



## Legal Practitioners in the defence of Religious freedom

Incorporated under the *Associations Incorporation Act 1984 NSW*  
Association Registration Number: Y2474808

Our reference: Cloning

Elton Humphery – Committee Secretary  
Community Affairs Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600



2 October 2006

Dear Mr Humphrey

***The abomination revolution:**  
Stage 1: Human ear grown on  
the back of a hairless mouse.  
Stage 2: Both Bills will permit  
hybrid or chimeric (part  
human, part animal) embryos  
to be created*

### Re: **Legislative responses recommendations of the Lockhart review**

The Religious Freedom Institute inc. (RFI) is an association of legal practitioners incorporated in the State of New South Wales whose charter is focused on the defence of religious freedom.

We the RFI herewith respond to the Senate Community Affairs Committee ("the Committee") with the following submissions to the advertisement by the Committee published at website:

<http://www.aph.gov.au/senate/Committee/advertising/index.htm>

As you are aware, this website brings to the attention of the public an advertisement placed in *The Australian* dated 27 September 2006:

## **Legislative responses to the Lockhart review**

The Senate Standing Committee on Community Affairs is inquiring into the legislative responses to recommendations in the report of the Legislation Review Committee on the *Prohibition of Human Cloning Act 2002* and the *Research Involving Human Embryos Act 2002* (the Lockhart review). For information about the inquiry and access to the bills tabled by Senators Stott Despoja and Patterson visit [www.aph.gov.au/Senate\\_ca](http://www.aph.gov.au/Senate_ca) or phone (02) 6277 3515. Submissions are invited and should be lodged at [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au) by 4 October.

## **TERMS OF REFERENCE**

It is noted that 'the Senate has referred to the Committee the following matter for inquiry and report by 27 October 2006:

- 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).
- That in undertaking this inquiry the committee may consider any relevant bill or draft bill based on the Lockhart review introduced or tabled in the Senate or presented to the President by a Senator when the Senate is not sitting.

This submission is drafted in Confidence. No part of the submission may be reproduced without the prior permission of the author.

Yours faithfully,

(signed)

Robert Balzola

President

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## SUBMISSIONS

### ***RFI Position – Objection and Opposition to Both Legislative Responses***

The RFI calls upon all members of the Senate and House of Representatives to reject both legislative responses before the Committee. They are:

- The exposure draft bill tabled Australian Democrat Senator Natasha Stott Despoja in the Community Affairs Committee titled *Somatic Cell Nuclear Transfer (SCNT) and Related Research Amendment Bill 2006*; and
- The bill proposed by Liberal Party Senator Kay Patterson titled *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006*

### **OBJECTION 1 – Deliberate Intentional and/or Reckless indifference in use of terminology and vocabulary with intent to mislead and confuse Parliamentarians and obfuscate issues**

The RFI puts to the Committee, the Senate and the House of Representatives the following propositions:

1. That both legislative responses from Senators Kay Patterson and Natasha Stott Despoja ('the bills') use terminology within the content and provisions of their bills, that are ***deliberately designed*** or used with ***reckless indifference*** to their effect, so as to ***mislead*** and ***confuse*** both undecided members of the House of Representatives and the Senate, and the general public that the provisions do ***not*** legalise human embryonic cloning.
2. In particular, it is the view of the RFI that this ***intention to mislead*** is founded upon an intention to deceive and/or mislead all Parliamentarians and the general public, that the two legislative responses to the Lockhart Committee are not bills that will permit human cloning.

### **3. BOTH BILLS IF MADE LAW WILL LEGALISE HUMAN CLONING**

4. For reasons which follow, the RFI notes with the gravest concern that the following terms of art are used within the two legislative responses in the form of draft bills as abovementioned, with the sole and substantial purpose of deceiving and misleading all Parliamentarians and the general public into believing that this bill does not permit human cloning.

The following are examples of the type of terminology and vocabulary that is used to obfuscate, confuse and mislead the Parliamentarians and the public that this bill is not a bill to permit human embryonic cloning:

### **“Nuclear Transfer” replaces “Therapeutic Cloning”**

The term “Nuclear Transfer” has replaced “Therapeutic cloning”. This change occurred within the International Society for Stem Cell Research at its 2004 meeting, reportedly in order to deceive the public that the procedure of nuclear transfer is not cloning.

### **“Somatic Cell Nuclear Transfer” (or ‘SCNT’) replaces “Cloning”**

Specific reference to Somatic Cell nuclear transfer within the Stott-Despoja Bill states at clause 3 that:

“The object of this Act is to... (a) provide for the continuing national development of responsible medical research through the use of stem cells including innovative techniques such as somatic cell nuclear transfer...”

