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Choosing the Sex Gender of Fetus and Cloning Animals and the Dead between Interests and Harms

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Praise be to Allah, we praise Him and seek His help and forgiveness and seek refuge in Allah from the evils of ourselves and from the evils of our deeds ρ. And after:

The Sharia knowledge is for the sake of worship through which the believer worships his Lord because of its benefit and transgression to others. This science is honored and its importance increases whenever it touches people's lives and relates to the health of their bodies, and it is issued by the purposes of the Sharia.

Therefore, I wanted to participate in this research tagged with "Choosing the sex gender of the fetus and cloning animals and the dead between benefits and harms", which starts with an attempt to answer the research problem that branched out from the following questions:

- 1- What are the interests or benefits of choosing the sex gender of the fetus?
- 2- Does cloning a dead person lead to harms or benefits?
- 3- What is the role of interests and harms in animal cloning?

Definition of Interests and Harms

The term "interest" has been mentioned by fundamentalists in their books in many places, most notably two places:²

The First: when they talk about the appropriate, in analogy, and reasoning with wisdom.

Second: When they talk about the evidence of reclamation, in the disputed evidence, or inference.

Scholars sometimes call this term "Maslaha al-Mursalah" as: the extended interest, sometimes as: reclamation, and at other times in the name of interest.

Therefore, fundamentalists' definitions of the term "interest" differed, depending on what they meant by it.

Interest and reclamation, in the tradition of the fundamentalists, in one sense, and many jurists expressed each of them as the other.

One of the most prominent fundamentalists who cared about the definition of interest is Al-Ghazali, may God have mercy on him, where he defined it with four definitions:

First Definition: as bringing benefit, or warding off harm ³, so benefit meant achievement, and warding off harm, preservation, as he mentioned in his other book, "Shifa Al- Galilee"⁴.

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² See: The Theory of Interest in Islamic Jurisprudence, by Dr. Hussein Hamid Hassan, p. 5.

³ Al-Mustafa, by Al-Ghazali, p. (174).

⁴ Shifa al-Ghulail, by al-Ghazali, p. 159.

Second Definition: He, by interest, meant the five Essential Purposes⁵ according to Sharia.

Third Definition: strange appropriate⁶.

Fourth Definition: wisdom, where he said: "By wisdom we do not mean anything other than the imaginative and appropriate interest"⁷.

Al-'Izz ibn 'Abd al-Salam (may Allah have mercy on him) stated that: "Interests are of four types: pleasures and their causes, and joys and their causes"⁸.

Al-Shatibi (may Allah have mercy on him) defined it as: "What is due to the establishment of a person's life and the fullness of his life, and his attainment of what his lustful and mental descriptions require at all, so that he may be blessed at all"⁹.

After this review of what the scholars have mentioned, **the closest** definition of interest: is what leads to bringing benefit and achieving it in one of the legitimate ways.

As for evil, it is the plural of corrupting, which is the opposite of interest, and the difference of its truth: it is pain or what is a means to it and a cause for it, and what is a grief or a cause for it¹⁰.

The Effect of Balancing Interests and Harms in Choosing the Sex of the Fetus, Cloning the Animal, and Cloning the Dead

First: Choosing the Sex of the Fetus

It is known that the female has twenty-two pairs of autosomes and one pair of sex chromosomes, XX.

The male also has twenty-two pairs of autosomes and one pair of sex chromosomes, but different from the female, XY.

Therefore, the sex of the fetus is determined at the moment of fertilization of the female cell (egg) by the male cell (sperm).

The type of embryo is determined by chromosome carried by the sperm that fertilizes the egg.

Does it carry the X or Y chromosome? If it carries the X chromosome, the fetus is female, and if it is a Y chromosome, the fetus is male¹¹.

With the great development in medicine, it is possible to choose the sex of the fetus - God willing -

This process has one of two routes:

First, In vitro fertilization: by fertilizing the egg outside the woman's body and then transferring the fertilized egg to her uterus after selecting the egg of the desired sex.

Second: selected enrichment of sperm and has two stages.

The first stage: the sperms are separated into types of sperms, one carrying chromosome (Y) and another carrying chromosome (X).

The second stage involves In vitro fertilization with sperm of the desired sex, and there are laboratory methods in which the selection of this sex is controlled¹².

(5) See: Al-Mustafa, by Al-Ghazali, p. (174).

(6) See: Shifa' al-Ghulail, by al-Ghazali, p. 159.

(7) Al-Mustafa, by Al-Ghazali, p. (330).

(8) Rules of rulings in the interests of people, (1/11).

(9) Approvals, by al-Shatibi, 2/44.

(10) Al-Mahsad, by al-Razi, (6/179) and the rules of rulings in the interests of the people, (1/12).

