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Muslim Voices on Cloning

THOMAS EICH

To anybody familiar with Islamic jurisprudence it will come as no surprise that a great variety of opinions about cloning can be found among contemporary ulama. Basically they all refuse the notion that cloning (*istinsakh*) is interference in God's prerogative to the creation of life (*khalq*), which is defined as creating something new from nothing. Since cloning only makes use of materials that already exist (the egg and the implanted DNA taken from another person) in order to make a copy of it, the whole procedure cannot be considered as *khalq*. Furthermore, Muslim scholars do not consider the embryo in its first stages of development a person. Most ulama state that ensoulment does not take place until the fortieth day after inception, while others extend this period to 120 days.¹ Therefore one argument brought forward particularly by the Catholic Church in the context of cloning is completely absent from Muslim discussions: that is, the high number of failed attempts that are necessary to successfully bring about the making of one single clone. This argument is based upon the notion that the embryo has to be granted the legal status of a human being, from the very moment of successful inception onwards – a conviction that does not exist in Islam. Yet, in spite of that, the Islamic Fiqh

The debates about the pros and cons of cloning in the media are usually dominated by views of the Christian churches, philosophers, and lobbyists. Yet the issues raised by cloning are, for several reasons, affecting mankind in general and therefore cannot be solved by representatives and opinion leaders predominantly from the so-called 'West' only.

Among these reasons is the fundamental question of whether our concepts of 'man', 'personhood', and consequently 'mankind' have to be reformulated in the light of recent scientific progress. It is obvious that a final, universally acceptable answer to this question cannot be arrived at if representatives of religions such as Islam, Buddhism, or Hinduism are not included in this debate.

Academy at Jeddah issued a statement already in 1990 placing a ban on the creation of embryos by cloning for the single purpose of embryonic stem cells. This offers an interesting parallel to discussions in Europe and the USA about this issue. On the other hand, it is interesting to note that the reproduction of organs by cloning, which is a highly controversial issue in the West, is treated as unproblematic in Muslim statements. This technique would make it possible to take cells from a person in order to manipulate and implant them into a 'host' animal so that cell tissues or even whole organs could be bred, carrying the DNA of the cell donor. Subsequently, these organs

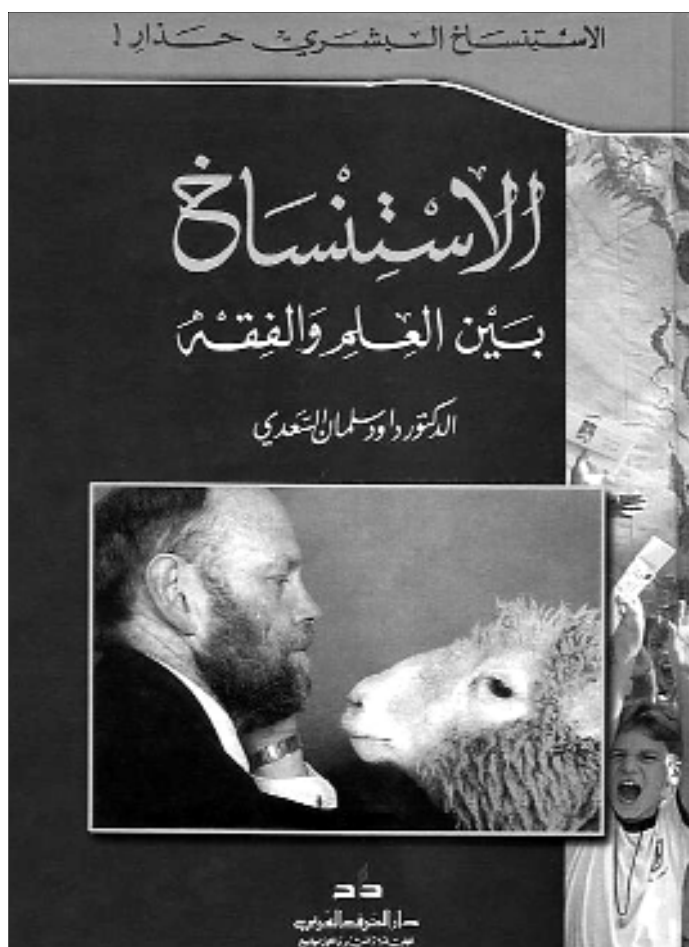
could easily be transplanted to the donor and substitute a dysfunctional organ. Muslim jurists argue for the permissibility of this technique since it would serve the human good. This argument – the so-called principle of *maslaha* – had already been called forth in the 1970s and 1980s to justify the transplantation of organs.²

