

To clone alone: the United Nations' Human Cloning Declaration

The United Nations labored for almost four years to create a treaty governing human cloning. In 2005 that effort was abandoned, and instead the United Nations' General Assembly adopted a "Declaration on Human Cloning."¹ This was a stunning defeat to those member nations who believed that global governance of human cloning was both necessary and desirable to prevent individual scientists, corporations, or even member states from going it alone and pursuing their own research agendas regardless of any international consensus or concern. Additionally, there already exists an international consensus on using somatic cell nuclear transfer technology to create a child (creation of human embryonic cells lines to make medicine remains disputed). None of the UN's 191 member states which deem human replicative cloning (usually inaccurately referred to as "reproductive cloning," it can also accurately be called "asexual reproductive cloning") as ethically permissible, and all see it as a violation of human rights and human dignity. The UN failed to adopt an instrument embodying this consensus when it failed to adopt a legally binding agreement promulgating an international framework for responsible social governance of a human embryo research, especially research involving inheritable genetic traits. Furthermore, the UN failed to provide moral leadership by failing to promote effective international dialogue on universal values in bioethics and human rights in this, its first major attempt to influence bioethics standards.² In fact, the magnitude of nations that disapprove of the Cloning Declaration is

¹ United Nations General Assembly, Resolution A/RES/59/280 "United Nations Declaration on Human Cloning", March 23 2005. See *infra*. for complete text.

² Rosario M. ISASI / George J. ANNAS, "Arbitrage, Bioethics and Cloning: The ABCs of Gestating a United Nations Cloning Convention". *Case Western Reserve Journal of International Law*, volume 35(3), Fall 2003.

greater than the number that support it, therefore making the Declaration unlikely to carry significant political weight³.

United Nations	A/RES/59/280
General Assembly	Distr.: General 23 March 2005
Fifty-ninth session	
Agenda item 150	
Resolution adopted by the General Assembly	
[on the report of the Sixth Committee (A/59/516/Add.1)]	
59/280. United Nations Declaration on Human Cloning	
The General Assembly,	
Recalling its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights, ¹	
Approves the United Nations Declaration on Human Cloning annexed to the present resolution.	
82 nd plenary meeting 8 March 2005	
Annex	
United Nations Declaration on Human Cloning	
The General Assembly,	
Guided by the purposes and principles of the Charter of the United Nations,	

³ The General Assembly adopted the United Nations Declaration on Human Cloning by vote of 84 in favour, 34 against and 37 abstentions. See, United Nations Press Release GA/10333, March 8 2005.

Recalling the Universal Declaration on the Human Genome and Human Rights, adopted by the General Conference of the United Nations Educational,

Scientific and Cultural Organization on 11 November 1997,¹ and in particular article 11 thereof, which states that practices which are contrary to human dignity, such as the reproductive cloning of human beings, shall not be permitted,

Recalling also its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights,

Aware of the ethical concerns that certain applications of rapidly developing life sciences may raise with regard to human dignity, human rights and the fundamental freedoms of individuals,

Reaffirming that the application of life sciences should seek to offer relief from suffering and improve the health of individuals and humankind as a whole,

Emphasizing that the promotion of scientific and technical progress in life sciences should be sought in a manner that safeguards respect for human rights and the benefit of all,

Mindful of the serious medical, physical, psychological and social dangers that human cloning may imply for the individuals involved, and also conscious of the need to prevent the exploitation of women,

Convinced of the urgency of preventing the potential dangers of human cloning to human dignity,

Solemnly declares the following:

(a) Member States are called upon to adopt all measures necessary to protect adequately human life in the application of life sciences;

(b) Member States are called upon to prohibit all forms of human cloning inasmuch as they are incompatible with human dignity and the protection of human life;

(c) Member States are further called upon to adopt the measures necessary to prohibit the application of genetic engineering techniques that may be contrary to human dignity;

(d) Member States are called upon to take measures to prevent the exploitation of women in the application of life sciences;

(e) Member States are also called upon to adopt and implement without delay national legislation to bring into effect paragraphs (a) to (d);

(f) Member States are further called upon, in their financing of medical research, including of life sciences, to take into account the pressing global issues such as HIV/AIDS, tuberculosis and malaria, which affect in particular the developing countries.

¹ United Nations Educational, Scientific and Cultural Organization, Records of the General Conference, Twenty-ninth Session, Paris, 21 October-12 November 1997, vol. 1: Resolutions, resolution 16.

