

# ETHICAL AND LEGAL ASPECTS OF CLONING THE HUMAN BODY: CURRENT CHALLENGES

## ASPECTOS ÉTICOS E LEGAIS DA CLONAGEM DO CORPO HUMANO: DESAFIOS ATUAIS

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**Abstract:** Legal regulation in the field of genetic engineering is becoming more and more relevant. Therefore, the purpose of the academic paper is to clarify the development of ethical and legal aspects in cloning the human body and determine the features of this process and the current challenges. Such methods as analysis, synthesis, generalization, explanation and qualification of data were used in the process of writing the scientific work. The primary sources for clarifying our research purpose were the fundamental Convention on Human Rights and Biomedicine as of 1997 and international legal and domestic regulations of the issue outlined. The problem of human cloning has not only technological and moral aspects. It should be considered more broadly in the context of the science progress, the possibility and necessity of its regulation, including the legal and ethical aspects of any research paper. Moreover, it is about the legal regulation of human cloning at the national and international levels. This is the case when the legal influence has a precautionary nature and makes it possible to trace the emergence and development of a new field of legal regulation.

**Keywords:** Aspects. Science Progress. Humanity. Convention. Law. Ethical Aspects. Biomedicine. Genetic Engineering Activity. Research. Evolution.

**Resumo:** A regulamentação legal no campo da engenharia genética está se tornando cada vez mais relevante. Portanto, o objetivo do trabalho acadêmico é esclarecer o desenvolvimento dos aspectos éticos e legais na clonagem do corpo humano e determinar as características deste processo e os desafios atuais. Métodos tais como análise, síntese, generalização, explicação e qualificação de dados foram utilizados no processo de redação do trabalho científico. As principais fontes para esclarecer nosso propósito de pesquisa foram a Convenção fundamental sobre Direitos Humanos e Biomedicina a partir de 1997 e as regulamentações internacionais legais e domésticas da questão delineada. O problema da clonagem humana

não tem apenas aspectos tecnológicos e morais. Deve ser considerado mais amplamente no

contexto do progresso científico, da possibilidade e necessidade de sua regulamentação, incluindo os aspectos legais e éticos de qualquer trabalho de pesquisa. Além disso, trata-se da regulamentação legal da clonagem humana em nível nacional e internacional. Este é o caso quando a influência legal tem uma natureza preventiva e torna possível rastrear o surgimento e desenvolvimento de um novo campo de regulamentação legal.

**Palavras-chave:** Aspectos. Progresso da ciência. Humanidade. Convenção. Direito. Aspectos éticos. Biomedicina. Atividade de Engenharia Genética. Pesquisa. Evolução.

## 1. Introduction

Recently, the issues of protecting the mortal personality have become the subject of particular attention in several transnational associations in the context of progress of biology and medicine, especially due to rapid success of hereditary technology and biotechnology. The issue of preserving the person's physical and intellectual integrity in the conditions of developing biology, medicine and biochemistry has always been the subject of special consideration in the reports of the UN Secretary General.

The interest in this problem is a consequence of the general trend of changing scientific research priorities. The XXI century will be the century of life wisdom, biomedicine, and civilization will be biotechnological. The prestige of biology and medicine is growing; huge funds are allocated for developing genetic engineering. It's no coincidence the program "Human Genome" was launched at the threshold of the new century. It reflects qualitative changes in man's awareness of his nature and marks the dawn of penetration into the deep patterns of life and development, in particular, biosocial (Law of Ukraine as of 2004).

The possibility of mortal cloning gives rise to a new morality in both transnational and domestic law. Several transnational documents are devoted to the transnational legal regulation of problems related to mortal cloning. The Convention on the Protection of Human Rights and Quality in Connection with the Activities of Advances in Biology and Medicine (Convention on Human Rights and Biomedicine) as of 1997 is one of the most significant. Steering Committee on Bioethics was established. At the moment, more than 30 of the 42 member states of the Council of Europe have joined the Convention.

The purpose of the academic paper is to clarify the development of ethical and legal aspects in cloning the human body and determine the features of this process and the current challenges.

