

3-4-2011

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### Recommended Citation

Friedman, Dan (2011) "Cloning," *Macalester Journal of Philosophy*: Vol. 9: Iss. 1, Article 4.  
Available at: <http://digitalcommons.macalester.edu/phil/vol9/iss1/4>

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## CLONING

DAN FRIEDMAN

### Introduction

The idea of cloning has intrigued scientists and philosophers alike since the late 1960s. In the late 1990s, though, there have been great strides in genetic technology, which have made fact what was once merely theory. All indicators suggest that the same procedures used to successfully clone an adult sheep will eventually allow us to clone a human being (Jones, 29). Although this possibility is still years in the future, the thought of producing human beings through asexual routes strikes many of us as anathema. One good example comes from the writer Charles Krauthammer who, in one of his recent columns, urged Congress to ban human cloning immediately (Krauthammer, 76). The National Bioethics Advisory Commission (NBAC) seemed to agree, at least partially, when they recommended a five-year ban on using cloning technology to create a human child ("Cloning Human Beings," 8). Their report was most concerned with issues of safety. But safety aside, why are so many policy analysts urging a ban on the cloning of humans? Why are we so keen to speculate that cloned persons would be treated differently than persons created through sexual means? Is there any philosophical justification for treating cloned persons differently than others?

Many have written about the implications of cloning in terms of family structure, parental obligations, religious considerations, and public policy. Despite the literature on the subject, few have considered how cloning humans is related to our concepts of personal identity and morality. This paper is concerned with how Kantian ethics can guide us as we begin to see new forms of human life peek over the horizon. Specifically, I intend to argue that cloning poses ethical

problems for us only insofar as the clone is a person. In order to illustrate this, a distinction between humans and persons will be made. If clones are merely humans, but not persons, then it would seem acceptable to use them for medical science in the hopes of improving our own lives. Hypothetically, this would include clones devoid of consciousness. If, though, the clones we produce are justly considered persons, then it naturally follows that we ought to treat them with the same respect that we accord to other persons. Hence, if a clone is indeed a person, we should treat him or her as we would hope to treat other persons similarly situated. In this way, there is a great distinction between cloning humans and cloning persons. The first part of the paper will be about our duties to clones that are merely human. The second part will be about our duties to clones that are indeed persons. In both sections, I will argue that applying Kantian ethics can give us a good idea of how we ought to treat clones. Moreover, by examining how our concept of personal identity could apply to various cloning scenarios, we can better understand the ethical boundaries imposed by a Kantian framework. Before I begin, though, I will give a brief description of the genetic technology used to create clones.

### **The Science of Cloning**

The recent surge of interest in cloning began with the creation of a cloned sheep in Edinburgh, Scotland, by Dr. Ian Wilmut. Adult frogs had been cloned before, and Dr. Wilmut had cloned an embryonic sheep a year earlier, but Dolly the sheep was the first instance of cloning an adult mammal (Wills, 22). Previously, adult tissue could not be used to clone because it is too specialized. In other words, in order to clone, you need DNA that has genetic instruction for an entire organism. Adult cell tissue posed a problem because it is specialized to a particular bodily function. The information that a developing organism requires could previously be found only in an embryonic stage. In the case of Dolly, though, Dr. Wilmut and

his colleagues were able to manipulate an adult cell so that its code was like that of a newly fertilized egg.

The process is called "somatic cell nuclear transfer cloning" ("Cloning Human Beings," 6). The process of creating Dolly began with taking a somatic cell nucleus from frozen mammary tissue of a dead sheep. Next, the extracted mammary tissue nucleus was substituted for the nucleus of an egg from a different breed of sheep. Finally, the egg with the substitute nucleus was implanted into the uterus of yet another breed of sheep. After the normal gestational period, a lamb emerged. The researchers could tell the cloning procedure worked because the lamb bore no genetic resemblance with its surrogate mother or the egg donor. Instead, Dolly was a genetic clone of the dead sheep whose DNA was extracted and inserted into the egg which eventually became her (Wills, 22). Although the process is not yet infallible (Dolly was one success out of 277 attempts), the same technology could theoretically be used to someday create clones of adult humans (Wills, 23). The only challenges are to improving the success ratio and finding a way to change a specialized cell's genetic code so that it mirrors that of an embryo. When science answers these questions, cloning human beings will be a reality.

