

“Therapeutic Cloning” –  
Is This Debate Being Framed by the Name it is Given?

I read with interest your views on therapeutic cloning. Coming with the imprimatur of the University of Toronto, Faculty of Law, I concluded this must be carefully considered. I wish to submit a rejoinder on the subject. As I am neither a scientist nor an ethicist, I am simply responding as a reader to whom this article may have been directed.

The article frames the debate around the words “therapeutic cloning”. Of course, I do not wish to be seen as taking issue with anything that is therapeutic, so allow me to frame my answer instead around the terms “embryonic stem cell research” and “human cloning”. Or should I simply say that my response is directed to that part of the essay on therapeutic cloning that deals with embryonic stem cell research and human cloning (and hereafter I will refer to both collectively as “embryonic stem cell research”).

As another preliminary point, I note the author has contrasted his arguments with the atrocities of World War II and the ravages of breast cancer, emotively planting his standard firmly on the opposite side of evil. There are other evils such as nuclear war that I am sure he is also against. However, the fact that I wish to make contrary points to the positions stated in the article does not indicate in any way that I condone such evils.

Now, to address some of the author makes interesting points, and I will start with the captions in enlarged print:

He states: *In Canada, it [human cloning] is a criminal offence. This is so, even though it may prove to be an important source of new therapies.*

Of course, if I may say so, new therapies can be derived from many important sources. This merely begs the question: namely, what are these sources, and are they appropriate even though the resulting therapies are wonderful. To test the author’s reasoning, try: substituting the words “human cloning” in the above quote with the word “counterfeiting” – counterfeiting (whether of Hollywood movies or of patent drugs) is prohibited even though it can be a source of good things (like “new therapies”) for those who cannot obtain the genuine article. It becomes evident that the real question should be: why should counterfeiting be prohibited, and then in answering that question, whether the consequences of the impugned conduct are good is only one of a multitude of relevant enquiries. The quoted sentence from the article is suggestive of a line of reasoning that, upon examination, would be a non-sequitur: it suggests that because cloning “may prove to be” an important source of new therapies, it should therefore not be a criminal offence.

He states: *To find a broad consensus on difficult moral implications of medical research is extremely unlikely.*

May I ask first of all, whose definition of “broad consensus” is to be used, and assuming that this can be defined, how is it to be ascertained (if the author is not satisfied with the rule of law)? And assuming we can agree on what constitutes broad consensus, why pre-judge it by saying it is extremely unlikely to be found (does the author already foresee that his ideas will be on the outside of such broad consensus?). Is it too bothersome to go through this process? If difficult moral implications are too much for society to handle, I for one question putting faith in scientists to figure it out on their own (no offence

intended, but scientists after all do not have a higher claim to ethical enlightenment than you or I).

Implicit in the assertion about broad consensus (and explicit in the article) is the author's unhappiness with the state of the law. He suggests that broad consensus is the way to resolve difficult moral questions, but then says, in effect, "sorry, but we won't be able to go this route because finding it will be 'unlikely'"; he then leaves it at that, tosses the hard question aside in favour of letting the scientists have their way. It sounds so easy. Unfortunately for the author, until we can devise a better system, we are not a society governed by the "rule of broad consensus", but rather the rule of law. And it seems obvious, but perhaps is forgotten, that "broad consensus" is not the sole criterion for the laws on our books. In fact, even where there is broad consensus in society, this still is not sufficient justification for anything – a case in point: there is still broad consensus in some African societies that supports female genital mutilation.

However, I wish to respond to the author on the territory he is staking out, and so I must respond to some of the other justifications he cites in support of embryonic stem cell research, after he discards and moves on from the vexing "difficult moral implications" issue.

