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The Liberal View on Some Common Issues in the Moral Debate about Cloning

Abstract

It is from the mere announcement of the possibility of human cloning that moralists have formulated critical arguments against the permissibility of introducing this practice. A critical survey of these arguments, however, shows that they are not well founded, i.e. that frequently they are not such that they can be used as legitimate arguments in the debate about what is publicly permissible in a state, that they rely on mistaken premises, or that they are non coherent with permissions in relation to other forms of human reproduction.

Each argument in favor of the banning of human cloning is analyzed by at least one of these means: whether it is coherent with the fundamental principles of contemporary democracies (in particular, in relation to the right of every individual to pursue her system of value in her life); whether it relies on well-founded and widely accepted results of scientific researches; and, whether it is coherent with the usual and widely shared moral attitudes related to other forms of human reproduction. The most important argument that is taken as a good foundation for the prohibition of human cloning is the moral duty not to harm future persons.

The result of the rejection of traditional moral arguments against human cloning does not represent an overall justification of human cloning: it only shows that new, or more sophisticated, arguments must be found if human cloning is to be banned.

1. Introduction

The mere possibility of a hypothesis of human cloning has been the source of a great number of concerns, worries and reactions. In general, the reactions have been grounded on three sorts of arguments: the first states the intrinsic immorality of cloning; the second claims that cloning is intrinsically a cause of harm to human beings (i.e. that it is not possible, or probable, that a procedure of cloning is applied and that some damage is not caused); the third says that cloning is not intrinsically, as such, a damaging procedure, but it has nevertheless to be banned because the only possible, or the most probable, motivations for it are morally unjustifiable.

A review of the traditional arguments shows that they are problematic from the standpoint of political autonomy of the individual, a broadly shared value in contemporary political philosophy, as well as in the legal orders of contemporary states. The first sort of arguments tries to appeal to some widely accepted moral beliefs. However, a critical analysis indicates that these intuitions are not so unproblematic when taken without qualifications. On the other hand, the appeal to qualifications causes further troubles, because they need to rely on general metaphysical or religious doctrines. This is not compatible with the basic principles of contemporary democracy, which does not accept as a good crucial ground for prohibitions of actions the appeal to basic conceptions linked to religions or fundamental metaphysical questions, and, as such, heavily controversial. The second sort of arguments is based on wrong inferences from the scien-

tific data, or on a discriminatory application of a moral rule to cloning. The third sort of arguments are such that they do not consider enough possibilities for human cloning that are related to morally acceptable motivations. The requirement to forbid human cloning by the laws of public institutions, therefore, has to be grounded on new basis in order to be convincing. However, I have to admit some limits of the paper. First, it is limited to the acceptance of the principle of autonomy, in coherence with proposals of liberal political philosophy. The conclusions of the paper are, therefore, conditional on this acceptance. Second, the argumentation is limited to normative conclusions as relevant for the enforcement by law, and it does not cover a general moral argumentation. Third, and consequently from what I have already said, the paper is limited to consider some of the most representative arguments valid in the debate about the legal enforcement of the prohibition of cloning, and not the full range of arguments on cloning. I will explain this limit later in the paper.¹

2. Presuppositions of the debate

For the sake of the discussion, in this paper I presuppose something very distant from reality, i.e. that human cloning is a safe procedure that ensures a high rate of successful results in its application. So, I presuppose that we can fairly anticipate that there is not a high rate of mortality in pregnancies resulting from human cloning, or a high probability of unexpected dysfunctions in the future human being. This presumption, although very distant from reality, is necessary in order to focus on the specific problem on cloning, which requires to avoid a set of moral complications related to a more general discussion. I refer to the (at least *prima facie*) moral duty not to put in danger the future of human beings. Such a moral duty forbids (at least *prima facie*) in the same way the application of any kind of physician assisted fertilization, or behavior of the pregnant woman, or of activities linked to influences of the environment that are dangerous for the quality of life of the person that is to be born. There is a sufficient level of consensus that condemns (at least *prima facie*) such behaviors, and, therefore, a discussion about this topic is not necessary in the specific context of discussions about human cloning.² There can surely appear problems also in relation to imaginary or real situations related to at least some of the indicated cases that can be sources of moral dilemmas (for example, we can find a dilemma about whether to make use of some of these practices for some very important needs for human beings), but this is also a complication that I avoid in this paper. In brief, it is my opinion that human cloning for reproductive reasons must not be permitted until it becomes a safe procedure. I avoid to consider this problem in this paper in order to discuss what may be the moral evaluation of human cloning for reproductive reason in the case it becomes a safe procedure.

It is not part of my fictitious presupposition, however, the strong hypothesis of genetic determinism, i.e. the idea that all of our physical and mental features are determined by the genetic structure inherited by the individual by the accomplishment of fertilization. The strong version of genetic determinism is plausibly refuted in current discussions, and, therefore, there is no point in taking it as a hypothesis in the current ethical debates on cloning. I found particularly instructive the discussions of Philip Kitcher and Renato Dulbecco.³

I avoid considering a further complication related to human cloning at the actual level of its development. I refer to the fact that it is still at an experimental level, therefore its development includes experiments on human embryos.⁴ However, in the same way as another problem indicated earlier, it represents a more general problem than that of human cloning as such.

3. The Value of Autonomy

An assumption widely shared in contemporary societies is that of the value of political autonomy of the individual, i.e. of the entitlement of each individual to build her life according to her own system of value or good. As a consequence, every limitation of one's action that has a certain relevance in this life plan has to rely on some reasons. The burden of proof is always on the side of those requiring limitations of freedom. Because of this reason, there are opinions that state that the real problem of the attitude towards cloning is not that of permitting it too quickly, but, on the contrary, that of forbidding it too quickly.⁵ I do not share this stance when stated

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My paper, obviously, does not aspire to show and discuss the whole set of the existing arguments against cloning. Perhaps, it would be impossible to satisfy this ambition in a paper. I hope, however, that I face at least the most representative among these arguments and that I offer a strategy of argumentation that can easily be extended to arguments not discussed in this paper. For some additional arguments against cloning and rejection of them, see for example: J. Harris, »Goodbye Dolly. The Ethics of Human Cloning«, *The Journal of Medical Ethics*, 1997, pp. 353-360; G. Pence, »Ethics, Cloning, and Persons«, *Monash Bioethics Review*, 1999, pp. 50-53; R. Hanley, »A Wolf in Sheep's Cloning?«, *Monash Bioethics Review*, 1999, pp. 59-62; D. Brock, »Cloning Human Beings. An Assessment of the Ethical Issues Pro and Con«, in: M. Nussbaum, C. Sunstein (eds.), *Clones and Clones. Facts and Fantasies about Human Cloning*, Norton and Company, New York 1998, pp. 141-164. Brock speaks with more caution than the other authors that I quote when he replies to the arguments for the prohibition of cloning.