### Cloning Humans

The possibility of cloning an adult human opens an ethical Pandora's box. First and foremost is the safety issue which prompted the National Bioethics Advisory Commission to recommend a ban on human cloning for up to five years. Once this obstacle has been overcome, though, we need to consider the potential reasons for cloning human beings. One obvious reason is the potential benefit cloned humans could serve to medical science. Many writers have responded to this idea with an acute sense of dread. Congressman Vernon Ehlers, a former research physicist, has introduced bills in the U.S. House of Representatives which propose banning the use of Federal funds for cloning research and banning human cloning altogether (Ehlers, 46). C. Ben Mitchell, a Christian ethicist at

the Southern Baptist Theological Seminary who holds a philosophy Ph.D. from the University of Tennessee, testified before Congress last summer in favor of an all-out ban on anything resembling human cloning, regardless of the motivation (Mitchell, 54). Moreover, public opinion polls show a vast majority of Americans opposing efforts to clone human beings (Mitchell, 52).

The columnist Charles Krauthammer recently pondered creating human clones using technology that has recently been used to create headless mice and tadpoles (Krauthammer, 76). Of course, in order to clone a "headless" human (not literally headless, but without a forebrain), certain technological barriers must be overcome. These include the development of artificial wombs and finding a cost-effective way to keep the cloned "headless" humans alive. The genes which control brain development would also have to be pinpointed. Nevertheless, Krauthammer quotes Princeton biologist Lee Silver to argue that it "almost certainly" will be possible to produce a human clone without any forebrain in the near future. These beings, devoid of any consciousness, could theoretically be used as a source of healthy organs. Krauthammer objects to this practice, calling it "high-tech barbarity." Moreover, he asserts: "human beings are ends, not means. There is no grosser corruption of biotechnology than creating a human mutant and disemboweling it at our pleasure for spare parts" (Krauthammer, 76). Likewise, Professor Mitchell used a similar argument against cloning: Human beings may not be used as means to our own ends. They may not be the subjects of experiments without their knowledge and permission. We may not demean human beings by imposing upon them conditions they might not have consented to, if allowed to make the decision for themselves. These principles would make immoral most of the reasons which have been suggested as reasons to clone human beings (Mitchell, 54).

Is there a morally persuasive reason not to clone humans without a forebrain if this practice would vastly increase our supply of transplantable organs? Even though this idea may be too impractical to ever implement, asking the question

allows us to clarify the ethical principles we ought to use to make policy decisions. In the case of clones without a forebrain, we can use the parallel case of anencephalic infants. Anencephalic infants are born with most of both cerebral hemispheres missing. Since most of their brains are missing, meaningful brain activity for these infants is medically impossible. Specifically, they lack the necessary brain tissue for one to possess any sort of consciousness. With these portions missing, anencephalic infants are only "alive" insofar as they can breathe and circulate blood (Walters, 116-19). Although they are not dead according to "whole brain" criteria, anencephalic infants have a complete absence of most cerebral functions (Walters, 128). Moreover, the concept of "whole brain death" seems to presume a being who, at one time, actually possessed a whole brain. In the case of anencephalic infants, though, there was never a "whole brain" in the first place. Considering these facts, it is unwarranted to label either anencephalic infants or "headless" human clones as "persons." I will more clearly demonstrate this assertion and its implications below.

Krauthammer and Mitchell's argument hinges on the Kantian argument that humans should be treated as ends in and of themselves and not merely as means (Krauthammer, 76). However, Kant's argument was predicated on the assumption that as human beings we possess a capacity for rationality that allows us to think abstractly. In the *Groundwork of the Metaphysic of Morals*, Kant argues that "non-rational things (have) only a relative value as means and are consequently called *things*. Rational beings, on the other hand, are called *persons* because their nature already marks them out as ends in themselves . . . for unless this is so, nothing at all of *absolute* value would be found anywhere" (Kant, 96).

Persons are able to conform their behavior to what is reasoned ought to be moral behavior. The fact that all persons possess this capacity, Kant reasoned that we ought to treat other persons according to a *categorical imperative* whereby all persons similarly situated are treated equally. Since Kant had a deep respect for persons as rational, autonomous agents, he argued

that the logic of our moral decisions ought to reflect the impact that that logic would have on society if applied generally. Furthermore, since each of us is of equal moral worth, in order to gauge the morality of a particular action, Kant posited that we ought to imagine whether or not we could will that action to be universal law. The categorical imperative requires moral agents to reflect on whether or not their will could be consistently applied to any other person. This is because Kant argued that our morality should reflect consistency of willing. In other words, an action is moral only if it accords with principles that all rational agents could accept (Kant, 88). Because all persons think of themselves as having worth by virtue of their existence, another formulation of the categorical imperative is to "act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end" (Kant, 96).

