of the initial creature. The scientists also call the type of new creatures, which are genetically (hereditary) analogous, “Clones” or “Similar” [11]. Therefore, the process of asexual creation of a group of cells, molecules, or living creatures, which are all hereditary similar to the same parent, is called “Cloning” [11].

Doubtlessly, human cloning is connected to the fundamental issues and more importantly the issues related to the nature and value of human beings. There are no events throughout the history so significant on humans and there are several reasons to this claim.

First, our true understanding of life has roots in the sexual and biological relationship between man and woman. Important parts of the history of our civilization, from the traditions of marriage to the concept of family, tribe, or nation are closely related to sexual matters. Humans have always considered the birth of his children as a blessing from God. The sexual intercourse of man and woman is thought of as a new, unique, and of course limited creation. The reason for the inherent hatred of some towards the cloning is the fact that such phenomenon can be the beginning of a new journey which gradually pushes “the blessing of life” aside and eventually fully disregards it; the issue whose results will be turning new children into products of the market. Products, which are pre-designed piece by piece, are produced and distributed in new market [3].

Why human cloning is incompatible with human dignity?

1- Human dignity is related to his reproduction, fertilization and giving birth. Therefore, any function which alters or changes this method and replaces the natural way with another approach violates human dignity. According to this view, by replacing the natural with asexual reproduction, human cloning violates human dignity.

2- Human dignity relates to maintaining and preserving his genetic combination. Therefore, any alteration in the hereditary combination of humans violates human dignity and since human cloning plays with human genes, it is the humiliation and violation of human dignity.

3- Transforming humans into experiments and making them into lab rats is the violation of human dignity [2].

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*Cloning from the View of the Sunnite:**The Opponents of Human Cloning:*

The Sunnite scientists have investigated human cloning from different perspectives and the majority of them have prohibited this technology.

Azhar Islamic council, which is the highest Sunni religious authority, has announced human cloning absolutely prohibited. Albohulol Islamieh council, affiliate with the Azhar university, presented a statement which prohibits this process and asked all the governments in the world to prevent human cloning. The office of Rabetolalam Alislami, located in Makah, also prohibits this process. Moreover, the seminar conducted in the west has recommended its prevention. The Malaysian juridical council also prohibited human cloning [14]. Islamic Jurisprudence council has also sanctioned cloning [1]. The Arab union and the Islamic conference organization have recently presented a statement which expresses their explicit opposition to the cloning project: "the Islamic Investigations Council" have considered the people performing human cloning as enemies [6].

Dr. Mohammad Seyyed Tantavy (The deceased Sheikh of Azhar) and Abdollah Alaziz Ebne Bazi, the well-known Mufti of Arabia, announced cloning a prohibited and evil action. They even consider couples` cloning blasphemy and ask infertile couples for patience [8]. Yousef Algharazavi, the Egyptian Mufti being a resident of Qatar, strictly condemns cloning and announces it in conflict with the diversity and difference in creation. The council of Islam and Unites States relations has also announced that experts of Islamic issues have explicitly rejected human cloning [13].

The major reasons of the Sunnite to prohibit this technology are as follows:

The most important challenge about human cloning is the aspect of Man as a creator against God. Now, it should be cleared whether human cloning is a kind of creation and innovation? In order to answer this question, first we must find the meaning of the word "creation".

First, regarding the meaning of the word "creation", we must note that" creation, in Arabic, means innovating something which the like of that did not priori exist. Moreover, the word "creation", in Quran, has been mentioned as making and innovating.

Some of Quran researchers have considered several meanings for creation:

- 1- God is the one who created the sky and earth (Sojdeh 4).
- 2- God created the man from the sperm (Nahl 4).
- 3- And when by my order, made a figure of a bird and blew on it, it was made into a bird by my order (Maedeh, 110).

The most important meaning of the creation is the very innovation and making of something from nothing and this meaning is only dedicated to God (Is there another creator but God? Fater 3).

Sometimes, the word creation is also used for humans. In such cases, it means the manipulation of God`s creations. Therefore, creation, as manipulating the artifacts of God, is applicable to humans.

Cloning is also a manipulation in God`s creations; because it is based on the cell of the body which is made by God, not humans [10].

All scholars of the Sunnite believe that human cloning is not creation. For instance, Adib Heirdar states that the manipulation of creation, which is performed as cloning, is the not innovation and God have not limited creation to sexual reproduction.