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Some authors accept human cloning in principle, but they are not ready to permit it until it becomes a safe procedure. This is, for example, the position of Michael Tooley. See: M. Tooley, »The Moral Status of the Cloning of Humans«, *Monash Bioethics Review*, 1999, pp. 31-33.

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P. Kitcher, *The Lives to Come*, Simon and Schuster, New York 1997, pp. 239-269. It seems to me that an interesting synthetic way to show the question is that of the Nobel Prize winner Renato Dulbecco: »Genes have to be considered as the pilots of our life because they determine all of our features; but

they do not work on their own, because they cooperate with the environment, e.g. with what we eat and drink or the influence of people around us. They act, therefore, like the pilot of an airplane, who chooses the way dependently on the weather conditions that he finds.« - *La mappa della vita. L'interpretazione del codice genetico: una rivoluzione scientifica al servizio dell'umanità*, Sperling and Kupfer, Milano 2001, p. 117. When speaking about the mental features of subjects, Dulbecco puts the things by the distinction between an old part of the brain that is responsible for the genetically determined expressions of the individual, and the more recent part of the brain (related to rationality) that is more suitable for adaptation to new external situations, leaving in this way a space for the influence of the environment. See: R. Dulbecco, *La mappa della vita*, pp. 117-139. When discussing about features like illnesses, there are situations where, unfortunately, genetic determinism is strong (like the Tay-Sachs and the Lesch-Nyhan), while, on the other hand, there are illnesses that manifest themselves in virtue of genetic dysfunctions, but only if related to environmental influence, like, for example, a damaging feeding. See: R. Dulbecco, *La mappa della vita*, pp. 172-174.

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This is a problem particularly remarked by Hans Jonas. See: H. Jonas, *Tecnica, medicina ed etica*, Einaudi, Torino 1997 (*Technik, Medizin und Ethik. Zur Praxis des Prinzips Verantwortung*, Insel Verlag, Frankfurt am Main 1985), pp. 136-148.

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Richard A. Epstein, »A Rush to Caution: Cloning Human Beings«, in: M. Nussbaum, C. Sunstein (eds.), *Clones and Clones*, pp. 262-279.

without qualifications and refinements, but, coherently with Western political culture, I accept the value of political autonomy as basic.

It is part of the respect of political autonomy that public institutions must not enforce a particular metaphysical, religious or other general controversial vision. Every requirement of prohibition or obligation that has such a kind of foundation cannot be legitimate in the context of the argumentative model of Western democracies, the political tradition to which we belong. In this statement, I rely heavily on the work of John Rawls, in particular on his idea of public reason as a model of argumentation in the public domain.⁶ As Rawls says, public reason requires that in the process of justification in the public debate people appeal to beliefs generally accepted and forms of reasoning found in common sense, as well as to conclusions of science when they are not controversial. It appears clearly from this, that we may not appeal to comprehensive religious and philosophical doctrines as crucial reasons when we require to public institutions to apply coercion. In brief, Rawls says that

»... as far as possible, the knowledge and ways of reasoning that ground our affirming the principles of justice and their application to constitutional essentials and basic justice are to rest on the plain truths now widely accepted, or available, to citizens generally.«⁷

With this, I declare explicitly what the boundaries of my paper are. I discuss arguments for the prohibition of cloning in the public domain. Obviously, it is possible to consider deep premises and metaphysical presumptions or implications of cloning. However, as I said, these are not valid crucial arguments in the debates in public political institutions, at least as far as they remain controversial and without a possibility of common solution, and we want a society based on cooperation and not on oppression. Therefore, in this paper, I concentrate on those arguments that can be used as valid public reasons (reasons valid for public political institutions) because they appeal to some presupposed common values, or follow common methods of reasoning, or appeal to evidence that all full members of the political society can ascertain.

There are, of course, several arguments that try to speak for the banning of human cloning. Most generally, as I indicated at the beginning of the paper, there are three kinds of arguments in this field. I indicate them now in some more details. First, there are arguments that find reasons of intrinsic immorality in the procedure. For example, there are people who say that cloning represents a radical manipulation of the intrinsic relationality and complementarity at the origin of human reproduction, both in its biological as well as personalistic aspects. The fundamental relations between human beings are radically altered (precisely, the relation between parents and children). There is an attempt to reproduce what happens in nature, but the price is that of ignoring what constitutes a human being beyond her biological nature, and the reduction of her to the reproductive features of less biologically developed beings.⁸

Second, there are arguments that find cloning by its intrinsic features as a procedure that creates disadvantaged human beings. Human beings created by cloning are disadvantaged independently of the motivation by which they are created. Thus, for example, it is stated that cloning strengthens the idea that some people can have total control of other people's life by programming their biological identity. Moreover, the dignity of the new person, according to this view, is damaged because she is only a 'copy' of an-

other being. The mental identity of the new person is threatened because of the virtual or real presence of another her. The clone will be under the pressure of the expectation that she reproduces the original individual.⁹ Hans Jonas says that cloning crashes against the right not to have knowledge about the future, as he says, a right to ignorance. Cloning crashes against this right even if the strong thesis of genetic determinism is not true. The mere fact that an individual, and her environment, believes that the future is determined breaks the spontaneity in the creation of a human life.¹⁰ The kinds of arguments to which I refer here are arguments that appeal to the value of autonomy, and the autonomy that is relevant here is the autonomy of the possible future person, i.e. the clone. A particular objection is that through cloning women are radically humiliated and reduced to a mere technical reproductive function.¹¹