After more than four years of acrimonious debate characterized by sharp divisions, characterized by Mohamed Bennouna, Chairman of the Sixth (Legal) Committee, as an "unbearable" situation for the international community, the General Assembly settled with the adoption of a *political* Declaration. A deadlock prevailed during the negotiations and a frail consensus was reached which both broadened and weakened the entire proposal. The adoption of the Declaration only highlights questions concerning its meaning and effectiveness.

The strength or weakness of an international instrument depends not only on its content and scope but also on the support it gathers. Its content should be a source of clear principles of interpretation for national authorities and normative law. Otherwise, the adoption of an overly vague text can impede its application. The adopted UN Cloning Declaration raises several concerns relating to the interpretation of the instrument. For instance, the question of what is incompatible with human dignity and human life is still left unanswered. Governments are left to wrestle with these questions on their own; nations willing to honor their mandates would have to struggle with the interpretation of the provisions in the context of a pluralistic world, characterized by diverse social, cultural, religious and moral values.

The Process

On August 7, 2001, in response to numerous appeals calling for an international convention prohibiting human reproductive cloning, the

governments of France and Germany launched a joint effort to initiate a universal legally binding instrument banning the reproductive cloning of human beings. In that order, they submitted a request to the United Nations' Secretary-General to include in the agenda of the 56th Session of the General Assembly the item "*International Convention against the Reproductive Cloning of Human Being*."⁴ In December of the same year, the General's Assembly Sixth Committee – the legal committee – unanimously approved the proposal and added its support to a ban on human reproductive cloning. By Resolution A/RES/56/93⁵ the U.N. General Assembly once again unanimously approved the establishment of an Ad Hoc Committee to consider the language of the proposed convention⁶.

The French-German initiative aimed to enshrine the principles asserted by the *Universal Declaration on the Human Genome and Human Rights*⁷ (adopted by UNESCO and endorsed by the United Nations' General Assembly in 1997), with particular reference to article 11 of the Declaration which sanctions "as a practice contrary to human dignity, the reproductive cloning of human beings". The initiative also encouraged States and international organizations to take necessary measures in preventing reproductive cloning at the national and international level.⁸

During the first years of negotiations⁹, the discussions between the U.N. General Assembly and the Sixth Committee revealed a strong consensus among all member states to ban the asexual reproductive cloning of human beings; however, this consensus did not include the issue of research cloning (sometimes incorrectly described as "therapeutic cloning"—the term "therapy" may one day be appropriate,

⁴ Request for the Inclusion of a Supplementary Item in the Agenda of the Fifty-Sixth Session, GAOR, 56th Sess., U.N. Doc. A/56/192 (2001).

⁵ G.A. Res. 56/93, U.N. GAOR, 56th Session, U.N. Doc. A/RES/56/93 (20001).

⁶ U.N. Doc. A/c.6/57/1.4 (September 30, 2002).

⁷ On November 11, 1997 UNESCO adopted the Universal Declaration on the Human Genome and Human Rights with the purpose of ensuring that developments in the field of human genetics take due account of the need to protect human rights. Up to this date it remains the only instrument of universal scope in the field of bioethics. U.N.E.S.C.O., International Bioethics Committee (Ibc), Revised Outline Of A Declaration On The Protection Of The Human Genome (1995).

⁸ Records of the General Conference, UNESCO, 29th Sess., Res. 16.

⁹ For an analysis of the first 3 years of negotiations, see "Rosario M. ISASI / George J. ANNAS, "Arbitrage, Bioethics, and Cloning: The ABC's of Gestating a United Nations Cloning Convention"; Case Western Reserve Journal of International Law 35(3) (2003).

but as of today it remains wishful thinking).¹⁰ Attempts to reach a consensus on a comprehensive prohibition on all forms of cloning derailed the general effort to adopt a ban on reproductive cloning, creating a stalemate in the entire process for several years¹¹. Sharp divisions among various coalitions have marked the entire process. At the core of the debate are the contentious issues of defining the human embryo's moral status as well as the disputed difference between therapeutic and reproductive cloning. All these problems affected the debate on the General Assembly's call for a legal ban on human reproductive cloning.