In other words, at a time, the only way to provide reproduction and creation was sperm and ovum. While it is now provisioned in another way. Therefore, God is still the creator. The creation of humans was once done through convergence, one through the creation of God and in the laboratory of sperm and ovum. Released ovum and genes were also sometimes employed. These tasks are not interventions in the work of God, but a way to provide it in different ways. Nevertheless, the soul is created by God. Marvan Ghabani, of the Sunnite, states that: "Estensakh (Cloning) is discovering the secrets of life, since science does not create from nothing and human production by planting the physical cell inside the ovum of the mother is the action done by the power of God [4].

Therefore, life is only at the hand of God and no one can intervene. Cloning is not the intervention in creation life, but providing the conditions of life.

Although the Sunnite have accepted that cloning is not creation and innovation and if all humans are gathered and collected their thoughts, strengths, and facilities, they cannot innovate even the smallest of things, they are afraid of the misgiving of people to consider cloning as innovation and creation and gradually come to the belief that a creature is alongside God who can create. They have prohibited cloning on the same basis.

It seems that this notion is not true because:

- 1- The religious law has certain basis and the religious prohibition and legitimacy of objects and actions should be inferred on that basis. We cannot rule against cloning because it merely weakens the faiths of the people.
- 2- We must try to increase the religious knowledge of the people, such that the cloning technology and the likes of it are known as the greatness of God and clear their beliefs to deliver them from ignorance and unawareness.

4- Today, that science and knowledge is developing among human societies and the farthest human communities, this type of prohibitions can lead to the decline of Islamic societies and the hatred of non-Muslim people towards Islam [10].

Therefore, we should rethink this issue that human cloning weakens the faiths of the people. Assuming that this issue weakens the beliefs of the Muslims and is falsely recognized as creation, instead of considering this the first reason to prohibit human cloning, announce it against the Islamic beliefs, cause this notion that some, other than God, can create, and cause this false notion to weaken the beliefs of naïve Muslims, we must try to eliminate this false notion, since not only does the very counteraction and prohibition not eliminate this false notion, but enforces it and will be considered as another reason for its actuality [2].

The second misgiving is that human cloning is the alteration of creations and this is prohibited and illegitimate, since it is an evil action.

Assuming that human cloning is the alteration of creations, we must then prohibit many permissible actions. Modifying animals and crops have long been common almost everywhere and Muslims have also applied this method on plants, trees, and animals. For instance, in nature, there is no peach fig tree; that is only obtained by genetic manipulation of trees and crossbreeding plants and that is the very alteration of God's creations. Has anyone ruled out to prohibit this kind of change?

Now we must ask another question: what do we basically mean by the alteration of creation? If we mean changing the method of production and birth, extra uterine insemination must also be prohibited. If we mean creating a new creature which did not exist before, this is not the case in human cloning. If we mean manipulating the genetic sink of humans, there also some issues in this regards: one that most opponents of human cloning have approved this type of manipulation to eliminate diseases. While this is also the alteration of creations. For instance, Dr. Mohammad Raafat Osman has approved the genetic manipulation, placement of the healthy gene instead of the faulty one, removing the gene responsible for shortness of height, and treating it through placing the tall genes. He even approves these manipulations, not only about disease treatments, but for altering the color of eyes, face, or hair and believes that these type of operations pose no problems if not destructing the gene sink.

Another point, particularly about infertile parents which demand human cloning, is that this manipulation is not performed and the entire genetic sink is transferred to the egg; thus it is not the alteration of creations. Third, by law or religion, we can only prohibit or forbid the kind of human cloning which are coupled with genetic manipulation.

Therefore, it does not seem that citing to an extremely slippery and fluid reason (the alteration of God's creations) can prove the prohibition of human cloning and this reason, even if applied, is like a two-headed blade which can work against the opponents of human cloning. Gharzavi shows what he means by the alteration of God's creations. He believes that extracting the content of the egg and manipulating the human cell is the alteration of God's creations. If this is what manipulation of God's creation means, it also applied to other cases like extra uterine insemination where the ovum is first stimulated and activated using some drugs to produce more eggs. The eggs are then extracted, male gametes are selected, and insemination is performed. None of these operations are inherently natural and they are all considered manipulation of creations and therefore must be prohibited [1].

The third challenge proposed by the Mufti of the Sunnite is the violation of the couples' traditions.

According to this reason, the universe is based on parity. It is enough to look around ourselves to witness this law and tradition everywhere. Not only in the world of humans and animals, but even plants are either male or female. Gharzavi states that God has created man as a parity, i.e. male and female. Animals, birds, reptiles, insects, and even plants all follow this system of parity. The parity logic is not limited to living creatures and according to Yousef Gharzavi, novel knowledge has discovered that this system even applies to objects. We can see it in electricity which has positive and negative currents. Even atom, which is the fundamental unit of objects, has electron and proton. The holy Quran also mentions this phenomenon. In conclusion, the universe is a system based on parity. Of course, this parity does not mean the contractual relationship of marriage, but a perpetual and unchangeable tradition. It means that having a marriage contract is one of the displays of this law in the universe of religious law. However, human cloning violates and destructs this tradition [1].