He states: *Should religious scruples of some citizens restrict science in a secular society?*

May I say that it looks like the author is propping up an easy target for himself ("religious citizens" who have mere "scruples") and this has the effect of distorting the question, so that any reasonable reader of your journal would feel compelled to answer "of course not". The way the author frames the issue makes it easy to forget that these mere "religious citizens" usually act, not on feelings or "scruples", but on ethical principles. They may not be experts, but an understanding of ethics is attainable by everyone. The real question should be: Should ethics restrict science, and later in your piece you pay due homage to groups of "experts" who sit on "ethics review boards" (are these experts to be screened for religious views and disqualified accordingly?). So may I suggest to the author that he rephrase his question in this manner in order to advance serious debate: replace "religious scruples of some citizens" with the word "ethical considerations". Now undoubtedly the answer of the average reader would change from "No" to "Yes".

He states: *It seems indefensible to posit a moral stricture to deny to science and to our ailing fellows the benefits of such research.*

May I suggest that this statement is deceptively agreeable. The use of the loaded term "stricture", like "censure", slants the debate in the author's favour. And then, no one will argue that "benefits" are good – who will argue that longer and healthier life is not good? No one will dare say that anyone should be denied benefits that lead to longer and healthier life. But all of this presupposes that the benefits are attained ethically, or worse, that it does not matter how the benefits are attained. This is borderline Machiavellian. Everyone enjoys "the benefits" of cheap sneakers, right? Sure, but when it is examined where these benefits are derived from, and it is discovered that the sneakers are made by child labourers, the "moral strictures" against this are indeed defensible.

The simplistic agreeability of the sentence disappears when it is rephrased in accordance with the parameters of this debate – i.e. we are not debating whether "the benefits" of

science (longer life and better health) are good, we are debating the methods of the science itself. If your sentence is reworked and properly framed to fit into this debate, it remains simplistic but it is no longer patently agreeable. The sentence becomes “There is nothing immoral about embryonic stem cell research.” Or worse: “Morality has no place in science”.

As an aside, since when is science an entity like “ailing fellows”, an entity with rights which are not to be denied? Science is a discipline, an occupation, a tool in the service of humanity. It has no inherent right to anything.

He states: *The pursuit of scientific knowledge has no less spiritual value for many than the insights and discipline of religion do for others.*

Who can argue with that? But the reader is presented with a faulty premise: the pursuit of scientific knowledge is presented as unobjectionable. When it is simply the theoretical musings of a scientist, then this is true. However, the experiments or practices employed in pursuing knowledge itself can cause harm; similarly, how knowledge is applied can cause harm. Then science can resemble unacceptable religious practices, such as live human sacrifices.

This brings me to my main point. In the article, the author seems to give the concept of “harm” a definition which limits it to “pain or cruelty” to individuals, or the risk of the same. I.e., if something does not cause pain or cruelty, or risk doing so, there is no harm in it. The child labourers making cheap sneakers are not necessarily suffering pain or cruelty; on the contrary, they will argue that being paid even a few cents a day is a tremendous economic benefit for them, their families and their poor country. Yet few will deny there are moral and ethical dilemmas in using child labour to feed the developed world’s materialistic desires. This then, in my submission, is where the true debate lies: what constitutes harm, and is there harm or risk of harm arising from embryonic stem cell research. The article does not explore this issue deeper, nor will I, but this is the heart of the issue, and all of the other justifications strewn through the article are mere distractions from this central question.

Other issues presented in the paper do not rise to the same level of seriousness, and also serve to distract from this main question, but I propose to address a few:

- For instance, it is suggested in the article that something that is potentially unethical can be justified in one society on the grounds that another society that is more lax will allow it in any event. One need not consider this too long before realizing the folly in basing ethical decisions on what other societies happen to be doing. But is it not better to do it in Canada using Canadian rules than somewhere offshore in a less regulated environment, it is asked. This is not logical reasoning – by allowing something of questionable ethics to be done in Canada will not necessarily prevent researchers from pursuing this research in a still more accommodating environment (whether in terms of legal restrictions or economic advantages).
- It is presented as serious commentary that “the Bush White House” is merely cutting off funding, while, through innuendo, Canada is ridiculed and made to look more extreme than “the Bush White House” because it has prohibited

embryonic stem cell research. This is not serious legal analysis. This legal analysis, such as it is, ignores the fact that the US federal government is constitutionally constrained in the area of criminal law, unlike the Canadian federal government. Yet another example of one society differing from another on how best to deal with issues of morality and ethics.

