

A CRITICAL EVALUATION OF THE FATAWA ON HUMAN CLONING

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Abstract: This research work is intended to trace and evaluate the significant and noteworthy Fatāwā on Human Cloning issued by the distinguished institutions in the world. The Muslim jurists and scientists have been striving to understand the scientific and biological nature of human cloning in order to better evaluate it from the jurisprudential point of view. Fatāwā of the Muslim institutions on human cloning offer valuable wisdom and reasoning for the followers and guide them in this regards. To conduct this research work the prominent Fatāwā issued by the imminent institutions all over the world have been gathered first, then a critical appraisal is made in order to make them understandable for the followers and highlight the loopholes for the future researches and Fatāwā. It has been observed that despite a good research on the biomedical nature of human cloning most of the Fatāwā fail to differentiate between the reproductive and therapeutic forms of cloning, which are considered to be the most important kinds of human cloning. The reproductive cloning is declared prohibited by majority of the Sunnī theology based institutions whereas the Shī‘ah and Sunnī schools also come with a lot of difference of opinion from jurisprudential and logical perspectives of the issue.

Key Words: Human Cloning, Fatāwā, Therapeutic Cloning, Reproductive Cloning, Shī‘ah, Sunnī

Introduction

Muslim jurists have been evaluating the technique of cloning since the birth of Dolly the Sheep in 1996, when it emerged as the most controversial topic in biomedical sciences. Muslim jurists and the renowned institutions working under their patronage started conveying their knowledge and information on this to other Muslims on individual and collective levels. The Arabic word to

denote cloning is “Istinsākh.” It has been derived from classical Arabic word “Al-Naskh” meaning “copying” It is just like copying a text in the same words from another text by any mechanical or handy method. Now a days the word “Istinsākh” is used to indicate the biotechnological term cloning.¹

In the below mentioned verse Allāh S.W.T has used the word “Nastansekho” in the meaning of recording of deeds or copying them:

هَذَا كِتَابُنَا يَنْطِقُ عَلَيْكُمْ بِالْحَقِّ إِنَّا كُنَّا نَسْتَنْسِخُ مَا كُنْتُمْ تَعْمَلُونَ فِ

“This Our Record speaks about you with truth: For We were wont to put on Record all that ye did.”²

A clone is the organism which shares the morphological and physiological genetic properties of another organism. But it is to be kept in mind that nothing new is created by the process of cloning it only imitates an already existing thing. The term “Istinsākh” or cloning does not convey the same meaning as of similar terms like “Khalaq” (Creation) and “Ibdaa” (Invention) apparently they all look similar though. As far as the creation is concerned only Allāh S.W.T has the authority and capability to create things just like the creation of the whole universe and everything that exists into it including the human beings. Creation depicts the thing which is not been originated from anything else. “Ibdaa” (Invention) is meant to be the making or formatting of something in a manner that, before that point of time that thing was never created in such a shape. Cloning is not a process similar to invention too as it does not make anything new but it only reproduces already existing thing.³

Dr. Nooruddin Mukhtar Alkhadmi opines that births of Adam (A.S) Eve (A.S) and Jesus (A.S) are the miracles of Allāh S.W.T even though took place without following the natural process of reproduction, hence they cannot be compared with any act of science like cloning.⁴

Ghaly, in his article; “Human Cloning through the Eyes of Muslim Scholars”, highlights the same viewpoint that cloning is merely a scientific method formulated to reproduce in a different way from the normal course of human reproduction, in the following words:

“Does the cloning mean creating, so that can be defined as challenging the belief that God is the only Creator? Practically, cloning does not mean as creating like the God’s do, but it is only how the scientist make a good use of the knowledge and implemented the process using the help of the technology. Conversely, human cloning is contrary to the normal course of human reproduction as known since the dawn of humanity.”⁵

Background of Fatāwā and Initial Response of Muslims

Muslim religious scholars and scientists extended their valuable and practical efforts to explore the technique of cloning by organizing two large scale conferences in 1997.

The “Islamic Fiqh Council Conference” and the “Muslim World League’s Islamic Jurisprudence Council Conference” were organized by the Islamic

Organization of Medical Sciences (IOMS) and the International Islamic Fiqh Academy (IIFA) which are the distinguished religious and scientific institutions in Islamic world. A large number of renowned scientists and imminent religious scholars contributed in these important conferences.⁶

The summary of the discussions and contributions forwarded by the Muslim religious scholars and scientists is given below:

“Cloning does not bring into question any matter of Islamic belief. Allāh S.W.T is the Creator of the universe but He has established the system of cause-and-effect in this world. Just as a person sowing a plant seed is not the creator of the plant, so the cloning technician is not the creator of the resulting organ or animal; Islam would not oppose the use of cloning to produce healthy body parts or organs needed to heal sick individuals. Cloning specific human parts such as heart and kidneys, for the purpose of treatment is permitted, recommended; It is false to say that cloning is an attempt to intervene in the Divine Creation. Researchers have not invented new laws, but have rather discovered new ways of relating to the development of organisms, just as they discovered the process for in-Vitro fertilization and organ transplantation. People must emerge from the dark ages now, to which science is an anathema.”⁷