### **“Therapeutic” vs “Reproductive” Cloning**

We are advised that all cloning, whether so-called “Therapeutic” or “reproductive”, use the same process of SCNT i.e. that process used to create Dolly the Sheep (who died shortly thereafter). It is noted that the Issues Paper

with which the Lockhart Review began, states that SCNT is the method of cloning by which ‘A human embryo clone could be created...’ a practice **prohibited** in Australia under the *Prohibition of Human Cloning Act 2002*. It is noted that this “mistake” was created deliberately for political purposes. Further, Scientific Journal **Nature** reports that “Scientists realised that the word “cloning” was generating public concern. So they decided to adopt a more technical term (SCNT) less likely to stir up strong emotions”.

### ***Refutations on Bills***

1. The Stott-Despoja Bill thereby deliberately obfuscates SCNT as if different and distinct from cloning, i.e. as if SCNT and cloning are different procedures. In fact, they are one-and-the-same thing.
2. Somatic Cell Nuclear Transfer, or SCNT, is simply the technical description of **cloning**
3. **SCNT is cloning**
4. By comparison, the Patterson Bill redefines ‘embryo’ in order to take the proposed legalised procedures within her bill out of the term ‘human embryonic cloning’
5. Both bills’ objects are therefore to permit human cloning

### ***OBJECTION 2 – What has changed since the 2002 Bill?***

The RFI submits that the foundational reasons for the policy that enacted the *Prohibition of Human Cloning Act 2002*, and the *Research Involving Human Embryos Act 2002* are as valid today as they were in 2002.

**Nothing whatsoever has changed both scientifically and ethically that permits human cloning today.**

Equally, nothing whatsoever has changed both scientifically and ethically that permits the creation of human embryos with the deliberate intent for their imminent destruction.

It is therefore incredible that the very reasons why those now advocating cloning are those who, in the debate concerning the *Prohibition of Cloning Act 2002*, were ***opposed to cloning***:

**Senator Patterson** is reported as saying in 2002: “I believe strongly that it is wrong to create human embryos solely for research. It is not morally permissible to develop an embryo with the intent of truncating it an early stage for the benefit of another human being. However, utilising embryos that are excess to a couple’s needs after the successful implantation is a very different matter. I believe it is disingenuous to suggest that approving this research will open the door to further killing of living human beings when the Prohibition of Human Cloning 2002 bans the creation of a human embryo for a purpose other than achieving a pregnancy”

The broadest cross section of both major political parties equally opposed any law that would permit the creation of human embryos for their destruction, as well as the permissive act of human cloning. Advocates of the same included Julia Gillard, Anthony Albanese and Kim Beazley. In all, a majority of Politicians, most of whom are still in Parliament, opposed the deliberate creation of human embryos for destruction and the act of human cloning.

### ***OBJECTION 3 – Lockhart Report discredited***

#### **Bias in empanelled Committee**

The Lockhart Report findings are literally incredible, in light of the following.

1. There is little room for any other conclusion that the reported views of Acting Chair Loane Skene, Associate Professor Ian Kerridge and Professor Peter Schofield, amongst others, have clearly demonstrated their ***unswerving and disproportionate favouritism*** towards human cloning as reported in their statements on public record:

- a. **[Kerridge]** (June 2001) “Therapeutic cloning has massive potential. Animal work has shown promising insights into how it can be used to repair tissues that can’t normally repair themselves or for which there is a shortage. There are strong moral imperatives to do stem cell and cloning research’.
  - b. **[Schofield]** (9 October 2001) “Parts 4 and 5 of the [Human Reproductive Cloning and the Transpecies Fertilisation] Bill (NSW) will allow research on human stem cells, including embryonic stem cells and their use in human therapeutic cloning. This is to be commended as it provides both a regulatory basis by which exciting and significant new developments in medical research can be progressed while providing clarity and simplicity about lines of investigation that will not be permitted because of overwhelming ethical concerns”.
2. It is of our view that the other three members of the committee were so influenced in these three strong advocates of cloning, that there is evidence of the common view now held that the ***Lockhart committee was stacked with an ethically prejudiced elite of pro-cloning vested interest holders***

### **Lockhart Committee – Actual and Constructive Bias – Basing Committee decisions on the cloning “breakthroughs” of now disgraced Dr Hwang Woo Suk**

The RFI views with grave concern the conduct of the Lockhart Committee in the treatment of its own terms of reference. In particular, the act of the Committee basing its recommendations upon the celebrated cloning experiments of Dr Hwang who was ultimately exposed as a total fraud, is a matter that demands redress in the Committee’s findings.

