

# Jurisprudence of Human Cloning

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# **Jurisprudence of Human Cloning by Ayatollah as-Sayyed Muhammad Saeed al-Hakim [ha]**

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## Human Cloning

**Q)** Is it permissible to create a human being using cloning if this scientific process became possible? And what are the associated conditions?

**A)** Producing a living creature using cloning or similar techniques is permissible as these scientifically advanced methods use the same laws of nature that His Almighty has already created. Therefore, such discoveries may lead to an increase in our knowledge of God's signs, great power and fine precision which would naturally result in strengthening the truth and highlighting the right message as His Grace has stated:-

'We will show them our signs in the horizons and within themselves so that it becomes clear to them that it is indeed the truth'.

However, this process is not allowed if it was performed using an unlawful act. This might include, from an obligatory precaution perspective, the in vitro fertilisation of a female egg by a sperm of a stranger male so that a new person is born to an unmarried couple.

Overall, the scientific process itself is permissible except if it was accompanied by an unlawful act such as prohibited look at private organs or touching them.

We received an inquiry about this particular topic from some brothers in the United Kingdom during the international press debate. Their questions included various points which were suggested as potential reasons for the possible prohibition of cloning. These are as follows:-

1. Producing a human outside the family dimensions.

This point and its relation to the prohibition of cloning is not clear at all as there is no evidence within the Islamic Law that provides an obligation for the human to always follow the normal natural ways. On the contrary, the advancement of human is achieved by the renewal of various methods, use of nature's secrets that God initiated by research and reasoning as well as increasing our knowledge. There is also no support for the claim that human creation ought to be within family dimensions; especially that few examples in history have not followed such a condition, such as the creation of the first human of clay and the birth of Prophet Jesus fatherless.

2. Cloning causes huge ethical problems because it enables criminals to use it and run off the hook of justice.

This issue does not qualify as a justification for prohibition either. It should be noted here that although criminal activity is rejected, however, producing a tool that might be used by a criminal is not considered unlawful at all. For example, there are a lot of tools produced around the world today which criminals may abuse but no one even suggests banning their production. It is even possible that wrong-minded people benefit from cosmetic surgery more than cloning, then is it rational for us to ban cosmetic surgery?!

In fact, positive or negative consequences of the advancement of the current civilisation follow the ethics of the society that we live within more than anything else. So, if the society was materialistic and immoral then the effects will be horrifyingly criminal as we can observe in many unfortunate outcomes of the new inventions of today's civilised societies.

3. The accomplishment of cloning will be achieved after a sequence of possible unsuccessful experiments that would destroy the embryo even before the creation of the required living being.

This point seems to suggest that the potential risk associated with cloning may lead to the destruction of the fertilised egg; therefore, human cloning should be prohibited as it would act similar to abortion. However, the prohibited act is the active process of killing a respected living creature or the fertilised egg on its path to life such as intended abortion. One is even allowed to participate in the production of a living being that might die before completing the requirements of its life provided that the individual does not cause the death. Similarly, man is allowed to have sexual intercourse with his wife when she is ready for pregnancy knowing the existence of the risk of miss-carriage because of the weakness of the sperm and egg or the under-prepared environment for its development and growth. Overall, we do not see any ethical barrier in front of human cloning except if it was associated with an unlawful act such as touching or looking at the prohibited private parts etc.

## Relationships between the clone and original cell and egg donors

**Q)** If the cloned individual was considered a human then what kind of relationship he has with the cell donor, male or female?

**A)** If this person's creation was by reproductive cloning then he is definitely fatherless; because the father figure is determined societally, which is the person that his sperm fertilises the egg as God indicated:-

'Then He made his (man's) offspring from the concentrate of a low fluid'

Nonetheless the sperm is replaced by an adult cell in this process. This becomes particularly obvious when the cell is taken from a female body as it is not rational for her to be the father of the cloned human being. It has also been narrated in a lot of texts that God created Eve from Adam's rib (let's overlook the authenticity of these narrations and concentrate on their meanings) but no one claimed that this idea means that Eve is a daughter of Adam at all. This indicates that the principle of the fatherhood of one person to the other is not the creation of that person of a part of his body rather his sperm only as we mentioned earlier.

The relationship to the mother is subjected to the use of her egg in the production of the individual, however he is not produced from her complete egg as its nucleus gets removed; so it is problematic to consider the egg-donor as the mother of the clone too. However, it is not easy to decline such a relationship either.

