



## Analysis of Human Cloning from the Perspectives of Natural Law, Legal Positivism, and Utilitarianism

Article	Abstract
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### INTRODUCTION

One of the results of the progress achieved by science and technology is cloning, which is a process of multiplying living things by transferring the nucleus of fetal cells that have differentiated from adult cells, or multiplying living things into more, either by moving the nucleus of body cells into the ovaries at the stage before the separation of the cells of the body parts. The achievement of genetic engineering technology (biotechnology), especially in the field of cloning, shows that the

forefront of science from time to time is always changing, moving and developing dynamically. This dynamic movement is referred to as progress. The impressive and even revolutionary progress in the field of genetic engineering at the end of the 20th century is referred to by Walter Isaacson as the century of biotechnology.<sup>1</sup>

Being a topic of conversation in writings and meetings from home and abroad to discuss cloning, various terminologies are used such as moral and religious angles, positivism, and utility or benefits in the medical and biological fields. This indicates that cloning has a huge impact on the future of human civilization. Spectacular success in animals, the mystery of reproducing creatures without mating (asexual). It became a heated debate when Ian Wilmut, Keith Campbell and a team at the Roslin Institute - Scotland successfully cloned a dolly sheep in 1996. Previously humans had successfully cloned tadpoles (1952), fish (1963), mice (1986). The success of dolly cloning was condemned by most of the world's population, including religious institutions, believers, the medical world, similar research institutions, and the governments of each country. This led to cloning being done clandestinely. Since the success of sheep cloning in 1996, other cloning results have emerged in monkeys (2000), oxen (2001), cows (2001), cats (2001), horses (2003), dogs, wolves, buffaloes and commercialized in 2004.<sup>2</sup>

In 2002 Clonaid Science Director Brigitte Boisselier declared that a human cloned baby had been born into the world. The cloned baby was named Eve. Eve was the first baby born from 10 implantations. Of the 10 implants, five failed. The other four cloned babies will be born soon. However, the success in cloning babies claimed by the clonaid company is doubted by other scientists.<sup>3</sup> Human cloning has been identified as raising several issues, including ethical and moral issues, scientific issues, and social issues.<sup>4</sup> Various groups, including governments, community groups, scientists, and religious leaders have stated that human cloning is unethical and against human dignity.<sup>5</sup> In international forums, cloning is still something that is debated. Some scientists argue that cloning provides many benefits, but other scientists claim that cloning brings more harm than good. Based on this, this paper will discuss the issue of human cloning from the perspective of natural law theory, legal positivism, and utilitarianism.

## RESEARCH METHODS

This research uses an interdisciplinary approach, which is an intensive interaction between one or more disciplines, either directly related or not, through a particular scientific perspective, with the aim of integrating concepts, methods and analysis.<sup>6</sup> In this research, several approaches such as natural law, legal positivism, and utilitarianism will be described.

## ANALYSIS AND DISCUSSION

### *Human Cloning from a Natural Law Perspective*

#### 1. Overview of the Natural Law School

The School of Natural Law is one of the schools in legal philosophy. This school has developed since 2,500 years ago. The School or School of Natural Law is the oldest school in the

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<sup>1</sup> Anis Ibrahim, *Merekonstruksi Keilmuan Ilmu Hukum & Hukum Millennium Ketiga* (Malang: In-Trans, 2007).

<sup>2</sup> Aman, 'Kloning Manusia dan Masalah Sosial-Etik' (2007) 1:1 Dimens J Kaji Sosiologi 1-21.

<sup>3</sup> Biologi Media Centre, 'Bioteknologi (3): Eve, Kloning Manusia Pertama', (2016), online: <[<sup>4</sup> Uning Pratimaratri, \*Kebijakan Hukum Pidana di Bidang Teknologi Reproduksi: Kloning\* University of Diponegoro, 2008\) \[unpublished\].](https://biologimediacentre.com/eve-kloning-manusia-pertama/#:~:text=Melalui%20teknologi%20cloning%20siapa%20bisa%20diduplikasi.%20Clonaid%20perusahaan,Clonaid%20tahun%202002.%20Dari%2010%20implan%20lima%20gagal.>:~:text=Melalui%20teknologi%20cloning%20siapa%20bisa%20diduplikasi.%20Clonaid%20perusahaan,Clonaid%20tahun%202002.%20Dari%2010%20implan%20lima%20gagal.>.</a></p></div><div data-bbox=)

<sup>5</sup> M Jusuf Hanafiah & Amri, *Etika Kedokteran & Hukum Kesehatan* (Jakarta: Penerbit Buku Kedokteran EGC, 2017).

<sup>6</sup> Herlambang P Wiratraman & Widodo D Putro, 'Tantangan Metode Penelitian Interdisipliner dalam Pendidikan Hukum Indonesia' (2019) 31:3 Mimb Huk 402-418.

history of human thought about law. According to its source, the School of Natural Law can be divided into two types, namely Irrational and Rational. The Irrational School of Natural Law argues that universal and eternal laws are directly sourced from God, one of the figures from the irrational school of natural law, Thomas Aquinas, who states that there are four kinds of laws, namely:<sup>7</sup>

- a. *Lex eterna* is the law of God's ratio that cannot be captured by human senses;
- b. *Lex divina* is the law of God's ratio that can be captured by human senses;
- c. *Lex naturalis* or natural law is the incarnation of *lex eterna* into human ratios;
- d. *Lex positivist* is the application of *lex naturalis* in human life in the world.

Meanwhile, the School of Rational Natural Law argues that the source of universal and eternal law is human ratio. One of the figures of the rational natural law school, Hugo De Grotius, stated that the source of natural law is human nature. He found several different traits that exist in humans, namely the tendency to defend themselves, the desire for community, knowledge, and the right to think and speak. In this context, friendliness and reason gained a position that was considered firmly rooted in nature as a medium of self-defense. The main idea promoted by Grotius in *De Jure Belle ac Pacis* is the anti-theistic hypothesis (*etiamsi daremus*).<sup>8</sup> Grotius boldly states, we must confess what cannot be confessed without the greatest evil, that there is no God, or that the affairs of men do not concern God.<sup>9</sup> According to Grotius, the only thing that matters is that human nature is the source of natural law. God's will or reason only emerges if there is a discussion regarding the origin of human nature. In addition to God's law and also human nature or ratio, ethical and moral considerations are also an important part of building natural law because in natural law theory, morals and law are inseparable.<sup>10</sup>

## 2. Analysis of Cloning in the Perspective of the School of Natural Law

In relation to the cloning of humans when viewed from the perspective of natural law, the cloning of humans is a human act that is contrary to natural law as the incarnation of *lex eterna* (God's ratio) into human ratios, this is because by cloning humans, it is automatically a violation of ethics, nature, and human dignity as a creature of God. From an ethical perspective, the application of cloning can be viewed from two different angles, namely deontology and teleology. In deontology, the ethical assessment of an action is emphasized on the action itself. The main figure of this understanding is Immanuel Kant, who is famous for his categorical imperative theory. According to him, actions that are universally declared forbidden, then whatever the reason should not be done. On the other hand, teleology is more concerned with the purpose or effect of the act. If the goal is a good thing such as cloning for therapy, then the act is allowed to be carried out, often the adherents of this understanding are also referred to as consequentialists.<sup>11</sup>

The cloning of humans also shows that humans have exceeded their nature as creatures created by God and instead want to step over God as the creator of all life. Talking about human nature, we are talking about something determined by God Almighty that cannot be changed or rejected, so talking about nature cannot be separated from the teachings of each religion as one of the sources of morality. Therefore, the following will describe various religious views related to human cloning.