There were two main coalitions with competing proposals. The first consisted of the US and allies¹² who supported a prohibition on all forms of human cloning, deeming the creation and destruction of embryos as equivalent to the destruction of human life, and a practice that instrumentalizes human life. Furthermore, under this proposal, a partial ban (limited only to asexual reproductive cloning) would be ineffective in practice because it creates legal uncertainty, and risks the transfer of an embryo created for research into a human uterus for possible gestation. In opposition to the US position, a coalition including Belgium and the UK (former Germany-France coalition)¹³,¹⁴ supported a narrower approach banning only asexual reproductive cloning. The need for universal support for the legitimacy and effectiveness of the Convention provides the basis for this alternative approach. This Convention would then be complemented by legislation adopted by specific countries regulating

¹⁰ International Convention against the reproductive cloning of human beings, Report of the Working Group, United Nations, General Assembly, Sixth Committee, A/C.6/57/L.4, 30 September 2002.

International Convention against the reproductive cloning of human beings, Report of the Sixth Committee, United Nations, General Assembly, A/57/569, 11 November 2002.

¹¹ International Convention against the reproductive cloning of human beings, Report of the Working Group, United Nations, General Assembly, Sixth Committee, A/C.6/58/L.9, 03 October 2003.

General Assembly Resolution, International Convention against the reproductive cloning of human beings, A/58/520, 9 December 2003.

¹² U.N. GAOR, 58th Sess., 6th Comm., Draft Resolution, International Convention against the reproductive cloning of human beings, U.N. Doc. A/C.6/58/L.2 (2003) and GAOR, 58th Sess., 6th Comm., Draft Resolution, International Convention against the reproductive cloning of human beings, U.N. Doc. A/C.6/59/L.2, 29 September 2004.

¹³ U.N. GAOR, 58th Sess., 6th Comm., Draft Resolution, International Convention against the reproductive cloning of human beings, U.N. Doc. A/C.6/58/L.8 (2003).

¹⁴ U.N. GAOR, 58th Sess., 6th Comm., Draft Resolution, International Convention against the reproductive cloning of human beings, U.N. Doc. A/C.6/59/L.8, 6 October 2004.

cloning research, which should include the establishment of a national research licensing scheme.

Finally, in November 2004, the General Assembly abandoned its quest for a legally binding instrument regarding human cloning.¹⁵ Instead, it endorsed Italy's proposal (supported by the US and their allies) to seek a non-binding declaration.¹⁶ The Italian draft replaced two earlier texts that aimed at the adoption of an "International Convention Against the Reproductive Cloning of Human Beings" introduced, respectively, by Costa Rica and Belgium.¹⁷ The Italian "Human Cloning Declaration" called on nations to pass laws "to prohibit any attempts to create human life through cloning processes and any research intended to achieve that aim." It was adopted for consideration at the Sixth (Legal) Committee meeting.¹⁸ However, the Italian proposal did not solve the deadlock.

On February 18, 2005, the UN's Sixth (Legal) Committee voted in favor of reversing the order of texts to be acted on, thereby deciding to take up a draft resolution sponsored by Honduras¹⁹ prior to the consideration of the draft sponsored by Italy. The action was taken by a vote with 69 states in favor, 39 against and 39 abstentions.²⁰ The Honduras draft resolution (backed by the US and allies) was the result of negotiations conducted by the Working Group established to finalize that text. The resolution was drafted with the sponsorship of the Committee's Chairman in a bid to break the deadlock, and achieve consensus.

Before adopting the approved text, the Sixth Committee rejected two amendments proposed by Belgium²¹ that would have made the Declaration more acceptable to countries supporting therapeutic cloning and stem cell research. In all the stages of negotiations, the US and allies fought to broaden the ban to cover all forms of cloning, arguing that cloning research for any purpose equals the "taking of human life". However, the

¹⁵ International Convention against the reproductive cloning of human beings, Report of the Sixth Committee, United Nations, General Assembly, Sixth Committee, A/59/516, 19 November 2004.

¹⁶ See Annex I, document A/C.6/59/L.26.

¹⁷ See *supra*note 15 and 17.

¹⁸ See *supra*note 18 (A/59/516).

¹⁹ See Annex II, document A/C.6/59/L.27/Add.1.

²⁰ International Convention against the reproductive cloning of human beings, Report of the Working Group, United Nations, General Assembly, Sixth Committee, A/C.6/59/L.27 and A/C.6/59/L.27 Rev.1, 23 February 2005.

²¹ See Annex III, document A/C.6/59/L.27/Add.2.

Committee did adopt Belgium's proposal to add language to the second preambular paragraph, which reads: "and in particular article 11 thereof, which states that practices which are contrary to human dignity, such as the reproductive cloning of human beings, shall not be permitted."