## 2. Literature Review

Human cloning is an ethical and scientific problem of the late XX and early XXI centuries. It consists in the possibility of forming and cultivating new mortal beings in an unnatural way, which would reproduce this or that individual not only from the outside, but also in a hereditary position, being instantly or pre-combined with complete unpreparedness for this society.

Speaking of mortal cloning, in the extreme case, it is not a case of identical halves during gestation, but the actual stamping of people. Although, identical halves are duplicates of each other in the fullest sense of the word (Information of the Verkhovna Rada of Ukraine as of 2005)

Stations for cloning a mortal embryo are rather vague forasmuch as experts assess the moral status of a mortal embryo in different ways. According to the first viewpoint, mortal embryos should be protected from the moment of universality (in any case, the forms in which it existed) until birth. Therefore, the experimental cloning should be prohibited. An alternative viewpoint is based on the fact that the moral status of the embryo gradually increases as it develops. And it is only after birth that he enjoys all the rights of a mortal being. Consequently, experimental cloning, which is defined as the cloning and use of embryos, may be permitted.

Some specialists try to identify a certain position in the embryo's development before birth, after which it acquires the moral status of a person. They lean towards the period of fourteen days, after which the embryo is no longer a natural object (a system of cells) but a mortal being. Thus, any testing and research before this period is immorally justified. The fourteen-day term is determined due to the fact that the prototype of the nervous system is developed in the embryo at this time, and cells are irreversibly formed, as in an adult person.

The arguments of experts justifying the moral status of the embryo are largely determined by particular countries' religious traditions and artistic features. Currently, society is regularly shaken by reports of experiments aimed at cloning mortals. Many people believe in the possibility of creating a clone moment; however, it is highly probable that it will appear sooner or later.

Both scientists and ordinary citizens of many countries of the world perceive this information in different ways. Some scientists inform humanity about the dangers of such

tests. Others adhere to the viewpoint that neither common wisdom nor similar scientific tidies of cloning issues can be stopped. The reaction of the public is far from unequivocal. Some express concern about the intervention of scientists not only in nature, but also in its most sacred secret – the birth of a person. Others, obsessed with the idea of, if not eternity, then at least a guaranteed “shape” of their body under any pernicious circumstances, unsuccessfully believe and strive to bring such an amazing event closer as soon as possible.

The development of biomedicine, the need to ensure natural death rights in connection with the new achievements of genetics, transplantology, and embryology led to the emergence of a new direction of death rights in the field of biomedicine. According to the standpoint of B. Yudin, a deputy chairman of the Russian National Bioethics Committee of the Russian Academy of Knowledge, this area of mortal rights includes the right to life, the preservation of the person’s physical and mental integrity, and respect for mortal quality (these rights apply not only to adults, but also to mortal fetuses, as well as the remains of the dead person), the right to a peaceful death.

The legal regulation of bioethical issues is originally connected with the massive and deep intervention of genetics and drugs in the person’s natural substance, affecting his natural rights. Secondly, it is connected with the need to develop unified transnational standards in the field of experimental loads. Finally, it refers to disclosing several legal issues, the basis for the regulation of which can be their result from the perspective of ethics.

When new possibilities appear as a result of scientific investigations, providing an economic effect, they are often implemented without taking into account the morality norms. Therefore, law, while possessing different means of regulating a particular activity, acts as a measure of social compromise and a mechanism for ensuring public safety.

The mechanism for protecting human rights in the field of biomedicine should include: a set of norms that determine the content and procedure for implementing these rights; institutional structures ensuring their application; a set of guarantees for protecting these rights. Bioethics committees (commissions) play a significant role in this process. Currently, they operate under the governments of many countries and ensure the adoption of responsible decisions related to protecting the patients’ and research participants’ rights, as well as control over the implementation of these decisions.

Undoubtedly, bioethics committees should be main bodies ensuring compliance with ethical and legal principles when issuing permits (licenses) for conducting such

scientific studies. Moreover, they should rely on the Code of Bioethics and Biomedical Research, approved by the Resolution of the Verkhovna Rada of Ukraine.