The third line of argumentation does not see anything intrinsically wrong in the practice of cloning, but it nevertheless indicates reasons to be suspicious in relation to it. This sort of discussion asks questions about the possible motivations for cloning, and it remarks the difficulties in discovering motivations that respect the rights of the future person. Such is the discussion offered by Philip Kitcher.¹² As he indicates, a person is never only the result of her genetic inheritance, therefore, the attempt to realize with high certainty an individual with the characteristics of an existing person is illusory. For example, parents that are inspired by the beauty of an existing actress (let her be Monica Bellucci) can only reasonably hope that they will improve the chances of their daughter to be an attractive woman, not that they will ensure their daughter the privilege of being an attractive woman. There is much more in the attractiveness of Monica Bellucci than her genetic inheritance. The same we can say for other cases, let them be scientists, sportspersons, etc. Kitcher indicates nevertheless something dangerous in the reasoning and plans of the potential parents, and this is included in the statement »Cloning would surely have raised the probabilities of our obtaining the child we wanted«. Kitcher comments this sentence:

»Just that final phrase indicates the moral squalor of the story. As I have imagined it, we have a plan for the life to come laid down in advance; we are determined to do what we can to make it come out a certain way – and, presumably, if it does not come out that way, it will count as a failure. In the present scenario, there is a crass failure to recognize the child as an independent being, one who should form his own sense of who he is and what his life means. The contours of the life are imposed from without.«¹³

6 J. Rawls, *Political Liberalism*, Columbia University Press, New York 1993.

7 J. Rawls, *Political Liberalism*, p. 225. Rawls's proposal of public reason is obviously in need of more sophisticated explanation than the one I offer here, and perhaps of refinements due to the big debate related to the proposal of this author. However, in virtue of the limits of this paper, I indicate only, extremely briefly, the core of the proposal.

8 Pontificia Accademia Pro Vita, *Riflessioni sulla clonazione*, Libreria editrice vaticana, Città del Vaticano 1997, pp. 10–12.

9 Pontificia Accademia Pro Vita, *Riflessioni sulla clonazione*, pp. 12–16.

10 Hans Jonas, *Tecnica, medicina ed etica*, pp. 136–148.

11 Pontificia Accademia Pro Vita, *Riflessioni sulla clonazione*, p. 11; A. Dworkin, »Sasha«, in: M. Nussbaum, C. Sunstein (eds.), *Clones and Clones*, pp. 73–77.

12 P. Kitcher, *The Lives to Come*, pp. 334–340.

13 *Ibid.*, pp. 334–335.

The problem that Kitcher identifies, therefore, is related to the possible goal of cloning, not to cloning as such. It is morally impermissible, because it is continuous with other forms of disrespect of autonomy. The next question asked by Kitcher is whether there might be possible goals for human cloning that are morally acceptable. He indicates three hypothesis. One is the case of parents who have a child in potential need of organs for transplantation. They can decide to make a child by cloning in order to have available organs. Second, there is the case of a widow who lost her husband in a car accident. In the same accident her daughter was also severely damaged, and is now facing an imminent death. The mother wishes to have a child by cloning in order to get a continuity with this daughter. Third, we have the case of a lesbian couple. They wish to apply cloning in order to have children by their genetic material. According to Kitcher, the first two cases are situations in which a clear disrespect for the future person is shown, because she is obviously treated in an instrumental way. The third case seems the most plausible, because it is inspired by the usual, legitimate motivation when a couple has a child. However, even in this case, Kitcher does not see a particular reason to make use of cloning instead of the already available means of assisted procreation.

4.1. Arguments about the intrinsic immorality of cloning

As I indicated, the argument that appeals to the intrinsic immorality of human cloning has different manifestations. However, it is a shared ambition of these arguments to indicate a common moral belief, a common value, that grounds the prohibition of cloning. The situation is, however, more complicated. Let's see the statements in turn.

The first is that cloning represents a radical manipulation of the intrinsic relationality and complementarity at the origin of human reproduction, both in its biological as well as personalistic aspects, and that the fundamental relations between human beings are radically altered by cloning (precisely, the relation between parents and children). The authors of this criticism obviously presuppose that we evaluate with particular consideration the relation established by two human beings in the process of reproduction and that we find the dignity of reproduction in this relation. The same for family relations established by reproduction. However, the intuition is not so clear, or, in any case, it is not clearly connected with other intuitions largely accepted. The intrinsic relationality and complementarity at the origin of human reproduction can be altered with procedures of assisted procreation already known and frequently applied. There is surely a lot to say in relation to the alteration of the complementarity and relationality at the beginning of human reproduction if we consider the practice of heteronymous assisted procreation, or of surrogate motherhood, for example. In the first case, we may have a biological and legal mother and a legal father, where the legal father has no biological relation with the child, and a biological father who has no relation at all with the child, except biologically, which is, however, unknown to everybody. In the second case, we can have a large amount of variations. In one possibility it can happen that the legal mother has a genetic relation with the child, but she is not the gestational mother; in another case she has a genetic relation, but she is not the gestational mother, and, moreover, the legal mother can have no biological relation at all with the child (in the last case, her situation seems to me totally equivalent to that of the father in the case of heteronymous assisted

procreation, except for the fact that in surrogate motherhood the gestational mother is known and, so, the case is more complicated). The first moral consideration, therefore, is that cloning is not, from this standpoint, such a big innovation.

Obviously, the critics may say that all these practices must be forbidden, and some of the critics say this.¹⁴ The facts appealed by these critics is that human reproduction has a particular natural order which has normative power, and a particular natural kind of complementarity and relationality which have normative power as well. However, in this case, the appeal is not to a common moral intuition, but to a specific religious and a related metaphysical viewpoint. The attempt to impose such a perspective clashes with a commonly accepted principle, at least in the political orders of the Western civilization, that the state should not enforce specific and controversial moral visions of the world, in particular in relation to fundamental moral questions. For example, no religion has to be privileged, nor any religion, or agnosticism, or atheism may be discriminated against.