(11) See: Sex Selection of the fetus, by Dr. Abdel Fattah Mahmoud Idris, p. 6.

Provisions¹² relating to infertility, reproduction and contraception in Islamic jurisprudence, by Dr. Sarah Al-Hajri, p. 552.

Effect of the Purpose of Preserving Family Lineages, According to Sharia, on Choosing Sex of the Fetus

This is one of the issues over which a number of interests and harms conflict, and the ruling depends on the balance between them. Therefore, disagreement occurred among contemporary scholars based on these interests and harms:

There are evils involved in this process in several ways, including:

The First Aspect: the decrease in the number of members of the human species.

If the parents only ask for the male, or vice versa, the balance of society is disturbed by increasing the number of males or increasing the number of females.

This leads to a decrease in the number of members of the reproductive age, because if the number of males does not meet the same as females or vice versa, they will not be mated, and this is a visible spoiler as a result of this process, which leads to imbalance in the human race.

The Second Aspect: reducing the family size indirectly, because the parents' access to the desired sex for their offspring leads to childlessness because they are satisfied with the choice of that sex gender.

The Third Aspect is that choosing the sex of the fetus in this way violates the will of God Almighty, and His will.

The Almighty said: "He Gives Females to Whomever he Wants, and he Gives to Whomever He Wants, Males"¹³ (14) ﴿يَهَبُ لِمَنْ يَشَاءُ إِنَاثًا وَيَهَبُ لِمَنْ يَشَاءُ الذُّكُورَ﴾

The Fourth Aspect is that controlling the sex of the fetus contradicts the truth of what is decided by the Qur'anic verses, such as the Almighty's saying: "He is the One Who Forms You in the Womb as He Wishes"¹⁵ (16) ﴿هُوَ الَّذِي يُصَوِّرُكُمْ فِي الْأَرْحَامِ كَيْفَ يَشَاءُ﴾

The Fifth Aspect is that controlling the sex of the fetus is a change to the creation of God Almighty because it interferes with the divine creation and diverts it from its correct destination.

The Sixth Aspect: In this process there is a way for the lineages to mix, and that is due to the difference between the sperm and the eggs after they are taken from the spouses and then placed in the laboratory. They may be mixed accidentally or intentionally¹⁷.

This entails great corruption and conflicts with the essential interest of preserving lineage, which the Sharia laws have agreed to preserve. The main interests that accompany this process are as follows:

First: In choosing the sex of the fetus in this way, it is prevented, God willing, the birth of a child seriously ill, which causes the offspring to be healthy, and to help his parents and himself in achieving his worldly and hereafter interests¹⁸.

Second: The spouses may have a valid purpose and interest in choosing the sex of the fetus, and anything that would achieve the interest, which the law does not prohibit, is legitimate.

(13) [Shura:49]

[الشورى:49] (14)

(15) [Al-Imran:6]

[آل عمران:6] (16)

¹⁷ See: Choosing the sex of the fetus, (70), emerging medical issues, (1/232), genetic engineering between the data of science and the controls of Sharia, p. 127, and rulings on genetic engineering, p. 209.

¹⁸ Provisions on Genetic Engineering, p. 224.

When weighing between interests and evils in this process, we find that the permissibility aspect is more likely, because of its interests and preponderance.

As for the evils resulting from this, they are eliminated by mentioning the conditions that prevent them from occurring, which are as follows:

The First Condition: the existence of the required need to perform this type of procedure.

The Second Condition: safety from harm that may occur to the newborn.

The Third Condition: to be safe from mixing lineages and taking the necessary precautions for that, by being in safe laboratories and centers where there is no tolerance for such matters.

Among these safe centers are the government IVF centers in this country, the Kingdom of Saudi Arabia, and I visited some of them to find out their method and what is done in them of this type of operations, and I found them - as it appeared to me - safe in which the necessary measures are taken.

As for the rest of the other centers, such as private infertility centers and those outside the country, it must be ensured before the operation that they adhere to the necessary precautions that protect the sperm and ovaries from mixing with others.

Accordingly, the interests in this type of procedure outweigh in my opinion - and God Almighty knows best - the evils mentioned in it by taking the necessary precautions.

What is mentioned is that it is a violation of the will of God Almighty, it is not so, but it takes place by the will of God Almighty and they are only reasons under His will and knowledge and from the knowledge that God Almighty taught him to create Him.

Misconceptions disappear by spreading knowledge and awareness among people, and that everything that man has achieved through modern technologies is done by the will of God Almighty and under His will, and if God did not want it to happen, it would not have happened.

Second: Animal Cloning

Several experiments were found in animal cloning from 1952 to 2019. In 1952, the first animal cloning in the frog world was announced.

In 1983, an animal was produced from a goat and a sheep.