Thus, it is expedient to implement organizational and legal measures to improve the system of specialized bodies designed to ensure state control over the conducting genetic engineering manipulations. These measures should implement international legal norms into our legislation aimed at ensuring human rights in connection with the using biological and medical methods. Along with this, changes should be made to the legislative acts of Ukraine and the laws should be adapted on regulating genetic engineering activities and the legal fundamentals of bioethics.

### 3. Results

Contrary to popular belief, a clone is not always an exact copy of the person on the basis of which it was created. After all, in cloning, only the genotype is copied, and the phenotype may be different, depending on the location and circumstances. Consequently, in order to illustrate the outcome, one should take six different duplicates and grow them in different conditions:

- a clone with poor nutrition will grow short and thin;
- a clone that is constantly overfed and limited in physical activity will suffer from excess weight;
- a clone fed a high-calorie diet but not getting enough vitamins and minerals needed for growth will gain weight, but for a short time;
- a clone obtaining standard nutrition and serious physical exertion will grow strong and muscular;
- a clone that had to suffer severe consequences during growth will grow small but muscular;
- a clone that received teratogenic substances in the embryonic period will have natural experimental abnormalities.

Many countries have regulations (including those that have the force of law) designed to regulate conditions and social relations in the field of genetic engineering. Back in 1988, the Academy of Local Studies of the Ukrainian SSR created a commission to develop safety rules when working with genetically determined deoxyribonucleic acids

(DNA). The result of its activities was the analysis of the state of biotechnology and genetic engineering in the country, the establishment of safety measures for the development of experimental directions.

Issues of association and operational safety with recombinant DNA, the introduction of genetically modified organisms into the area should be under the close control of state bodies, scientists and the public. First of all, this applies to cases of losing control over genetically engineered organisms in the laboratory, in the product, during field trials. There is also the threat of inherited insecurity of sites acquired by transgenic stores and creatures in subsequent generations, and the emergence of unexpected types of stores and creatures that also need to be controlled. In addition, genetically modified products should not be requested without the relevant verification (UNESCO Courier).

In 1996, the Federal Law “On State Regulation in the Field of Genetic Engineering” was adopted in Russia. It is aimed at regulating relations in the field of nature management, environmental protection and ensuring environmental safety in the process of genetic engineering. Nevertheless, its compass does not include matters related to the work of inherited engineering styles for people, their computers and cells. The scope of this law involves developing special safety rules during legacy engineering works, as well as establishing an information structure that provides multinational access to biosafety data.

New medical and natural advances in the regeneration of mortal organisms will also raise increasingly complex issues in the realm of mortal rights. The numerous conflicts caused by the possibility of cloning mortals have a normative outcome. For instance, will a fool have the rights of a person and a citizen with a living “original”? Does an artificially bred person have the right to reproduce naturally? Who, in this case, will be considered the father of the child?

The problem of mortal cloning has not only technological and moral aspects. It should be considered more astronomically, in the environment of the progress of wisdom, the possibility and necessity of its regulation, including the legal, as well as the ethical aspect of any research work. This also refers to the legal regulation of mortal cloning in social and transnational situations. This is the case when the legal influence is of a preventive nature and allows tracing the emergence and development of a new sphere of legal regulation.

The technology of copying organisms is not new. The rudiments of novelty are present in the true possibility of copying mammals. We are talking about the transportation of clones of elite creatures for the purpose of further selection work and preservation of

open species by induration of physical cells. Another area of copying technology's activity is the civilization of genetically modified gormandizers for transplanting some of their organs into humans. Nevertheless, the real trouble of the emergence of new earthly conditions is hidden behind these ethically impeccable tests. Due to the possible danger, such studies should be conducted under strict control. There are many scientists who have given up on them before.

Stations of mortal cloning, tendencies of its legal regulation will be largely determined not only by secular authorities, but also by the dominant religion in this society. The influence of the church on society's knowledge, on the state and legislative regulation of certain issues is relatively noticeable nowadays. Cloning is a really pressing problem of religious knowledge. In Great Britain, the head of the Anglican Church, the Archbishop of Canterbury, and the heads of the main appeals of the country expressed their disagreement with the bill, which allows using reproduced dead embryos for scientific purposes. Dalai Lama suffered his blow. The Pope condemned the cloning of mortal embryos in a special encyclical, calling on scientists to admire mortal quality.