There is no room for the clone to be considered as a brother to the sperm or egg donors as the indication for brotherhood is the sharing of a parent and not being the carriers of similar inherited genes as it is not societally accepted. Based on religious evidence, we consider the societal culture as the only reference for human relationships as it has been used by the Islamic law in its legal guidelines. Moreover, let us assume that advanced science discovered a method by which it was possible with some alterations to change an animal or plant cell to a normal human being, then are we able to declare a relationship has been established between them without taking any usual cultural principles into account?! There is no doubt about the falsehood of this statement. We are even obliged to overlook and ignore the above mentioned similarity and to judge them as two foreign notions. Similarly, the clone should be considered as unrelated to the cell-donor without any bounds between them.

## Religious Status of the Clone

**Q)** What is the ruling regarding his religious status as a child? Should he be considered as a follower of same religion as the cell-donor?

**A)** He follows that religion of his care-taker as long as he remains a child same as when the prisoner child follows the conditions of his jailer. Then when the child grows up he follows whatever religion he chooses and should be treated accordingly. Even if he became unbeliever while the cell-donor was a Muslim, he is not considered as Murtaḍ (converts out of Islam) because the cell-donor is not recognised as his father as mentioned previously.

## Ancestry

**Q)** What is the ruling about the clone's ancestry?

a) Who is his guardian?

b) Is he considered a Hashemite (descendant of the Prophet Mohammad) if the cell-donor was a Hashemite even if he was not his father or brother religiously?

**A)** Any relationship to a tribe is based on the parental link, so the absence of a father-son relationship in this situation suggests a lack of connection to the cell-donor's tribe even in the case when he was a Hashemite as mentioned previously.

His guardian is his care-taker or the Imam (religious authority).

It should be noted here that there is a doubt about clone's relationship to the egg-donor; so it follows that this doubt extends to all her relatives. As a result, there is no evidence for accepting or rejecting such relationships. Therefore, precaution should be sought in all legalities surrounding this particular point.

## **Religious obligations towards the donors**

**Q)** Are there any religious obligations between the clone and the cell-donor?

**A)** No religious rights or duties exist as no relationship between them is proven as mentioned in the answer to the second part.

## Marriage and Social Relations

**Q)** If we recognise the clone as a foreigner to the cell-donor, then what is the ruling regarding his marriage to the person that is not permissible for him to marry if he was a son or brother to the cell-donor?

**A)** It may seem, from what we have stated previously, that there is no marriage restriction between the clone and the cell-donor which extends to his father, brother and son.

However, some narrated texts about the beginning of creation condemn the marriage of man to the creation made of his parts. The mentioned reference, even though weak, can be backed up by religious principles without going as far as an evidence for a prohibition ruling. So precaution may be obligatory in this situation to keep away from any marriage between the clone and the relations of the cell-donor such as his father, brother and son. This extends to the egg-donor as there is a probability of an offspring relationship.

## Ownership of the cloned animal

**Q)** What is the ruling regarding the ownership of the animal cloned by this method? Is it owned by the owner of the egg or cell donor animal? Or is it owned by the scientist who performed the cloning?

**A)** The animal clone of course belongs to the owner of the cell-donor animal as the growing of the property always belongs to the original owner. Generally, any development in a body is considered part of the property of the same owner; either it being an improvement change, like the growing up of a young animal, or a characteristic change such as planting a seed to grow into a tree and bear fruit. These are culturally embedded concepts that the Islamic Jurists have followed in declaring that if a seed was stolen, planted and grown, the resulted plant would still be the property of the original owner and not the thief. However, the agreement between the owner of the cell-donor animal and the user of such a method should be sought if possible.

## Genetic Engineering

**Q)** What is the ruling about the meat and milk of the genetically modified animal with blood similar to that of a human origin? Also, what is the status of such a blood?

**A)** The meat and milk of such an animal follows the same rulings of its kind such as sheep, cow, cat, dog or human because it belongs to the same category. So the meat and milk of a genetically modified sheep is allowed similar to its general population, even if its blood was modified to have similar properties to that of human origin.

The blood of such an animal also follows the same rulings as its original kind because only the human blood that has been produced inside the human body is considered unclean not any blood with similar composition. In other words, the blood belongs to the body that produces it not the one that contains similar cells.

## Cloning of Body Parts

**Q)** There is a suggestion about the possibility of cloning some human body parts in the laboratory and saving them for times of need; is this allowed? Does this ruling extend to the private parts?

**A)** Cloning and saving body parts is allowed even if they were private organs. It is also permissible to look at the cloned body parts in the laboratory as the main case in the prohibition of such parts is their attachment to a particular individual.

Finally, we warn from the use of this discovery or other advancements in knowledge in harming humanity or society. The Great God has created the universe for the service and best interest of the humans as He states:-

'He (God) created everything on Earth for you (humans)'

'Do not you see how God has made everything in the heavens and Earth submissive to your command and granted you both obvious and hidden favours?'

So we should be careful as to not leave God's commands and risk being rejected or ignored by His Almighty. May God support us and all the seekers of knowledge and truth to further discoveries and better understanding to serve humanity in the best manner.