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<sup>7</sup> Wibowo T Tunardy, 'Aliran Hukum Alam', (2020), online: <<https://jurnalhukum.com/aliran-hukum-alam/>>.

<sup>8</sup> Michael Bertram Crowe, 'The Impious Hypothesis: A Paradox in Hugo Grotius' in Tom Campbell, ed, *Grotius, Purfend Mod Nat Law* (Brookfield: Ashgate Publishing Company, 1999); Michael Bertram Crowe, *The Changing Profile of the Natural Law* (Denhag: Martinus Nijhoff Publishers, 1977); Jeremy Seth Geddert, *Hugo Grotius and the Modern Theology of Freedom: Transcending Natural Right* (New York: Taylor & Francis, 2017).

<sup>9</sup> Hugo Grotius, *The Rights of War and Peace*, Jean Barbeyrac & Richard Tuck, eds (Indianapolis: Liberty Fund, 2005).

<sup>10</sup> *Ibid.*

<sup>11</sup> Khoirul Faizin, *Human Cloning dalam Tinjauan Filsafat Moral* (2020).

### 3. Islamic Religious View

Islamic *Shari'ah* forbids human cloning, with the following arguments: Firstly, the children produced by the cloning process are produced through an unnatural method (mixing of sperm and egg cells). In fact, this natural way is what has been determined by Sharia as the *sunatullah* to produce children and their offspring. Allah SWT says:

وَأَنَّهُ خَلَقَ الذَّكَرَ وَالْأُنثَى  
مِنْ نُطْفَةٍ إِذَا تُمْنَى

*“And it is He who creates pairs of men and women from semen when it is emitted.”* (AQS. An-Najm: 45-46).

Another verse also states:

أَلَمْ يَكُنْ نُطْفَةً مِنْ مَنِيٍّ يُُمْنَى  
ثُمَّ كَانَ عَلَقَةً فَخَلَقَ فَسَوَّى

*“Was he not once a drop of semen that was shed (into the womb), then the semen became a clot of blood, then Allah created him and perfected him. Then Allah made from it a male and a female.”* (AQS. Al-Qiyamah: 37-38).

Secondly, the cloned children of a woman-without a man-will not have a father. The cloned child, if it results from the process of transferring an egg - which has been combined with the nucleus of a body cell - into the womb of a woman who is not the owner of the egg, will also not have a mother because the woman's womb where the egg is transferred is only a container (mediator). Therefore, this condition actually contradicts the words of Allah SWT:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنثَى وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

*“O mankind, indeed we created you from a male and a female and made you into nations and tribes that you may know one another. Indeed, the noblest among you in the sight of Allah is the most pious among you. Indeed, Allah knows best.”* (AQS. Al-Hujurat: 13)

It also contradicts His other words:

ادْعُوهُمْ لِأَبَائِهِمْ هُوَ أَقْسَطُ عِنْدَ اللَّهِ ۖ فَإِنْ لَمْ تَعْلَمُوا آبَاءَهُمْ فَاخْوَانُكُمْ فِي الدِّينِ وَمَوَالِيكُمْ ۗ وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ ۗ وَكَانَ اللَّهُ غَفُورًا رَحِيمًا

*“Call them (the adopted children) by their fathers' names; that is more just in the sight of Allah, and if you do not know their fathers, then (call them) your brothers in religion and your maula-maula [Maula-maula is: a freed slave or one who has been adopted, such as Salim the adopted son of Huzaifah, called maula Huzaifah] and there is no sin on you for what you are unaware of, but what your hearts are aware of. And Allah is Oft-Forgiving, Most Merciful.”* (AQS. Al-Ahzab : 5).

Third, human cloning will eliminate lineage. Whereas Islam has enjoined the preservation of lineage. This is based on the hadith narrated from Ibn Abbas r.a. who said that the Prophet said, *“Whoever attributes his lineage to someone other than his father, or (a slave) is loyal to*

someone other than his master, then he will receive the curse of Allah, the angels, and all people.” (H.R. Ibnu Majah).

It was also narrated from Abu 'Uthman An Nahri r.a. who said, “I heard Sa'd and Abu Bakrah each say, 'My ears have heard and my heart has internalized the words of Muhammad s.a.w., 'Whoever claims to be the son of someone who is not his father, knowing that he is not his father, Paradise is forbidden for him'.” (H.R. Ibnu Majah).

It was also narrated from Abu Hurairah r.a. that when the verse of *li'an* was revealed he heard the Messenger of Allah (saw) say: “Whoever introduces into a people a lineage that is not of that people, then he will not receive anything from Allah and Allah will never admit him into Paradise. And any man who denies his own son when he sees his resemblance, Allah will conceal it from him, and Allah will expose his deed before the former and the later (on the Day of Judgment).” (H.R. Ad-Darimi).

Human cloning with the motive of producing superior human beings in terms of intelligence, physical strength, health, and beauty clearly requires the selection of people to be cloned, regardless of whether they are married or not. The body cells would be taken from the selected woman or man. All this will disrupt, eliminate and mix up the lineage of the family.

Fourthly, producing children through the cloning process will prevent the implementation of many *Shariah* rulings such as the rulings on marriage, lineage, maintenance, rights and obligations between fathers and children, inheritance, childcare, kinship relations, *'ashabah* relations, and many more. In addition, cloning will mix up and remove the *nasab* and violate the *fitrah* that Allah has created for humans in the matter of childbirth. The consequences of cloning will overturn the structure of society.

Professor Abdulaziz Sachedina of the University of Virginia, referring to the Quranic verses *Al-Mukminun* 12-14, said that scientists who conduct cloning do not believe that Allah is the most perfect creator of his creatures. Cloning is an attempt to deny the perfection of God.