In fact, a more critical point is the problem of legal regulation of behavior aimed not at creating full-fledged human clones, but at obtaining by cloning embryos as a source of embryonic stem cells. Experiments on carrying mortal embryos have previously been banned in 27 countries.

At one time, the system of artificial copulation paved the way for tests with a living mortal embryo. This practice has caused heated discussions in various groups and commissions dealing with bioethics. For instance, in Great Britain, their result was permission for the free use of live embryos no more than 14 days old for scientific research (Dovhych N. Human cloning, 2002).

Ukraine has significant scientific potential in the field of molecular biology. This necessitates the legislative regulation of some research areas, in particular, the prohibition of tests related to the cloning of mortals. Hereditary security should be an important element of the state security system. It involves the creation of effective legislation in the field of hereditary engineering and biotechnology, based on assessing possible threats. It is necessary to involve not only lawyers, but also geneticists, crackers, specialists in the field of bioethics in its development.

The law is designed to regulate the safety of work with any inherited engineering objects, a biotechnological product's safety, the controlled release of transformed



organisms into the natural environment, admission to work in the field of biotechnology, licensing of these workshops. It is also necessary to assess the influence (including remote, biocenotic) of inherited engineering styles and corresponding products on the area, to foresee responsibility for accidents and violations of labor morals, to ensure the protection of rights to the results of exploration in the field of inherited engineering.

Therefore, the civilization of mortal apkins and organs for the needs of transplantation is a real and immediate reason to use the successes of cloning in medicine. The issue is not about reproductive cloning, but about transferring the towel from mortal embryos for transplantation. They are primarily in demand for treating oncological diseases and diseases of the spinal cord. These apkins can also be used to treat diabetes, liver cirrhosis, Parkinson's and Alzheimer's diseases (Bulletin of the National Academy of Sciences of Ukraine, 2006)

It is also expedient to pay attention to recent successes. Prague, January 6, 2003 – A surrogate baby was born on January 3, according to unconfirmed reports. The first baby was born on December 26. These sensational reports caused heated conversations around the topic of mortal cloning.

Cloning, as you know, is the reproduction of an exact duplicate of this organism from a cell of a living organism. In March 1997, British geneticists successfully reproduced the sheep Dolly for the first time in this way. Recently, gormandizers and sheep have also been reproduced. On the one hand, this success inspired scientists on performing further tests. On the other hand, taking into account possible temptations to repeat a person, it has given rise to a whole series of religious, moral and ethical, legal, medical and other issues. At the same time, in 1997, US President Clinton banned subsidies for human cloning tests. In other countries, relevant laws have indeed been adopted, prohibiting trials with mortal duplicates.

Cloning was opposed by the Catholic Church, which considers such tests to be a violation of God's law. Cloning is also opposed by the maturity of medical scientists, who consider such tests on a mortal clone to be dangerous due to completely unpredictable consequences. As for the results of animal cloning, scholars believe that the reproduced children will be prone to varied conditions, abnormalities and will never be fit for long life. Some crackers agree only to clone certain organs of a mortal patron.

The sensationalism of the last two reports of baby cloning is supported by the fact that the Raelian side is behind them. They believe that the mortal race appeared on the



Earth 25 thousand times, not according to the Bible or other religious legends, but as a result of the trials of aliens from other globes that inclined the first people. By the way, they also believe that the great prophets who introduced the world's highest beliefs, that is, Buddha, Moses, Jesus Christ and Muhammad, were directly told and contacted by specified aliens.

The head of the Dutch branch of the Raelian party, Bart Overvleet, reported that an alternative reproduced child, a girl, was born on January 3 by a Dutch lesbian. Her ovum was fertilized by her own living cell. Although Dutch law prohibits cloning of mortals, the natural birth of a reproduced child is not covered by the ban.

According to the leaders' viewpoint of the Raelian party, the first reproduced child was born to an American family, allegedly also within the framework of the party's terms. The leadership of the party still refuses to allow testing of reproduced babies, that is, to conduct control studies (The problem of human cloning, 2008).