We will understand much better how problematic the debate is if we consider the fact that the actions of human beings frequently deny the normativity of nature. This happens whenever we treat a disease. It would fit with natural order to permit nature to take its course in at least two meanings. First, the most obvious, because of the fact that the disease is a natural phenomenon, while the treatment is an artificial opposition to it. But, there is a more theoretical level of the discussion, which relies on Darwinian grounds. As Darwinism is concerned, the treatment of a disease, and the attempt to save a subject affected by it, may be a case of intercourse with the natural most basic principle in biology: the principle of natural selection. It appears from this that the argument of appeal to natural order and its normativity is not so simple and it requires further discussion with a connection to metaphysical and theoretical background. Obviously, only some minority groups in society, and only in some cases, would accept the radical statement of non interference with nature in case of a disease. The question, now, becomes: where can we put the boundaries of our legitimate interference with nature? We face here a demanding question, and I am not going to discuss it in detail. It is enough, for the present purpose of a public domain discussion, to indicate that the critics do not appeal to a simple common intuition that may be taken by itself as sufficient to justify a prohibition.

The argument for the banning of cloning can take a different form. In this case, it says that what is damaged is not natural order as such, but the specific natural order of love and family relations between human beings. This version of the argument does not seem to me to have a better prospective than the former version. If the argument is seen as an extension of the more general argument that we saw earlier, it applies here the same general reply to it that was shown earlier. If the argument appeals to some specific valuable relations of love and family relations in the case of humans, there is still the danger that it imposes on everybody a specific conception of metaphysical background of value, however traditional and embraced by the majority it may be.

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M. L. Di Pietro, E. Sgreccia, *Procreazione assistita e fecondazione artificiale tra scienza, bioetica e diritto*, La scuola, Brescia 1999.

A different version of the argument states that cloning attempts to reproduce what happens in nature, but the price is that of ignoring what constitutes a human being beyond her biological nature, and the reduction of her to the reproductive features of less biologically developed beings. This may appear as an appeal to a common value, and not to a specific moral view, because it tries to relate to a common sense of dignity we have as humans, according to which we must always maintain our behaviour at a level that is superior compared to that of other living kinds. A way back to the reproductive forms of the less developed beings would be a heavy departure from this rule. Now, it is true that cloning has some resemblance with the reproduction of the less developed biological organisms that reproduce in an asexual way, in virtue of the fact that cloning may be based on the biological source of only one individual. Again, we do not have to deal with an unproblematic moral intuition, and it is not self-evident what is the moral consequence of the empirical evidence. Contrary to the statement seen earlier that appeals to a violation of human dignity, one may state a different position.

Imagine someone who endorses a theory according to which the basis of morality is represented by a set of natural emotions of approval, i.e. a version of emotivist metaethics. The origin of these emotions is explained in the context of a sociobiological framework that describes our moral attitudes as natural emotions selected by natural evolution. This kind of moral philosopher may see the attitude to cloning as an emotional response to one natural instinct in perfect accordance with the logic of nature, therefore as a paradigmatic case of moral attitude that fits perfectly with her metaethics. Of course, she has to show a more sophisticated explanation at the metaethical level than the brief sketch that I have illustrated, and she needs some further explanation at the level of the empirical data, too. Specifically, the explanation she needs has to indicate that there is a sense in which it might be possible that cloning is a return to a more natural way of reproduction. The possibility of this hypothesis is derived from a suggestion of Richard Dawkins who says that

«... there is a sense in which, to an evolutionary biologist, cloning is more natural than the sexual alternative. [...] The selfish gene theorem, which treats an animal as a machine programmed to maximize the survival of copies of its genes, has become a favoured way of expressing modern Darwinism. [...] From this point of view, at least when naïvely interpreted, sex is paradoxical because a mutant female who spontaneously switched to clonal reproduction would immediately be twice as successful as her sexual rivals. She would produce female offspring, each of whom would bear all her genes, not just half of them.»¹⁵

A moral philosopher of the kind I indicate, who takes into serious consideration the suggestion of Dawkins about the paradox of sex from the perspective of natural evolution, has a basis for a justification of the attitude to cloning.

However, it is not my ambition, here, to speculate about the messages of nature, and about what is more and what is less natural, nor about questions of the foundations of ethics. My only purpose is to show that here we do not have again to deal with a simple moral intuition, but with a demanding philosophical discussion with deep implications.

The objection that I discuss here may appear also in a different form. In this case, it says that cloning avoids differentiation, which is a necessary condition for progress and evolution. Cloning, therefore, would assimilate

human beings to the less developed forms of life, because it would impede the progress and evolution of humanity.¹⁶

In the answer to the following objection, as well as to the next one, I deviate from the strategy I adopt earlier in this section. My arguments until now had this form. (i) I try to show that the intuitions appealed by the critics of cloning are problematic. (ii) Further discussion indicates that premises with deep theoretical implications are required, such that they are heavily controversial and cannot serve as a crucial basis for a public system of norms, i.e. obligations and prohibitions. In the following two specific cases, the arguments are plainly wrong, and I want to show some direct confutations of them.

There are several reasons to say that differentiation and the possibility of a further development of human kind may exist, even if cloning is permitted. First, it is not probable that everybody will require cloning, therefore the process of differentiation will continue to exist in virtue of those people that will not apply this reproductive method. Second, it is not probable that, even if people will massively choose cloning as a reproductive method, people will massively choose the same models. Diversity will persist as much as there is actual diversity in taste. Of course, this is not enough to reply to one aspect of the objection, in the sense that the actually existing genetic frames will be reproduced, and there will not be new genetic combinations. However, diversity between different people will still permit new forms and frames of social and cultural variety. Third, even if parents will massively require the reproduction of the same genetic frame, because of the fact that the strong thesis of genetic determinism is not true, cloning will not eliminate differences totally.¹⁷ And, finally, if the practice degenerates, it is still possible to forbid it later, in virtue of clear evidence, and not in virtue of a mere distant hypothesis, as in the actual formulation.¹⁸ It is

¹⁵ R. Dawkins, «What's Wrong with Cloning?», in: M. Nussbaum, C. Sunstein (eds.), *Clones and Clones*, p. 57.