On these two forums human cloning was discussed from both the Sharī‘ah as well as scientific perspectives. The conclusions drawn also included that Islam supports and favors the advancement and progress in science particularly when the objective is benefit of humanity in any way possible. Among the justified usage of scientific progress is the use of medical technology for the diagnosis and cure of diseases like in the case of therapeutic cloning. But human reproductive cloning has no justification for its permissibility and acceptability. They also made it clear that human reproductive and therapeutic cloning are not same in nature and there is a huge divergence between them.

Both types of cloning differ in many perspectives including the objective served by them. The reproductive cloning intends to reproduce the embryo with selective traits whereas in the case of therapeutic cloning a cell is supposed to grow into a human organ or a piece of human tissue.⁸

They favoured the therapeutic cloning considering its great scope in formation of the cloned tissues or organs made by the cell of a patient who has lost any of his organs or it has been affected partially. On sharing the same DNA as cell of the donor, the body of the patient will show higher adaptability level to newly formed organ.⁹

Since then, the national and international organizations of the Muslim scholars in Asia, North America and Europe and the medical associations of the Muslim scientists and medical practitioners have been discussing these conferences and endorse their declaration completely or most part of it. An Islamic Law Academy was formed to formulate the ethical guidelines for the

Muslims living in OIC member states or all over the world. The findings of the declaration were fully endorsed by this committee in their true letter and spirit.¹⁰

The Subsequent and Recent Response: Fatāwā (Formal Legal Opinions) on Cloning

Shortly after that the international, national and local institutions started issuing the “Fatāwā” (legal verdicts) on the issue of human cloning on individual and collective capacities.

The Arabic word “Fatiya” meaning “to be youthful”, “to furnish with information” and “to expound”¹¹ is the singular to the Arabic word Fatwā. Its origin can be traced from below mentioned two verses of the Qur’ān:

1. “They ask thy instruction concerning the women say.”¹² (Yastaftūnak).
2. “They ask thee for a legal decision. Say: Allāh directs (thus) about those who leave no descendants or ascendants as heirs.” (Yuftikum).¹³

A brief definition of Fatwā can be: “a formal legal opinion given by an expert in Islamic Law.” Whereas an expert in Islamic Law is known as a “Muftī”, an inquirer or the one who seeks the legal opinion of a Muftī is known as a “Mustaftī” and “Iftā” is the act of issuing Fatwā. The members of the Muslim community are consulted by the Muftīs to seek their legal opinion about the problems and issues faced by the Muslims in their personal or familial matters, Ibadat, matters of profession, work or trade, issues related to bioethics, science or technology, questions of politics, human rights, medication and organ transplantation etc. Any person seeking and receiving a verdict from a Muftī on a particular issue can still consult any other Muftī on a given issue on being dissatisfied with the previous verdict, he reserves the right to seek for a second opinion. Likewise one may have different Fatāwā concerning one issue on the basis of different sects as the methodology and reasoning applied by the two sects may differ from each other.¹⁴

This research work further highlights the most prominent Fatāwā on the position of cloning from the perspective of Sharī‘ah. The logic, rationale as well as the evidences illustrated in the support or explanation of those Fatāwā are also elaborated.

i) Risālat al-Islam, KSA

This institution is playing a remarkable role to build up an efficient and comprehensive encyclopedia, available to everyone around the globe on contemporary issues faced by the Muslims. It is considered to be the foremost global media company to uplift and strengthen the position and role of the Muslims while living with the non-Muslims. Moreover, the issues and questions to seek the Sharī‘ah verdicts by the inquiring Muslims are always welcomed by this institution.¹⁵

The Fatwā of this celebrated institution on human cloning starts with the brief description of the process of cloning. A famous anthropologist Donald Bruce is quoted further where he elaborates the technique of human cloning by stating: “The cloning gives science a bad name and stands against the true norms of law, legality, ethics and medical ethics”. He relates the attempts for the human cloning with any act of extreme irresponsibility. He argues further that just like any other wish or desire, the desire to have our own offspring is no exception to follow the rules of nature and reasonable prudence where this wish is also subject to certain limitations and requisites to be fulfilled. Then observation of a Muslim scholar Dr. Omar Hamdi is elaborated declaring cloning a contentious type of reproduction that can rightly be considered a crime against humanity. He further adds that human reproductive cloning brings up drastic and huge manipulations in human reproduction, kinship ties, human personality and blood.¹⁶

Later, the risks associated with the process of cloning such as hereditary and birth defects, existence of abnormalities and other anticipated disabilities are discussed.¹⁷

