The Legal Regulation of Human Cloning

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Abstract:

Many prohibited medical practices have emerged that use the human body and its products as a basis for scientific and medical experimentation, disregarding all boundaries, values, and the sanctity of the human body. The law explicitly prohibits resorting to such practices due to their violation of ethical or religious standards, and because they pose a threat to human existence.

Medical practices have not been limited to the existing human body; they have extended to even creating and generating humans, as in artificial reproduction and sex selection. Among the most serious of these practices is **human cloning**, which opens the way to creating a human from a single egg through cloning. Human cloning can be intended for **reproductive purposes** or **therapeutic purposes**, and between these two, it is necessary to examine its legitimacy and the legal position regarding it. This is the focus of our study in this article, where we aim to understand the legal stance on this practice.

Keywords: Medical practices, legal regulation, prohibited practices, human cloning.

ملخص:

ظهرت العديد من الممارسات الطبية المحظورة التي تتخذ من الجسم البشري ومنتجاته محلا للتجريب العلمي والطبي الذي ضرب حد الحائط كل الحدود والقيم وحرمة الجسم البشري. نص القانون صراحة على عدم جواز اللجوء إليها، لما تشكله من مساس أو تعدي على الضوابط الأخلاقية أو الدينية، أو لما تنطوي عليه من تهديد وانتهاك للوجود الإنساني.

لم تقتصر الممارسات الطبية على الجسم البشري الموجود، بل تعدتها لتصبح اليوم تلعب دورا حتى في إيجاده وتخليقه، كعمليات الإنجاب الاصطناعي، اختيار جنس الجنين، ولعل أخطر هذه الممارسات نجد الاستنساخ البشري الذي فتح المجال نحو تخليق إنسان من بويضة واحدة عن طريق إستنساخها. هذا الإستنساخ نجد منه بغرض التكاثر، وآخر هدفه للعلاج، وبين هذا وذاك وجب البحث في مشروعيته وموقف القانون منه. وهذا هو موضوع دراستنا في هذا المقال، أين سنحاول التعرف على الموقف القانوني من هذه الممارسة.

الكلمات المفتاحية: ممارسات طبية، تنظيم قانوني، ممارسات محظورة، إستنساخ بشري.

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Introduction:

Human cloning is considered one of the latest scientific developments in the biological and biotechnological field, and it has generated numerous issues due to the significance of this matter, which has become a real threat to the future of humanity and an intrusion into the essence of human life. Human cloning is divided into two types: reproductive human cloning and therapeutic human cloning.

The first type aims to violate human nature by creating an embryo without the need for a father. It is now conceivable that a child could be born without the existence of a father, as this technique eliminates the need for him and makes it possible to create an embryo from the mother alone. This technique—classified among the prohibited practices of medically assisted reproduction—constitutes a real danger that must be avoided by criminalizing it in law and establishing criminal penalties proportionate to the risks and harms that may result from its use.

The second type aims to develop treatments for certain intractable diseases by creating embryos for the purpose of benefiting from their stem cells, resulting in what has become known as a "medicine embryo," where artificially created embryos serve as a source of human spare parts

This scientific and medical development has compelled legal systems to study, regulate, and criminalize the prohibited aspects of these practices. The central question is: What is the legal stance regarding human cloning? And is this stance sufficient to protect against its risks?

Section One: The Nature of Reproductive Human Cloning[1]

[1] : Many legal cases have emerged concerning the issue of human cloning. Among the most prominent is the case brought before the American judiciary in 2002 involving the couple Martin Bollinger, who both suffered from complete infertility, against the Secretary of Health and Human Services. The couple filed a lawsuit before the Court of Appeals demanding their right to reproduce through human cloning, relying on the following arguments:

- The prohibition of cloning deprives them of their right to a means of reproduction.
- The ban constitutes an infringement on the right to privacy.
- Cloning is similar to the right to abortion and contraception—rights that are legally, judicially, and socially recognized.

The court ruled in their favor, affirming their right to reproduce through human cloning and stating that such a right is protected by law. However, when the case was brought before the Eighth Circuit Court, the judges were divided into two panels: one supporting the couple's right to clone (Judge Monroe's panel) and the other opposing the recognition of such a right (Judge Winston's panel).

