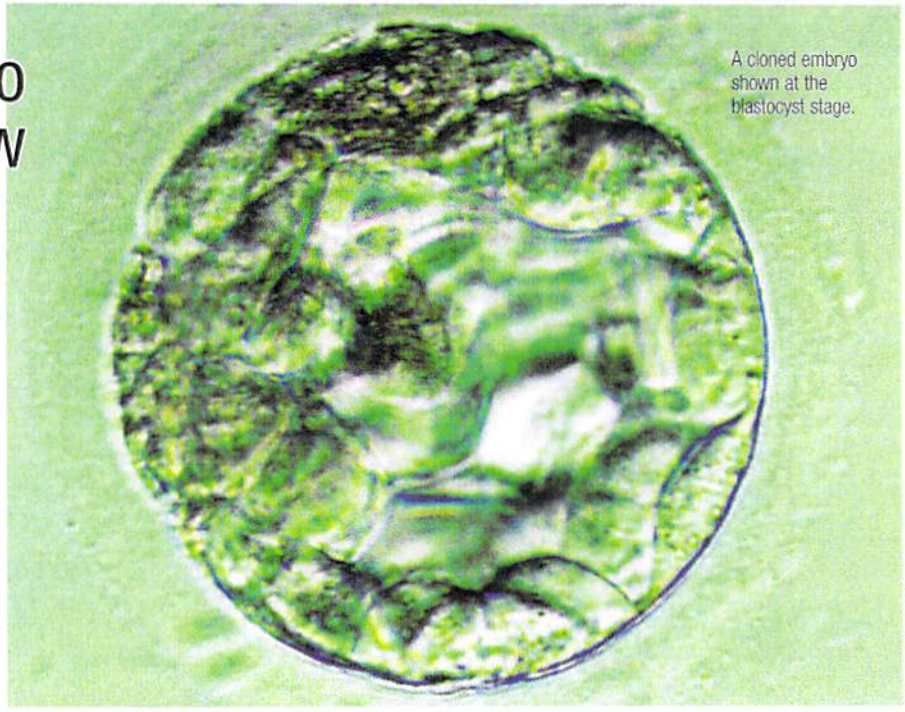
Cloning and embryo research law review



A cloned embryo shown at the blastocyst stage.

PHOTO BY CNSSTEMAGEN

BY **FR KEVIN MCGOVERN**

AUSTRALIA IS CURRENTLY undertaking a scheduled review of its cloning and embryo research laws.

Many people who respect life have been concerned about this review. The original 2002 Australian laws legalised destructive research on human embryos left over from IVF. A revision of these laws in 2006 also legalised the creation of human embryos for research and destruction through SCNT (somatic cell nuclear transfer) or so-called 'therapeutic cloning'. With that history, many feared that the current review would legalise even worse abuses.

This did not happen.

The process has begun with a report by an independent review committee appointed by the Federal Government. Along with former Federal Court judge Peter Heerey QC, scientist and 2006 Australian of the Year Professor Ian Frazer, legal scholar Professor Loane Skene, and midwife educator Dr Faye Thompson, I was a member of that committee. We were a diverse committee whose knowledge and opinions about embryonic stem-cell (ESC) research varied considerably.

Over the first half of this year, the committee received a total of 264 written submissions. In their submissions, proponents of ESC research called for payments for women who 'donated' eggs for research, permission for research involving animal-human hybrids ('cybrids'), and permission to create embryos using DNA from more than two persons as a possible way to prevent the transmission of mitochondrial disease.

The review committee did not support any of these proposed changes. If the Federal Government follows our recommendations, all these things will remain illegal in Australia.

While the report of the review committee disappointed many proponents of ESC research, it also disappointed many of its opponents. In their submissions, the opponents of ESC research called for a ban on ESC research using embryos left over from IVF, and a ban on SCNT. Of the 264 submissions received, 188 stated that they opposed the use of human embryos in research, and 112 specifically stated their opposition to human cloning.

