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Committee Secretary
Community Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Submission by Pro-Life Victoria

to Review of Legislative responses to recommendations of the reports of the Legislation Review Committee on the Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002 (the Lockhart review)

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Introduction

1. This submission deals firstly with embryo experimentation and embryonic stem cell research and secondly with the particular issues of human cloning.

Developments Since 2002

2. Advocates of the use of embryonic stem cells continue to show an enormous leap of faith that treatments based on embryonic stem cells will provide cures for a wide range of afflictions and diseases. The submissions of the relatively few scientists prepared to support extravagant claims need to be evaluated carefully for real evidence. Their professed beliefs that great things may one day result are worth little if they represent vested interests and cannot demonstrate actual achievements in human or animal species.

3. A careful evaluation of the full range of alternative treatment options is needed. These alternatives include non-embryonic stem cell research and trials and transplantation research. There are many treatments already being undertaken with non-embryonic stem cells and including options for further research into organ transplantation. We are aware that other submissions will address these comprehensively. In this regard, this submission will make only a few comments.

4. The achievements with *non-embryonic* stem cells since 2002 are numerous and impressive.. This contrasts with the non-existent list of achievements with embryonic stem cells in humans.

5. There is very little in research even with animal species to suggest that the use of embryonic stem cells since 2002 has provided effective treatments that are not available with non-embryonic stem cells.

6. One major blockage to the use of embryonic stem cells in humans is the inability to control the growth and development of embryonic stem cells - instability and instances of tumour growth preclude any use in humans.

7. The onus must remain on advocates to demonstrate significant advances in these areas before there can be realistic hopes that embryonic stem cells could ever be viable for treating human beings.

8. The destructive use of embryos has been authorised by licensing for 1740 "excess" embryos but stem cell therapy was cited as a justification for only 150 of these. Arguably there are already sufficient stem cell lines for researchers to do the relevant embryonic stem cell research. Any case for the restrictions on the use of embryos to be relaxed would need to explain why so few applications have been made for the use of "excess" embryonic stem cell research. **The use of excess embryos for applications other than embryonic stem cell research should be prohibited.** The Parliamentary debate in 2002 and public debates have been concerned only with the use of embryos for embryonic stem cell research.

9. In particular, the use of human embryos to help train practitioners in embryo biopsy is unjustified in terms of the existing legislation.

The Basis For Discussion - Biological Beginning of A New Human Life

10. Whether a human life is developing from the union of ovum and sperm, or from the use of cloning technology, the DNA molecule in the progenitor cell contains a definite human genetic constitution - this genetic constitution is incomprehensibly complex, set out in terms of one of the four nucleotides A, T, C or G occupying each of the three thousand million positions along its metre long helical backbone.

11. Not only does the new human life contain the blueprint for its own complex process of development. In addition, it is already in the process of unravelling all this unique human genetic information and using it to grow to maturity as an adult.

12. There is an overwhelming need for legislation to define the acts of uniting human ovum and sperm or initiating human cloning (including SNCT) as acts which involve a new *'whole human entity'* when a cell is fused with human DNA and a process of development underway.

13. A 'whole human entity' is necessarily a human being and morally and ethically, the 'whole human entity' must be treated as a human being with human rights.We are concerned that Senator Patterson's Bill proposes a flawed definition of a human embryo. In particular, Senator Patterson has tabled a Bill with the following new definition:

    "A human embryo is a discrete entity that has arisen from either:

    the first mitotic division when fertilisation of a human oocyte by a human sperm is complete; or

    any other process that initiates organised development of a biological entity with a human nuclear genome or altered human nuclear genome that has the potential to develop up to, or beyond, the stage at which the primitive streak appears;

    and has not yet reached eight weeks of development since the first mitotic division."

14. There is a new human entity once two cells fuse into one with human DNA with a development process underway not at the subsequent time when the first or any other mitotic division occurs.

15. In addition, part (b) of the above definition is vague in referrring to “potential to develop”. This definition can only be considered to be genuine if this is clarified to mean “potential to develop given a suitable environment”. The human embryo status mustt not be dependent on the intention regarding its development. The proposed definition leaves in doubt whether an embryo can fail to meet the definition simply because the embryo has been created with no intention that it be implanted.

Research Involving Experimentation on ‘Whole Human Beings’

16. Ethically, we must distinguish between research with parts of human beings (eg. growth of living tissue) and research involving whole human beings. A living whole human being is in a process of development that can only end with the death of that human being. Given its natural environment or a suitable proxy, the development proceeds through different stages to a child and an adult. The human being is the same one throughout the development process.

17. The value of human life and fundamental human rights are violated if human life is used in experiments and then destroyed.

18. It is most disturbing that plans are being made to produce, use and then eliminate human beings. If human beings are created for the purpose of experimentation and then destruction, this creation is itself most objectionable and shows flagrant disregard for human rights and the value of human life.

19. The European Convention on Human Rights and Biomedicine prohibits the production of embryos for experimental purposes. Our laws and regulations should prohibit the clinical use of the life of a fellow human being who is brought into being only to be used as biological material. To ensure consistency with the Universal

Declaration of Human Rights (Article 30), no procedure, treatment or experiment on a human being should be permitted if it is not in the best interests of that human being or if it will violate that human being's fundamental human rights especially the right to life.