وَلَقَدْ خَلَقْنَا الْإِنْسَانَ مِنْ سَلَالَةٍ مِنْ طِينٍ

ثُمَّ جَعَلْنَاهُ نُطْفَةً فِي قَرَارٍ مَكِينٍ

ثُمَّ خَلَقْنَا النَّطْفَةَ عَلَقَةً فَخَلَقْنَا الْعَلَقَةَ مُضْغَةً فَخَلَقْنَا الْمُضْغَةَ عِظَامًا فَكَسَوْنَا الْعِظَامَ لَحْمًا ثُمَّ أَنْشَأْنَاهُ خَلْقًا آخَرَ فَتَبَارَكَ اللَّهُ أَحْسَنُ الْخَالِقِينَ

“And We have created man from a single essence of earth. Then we made that essence into semen (which is stored) in a firm place (the womb). Then we made the semen into a clot of blood, and the clot of blood into a lump of flesh, and the lump of flesh into bones, and the bones into flesh. Then we made him into another creature. So Glory be to Allah, the best of creators.” (AQS. *Al-Mukminun*: 12-14).

The results of the 1997 conference by Islamic *Fiqh* expressed the view that Allah is the creator of the universe, this seminar concluded that human cloning is haram and cloning of animals is halal, cloning of humans will cause complex social and moral problems. M. Quraish Shihab in Zamroni states that as quoted in *Al-Islam and science and technology*, that Islam never separates its legal provisions from morals.<sup>12</sup> So in the case of cloning, although in terms of creed it does not violate the 'area of divine nature', but because from a moral perspective cloning technology can lead to human abuse, it is prohibited from this aspect. Thus, it is necessary to realize that the matter of creation (every living thing) is an area of God's power that is very impossible to be imitated by

<sup>12</sup> Zamroni, 'Rekayasa Genetika dalam Perspektif Islam (Kontroversi Kloning terhadap Manusia)' (2007) 4:1 Mazahib.

any genius scientist, this awareness needs to exist in the human soul to be wiser in exploring science, or at least minimize the attitude of trial and error that will cause organisms and genes or other basic ingredients to be wasted or simply mutilated with a greater element of deliberation just for the sake of technology.

The Indonesian Ulema Council (*MUI*) in its VI National Conference in Jakarta in 2000 issued a fatwa on cloning. In the fatwa numbered: 3/Munas VI/MUI/2000, the scholars stipulated that cloning humans in any way that can result in the multiplication of humans is haram. However, the scholars allow cloning of plants and animals. "Cloning of plants and animals is permissible (mubah) as long as it is done for the sake of benefit and or to avoid negative things," said the fatwa signed by *MUI* Chairman Prof. Umar Shihab. In its fatwa, the *MUI* obliges all relevant parties not to conduct or allow experiments or cloning practices on humans. It also obliges scholars to keep abreast of cloning developments and organize scientific studies to explain its ruling.

#### 4. View of the Christian-Catholic Religion

The Christian view on the process of human cloning can be examined in light of several Biblical principles. First, humanity was created in the image of God, and as such, is unique. Genesis 1:26-27 affirms that human beings are created in the likeness and image of God, and are unique compared to the rest of creation. Clearly, this is something to be cherished and not treated like a commodity to be sold or traded. Some people promote human cloning with the aim of creating replacement organs for people who need transplants but cannot find a suitable donor.

The thinking is that taking one's own DNA and creating a duplicate organ composed of one's own DNA will greatly reduce the chances of rejection of the organ. While this may be true, the problem with doing so is that it greatly devalues human life. The cloning process requires the use of human embryos; and while cells can be generated to create new organs, in order to obtain the necessary DNA some embryos must be killed. In essence, cloning would "dispose" of many human embryos as "junk," denying them the opportunity to grow into adulthood.

As for whether clones have souls, we look back to the creation of life. *Genesis 2:7* says, "Then the Lord God formed the man from the dust of the ground and breathed into his nostrils the breath of life; and the man became a living being." This is a picture of God creating the human soul. The soul is who we are, not what we have (1 *Korintus 15:45*).

Many people believe that life does not begin at fertilization with the formation of an embryo, and therefore an embryo is not truly human. The Bible teaches differently, *Mazmur 139:13-16* says, "*For you formed my loins, and wove me in my mother's womb. I thank you, because I am great and marvelous; it is marvelous what you have done, and my soul is fully aware of it. My bones were unprotected to You, when I was made in the secret place, and I was recorded in the lowest parts of the earth; Your eyes saw while I was a child, and in Your book are all written the days that will be formed, before there is any of them*".

Furthermore, *Isaiah 49:1-5* speaks of God calling Isaiah to serve as a prophet while he was still in his mother's womb. John the Baptist was also filled with the Holy Spirit while he was still in the womb (Luke 1:15). All these point to the biblical stance that life begins at conception. In light of this, human cloning, along with the destruction of human embryos, is not in line with the biblical view of human life.

Moreover, if man was created, there must be a Creator, and therefore man is subject to and accountable to that Creator. While the common view - that of secular and humanistic psychology - would have people believe that man is accountable to no one but himself, and that man is the ultimate authority, the Bible teaches differently. The Bible teaches that God created man, and gave man responsibility for the earth (Genesis 1:28-29 and Genesis 9:1-2). This responsibility is accountability to God. Man is not the supreme authority over himself and therefore he is not in a

position to make his own decisions regarding the value of human life. Science is also not the authority to determine whether human cloning, abortion or euthanasia are ethical.

According to the Bible, God is the only One who has absolute sovereign rights over human life. To attempt to control such things is to put oneself in God's shoes, and it is clear that humans should not do so. If we see man as merely one of the creations and not as a unique creation, and man is a unique creation, then it is not difficult to see man as nothing more than a piece of equipment that needs to be maintained and repaired. But we are not just a collection of molecules and chemical elements. The Bible clearly teaches that God created each of us and has a special plan for each of us. Moreover, He desires a personal relationship with each of us, through His Son, Jesus Christ. While there are aspects of human cloning that may be beneficial, humanity has no control over the direction in which cloning technology develops. It is foolish to assume that good intentions will direct the use of cloning. Humans are not in a position to exercise responsibility or pass judgment on what should be done to regulate human cloning.

## 5. Hindu Religious View

Hinduism recognizes the existence of Dewi Saraswati, as the embodiment of *Hyang Widhi* (God Almighty), who symbolizes knowledge and wisdom, which provides material and spiritual happiness and prosperity. Therefore, the development of science should not sacrifice human, moral, ethical and spiritual values. This means that according to Hinduism, science is not value-free, it must pay attention to morality and ethical values. Science will have meaning if it is always based on moral, ethical and spiritual values. Science and technology should not be released from the frame of moral, ethical, and spiritual teachings.<sup>13</sup>

The emergence of cloning technology should also be directed towards the goal of purifying and improving the morals, ethics and spirituality of mankind. Religious myths of the past depict the process of cloning and genetic engineering. In the Mahabarata story, the birth of the Kuravas is described, which can be interpreted as cloning. The hundred Kuravas originated from a clot of blood that was incubated and then transformed into human beings with the characteristics of savage giants.