¹⁶ This argument, perhaps with a slight modification, can be interpreted also as belonging to the second sort of arguments in my classification, i.e. as focusing not on something intrinsically morally wrong, but, instead, on something damaging intrinsically related to cloning.

¹⁷ Strong genetic determinism in this paper is meant sometimes as the thesis that the genetic features strongly determine all the features of an individual. However, it is possible to say that even genetic determinism meant as the transmission of genetic features is not so strong as the argument of the opponent needs. «Genes are thought as immutable elements. However, they are not, because they continuously face, although in a moderate pace, modifications of the sequence, generating 'mutations' that happen spontaneously or due to external agents; the mutations change the functions of the gene. The environment may then change the genes by selecting individuals with such spontaneous modifications.» – R. Dulbecco, *La mappa della vita*, p. 97.

¹⁸ Eric and Richard Posner say that it is plausible to expect that cloning, once allowed, will become a major form of reproduction. This brings with itself a set of problems for the future of humanity. However, they conclude that the prediction is in very long term, and that it is not excluded that until that time it will be possible to find solutions for the potential problems. I think that they confirm my thesis that there is not a reason to ban cloning at the moment (if it becomes a safe procedure), while not renouncing to the possibility to forbid it when its possible dangers really appear as probable. They say in their conclusion: «Some of the effects are so long run that technological advance of the very kind that have given us cloning may eliminate them: Long before the population becomes dominated by infertile and narcissistic clones, infertility and extreme narcissism may be as passé as smallpox. In other words, fertility technology and psychiatric medicine may advance so rapidly and as far as cloning technology. Perhaps, then, despite the concerns discussed in this paper, only the very cautious will want to prohibit human cloning.» – E. Posner, R. Posner, «The Demand for Human Cloning», in: M. Nussbaum, C. Sunstein (eds.), *Clones and Clones*, p. 258.

important, here, to remember the presumption of the value of autonomy. A behavior may be legitimately forbidden only if there is a valid reason to do this. If something is only potentially, but not probably, dangerous, and the danger is remote, and it is possible to avoid it when it becomes closer and more probable, it is better to wait that it becomes closer and more probable. In this way, we may be sure that we are not suppressing a manifestation of the right to autonomy of the individuals.¹⁹

The part of the argument that says that cloning ignores what constitutes a human being beyond her biological nature, is completely without foundation. As far as I understand it, the statement can mean three different things. The first meaning is that cloning reduces as a matter of fact human beings to their biological nature only. Interpreted in this way, the statement is clearly wrong. If genetic determinism is false, human beings will not be reduced to their biological nature by cloning only. There will always be much of environment, education, personal biography in the personality of a human being.

In the second meaning, the statement may indicate a cognitive failure: cloning reveals the mistake made in assuming the thesis of genetic determinism. However, it is not probable that critics appeal to such a cognitive objection, because their target is primarily directed to the practice of cloning and its possible consequence. Here we arrive at the third interpretation, i.e. that cloning is an attempt to reduce human beings to their biological nature. But this attempt is not particularly dangerous as a source of harm, because, if the strong thesis of genetic determinism is wrong, it will surely fail. As Gerard Elfstrom says, it is unusual to forbid an action just because it has the wrong motivations behind it. Imagine an individual who thinks that by scratching her right ear with the left hand, she will cause the destruction of the universe. We can surely judge this person as evil, but we will not forbid her to scratch her right ear by the left hand.²⁰

4.2. Arguments on cloning as an intrinsic cause of harm to human beings

I come now to the second sort of arguments against cloning. As I indicated earlier, it is stated that cloning strengthens the idea that some people can have a total control of other people's life by programming their biological identity. Apart from the assumption of the wrong thesis of the strong version of genetic determinism, this argument can take two forms, but in both of them it leads to wrong moral conclusions. First, it is possible to say that cloning strengthens this idea independently of whether genetic control of someone's life is enough to establish the total control of her personality. There might be something in the illusion that cloning suggests that tends to increase the ambition of having a total control of other people's life. In its second version, the argument says that cloning can augment the ambition to control other people's life, because it gives a further basis for this attitude by giving it additional instruments. Here it is assumed a plausible weak thesis of genetic determinism.

The argument, in both versions, is at least dubious. It wants to suggest that, in order to strengthen the idea that people can have a total control of other people's life, it is enough to have the illusion of strong genetic determinism (and, therefore, of the efficiency of cloning), or the awareness of only a partial effectiveness of cloning. In my opinion, if the strong thesis of ge-

netic determinism is not true, then the possible additional motivation of controlling other people's life by cloning is heavily reduced, and will finally disappear or will become rare. It is probable that the empirical evidence of the fact that cloning does not assure that the future person will be able to reproduce the features that are expected will create a motivation contrary to the application of cloning to people with such a desire. As is shown by Elfstrom on Einstein's example, there is a multiplicity of elements needed to reproduce a person. There is no reasonable expectation that a new Einstein might be created.²¹ As a conclusion, after this appears clear to large parts of population, it becomes not understandable why people might enter in the complicated procedure of cloning without any reasonable expectation of success, and it is also not plausible that the illusion of strong genetic determinism will survive.

