



Rational Consequential Ethics vs. Dogma in the Cloning Debate

By

Blake L. White

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The most tragic impact of the politically charged and religiously emotionalized issues of abortion and cloning is their chilling effect on legitimate biomedical research for therapeutic purposes. Though most responsible medical researchers and lawmakers reject human cloning on serious safety and eugenics bases, the cloning debate is unfortunately wrapped up in the mistaken belief that the clone of an individual will grow up to be an exact copy of that individual. The public believes genetic identity results in exact similarity (Munson 649). To compound the issue, biomedical research into high-potential therapies require cloning stem cells from aborted embryos, thus the thirty-year battle over abortion further complicates the issue.

We stand today in a state of research stasis. Due to the Kass Commission's make-up of a large number of people who held the same pro-life religious and moral views, and its 2001 recommendation to the President of a four-year moratorium on therapeutic cloning as part of its ban on reproductive cloning, biomedical research is unable to pursue legitimate benefits of embryonic stem cell research for therapeutic purposes in the United States, if public funds are involved (Kass, **Report of the President's Council**).

Therapeutic cloning is more accurately called *somatic cell nuclear transfer*. It involves removing the nucleus from an egg and replacing it with DNA from a cell from the body of a donor. This creates a cloned embryo that is genetically similar to the patient. These stem cells have the ability to transform into mature cells, such as heart, muscle, nerve, spinal cord, or kidney cells. Because the genetics are identical to the donor, it is hoped that organs can be grown and transplanted with no threat of rejection. However, with therapeutic cloning, the stem cells would be harvested by the sixth day, thus destroying the cloned embryo (**Stanford Report**, October 2, 2002). The cloned embryo is never implanted in the woman's uterus, and therefore has no chance of developing into a cogent human being.

Although over a million abortions are performed every year, Americans remain divided on its moral acceptability. Even the conservative Justice Rehnquist's opinion in the 1973 *Roe v. Wade* decision, acknowledge that the state cannot place limits on a woman's decision about abortion during the first trimester (twelve weeks), making abortion on demand during this period legal and certainly giving no notion of personhood to a six day old embryo. In fact, it is not until the eighth week that even the most rudimentary brain activity is detectable. As such, President Clinton signed an executive order permitting the use of tissue from aborted fetuses to be used for research purposes (Munson 61-77). However, the Bush Administration has reversed the progress, or at least stalled the research, in cloning

for therapeutic purposes by following the recommendations of its White House Bioethics Council led by the University of Chicago Ethics Professor Leon Kass (Kass, **Report of the President's Council**).

At a first glance, Kass makes an elegant emotional argument against scientific research into cloning for both reproductive as well as therapeutic purposes in his 1997 article *The Wisdom of Repugnance* and its follow-up 2001 article, *Preventing a Brave New World: Why We Should Ban Cloning Now*. However, the arguments' weaknesses center on the emotional appeal and his "slippery slope" doomsday scenarios. Kass does not provide any compelling logical argument or any room for limited research under strict oversight. He weighs the potential positive benefits of therapeutic cloning for millions of lives already here as being equal to, and certainly no more compelling than, the potential harm done to a potential human being in a petri dish. As one who has been the beneficiary of a kidney transplant,¹ I find Kass and his commission repugnant for putting *deontological*² dogma ahead of *consequential*³ reality.

Kass argues against cloning for reproductive purposes because: (1) the aggregate effect of asexual reproduction would change basic human relationships, perhaps in an irreversible way, (2) it could lead to the eugenics of a "perfect baby," (3) it might place despotic demands on the child, (4) it harms a potential human life, and (5) it is generally accepted as repugnant, regardless of our ability to cogently explain why (Kass, *Wisdom* 1-7).

In order to take some of the emotionalism out of the debate, let us examine the logic of therapeutic cloning according to utilitarian or consequentialist theories. *Consequentialism* looks at the morality of actions based on a balance of good and bad consequences. It tries to maximize the balance of positive value over disvalue (or, as Beauchamp and Childress note, the least possible disvalue, if only undesirable results can be achieved). An *act utilitarian* looks at practices that, over time, maximize the overall welfare of society. It allows society to override some individual property and autonomy rights, if doing so maximizes everyone's interests (Beauchamp 340-348).