Furthermore, the Committee recommended to the General Assembly the adoption of a draft resolution entitled, United Nations Declaration on Human Cloning²², by a vote of 71 in favour, 35 against and 43 abstentions. The "United Nations Declaration on Human Cloning"²³ was later adopted by the UN General Assembly on the 8th of March 2005, on recommendation by the Sixth Committee,²⁴ calling state members "to adopt all measures necessary to protect adequately human life in the application of life sciences" and "to prohibit all forms of human cloning inasmuch as they are incompatible with human dignity and the protection of human life."²⁵ It further appeals to nations "to adopt all measures necessary to protect adequately human life in the application of life sciences, as well as measures necessary to prohibit the application of genetic engineering techniques that may be contrary to human dignity."²⁶

Finally, it is striking - if not bizarre - that the UN's Cloning Declaration includes provisions that are completely unrelated to the issue of human cloning. A prime example of this is the statement by which the UN pleads to the member states that 'in their financing of medical research, including of life sciences, to take into account the pressing global issues such as HIV/AIDS, tuberculosis and malaria, which affect in particular the developing countries.' The inclusion of this odd provision dates from the time when political alliances were emerging due to the persuasive rhetoric and demagogic promises made by the United States and its allies searching for a 'consensus' on a ban on all forms of human cloning. In an effort to appeal and/or maintain the support of developing countries (which outnumber member states from the industrialized world), the governments of Costa Rica, United States and allies introduced a draft resolution "strongly (encouraging) States and other entities to direct

²² See Annex II, document A/C.6/59/L.27/Add.1.

²³ United Nations, Press Release GA/10333, Fifty-Ninth General Assembly Plenary, 82nd Meeting, March 8 2005.

²⁴ Report A/59/516/Add. 1.

²⁵ Resolution adopted by the General Assembly, Fifty-Ninth Session, Agenda Item 150, United Nations Declaration on Human Cloning 59/280, 23 March 2005.

²⁶ It is important to highlight that in an organization formed by 191 states; the Declaration was adopted by a trivial vote of 84 member states in favour, 34 against with 37 abstentions.

funds that might have been used for human cloning technologies to pressing global issues in developing countries such as famine, desertification, infant mortality and diseases, including the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS).²⁷ ²⁸ As could be expected, given the important political impact of the whole process, further draft resolutions maintained such statement without further thought or deliberation, and the demagoguery of concerns regarding the health and welfare of people from developing countries once again prevailed.

A Pyrrhic Victory?

A deeply divided UN approved the "United Nations Declaration on Human Cloning" calling on nations to ban all forms of human cloning incompatible with human dignity and the protection of human life; deliberately adopting ambiguous language in order to get the support of both backers and opponents of cloning for research purposes. Can this lead to effective action that can prevent the cloning renegades from "cloning alone" while permitting the conduct of legitimate medical research?²⁹

There are certain advantages of making the UN's Cloning Declaration an ambiguous text. If it is written in terms sufficiently general or broad, this

²⁷ Draft Resolution, International Convention against the reproductive cloning of human beings, U.N. Doc. A/C.6/58/L.2, 26 September 2003.

²⁸ The language of the proposal, as originally introduced by the United Republic of Tanzania in 2003 is an illustrative example of this rhetoric on the 'culture of life'. The proposal reads: "trying to distinguish between reproductive cloning and research or therapeutic cloning, was only an attempt to hide the fact that a human being was being created for the purpose of destroying it, in order to produce embryonic stem cells or to carry out other scientific experiments. The substantial resources, which were expended on cloning, should be derived to the real crises, such as HIV/AIDS, faced by developing countries". (United Nations, Press Release GA/L/3236, Fifty-Eighth General Assembly Plenary, 11th and 12th Meeting, October 10 2003)

The Tanzanian call was followed by a similar from Nigeria, who expressed concern that "developing countries, particularly in Africa, were most likely to be at risk as easy targets to ...stem cells experimentation and cloning procedures ... (and) as a result of prevalent poverty and ignorance, women from those societies were likely to be used as guinea pigs in experiments. Nigeria believed that the enormous resources invested in those experiments should, instead, be redirected to facilitate sustainable developments efforts", such as "infant mortality and morbidity, famine and desertification". International Convention against the reproductive cloning of human beings, Report of the Working Group, United Nations, General Assembly, Sixth Committee, A/C.6/58/L.9, 3 October 2003.