In the *Purana* there are ancient religious stories that describe the birth of genetically modified monsters. The Bhomantaka narrates the story of a monster named Bhoma who was born due to the marriage of Visnu with Pertiwi. As a result of this marriage a very frightening giant monster was born which later destroyed the earth and heaven. This monster was later successfully exterminated by Krishna. In the normal development of species or offspring, each organism by God has been assigned a breeding design through the womb (*jiwaja*) through laying eggs (*andaja*) through seeds (*udbija*) and by heat (*swedaja*). The details are described as follows:<sup>14</sup>

*Pacawacca mrgacaiwa*  
*Wyataccobbayatodatah*  
*Raksamsi ca picacacca*  
*Manusyacca jarayujah*  
(Manu Smerti: I, 43)

“Cattle, deer, two-rowed meat-eating animals, giants and humans are born from the womb”.

*Armajah pakasimah sarpa*  
*Nakramatsyacca kaccapah*

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<sup>13</sup> Herdian Kertayasa et al, 'Peran Terekat Sufi Serta Relevansinya Terhadap Pendidikan Islam Modern' (2021) 3:2 Edukatif J Ilmu Pendidik 549-561.

<sup>14</sup> G Pudja & Tjokorda Rai Sudharta, *Manawa Dharmasastra* (Jakarta: Lembaga Penerjemah Kitab Suci Weda, 1973).

*Yani caiwam prakarani*

*Sthalajonyadakani ca*

(Manu Smerti: I.44)

“From eggs are born birds, snakes, crocodiles, fish, turtles, and other animals that live on land and in water”.

*Swedajam damcamacakam*

*Yukamaksikamatkunam*

*Usmanaccopajayante*

*Yaccanyatkinciditrcam*

(Manu Smerti: I.45)

“Similarly, heat-slurping insects, stinging and biting insects, bedbugs and all kinds of insects are born due to heat”.

*Udbhijjah sthawaharah sarwe*

*Bijakandaprarohinah*

*Osadhyah phalapkanta*

*Bahu puspa phalopagah*

(Manu Smerti: I. 46)

“Similarly, heat-slurping insects, stinging and biting insects, bedbugs and all kinds of insects are born due to heat”.

God created human beings in pairs as male and female in order to develop offspring. For motherhood, the woman was created and for fatherhood the man was created, therefore religious ceremonies are stipulated in the *Wedda* to be performed by the husband and wife (*manu Smerti*: IX.96). From the excerpts of these slokas, there are cues and prerequisites that must be considered in the effort to develop offspring, namely: First, human birth as male or female is nature. A good life is a life that is in accordance with nature itself, which is inevitable. A life in accordance with nature is a good life because it can take part in God's plan. Secondly, to form a family with the intention of having offspring, it is obligatory to go through the *samsara wiwaha* prescribed in the *Vedas*. Anything other than that is considered invalid. Thirdly, it is human nature to breed offspring through the process of pregnancy (womb).

Cloning cannot be separated from the selection process, which means that it will sacrifice cloned fetuses that do not have good quality. As stated earlier, since the meeting between sonita and sukra, there has been life. The selection activity by eliminating the fetuses is murder. This is very much against the teachings of Hinduism. One of the reasons put forward by scientists who intend to carry out human cloning is to help married couples who have difficulty getting offspring naturally or in vitro. There is no denying the importance of children in a family. The *Vedas* also explain the importance of children in a family. Several slokas indicate this, including:

*Yad apipesa mataram*

*Putrah pramudito dhayan*

*Etat tad agne amrno bhawami*

(Yayurweda XIX.11)

“*Sang Hyang Agni*, We are free from debt after a son was born to us who sucked his mother's breast joyfully and trampled on her body”.

*Acchmam tantum anu sam tarema*

(Atharweda VI.122.1)

“We can cross the sea of life by nurturing our lineage by giving birth to sons”.



However, this cannot be used as a justification for human cloning. Because in essence having offspring is not the only purpose of marriage. According to Hindu teachings, the purpose of marriage is to include *dahrmasampatti* (together husband and wife realize the implementation of **dharma**), *praja* (giving birth to offspring) and *rati* (enjoying sexual life and other sensual satisfaction). So the main purpose of marriage is to carry out *dharmā*.<sup>15</sup>

## 6. Buddhist View

Buddhism states that the cells of the body are not considered living beings. That is, it is not recognized that each cell, tissue or organ in our body has an inner element (*Pali: nama*). So the ovum and sperm are not conscious living beings. But after fertilization (the union of ovum and sperm), cells are slowly formed that will grow into a fetus through a process known as embryogenesis. The baby that is born has an inner (name) and physical (appearance) element.

The National Law Development Agency explains that in therapeutic cloning (tissue and organ cloning), stem cells are formed about 4-5 days after fertilization. At this stage, there is no evidence of consciousness.<sup>16</sup> Since consciousness is closely related to the nervous system, i.e. without the nervous system our consciousness would not function, it is worth examining when the formation of the nervous system begins in this embryogenesis process. The process of the nervous system forming in embryogenesis is known as neurulation, and the process begins around the third week after fertilization (Ref: Am J Med Genet C Semin Med Genet, 135C(1): 2-8). This is the earliest that the embryo can be said to have a nervous system. At this time the nervous system is just beginning to form, and is certainly far from complete. For this reason, the embryogenesis stage at 4-5 days post-fertilization is still not classified as a living being. And taking stem cells from this stage of embryogenesis should not be considered murder because it cannot yet be classified as a living being, i.e. there is no evidence of the formation of consciousness. From this argument, therapeutic cloning, even if done in the first week of fertilization, cannot be called murder. By itself, the practice of therapeutic cloning should not be considered against Buddhist ethics.<sup>17</sup>

In response to reproductive cloning, buddhism argues that the emergence of living beings does not come from creation, but from defilement (Ref: *Samyutta Nikaya* 12.2). Because of this mental darkness, beings are born. With the cessation of this mental darkness, the tumimba of birth also ceases. There is no 'ego' (spirit, essence, absolute immortality), and living beings continue to take birth due to this mental darkness. This teaching is also known as the law of cause and effect (*Pali: paticcasamupada*), where everything comes into being because of a cause. With the end of the cause, the effect also ends. Therefore, the concept of reproductive cloning cannot be said to contradict Buddhism.

Cloning is actually not a strange scientific process in the view of Buddhism because Buddhism always views everything as a chain of cause and effect. The cloning process can only succeed after scientists understand the cause and effect, which is that an embryo can be formed from the division of an ovum cell with a diploid nucleus (2 sets of chromosomes). By providing suitable conditions for the development of the embryo, it is not surprising that a baby will be formed. So if the right conditions exist, the inner (name) and physical (form) elements will unite and a baby will be born. Although in the philosophical aspect, reproductive cloning is not against Buddhism, but in the pragmatic aspect, reproductive cloning still suffers from many technical problems.