There is one more important aspect in the answer to the objection presently under discussion. The central point of the argument is that the clone will be under the pressure of the expectation that she reproduces the original individual. That pressure may really appear. The fact that some people wrongly think that they have applied a procedure that permits a new individual to repeat all the expected features of an individual previously existing, might cause them to make some pressure on the new individual who might suffer for this, as well as for the frustration for her inability to respond to the expectations. However, among some parents, the attitude of determining the future of young people already exists and it is related to the power to direct the structure of life of their children by education. This seems to me to indicate that the possibility of cloning is not primarily a source of a new motivation, but only a technological instrument that may be evaluated by people dependently of the motivations they already have. In other words, cloning can appear as a good opportunity primarily to parents that have an independent motivation to trace the structure of the life for their children even now, when education seems to be the major instrument for this. If this is so, than the real problem is not cloning as such, but that of creating an environment in which there is a positive attitude toward creativity and spirit of innovation among young members of society. If this social policy fails, and we are concerned about the possible frustrations of children of ambitious parents, it might be even better that parents can make use of the additional opportunity to enhance the genetic features of their children, than only that of influencing them by education. In this case, children may have greater opportunities to be successful and, therefore, not to be frustrated.²²

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For a similar kind of argumentation, see: Richard A. Epstein, »A Rush to Caution: Cloning Human Beings«, in: M. Nussbaum, C. Sunstein (eds.), *Clones and Clones*, pp. 262–279; in particular, for the problem of differentiation, see pp. 274–278. Someone may find as a rational principle not to wait, and to repress always all possibilities of danger. I am not discussing this statement here. Instead, I rely on John Harsanyi's discussion of this. I think that he has convincingly shown that this would be a paradoxical principle of rational choice. See: J. Harsanyi, »Can the Maximin Principle Serve as a Basis for Morality? A Critique of John Rawls'

Theory«, *American Political Science Review*, 1975, pp. 594–606.

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G. Elfstrom, »The Strange Logic of Arguments about Cloning«, *Philosophical Inquiry*, 2002, p. 67.

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G. Elfstrom, »The Strange Logic of Arguments about Cloning«, pp. 63–64.

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For the discussion of this problem, see also M. Tooley, »The Moral Status of the Cloning of Humans«, pp. 46–47.

There are now two arguments that I analyse together. They say that the dignity of the new person is damaged because she is only a 'copy' of another being, and that the identity of the new person is threatened because of the virtual or real presence of another her. Here we have, at the background of the objection, the wrong premise of the strong thesis of genetic determinism. It would be enough to indicate that this premise is wrong to confute the argument. Here we have strong direct empirical evidence against the argument. There are frequent examples of human beings with identical genetic codes, I refer to cases of twins, and these cases speak in favor of the statement that genetic identity is not sufficient to imply a loss of individuality, or a rational sense of loss of uniqueness.²³ Moreover, in the case of twins there are even more reasons that can appear as possibilities to threaten the individuality and uniqueness of the subject, rendering her more similar to another subject. Twins share the pregnancy, which imply that they share some facts that are relevant in the early development of a being and they can share a common natural and social environment, as well as a common education. All these are factors that will surely render the clone quite different from the donor. A clone

»... and her nuclear mother differ in three ways in which identical twins are typically the same. They develop from eggs with different cytoplasmic constitutions, they are not carried to term in a common uterine environment, and their environments after birth are likely to be quite different.«²⁴

The third line of argumentation appeals to a right to ignorance. Let's remember that Jonas says that cloning is a threat for this right even if genetic determinism is not true, because, in his opinion, the mere fact that an individual, and her environment, believes that the future is determined breaks the spontaneity in the creation of a human life. Here again the real problem is not cloning, but social prejudices and people's ignorance. There are different ways to menace the right of an individual from the perspective of prejudices about the determination of her future: there are racist prejudices related to determinism, sexist prejudices, nationalistic prejudices, prejudices related to the life story of the parents of the individual, etc. Cloning, therefore, does not create a new social phenomenon. Does it contribute to increase it? Perhaps yes, in the sense that it is possible that people that have none of the prejudices indicated earlier can have prejudices related to cloning and genetic determinism, or they can add this new element to their list of prejudices. However, in none of the cases indicated earlier, prejudices by themselves are a sufficient ground to forbid reproduction. The fact that some people believe that members of a race, of a nation, of a gender, of a family are determined to a particular fate, or from the fact that this belief can be transmitted to new members of society belonging to the indicated group, are not sufficient grounds to forbid to reproduce and to create new members of this race, nation, gender, or family. By the rule of universalizability, as a basic rule of moral reasoning, we have to conclude that these same facts, based on prejudice and ignorance, can not be a ground to forbid cloning. If there are no other grounds to forbid cloning, than cloning must be understood as something legitimate, therefore as an instance of a right. In this case, the correct attitude is to oppose prejudices and ignorance, not cloning.²⁵

It is important to see, as Tooley does, what are the possible sources of the limitation of spontaneity from the standpoint of the individual involved.

Genetic predispositions are a limit to a person's possible achievements. A person (Clarissa) can see that an individual with the same genetic predispositions as those that she has (Laura), has failed in the attempt to be a famous singer, although she has tried with all her resources to be successful. This failure can break the spontaneous attempt of Clarissa to become a famous singer. However, as Tooley says, there does not seem to be anything clearly wrong in this. Perhaps, it is better that Clarissa dedicates her life to some activity where she has greater chances to be successful. On the other hand, Clarissa can see Laura's life and think that the only possible future open to her is identical to Laura's life. This, however, is a plainly wrong belief, and cannot ground any normative conclusion.²⁶

There remains the objection that says that by cloning the woman is radically humiliated and reduced to a mere technical reproductive function. The central point of this objection is indicated by Andrea Dworkin's words:

»In a world in which cloning works, only compliant women will live. Cloning is the absolute power over reproduction that men have wanted and have destroyed generations upon generations of women to approximate. This, of course, is not the logical social consequence. The technology used to make the cloned sheep is perfectly adequate to induce parthenogenesis such that women could, if we choose, reproduce ourselves – and eventually this would be an all-female world. [...] Men [...] would just die over time. But they won't, will they? If they did not already have the real power over reproductive technologies, they would take it – using the violence that we will not use. But they do have it, don't they? They have it and they will use it. Women with attitudes will die or be killed or exiled or marginalized to eventual death. [...] Within reach is a world with fewer but better women.«²⁷

This argument is not plausible for at least two reasons. First of all, there is nothing in cloning that seems to indicate that it is a typical men's expression, instead of women's expression. As Andrea Dworkin's example suggests, it can be used by women, too, in order to satisfy some of their emotional needs. Andrea Dworkin herself speaks of the possibility for her to clone her beloved cat. In an interesting fictitious story, Martha Nussbaum speaks about the possible intention of a woman to clone her dead lover (or husband).²⁸ It is heavily unreal to say that in the contemporary world, at least in the Western world, only men might have the possibility to realize their intentions, and not women. At least some women have more power

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See also D. Brock, »Cloning Human Beings«, pp. 151–153.