But only few ulama go as far as to state that there would be no problem about cloning at all. For example, the Lebanese *marja'* Husain Fadl Allah argues that cloning is nothing but a discovery of new possibilities within the framework of God's creation.³ According to him, this discovery could only come about thanks to God's will. The fact that this new means of reproduction was hitherto unknown to mankind did not have any effects on its morality per se. Another example is test-tube babies, which were known to mankind only for a few decades but were easily integrated into the framework of *shari'a* law. (It should be noted of course that these statements were made during a radio interview.) The same argument, that any scientific discovery is only possible due to God's consent and therefore cannot be rejected as per se morally threatening, can also be found in a booklet of the Iraqi Shii scholar Muhammad Sa'id at-Tabataba'i al-Hakim.⁴ In addition he refers to the Qur'anic story that Jesus did not have a biological father, taking this as proof that there are ways of creating human beings that differ considerably from the one which is commonly known. Consequently the argument is rejected that cloning would be a deviation of the usual technique of reproduction and therefore would constitute an infringement on God-given laws. It goes without saying that there is a considerable diversity of opinion among Shiites as well. For example, the Shii scholar Muhammad Mahdi Shams ad-Din refuted cloning by referring to the Qur'an (4:118–19), where Satan, after being condemned by God, states: 'Most certainly I will take of Thy servants an appointed portion: And most certainly I will lead them astray and excite in them vain desires, and bid them so that they shall slit the ears of the cattle, and most certainly I will bid them so that they shall alter God's creation [*khalq* Allah]; and whoever takes the Shaitan for a guardian rather than Allah, he indeed shall suffer a manifest loss.'⁵

In this statement cloning is interpreted as altering God's creation. Therefore it is seen as part of the devil's scheme to lead mankind astray. This Qur'anic citation is commonly made use of in statements outwardly rejecting *istinsakh*.