In respond, it has been stated that: first, it is true that the holy Quran has presented human reproduction through marriage, but it has been never limited to marriage and sexual intercourse. In other words, the holy Quran merely states a simple way, which is sexual intercourse, and it has no contradictions with other ways and methods of reproduction.

Second, human cloning is never outside the boundaries of the divine tradition of parity, since in some cases of cloning, which the core of the sexual cell of men and the ovum of women are used, this tradition is performed. Therefore, human cloning is another method to reproduce humans which God has created in addition to the formative law and humans have been able to discover it. Thus, this discovery is a sign of the greatness of God, not contradictory to his tradition.

Third, since humans normally have children by marriage and sexual intercourse and he is used to this notion, he defies and resists all other methods, until he familiarizes with them and that is when he approves them.

The holy Quran has stated the common way of traveling by foot or camel at the time and this does not mean not to employ novel methods for that purpose. However, after the advent of modern transportation, it was opposed by a group of people; though their opposition was never effective [10].

Moreover, regarding the elimination of the institution of marriage, if opponents mean that the motivation and the conscious intent of man for marriage is reproduction, it means that they only get married to have children and this is not generally accepted. The first motivation of marriage is tranquility, not reproduction (Rome 21). The fourth opposition of the Mufti of the Sunnite is the violation of diversity.

The universe is filled with diversity and variety, even single egg twins, formed from one zygote. In nature, all creatures are similar, but never the same and in some cases biologically different. Therefore, we can consider a law, called the diversity of life. Several verses of the holy Quran have shown us this diversity in various forms. The holy Quran mentions the different colors of man, the diversity in their language, the variety of animals and fruits as law. In addition, God calls this diversity a sign of himself. However, human cloning violates this biological law and eliminates the diversity feature of human beings.

This reason does not seem to resist criticism. Thus, we can mention several points to disprove this reason: first, in contrast to this tradition, we have the tradition of reproduction through parthenogenesis which transfers the very genetic structure of the previous generation to the next, thus incompatible with the tradition of diversity.

Second, this claim is incompatible with single egg twins. Therefore, if we claim that diversity governs the universe, we can also say that God is a conflict to this tradition. Thus, the existent of the same twins is a violation of the generality of this claim.

Third, basically, there is this false notion among opponents about human cloning and the cloned person that the cloned individual is the “forged”, “certified copy”, and “the image” of the actual person and a full repetition of his [2].

Fifth, some of the Sunnite considers cloning operations a contradiction to the natural way of birth, manipulation of genes, performing experimental operations of humans, and thus the violation of human dignity. Therefore, they prohibit human cloning.

Regarding the issue of experimental operations on humans and the notion that this declines humanity to the level of animals, we must state that: both cloning and insemination, as well as surgical operations perform operations on humans which can be pessimistically considered contradictory to human dignity. However, the fact is that performing experiments by itself does not pose a problem to human dignity. The reason is that, doubtlessly, the product of cloning is a “human” and it seems that citing to this reason is not justified. Moreover, extra uterine insemination is also approved by scholars of the Sunnite which is an unnatural method.

Manipulating genes is not a violation of human dignity, since we must not consider man as a set of genes and any manipulation of genes as a violation of human dignity. The reason is that man is a combination of genes and soul which evolves and grows during all stages of life by the circumstances of the environment and other conditions. Second, the Sunnite has approved gene manipulation regarding treatment cloning. Therefore, if gene manipulation is wrong, it must be disproved in that matter as well.

The sixth issue is that some of the scholars of the Sunnite believe that human cloning can lead to corruption on earth and consider its acceptance as defying God. Regarding corruption, these scholars state that: the very disarrangement of creation and the natural way is the departure from the best stature and a kind of corruption. In justification of corruption, some consider cloning as adultery and some as lesbianism. Among them, Mohammad Raafat Osman state that: cloning is like adultery, since in truth, the small portion (cell) of the genital of a man is placed inside the ovum of a female stranger.

Moreover, Sheikh Mohammad Jamil Hamoud Alaalami believes that: as sodomy, lesbianism, and adultery had disrupted the system in previous religions, cloning, for its corruption, shall disrupt the current system of today.

Adultery is the penetration of the genitalia of a man under the conditions stated by the Jurisprudence, however, in cloning, only sexual cells are involved which is not equal to adultery [4]. Another reason of the Sunnite to prohibit cloning is the violation of the five objectives of Sharia. Some of the Sunnite state that: assuming that the extracted egg and the sexual cell are both from one woman and are placed inside her own uterus, the cloned is independent of its father and consequently, it is in violation of the issue of ancestry. Of course, preserving ancestry is one of the main objectives of Sharia.

