

The Cloning Logjam

Treaty Talks Break Down at the United Nations

For the past few years, the legal committee of the United Nations General Assembly has tried to hammer out prospective language for a treaty prohibiting human cloning. In mid-November, the effort came to an unsuccessful end, as the committee opted to draft a hortatory declaration opposing human cloning rather than a binding treaty prohibiting it.

To observers of the cloning debate in the United States Congress, the U.N. logjam probably felt quite familiar. One group of nations, led by Costa Rica and including the United States and more than 50 other countries, wanted language that would ban all human

cloning, regardless of whether the cloned embryos would be implanted to develop into children or destroyed as sources of embryonic stem cells. Another group, led by Belgium and joined by France, Germany, Britain, Japan and more than 20 others, wanted to ban only the implantation of cloned embryos to produce children, while allowing the creation and destruction of cloned embryos for research. The result was paralysis: neither side could be certain of a majority, and neither wanted to go to a vote without knowing it could win.

A year ago, the Costa Rican version of the proposal seemed on the verge of passing, but at the last minute, the

Organization of the Islamic Conference—which includes most of the Muslim member states of the United Nations—moved to delay a vote on the treaty for one year, in part because its members could not come to agreement about how to vote. Supporters of the Belgian resolution backed the move, and a decision was put off.

When the committee reconvened this year, it was clear that support for the Costa Rican language had waned somewhat, and it soon became apparent that neither side would be able to muster the votes. Facing the possibility of another long delay, Italy, which had supported the Costa Rican approach, proposed a non-binding declaration in place of a treaty. The proposal met with general agreement, if not wholehearted approval.

The committee will convene in February 2005 to finalize the declaration's language and vote on whether to submit it to the full General Assembly. The idea of a declaration won broad support largely because, as a non-binding statement, it can leave the fundamental point of dispute entirely vague.

As proposed by the Italians, the declaration would call upon U.N. member states to prohibit the creation of "human life through processes of cloning and all research oriented to obtaining such a result." The term "human life" is not defined in the declaration, and therefore the question of whether it includes the early-stage human embryo—the issue at the heart of the debate—is left unresolved.

In an effort to put the best face on the outcome, the U.S. State Department took solace in the fact that it could have been worse. "We are proud of our efforts to prevent human cloning," State Department spokesman Adam Ereli told reporters, "so the fact that there isn't any action by the U.N. to endorse cloning is a moderate success." Moderate indeed.

Other supporters of a comprehensive cloning ban were less sanguine. Bishop Elio Sgreccia, vice president of the Vatican's Pontifical Academy for Life, called the declaration "useless" because its language was vague and non-binding.

Many supporters of research cloning agree for opposite reasons, believing that a toothless U.N. declaration would have little impact on what happens in the laboratory. Bernard Siegel of the Genetics Policy Institute told *The Scientist* that research advocates were quite pleased with the result. "Countries do not have to heed a declaration," he said, "and they can do what they choose regarding this research."

The two-year debate that led to this unsatisfying conclusion was rife with ironies. France and Germany, two of the leading supporters of the Belgian partial-ban approach, had already adopted Costa Rican-style bans on all human cloning in their respective countries. Indeed, in Germany almost all research on human embryos is prohibited. Meanwhile, the United States, which strongly backed the comprehensive ban at the U.N., has not adopted such a ban domestically.

The Americans, at least, have an excuse: the Bush administration does want to pass a total ban on human cloning at home, just as at the U.N., but it has not been able to muster the necessary votes in the Senate. But what about the French and the Germans? Both nations have reaffirmed their cloning bans domestically in the past two years, while opposing an identical policy internationally. Both nations argued that in the name of global consensus they would prefer a two-step process: first ban cloning to produce children (which everyone agrees should be prohibited), then ban cloning for biomedical research in a separate treaty. But it was always clear that after the first step, there would not be sufficient support for the second, and the French-German position was understood by all involved to be a transparent ploy to back a partial ban on the international stage despite domestic support for a comprehensive one. Why the German and French governments would choose to do this has remained unclear—though the fact that the United States strongly desired a comprehensive ban certainly seems to have played its part.

Meanwhile, Canada, which opposed a comprehensive ban on human cloning at the U.N., has also passed such a ban domestically. The cloning prohibition is part of a momentous new Canadian law, the Assisted Human Reproduction and Related Research Act, passed in March 2004 and now being implemented. The new law bans all human cloning and all creation of

human embryos solely for research, while permitting (under strict regulation) research using IVF embryos left over from reproductive procedures. It also creates a new government agency, the Assisted Human Reproduction Agency of Canada, which will oversee the licensing of IVF clinics and procedures, and review and regulate all embryo research in Canada. This sweeping legislation has gone almost wholly unremarked in the U.S. press, perhaps because it undermines the myth that opposition to embryo research and research cloning is a view held only by fundamentalist Christians.

The picture that emerged from the U.N. debate might appear to support a similar stereotype: nations or governments dominated by religious and pro-life views tended to support a comprehensive ban, while nations and governments dominated by secular liberalism tended to oppose it. But the reality of domestic laws about cloning clearly defies that stereotype. Germany, after all, is hardly an enclave of the religious right, and France and Canada are hardly pro-life havens. Meanwhile, the United States, where the Bush administration is strongly pro-life, has no ban on human cloning and no limits at all on embryo research conducted with private dollars.

An international ban on all human cloning would have been a great achievement, and perhaps such a prospect is not entirely gone. As T. S. Eliot once said, there are no lost causes because there are no gained causes. But there are gaining causes and los-

ing causes, and right now the technology of human cloning is gaining ground while the politics of stopping human cloning is at a stalemate. Breaking that stalemate domestically should be one of the top priorities for the Bush administration in its second term, and it will require a careful and creative understanding of the dynam-

ics of American politics—in red states and blue states, at the state level and the national level, in Congress, the executive branch, and the courts. For more on the bioethics agenda—both the need to defend nascent human life and to defend the dignity of the human family—we suggest a glance at the editorial elsewhere in this issue.