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The juridical study of human cloning according to the Shi'ites

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Abstract

One of the most wonderful technologies in genetics is cloning, especially its human reproductive type. The most ethical arguments of its opponents are the breach of human dignity, and the most important reason for its accordant is to help the infertile couples. There is a consensus on disavowing this phenomenon in Islam particularly in Sunnite. The major reasons for the objection of Sunny jurisprudents include the change in the creation, disavowing God, The breach of conjugal tradition, etc. There is no consensus, however, in Shi'ite in this regard. The Shia scholars view it from four viewpoints including absolute authorization (cloning is absolutely allowed according to the "Ibaha (permissibility)" principle), limited permission (it is unlawful at a large scale), secondary prohibition (cloning is permissible by first rule, but is unlawful because of its corruptions according to the secondary rule) and the prior prohibition (this technology is absolutely unlawful).

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Introduction

After successful experiments on cloning of the mammals and scholarly predictions based on its possibility in the present status of human knowledge, cloning has created some debates in domains other than the experimental knowledge including the religion and the law. Cloning is defined in biology as the reproduction of living organisms without sexual intercourse. In contrast to sexual reproduction, the reproduced organisms do not have a combination of male and female organisms; however, they are similar copies of the primitive organisms produced from it. That is, each of them can be regarded as identical copies of the primary organism. The scholars, also, call those new organisms clones, which are identical in genes (heritage) (Mohammadi, 2008). The process of nonsexual reproduction of a group of cells, Molecules or living organisms when all are identical in heritage to the common world is called "cloning" (Mohammadi, 2008).

Human cloning is certainly related to basic issues, and the related issues to human value and nature are the top ones. No phenomenon could ever be able to be so influential on the human future. There are also numerous reasons for this claim. First, our real imagination of life is based on sexual relationships and the biological relationship with men. From the marriage traditions to the concept of family, tribe and nation, an important part of our civilization culture is closely related to sexual issues.

Man has always considered the birth of his child a gift of God. The male and female intercourse has been indeed a unique new, and of course limited, creation. Many people hate cloning innately because this phenomenon may in fact turn to be the beginning of a new journey where the gift of life is gradually marginalized and is ignored at last. This subject will result in turning the new children into market commodities which are predesigned and produced in details and are presented in new markets (Aalekajbaf and Akhtari, 2011). The aim of this paper is the juridical study of human cloning according to the Shiites.

Material and methods

Human Cloning Incompatible with Human dignity

1. The innate dignity of human being is due to his method of reproduction, the form of his pregnancy and bearing; hence, every action leading to a manipulation and change in this method and replacing the natural way with another one has breached human dignity. According to this attitude, human cloning has breached human dignity through replacing the nonsexual reproduction method.

2. Human dignity is based on maintaining his intact genetic composition; hence, any manipulation of human heritage composition is considered the breach of his dignity. Therefore, human cloning is the breach of his dignity and disdaining, as human genes are twiddled in it.

3. Making human an experimental area and treating him like a laboratory mouse breach human dignity (Islami, 2006).

Cloning from Shi'ite Viewpoint

There is no consensus among the Shi'ite scholars on human cloning; therefore, the final opinion cannot be identified. The Shi'ite scholars have different, sometimes contradicting, ideas on human cloning and have issued different Fat was on it. Some have authorized it completely, whereas some others have prohibited it. There are four major viewpoints on cloning among the Shiite scholars.

Result and discussion

The Absolute Authorization Rule

If we want to look at human cloning based on fundamentals of Shi'ite jurisprudence, it seems that it is lawful and no reason exists for its prohibition because it is not in conflict with none of Shi'ite Kalami and religious teachings. Taking the following particular principles, therefore, it can be authorized: (Everything is absolute until something negates it)" and "Kolloshai'unhowalakaal-halal hattata'arrafuanho haram be'aineh (Everything is lawful until something unlawful is found about it actually)" (Alian-nezhad, 2001).

After all, it seems that we must differentiate among its types and possible forms instead of a general discussion on human cloning and authorizing it, and discuss it in a more clear and disciplined way. For Example, human cloning is sometimes happens in the conjugal circle for having a child, whereas this might happen using the corpse cells, the ovum of only one and/or two females. Mixing these types and delivering fat was for all in the same way might not be so acceptable in the present condition (Islami, 2005: p65).

The Limited Authorization Rule

Regarding the primary principles in this attitude, human cloning is authorized. This authorization is however limited considering that this action will lead to unwanted circumstances at a large scale. Given the basics, this viewpoint is acceptable, but has one deficiency; that is, the simplifying imagination of the cloning. It was a juridical action to authorize it and it is based on the fundamental and juridical dominant basis of the Shiite.