Monroe Panel:

The panel held that "the right to bodily cloning—regardless of how recent it may be as a biological matter—constitutes an inseparable part of an individual right that deserves respect, given its connection to controlling the circumstances and reality of reproduction. The government has failed to provide sufficient justification to infringe upon this fundamental right, and upon closer scrutiny its concerns amount merely to expressions of fear and disapproval lacking scientific or ethical grounding, often based on fictional literature. Since the legal prohibitions on cloning violate the right to privacy in its most essential form, they consequently violate the corresponding constitutional due process provision."

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First: Definition of Human Cloning

Cloning is a scientific term of Greek origin used by biologists to refer to asexual reproduction, or reproduction without sexual intercourse. It has been defined as: "Taking a somatic cell from a living organism—which contains all genetic information—and implanting it into an ovum from which the genetic material has been removed, resulting in a creature that is completely identical in every aspect to the original."

It is also defined as "[2]a genetically identical copy of one of the molecules, or of a cell, plant, animal, or human being[3]." Another definition states that cloning is "an asexual process for reproducing genetically identical organisms; it consists of creating a living being that is entirely identical—genetically, physiologically, and morphologically—to another living being."[4]

The U.S. National Bioethics Advisory Commission defined cloning as "a genetically identical copy of a molecule, cell, plant, animal, or human being."[5]

According to the European Parliament Resolution of 07/05/2001 regarding the cloning of human beings, human cloning is defined as "the creation of a human embryo containing the same genetic composition as another human being—whether that other being is alive or dead—at any stage of development, without distinction regarding the scientific methods used."[6]

Article One of the Protocol annexed to the European Convention on Human Rights and Biomedicine defines human cloning as: "any medical intervention aimed at creating a

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Winston Panel:

The panel concluded that "the prohibition of cloning appears entirely reasonable and fully justified, and individuals' objections to such prohibition cannot serve as grounds to challenge criminal law. On the contrary, the legal restrictions on cloning do not involve the right to privacy or any other constitutionally protected interest, and therefore they are consistent with the corresponding judicial provision of the law." Accordingly, this panel decided to overturn the Court of Appeals' ruling. Facts and Fantasies about Human Cloning, New York, 2002, pp. 162–173.

Quoted in: Suleiman Al-Nahwi, Artificial Insemination in Algerian Law, Islamic Sharia, and Comparative Law, PhD Thesis, Faculty of Law, University of Algiers, 2010–2011, p. 249.

[2] : Mohamed ben dughayleb al-otaibi. Human cloning between permissibility and criminalization in light of Sharia with an Overview of the Position of Contemporary International Bodies, Master's Thesis, Naif University for Security Sciences, Kingdom of Saudi Arabia, 2005, p. 31.

[3] : Mervat Mansour Hassan, Medical and Scientific Experiments in Light of the Sanctity of the Bodily Entity, New University House, Alexandria, 2013, p. 366.

[4] :Ibid., p. 367.

[5] : Martasi Nossium and Cass Sunstein, Human Cloning: Facts and Illusions, translated by Mostafa Ibrahim Fahmy, Egyptian General Book Organization Press, Cairo, 2003, p 30

[6] : "Whereas it defines human cloning as the creation of human embryos endowed with the same genetic constitution as another human being, whether living or deceased, at any stage of their development, without any possible distinction as to the method used." Resolution of the European Parliament Nos. B5-0751, 0753, and 0764/2000 of 7 May 2001 on the cloning of human beings, OJEC No. C 135, 7 May 2001

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human being genetically identical to another living or deceased human being." [7]Paragraph two of this article clarifies the meaning of "genetically identical" as: "having the same genetic characteristics."

