



Ask The Rabbi

Researched at Ohr Somayach, Jerusalem

This Issue Contains:

1. Who is a Ewe?



Dear Readers,

We have been reading with interest about the birth of Dolly in Scotland. The first mammal ever cloned from a single adult cell. Questions have been raised in the media about the ethics and legality of cloning and questions have been pouring in to Ask The Rabbi about Judaism's stand on this issue. Below is an initial reaction. Be on the lookout for future updates about the issue.

The Talmud (*Bava Kama* 85a) states that we derive permission and obligation to engage in healing and intrusive medicine from the verse that states "and you shall heal him and you shall heal him" (Exodus 21:19). Why do we need permission to heal? Judaism maintains that our bodies and souls are not our possessions which we may dispose of at will. Rather, they are "on loan" from G-d, and we may only interfere with them with the permission of the Torah. Maimonides states in his *Mishneh Torah*, (Laws of Sanhedrin 18:6) that a person cannot be punished based on his own confession. The Radbaz explains that this law is based on the fact that: "the life of a person is not that person's own property, rather the possession of G-d, as it states in Ezekiel 18 "their souls are mine;" therefore, the confession does not have bearing on that which does not belong to the confessor."

Contemporary authorities see in these sources a restriction on the practice of medicine where there is no "healing" justification, such as cosmetic surgery for reasons of mere vanity, which Rabbi Waldenberg, a leading expert in Jewish medical ethics, forbids (*Tzitz Eliezer* 11:41). As he writes: "The permission that has been given to the doctor to heal is limited the curing of sicknesses and alleviation of pain."

Regarding cloning, it seems clear that there is no actual healing involved in creating a human being, and therefore the Ashkenazi Chief Rabbi of Israel, Rabbi Yisrael Lau, stated in a recent interview: "The Torah gave a specific dispensation for doctors to use their knowledge to cure, and even to lengthen life, but the formation of new life goes way beyond that. We have no permission to enter the domain of the Creator on questions of life and death."

We do, however, find some precedents in our tradition for "engineering" which is not strictly for the purpose of healing. For instance, the Talmud (*Sanhedrin* 21b, *Avodah Zarah* 44a) says that the runners of King David had operations on their feet, and had their spleens removed, in order to increase their efficiency as runners. It is possible to argue that these medical procedures imbued the runners with some tangible health benefits, such as

fitness and endurance, and were therefore permitted, even though the runners were not ill.

According to some commentaries (*Sforno*, *Rashbam* ad loc.) the intervention of Jacob in the breeding of his sheep was a naturalistic, manipulation that was not miraculous (Genesis

30: 38-39). "In the watering trough where the sheep came to drink, Jacob set up striped sticks... and the sheep became stimulated when seeing the sticks, and when they gave birth, their offspring were striped, flecked and blotched." In addition, the Talmud (*Sanhedrin* 65b) relates that the Sages were able to create living beings through their knowledge of the *Kabbalah*: "Rabbi Chanina and Rabbi Oshia sat every Friday afternoon and studied the Book of Formation. Through their study they created a prime calf, and they ate it. Rava created a person and sent him to Rabbi Zeira. Rabbi Zeira tried to speak to the creature, but the creature was unable to respond. Rabbi Zeira realized that the creature was a creation of Rava and he returned it to dust." These creatures, as is evidenced by the creature's inability to speak, did not have souls and were not really human (*Maharsha* ad loc.). However, a child born to a human mother, from a human embryo, would almost certainly be considered a fully fledged, human being with its own unique soul.

Although these incidents are interesting we cannot apply them to contemporary Jewish Law. Jacob lived before the giving of the Torah, and therefore we cannot prove *halachah* from his actions; and he was merely engaged in influencing the appearance of natural-born sheep, not cloning one, let alone cloning a human. The Rabbis of the Talmud were not cloning, and were certainly not engaged in any physical medical procedure. In addition it is difficult to derive *halachic* rulings from incidents that are not told in a *halachic* context (*Yerushalmi*, *Peah* Chapter 2).

All of the above is written as an introduction to the issue of cloning in particular, and genetic engineering in general. It should be read only as an initial discussion and not as a conclusive legal ruling.

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Issue #146 - 5 April 1997 - Shmini

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