The common imaginations about human cloning, often influenced by the science-fiction literature, have caused this limited authorization not to disturb the system. If we consider the scientific realities about human cloning, however, such as individuals' mismatch, the impossibility for a complete cloning, expensive action, the identifiable cloned individuals and paying attention to this fact that the identical twins, now composing a considerable amount of world's population have not caused a disorder in the system, anxiety about its absolute authorization is not allowed.

Therefore, there is no reason for the limitation of the authorization rule logically, based on juridical bases and considering the scientific findings because it cannot replace the natural reproduction and will be a marginal technique, even it is recognized as canonical. Evidence is the extra uterine zygotes, which could not replace the natural reproduction (Azimi, 2012).

The Secondary Prohibition Rule

Although the majority of human cloning opponents think that it is authorized based on the permissibility principle, they have prohibited it because of the corruptions it may cause as the second rule to it. Ayatollah Makarem has addressed this issue in details. Emphasizing the primary authorization of doing this, he remarks three major reasons and offers the secondary prohibition rule accordingly.

The first reason is ethical issues. He believes that the wedlock may diminish and many single women may become pregnant.

Can we prohibit it just for a possibility. This possibility also exists for contraceptive drugs, doesn't it? Is this technology so cheap and universal that all will benefit from it at a large scale. It should be noted that there is no logical relationship between human cloning and marriage renunciation.

The second reason is legal issues. It has been said that a cloned human has no father (because he is not made of man's sperm) and no mother (because there is no mixture with ovum); to put it short, he lacks lineage. Motherhood has two conditions according to this reason: giving the ovum and the influence of this ovum in child's genetic characteristics. Although mother's ovum exists in cloning, it is not mixed with sperm. We must reply that this statement is neither juridical nor scientific. Deducing from verse two of the Surat Al-Mujadila (Their mothers are none but those who gave birth to them.)", some jurisprudences say the mother is who bears a neonate. This verse was however descended to oppose who referred to their wives as their mothers based on a barbarous tradition and made them prohibited for themselves, therefore. This verse is for rejecting this delusion.

It must be noted that the cloned person cannot be regarded as having no mothers because there is a consensus among the jurisprudents on accession of the child to the woman who has given birth to him.

In some cases where the owner of the ovum lacks the core and two women are the owners of the uterus, they say the child has two mothers. One group believes that the real mother is the owner of the ovum because of some reasons including that the hereditary characteristics are located in the ovum not in the uterus. Another group, also, says that the real mother is the owner of the uterus based on the second verse of Surat Al-Mujadila. The majority of the jurists not only presumes the presence of mothers in the cloning technology, but also has regarded multiple mothers reasonable in rare cases.

On realizing the fatherhood, the reason that the cloned person lacks gamete and does not therefore have a father was answered as follows. The child must not necessarily be from man's sperm in order to realize fatherhood canonically. What causes the accession of child to father canonically is just the marriage bed.

The child must only be made in the conjugal circle and no opposite reasons exist for it. Therefore, it is not necessary that the child is made of man's sperm, and the criterion is the marriage bed. If cloning were in the conjugal circle, of course, both the marriage bed and the possibility of accession exist in this technology.

The third reason is the social issues in a way that cloning disavows variety. It is based on wrong assumptions as follows. The first assumption says human are the very genes, however, human being is beyond a genetic reservoir and his genes do not always determine his personality. It is only a biological similarity, not a psychospiritual and ethical one. The second wrong assumption is that the absolute similarity, even biologically, is basically impossible in human cloning and the cloned person will be up to 3% different from the person from who the body cell was driven from. The third assumption is that this technology will not be the dominant reproduction method when authorized and the conventional reproduction method will continue (Islami, 2005).

The Prior Prohibition Rule

The deceased erudite, Allameh Mohammad Mahdi Shamsed-din, is the one who has frankly defended this basis and expressed some reasons for his attitude. He states two reasons mainly, which are also referable to each other somehow: The first is the change in God's creation and the other is the lack of human ownership for his own corpse and of others. The strength of these two reasons must be measured.

1. The Change in God's Creation

It can be said briefly that human cloning changes God's creation which is regarded as prohibited citing the verse 19 of Surat An-Nisa'. The quality of citing this verse is that human cloning causes different versions of a body and it is prohibited due to the prior principle in Islamic tradition and the Quran implies it. As Allameh Shamsed-din claimed, the interpreters of all Islamic creeds agree that the change in God's creation means any kind of change or action leading to any improper roasting to the temperament in human body (Azimi, 2012: p131).