The Islamic Fiqh Council also defined it as: "the generation of one or more living beings without the need for a sexual relationship between a man and a woman, achieved either by transferring the nucleus from a somatic cell into an enucleated ovum, or by splitting a fertilized ovum at a stage prior to tissue and organ differentiation."[8]

Accordingly, human cloning is a medical and biological technique through which a human being is created without sexual contact, fully resembling the original organism from which it was derived. This technique can be performed in two ways: embryo splitting or twinning, which produces multiple embryos from a single embryo with complete genetic similarity—known as sexual cloning. This process involves separating the ovum fertilized by sperm and, after the division into two cells, adding an enzyme to dissolve the transparent membrane that holds the cells together, resulting in two embryonic cells identical in genetic traits. This results in the formation of two embryonic cells that are identical in genetic traits.[9] Then, the nucleus of a somatic cell is taken and implanted into an enucleated ovum, which is known as somatic (bodily) cloning. In this method, the use of gametes necessary for sexual reproduction is completely bypassed, as a somatic cell containing a full set of chromosomes and complete genetic material is used. Consequently, the newly formed genetic mass derives all its hereditary material solely from the donor of the somatic cell.[10]

Second: Criminalization of Human Cloning at the International and National Levels

1. International Level

Numerous international bodies have condemned human cloning and called for its prohibition and criminalization due to its threats to humanity and its violation of ethical and religious boundaries. Among these, the World Health Organization (WHO) during its 50th session held on 14 May 1988 and the 51st session in September 2004 emphasized that the use of cloning technology to produce human clones is ethically unacceptable and

[7] : Additional Protocol to the Convention on Human Rights and Biomedicine, concerning the Prohibition of the Cloning of Human Beings, adopted by the Committee of Ministers of the Council of Europe, opened for signature on 12 January 1998 and entered into force on 1 March 2001.

[8] : The Islamic Fiqh Academy, the Tenth Session held in the Kingdom of Saudi Arabia from 22 to 28 Safar 1418 AH, corresponding to 3 July 1997.

[9] : The first attempt to clone embryos took place in 1993 by the scientists Stillman and Hall at Georgetown University in the state of Oregon in the United States of America. The two scientists fertilized an ovum with a sperm cell, and when division into two cells occurred, they removed the zona pellucida by separating the cells using specific enzymes. The separation process was thus carried out, after which each cell was surrounded by an artificial membrane, allowing division to continue and resulting in two identical blastomeres. They subsequently produced 48 embryos through microscopic copying from equal parts; however, they did not complete the cloning process for ethical reasons. Khalid bin Mohammed Abdullah, Human Cloning and the Future of Crime, Master's thesis, College of Graduate Studies, Kingdom of Saudi Arabia, 2006, p. 45.

[10] : Mervat Mansour Hassan, ibid, p. 391.

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violates the principle of human dignity[11]. The WHO issued recommendations affirming global consensus on the prohibition of human cloning, urging deterrence and monitoring of any use of this technology. It also affirmed that cloning for the purpose of producing a second copy is ethically unacceptable and contradicts human dignity and integrity.[12]

As stated in the Universal Declaration on the Human Genome and Human Rights, practices that contradict human dignity, such as cloning for the production of human purposes, are not permissible[13]. This position was also confirmed by the Council of Europe in the Convention on Human Rights and Biomedicine, which explicitly prohibited the creation of human embryos for research purposes, while emphasizing the need to ensure appropriate protection for embryos in countries whose laws permit laboratory research on them.[14]

The same position is reflected in the Charter of Fundamental Rights of the European Union, issued on 07/12/2000, which explicitly states in Article 3, Paragraph 2 the prohibition of human reproductive cloning.[15]

This stance was further reinforced by the European Parliament in its decision No. 1999-167 CE, which included a specific program for scientific research. It prohibits any research activities in the field of cloning aimed at replacing an embryonic cell with the nucleus of a cell taken from a person or from an embryo. On 07/09/2000, another decision was issued reaffirming the European Parliament's rejection of human cloning, considering that there is no distinction between therapeutic cloning and reproductive cloning. This is

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[11]: Fawaz Saleh, "Human Cloning from a Legal Perspective," Journal of Damascus University for Economic and Legal Sciences, Vol. 20, No. 1, 2004, p. 83.

[12]: The World Health Organization (WHO), in Resolution WHA 51.10 of 16 May 1998, declared that: "cloning for the reproduction of human beings is ethically unacceptable and contrary to the dignity of the human person."

[13] : Article 11 of the Universal Declaration on the Human Genome and Human Rights provides that: "Practices which are contrary to human dignity, such as reproductive cloning of human beings, shall not be permitted. States and the competent international organizations shall cooperate in identifying such practices and in taking the necessary measures, at the national or international level, in accordance with the principles set out in this Declaration."