²⁹ George J. ANNAS, *American Bioethics: Crossing Human Rights and Health Law Boundaries*, New York: Oxford University Press, 2005, p. 43-57.

will allow certain flexibility (which is especially important in the scientific domain) and enable the text to "transcend different cultural, political and religious beliefs."³⁰ However, an ambiguous text becomes problematic when there is no effective consensus regarding its scope and/or its interpretation. But as rightly pointed out by the representatives of Belgium and Spain, respectively, the UN's Cloning Declaration is a pyrrhic victory because "rather than bringing States together, it had divided them," and "the fact that there had been no consensus on the issues after four years of discussion showed just how precarious was the text as adopted."³¹

In addition to the call for the prohibition of all forms of cloning, the Declaration calls on member states to adopt national legislation to prohibit "applications of genetic engineering techniques that may be contrary to human dignity." It is up to member states to define what falls under the rubric of genetic engineering and human dignity. However, those in favour of research cloning wonder if the incorporation of that text is not another attempt by the U.S. and its allies to extend the Declaration far beyond its original purpose relating to human reproductive cloning and eventually become a device to prohibit a far greater range of activities (e.g. embryo and stem cell research). For instance, the Canadian government went on record expressing its concern regarding the imprecision of the language contained in the proposed Declaration. The Canadian government also specified that the text introduces "complex issues that go beyond the original mandate restricted to human reproductive cloning to include questions/issues about reproductive rights."³²

Criticism of the "Declaration on Human Cloning" is not limited to its ambiguous and badly worded text, but extends to its alleged lack of legitimacy or authority, as well as to its non-binding nature. The proposed declaration was described as more a position statement than a normative one. A number of countries (e.g. Canada, United Kingdom, Belgium, Japan, the Republic of Korea, Singapore, China and all countries belonging to the Organization of Islamic Countries - OIC) expressly stated that the adoption of the text of the Declaration by a divided vote, following a controversial process, diminishes its validity and therefore they would not

³⁰ Methodology for the preparation of an international instrument for the protection of the human genome, International Bioethics Committee (IBC) Unesco, Paris 2 June 1994.

³¹ United Nations, Press Release GA/10333, Fifty-Ninth General Assembly Plenary, 82nd Meeting, March 8 2005.

³² United Nations, Press Release GA/L/3271, Fifty-ninth General Assembly, Sixth

feel bound by it.³³ This is especially troubling as this statement has been expressed by countries that are at the forefront of cloning and stem cell research.³⁴ They could have said more. If one counts not just the number of countries voting, but the populations in these countries, we have the following result: 1.5 billion people voting in favor of the declaration, 3.1 billion people voting against it, and 1.6 billion not voting at all. That means that the Declaration itself is supported by countries representing fewer than one-fourth of the world's population, an obviously untenable position from which to argue that it carries any moral force at all.

Unfortunately, the international community has not only failed to send the world a strong and unanimous message condemning asexual reproductive cloning of human beings, a ban for which universal support exists, but has also failed in respecting the democratic and pluralistic nature of the United Nations. In view of the total lack of global consensus on research cloning, respecting the UN's fundamental values would mean permitting nations to decide independently the legality of research cloning and stem cell research. Member states would then be free to decide whether research cloning and stem cell research respects human dignity by providing relief to human suffering via certain developments, such as tissue and cell therapies (i.e. regenerative medicine).³⁵ And even in the area of research cloning, there are critical areas, such as the rights and dignity of women ova donors, that could have been matters on which international consensus was possible. The failure to reach consensus in a document that was clear, legally binding, and enforceable, means that the prospect of individuals or corporations not only doing research cloning alone, but also clandestinely attempting asexual reproductive cloning is real. The only country in which successful research cloning has so far been reported in the scientific literature is Korea. Until late 2005 it seemed that South Korea

³³ For example, see "Statement in explanation of vote by Sir Emyr Jones Parry, Permanent Representative of the United Kingdom Mission of Great Britain and Northern Ireland to the United Nations", International Convention against the reproductive cloning of human beings, General Assembly fifty-ninth session, agenda item 150, March 8 2005.

See also, "Explanation of Position by Mr. Vanu Gopala Menon, permanent representative of Singapore to the United Nations, on Agenda Item 150: International Convention against the reproductive cloning of human beings", General Assembly fifty-ninth session, 18 February 2005.

³⁴ "UK and Korean teams refine techniques for human cloning", Susan Major. *BMJ* 330, 28 May 2005.