This Fatwā further endorses the recommendations approved by the Islamic Fiqh Academy in a resolution passed by it in June 1997. That resolution contained the provisions indicating: Human reproductive cloning as prohibited in all its manners and shapes, a punishment must be imposed on the violation of the prohibition along with social and moral consequences, no third party can be allowed to enter in the process of reproduction except the spouses, cloning may be conducting and exercised in the case of plants and animals but that too by observing moral, ethical and religious limits and only in the greater benefit of human beings, the Muslim countries must take all possible measures to prohibit the direct and indirect funding by the local or foreign bodies to promote or carry out human cloning or any experimentation leading to it, the specialized committees must be created consisting of the experts of Sharī‘ah to make recommendations for the promotion of scientific and religious knowledge for the Muslims, Muslim countries must do every effort to make it possible that Fatāwā are available on novel scientific and biomedical issues.¹⁸

Later, a strict opinion forwarded by Dr. Mohamed Sayed Tantawi, Sheikh of Al-Azhar, has been mentioned prohibiting cloning of humans, animals and plants. He backs his view with the logic that cloning brings a change in the creation of Allāh S.W.T and being a vicegerent of Alah S.W.T on earth man must not rely over the scientists. Opinion of Dr. Nasr Farid Wasel is also given further where he rejects cloning considering it detrimental to family and social norms.¹⁹

This Fatwā ends with the opinion of Dr Zaghlool al-Nijar considering the reproduction by cloning divergent from the nature, genetic traits is general

principles of matting where the spouses share the chromosomes to form another human being with diversity of characteristics but in the case of cloning such diversity is missing.²⁰

ii) Dār al-Iftā’al-Misriyah

This institution was formed in 1895 and since its formation it is one of the pillars of the religious foundations in Egypt. It is one of the most esteemed institutions for Islamic Legal Research and Fatāwā in Egypt. The most significant rule of this institution is passing verdicts on neutral basis without considering any biasness.²¹

In the beginning of this Fatwā the nature of cloning in plants, animals and human beings is disused. Plant cloning is generally permissible considering this Fatwā but animal cloning does not enjoy the absolute permissibility unless avoidance from genetic tampering and undue harm to the animal is assured. This Fatwā gives inference to the prohibition of human reproductive cloning by declaring this process derogatory for the respect and dignity of the human beings. If such an act is done, it will give birth to vulnerable human beings, surrounded by the continuous disturbances in matters of family and social life of the followers. In the end this Fatwā denotes the therapeutic form of cloning as the “Partial” cloning. Such type of cloning would be considered permissible in the case of need of human organs to be transplanted. Such as the heart, liver and kidney etc, unless such an act is not subject to any damage or loss to anyone or a threat to his dignity and regard as a man.²²

iii) Dār al-Iftā’, Jordan

This is a distinguished institute of Jordan established in 1921. Supervising the Fatāwā on all matters all around the Kingdom, is one of the main objectives of this institution.²³

Fatwā of this institution on the issue of cloning starts with the reasoning that human cloning is contrary to the objectives of Sharī’ah particularly the objective of protection of Progeny. Further it is added that such an act like cloning is detrimental to the interests of the general public and the interest of the state, focusing on these two basis the jurists tend to express their verdict.²⁴ Further, different forms of animal, plant and human cloning are briefly described under this Fatwā. This Fatwā endorses every technique of plant and animal cloning deigned to enhance, modify and improve the efficiency and functioning of plants and animals to make them more beneficial and useful for the human beings. The accomplishment of benefit and deterring the harm has been set as criterion to check for the acceptability or rejection of human cloning under this Fatwā. But it also imposes a condition on this that only the religious scholars would be considered to be competent to determine the definitions of benefit and harm, other stakeholders such as the medical practitioners, the pharmaceutical companies or the individuals or groups in a

society are not eligible in this regard as their definitions of benefit and harm are only from the business points of view.²⁵

In the end, this Fatwā illustrates few reservations and downsides of human cloning for instance addition of third party in private reproductive procedure between the spouses, being expensive method it can only be opted by the rich ones causing discomfort and outrage among different classes of society, even animal cloning is subject to certain biological and moral limitations including avoidance of genetic mixing and undue harm to animals and the dispute over the legal status of the clone and his relation with his parents also turn the process of cloning not worthy of acceptance. This Fatwā warns that one day humanity will regret to adopt this technology just the way the nuclear technology is regretted at this time.²⁶

iv) The European Council for Fatwā and Research

The European Council for Fatwā and Research is headed by Dr. Yusuf al-Qaradawi a respected and well known Muslim scholar and jurist. The Federation of Islamic Organizations in Europe recommended its formation in 1997. This organization serves Muslims particularly the Muslims living in the non-Muslim countries to educate and guide them so they can be capable of leading their lives in accordance with the injunctions of Sharī'ah. This institution has adopted a unique methodology for the issuance of Fatāwā where it assigns the task of issuing Fatāwā to the most knowledgeable and skilled scholars, hence collective Fatāwā are issued concerning the lives of the Muslims particularly the ones living in Europe.²⁷