[14] : *Article 18:

1. Where research on embryos in vitro is permitted by law, the law shall ensure adequate protection of the embryo.
2. The creation of human embryos for research purposes is prohibited.*

[15] : *Article 3:

1. Everyone has the right to their physical and mental integrity.
2. In the fields of medicine and biology, the following must in particular be respected:

- the free and informed consent of the person concerned, in accordance with the procedures defined by law;
- the prohibition of eugenic practices, particularly those aimed at the selection of individuals;
- the prohibition of making the human body and its parts, as such, a source of profit;
- the prohibition of reproductive cloning of human beings.*

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because therapeutic cloning, which requires the production of human embryos for scientific research purposes, contradicts the European Union's public policy in this area.[16]

At the level of the Islamic world, the International Islamic Fiqh Academy, in its 10th session, declared human cloning—by either method or any other means that leads to human reproduction—prohibited.[17]

Furthermore, the Al-Azhar Research Academy issued a fatwa stating that human cloning is prohibited (haram) and must be opposed and prevented by all available mean.[18]

2. At the Level of National Laws

The illegality of human cloning is also the position of most countries, which have translated it into their domestic laws by criminalizing it and establishing criminal liability for those who engage in it. Among the countries most opposed to human cloning experiments is France[19]. The French legislator explicitly stipulated in Law No. 800 on Biological Ethics, issued on 06/08/2004, in Article 25, by adding a new paragraph to the Civil Code, that it is prohibited to conceive a child genetically identical to another living or deceased person.[20] Regarding the penalties for the crime of human cloning, the French legislator provided in Article 214, Paragraph 2 of the French Penal Code that performing an intervention with the aim of creating a child genetically identical to another living or

[16] : Fawaz Saleh, ibid, p. 8.

[17] : Belhadj Al-Arabi, The Legal and Ethical Limits of Medical Experiments on Humans in Light of Algerian Medical Law: A Comparative Study, Diwan of University Publications, Algeria, 2011, p. 151.

[18] : Mervat Mansour Hassan, ibid, p. 412.

[19] : *The former French Minister of Scientific Research, Roger-Gérard Schwartzenberg, called for the adoption of an international convention prohibiting human cloning for reproductive purposes, arguing that some countries with adventurous political behavior might allow such experiments on their territory, which could serve as "cloning hubs." France, together with Germany, submitted a warning memorandum to the United Nations Secretariat, prompting the organization to prepare a draft international agreement against human cloning experiments for fertilization and reproduction. Subsequently, the General Assembly established a special committee under its resolution 93/56, dated 12 December 2001, tasked with studying the feasibility of drafting a convention aimed at banning human reproductive cloning.

This committee met for the first time in February 2002 to develop preliminary recommendations on the legal points that the proposed convention should address. It then held a second meeting in September 2002 to establish the agenda for negotiations set to begin at the start of 2003. However, the committee was unable to reach an agreement on the Franco-German draft. The lack of consensus was due to divisions among members: some supported banning only reproductive cloning, a position held by France, Germany,

[20] : *Article 16/4 of the Civil Code: "No one shall violate the integrity of the human species. Any eugenic practice aimed at organizing the selection of individuals is prohibited.

- Any intervention intended to create a child genetically identical to another living or deceased person is prohibited."*

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deceased person is punishable by 30 years of hard imprisonment and a fine of 7,500,000 euros.[21]

Additionally, the former French Minister of Scientific Research, Roger-Gérard Schwartzenberg, called for adopting an international convention prohibiting human cloning for reproductive purposes, arguing that some countries with adventurous political behavior might allow such experiments on their territories, which could lead to the birth of cloned children.

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The failure to reach an agreement stemmed from divisions within the committee: some members supported prohibiting only reproductive cloning—this was the position of France, Germany, Switzerland, and China—while others called for banning all forms of cloning, including the United States, the Vatican, Spain, and Sudan. This disagreement arose because of the difficulty in distinguishing between human cloning for reproductive purposes and other forms of cloning.

Among the countries that have criminalized human cloning is the **United States of America**, where the administration of former President George W. Bush in **2001** submitted a bill to Congress aiming to prohibit all forms of human cloning. On **21 July 2001**, the **Human Cloning Prohibition Act** was enacted.