**Will the Committee, in light of the fresh evidence of the disgraced Dr Hwang, now withdraw their recommendations?**

It is our view that the Committee is bound to do so.



## **Failure to recall and revise Lockhart Committee original findings in light of discredited and falsified cloning “breakthroughs”**

The RFI submits that the act of making a decision during the high watermark of reported famous discoveries of now disgraced Dr Hwang Woo Suk, brings the carefully manicured and biased findings of the increasingly discredited Lockhart Report in its own findings.

History has already recorded the *apparent bias* that is evident in the findings of the Lockhart Report and notes this as a matter of the gravest concern that any credibility or weight can be now placed in its findings.

It is submitted that public confidence in the Lockhart report is now so discredited by *actual and/or constructive bias*, that the committee’s report can no longer be accepted as an impartial, open-minded committee.

***The Committee has failed to recall or revise their findings.***

This is evidence enough of leaving their now baseless findings in turn based upon thoroughly and internationally discredited research findings.

### **Proponents’ reliance on Lockhart Findings**

Both legislative proponents, Senators **Stott-Despoja** and **Patterson**, *rely on the findings of the Lockhart Report*. Yet, it is proven that the Lockhart Report’s findings are baseless in light of the information upon which they are based.

The RFI therefore submits that no Parliamentarian, nor any member of the Public, can rely on the findings of the Lockhart Report as a basis for making a scientific, right minded decision on the purported benefits of human cloning, or creation of human embryos for the purpose of medical benefits to be derived.

#### ***OBJECTION 4 – Public Interest Opposes Human Cloning***

The RFI notes as further double evidence of (1) the bias latent within the Lockhart Committee and also (2) on public interest grounds, that the Australian public is ***opposed to human cloning***:

1. 80% of submissions opposed changes to the legislation
2. 63% of Australians oppose cells created by cloning

The Lockhart Committee ***ignored*** the tabled key Australian published paper on Australian attitudes to cloning which presented these statistics.

#### ***OBJECTION 5 – Embryonic Stem Cell Research Fails To Deliver***

It is submitted that, despite the assertions of Senator Stott-Despoja in her Parliamentary speech, embryonic stem cell research has not produced any of the foreshadowed claims of medical breakthroughs.

#### **Patterson’s texts on Senate Website each flawed as evidence of actual or potential medical breakthroughs**

Senator Patterson has, as expressed by those seven texts put forward as evidence of medical breakthroughs, is ***flawed***. We are advised that these seven texts purported by Senator Patterson to be proof of medical advances in human cloning are ***no evidence whatsoever*** that human cloning can and will produce the benefits promised let alone dreamed of.

#### ***OBJECTION 6 – Payment of money (“Valuable Consideration”) for egg donation***

It is noted that overseas experience such as that in the United State that there is the necessity for heavy financial inducement to women to donate necessarily healthy eggs for cloning experimentation. Such a practice is not regulated in Australia nor is there apparently provision in either Bill for the potentiality that women will be paid for donating healthy eggs for this purpose.

The RFI would view such a practice as abhorrent and unethical in the extreme.

***OBJECTION 7 – Chimeric and Hybrid Embryos permitted in Bill***

It is submitted that the existing legislation, as well as within the Lockhart report, ***explicitly prohibits hybrid embryo creation***, i.e. human embryos with component or part of a cell, of an animal has been introduced. This Bill ***permits*** creation of hybrid embryos. Senator Stott-Despoja's bill, if passed, will allow a scientist to fertilise a human egg with animal sperm (or vice versa) and allow the resulting embryo to grow for 14 days before it is destroyed.

It is understood that the Lockhart Report did recommend allowing the creating of hybrid embryos by an animal egg into which the nucleus of a human cell has been introduced. However, such a creature would, in the view of Commonwealth Chief Scientist Jim Peakcock's advice, produce results of such hybrids that are ***scientifically useless***.

It is submitted that the Lockhart Report does not recommend lifting the prohibition on creating hybrids by putting the nucleus of an animal cell into a human egg.

**The Stott-Despoja Bill will permit the creation of hybrids.**

For this reason, the legislative proposal is an abhorrent direction of law and must be opposed.