The Fatwā of this institution on cloning starts with endorsing the ruling of International Islamic Fiqh Academy prohibiting human reproductive cloning on the basis of its being derogatory to the rank of man as vicegerent of Allāh S.W.T on earth. Man has been authorized to utilize everything which can bring improvement and quality to his life either be it gaining scientific knowledge or its justifiable and permissible application etc.²⁸

Later, few main issues have been discussed under this Fatwā including the provisions regarding prohibition of human reproductive cloning and imposition of penalties who would infringe this prohibition, prohibition of every reproductive act involving a third person other than spouses, review of all reproductive and genetic engineering techniques in microorganisms, microbes and plants etc according to the Sharī'ah injunctions, an appeal to Islamic countries for enactment of strict legislation for the prohibition of human cloning carried out by the local or foreign institutions or individuals, assigning the supervisory role to the Islamic Fiqh Academy and Islamic organization for Medical sciences for implementing the recommendations forwarded under this Fatwā, formation of Sharī'ah committees to monitor ethical checks for the biological and medical research, encouraging the Muslim states to take all possible measures for provision of scientific

knowledge to all Muslims so they can themselves contribute further in the technology and science related areas without depending blindly on the researches of the non-Muslims and awakening the public and media about the sensitivity and importance of Shari‘ah injunctions on the matters of their concern so they can be followed with true spirit and enthusiasm.²⁹

This Fatwā ends with few findings including the permissibility of any type of cloning aimed to form the new or healthy human organs for the replacement of defective ones but such an act can also not be performed by using the embryos of 40 days of age or more. Moreover, without any justified, beneficial and legitimate purpose even animal cloning cannot be permitted. It must not be aimed to bring any genetic change or unnecessary harm to the animal species. This Fatwā gives a huge appreciation to the legislations by the non-Muslims imposing a ban over reproductive cloning and recommends the same.³⁰

v) Islamic Supreme Council of Canada

Canada based this organization was established by renowned religious scholar Sufi Imam Syed Soharwardy in 2000. This organization was established with aim to organize the Canadian Muslims and make the relation among themselves as well as the Muslim majority countries stronger along with promotion of Islamic knowledge with the help of books etc.³¹

The Fatwā of this organization begins with concise illustration of the mixed sentiments and reactions of the public on the issue of cloning which are a combination of interest, curiosity and anxiety. It is also described that people of other faiths are also not comfortable with the technology of cloning. Further it is elaborated that Muslims do not endorse human cloning because of different reasons associated with it including its being divergent to the natural process of creation, or owing to its being immoral or unethical practice. On the other hand, human cloning is also favoured by one group of people claiming it to be beneficial for the provision of cure of birth defects during the pregnancy time. Similarly this technology is also favoured owing to its potential and ability to provide cure of many chronicle diseases. Further, this Fatwā adds the wisdom and methodology behind the creation of the whole universe and the human beings by giving some examples from the Qur‘ān in this regard, like:

1. “See they not how Allāh originates creation, then repeats it: truly that is easy for Allāh.”³²
2. “Say: Travel through the earth and see how Allāh did originate creation; so will Allāh produce a later creation: for Allāh has power over all things.”³³

This Fatwā further emphasizes that the experts of technology and science can only have the capability and skill to discover, develop or expand things from the previously created elements by Allāh S.W.T. The technologists or the scientists may produce, create or devise things at their own, is an erroneous

view, which is rejected by such a belief. Allāh S.W.T by His own will lets human to be acquainted with the secrets of His creation and allows them to discover His creations and understand their secrets.³⁴

No physical element or material is needed by Allāh S.W.T to originate the things. Whenever He plans to create anything He orders it, “TO BE” and it comes into existence. Allāh S.W.T’s order includes every characteristic of the created thing including its shape, types and ingredients etc. Allāh S.W.T does not need to practice in order to learn and get experience for the perfection like the scientists. Scientists learn from their past experiences and they discover, manipulate and explore further the material as created by Allāh S.W.T. The scientists do not have the ability to “originate” the creation by themselves at any point of time. They use the original material created by Allāh S.W.T containing the natural constituents, for instance; the humans, space, plants, earth, animals, water and birds etc. This is the reason that the scientists would never be capable of making a wing of a mosquito by themselves even if the intelligence and mental power of all the scientists of all times is collected and combined together by some means.³⁵

Following verses have been quoted in this context under this verdict:

1. “Or, Who originates creation, then repeats it, and who gives you sustenance from heaven and earth? (Can there be another) god besides Allāh. Say, Bring forth your argument, if ye are telling the truth!”³⁶
2. “It is Allāh Who begins (the process of) creation; then repeats it; then shall ye be brought back to Him.”³⁷

The growth and development in human knowledge and scientific technologies would keep on promoting scientific knowledge and techniques to repeat Allāh S.W.T’s creation, which is totally different from the experience and practices of the scientists. Allāh S.W.T has created the whole universe which is even a greater creation as the following verses portray:

1. “And We have made, above you, seven tracts; and We are never unmindful of (our) Creation.”³⁸
2. “Assuredly the creation of the heavens and the earth is a greater (matter) than the creation of men: Yet most men understand not.”³⁹
3. “Praise be to Allāh, Who created (out of nothing) the heavens and the earth, Who made the angels, messengers with wings,- two, or three, or four (pairs): He adds to Creation as He pleases: for Allāh has power over all things.”⁴⁰
4. “What! Are ye the more difficult to create or the heaven (above)? ((Allāh)) hath constructed it.”⁴¹

5. “Do not the Unbelievers see that the heavens and the earth were joined together (as one unit of creation), before we clove them asunder? We made from water every living thing. Will they not then believe?”⁴²
6. “And Allāh has created every animal from water: of them there are some that creep on their bellies; some that walk on two legs; and some that walk on four. Allāh creates what He wills for verily Allāh has power over all things.”⁴³
7. “He Who has made everything which He has created most good: He began the creation of man with (nothing more than) clay.”⁴⁴

Creation of man by Allāh S.W.T consists of different stages and attributes beginning from the conception of the child in his mother’s womb to attainment of the blessings of five senses and perfectly functioning body parts and organs. This Fatwā further adds that Allāh S.W.T knows everything going on in the mind and heart of his creation i-e man as the Qur’ān says:

“Allāh is He, than Whom there is no other god;- Who knows (all things) both secret and open; He, Most Gracious, Most Merciful.”⁴⁵

Hence, the process of manipulation and replication by the man does not mean to be his creation. Such replication and manipulation can only be allowed to be performed by man when it is proved that it will be of benefit and welfare for the Allāh S.W.T’s creatures.⁴⁶

vi) Islamic Research Foundation International, Inc

This Foundation issues Fatāwā on the matters related to the family, health, social and economic issues, Hijab, scientific techniques and bioethical matters etc.⁴⁷

Fatwā of this esteemed institution on human cloning starts with the theological definitions of the related concepts like the definition of person, tissue, genes and the relationship of body with the spirit etc. Human reproductive cloning is totally discarded by this Fatwā by giving the logic of its being against the principle of genetic variability which is a distinguished feature of human creation and race as it offers a similar or identical reproduction.⁴⁸

This Fatwā further criticizes human cloning on dealing the participating actors including the reproductive organs, egg, sperm and ovum etc like the “commodities” in merchandise and business. In the end, explanation of the concept of “ownership” or “right” over one’s own body according to the injunction of Sharī‘ah is illustrated. It is made clear that our bodies are bestowed by Allāh S.W.T and man is supposed to consider and take his body as a “Trust” which is subject to specific limitations with respect to concepts of its ownership and use. Human body cannot be taken as a laboratory of the

scientists as it is Allāh S.W.T's property. Cloning is a fruitless and unproductive act thus human body cannot be used as an subject or object for such an act. This verdict ends with declaring the act of cloning as a rebellious act contrary to the will of Allāh S.W.T.⁴⁹

vii) Dār al-Salām, UK

This institution is considered to be the most distinguished and the oldest publishing company of the United Kingdom, having a lot of published books in accordance with the teachings of Islam on its credit.⁵⁰

The Fatwā of this institution on human cloning starts by illustrating the extent of honor and respect granted to man by Allāh S.W.T and elevating it more with the status of vicegerent of Allāh S.W.T. According to the teachings of Sharī'ah everything which promotes and safeguards the objectives of Sharī'ah "Maqāsid Al- Sharī'ah" and collaborates with the "Fitrah" or the natural or original state of anything without polluting the relationship of the individuals among themselves or with Allāh S.W.T, is considered permissible. a Ḥadīth Qūdsī is quoted further:

"I have created all My slaves as Hāneefs (pure monotheists), but the Shayāteen (devils) come to them and try to divert them from their religion and they commanded them to alter My creation."⁵¹

This Fatwā continues to state the significance of attainment of advantageous and productive scientific knowledge, which is the only limitation imposed while accomplishing scientific knowledge and research. Seeking and gaining the maximum knowledge is encouraged by Islam as attainment of knowledge is one of the possible ways to know, comprehend and appreciate the mechanism and organization of the whole universe. The feasibility of something to happen does not validate its unnecessary use and practice as wastage of time, money or energy is prohibited for the followers. Human cloning holds the same position hence cannot be permitted as it is not purposeful and beneficial from the economic, moral or social perspectives for the individuals or the society they live in. Moreover man must not become the object in scientific research, methodology and experimentation himself as it will be detrimental to his unique identity and honour bestowed by Allāh S.W.T. Further, it is even more severely rejected if it tends to bring any change in the social structure of a society by eliminating the values of kinship, lineage or family system as ordained by the Sharī'ah.⁵²