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<sup>15</sup> Tim Siap Nikah, 'Yuk Intip Syarat Pernikahan Menurut Agama Hindu', (2020), online: <[<sup>16</sup> Badan Pembinaan Hukum Nasional, 'No Title', \(2012\), online: <\[https://bphn.go.id/data/documents/pkj\\\_2012\\\_-\\\_4.pdf\]\(https://bphn.go.id/data/documents/pkj\_2012\_-\_4.pdf\)>.](https://siapnikah.org/yuk-intip-syarat-pernikahan-menurut-agama-hindu/#:~:text=Dilansir%20dari%20Mutuara%20Hindu%20perkawinan,tertuang%20pada%20Kitab%20Manawa%20Dharmastra.></a>>.</p></div><div data-bbox=)

<sup>17</sup> Andromeda, 'Cloning dari Sudut Pandang Buddhis', online: *Samaggi-Phala* <<https://samaggi-phala.or.id/naskah-dhamma/cloning-dari-sudut-pandang-buddhis/>>.

There is a lot of evidence that clones have abnormalities that are not yet clear. Scientists think that the cell nuclei taken from the parents may not be optimal for use in cloning due to the shortening of telomeres (the ends of DNA get shorter every time a cell divides). Many clones do not live as long as their parents. Scientists should bear this heavy responsibility, and reproductive cloning should not be practiced, especially on a large scale, until after these technical issues have been addressed. But of course, to deal with these technical problems, experiments, experiment.<sup>18</sup>

Based on the views of each religion above, most religions state that cloning of humans is a form of science and technology development that violates human nature and is an act that is forbidden to do because it is contrary to God's teachings, because only God has the authority to create living things, especially humans and God is the one who determines the life and death of someone on this earth, So from this, it can be seen that in the perspective of Natural Law or Nature towards the issue of cloning of humans, Natural Law clearly rejects or opposes the cloning of humans because this is one example of an act that transcends human nature as a creature created by God and also this is contrary to God's teachings (*lex eterna*).

### ***Human Cloning from the Perspective of the School of Legal Positivism***

#### **1. Overview of Legal Positivism**

In legal positivism, all laws and regulations are essentially a complete set of laws so that the judge's task is to apply the provisions of the law mechanically in resolving problems in society, in accordance with what has been determined in the law. However, the legal positivism paradigm places judges as prisoners of the law, not giving the court the opportunity to become an institution that can encourage the development of society.

Legal positivism is an extension of the Cartesian Newtonian paradigm.<sup>19</sup> Cartesian Newtonian has brought about the most fundamental influence on scientific positivism which in turn affects legal positivism is the dualist and reductionist view. With this dualist view, law is separated from justice because it focuses too much on definitions, concepts and descriptions, and concentrates on the form and content of law.<sup>20</sup> According to Hans Kelsen, law must be free from all elements that are alien to the specific method of a science whose purpose is only legal knowledge, not its formation. The field of study of legal science is positive law or actual law which is different from the ideal law called justice or natural law. Thus, it is only a container and is not concerned with the content of law that can change in a certain time.<sup>21</sup>

Meanwhile, the reductionist view has influenced legal positivism in reducing the legal reality consisting of the reality of ideas (intellectual capacity), material reality (actual) and artificial reality to a single. If it is associated with Hans Kelsen's theory, namely the pure theory of law, then the law must be cleaned of non-juridical elements, the law must ignore other approaches to law. Law is always positive law and legal positivism lies in the fact that laws are made and abolished by human actions, so regardless of the elements of morality and norm systems themselves.<sup>22</sup>

In the view of legal positivism, the legal system of a country applies not because it has a basis in social life, but because it gets its positive form from an authorized institution and the law is only

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<sup>18</sup> Fathul Hamdani, 'Isu Kloning Pada Manusia: Perspektif Utilitarianisme, Hukum Kodrat, Dan Positivisme Hukum', (2022), online: *Scribd* <<https://www.scribd.com/document/640965897/ISU-KLONING-PADA-MANUSIA-PERSPEKTIF-UTILITARIANISME-HUKUM-KODRAT-DAN-POSITIVISME-HUKUM>>.

<sup>19</sup> Anton F Susanto, *Dekonstruksi Hukum: Eksplorasi Teks dan Model Bacaan* (Yogyakarta: Genta Publishing, 2010).

<sup>20</sup> Ana Fauzia, Fathul Hamdani & Deva Gama Rizky Octavia, 'The Revitalization of the Indonesian Legal System in the Order of Realizing the Ideal State Law' (2021) 3:1 *Progress Law Rev* 12-25.

<sup>21</sup> Hans Kelsen, *General Theory of Law and State* (New York: Russel and Russel, 1971).

<sup>22</sup> Fathul Hamdani et al, 'Fiksi Hukum: Idealita, Realita, dan Problematikanya di Masyarakat' (2023) 1:2 *Primagraha Law Rev* 71-83.

known as formal law, so it must be separated from its material form, this is because it will damage the scientific truth of the law itself.<sup>23</sup> According to H.L.A Hart quoted by Satjipto Rahardjo, basically legal positivism is:<sup>24</sup>

- a. The law is just the ruler's command;
- b. There is no absolute relationship between law, morals and ethics;
- c. Analysis of legal conceptions distinguished from historical and sociological inquiry;
- d. The legal system must be a logical, fixed and closed system that is derived on the basis of logic without considering social, political, moral aspects.

## 2. Analysis of Human Cloning Issues in the Perspective of Legal Positivism

The rise of research on cloning involving humans as the subject cannot be separated from the field of law. If we look at the perspective of legal positivism related to the issue of cloning, then cloning of humans can be carried out as long as there is no positive law that can ensnare the perpetrators of cloning in carrying out their actions, this is in accordance with the principle of legality as one of the manifestations of legal positivism which reads *Nullum Delictum Noela Poena Sine Praevia Lege Poenali* which means that no act can be punished except for the strength of the criminal rules in the legislation that existed before the act was committed.<sup>25</sup>

Regarding the explicit regulation of cloning, one of the Asian countries that applies positive law on reproductive cloning is South Korea. The South Korean parliament established regulations relating to human cloning. The regulation explains that “anyone who commits cloning is punishable by a maximum of three years in prison”. South Korea's health ministry stated that cross-species cloning, where human somatic cell DNA is integrated into animal eggs or similar behavior, will be punishable by a prison sentence of up to a maximum of three years. This law aims to elevate bioethic.<sup>26</sup>

The United Nations Declaration on Human Cloning, 2005, states that member states, including Indonesia, must prevent all forms of human cloning that are incompatible with human dignity and must protect human beings.<sup>27</sup> Regarding its regulation in Indonesia, cloning is explicitly not regulated in the provisions of Indonesian legislation. However, because cloning is a method of procreation without going through the asexual process, it can be said to have similarities with pregnancy efforts outside of natural means as regulated in Law Number 36 of 2009 concerning Health (“Health Law”). Article 127 Paragraph (1) of the Health Law states that pregnancy efforts outside the natural way can only be carried out by a legal married couple with the provisions, namely the results of fertilization of sperm and ovum from the husband and wife concerned are implanted in the womb of the wife from which the ovum comes, carried out by Health Workers who have the expertise and authority for that,<sup>28</sup> and at certain health facilities. Continued in paragraph (2), provisions regarding the requirements for pregnancy outside the natural way as referred to in paragraph (1) shall be regulated by Government Regulation.