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Fr Kevin McGovern

Above all, they noted the discovery and continuing development of induced pluripotent stem (iPS) cells. These stem cells are derived from somatic cells from the body such as skin cells. They hold promise to allow the development of replacement cells, tissues and organs from the cells of an individual's own body. Further, because the use of iPS cells does not involve the destruction of human embryos, the most serious ethical concern raised by SCNT is eliminated. Thus, for all these reasons, the opponents of ESC research argued that with the discovery of iPS cells, the need for SCNT no longer existed.

Often by a majority rather than a unanimous decision, the review committee rejected these calls too. However, it noted that the decision whether to recommend the banning of human SCNT was the "most contentious" and difficult decision the committee had to make. If SCNT is to be useful in the treatment of degenerative diseases, embryonic stem cells must be derived from human SCNT embryos. So far, however, this has not happened anywhere in the world. Thus, the committee noted the "lack of progress in SCNT research".

Before issuing a licence for embryo research, Australia's Licensing Committee must consider the likelihood of a significant advance in knowledge. This lack of progress, the review committee noted, reduced the likelihood of a significant advance in knowledge through SCNT research. The review committee therefore advised that a higher standard must now be met before a licence for human SCNT could be issued in Australia.

I did not support even this restricted endorsement of human SCNT. In my minority view, I noted that SCNT "involves the most profound of ethical concerns" because it is "the creation of human life which will be used in research and then destroyed". By contrast, I argued that the proposed benefits of SCNT are "mostly theoretical" and little more than "the possibility of what 'might' be learnt". When these theoretical benefits trumped the most serious of ethical concerns, I wondered whether the

ethical concerns about embryo research "are ultimately being given anything more than lip-service".

There were four more minority views about recommendations in the report – one from Dr Faye Thompson, also about SCNT, and three more from me. I also opposed the recommendation to continue ESC research using left-over embryos as I do not think that the evisceration of these embryos is a respectful way of disposing of them.

All up, the review committee made a total of 33 recommendations. Many of those not discussed here were either to correct ambiguities in Australia's existing laws or to improve the licensing process.

Five recommendations pertained to artificial or *in vitro* derived (IVD) gametes. In contrast to natural eggs and sperm, these are artificial eggs or sperm made from stem cells or even from a somatic cell from the body such as a skin cell. While functional human IVD gametes have not yet been manufactured, their development should be anticipated.

The report calls for community debate about IVD gametes. Could the community ever accept the use of IVD gametes in human reproduction? There are at least three issues here. One concern is whether the use of IVD gametes is inconsistent with human dignity, and particularly with the human dignity of any child produced in this way.

A second issue concerns the rights of the child. The report quotes ethicist Margaret Somerville, who recognises a right "to be conceived with a natural biological heritage" – that is, "a right to be conceived from a natural sperm from one identified, living, adult man and a natural ovum from one, identified, living, adult woman". Do IVD gametes violate this right?

The final concern is safety. Could we ever be confident enough of artificial gametes to risk using them in human reproduction? Would it ever be fair to create a child who would be subject to these risks?

If human IVD gametes are developed, my prediction is that this will bring about the next major conflict in the stem-cell wars. This conflict will be between those who want to use artificial gametes in human reproduction, and those who oppose their use on ethical grounds.

Our report was tabled in both houses of Federal Parliament on 7 July. The Federal Government must now decide what to do with its 33 recommendations. Of these, the recommendation not to remove the current permission for SCNT or so-called 'therapeutic' cloning remains the most controversial.

Recommending another review in five years, the report considers that "it may be that by the time of the next review it has become accepted that SCNT is no longer appropriate."

My hope is that Parliament will not wait five years. My hope is that Parliament will recognise the serious ethical concerns raised by the creation of human life for research and then destruction, and remove the current permission for so-called 'therapeutic' cloning not in five years but now. ■

The report of the review committee is available online at legislationreview.nhmrc.gov.au/

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