This Fatwā ends by forwarding the conclusion that cloning or the similar procedures are not the examples of act of creation as they only use the original material made and created by Allāh SW.T nothing new can be created by them this way.⁵³

viii) Madrasah Dār-al-'Ulūm, Sabīl-al-Islam Haiderabad Dakkan, India

The Madrasahs have been playing a significant role to spread and promote the teachings of Sharī‘ah in the subcontinent. They have rendered enormous services. Dār-al-‘Ulūm Sabīl-al-Islam was formed in 1973 in Hyderabad India.⁵⁴

In the beginning of the Fatwā on cloning this celebrated institution gives a concise illustration of the historical evolution, nature and meaning of the cloning. By denoting the act of cloning as “copying” it is further elaborated that Dolly the sheep was a success after 276 failed attempts. After exploring the Islamic concept of reproduction it is further stated that cloning is not an intervention in Allāh’s will as nothing can happen without Allāh S.W.T’s will. Allāh S.W.T has the supreme power over creation in any way He likes, He created Jesus A.S without father. Likewise, the reproduction from one cell in the technique of cloning cannot be declared as an intervention in the will and creation of Allāh S.W.T.⁵⁵

This Fatwā further illustrates some drawbacks associated with the process of cloning, such as: moral and ethical, biological and social problems associated with the act of cloning, the familial problems including the disruption in lineage and family system and anticipation of biological defects and disease in clones as they will be more prone to the environmental and biological issues etc.⁵⁶

A distinguished feature of this Fatwā is that it favours any technique such as the gene cloning which promotes the replacement of healthy gene for the effected one or to avoid or stop biological transfer of certain diseases which would not be possible otherwise in normal circumstances. The following Ḥadīth of the Prophet Muhammad P.B.U.H has been mentioned to promote the understanding of the wisdom behind endorsement to seek cure and treatment:

“There is no disease that Allāh has sent down except that He also has sent down its treatment.”⁵⁷

In the end it has been mentioned under this Fatwā that human cloning can be allowed to be practiced if any such use of it is anticipated and aimed for, no other way it can be permitted when its use is combined with a loss, chaos or damage to the society.⁵⁸

ix) Idāratūl Qur’ān wa-‘Ulūm Islamia, Karachi, Pakistan

The Fatwā on cloning by this institution can truly be said an analytical piece of research describing the techniques and nature of the therapeutic cloning. Most of this analysis is done by a U.S based Muslim Doctor Shahid Athar who states that human cloning cannot be allowed to make/bring a change in the genetic characteristics of the animals even let alone the human beings. The only way to permit human cloning in animals is by adding in the milk of the animals the vaccines, harmonies, proteins or any other medicine to fight

against any particular disease in humans or to fulfill their food or nutrient deficiency. For example:⁵⁹

Later the principle of “La Darar” is illustrated to test the permissibility of the application of cloning technique or its non-permissibility. The criteria for this test is fulfilling the mandatory requisites under this principle and the aim and objective behind such an act must be eradication of any disease and not for the selection of the hair, height, eye color, complexion or any other attribute of one’s own choice. The author of this verdict has put a great emphasis over the diagnosis and cure of hereditary diseases and if their treatment is possible by applying cloning technique either before or after the birth of a conceived child, such a use of cloning would definitely be a blessing for human beings.⁶⁰

This Fatwās addresses the issue of child reproduction by using IVF techniques too. It has been recommended that the experts are allowed to reject the egg affected with the hereditary diseases and treat it if it has got a possible cure and it is permitted to not put that egg in the womb of the mother in case it is not curable. But it must be kept in mind that adding a new characteristic or attribute to that egg willingly is not permissible, as it would be contrary to the principles and pattern of nature. Likewise the diagnosis of the gender of the Janīn is also permitted in the situation when it is mandatory to know for the treatment of any specific disease more relevant to one gender than the other.⁶¹

In the end, this Fatwā has offered few endorsements and recommendations regarding the scientific and biological research on cloning including the provisions regarding the permissibility to conduct scientific research on the eggs or sperms for the discovery and cure of the hereditary and other possible issues and diseases before and after child birth or to remove the obstacles in the way of safe and healthy pregnancy. For the purpose of supervision the ethical committees consisting most of the Muslim experts as members must be formed.⁶²

x) Kitāb-al-Fatāwā by Zamzam Publishers, Pakistan

This is a short Fatwā in the form of an answer to the question on human cloning. Even though brief, it is expressed in an impressive tone by Allama Saif Ullah Rehmani. He relates the examples of birth of Adam (A.S) and Jesus (A.S) with the process of cloning in the context that the births of these respected prophets are also unusual in nature if cloning is the act of reproduction between the spouses without the sexual act, yet it cannot be said to be an act beyond the powers of Almighty Allāh S.W.T or beyond His power and might. This Fatwā further states that cloning is not an intervention in the authority and supremacy of Allāh S.W.T even, neither is it anything impossible. One of the sound grounds for the rejection of cloning technique is that it is unnecessary, there is no need to opt for it when man and woman are present to contribute in the system of reproduction combined with social and

familial attributes including the rights and responsibilities of the children and parents and mutual love between them.⁶³

xi) Fatāwā Haqqāniyyah, Dār-al-Ūloom Haqqāniyyah, Aukora Khatak, Pakistan

This is a joint Fatwā forwarded by a group of renowned scholars belonging to this prestigious institution. In the beginning the nature of cloning has been illustrated where a cell is used by the scientists to reproduce new cells, and it is notable that, that already existing cell is a creation of Allāh S.W.T which is not possible to be made or invented by the scientists.⁶⁴