Harry Griffin, the head of Scotland's Roslyn Science Centre, where the first successful cloning of the sheep Dolly was conducted, is openly skeptical of the latest reports of two babies being cloned. He considers if this were true, mortal duplicates are also condemned to serious conditions. Consequently, in his opinion, further experiments in these directions should be strictly prohibited. Chapter IV of the Convention "The Human Genome" contains the most important provisions for establishing the biomedical rights of mortals. According to Composition 11, any form of distinction between persons based on heredity is prohibited. Composition 12 precludes the use of prophetic inherited testing for any purpose. Composition 13 sets limits on genome viewing.

By the way, a significant rule of Composition 18 "in vitro embryo research" refers to the possibility of mortal cloning. In particular, it establishes in case the law allows research on in vitro embryos, it should also provide for their relevant protection. This composition also prohibits the creation of mortal embryos for research purposes.

The processes of Ukraine's integration into the European Community entail strengthening the legislative regulation of the mortal persons' biomedical rights in our country. It is necessary to borrow laws on reproducing mortals, on the protection of embryos, as well as on the protection of the genome of mortals.

The Convention as of 1997 is general in nature. The Steering Committee on Bioethics of the Council of Europe is developing new protocols to the Convention in

order to specify its morality in relation to certain branches of biomedicine (Convention as of 1997).

The newest protocol, which has been unofficially called “The Protocol for the Prohibition of Mortal Cloning”, states that “the instrumentalization of mortal beings by the deliberate creation of genetically identical mortal beings is not in harmony with mortal quality and is, therefore, abusive in the field of biology and medicine”.

#### **4. Discussion**

The opinions of the whole society were divided into two camps. Some people support continuing various experiments and improving various methods, and they consider one should stay strong in the pursuit of the goals. Other people think that it is better to ban this process and stop all attempts, research and evolution in this process. Although there are particular benefits regarding mortal cloning, it is expedient to determine arguments proving the need to prohibit cloning from a moral point of view:

1) cloning violates human dignity, reduces human life to the level of “biological material”;

2) it separates the sphere of childbearing from the true human context of the conjugal act;

3) it shows a lack of respect for the human embryos that will be destroyed so that reproduction of this type can successfully be implemented (for instance, when cloning the sheep Dolly, 277 attempts were made, 8 of them were brought to the embryonic stage, as a result of which only one sheep was born);

4) cloning is a radical manipulation of human reproduction, in which personal relations between parents and children are broken, which can lead to the disappearance of the concept of family and family relations;

5) cloning is impermissible due to the dignity of the cloned person. Every person has the right to his uniqueness and inimitability. Human body and genotype are also an integral element of dignity and uniqueness, while a cloned being is always a “copy” of someone else, which can lead to the loss of one’s own identity, to a feeling of inferiority;

6) cloning creates the danger of social manipulation in the direction of eugenics, the selection of “genetically better” people;

7) the creation of “clones” of living persons exclusively as a source for organ

transplantation is the reduction of a person to the level of an object of use, which is completely unacceptable from the perspective of Christian personalism.

Copying is one of the scientific achievements posing an indirect danger to humanity. The problem of mortal cloning is, first of all, an ethical, worldview, philosophical issue. Moreover, it is striking that it has its own legal problems. A person invades the sphere of reality for which he is not responsible by virtue of his nature, which entails the unpredictability of the consequences of such a path. It is no coincidence that representatives of the main currents in the ultra-modern world, Christians, Jews and Muslims, show a commitment to mortal cloning. In no case should a person come to the product in the uninvented sense of these words.

Particular attention should be paid to a philosophical viewpoint of this issue.

Thus, socially and quite significant discoveries of geneticists were ignored by society for a long time. Consequently, it is extremely important to reassess some of the social wonders, particularly forms of geste that were previously dismissed as misuses caused by indecent parenting. It will also be necessary to review some customary moral norms in this connection.