³⁵ On this point see, explanation of votes by Singapore, Norway (against), South Africa (abstention) United Nations, Press Release GA/10333, Fifty-Ninth General Assembly Plenary, 82nd Meeting, March 8 2005.

would become the commercial hub for research cloning, and could de facto create the rules for this research on its own. This possibility should be unacceptable to the international community. South Korea had announced that it was setting up a partnership with laboratories in the United States and Britain to supply them with the technicians (and technique) to create stem cells from embryos created by somatic cell nuclear transfer.³⁶ Less than a month later it was reported that the United States partner had pulled out of the deal because of concerns related to the way in which the Korean cloning team obtained the human eggs for its original experiments.³⁷ And very soon thereafter it was announced that there were major flaws in the published research, the paper would be withdrawn from *Science*, and there were even questions as to whether or not any stem cells had been produced by using somatic cell nuclear transfer.³⁸ In this case it appears that South Korean scientists engaged in unethical conduct in their research as well as in reporting the results. One country rejected (at least for now) the ethics of another—but it should be noted both that this disagreement does not require South Korea to do anything different. Although it has occasioned massive international publicity, this remains a private party dispute, not at the level of governments, and a dispute about “ethics” and science, not about international law. In short, we are in the position where there is no international law to prevent anyone from “cloning alone,” and where private agreements will become, of necessity, the order of the day.

All this is to say that what was needed from the United Nations was not a new declaration competing with the UNESCO's Declaration on the Human Genome and Human Rights³⁹ which prohibits human reproductive cloning in principle. Rather, a universal legally binding instrument is needed (such as a convention or a treaty). This legal

³⁶ S. OKIE, “An Offshore Haven for Human Embryonic Stem-Cell Research?” *New England Journal of Medicine* 20-05; 353: 1645-49.

³⁷ A. REGALADO, “Stem-Cell Rift Shows Difficulty Obtaining Eggs”, *Wall Street Journal*, Nov. 14, 2005, B1.

³⁸ All of the cloning research of the South Korean team is now in dispute, even their claim to have cloned a dog. Even before the request to Science to withdraw their article on human embryonic stem cells, the journal *Nature* had called for “a thorough investigation” to maintain public support for the research.” *Nature*, 438:257, Nov. 17, 2005. Later the *New York Times* commented editorially that the entire episode is a “fiasco” and that “It sounded almost too good to be true, and now it turns out that some, if not all, of it probably was too good to be true.” editorial, *The Collapsing Claims on Cloning*, Dec. 17, 2005, A22. See also James BROOKE, “South Korean scientist says he'll prove cloning method”, *New York Times*, Dec. 17, 2005, A12.

³⁹ Resolution 53/152, adopted by the United Nations General Assembly at its 53rd session, on 9 December 1998.

instrument should implement and adopt monitoring and enforcement mechanisms for the UNESCO's Declaration on the Human Genome and Human Rights as well as promote countries to transpose the international agreements⁴⁰ into their national laws. Such convention or treaty is the logical complement to the UNESCO Declaration, as it would establish concrete binding obligations on states (and even to individual persons), rather than relying on merely another declaratory instrument.⁴¹

Recognized international law practice conceives a declaration as a first draft of an international instrument to be completed at a later stage by a convention or treaty; this is an international instrument with legally binding nature/power. With the adoption of UNESCO's Declaration on the Human Genome and Human Rights in 1997, it is futile to adopt another international instrument that forgoes the vital legal force (a declaration has not legal force in strict sense) and furthermore without enough support to claim legitimacy or to develop with time in “*juris commis*” (as the 1948 Universal Declaration on Human Rights).

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Resumen / Abstract

Las Naciones Unidas trabajaron casi cuatro años para elaborar un tratado sobre la clonación humana. En el año 2005 aquel esfuerzo se abandonó y en vez de aquello la Asamblea General de las Naciones Unidas adoptó la “Declaración sobre Clonación Humana”.

⁴⁰ For example for European countries to translate into national laws the 1997 European Convention on Human Rights and Biomedicine.

⁴¹ Rosario M. ISASI / George J. ANNAS, “Arbitrage, Bioethics and Cloning: The ABCs of Gestating a United Nations Cloning Convention”. *Case Western Reserve Journal of International Law*, volume 35(3), Fall 2003.

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¹ United Nations General Assembly, Resolution A/RES/59/280 “United Nations Declaration on Human Cloning”, March 23 2005. See *infra*, for complete text.

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