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P. Kitcher, *The Lives to Come*, p. 331. See also S. Gould, »Dolly's Fashion and Louis's Passion«, in: M. Nussbaum, C. Sunstein (eds.), *Clones and Clones*, pp. 41–53. Tooley says that if the subject persists in being disturbed due to an imagined loss of identity and uniqueness, the responsibility for this is to be attributed only to her, because of the fact that the belief is not rational. The fact that her reaction is not rational implies that it cannot ground prohibitions for other subjects. – M. Tooley, »The Moral Status of the Cloning of Humans«, pp. 35–36.

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Richard Epstein relies on the analogy with other new reproductive technologies feared at their appearance in order to show that

worries related to possible bad psychological effects of cloning are at least premature. A relevant part of Epstein's argument relies on the refusal of the strong determinist thesis, too. See: Richard A. Epstein, »A Rush to Caution: Cloning Human Beings«, pp. 269–273.

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M. Tooley, »The Moral Status of the Cloning of Humans«, pp. 38–39. See also D. Brock, »Cloning Human Beings«, pp. 153–155.

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A. Dworkin, »Sasha«, p. 76.

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M. Nussbaum, »Little C«, in: M. Nussbaum, C. Sunstein (eds.), *Clones and Clones*, pp. 338–346.

and financial possibilities than some men, and surely it would be easier for the former to obtain some result from cloning, than for the latter, although I do not want to ignore the forms of discrimination to which women are subjected in some parts of population.

A possible way in which cloning might be used to extend the discrimination against women is to increase the distance between the vision of women that are related to men's sexual satisfaction, and women that are related to men's reproductive wishes. The reason to say this is that men might use women for reproduction without having any sexual relation with them, and that these women will be transformed in mere machines for reproduction. At the same time, women that are used for mere sexual pleasure will be reduced to this function only. However, the hypothesis that, by this, cloning will increase discrimination (or discriminations) is distant from being very plausible. A woman that is objectified is not more happy for the fact that she is objectified twice (for sexual desire and for reproduction) and not only once (for sexual desire or for reproduction). In any case, she is deprived of the possible pleasure of the activity in which she is engaged. Moreover, assisted procreation can separate the sexual act and reproduction, too. There is no known reliable indication that it has increased the objectification of women. Discrimination against women is a social problem, but it has to be faced by an adequate social policy, not by an opposition to technical resources that are by themselves neutral (and are not neutral only in particular social conditions).

4.3. Arguments on cloning as missing legitimate motivations

I come now to the third line of argumentation. According to it, there is nothing wrong in cloning as such, but it is difficult to see a legitimate motivation in somebody who decides to attempt an application of cloning. The absence of a legitimate motivation indicates that cloning may only be a source of abuses, and in no way a procedure, which will be in practice respectful of the rights of the new individual. My answer will be rather brief. First of all, I see at least two legitimate motivations for cloning. Imagine a case where the possible father is not fertile because of the level of quality of his spermatozoids. In this case, the only possibility for the couple to have a child is to realize heteronymous assisted procreation. However, in this case the child will have a biological relation with the legal mother only, and with one person external to the family. This does not represent a problem for some families. But, this might be felt as a problem for other families. In the case of cloning of the father, there will be participation of both parents in the biological relation with the child: the father will give the genetic material for the reproduction, the mother will have the relation established in the process of gestation, as well as the related emotional relation. This might appear as a better solution for some families. I do not see any motivation that can be classified as morally wrong in this case.²⁹

It is important to stress the difference between my argument and an apparently similar, but in fact different, argument. Gregory Pence gives an argument for cloning that appeals to considerations similar to those that I offer. He appeals to the relevance of genetic link for parenthood, and he says that a valid way to strengthen the parental relation is that the child is a clone of the father, because in this case the child has the strongest possible genetic link with the father, while he would have an important link with the

mother as well, due to pregnancy.³⁰ There is an important difference between Pence's proposal and the one that I offer. Pence adopts some general presumptions about parenthood – men's approach to it, and women's approach to it. When the question is put in these general terms, with some additional presumptions that I do not endorse, it seems to me heavily problematic, and I agree with criticisms expressed in relation to Pence's proposal.³¹ I only want to say that the solution that I indicate may be a good solution for some families, and that there would not be anything wrong in their choice.

The second possible motivation is suggested by the appearance of a sect of people who find a particular religious relevance in cloning. I refer to the Raelian community, although I do not want to connect my argument with this particular sect, in the sense that, if there are particularly worrying aspects of this sect apart from the value they attribute to cloning, we can imagine in principle, as a thought experiment, a possible religious group without these sorts of features but that attributes a high relevance to cloning. The freedom in matter of choice of religion is one of the most firmly declared rights in every free society that is respectful of rights. I do not see any possible reason to declare as protected all the actually existing religions, and to close at the same time the door to possible new religions. Obviously, there will be people who deny the legitimacy of some new religions by labeling them as mere superstitions. However, which is the ground for saying that some religions are mere superstitions, while we accept as a basic human right that of following what gets authority from believing in entities whose existence can never be publicly proved, at least not by usual means of public proof, as, for example, those recognized in science or trials? The only acceptable reason to forbid the practice of a religion is its opposition to the respect of human rights, or harms to people that it originates. But, there is no a priori reason to think that members of a religion will injure people just because of the mere fact that it gives relevance to the practice of cloning. As an element of particular relevance in judging cloning, it may happily be that members of this religion will take in great consideration the care they owe to their children.

