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United Nations Update

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UNITED NATIONS UPDATE

TOWARDS A GLOBAL BAN ON HUMAN CLONING?

ON MARCH 8, 2005, the United Nations General Assembly adopted a declaration on the “Reproductive Cloning of Human Beings” (Declaration) urging States to adopt domestic legislation banning all forms of cloning that are incompatible with human dignity and the protection of human life. The General Assembly is the main deliberative body of the United Nations (UN) and has representatives from all member states, each having one vote. Concerned about the moral and ethical dilemmas that life and reproductive sciences pose, the General Assembly passed the Declaration to promote the protection of human rights and dignity. Life sciences encompass all areas of science that conduct research on living organisms, and reproductive science refers to the artificial reproduction of living organisms, including human beings.

The Declaration is the result of an ongoing debate among the UN member states concerning the reproductive cloning of human beings. The debate began when the UN first recognized that States should make commitments to resolve the moral and ethical dilemmas posed by science with the adoption of the Universal Declaration on the Human Genome and Human Rights (UDHG) at the General Conference of the United Nations Educational, Scientific, and Cultural Organization on November 11, 1997. The UDHG was the first international instrument to address moral and ethical dilemmas raised by science and technology. The issue of human cloning did not specifically come before the UN until 2003, however, when Costa Rica recognized that the moral and ethical dilemmas posed by human cloning needed to be addressed and introduced a resolution calling for the UN to pass a legally binding ban against all forms of human cloning through adoption of an international convention.

The Sixth Committee (Committee), the legal committee of the General Assembly, negotiated the text of the Declaration. In an effort to reach a consensus on the divisive issues raised by an international convention against human cloning, the Committee changed the text to a non-binding declaration in November 2004, and passed the

Declaration on February 24, 2005. The Committee then referred the draft Declaration to the General Assembly with a recommendation that it be passed. The General Assembly accepted the recommendation and passed the Declaration by a vote of 84 in favor, 34 against, with 37 abstentions.

The specific text of the Declaration outlining the ban on human cloning is a short six paragraphs in length and calls on States “to prohibit all forms of human cloning inasmuch as they are incompatible with human dignity and the protection of human life.” The purpose of the Declaration is to make an effort to protect human life in the application of life and reproductive sciences, by urging member states to adopt domestic legislation compatible with the Declaration’s text.

The debate over cloning centers on whether to ban all forms of human cloning, including therapeutic cloning, the process of cloning embryos to provide scientists with stem cells that they harvest for experimentation, or to ban only reproductive cloning, cloning in cases where the end-result is the birth of a child. Most States favor a complete ban on reproductive cloning, including therapeutic cloning.

Supporters of therapeutic cloning argue that stem cells gathered from early-stage embryos have significant scientific value and the potential to aid scientists in finding cures for degenerative diseases such as Alzheimer’s and Parkinson’s. Opponents to therapeutic cloning argue that the process is morally and ethically unacceptable because it requires scientists to create an embryo and later cause the death of the embryo in the process of harvesting the stem cells.

The Declaration does not end the debate over whether to ban therapeutic cloning completely because the Declaration’s text is ambiguous and does not explicitly state which forms of cloning States should ban. Some opponents to the Declaration argue that prohibiting cloning that is “incompatible with human dignity” is ambiguous because States can construe it to mean that therapeutic cloning is compatible with human dignity and therefore not prohibited. Further, the definition of human life is a term that has different meanings in different religions and cultures.

States seeking to abide by the Declaration must first undertake the difficult task of defining and interpreting which forms of cloning are incompatible with human dignity. Additionally, other opponents to the Declaration argue that the Declaration fails to distinguish between unethical reproductive cloning and beneficial therapeutic cloning conducted in a scientifically ethical manner.

Proponents of a total ban on human cloning point to recent scientific research that shows potential benefits from adult stem cells gathered from bone marrow and other tissues as an ethical alternative to therapeutic cloning. Proponents further argue that there is no distinction between reproductive and therapeutic cloning because cloning an embryo, even when the embryo will not be born, and regardless of the purpose, is simply immoral.

Although adoption of the Declaration by the General Assembly means that it will no longer formally consider this issue until a member state raises it again in the form of a resolution, convention, or other document, the global debate over this contentious issue continues. Voting in favor of the Declaration, the representative of Mexico explained that the Declaration adequately takes into account uncertainty over new scientific advances and their cultural, ethical, and religious implications. Further, the text of the Declaration reflects a compromise between those who are in favor of the Declaration, and those who are against, by addressing the fundamental concern of guaranteeing human dignity. The representative of Costa Rica, also voting in favor of the Declaration, explained that the text urges the scientific community to advance within a clear framework of ethical norms that value human life and dignity.