In Jeddah, Saudi Arabia, the Islamic Jurisprudence council has announced that any kind of violation of the five objectives of preserving religion, self-perseverance, rationality, ancestry or generation, and preservation of property is illegitimate (Haram).

Dr. Saad Zolam prohibits cloning, since it disrupts parentage and violates the human rights [4]. A summary of the ideas of some cloning opponents is as follows:

- 1- Yousef Abdollah Gharzavi: it is prohibited due to the conflict with divine traditions, the variety of colors, parity, and disruptions including the disturbance of the state of sex and the parentage of clones.
- 2- Nasr Farid Vassel: human cloning is unanimously prohibited.
- 3- Moazam Adin Seddighi: it is prohibited, since it harms the characteristics and dignity of man, family, and society.
- 4- Ebn Asiman: the least punishment of the cloning innovators is separating their hands and feet (the punishment of the corruptor on earth), since it is the greatest corruption on earth.

Therefore, the prohibition of human cloning among the Sunnite is unanimous.

Cloning Proponents:

Although few The Mufti, Scholars, and even Doctors of the Sunnite explicitly defend cloning and its prescription, some do not consider it as intervention with in work of God, no longer worship the appearance of some texts and provisions, and even consider the understanding of the Mufti about the texts related to creation, a result of inaccuracy and lack of research in empirical, medical, genetics, and all other types of science. It seems that according to this view, the Mufti are capable of only one thing, and that is prohibiting anything novel, since any scientific operation has a possible conflict with one of the provisions. The cloning proponents of the Sunnite point out the connection of other prohibitions and the nature of scientific technologies. They do not agree with the votes of some scholars that follow the votes of elder scholars to assess novel scientific matters. This group state that: doubtlessly, the prohibition of this project is nothing but underdevelopment for us. Regardless of some feelings, what is the problem for someone who cannot have a child from his wife, has visited different doctors frequently, and could not have had a child with another spouse as well, to have a child through cloning? It is illogical to cite texts like “و يجعل من يشاء عقيما” and conclude that a sterile man must not try and abandon treatment.

To consider being sterile the will of God is against the word of the prophet Mohammad (S): servants of God, seek treatment, for God has created no pain, unless its remedy as well. The proponents of cloning do not accept the reason of the Mufti, in citation to verse 119 of Nisae to prohibit cloning, consider their understanding of the appearance of this verse only as an opinion, and state that: doubtlessly, it is clear that life is merely in the hand of God; but how? We cannot claim that it is only the natural way that must guarantee the human life. Human cloning is not intervention in the work of God and it is better to assess the aspects of human cloning after cloning animals, instead of prohibiting and alienating ourselves from it. The dispute about cloning among the Sunnite has practically become dependent on their implications of the texts. All verses in the following are cited by the opponents, while proponents have different inferences.

- 1- We truly created man from pure mud. Then, we made him into sperm and placed him in a stable (uterus) place. That is when we made sperm coagulum, coagulum torn flesh, torn flesh bones, and covered the bones with flesh. Thus, another creation was dictated. Congratulations on the complete power of the best creator (Moemenoon 1412).
- 2- There are so many creations of God. Now, you name the things created by them who are not God. In fact, oppressors are clearly misguided (Loghman 11).
- 3- It is the holy and pure God who created all in pairs, whether objects, humans or other creations you are not aware of (Yas 36).
- 4- Ask if creating them is more difficult or the ones we have created and we have created them from cohesive mud (safat 11).
- 5- And we created him from the mixed sperm to test him and make him seeing and hearing (Ensan 2).
- 6- It the God who created you all from one body and created his pair to grant him tranquility (Eeraf 189).
- 7- People! Avoid opposing God! The God who created you all from one body, created his pair from him, and made many men and women from those two (Nesae 1).

Among the Sunnite, the proponents of cloning understand from these verses that their implication is merely the divinity of the concept of creation. Yes, it is true that creation is not a characteristic of man and only dedicated to God; we do not know how God creates and regarding cloning, God is still the creator [12].

Regarding this matter and citing the same verses, Pr. Motahari has also stated that: if man is one day capable to discover the law of creating living things, achieve all conditions and components of the organization of a living creature, and make an exact instance of a natural living creature, he has made a great scientific discovery. However, the intervention of human beings in creation is as much as the intervention of parents, through sexual acts, to create a living child or a farmer to create living wheat flakes. None of the above means man is a creator, but the provider of conditions necessary for a creature to live.” [7].

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