A claim of humanity without a corresponding claim of personhood cannot be the basis for a Kantian objection to cloning "headless" persons. Kant's vision of the categorical imperative requires a person or rational agent. If no person is present, then it does not make sense to speak of a categorical imperative to treat that being as an end in and of itself. It could be argued that Kant would not oppose creating a "headless" clone because his appeal to rationality was on the grounds that rational beings conceive of themselves as ends (Kant, 96). In this way, respecting rationality only means treating persons in accord with the categorical imperative. If this imperative is followed, the integrity of persons is upheld.

Additionally, there is a distinction between destroying rationality (e.g., Kant's objection to suicide) and stopping *potential* rationality. The former is concerned with protecting what exists in the present. An emphasis on the latter, though, demands that moral agents do anything they can to *create* rational life. Suicide is deemed immoral by Kant because the will to kill oneself cannot, consistently, be willed to be universal law since it destroys rationality (Kant, 88). Since rationality is what gives us self-interested concern, Kant argues that to

destroying rationality through suicide disagrees with what makes us persons in the first place.

In contrast, a principle which disallowed cloning "headless" humans because it stops potential rationality would mean that all forms of birth control would be also be immoral because they block the emergence of potential rationality (Tooley, 103-08). In fact, this argument could be taken to an extreme which *dictated* that everyone should clone himself or herself because not doing so would prevent potential rationality. Although this is not explicitly Kant's argument, it dovetails nicely with the categorical imperative. From a Kantian perspective, creating a clone without a forebrain is not *a priori* immoral because it is not an action that could not be willed to be universal law. It does not contradict the principles from which we base our moral code. Consequently, it would not lead to moral inconsistency in the way that suicide or lying does.

Another reason that "headless" clones would not fit into the category of "person" is that most theories of personhood require some capacity for consciousness. Although it is not a sufficient condition, it is certainly necessary in order to have personhood. For example, Derek Parfit's use of psychological continuity and Harry Frankfurt's argument for the capacity to have second-order volitions are both aspects of self-consciousness. These views, like any other coherent view of personhood, require some semblance of the ability to think of oneself as a person. If this basic condition is not met, then it does not make sense to speak of a person. A clone with no meaningful brain activity ought not to be considered a "person" since it does not possess a prerequisite for personhood: consciousness. It follows, then, that transplanting its organs to humans who are indeed persons should not be considered unethical.

One possible objection to this argument is that it would legitimize killing comatose persons or advanced Alzheimer's patients in order to take their organs. The difference here is that the comatose and those stricken with Alzheimer's disease are diminished versions of what used to clearly be persons.



Since these people used to have a capacity for personhood, we respect their past by allowing them to die naturally or respecting their wishes via a legitimate proxy. The vast majority of us realize that we have the potential of acquiring an ailment like this someday in our lives. Hence, it seems that universal chance dictates that we are all responsible for the care of each other: Each of us is vulnerable to the ravages of age, disease, and accident. One who was formerly a resolute pursuer of his own ends may find himself cut off from further activity. Such an individual will still have a good achievable through action, but it will then be the actions of others that are crucial. Each person, therefore, has a self-interested reason to support social arrangements that secure the welfare of those unable to tend to their own well being (Lomasky, 207).

Some principle of reciprocity should inform our decisions in these circumstances since we are all more or less confined to the "implicit arrangement underlying the necessary give-and-take of social life" (Beauchamp and Childress, 203). If we are incapable of treating the severely demented with beneficence, then our foresight to have a universal respect for persons is substantially hindered. To respect persons includes respecting the laws that ought to presuppose personal relations. Moreover, Kantian principles seem to suggest that since we can envision ourselves in a coma or developing symptoms of Alzheimer's disease, we would not want to categorically allow the organs of these people to be harvested before death if there was nothing from them to indicate that this was an acceptable course of action (like a living will).

Even in less rigid frameworks which do not take a Kantian hard-line, cloning "headless" humans could be put forth as an ethical enterprise. One particular view of personhood, which I think is well suited to these ethical dilemmas, is the view put forth by H. Tristram Engelhardt. I have picked Engelhardt's view because it partially utilizes a Kantian notion of a person. Recognition of the Kantian person is important if we wish to adopt his moral stance. Engelhardt's view recognizes two conceptions of "person." The first is the Kantian notion of person as selfconscious, rational agent. The second involves