Article 301 defines human cloning as: "the reproduction of a human being or human species by placing the nucleus of a cell taken from one or more persons into a female ovum, whether fertilized or unfertilized, after removal or inactivation of its original nucleus, with the aim of producing a living organism at any stage of development that is genetically identical to an existing or previously existing human being."

Article 302, Paragraph 1 of Title VI of the Federal Code stipulates the illegality of any natural or legal person—public or private—deliberately performing, attempting, or participating in human cloning, and states that the creation of a zygote through cloning is

[21] : Article 214/2 of the French Penal Code: "The act of carrying out an intervention intended to create a child genetically identical to another living or deceased person is punishable by thirty years of criminal imprisonment and a fine of 7,500,000 euros."

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also prohibited. **Paragraph 6** of the same article adds that it is forbidden to import cloned human embryos or any of their derivatives.

Furthermore, on **05 February 2003**, the **U.S. Senate** introduced a bill prohibiting human cloning for reproductive or therapeutic purposes, considering any party performing or attempting such acts as acting illegally[22].

Regarding the penalties established by the **U.S. legislator** for the crime of human cloning, **Paragraph 3, Section 2** stipulates: "Anyone who violates the provisions of this article shall be punished by a fine, imprisonment for a term not exceeding 10 years, or both."

The **Italian legislator** also enacted a law on **19 June 2002** concerning medically assisted reproduction (or reproductive medicine), which considers human cloning for reproductive purposes a criminal offense punishable by imprisonment ranging from 10 to 20 years, a substantial fine that can reach up to one million euros, and permanent removal from the profession.

Similarly, in the **United Kingdom**, the British Parliament adopted a law, which came into effect on **04 December 2001**, stipulating that any person found guilty of implanting a cloned embryo into a woman's womb shall be punished with imprisonment for a term not exceeding ten years, and/or a fine.[23]

This is also the case in **Algeria**, which has prohibited human cloning. **Directive No. 300**, issued by the Ministry of Health and Housing on **12 May 2001** concerning good clinical and biological practices in medically assisted reproduction, explicitly forbids the use of assisted reproductive technologies to generate embryos for studies, research, or scientific experiments. This position was further confirmed in the **Health Law, Article 375**, which states: "Any cloning of living beings genetically identical with respect to the human species, as well as any selection of sex, is prohibited."

Regarding penalties, **Article 436** of the same law stipulates: "Anyone who violates the prohibition provided in Article 375 concerning the cloning of genetically identical living beings and the selection of sex shall be punished with imprisonment ranging from ten to twenty years, and a fine ranging from 1,000,000 DZD to 2,000,000 DZD."[24]

At the **Arab level**, some legislations have addressed the issue of human cloning. Among them, the **Tunisian legislator** stipulated in the law concerning reproductive medicine, in **Chapter 8**, an absolute prohibition on the use of cloning techniques for reproduction, stating: "It is strictly prohibited within the framework of reproductive medicine to resort to cloning techniques."[25]

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[22] : Mohannad Salah Ahmed Fathi Al-Izza, Criminal Protection of the Human Body in Light of Modern Medical Trends, Dar Al-Jami'a Al-Jadida for Publishing, Egypt, 2002, p. 381.

[23] : Fawaz Saleh, ibid, p. 81.

[24] : Article 436 provides: "Anyone who violates the prohibition set forth in Article 375 of this law, concerning the cloning of living beings that are genetically identical and the absence of sexual reproduction, shall be punished by imprisonment of ten to twenty years and a fine of 1,000,000 to 2,000,000 Algerian dinars."

[25] : Article 8 provides: "The use of cloning techniques is strictly prohibited within the framework of reproductive medicine."

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Similarly, the **Bahraini legislator**, in **Law No. 26 of 2018** concerning the use of medically assisted techniques for artificial insemination and fertilization, explicitly stated in **Article 7** that human cloning is not permitted, whether for therapeutic or reproductive purposes, and even if it is for scientific research. The text of the article reads: "It is prohibited for the health institution, consulting physician, specialist, or embryology technician to carry out the following acts: … c) Cloning for any reason."