(1) There is a "negative right" not to be prevented from reproducing, unless there are trumping factors. However, this negative right does not automatically imply an unbounded positive right to be provided medical assistance to reproduce by all possible means and at any unbounded social cost.

(2) There is no compelling reason to apply scarce, rationed medical research funds to the vanity of reproductive cloning. Other means of child bearing are available for most people including: invitro fertilization (IVF), related egg donation, surrogate mothers, and adoption. The number of people not able to use the above means is relatively small, in comparison to the proposed opportunity cost of medical research for reproductive cloning. The needs of existing life, with promising social potential, trump the potential needs of potential life.

¹ In 1974, as a college freshman at N.C. State, I was told by a doctor at Duke University Medical Center that, "At the current rate, you may not live through the semester." These were shocking words for an 18-year-old engineering student with a bright future. Why bother with college if it was likely that I would die within four months? The doctor reassured me that the limited number of dialysis machines were provided based on a Ethics Panel's considerations that included: age, likelihood of recovery, and an assessment of "potential contribution to society." I was assured that, as a bright young aspiring engineer from a major university, I shouldn't worry about not being selected. While this made me uneasy – that others less fortunate would not be selected – I was nonetheless relieved that I had a chance for life and that there was such a thing as an Ethics Committee, which made the tough decisions. With careful diet and medication, I staved off the dialysis until seven years later. Ultimately, in 1982, I received a kidney transplant from my father. I was humbled and blessed. It changed my life, and, just as the Duke physician said, I have contributed to society with engineering developments, community activism, paying taxes, being a role model, and raising children who are now upper division college students. Therefore, when Kass, and others such as Stanford's William Hurlburt place the potential of my life, and others like me, on the same level as a laboratory blastocyst, I am deeply offended and ask for a more logical analysis of the ethics of therapeutic cloning.

² See McGinn. *Ethics, Science, and Technology*, pp 3-9.

³ See McGinn. *Ethics, Science, and Technology*, pp 3-9.

(3) Most members of the Kass Commission are likely to agree with John Noonan's assertion that conception, as the instant of parental genetic code transfer, is the decisive moment of humanization (Noonan 51-59). As such, a zygote would be considered a person worthy of full moral rights and protections. They would also believe that, as an incompetent non-autonomous person, the parents and the state have an obligation to protect the rights of the unborn embryo (Beauchamp 98-101). On the contrary, a rational scientific observer is likely to agree with Mary Anne Warren's criticism of Noonan's confusion between genetically human cell clusters and a morally human person. Warren argues that a fetus, at any stage of development, but certainly at the early stage required for embryonic stem cell research, exhibits none of the five traits of personhood and should not be accorded the full rights of personhood.⁴ Warren's five traits may be an extreme test of personhood, but in either case, since the embryo at such an early stage of development cannot live outside the womb, it, at best, is no more than a "potential person" whose rights are outweighed by the rights and needs of an "actual person" (Munson 96-104).

(4) There is a compelling reason to pursue therapeutic cloning (somatic nuclear transfer) to better understand the genetic makeup of disease and to research whether reject-free transplantable organs can be grown in the laboratory. This positively impacts millions of people, and is a better use of scarce medical research funds. It does the most good while minimizing the most harm. There may be indirect positive benefits to reproductive cloning as well. If indirect benefits to reproductive cloning occur as a result of therapeutic cloning research, there is no compelling reason to prevent use of this research to further advance reproductive cloning.

In summary, the current arguments against therapeutic cloning are weak and are based on emotional deontological reasoning. I remain very wary of deontological, or deity ordained, approaches to ethics. In fact, Christian theology and secular science have been antagonistically and emotionally opposed throughout much of Western history.⁵ The conflict between knowledge-based science and belief-based religion confront our intellect, challenge our deeply ingrained value system, and tear our social fabric. Although each has its own dogma of *fundamentalism* or *scientism*, respectively, this conflict between diametrically opposed views of the world has been, and continues to be, a major obstacle to holistic human progress. For example, during the 1721 breakout of smallpox in Boston,

⁴ Warren's five traits of personhood are: (1) consciousness, including the capacity to feel pain, (2) reasoning, (3) self-motivated activity, (4) capacity to communicate, and (5) self-awareness (Munson 101-102).