***OBJECTION 8 – Serious Technical Drafting Flaws in Bill – New Division 2 Part 2 “Prohibitions” are unviable:***

It is submitted that the following activities are supposedly prohibited in at least the Stott-Despoja bill (unless permitted by licence from the NHMRC):

1. Creating a human embryo clone (even though, it is established, SCNT is cloning anyway)

2. Creating a human embryo with mitochondrial DNA from more than 2 persons
3. Creating a human embryo with precursor cells taken from a human foetus (***e.g. harvesting eggs from an aborted baby girl***)
4. Creating hybrid or hybrid embryos
5. However, the Stott-Despoja Bill makes no provision for NHMRC Licensing Committee to issue licences for ***creating*** any of these embryos
6. Rather, the Senator Stott-Despoja Bill only provides for licences to be issued for ***use*** of such embryos (a serious flaw in bill)

### ***OBJECTION 9 – More Than One Way To Create An Embryo***

It is submitted that there has been a further attempt at obfuscation in the presentation of these bills, particularly in the manner in which a human embryo may be created.

In particular, it is submitted that ***an embryo may be created by more ways*** than sperm fusing with egg i.e. ***sperm is not the sole or singular factor in the creation of a human embryo***. For example, it is submitted that a human embryo may be created by ***cloning*** and ***parthenogenesis***, each of which ***do not require fresh sperm***. It is noted that *Nature Journal* in 2005 states:

“Whether taken from a fertility clinic or made through cloning, a blastocyst embryo has the potential to become a fully functional organism. And appearing to deny that fact will not fool die-hard opponents of this research. If anything, it will simply open up scientists to the accusation that they are trying to distance themselves from difficult moral issues by changing the terms of the debate.”

Therefore, ***these bills are flawed*** in the proposition that sperm and egg fusion is the sole criteria upon which a human embryo may be created.

**OBJECTION 10 – 2005 United Nations Declaration on Human Cloning – Bills violate UN Resolution**

General Assembly Resolution 59/280 titled *United Nations Declaration on Human Cloning* was passed on 23 March 2005.

**The resolution prohibits human cloning.**

**The proposed Bills by Stott-Despoja and Patterson breach the intent of this UN Resolution.**

For this reason, the Australian Government, in the passage of either of these bills, ought to object to these bills as either of these bills violate this UN resolution which is only one year old.

The RFI recommends that the Commonwealth Government exercise, through section 61 of its Commonwealth Constitutional Powers in ratifying this resolution, and enumerated jurisdictional power found in section 51 (external affairs powers), draft domestic legislation consistent with the UN Resolution 59/280 which continues to prohibit human cloning.

**CONCLUSION**

The RFI views with extreme concern what is at best a clearly demonstrable ***lack of fundamental understanding*** expressed by Senators Kay Patterson and Stott Depsoja in their proposed bills and, at worst, a ***deliberate intent to deceive and mislead other Parliamentarians of both houses***, as well as the general public on their mutually flawed and defective proposed parcels of legislation, both in technical **drafting terms** as well as **substance**.

It is clear from the foregoing review, that there is a systematic campaign of

- Obfuscation in redefining terms of art in clinical embryology to befuddle, deceive, confuse, smooth over, and “market” cloning in a new

way by use of new words which is solely and substantially for the intent of hiding the truth that these bills intent is to legalise the worst excesses of human cloning and the deliberate farming, manufacture and then destruction of human embryos

- The authors Senators Stott Despoja and Patterson demonstrate either a flagrant ignorance of the law regarding these matters at best or, at worst, a deliberate attempt to obfuscate with deceptive and misleading terminology, so as to predetermine the outcome of these bills.

No Senator, No Member of the House of Representatives, no member of the public, ought be deceived in this way. These parcels of legislation represent a new low in flagrant dishonesty by two senators demonstrating debased ethics in a bid to define a pre-determined agenda very different from their reportedly high minded ethics of perceived medical benefits. It has been proven that the promises of miracle cures are a puff and **CANNOT** be achieved by the types of “research” being permitted within these proposed amendments.

It is time for Senators Stott Despoja and Patterson to come clean on their **real** intention behind their respective bills.

The RFI therefore urges the Committee to make these comments publicly available in the forthcoming debate within the public domain, as the public become increasingly aware of the gross deception played out by Senators Stott Despoja and Patterson in these diabolical bills.

Robert Balzola

.cc All Senators  
All Members of the House of Representatives  
Chancery Offices, Anglican and Catholic Churches  
NSW Council of Churches (for distribution to other Councils of Churches)  
Dr David van Gend  
Designated life groups  
Australian Christian Lobby  
Lawyers Christian Fellowship  
Mr Alan Jones