In 1985, genetic precursors of animals were produced in the form of growth hormone-producing pigs

In 1996, the famous experiment of the sheep "Dolly" by experimenting with sheep through physical cloning in Scotland in (277) experiments produced (113) lambs, only one of which resulted in the birth of "Dolly".

Dolly is the result of twenty years of experiments, with more than 800 cells combined, thirty thousand attempts, until a single creature was obtained.

The experiments followed, and the birth of the first Rhesus twins was announced by sexual cloning, among other experiments ¹⁹.

In year 2019, an announcement of the success of an experiment in China, as "Sky News" reported on November 22, 2019 that China cloned (6) dogs with the aim of including

¹⁹ See: Cloning in the Balance of Islam, by Riyadh Ahmad Odeh, p. 71.

them in the police, noting that it inherits qualities that qualify it to work to assist the security forces and their tasks.

Because the six puppies possessed "sense of security" traits, the DNA of dogs already trained in the cloning process of animals born in August was used and actually showed exceptional skills at a young age.

Ma Jinli, an officer with the Criminal Investigation Department of the Beijing Security Bureau, said the main focus of the cloning programme was to pass on useful qualities and help shorten the training period²⁰.

The physical cloning is carried out in several steps, as was the birth of the sheep Dolly, and the sheep Dolly was born in June 1996 and announced in February 1997, and the method of cloning it relied on several steps, and the cost of producing "Dolly" reached \$ 750,000²¹.

Balancing the Interests and Harms in Animal Cloning

When considering the cloning of animals, we find that this process is contested by a number of harms, and a number of interests. It has some harms in several aspects, most notably the following:

The First Aspect is that cloning changes the creation of God Almighty upon which this animal was created, and the curse has come to those who change the creation of God Almighty ²².

The Second Aspect is that it is a change in the Sunnah of God Almighty in the method of reproduction of animals by fertilizing the egg with the sperm, so cloning is in violation of this Sunnah.

The Third Aspect is that this type of cloning is harmful to the animal.

The Fourth Aspect is that allowing animal cloning would be a way of cloning man, so it should be banned under this pretext²³.

There are many Benefits to Animal Cloning, Including

The First Aspect: improving animal production with good specifications of good meat, abundance of milk, and resistance to diseases, so this cloning leads to the production of livestock similar in strength, quality and production.

The Second Aspect: through the cloning of the animal, a certain sex is produced, such as females, for example, and this has a great interest such as milk production without the need for males.

The Third Aspect: increasing the quantities of meat, milk and wool.

The Fourth Aspect: the manufacturing of medicines by producing gene-modified animals that contain certain hormones such as the hormone insulin.

The Fifth Aspect: Producing milk with specifications similar to breast milk, which contributes to protecting the child from diseases.

²⁰ See: <https://www.skynewsarabia.com/technology>

²¹ See: Cloning, the Bomb of the Age, by Dr. Sabri Al-Demerdash, pp. 24-27, and Genetic Engineering between the Data of Science and the Controls of Sharia, pp. 140-141.

²² It is narrated in the hadeeth of 'Abdullah ibn Mas'ud (may Allah be pleased with him) that he said: "**May Allah curse the tattoos and tattoos, the sniffers and the sniffers, and the repellents of the good who change the creation of Allah.**" Directed by al-Bukhari, Kitab al-Dress, Chapter on Al-Mutaflijat li-Hassan, No. 5931, and Muslim, Kitab al-Dress and Adornment, Chapter on the Prohibition of the Verb of Hyphen, Mustasul, Tattoo, Mustashma, Namsa, Al-Mutassa, Al-Mutaflajat and Al-Mughairat (God's Creation), no. 2125.

²³ See: Journal of the Islamic Fiqh Academy, Issue Ten, (3/369), and Genetic Engineering between the Data of Science and the Controls of Sharia, p. 69.

The Sixth Aspect: Production of species of animal breeds capable of adapting to different environments such as extreme heat and extreme cold²⁴.

When considering between these interests and evils, it may outweigh - and God Almighty knows best - the side of interests over the harm mentioned, but that is subject to conditions. If these conditions are met, interests may be more likely, and these conditions are as follows:

The First Condition: safety from harms, such as the emergence of new diseases.

The Second Condition: that process should not be a matter of tampering and changing the creation of God Almighty according to whims and desires without achieving a benefit.

The Third Condition: harm caused should not be greater than the interest required of that operation.

Fourth Condition: it does not result in harm or torture of the animal²⁵.

Third: Cloning the Dead

Reproduction of the dead has three cases:

The First Case: the recently deceased; That is, it has not exceeded a few hours since the soul left; In this case, the body cells do not die at that moment, but some of them remain alive during that period.

It is therefore possible to isolate some of the cells of this newly deceased and then clone it.