The representative of the United Kingdom, which has long been a supporter of therapeutic cloning, voted against the Declaration because the reference to “human life” could be interpreted as a call for a total ban on all forms of human cloning. The representative explained that the United Kingdom could not accept an ambiguous Declaration that might propagate confusion about acceptable methods of research in the life and reproductive sciences. The representative continued, observing that the General Assembly missed an opportunity

that are not reunited with their immediate families. Some of the listed alternatives include exploring extended family options, foster care, addressing the needs of caregivers and extended family members, and monitoring placements to ensure international standards of care and local customs are met.

Authorized appropriations to the Agency's Displaced Children and Orphans Fund are \$80,000,000 for each fiscal year 2005 through 2009, with a cap of seven percent for the funds allocated for administrative purposes. To ensure success, the bill requires the President to create a monitoring system to establish goals and performance indicators and to provide Congress with a report that details implementation of the Act for each previous fiscal year.

This bill could become part of other authorizing or appropriations legislation for the December 26, 2004, tsunami in the Indian Ocean.

H.R. 663, EX-OFFENDERS VOTING RIGHTS ACT OF 2005

Sponsor: Representative Charles B. Rangel (D-NY-15)

Status: Referred to House Committee on the Judiciary (Committee) on February 8, 2005.

Substance: H.R. 663 tries to restore the fairness in the federal election process by ensuring that ex-offenders who have completed their sentences are not denied the right to vote. The bill states that the right of any U.S. citizen to vote in any federal election shall not be denied or abridged because that citizen has been convicted of a criminal offense. The only exceptions are if the individual is serving a felony sentence in a correctional institution or facility, or is on parole or probation for any felony offense.

To remedy a violation of the Act, the Attorney General could bring a civil action to obtain declaratory or injunctive relief. The bill would also allow for a private right of action. A person who experiences a violation of the Act could give written notice of the violation to the chief election official of the relevant state. If the violation is not corrected within 90 days after receipt of notice, or within 20 days after receipt of notice if the violation occurred within 120 days before the date of an election for federal office, the individual can bring a civil action to obtain declaratory or injunctive relief for the violation. If the violation is 30 days before a federal election, the individual need not provide the required notice to the state's chief election official before bringing a civil action.

This bill is likely to see further movement in the 109th Congress. **HRB**

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to adopt a convention banning reproductive cloning because of the inflexibility of some States that were not prepared to recognize that other States might decide to permit controlled therapeutic cloning. In closing, the representative stated that the Declaration is a weak, non-binding political statement that does not represent consensus within the General Assembly.

Belgium, also a long supporter of therapeutic cloning, voted against the Declaration. Belgium's representative elaborated that the Declaration represents the wide divergence in the international community through the text and on the issue of human cloning, but it would serve to significantly divide States, rather than bringing them together. Although Belgium supports banning human cloning, Belgium's representative explained that it is essential to preserve the possibility of carrying on with therapeutic cloning at the national level.

Key States voting in favor of the Declaration include, but are not limited to, Australia, Austria, Chile, Ethiopia, Germany, Guatemala, Honduras, Iraq, Ireland, Italy, Kenya, Morocco, Panama, Poland, Saudi Arabia, Uganda, and the United States. Key States voting against the Declaration include, but are not limited to, Brazil, Canada, China, Cuba, Denmark, Finland, France, India, Japan, the Netherlands, New Zealand, Norway, Spain, Sweden, and Thailand. Key countries abstaining from the vote on the Declaration include, but are not limited to, Egypt, Iran, Israel, Pakistan, Romania, South Africa, Turkey, Ukraine, and Zimbabwe.

Although the General Assembly endorsed the Declaration, it is not legally binding on States. By adopting an ambiguous declaration without specific instructions for States seeking to comply with the Declaration, the General Assembly is sending mixed signals. Before attempting to present a declaration to the

world concerning a divisive issue, the text employed to call on States to adopt domestic legislation should be clear, unambiguous, and easily interpreted, as should the document's purpose. Because the Declaration does not have clear language to follow, it is unlikely that States will seek to adopt domestic legislation in accordance with the Declaration or attempt to interpret the Declaration's meaning and purpose. Until the General Assembly can unite on a common course to pursue with regard to human cloning, the effect of the Declaration will likely be minimal. **HRB**

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