My aim in this part of the paper is not to show specifically two possible legitimate reasons to permit cloning. I want to show just that there are possible legitimate reasons to apply cloning. Other cases that I do not consider here may be legitimate, too. However, when cloning is required, when it might possibly become a safe procedure, its permission must be evaluated specifically in each singular case, just as this would be a good practice for assisted procreation in general. Here, it might be possible to state an objection that says that my proposal is too restrictive and discriminatory: why are people permitted to reproduce without any specific authorization by sexual reproduction, while they have to get permission if they require assisted procreation, including cloning? This is a statement endorsed by

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An argument that focuses on a different possible case, but that appeals to the right to have a child who is a genetic descendant, with the remark of the related opportunities that are socially accepted in order to render effective this right, is offered by John Harris. See: J. Harris, »Goodbye Dolly. The Ethics of Human Cloning«, pp. 353–360.

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G. Pence, *Who's Afraid of Human Cloning?*, Rowman & Littlefield, Lanham 1998.

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See: K. Little, »Monogamous Marriages and Dead-Beat Dads. Bad Arguments about Cloning«, *Monash Bioethics Review*, 1999, pp. 54–58.

Eugenio Lecaldano, who says that there is no reason to require to other forms of procreation what is not required to people that procreate by a sexual act.³² In my opinion, it would have some positive aspects to check possible parents in general, in order to increase the possibility that new children will be born in their best interest, in an appropriate condition. However, to enforce this requirement by putting restrictions on sexual procreation would be too socially invasive, and the benefits that might come from such a social policy would be smaller than the harms. It is, on the other hand, easier and less invasive to apply some policies of control when people require medical help to reproduce. The reason for the distinction is, therefore, not discriminatory, but relies on conditions of applicability.

If cloning may be legitimate in some cases, there is no reason to forbid research that will create the possibility to have it as a well functioning practice (except for the moral question of the permissibility of making experiments on embryos, which I do not consider in this paper). The right way to approach the problem is to discuss how to create a social situation where this practice will increase benefits, or at least where it will be possible to avoid (or reduce) possible harms that might come from this practice while respecting the rights of people that require cloning on legitimate grounds. In particular, the problem is to respect the best interests of people that might be born after cloning was applied in their case. These people are not condemned to a sad future, to a disadvantaged life, because, as I have tried to show, there may be legitimate requirements for cloning, but a social condition must be created so that the possibility of abuses or harms for the future persons is rigorously reduced.³³

Elvio Baccharini

Einige gemeinsame Fragen in der moralischen Klonierungsdebatte aus liberaler Sicht

Auf die bloße Ankündigung der Möglichkeit menschlichen Klonens formulierten die Moralisten kritische Argumente gegen die Zulässigkeit der Einführung dieser Praxis. Ein kritischer Blick auf diese Argumente zeigt jedoch, dass sie nicht wohl fundiert sind, d.h. dass sie nicht als legitime Argumente in der Debatte um das in einem Staat öffentlich zulässige zu verwenden sind, denn sie stützen sich auf falsche Prämissen oder sie sind unvereinbar mit Erlaubnissen im Hinblick auf andere Formen der menschlichen Reproduktion.

Jedes Argument zugunsten des Verbotes menschlichen Klonens wird mindestens anhand eines der folgenden Mittel analysiert: Steht es im Einklang mit den Grundprinzipien zeitgenössischer Demokratien (insbesondere im Hinblick auf das Recht jedes Individuums, dem eigenen Wertesystem in seinem eigenen Leben zu folgen); stützt es sich auf wohl fundierte und weitgehend akzeptierte Ergebnisse wissenschaftlicher Forschungen; ist es kohärent mit den üblichen und allgemein anerkannten moralischen Vorstellungen, die mit anderen Formen menschlicher Reproduktion verbunden sind. Das Hauptargument, das als gute Grundlage zum Verbot menschlichen Klonens angesehen wird, ist die moralische Pflicht, künftigen Personen keinen Schaden zuzufügen.

Das Ergebnis des Verwerfens traditioneller moralischer Argumente gegen das menschliche Klonen bedeutet keine allgemeine Rechtfertigung menschlichen Klonens, es zeigt nur, dass neue oder präziser ausgeklügelte Argumente zu erbringen sind, wenn menschliches Klonen verboten werden soll.

Elvio Baccharini

Une vue libérale sur quelques questions courantes dans le débat éthique autour du clonage

Dès la simple annonce de la possibilité de cloner des humains, les moralistes ont formulé des arguments contre l'introduction d'une telle pratique, la jugeant inadmissible. Or, un examen critique de ces arguments montre qu'il ne sont pas bien fondés, c'est-à-dire que, souvent, ils ne sont pas propres à être mis en avant en tant qu'arguments légitimes dans les débats sur ce qui est publiquement admissible, qu'ils reposent sur des prémisses erronées, ou qu'ils ne sont pas cohérents avec l'admissibilité d'autres formes de reproduction humaine. Chacun des arguments en faveur de la proscription du clonage humain est analysé ici sous au moins l'un des aspects suivants: est-il en conformité avec les principes fondamentaux des démocraties modernes (notamment en ce qui concerne le droit de chaque individu de suivre dans sa vie ses propres valeurs), est-il fondé sur les résultats incontestés et communément admis des recherches scientifiques, enfin, est-il cohérent avec l'attitude générale à l'égard d'autres formes de reproduction humaine. L'argument massue en faveur de la proscription du clonage humain est celui qui met en avant le devoir moral qui consiste à ne pas faire de tort à la future personne.

Le résultat de cette réfutation des arguments éthiques traditionnels contre le clonage humain ne représentent pour autant pas une justification complète de ce dernier: elle montre tout simplement qu'il faudra trouver des arguments plus concluants si l'on veut faire interdire le clonage humain.

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E. Lecaldano, *Bioetica. Le scelte morali*, Laterza, Roma/Bari 1999, p. 144.

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I owe thanks for their precious suggestions to colleagues who discussed earlier versions of this paper: Boran Berčić, Corrado Del Bo',

Sarah Cann, Jennifer Jackson, Tonči Matulić, Neven Petrović, Darko Polšek, Snježana Prijić-Samaržija, Predrag Šustar, as well as two anonymous referees of *Synthesis Philosophica*. Snježana Prijić-Samaržija, in particular, read and commented various drafts of the paper.