For example, if a child dies and his parents want to clone him, the nucleus of one cell of his intestine is implanted, for example, in his mother's egg, and if this process is carried out through the cloning stages, a baby is born in a mirror image of the child who died.

The Second Case: freezing the cells of the deceased, by removing them after death within a period of a few hours and not exceeding ten, and kept in special conditions at a very low temperature, well below zero.

The Third Case: merely a theoretical assumption, when DNA is obtained from the cells of a dead person who died a longtime ago and is cloned²⁶.

This process of cloning has some conflicting interests and some harms, as the harms afflict it in several aspects, including:

The First Aspect: that going to the dead person and taking a sample from their body is a violation of his sanctity, and in the hadith of 'Aa'ishah (may Allah be pleased with her) the Prophet said: " Breaking a Dead Person's Bone is the Same as Breaking it Alive. "²⁷

The Second Aspect: This is absurd in the human being whom God Almighty has honored (And Indeed We Have Honored the Children of Adam)⁽²⁸⁾. For example,

²⁴ See: Cloning, the Bomb of the Age, p. 99, and Journal of the Islamic Fiqh Academy, tenth issue, 3/369.

²⁵ See: Provisions on Genetic Engineering, p. 382.

²⁶ See: Cloning, the Bomb of the Age, by Dr. Sabri Al-Demerdash, p. 57.

⁽²⁷⁾ Directed by Abu Dawood, Book of funerals, a door in the digger finds the bone, does that place go down?(3207), 3/212 and Ibn Majah, Chapters on funerals, chapter on the prohibition of breaking the bones of the deceased, 1616, 2/541.

It was improved by Ibn al-Qattan in Bayan al-Illusion wa'l-Iham, (5/713), saheeh by al-Nawawi in al-Majmoo', 5/300, improved by Ibn al-Mulqin in al-Badr al-Munayir, 6/771, and saheeh by al-Albaani in Irwa' al-Ghulail, (3/213).

[Al-Isra : 70] ⁽²⁸⁾

a wife who cloned her deceased husband - assuming it is possible and obtained - even if the clone is identical in terms of form, but it is certain that it will not be the same person; Because even if a cell is taken from the dead person, he is another creature that will go through the stages of creation and have the soul from the Creator, as well as other factors that affect him after his birth from education, environment and other circumstances. in which he lives and grows up.

Similarly, if the husband wants to clone his wife, if the cell is taken from her, where will the egg be taken from and who will be the connective uterus of the cell and the egg?

Certainly, they would be a foreigner, and that would be a manipulation of offspring and lineage and the great evils that the Sharia law forbade therein²⁹.

These examples are a response to the hypotheses they assume of cloning the dead if this had been achieved but as of the time of writing this paper had not been realized³⁰.

As for the Interests, They Appear in the Cloning of the Dead in Several Ways, Including

The First Aspect: Cloning the dead brings religious, economic, and political benefits to society, by cloning people with distinctive qualities and high talents, such as scholars, reformers, leaders, the wealthy, and the like.

The Second Aspect: through which the spouses' desire is fulfilled for them to obtain a clone of their child who died either due to an accident or illness.

Two parents decided to clone their daughter, who had already died. She was born ten months later, and they allocated half a million dollars to finance the operation. This was after they preserved part of her cells that were frozen in the laboratory.

The Third Aspect: the interest of maintaining security, which is a legitimate purpose, by cloning military squads from one of the strong soldiers.

The Fourth Aspect: Cloning the dead is a solution to the problems facing society, by cloning geniuses who died many years ago in order to participate in solving the problems of contemporary society.

Fifth Aspect: Cloning the dead benefits the wife who wants to clone a child from her husband who died.

Sixth Aspect: Cloning the dead serves the purpose of eradicating the grief of someone dear to him who has died, such as a father, son, friend, and the like, by cloning him ³¹.

When considering the benefits and harms of this type of cloning, the side of the harms outweighs the interests mentioned, as the aforementioned interests are submerged in its great harms, such as tampering with the dead person, and what is done by transplanting the cell of this dead person into the egg of a foreign woman, and there is no therapeutic benefit for this type of cloning.

Also, the clone may appear – assuming it happened – in a way that resembles the features of the dead person from it was cloned, which causes psychological harm to the relatives of the dead person by always remembering him and not forgetting him.

²⁹ See: The Truth of Cloning and its Sharia Ruling, by Dr. Abdul Aziz Al-Rubaish, p. 47.

⁽³⁰⁾ This research was started on 11/2/1441 AH, and completed on 21/5/1441 AH, and medicine is in a terrible development, it may come one day and these hypotheses become a reality on the ground.

³¹ See: Cloning between Science and Jurisprudence, p. 154, and cloning, the bomb of the age, p. 56.

Many of the interests mentioned are allegations and illusions that are not realistic, so the side of the harms outweighs the alleged interests. And Allah knows best.

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