the social function of the word "person." We use "person" to describe instances of human biological life that might not necessarily fit the Kantian notion, yet that play a vital role in human social structures (Engelhardt, 175-76). Humans that are able to "engage in minimal social interaction" should qualify as "honorary" persons because it is often difficult to strictly draw a line between person and non-person. We bring certain humans "into the tent" of personhood because it fosters values deemed important for society. These include "virtues of care and solicitude towards the weak," as well as trust in familial bonds (Engelhardt, 176). Engelhardt uses this framework to demonstrate that there is no reason to qualify anencephalic infants or the brain dead as persons because "both lack the ability to engage in minimal social interaction" (Engelhardt, 176). Thus, although it certainly would not be pleasant to kill them or let these beings die, it is an acceptable consequence if doing so will help others who have a chance at living as persons. In this way, the Engelhardtian view is Kantian, but it is also consequentialist in that it appreciates certain desirable outcomes which engender values in our society.

Hence, strict Kantian grounds may permit using "headless" clones, but there may also be utilitarian arguments that operate according to an Engelhardtian framework. In this way we can account for multiple moral systems when evaluating the practice. To the extent that it has been established that human clones without consciousness are not persons in the strict Kantian sense, one can simply measure the consequences of not considering them "social persons" against the utility of using their organs for transplantation. In this way, whether or not we consider "headless" clones social or "honorary" persons is determined by questions of utility. On the one hand, there is the potential to save thousands of lives annually with a new bountiful source of organs. This could be measured against the prospect of "barbarity" that writers like Krauthammer suggest. The difference, though, is that harvesting the organs of a clone with no forebrain would not brutalize us in the same way that murder does. For one,

the outcome is no worse for the victim since continued life is really no different than death. Furthermore, the "killer" in this instance would be a surgeon. Since the being killed is not a person and the surgeon would be killing only to serve the greater cause of giving someone else continued life, the act would not be destructive in the way that murder is (Bok, 221). Again, it certainly would not be pleasant, but it could be reasonably argued that the utility of creating "headless" clones for their organs outweighs the utility of treating them as persons or not creating them in the first place.

### **Cloning Persons**

If we could clone humans with no forebrain, there is also the potential to clone human beings with all organs intact, including the brain. In these cases, there would indeed be a person who could fulfill whatever criteria we normally use to establish personhood. They would be living, sentient beings with the power to reflect on their own identity and have meaningful relationships with other persons. Is there reason to fear cloning in this respect? In this section I will argue, on Kantian grounds, that cloning persons is not in and of itself an immoral act. Rather, in order to evaluate the morality of cloning a person, the motives for the cloning need to be investigated. Once again, since cloned persons are entitled to the respect we give other persons, Kantian ethics can be utilized to determine whether or not a particular clone is being mistreated. For the purposes of this paper, I will use two examples. In the first, somatic cell cloning is used to give an infertile couple the chance of having a child. In this case, the clone is created in accordance with principles with which it could rationally agree once it developed into a moral agent. In other cases, though, cloned persons could be produced because they have an instrumental use in keeping other persons alive. One example is the couple who creates a clone because that clone would be a suitable bone marrow donor for their child dying of leukemia. These two examples can be used to highlight the imperatives we

ought to use when determining whether or not cloning is unethical.

A few years ago, a couple using cloning to help them bear a child had to rely on a method which combined cloning with in vitro fertilization. In these cases, embryos are cloned and then transplanted into a woman's uterus to assist the couple in having a child. Philosophers have criticized these practices in the way they utilize the genetic material of third parties (other embryos) who do not have the opportunity to consent to have their genomes manipulated and cloned (Roberts, 548-49). Most of the ethical problems related to the older forms of cloning centered mainly around issues of consent.

With today's somatic cell technology, many of these worries have been diffused. In the newer form of cloning, it is quite easy to tell if the person who was cloned gave his or her consent to be cloned. This makes a determination of moral certitude easier. The main issue in creating a child using today's cloning technology (assuming safety is accounted for) is whether the treatment of the child *once it exists* is ethically suspect. Using somatic cell nuclear transfer, it would be possible for an infertile couple to use a cell from one of their bodies in order to bear a child. Although it would be odd to have a child who was a genetic clone of you or your mate, the principle behind the action could be willed as universal law. The couple would be bearing a child for the same reasons as any other couple. Moreover, the cloned person would not be subject to any immoral activity any more than any other child. A cloned child born from these circumstances would be created according to principles that he or she could agree to. He or she would not be treated merely as a means, but primarily as an end.

In other possible cases of cloning, the child born is, at least partially, a means to another end. Consider a couple whose young child has developed leukemia and needs a bone marrow transplant. For bone marrow transplants, a suitable donor must be a close relative who has a very similar genetic makeup. Using somatic cell nuclear cloning, the parents of a child could theoretically make a clone of that child for the sole purpose of creating a suitable bone marrow donor.

