

SUBMISSION

to

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE

ON

LEGAL AND CONSTITUTIONAL AFFAIRS

INQUIRY INTO HUMAN CLONING

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SUMMARY OF SUBMISSION

My submission is based in three parts:

- 1 Methods of cloning humans
- 2 Ethics of cloning humans
- 3 Response to the document "Australian Health Ethics Committee of the National Health and Medical Research Council - Scientific, Ethical and Regulatory Considerations Relevant to Cloning of Human Beings - 16 December 1998".

Methods of cloning humans

I am not an expert but do have a general knowledge, and my knowledge of human cloning is based on the many and various television and newspaper reports and various published papers on the subject.

There appears to be more than one method of cloning generally. And there appears to be a number of potential uses that cloning could be used for. If scientists and the medical profession generally want to experiment into human cloning then I have one very strong objection into some of the proposed methods.

Some of the methods involve creating a human embryo, then taking parts from that embryo, in the process destroying it, and using those parts for another part of the process. A human embryo is a human being and destroying it constitutes legal homicide. Society cannot allow these types of human rights atrocities to become a normal part of life on earth.

Homicide is the killing of one human being by another. *An offspring of human parents cannot reasonably be considered to be other than a human being, and therefore a person*¹. Australian Senate Select Committee on the Human Embryo Experimentation bill in 1986 found that "two universally accepted attributes are that the fertilised ovum has life and that it is genetically human." At para 2.6 of paper.

It matters not whether that offspring is a cloned offspring. i.e. The nucleus is removed from an egg and genetic material from an adult inserted to form a fertilised ovum. That resultant offspring is still of human parenthood, it is genetically human, it possesses life, it is in being (it exists) and it therefore is a human being. Destroying it is a homicide.

On the provision the above criteria are adhered to, human cloning experiments that can

¹ Commonwealth v Cass, 392 Mass. 799; 467 NE 2d 1324 (1984). Court of Criminal Appeal, 6 to nil unanimous decision.

produce a benefit to society generally such as genetic engineering of illnesses, or production of medicines can be beneficial. But human cloning that produce a human being and then butchering it for its spare parts is a homicide and a crime against humanity. Human society cannot condone such acts.

Ethics of cloning humans

There are still many ethical and moral problems with cloning humans. e.g. Dolly is now 2 years old. Her parent was 5 years at the time of her cloning. They have now learnt that Dolly's cells are 7 years old. On that basis, if society found a perfect human who was a scientist to match Einstein, and also a champion athlete with Olympic Games gold medals in the same person, and say at 40 years of age decided to make a clone. At 30 years of age, the cloned person would be 70. We don't know what we are doing with this technology yet or where it will take us.

Scientists can also turn on or off certain genetic switches and grow a person without a head or arms. Whilst culturing skin tissue for skin grafting would be a desirable outcome, growing a person without a head is absolutely grotesque and should not even be contemplated.

We have to be careful we don't end up with geriatric numfunchles.² i.e A grotesque person without a brain who at 20 years of age is actually a 90 year old geriatric.

The other aspect is if we try and clone a human to produce a certain copy of an adult. The resultant cloned individual will grow up with the knowledge that he/she is supposed to be somebody else. Can that person cope with this? Will it cause too much stress on the new individual?

For medical experimentation on human cloning we need to tread extremely carefully and slowly.

Response to document

Chapter 1 refers to NHMRC Ethical Guidelines and on page 2, 6.4 of the guidelines state that non-therapeutic research "involves the destruction of the embryo" and goes on to say that it should only be used in exceptional circumstances according to the NHMRC guidelines.

The Australian Health Ethics Committee (AHEC) in chapter 6 recommend this type of

² This term is an invented term and is as much a mix and match of English words as the resultant human might be mixed and matched with genetic cells.

cloning be permitted according to the NHMRC guidelines.

The AHEC are recommending they be allowed to commit homicide but with no recommendation to amend the laws of homicide. The laws of homicide in relation to killing children before birth are far from settled.³ The ancient born alive rule does not apply to children conceived in a petrie dish for many will never make it into a womb and hence cannot be born. Creating a human being in a petrie dish and killing it is homicide. The ancient born alive rule has now been exposed as not being a law that defines human personhood in any legal sense, but merely a fourteenth century evidentiary rule to determine the cause of death of any child born dead. Evidentiary rules are rebuttable with evidence. There is nothing to prevent the prosecution of any person who kills any human being, born or not born.

The aforementioned book is not generally available and neither is the information contained within. However, there are plans to make this known to the whole community including all prosecuting authorities.

On page 2 para 1.7 the AHEC say such cloning experiments raise "four broad sets of ethical considerations" and homicide is not one of them. The AHEC seem to think they are immune from the laws of homicide and are recommending cloning experiments be allowed to be carried out involving homicide. They are neither showing any consideration to themselves, or those others who might consider such experiments.

Chapter 2 para 2.15 quotes from the Australian Senate Committee's 1986 inquiry into the experimentation of human embryos, and defines embryo as: *genetically new human life organised as a distinct entity oriented towards further development*. Same as a newly born child really. The common law defines homicide as the killing of a human being. i.e. A new human life. The same para also quotes the US Congress: "The embryo was defined as any organism not protected as a human subject under other laws *that is derived by fertilisation parthenogenesis cloning or any other means from one or more human gametes or diploid cells*."

That definition would now be strongly tested in light of the more recent common law rulings in the US. The judgment in footnote 1 defines a person who can be killed and subject to the laws of homicide as the "product of human conception".

Chapter 3 of the document is on ethical issues. Almost none of the chapter is on the destruction of a human embryo or human being.

³ See the book "Abortion or Murder ?" by Brendan Godwin. This book is so far only in very limited publication. It proves that an unborn child can be the victim of homicide at common law. See also the judgment mentioned in footnote 1 and the many more related judgments from the common law courts in the US where most states now make it some form of homicide to kill children before birth.

In summary the document is a very dangerous document to use as any form of a recommendation. **It contains no chapter on legal issues.** The AHEC seems to believe there are no, legal issues when there are very serious legal issues relating to the killing of human beings.

Summary

There is nothing to prevent a prosecution of any person who develops a human being in a petrie dish and then kills it in the name of cloning or embryo experimentation for the homicide of that person. I would strongly recommend to the House of Representatives Standing Committee on Legal and Constitutional Affairs to urge caution to all those who want to experiment in this area of the potential legal ramifications. I would also strongly recommend to the Committee not to recommend any form of cloning that entails killing of human beings.