20. "IVF" programs have won a degree of public support following the news media's focus on sensational successes - the means by which success is achieved and the disappointment for the majority receives little attention. Nonetheless, destructive experimentation on human embryos is an abuse of the "IVF" programs and this engenders an instinctive sense of repugnance in very many people.

Cloning Human Beings

21. The following events since 2002 are relevant:

- It is commendable that Australia has prohibited all forms of cloning and supported the recent United Nations Declaration on Human Cloning which was passed by an overwhelming majority (Australia should honour the resulting obligations).
- Human cloning has been undertaken in Korea and in Britain but apart from the news-catching headlines, this has not resulted in any advances relating to potential therapies or addressed the critical barriers to the use of embryonic stem cells in humans – barriers referred to above relating to the instability of embryonic stem cells and the risk of tumours.

22. As already discussed, cloning human beings purely for experimentation and then destruction involves an absolute devaluation of the life created and denial of human rights in a discriminatory manner. However, the cloning of human beings for the purpose of research raises a range of additional moral and ethical objections apart from the matter of non-therapeutic research on human beings.

23. In considering proposals to clone human beings it is necessary to consider what will be the impact on the nature of our society and how we value human life. The acceptance of human cloning would impact on this in various ways.

24. Whereas existing “IVF” embryos have parents, cloned embryos may not have identifiable parents (eg. if they are derived by nuclear cell transfer using donor eggs). They would therefore be more vulnerable and more in need of protection than any other human beings.

25. If cloning is permitted initially subject to some arbitrary constraints, then it is difficult to envisage any enduring limits being placed on the cloning in terms of the range of applications to which it may be applied.

26. Ethics must not be subverted by the scientific imperative which demands for the sake of ‘science’, anything that can be done will be done. If our society is ruled by this scientific imperative, cloning and genetic engineering will take our society down paths determined without any reference to ethics or morality.

Cloning Human Embryos for Transplantation

27. The ethical concerns already raised with regard to destructive human embryo experimentation as well as those specific to cloning make it reprehensible to consider creating human beings purely to be ‘cannabalised’ for organ extraction and transplantation.

28. Medical science has come a long way in the use of non-embryonic stem cells and in the area of organ transplantation without the need to dissect living human (including embryos).

29. Master control genes for morphogenesis have been identified. Within the next few years, the means to switch on and off these master control genes may permit the production of organs to be stimulated from tissue culture. Current and ethically acceptable molecular genetics techniques may lead to the production of new organs without any unethical experimentation or procedures involving the destruction of living whole human beings. In this regard, the United States National Bioethics

Advisory Commission has identified procedures (for obtaining cells to be used in transplantation) which it sees as morally preferable to the use of human embryos.

Terminology - A Fallacy

30. We believe that attempts to distinguish between "reproductive" and "therapeutic"cloning are fallacious. Where somatic nuclear cell transfer results in a cloned human being, the reality is that reproduction has taken place whether or not the clone is subsequently destroyed in research or implanted in a woman's uterus. The subsequent destruction of the resulting human life is a further ethical abuse of human life that adds to the ethical concerns relating to the initial human cloning.
31. The Australian Academy of Science has advocated that some reproductive cloning be known as 'therapeutic cloning". This is a misuse of the word "therapeutic". "Therapeutic" is universally reserved in the context of experimentation for procedures which are "therapeutic" for the subject. The proposed 'therapeutic cloning' in reality involves reproductive cloning and also involves the destruction of the cloned embryo - hardly therapeutic.

Conclusions

32. There appears to be very little in the research with animal species to suggest that:

- the use of embryonic stem cells since 2002 has provided effective treatments that are not available with non-embryonic stem cells; or that
- means or techniques have been developed since 2002 to overcome the problem presented by the inability to control the growth and development of embryonic stem cells (instability and instances of tumour growth preclude any use in humans.

33. Where somatic nuclear cell transfer results in a cloned human being, the reality is that reproduction has taken place whether or not the clone is subsequently destroyed in research or implanted in a woman's uterus. The subsequent destruction of the resulting human life is a further ethical abuse of human life that does not lessen but adds to the ethical concerns relating to the initial human cloning.

34. We urge the Committee to maintain a regulatory framework for Australia which prevents any cloning of ‘whole human beings’or any mixing of human and animal cells that may be considered animal – human hybrids in terms of the resulting DNA.

35. In all areas of medical research, experimentation proceeds with animal species - in relative terms, experience to date with cloning research involving animals is very limited and there appears to be no evidence from animal species to suggest that the embryonic stem cells can be used safely or effectively in humans. Why should the ethics and human rights which have gained international recognition now be abandoned? On the contrary, ‘cloning’ rings so many more alarm bells than other lines of medical research.

36. In addition, much more will be learnt about the human genome within the next few years and there is great scope for medical research to achieve breakthroughs without resorting to cloning.

37. The use of excess embryos for applications other than embryonic stem cell research should be prohibited. The Parliamentary debate in 2002 and public debates have been concerned only with the use of embryos for embryonic stem cell research.

38. Bans on human embryo experimentation and embryo destruction have already been avoided when parts of embryos can be imported following experiments overseas. Embryos have also been exported from Australia for procedures banned here. The regulatory framework needs to consistently address this situation relating to importing and exporting in the context of both ‘human cloning’ and embryo experimentation.

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