The Government Regulation referred to in the article is Government Regulation No. 61/2014 on Reproductive Health (Government Regulation 61/2014). Article 40 Paragraph (1) states that

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<sup>23</sup> Satjipto Rahardjo, *Hukum dan Perilaku: Hidup Baik Adalah Dasar Hukum yang Baik* (Jakarta: Kompas Gramedia, 2009).

<sup>24</sup> *Ibid.*

<sup>25</sup> Hamdan Rampadio, Ana Fauzia & Fathul Hamdani, ‘The urgency of arrangement regarding illicit enrichment in indonesia in order to eradication of corruption crimes by corporations’ (2022) 9:2 J Pembaharuan Huk 225-241.

<sup>26</sup> Yulia Fauziah, ‘Reproduksi Kloning: Ditinjau dari Etika dan Hukum’, online: *Globethics* <<https://repository.globethics.net/bitstream/handle/20.500.12424/207647/focus80.pdf?sequence=1&isAllowed=y>>.

<sup>27</sup> Hanafiah & Amri, *supra* note 5.

<sup>28</sup> Article 127 Paragraph (1) of Law Number 36 of 2009 Concerning Health.

assisted reproduction or pregnancy outside of natural means can only be carried out on married couples who are bound by a legal marriage and experience infertility or infertility to obtain offspring.<sup>29</sup> Then Paragraph (2) explains that it is carried out by using the results of the fertilization of sperm and ovum originating from the husband and wife concerned and implanted in the womb of the wife from which the ovum originated.<sup>30</sup> Then it is also mentioned that in carrying out assisted reproduction or pregnancy outside the natural way, it must be carried out in accordance with the development of science and technology and not contrary to religious norms. This is clarified by the provision that assisted reproduction or pregnancy outside of natural means must also be carried out by Health Workers who have the competence and authority to carry out the procedure.

If these positive regulations or laws are associated with human cloning which is carried out without going through a legal marriage process and can use eggs and any cells other than sperm from the husband and wife concerned, it is very clear that human cloning is contrary to or violates positive law in Indonesia, precisely in Article 127 of the Health Law and also violates the provisions in Article 40 paragraph (2) of the PP on reproductive health because human cloning is also contrary to religious norms. In addition, infertility assistance in the cloning method is a problem solver for infertility experienced by women. However, one cannot ignore the fact that the scientists who cloned Dolly the sheep had to experiment 277 times to succeed. Clonaid, the creator of baby Eve, claims that it used more than 200 human eggs from adult cells to get ten that grew normally but only five could be transplanted successfully. Reflecting on these experiments, cloning for humans will be a much more complicated procedure and there is a possibility of killing or death of the embryo in the fetus.

Murder or death of an embryo according to the Criminal Code (*KUHPP*) is a form of crime that can be subject to criminal sanctions. More detailed arrangements related to the article in the Criminal Code referred to are contained in several articles, namely Article 346 of the Criminal Code if the perpetrator is a woman, Article 347 if the perpetrator is another person without a woman's permission, Article 348 if the perpetrator is another person with a woman's permission, and Article 349 if the perpetrator has a position.<sup>31</sup> In addition, according to Civil Law, an embryo contained in a human fetus can already be said to be a legal subject because it is considered alive so that it has rights related to inheritance rights as stipulated in Article 852 of the Civil Code (*KUH Perdata*).<sup>32</sup> It is well known that if there is a death or killing of the embryo, it will affect the child's inheritance rights, which causes the child's right to inheritance to be lost because it is considered that it never existed.

The birth of the embryo into the world does not solve the legal problems just like that. An embryo that is born and becomes a human being will have difficulty knowing its legal status in inheritance rights and in terms of proving denial and / or recognition of children at a later date, which requires a DNA test or Birth Certificate. According to Law Number 1 Year 1974 on Marriage (Marriage Law), a legitimate child is a child born in or as a result of a legal marriage.<sup>33</sup> Children born using the cloning method will only have a blood relationship with one of the parties, either the mother or father, it does not even rule out the birth of blood relations with other parties outside the two parents because the egg and DNA taken from other people.

One of the possible causes of different blood relations is due to fertilization outside the womb by an egg belonging to a surrogate mother. Surrogate mother is an agreement between a woman who binds herself through an agreement with another party (husband and wife) to become pregnant

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<sup>29</sup> Article 40 Paragraph (1) of Government Regulation No. 61/2014 on Reproductive Health.

<sup>30</sup> Article 40 Paragraph (2) of Government Regulation No. 61/2014 on Reproductive Health.

<sup>31</sup> Articles 346, 347, 348, 349 of the Criminal Code (*KUHPP*).

<sup>32</sup> Article 852 of the Civil Code (*KUH Perdata*).

<sup>33</sup> Law Number 1 of 1974 Concerning Marriage (*UU Perkawinan*).

with the results of the husband and wife's fertilization which is implanted into her womb, and after giving birth is required to hand over the baby to the husband and wife based on the agreement made. In other words, the woman who holds the fertilization has rented out her womb. This rental agreement when referring to Indonesian Positive Law is not allowed because the procreation that occurs does not come from a married couple who are bound by legal marriage. If there is a polemic regarding the legal status of the child in the inheritance, the child will depend on proving the denial and/or recognition of the child which is not an easy way to go.

Indonesian Positive Law also refers to the provisions of Islamic Law when cloning. Islam believes that the relationship between husband and wife through marriage is the foundation for the formation of a society that is governed by the guidance of Allah swt. Children born in a marital union not only carry the genetic components of both parents, but also carry an identity for the child. Cloning in this case is believed to lead to the loss of lineage which results in the loss of the child's rights and the neglect of a number of laws that arise. Then because the process of procreation can be done asexually, the institution of marriage that has been prescribed as a medium for legal procreation is no longer needed, the institution of the family through marriage is destroyed, and there is no longer a mutual need between men and women.