⁵ For hundreds of years, the medieval Church set up a series of obstacles to scientific inquiry including: attributing disease to demons; sanctioning and profiting from the supposed healing powers of the relics of the Christian martyrs; using the Apostle's Creed and its belief in the resurrection of the body to outlaw dissection in medical schools; promoting ideas that abasement adds to the glory of God, that cleanliness was a sign of pride, and that filthiness was a sign of humility.

Throughout European history, schools of thought contrary to Church teachings were seen as blasphemous, and appropriate punishment was doled out. Prodded by St. Bernard, conservative theologians from Paris, Orleans, and Lyon hounded the masters of Chartres and summoned them to appear before a tribunal to face charges of heresy for teaching a scientific view of the intrinsic creative powers of nature -- a view that threatened the 700-year-old doctrine of nature as the passive object of God's creation (Goldstein 69-70).

This was the same mentality that burned at the stake Giordano Bruno in 1600 for uttering and publishing the heresy that there were other worlds and other beings inhabiting them (Sagan, *Cosmic* 185). Staunch religious dogma was the reason for the Catholic hierarchy's imprisonment of the aged Galileo Galilei for proclaiming that the Earth moves (Drake 330-351). Johannes Kepler, after whom the laws of planetary motion are named, was excommunicated by the Lutheran Church for his uncompromising individualism on matters of doctrine and because of his writing of *The Somnium*, in which he imagined a journey to the moon. In addition, Kepler's mother was dragged away in a laundry chest in the middle of the night to be burned as a witch for giving birth to such a heretic and selling herbs (Sagan, *Cosmic* 50-71).

even though Zabdiel Boylston's inoculation technique was proven to produce a lower mortality rate than inflicted by the natural disease, it was widely opposed by the medical establishment as unsafe, and by the church as an interference with God's will (Tucker 17-18). In the case of modern "right-to-life" advocates (antiabortion activists) and the conservative opposition to therapeutic cloning, the critics seem to employ the worst-case scenarios that pander to fear and subjective "revulsions." In fact, many of the same social results can occur through natural childbirth and child rearing.

Most scientists and ethicists agree that there seems to be no overwhelming trumping factor in favor of reproductive cloning, since other alternatives are available to infertile parents and their right to reproduce is not unqualified and unbounded. However, Kass' argument of "do no harm" assumes that the embryo, even one destined to be destroyed as a leftover from IVF treatments, has the same rights as a fully developed human. Worse, as Nobel Laureate Paul Berg observes, Kass and his commission ignored ways to regulate research, such as registering the researchers, oversight committees, peer review, research databases, and jail terms for offenders (Shwartz, Paul Berg interview 23). As Berg notes, "Let's prohibit attempts to clone a person, but by god, let's not cut off the possibility for capturing the benefits of this technology for treating millions of people's diseases" (Shwartz, Paul Berg interview 3).

The ethical principles one might employ in a more logical, consequential analysis of the therapeutic cloning debate might include:

- Research done only in settings with strict oversight
- Research that is meant to maximize the life-enhancing values, rather than the vicarious unbounded rights of reproduction
- Use fetal tissue that is already planned for destruction and ensure that no financial gain is involved for the donors
- Parallel use of adult stem cells for embryonic research
- Informed consent of the donors
- "Do no harm" applies to sentient beings, not a group of cells that cannot live on their own
- Existing life trumps potential life

As even Sen. Orrin Hatch, a man noted for his conservative politics, observed, "Look, as far as I'm concerned, right-to-life means giving life an opportunity to tens of millions – not worrying about the fate of a small, undifferentiated clump of cells in a petri dish" (Shwartz, Paul Berg interview, 11).

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