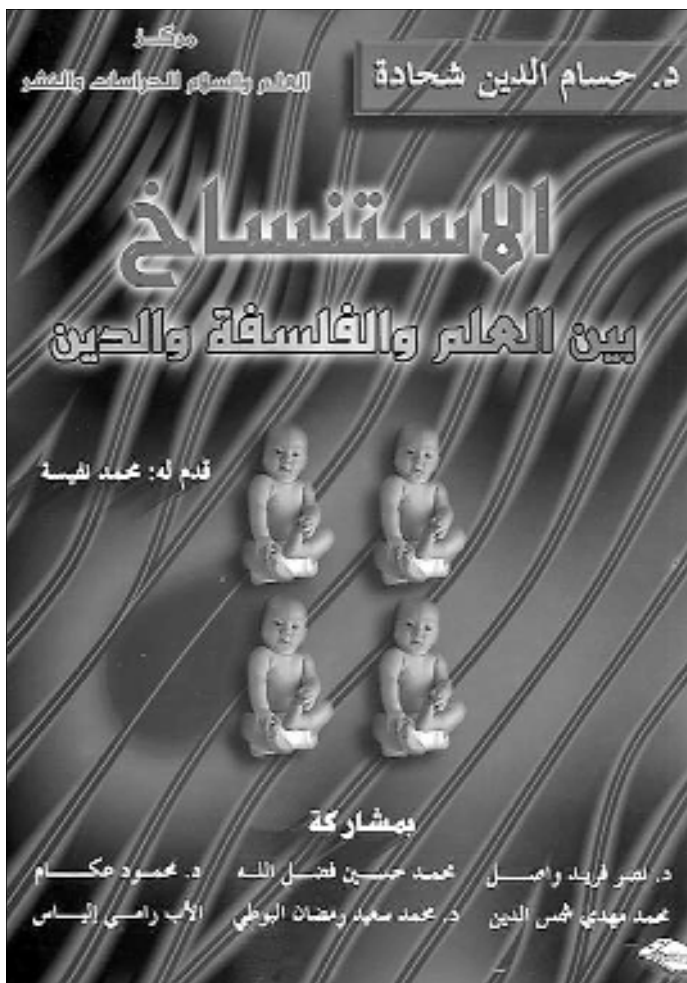
Repercussions for *shari'a*

The mentioned comparison of cloning to in vitro fertilization (IVF) made by Fadl Allah hints at an important restriction that is always added by those allowing *istinsakh*. Muslim scholars almost unanimously allow the technique of IVF if the wish of a married couple to have children can-



Salman as-Sa'di: *Al-Istinsakh baina l-'ilm wa l-fiqh*

DAR AL-HARF AL-'ARABI LI-T-TIBA'A WA-N-NASHR WA-T-TAWZI', BEIRUT 2002.



people is partly shared by the ulama. They base their argument on the Qur'anic statement (95:4): 'We created man in his best form' (*ladaq khalaqna al-insan fi ahsan taqwim*). Yet this does not lead to an outward rejection of genetic engineering as might be expected. Using the principle of *maslaha* once again, it is argued that genetic engineering does not contradict religion in cases where it is used for the healing of diseases. All other cases are interpreted as interference in God's creation.

The 'diversity argument' is also picked up by scientists. They point at the fact that reducing biodiversity would cause a lower ability to resist illnesses. But they seem to be less afraid that mankind might develop into an assembly of clones, which are based on only a couple of models: '[I]t appears unlikely that "cloning" in humans will become commonplace. It is more likely that humans will continue to reproduce using the traditional method, which appears to be much more pleasurable.'⁸

Going through the contemporary statements of Muslims and Muslim jurists on cloning, one cannot avoid the impression that most of them were caught by surprise. Time and again it can be read in publications from the 1990s that the whole issue of cloning would be restricted only to animals, since science would still be ages away from the cloning of humans. Therefore new developments in this debate might be expected against the background of almost daily news about human clones in the media. From the vocabulary being used it can also be gleaned from the sources that cloning was considered a mere 'Western' phenomenon. Therefore the *majlis al-fiqh al-islami* at Jeddah was very concerned in its guidelines on cloning issued in 1997, which held that, among other things, cloning should not be 'imported' into Muslim countries. Of course this view does not only overlook the existence of substantial Muslim communities in the West but also the fact that non-Western countries such as Korea or China also play an important role in research on and the development of cloning techniques.

In addition, the analogy of cloning and IVF mentioned above once again gives an indication of why it might become necessary for Muslim scholars to deal with the issue of cloning more systematically. As has been said, IVF is seen as unproblematic as long as no DNA material from a third person outside of the marriage is used. This rule allows bringing about pregnancy in the majority of relevant cases, because the problems with conception relate to aspects other than the sperm or the egg. But a number of cases remain, where either eggs or sperm are defective and consequently do not allow pregnancy. In these cases cloning could remedy the situation within the framework of a valid marriage. It is interesting to note that the permissive statement about *istinsakh* by Mahrus al-Mudarris mentioned above, was included in a recent publication about test-tube babies by an Iraqi medical doctor highly active in the field of IVF. Apart from the mere fact that IVF, genetic engineering, and abortion are treated together with cloning, the wording as well as the arrangement of Mudarris's statement shows that this issue can easily be integrated into the framework of discussions about birth control. These discussions in turn are far from marginal in the contemporary Arabic world.

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'Going through the contemporary statements of Muslims and Muslim jurists on cloning, one cannot avoid the impression that most of them were caught by surprise.'