After explaining the explanation of the perspective of positive law in Indonesia on the issue of cloning above, it is clear that in the view of legal positivism, cloning of humans cannot be justified either, although there is no law that explicitly regulates cloning, but indirectly the act of cloning humans is contrary to several articles in Positive Law in Indonesia such as the Health Law, PP Reproductive Health, Criminal Code, Marriage Law, and also Islamic Law. However, even though cloning has not been explicitly regulated in Indonesian Positive Law, cloning can still violate several Indonesian positive laws, it is better for the future to further regulate the law regarding cloning so that there is stronger legal certainty and the aggrieved parties can obtain a legal protection.

### ***Human Cloning from the Perspective of Utilitarianism***

#### **1. Overview of the School of Utilitarianism**

Utilitarianism is a tradition of moral thought that originated in England and spread throughout the English-speaking world. David Hume (1711-1776), a Scottish philosopher, was an important early initiator of the growth and development of this school. He had coined the term Utilitarianism. Hume believed that good is an action that has utility in the sense that 'it makes you and many others happy'. However, he never developed this idea into a comprehensive theory. Only later, Utilitarianism in its mature form was developed by the British philosopher, Jeremy Bentham (1748-1832), as a moral system for the new century, through his famous book *Introduction to the Principles of Morals and Legislation* in 1789.

According to Bentham, utilitarianism is intended as an ethical-moral basis for reforming English law, especially criminal law. In doing so, Bentham wanted to create a concrete theory of law, not an abstract one. He argued that the main purpose of law is to advance the interests of citizens and not to impose God's commandments or protect so-called natural rights. Therefore, Bentham thought that the classification of crimes in English law was outdated and should therefore be replaced with a more up to date one. Through the book, Bentham offers a classification of crimes based on the gravity of the offense and the latter is measured by the distress and suffering it causes to the victims and society.<sup>34</sup>

Bentham offers a 'scientific' law and morality in the same way that sociology and psychology claim to have made the study of humans scientific. According to Bentham, every human being is essentially under the rule of two sovereign masters: pain and pleasure. By nature, man avoids displeasure and seeks pleasure. Happiness is achieved when he has pleasure and is free from

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<sup>34</sup> Kees Bertens, *Etika* (Jakarta: Gramedia Pustaka Utama, 2007).

distress. Since happiness is man's ultimate goal in life, an action can be judged good or bad to the extent that it increases or decreases the happiness of as many people as possible. The morality of an action must be determined by weighing its usefulness to achieve the happiness of mankind, not the happiness of the selfish individual as argued by Classical Hedonism. Thus, Bentham arrived at the main principle of utilitarianism which reads: the greatest happiness of the greatest number.<sup>35</sup>

## 2. Analysis of Human Cloning Issues from the Perspective of Utilitarianism

Related to the issue of cloning of humans when referring to the Utilitarianism school, what needs to be known first is the pleasure or positive impact and displeasure or negative impact of cloning on humans, this needs to be known because the basic premise of the Utilitarianism school, especially those put forward by Jeremy Bentham, is the greatest happiness of as many people as possible to avoid distress or displeasure. Therefore, the following explanation is related to the positive impact / benefits and negative impact / disadvantages of cloning on humans.<sup>36</sup>

### 3. Positive Impact/Benefits of Cloning

#### a. Repairing damaged genes and organs

Today, the medical world is experiencing increasingly sophisticated technological developments. This makes it possible to perform surgical operations to repair and even replace organs that have malfunctioned through transplant procedures. Until now, many organ transplant medical procedures have been carried out, such as kidney, liver, eye cornea, and even heart.

To repair or replace damaged organs, of course, it must be supported by the availability of replacement organs. So far, the replacement of these organs depends on whether or not there are people who are willing to donate their organs. Unfortunately, not many people are willing to become organ donors. Due to these obstacles, human cloning can be one of the solutions for transplanting organs that are damaged or malfunctioning. Not only that, human cloning can also be used to repair or grow new cells to replace cells that have been damaged or lost. This means that human cloning can be used to treat diseases and genetic disorders.

#### b. Treating infertility

Every couple dreams of having a baby to enliven the atmosphere and fill their days. Unfortunately, not all couples are able to realize this dream due to infertility, either in one or both parties. Human cloning can be a solution for couples experiencing infertility to obtain offspring.

As a 'cure' for infertility, human cloning is performed using adult somatic cells implanted into embryos, so as to create new life. This gives infertile couples the opportunity to have a biological child, even if their reproductive system has problems and does not

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<sup>35</sup> Nature has Placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand, the standard of right and wrong, on the other, the chain of causes and effects, are fastened to their throne. They govern us in all we do, in all we say, in all we think : every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it. It would a man may pretend to abjure their empire : but in reality he will remain subject to it all the while. The principle of utility recognizes this subjection, and assumes it for the foundation of that system, the subject of which is to rear fabric of felicity by the hands of reason and of law. See Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (Kitchener: Batoche Books, 2000).

<sup>36</sup> Simulasi Kredit, 'Keuntungan dan Kerugian Kloning Manusia', online: <[https://www.simulasikredit.com/keuntungan-dan-kerugian-kloning-manusia/#:~:text=Tak hanya itu%2C kloning manusia,mengobati penyakit dan kelainan genetik](https://www.simulasikredit.com/keuntungan-dan-kerugian-kloning-manusia/#:~:text=Tak+hanya+itu%2C+kloning+manusia,mengobati+penyakit+dan+kelainan+genetik)>.

support fertility. This cloning technology allows everyone to become parents, even if they are sexually passive.

**c. Prolong life**

In some developed countries, the average human lifespan reaches a maximum age of 85 years. In the United States, the average life expectancy of both men and women is more than 70 years. While in Sierra Leone, the average life expectancy is shorter at around 49 years. One of the advantages of cloning technology is that it can extend human life. This means that humans have the opportunity to survive longer so that many things can be done to achieve a better quality of life. Cloning that is able to repair and replace damaged cells and even grow new cells will certainly affect cell regeneration, so that the ability of human life will last longer.

**d. Accelerate the recovery of traumatic injuries**

This life is inseparable from the saying fortune cannot be won, misfortune cannot be denied. There is luck, and there is misfortune. There are always terrible events experienced by everyone, whether violence, traffic accidents, work, or while playing sports. For those who experience it, it is certainly not only psychologically traumatizing, but also physically. Both physical and psychological trauma take a long time to recover from. In addition, the trauma may leave scars, meaning that it is difficult to return to the original state. The traumatic injury experienced is likely to leave a permanent imprint on the individual.

One of the goals of human cloning is to help speed up the recovery of traumatic injuries. Cloning is performed on individual cells that have been injured so that it can shorten the recovery time. Not only that, with cloning complete healing can occur. This means that individuals who experience traumatic injuries can return to their original state both physically and psychologically.