This reasoning is not acceptable because if the change in God's creation means improper physical changes in body and making deformations in it, this would not match human cloning. It is assumed here that an organism is created with about 97% genetically match with the original organism. He also considers the change in God's creation as unnatural changes in the corpse and claims that all interpreters consider the change in the creation this way regardless of their religious and sartorial devotions. Not only we see an unreasonable claim, but also we have reasons against this claim at hand. If he means that the interpreters have considered the change in the creation as merely the physical and body changes, it clearly contradicts the ideas of many interpreters. There are often two major ideas on the interpretation of this verse. Some have considered the change in the creation like Shamsed-din regarding the style of the verses and the discussion on cutting the ears of the quadrupeds.

Some others, however, have clearly stated that the change in God's creation means the change in the religion and God's commands not physical changes (Islami, 2005).

Allameh Tabataba'ii, for example, says in Al-mizan interpretation about this verse: The barbarous Arabs had the tradition of opening the ears of some animals such as the camel, which had born some babies, or the camel, which was devoted to, the idles to make their meat forbidden. He emphasizes it is not unlikely that the change in God's creation means exiting the natural rule and abandoning the Hanif's religious. Citing these divine words of Surat Ar-Rum, verse 30 (So direct your face toward the religion, inclining to truth. [Adhere to] the fitrah of Allah upon which He has created [all] people. No change should the rebe in the creation of Allah.

That is the correct religion, but most of the people do not know.)" (Taskhiri 2007). Some other have cited both statements and refused to prefer one to the other. Some others, however, tried to mention a comprehensive aspect for the change in God's creation and say change is of two types: the materialistic and physical change and the spiritual change like the religious distortion and change. Hence, in contrast to Shamsed-din, such a consensus is not seen on this verse and this claim cannot simply be regarded as acceptable by all interpreters and it is right to ignore citing this verse due to the contradicting interpretations (Islami, 2005).

Therefore, as two contradicting ideas exist on this verse, reasoning through it and presuming a meaning is an evasive reasoning and non-acceptable logically. If the bases and reasoning by Shamsed-din are accepted regarding the change in God's creation as the physical changes, many problems occur and numerous questions are raised referring to him and he must indicate why some physical changes such as plastic surgery is excluded from this rule or it must be also prohibited.

2. The Lack of Ownership for the Corpse It actually means the body of human being is a trust. The human being is not the owner of his body, but is the trustee for it and the owner is God according to this reason. Hence, every possession requires God's permission (Azimi, 2012).

The most obvious reason for it is that if one kills himself, he will reside permanently in the hell as God has promised because this means possessing whereas taking the possession of body is not allowed. If his body was his property, he was authorized to do whatever he wants to himself and kills himself whenever he desired. It is not true, however. This argument is clearly distorted and suicide prohibition is not due to the possession of the corpse but is due to a determined particular possession of the corpse, prohibited using some independent reason. Therefore, the absolute prohibition of body possession cannot be concluded from the prohibition of suicide (Islami, 2005).

Just unlike Allameh Shamsed-din, the majority of contemporary Shi'ite jurisprudents have accepted the possession of human over his own corpse either explicitly or implicitly. Citing this ownership, some have authorized not only the human possession over his own corpse, but only selling his own body parts as the greatest form of ownership. Imam Khomeini, for example, has authorized the selling and amputation of a body part during one's lifetime with one assumption in Tahrirul Vasila. He also refers to the convention of donating one's body after death to the medical experiments and even selling one's blood during his lifetime in his discussion of the domination over one's self and properties, and recognizes it to be nothing other than the intellectual principle of one's domination over one's self. The deceased Imam, of course, does not say that one's ownership of the body is just like his ownership of the things. He does not deduce one's lack of right over one's own body and lack of authorization over one's own body; however, he thinks that one can possess his own body except in legally prohibited cases (Islami, 2005).

If we accept the basis proposed by Allameh Shamseddin, therefore, we must prohibit many of plastic surgeries and the removal of facial spots, kidney and blood donations. The prohibition of human cloning as a prior rule is not defensible.

Conclusion

The most ethical arguments of its opponents are the breach of human dignity, and the most important reason for its accordant is to help the infertile couples. There is a consensus on disavowing this phenomenon in Islam particularly in Sunnite. The major reasons for the objection of Sunny jurisprudents include the change in the creation, disavowing God, The breach of conjugal tradition, etc. There is no consensus, however, in Shiite in this regard. The Shia scholars view it from four viewpoints including absolute authorization (cloning is absolutely allowed according to the "Ibaha (permissibility)" principle), limited permission (it is unlawful at a large scale), secondary prohibition (cloning is permissible by first rule, but is unlawful because of its corruptions according to the secondary rule) and the prior prohibition (this technology is absolutely unlawful).

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