- It is stated that “To criminalize scientific research ... risks imposing unnecessarily harsh treatment, if it turns out that the area of science can meet ethical standards.” Empirical evidence of how prosecutions work, in particular, of prosecutorial discretion, negates this concern on a practical level. Then it is stated, “Once tarred with the criminal brush, it is difficult to wipe the activity clean and to allow it”. Aside from the fact this is mere speculation and opinion, this ship has already sailed – the whole point of the article seems to be a push to decriminalize something that is already criminalized.
- The article raises the spectre that the much-heralded benefits from a particular scientific project will be unavailable or not as easily available to our society if they are invented in another society. Despite the author’s confident assertion that these other societies “will succeed” in luring away Canadian researchers to accomplish embryonic stem cell research, this does not seem to satisfy the author’s concerns over access to the benefits.
- The article attempts to justify a potentially unethical scientific project on the basis of the economic benefits that our own scientific community would reap if they were allowed to participate in the R & D (or conversely, the missed economic opportunity if our scientists are held back while other countries allow their scientists to proceed). This argument boils down to allowing commercialism to go unchecked and to dictate ethics.
- The author’s enthusiasm over the “genius” of ethics review boards packed with “experts” reveals an expectation on the author’s part that their conclusions will be what the author wants them to conclude – not an unreasonable expectation on his part, because it is stated quite plainly that anyone involved in public governance (presumably this includes the ethicists on the board) should not be allowed to discuss certain things like metaphysics, thus putting constraints on their freedom of thought or discussion. One cannot help concluding that the author’s “ethicists” would be screened over their views and own moral compasses.
- It is patronizing to suggest this debate is inspired by a naive awe of the creator. It is disingenuous to suggest that this is a mere “conservative” or “religious” issue, and that opponents of embryonic stem cell research are hung up over mere “scruples”.
- It is presumptuous to assume that everyone agrees on certain priorities - by suggesting that our finite resources (public or private) should be used for embryonic stem cell research in order to “avoid unnecessary human suffering and deaths”, when avoidable human suffering and deaths occur everyday in Darfur and throughout the third world. Whether the world’s finite resources are consumed in pursuing the priorities of the developed world over the needs of the

underdeveloped world - this is something over which reasonable people may disagree.

- It is implicit throughout the article that progress in science is an inherent good. Progress per se in anything is not necessarily good. Progress in weaponry (certainly a science), whether at a superpower level or at the street level, is viewed by some – by many - as life-saving and therefore good. On a more pedestrian level, progress in faster, stronger and bigger SUV's is justified as protecting the lives of occupants of these vehicles, and satisfying consumer demand and therefore good. Reasonable people disagree whether these are harmful advances in science or beneficial advances. Reasonable people can also disagree over the premise in the article that devoting resources to making people live longer (and ultimately forever?) is an unquestionable priority.
- Lastly, the fact that embryonic stem cell research may result in huge profits for business and “cluster effects” is not a valid topic in a debate over what is ethical.

The true debate is what constitutes harm, and in particular whether embryonic stem cell research causes harm or risks causing harm. To my understanding, there are other things in addition to “pain and cruelty” that can be harmful or cause harm. Where there is only a chance of harm (and without conceding that such research does not cause harm), then the benefits have to be weighed, and then in turn the so-called benefits themselves are not above debate either. Which brings me back to my opening: I am not an ethicist or a scientist. I have only my opinion about what constitutes harm, and I know my opinion differs from that presented in the article. The debate is only beginning, and reasonable people may disagree.

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c.c. The Hon. Tony Clement