Section Two: Therapeutic Human Cloning – "Designer Embryo"

The primary goal of this technique is to create an embryo in its early stages to utilize embryonic stem cells for treating diseases affecting individuals. A somatic cell is taken from an adult human and placed in a special solution to induce a state of dormancy. The nucleus is then extracted and fused with a human egg from a donor that has been enucleated. Once fusion occurs, the combined cell begins to divide as if it were a zygote formed from a sperm and an egg, continuing its divisions until it reaches the blastocyst stage.

The blastocyst is then dissociated to obtain pluripotent embryonic stem cells, which are subsequently cultured in specialized labs to generate the desired tissue, such as heart cells, kidney cells, pancreas cells, etc. In this process, researchers inhibit the function of all cells in this genetic tissue—referred to in the West as the "early embryo"—except for the specific organ targeted for production.[26]

First: The Jurisprudential Position on Therapeutic Cloning

Therapeutic cloning is considered a controversial issue. Many opinions, especially among politicians in secular societies, argue that there is no respected life in this embryo, as the resulting entity is merely a cluster of cells smaller than the head of a pin. This view is also shared by the **Islamic Medical Sciences Association** regarding the **Jordanian Medical Association**, which considers it permissible to obtain stem cells through therapeutic cloning, as it falls within the scope of treatment and harm alleviation.

While the gametes formed from the fertilized egg retain their sanctity, the permissibility of therapeutic cloning is not absolute; it is subject to several conditions, including:

- The somatic cells must not be transferred to the uterus.
- Human eggs must not be purchased.
- Surplus frozen eggs from in vitro fertilization procedures should be used, so that women are not exploited or compelled by financial need.[27]

Opponents of this practice are primarily the majority of Islamic jurists. As stated in the decisions of the 17th session of the International Islamic Fiqh Academy concerning stem cells: "It is not permissible to obtain or use stem cells if their source is unlawful, including, for example:

[26] : Mohammed bin Daghleib Al-Otaibi, ibid, p. 55.

[27] : Berny Nadhir, Protection of Human Dignity in Light of Modern Medical Practices, Doctoral Thesis, Faculty of Law, University of Abou Bekr Belkaid – Tlemcen, Algeria, 2016/2017, p. 245.

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1. An embryo intentionally aborted without a valid medical reason permitted by Sharia.
2. Deliberate fertilization between an egg from a donor and sperm from a donor.
3. Therapeutic cloning."

Second: The Legal Position on Therapeutic Human Cloning[28]

Some Western legislations permit obtaining stem cells through therapeutic cloning, provided the purpose is scientific research. Foremost among them is the **British legislator**, where the **House of Lords** voted on a bill allowing the cloning of human embryos for medical purposes, making the United Kingdom the first country in the world to legally regulate human cloning. Proponents in the House of Lords argued that it is not appropriate to deny patients suffering from genetic diseases such as Alzheimer's, paralysis, Parkinson's, or diabetes access to treatment due to concerns about the potential misuse of cloning.[29]

Additionally, the **Human Fertilisation and Embryology Authority (HFEA)**, on **08 December 1998**, requested approval for human cloning for therapeutic purposes using stem cells. This aligns with the British government's stance since **2000**, which is based on the principle of No Limit in scientific research and the pursuit of knowledge. Consequently, the British legislator officially legalized cloning in **2002** for the purpose of obtaining stem cells.[30]

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[28] : *For the first time, the birth of a "savior sibling" took place on the night of 7 February 2011, in an experiment conducted by Dr. René Frydman, the scientific father of this child. A couple who already had two children suffering from a disease called beta-thalassemia, a disorder affecting the blood, approached him. Their request was to have a third child who would not carry the same disease, using in vitro fertilization (IVF) techniques.

Six eggs were fertilized with the father's sperm in test tubes, and two of these fertilized eggs were healthy and did not carry the disease. The couple chose to implant both in the mother's uterus, and one of them had blood fully compatible with that of the sick sibling. If implantation succeeded, stem cells from the umbilical cord of this embryo could be used to treat the sick sibling, although this could only be done after biological studies. Dr. René Frydman reported that the success rate of this procedure was 90%, as presented by Antoine Béclère de Clamart at the Umut-Talha Hospital on 26 January 2011.