This Fatwā emphasizes on the fact that such scientific techniques as cloning approve and give backing to the concept of rebirth as stated by Islam and do not negate it. Allāh S.W.T has the absolute power over giving a second life to human beings as in the process of cloning the scientists use the cells created by Allāh S.W.T for reproduction. Yet human reproductive cloning is rejected under this Fatwā on different grounds including: the possibility of its adverse affect on the weak minds that people might give undue credit to the scientist presuming that they can reproduce themselves without following the natural mode of reproduction, any interruption in the creation of Allāh S.W.T is an act of Satan which is condemned, likewise cloning would be rejected on its tendency to interrupt, such reproductive procedure is opposite and contrary to the usual way of reproduction inviting unnecessary complications and issues, the clone would be deprived of parental love causing social and psychological problems for him, involvement of any third party would bring confrontation between the parents and the clone between the parents themselves as it will give birth to mistrust and the lineage of the clone would also difficult to be proved, In case an identical copy is made by this technique it will give a room to the criminals to escape punishment and run away by using their clone, gender selection is also another drawback of cloning whereas in the natural reproduction it is only Allāh S.W.T who decides to bestow some with daughters, some with son or some with both, Nikāḥ is one of the most respected social contracts and Sharī‘ah encourages the followers to go for it but having an offspring is neither necessary nor compulsory but cloning might play an encouraging role to instigate people to have their children even without contracting a valid Nikāḥ likewise this procedure would involve many prohibited acts such as touching and seeing of the female body and private parts, such an exposure would be Harām. This Fatwā ends with the verdicts of different knowledgeable non-Muslim and Muslim experts on medicine and jurisprudence, ruling out the cloning totally by favouring a complete ban on it.⁶⁵

xii) Jami-al-Fatāwā, Idāra Ta’lif Ashrafia, Fawara Chowk, Multan

This short Fatwā disallows human cloning in clear and open words by mentioning the logic that it would tend to put an end to the most essential

institution in a society which is “family,” consequently eliminating the lineage or heredity cycle.

It indicates some serious consequences in case cloning is allowed such as acceleration of immorality and elimination of variety and uniqueness with respect to apparent and hidden characterizes. Likewise the possible tendency of the criminals to misuse it and destabilize the society is the last logic forwarded by this prestigious institution on the prohibition of human cloning.⁶⁶

xiii) Mahnma Hāq, April 2006, Pakistan

Monthly Journal Mahnma Hāq issued this Fatwā on cloning by mentioning the fact that owing to certain obvious religious, moral and social issues and reservations concerning cloning it can surly be declared as redundant and needless act even though scientists cannot claim to create anything new by this process.⁶⁷

Later the great scientist Ibn Khaldoon is quoted where he had given this observation that under controlled temperature as of a mother’s womb, if egg and sperm are jointly placed together a baby may be born. The invention of the “Test tube baby” is the result of this theory. Further it is argued that despite the fact that cloning is difficult to be practiced on human and there is less likelihood of its being successful on humans, even if it is supposed that it might be used as a technique in reproductive science it will accompany a lot of social, scientific, moral, ethical and religious issues, thus cannot be held permissible. Few other reservations regarding the act of cloning include: the huge possibility of its being a defective, flawed and unreliable process, its tendency to give rise to serious concerns about the lineage, blood relations and inheritance etc, the psychological and mental health related problems for the clone and his lower respectability in society, the ambiguity regarding the relationship of a clone with whom he has been cloned from, the misuse of this technique by the notorious people and the criminals, the perplexity regarding the legal status of the clone and the method of reproduction through cloning is divergent to the human status and his respect and dignity. In the end this Fatwā recommends for a permanent ban over human cloning.⁶⁸

xiv) Shī‘ah Verdict on Human Cloning

According to an imminent Shī‘ah Muslim religious scholar Ayatollah As-Sayyed Muḥammad Saeed Al-Hakim of Iraq, no clear and absolute ruling is available indicating the prohibition of cloning, if Sharī‘ah is evaluated. He supports his opinion by adding the examples of the birth of the Prophet Adam A.S and Prophet Jesus A.S which was not a result of usual courses of reproduction, making the permissibility of non-practicing method of reproduction. Hence cloning may also be considered permitted in his opinion.⁶⁹