In this case and others like it, it seems as if the cloned child is brought to life merely as a means to another end. Namely, its existence is predicated on the assumption that it will be helpful in keeping another person alive. To determine the morality of the action three questions must be asked. First, could the person doing the cloning will his or her action universal law? Second, is the clone being treated in accord with principles that he or she could accept as a rational agent? And third, is the clone's rationality being respected? In this case, the cloned child merits respect as an individual person even if it was originally conceived in order to save a sibling; it is still an end even if it also has an instrumental use. Furthermore, in Kantian terms, the person doing the cloning could indeed will his or her action to be universal law. The maxim, "create a life in order to save the life of another," is not necessarily contrary to other maxims that undergird our morality. Finally, the child would most likely agree to being born out of these circumstances. Who wouldn't do what he or she could in order to save a family member?

Moreover, one could argue that the child is not wronged by the practice of cloning because the child owes its very existence to cloning. This does not mean that it would not make sense to discourage some people (e.g., teenagers) from cloning themselves, it only means that a clone is not harmed, *per se*, because it is a clone. Despite the fact that it was produced through cloning, a cloned child would certainly have a life worth living. If asked later in life if it wished it had never been born because it was a clone, the child would most likely not regret having come into existence, even if it was to provide body tissue for an older sibling. Therefore, it seems that cloning itself cannot harm the person it produces, since the process of cloning gave it life in the first place (Parfit, 373-77). For these reasons, the clone's rationality could still be respected even if he or she is helping to keep his or her sibling alive.

This example illustrates what sort of calculus could be useful in determining the ethics of cloning in the future. A clone that exists solely to make the lives of others better does not live for its own sake. This is an instrumental use. We could

imagine other circumstances where clones are used merely to benefit others. Cloning combined with other genetic technology could be unethically used to produce a class of super athletes or super soldiers. In both of these examples, it is clear that the clones do not exist by virtue of their own worth as persons; rather, they exist to serve the needs of others. The same framework could be used to address other uses of genetic technology. For example, using genetic mapping to eradicate disease in newborns is useful because it helps the child live a healthier life. In contrast, manipulating genes to produce children with particular physical characteristics merely serves to perpetuate vanity, a trivial value which is utterly self-serving and void of any intrinsic worth. In these cases, consequentialism is used to instill values that we feel have Kantian significance.

### Conclusion

In examining the new wonders of technology, Kantian ethics can help us understand how science and technology could be harmful. In the case of human cloning, I have tried to argue that Kant's categorical imperative is quite useful in guiding our ethics. Insofar as a human clone lacks a necessary condition of personhood (consciousness), there is no *a priori* reason in not treating it as an object we can use to better our own lives. Furthermore, in the spirit of Engelhardt, a sort of utilitarian "buffer" can be utilized to determine if we have good reason to label as social person those human clones that are not persons in the strict Kantian sense. If, however, the clone is indeed a person in this strict sense, then the situation becomes much more complicated. Because the clone in these circumstances is its own person, it needs to be treated with the same amount of respect and concern we would give to other persons born through "traditional" means.

In examining the ways in which Kantian ethics could be applied to various cloning situations, a few things about Kant have been illuminated. First of all, some notion of personhood is essential if we are to apply Kant to the ethical conundrums

of the future. In this case, I have selected a theory that employs the Kantian notion of person, but also looks at some of the utilitarian reasons we have for labeling certain human entities "persons." This approach illustrates the extent to which a Kantian framework is not sufficient in dealing with the complex ethical issues raised by our technological innovations. As is often the case, Kantian ethics can tell us what is *permitted* without necessarily providing us guidance about what we ought to do in a given situation (Arras and Steinbock, 16). In other words, Kantian ethics gives us a necessary condition of morality without giving us a sufficient condition. Without a supplementary ethical system, it is difficult to choose the best course of action if all of the possibilities seem to meet the demands of the categorical imperative. In the case of genetic technology, there does not seem to be a clear duty to act in a particular way. For these reasons, a framework which reflects Kantian claims but also maintains the importance of utilitarian concerns can be of great use to us as we consider the ethics of cloning and its related technology. This is especially true in how we ought to think about our use of genetic mapping. As a body of knowledge, what we choose to do with genetic information is completely up for grabs. Whatever values we deem important seem to rest on what outcomes we feel our desirable. This is a dialogue that is only just beginning. It will take many more years to determine what values we want reflected in our use of cloning technology.

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