**e. Genetic modification**

Parents' genetics will definitely pass on to their children both good and bad trait-forming genes. Every prospective parent can only hope that their child inherits good genes from their parents. No parent wants their child to be born with congenital defects. All parents would want their children to be born in normal conditions both physically and mentally and also healthy. Unfortunately the fact is that quite a lot of children are born with physical and mental disabilities.

Cloning technology allows for genetic modification. The advantage is that it can minimize and even prevent birth defects. With cloning, prospective parents can choose certain traits for the children to be born. Starting from gender, eye color, and even other characteristics can be chosen according to the wishes of prospective parents. Thus, children who are born have the best genes so as to improve the quality of life in the future.

**4. Negative Impacts of Cloning**

**a. Biological impacts cannot be predicted**

Cloning does not always result in special, super new life. Genetic engineering to produce children with a certain genetic profile is feared to cause a decrease in genetic variation. As a result, instead of being stronger, humans are more susceptible to various diseases and other abnormalities. It is even possible that humans will experience inbreeding with themselves as a result of their cloning.

Advances in technology and science are not everything, they can be positive but they can also have negative impacts. The act of genetic engineering is not without risk. In fact,

the consequences can be dangerous. The consequences of genetic engineering are unpredictable, it could change the way humans live, endangering humanity as a species. New cloned individuals may be imperfect and suffer from more severe health problems than their hosts.

**b. Opening up the widening social and economic gap**

Cloning technology is not cheap. It costs US\$50,000 to clone a primate alone, not including the maintenance costs. So, how much would it cost to clone a human? Of course it can be more expensive. Human cloning will open a wider social and economic gap in society. Those who can afford cloning will socially create their own class. Meanwhile, those who are unable to clone will likely be shunned and even ignored by society. Socially and economically, the cloning process clearly has a negative impact. Society becomes divided based on its economic and social strata, ignoring the surrounding environment and caring for others.

**c. Triggers a faster aging process**

The cloning process involves taking cells from a living host to make copies and create new life. Unknowingly, from this process there is a possibility that the printed age can be adopted by the growing embryo. As a result, the cloned individual may actually experience disorders or problems of premature aging, even premature death. This is because every cloning process is not always successful. Instead of creating a new, more perfect life, it can result in catastrophe.

**d. Contrary to religious ethics**

Human cloning has been strongly opposed by those with strong religious beliefs. The process of producing new individuals or life is considered to have exceeded the limits of human authority. This is because the process of creating new life or individuals is the highest right or power of the Creator. The ability to extend life, give birth to children with perfect genes, and other benefits offered by human cloning are considered to violate the nature or destiny that has been outlined by the Creator. Science and technology should provide benefits in accordance with human limits and abilities, not instead 'taking' some of the Creator's power to create new life that is claimed to be more perfect.

**e. Disrupt the balance of nature**

Nature grows naturally. Human cloning, as an artificial process, is considered to disrupt the balance of nature. Life no longer works as it should, but can be corrected or changed in a certain way. If gene modification is done to create creatures that are smarter than others, then society will not accept it.

**f. Degrading the value of human life**

Human cloning can actually degrade the value of human life itself. As more and more human clones are produced, humans are no longer considered as nobler social beings, but only as commodities. For example, parents who don't like their children because they don't have the physical characteristics they want, may clone them to get a more perfect child. This is clearly bad, as it erodes humanity as a basic human trait.

**g. Potential for exploitation in criminal acts**

Fictional movies about human cloning that tell of conspiracies to exploit cloned humans for evil purposes or conspiracies may seem far-fetched, but they could be true.



Cloned humans are exploited for other people's personal interests to achieve certain goals that are certainly not just any interests, maybe even affiliated with acts of crime, terror, or something else.

Based on the explanation above related to the positive impact and negative impact of cloning, a red thread can be taken that if referring to the Utilitarianism Perspective which is basically an effort to obtain as much happiness as possible in this world, then cloning of humans individually can indeed provide happiness or pleasure to humans who originally did not have or could not achieve what they wanted so far in the end they could be owned or achieved, such as people who experience organ damage or disability, For example, such as people who experience blindness, they certainly before knowing cloning must have lived full of suffering / distress because they could not see the whole world, but cloning can provide happiness to them by transplanting cloned organs so that they can see the world and of course they experience happiness in their lives. Another example is for example a husband and wife who cannot have a baby because of infertility must experience deep sadness, but cloning can give them happiness by giving them the opportunity to have a biological child, even though their reproductive system has problems and does not support fertility. This cloning technology allows everyone to become a parent, even if they are sexually passive.

Based on the two examples above, it can be seen that the goal of Utilitarian theory can indeed be achieved because cloning can in fact avoid humans from distress or suffering, but this is only for some individuals because cloning does not provide benefits or happiness in a broad scope or in this case society as a whole. This is because, as stated above regarding the negative impact of cloning, one of the impacts is that cloning can cause social inequality because humans who can be happy and free from their suffering are only humans with a qualified economy, while those who do not have a sufficient economy still suffer or are in trouble for the conditions they have.

Regarding other negative impacts of cloning such as degrading the value of human life, the potential for exploitation in crime, disrupting the balance of nature, triggering a faster aging process, unpredictable biological impacts, according to the author, if examined from the perspective of utilitarianism, this cannot be used as a basis for rejecting cloning because in making a new innovation, there must be failures because there is no new innovation that is immediately successful, So in this case the author argues that the negative impacts of cloning above are only predictions that are feared and these predictions must be overcome by making improvements to cloning so that it can truly provide the greatest happiness for humans. Then related to the negative impact of cloning, which is contrary to religious ethics when referring to Bentham's utilitarianism theory that morality is not just a matter of pleasing God or a matter of loyalty to abstract rules, but is an effort to obtain as much happiness as possible in this world.<sup>37</sup> So based on Bentham's opinion, the answer can be taken that cloning in humans is okay to do even though it is against religion as long as the cloning can provide benefits and can provide happiness to humans who need it.

## CONCLUSION

Cloning humans, from the standpoint of natural law, indicates that people have transcended their essence as beings made by God and instead desire to subjugate God as the source of all life. Legal positivism contends that human cloning is against positive law in Indonesia, specifically Article 127 of the Health Law, and that it also contravenes the provisions of Article 40 paragraph (2) of the Government Regulation on Reproductive Health because it is against religious norms. Cloning can also be done without following the formal marriage ceremony and can use eggs and other cells besides sperm from the husband and wife involved. Furthermore, the cloning method's infertility

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<sup>37</sup> James Rachels, *Filsafat Moral* (Yogyakarta: Kanisius, 2004).

aid helps women who are experiencing infertility. Then, from a utilitarian standpoint, the theory's objective can be accomplished because cloning can, in fact, spare some people from pain or suffering. However, this is only the case for a small number of people because cloning does not benefit the general public or, in this case, the lower middle class.

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