He rejects the idea of anticipatory misuse of the cloning by the criminals stating that it is not a valid excuse as many other medical and cosmetic techniques may also be misused by the criminals but they are not forbidden, for instance the cosmetic surgery. He adds further that no technology is bad itself unless it is used in bad way. The use of any technology depends upon the society so cloning can also not be rejected on this claim.⁷⁰

Likewise he does not consider the waste of human embryos in the process of cloning a valid excuse to prohibit it either, but it might turn prohibited if combined with any such act which is already forbidden such as: looking at or touching the prohibited private parts of the females etc. He opines further that a clone does not possess a father as father is the one who contributes with his sperm in the process of reproduction, hence cloning gives rise to loss of father-offspring relationship and all rights and responsibilities consequently.⁷¹

Later he rejects every argument extraditing the clone from the brotherhood circle of the Muslims stating that it is universal social and cultural concept embracing all Muslims in a society without any difference of their manner of birth. On the issue that what religion will be presumed to be followed by the clone? He opines that till the attainment of majority it will be presumed that he is following the religion of his custodian but once majority is attained he can choose whatever religion he wants. But he cannot be attributed towards the tribal or lineage identity hold by the cell-donor such as Hashemite etc neither he can make a claim for it as such a link is only established through the parental tie.⁷²

He declares the marriage of a man to his own creation lawful by applying the principle of logic and opines that there is no restriction of marriage between the clone and the cell-donor but it is better to refrain from forming any matrimonial tie in such a situation. He allows cloning of human body parts even if those are private organs. He gives an inference to the non-prohibition of seeing the cloned body parts while they are in the laboratory.⁷³

But in the end, an advice to behave carefully and prudently while applying scientific advancements in daily lives is forwarded by him considering the attached harms and demerits of cloning. No act of the followers should be contrary to the injunctions of Sharī'ah.⁷⁴

Another eminent Iraqi scholar **Ayatullah Sheikh Muḥammad Hussain Al-Ansari**, a renowned jurist of the Twelver Shī'ah Islam gives a verdict on the human cloning.⁷⁵

He states that:

“Most Shiite scholars consider non-human cloning to be permissible; they base their ruling on the principle of lawfulness. However, there is no common view amongst Shī'ah scholars with regard to human cloning. Some of them totally prohibit it, some accept and promote it, and between the two

extremes lays a big variety of opinions and rulings. Their differences are based on their interpretations of the principles of faith and their understanding of the science behind those scientific processes.”⁷⁶

Further he suggests that: “If we accept that everything is Allāh S.W.T’s creation then we have blocked ourselves and if we say otherwise then there is room for discussion. I do not believe that the first notion is intended, as most of what the human is doing in terms of crimes, disasters, and deception is not Allāh S.W.T’s creation but rather human made; even humans can affect Allāh S.W.T’s creation.”⁷⁷

He supports his viewpoint by quoting the following verse from the Qur’ān highlighting that the bad mischievous intentions of the scientists are the acts of Satan actually:

“I will mislead them, and I will create in them false desires; I will order them to slit the ears of cattle, and to deface the (fair) nature created by Allāh. Whoever, forsaking Allāh, takes Satan for a friend, hath of a surety suffered a loss that is manifest.”⁷⁸

He supports his opinion by quoting the following verses which are related with the connotation that any act having tendency to alter Allāh S.W.T’s creation is act of Satan and of no significance and credibility.⁷⁹

1. “So set thou thy face steadily and truly to the Faith: (establish) Allāh’s handiwork according to the pattern on which He has made mankind: no change (let there be) in the work (wrought) by Allāh. That is the standard Religion: but most among mankind understand not.”⁸⁰
2. “The Pagans, leaving Him, call but upon female deities: They call but upon Satan the persistent rebel! Allāh did curse him, but he said: I will take of Thy servants a portion marked off; I will mislead them, and I will create in them false desires; I will order them to slit the ears of cattle, and to deface the fair nature created by Allāh. Whoever, forsaking Allāh, takes Satan for a friend, hath of a surety suffered a loss that is manifest. Satan makes them promises, and creates in them false desires; but Satan’s promises are nothing but deception. They, his dupes, will have their dwelling in Hell, and from it they will find no way of escape.”⁸¹

The evaluation of the Fatāwā on Human Cloning comes up with a few recommendations and findings such as; The Muslim religious and scientific experts have been trying their best to comprehend this technique so they can further guide the Muslim world in this regard. Their efforts are commendable. But, most of the time they are not clear on the difference between the

important types of this technique which is necessary to be understood before declaring it prohibited or permissible. Likewise the mechanisms for ethical reviews and fund gathering for the purpose of promotion of scientific and theological research have never been addressed in the appropriate and mature way. Most of the Muslim courtiers do not spend enough in the science, technology, medicine and even education sectors. There is also a need to clarify the therapeutic or more constructive sides of the issue considering their future needs in medical and health sciences.

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