This experiment faced strong opposition from religious authorities and some doctors, who argued that it violated the child's dignity and the International Convention on the Rights of the Child, since every child has the right to be born for themselves, loved for themselves, independent in life, and using a child merely as a therapeutic tool undermines their dignity.

Vincent Matalon, Il n'y a rien d'eugénique dans la naissance du bébé médicament, Le Monde.fr. Quoted in Rahli Souad, The Legal System for Medical Experiments on Human Embryos, Doctoral Thesis, University of Algiers, 2014/2015, p. 41.*

[29] : Mohammed Lotfi Abdel Fattah, Criminal Law and the Uses of Biotechnology, Dar Al-Fikr wal-Qanun, Mansoura, no year of publication, p. 354.

[30] : The practical application of the amended British law in 2001 revealed the fragile boundaries between therapeutic cloning and reproductive cloning. The British Supreme Court, in its decision of 15 November 2001, ruled that human cloning could not be criminalized or prohibited under the legal framework that grants protection to the embryo, as the product could not be considered a human embryo. This decision unsettled the British government, which stated the following day that it would take all necessary measures to prohibit

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Regarding the **French legislator's position on therapeutic cloning**, it can be inferred from **Article 25 of Law No. 800**, issued on **6 August 2004**, which states: "Any creation of a human embryo through fertilization or cloning for research purposes is prohibited… Likewise, any creation of embryos for therapeutic purposes is prohibited."
This position was further confirmed by the **Stem Cell Law** enacted in **2002**, which permits the importation of embryonic stem cells derived from surplus embryos created before **1 January 2002**, provided approval is obtained from a supervisory council.[31]

The Australian government approved a unified permit allowing therapeutic cloning through the cloning of human stem cells for scientific research purposes. This position is shared by Italy, Switzerland, Portugal, UNESCO, and the World Health Organization.
In contrast, Spanish Law No. 35, issued on 24 November 1988, classified therapeutic cloning as a serious offense, explicitly prohibiting the cloning of embryos or fertilized eggs. It also criminalized the creation of genetically identical human elements through any cloning method with the aim of improving the human species or lineage.[32]

Regarding the position of **Arab laws**, there is no specific reference to therapeutic cloning; rather, most of them prohibit cloning regardless of its purpose. This is the same position adopted by the **Algerian legislator**, which prohibits the cloning of genetically identical living beings under **Article 375 of the Health Law**. This article does not distinguish between reproductive or therapeutic human cloning but directly prohibits cloning of genetically identical living beings and prescribes penalties for violating this prohibition, as previously mentioned.

Conclusion:

In conclusion, this article has shown that scientific advancements in medical and biological fields have exceeded all expectations and crossed the boundaries of the sanctity and inviolability of the human body and human being, particularly by enabling the creation of a fertilized egg individually through cloning, known as **human cloning**.

This development has sparked, and continues to spark, numerous questions and debates regarding its legitimacy and the extent to which it infringes upon the sanctity and inviolability of the human body. The following recommendations can be drawn from this study:

- **Reinforcing Legislation Against Reproductive Cloning:** Laws must unequivocally reject reproductive human cloning and impose stringent penalties on any practices related to this technology, given that it violates the natural reproductive process by eliminating the father's role, enabling the cloning of the mother's egg alone to produce a fertilized egg that could become a human embryo.

such practices on British soil when aimed at cloning a human being for non-reproductive purposes. (Quoted from Fawaz Saleh, Human Cloning from a Legal Perspective, ibid, p. 91.)

[31] : National Legislation Concerning Human Reproductive and Therapeutic Cloning, UNESCO, Paris, 2004, Division of Ethics of Science and Technology, p. 8.

[32] : Mohammed Lotfi Abdel Fattah, ibid, p. 356.

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- **Further Research on Therapeutic Human Cloning:** More research should be conducted to explore the potential benefits of therapeutic cloning in treating certain incurable diseases, ensuring that in such cases, no human being is cloned.
- **Legal Regulation of Therapeutic Cloning:** Legal frameworks should be established—especially within Arab legislations—if religious and jurisprudential studies confirm the permissibility of therapeutic cloning when the purpose is medical and does not infringe on the sanctity of the human body.

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