It seems that a man can hardly yet realize that by destroying or distorting nature, he is destroying himself. However, in order to change, he needs to accept the full measure of all mortal shame and heart, duty and compassion, lend a “respectable position” and stop emphasizing profit over life (On reproductive rights and guarantees of their exercise, 2008)

Within the framework of our research, it is significant to emphasize that the environment of moral regulation is based on free choice, freedom of will. The famous experimenter S.S. Averintsev writes about this controller of mortal morality: “Conscience is not from the mind, it is deeper than the mind, deeper than everything that is in a person; however, in order to draw relevant practical conclusions from the arguments of the heart you need the mind. Morality must mediate between the heart and the mind. Conscience is depth, reason is light; morality is needed so that the light can clarify the depth”.

One cannot underestimate the moral standards governing earthly life in the face of genetics' tremendous advances, particularly, in the field of cloning mortals. Regarding the third article of the Law of Ukraine "On the Prohibition of Human Reproductive Cloning", according to which "the export of cloned human embryos from the territory of Ukraine is prohibited", a logical question arises: if reproductive cloning is strictly prohibited in Ukraine, where will the "cloned embryos" come from? legal bases that are prohibited to

export?! And if someone breaks the law and they appear, is it ethical to leave them to die without placing them with surrogate mothers, because they are already embryos. And if planting - then this will be a violation of the law, which does not contain the necessary exceptions from the general rule in this case. And if you freeze them - doesn't this also violate the question of ethics, because in this way people condemn other people to a "half-life" with slowed down vital processes in a frozen state for an indefinite period without any court verdict. Perhaps this is worse than any criminal punishment, and at whose discretion? People in white coats who were not prevented from developing in order to make a decision to ban the physical development and birth of other people-embryos? Such ethical questions arise for me.

Therefore, the appearance of bioethics marks a transition to a deeper understanding of previously developed theoretical material in the field of earthly relations, shifting the center of attention from the emergence of moral knowledge to the content of moral problems in connection with new realities and practical possibilities of their implementation. It is striking that such a reflection needs to go beyond a narrow subject area (biology, drugs), significantly expanding the concept of the subject of moral relations.

Based on the system of the most significant health values of life, health, death, minors, old age, bioethics covers not only the ethical morality of the "ship – case" relationship, but also the ecological ethics of the attitude towards creatures, biocenoses, the biosphere as a whole. This means that not only a person, but also all nature becomes the subject of moral ties and moral regulation. The fundamentals of traditional morality as the morality of "reverence before life" are radically expanded and enhanced (A. Schweitzer).

The true moral norms of a person – kindness, generosity, condescension, humanism – are "illuminated" precisely in the attitude towards nature, towards our silent and helpless "younger sisters", who, unlike people, cannot go to court for the protection of their rights.

## 5. Conclusions

With the development of the latest technologies, we are faced with the question of how to use our earnings. One of the great men said: "With the development of wisdom and technology, culture degrades". The present academic paper states and demonstrates the thesis about simple data. If people do not change their position in the direction of ecology,

nature, research and development, then nature will have only one way out – to exclude its link, which threatens the reality of others, and completely take over all the functions of the creator. Isn't this global responsibility of humanity for the life reality on Earth (noosphere, according to V.I. Vernadskyi) help in the third renaissance of world history to finally break the secret of the mortal "I", gain an insight into the true purpose of a person and open a new period in the development of morality – a period of mercy and compassion, co-evolution of a man and the biosphere.

The technology of mortal cloning as a type of artificial replication can lead to a change in public knowledge, the emergence of several social problems and contradictions, legal conflicts. The relationship between people and duplicates, the legal status of the final, the rights and values of the reproduced person in relation to his duplicates and vice versa – all the outlined are delicate issues. Who will the duplicates be in their own perception and how will others treat them? Won't the duplicates turn out to be inferior humans? Can a reproduced person and his duplicates be considered a family? What will be the relationship between the clone and the mother, between the mother and the clone, between the mothers of the duplicates? Does the reproduced person have to support their duplicates and will they have the right to inherit?

Considering there are three people involved in the cloning process: the cell patron, the egg patron and the surrogate mother, motherhood identification will also be a major challenge. It's nice if the cell is taken from a husband (it is also clear who the father is), but a female cell can also be repeated. While considering the issue of copying, it actually falls under natural technologies, that is, it can be patented (this is the sphere of the law on the protection of intellectual property). All these legal conflicts can cause major changes in indigenous, civil, family and other areas of law.

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