Husam ad-Din Shahada:

Al-Istinsakh baina al-'ilm wal-falsafa wa d-din

MARKAZ AL-'ILM WA-S-SALAM LI-D-DIRASAT WA-N-NASHR, DAMASCUS 1998.

not be fulfilled in any other way. Yet they all refuse the use of material – be it semen or eggs – that are not taken from the two themselves. Such a case would be clear adultery. The same rule is therefore applied to cloning: it could only be allowed if carried out within the framework of a valid marriage, i.e. DNA taken from a man could only be implanted into a woman's egg if the two are married to each other.⁶

This restriction in turn hints at the major objection that is raised by Muslim scholars to cloning and eventually leads to its outward rejection by most of them. Since the newly born child would not carry a mix of the DNA of his mother and father, but would only be a copy of one of them, it would become impossible to determine its exact relation to its parents. For instance, what would be the status of a female baby whose DNA is identical to her 'mother's'? She could neither be termed 'daughter', nor 'sister', nor 'mother'. This confusion would have decisive repercussions in other fields of *shari'a* law. For example, the very elaborate guidelines about marriage or inheritance could not be applied anymore since they are essentially based on a clear definition of the relational status of a given person within the framework of the family. Therefore the strongest objection raised by Muslim jurists completely differs from those of Christian representatives, who focus primarily on the immorality of the act of cloning itself. For most of the Muslim authors consulted so far this seems to be a marginal aspect only. They usually judge the matter more in the light of its effects, coming mostly to the same conclusion, i.e. that cloning should be forbidden. The weakness of judging on the effects rather than the nature of a certain act has already been pointed at in a statement by the Iraqi scholar Mahrus al-Mudarris, who is one of the few Sunni jurists arguing for the permissibility of cloning.⁷

There is, however, one objection that is raised by Muslims, Christians, and even some scientists alike: the contradiction of cloning to the principle of the diversity of God's creation. This argument is put forward, for example, by the famous Egyptian scholar Yusuf al-Qaradawi as well as by representatives of the Church, who argue that accepting this diversity also implies accepting things which are considered ugly or ill. The fear of Christian representatives that cloning and genetic engineering taken together might eventually lead to the creation of a new class of humans who are designed according to the desires, tastes, or even fashions of

Notes

1. Vardit Rispler-Chaim, *Islamic Medical Ethics in the Twentieth Century* (Leiden et al., 1993), pp. 9–11.
2. About the whole complex see Birgit Krawietz, *Die Hurma. Schariatrechtlicher Schutz vor Eingriffen in die körperliche Unversehrtheit nach arabischen Fatwas des 20. Jahrhunderts* (Berlin, 1991), pp. 169–202.
3. Husam ad-Din Shahada (ed.), *al-Istinsakh baina l-'ilm wa l-falsafa wa d-din* (Damascus, 1998), pp. 131–3.
4. The text is also accessible at www.alhakeem.org. The author is a relative of Muhammad Baqir al-Hakim, leader of the Supreme Council for Islamic Revolution in Iraq (SCIRI).
5. Shahada, *Instinsakh*, p.128f. This passage is often quoted by those refuting cloning, arguing that it would be an interference in God's creation and therefore would be part of Satan's plans to distract mankind from the right path.
6. This aspect was also highlighted in the recommendations issued at a conference in Casablanca in June 1997. See Abd al-Wahid Alawani (ed.), *al-Istinsakh: Jadal al-'ilm wa d-din wa l-akhlaq* (Damascus: Dar al-Fikr, 1997), pp. 229–31.
7. Munzir Tayyib al-Barzanji/Shakir Ghani al-Adili, *Amaliyat atfal al-anabib wa l-instinsakh al-bashari fi manur ash-shar'iyaal-islamiyya* (Beirut: Resalah Publishers, 2001), pp. 174–7 (www.resalah.com).
8. Fermin Roland Schramm, 'The Dolly Case, the Polly Drug, and the Morality of Human Cloning', *Cad. Saude Publica* 15 (1999): 51–64.