

Opinion 202 (1997)¹

Draft additional protocol to the Convention on Human Rights and Biomedicine on the prohibition of cloning human beings

Parliamentary Assembly

1. The Assembly recalls its [Recommendation 1046 \(1986\)](#) on the use of human embryos and fetuses for diagnostic, therapeutic, scientific, industrial and commercial purposes, in which Council of Europe member governments are called on "to forbid (...) the creation of identical human beings by cloning or any other methods". This recommendation is reflected in Article 20 of the report on human artificial procreation drawn up by the then Ad hoc Committee of Experts on Progress in the Biomedical Sciences (CAHBI, 1989), which states that "the use of techniques of artificial procreation to create identical human beings by cloning or any other method shall be prohibited".
2. The Assembly also notes that Article 13 of the Convention on Human Rights and Biomedicine (intervention on the human genome) states that "an intervention seeking to modify the human genome may only be undertaken for preventive, diagnostic or therapeutic purposes and only if its aim is not to introduce any modification in the genome of any descendants". Thus, this article implicitly forbids cloning of human beings.
3. Reference is also made to Article 1 of the same convention, which states that "parties to this convention shall protect the dignity and identity of all human beings and guarantee everyone, without discrimination, respect for their integrity and other rights and fundamental freedoms with regard to the application of biology and medicine". Since cloning violates the dignity and integrity of human beings both as individuals and as members of the human species, this article also prohibits the cloning of human beings.
4. The Assembly has also taken note of the European Council Declaration on banning the cloning of human beings, of the resolution of the European Parliament on cloning, of the proposal of the United States of America for a cloning prohibition act of 1997, of Unesco's universal declaration on the human genome and human rights, and of the resolution of the World Health Assembly on cloning in human reproduction. All these texts take a strong stand against the cloning of human beings.
5. The Assembly welcomes the rapid reaction by the Committee of Ministers to the public uproar caused by the production of the cloned sheep "Dolly", mandating the Steering Committee on Bioethics (CDBI) in May 1997 to give an opinion on the cloning of humans.
6. The Assembly appreciates the rapid response of the CDBI, which in June 1997 presented its opinion on human cloning to the Committee of Ministers. It takes note that the CDBI agreed on specific binding provisions to be adopted within the Council of Europe to prohibit any intervention seeking to create a human being genetically identical to another human being, whether living or dead ("genetically identical human beings" meaning "human beings sharing the same nuclear gene set"). It is further noted that the CDBI agreed on the elaboration of an additional protocol to the Convention on Human Rights and Biomedicine as the best way to adopt such provisions.
7. The Assembly welcomes the Committee of Ministers' decision at its meeting in July 1997 to seek the opinion of the Parliamentary Assembly on the draft additional protocol to the Convention on Human Rights and Biomedicine on the prohibition of cloning human beings.

1. Assembly debate on 23 September 1997 (26th Sitting) (see [Doc. 7895](#), report of the Committee on Science and Technology, rapporteur: Mr Plattner; and [Doc. 7906](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Schwimmer). Text adopted by the Assembly on 23 September 1997 (26th Sitting).



8. Considering all these aspects, the Assembly recommends that the Committee of Ministers:
 - 8.1. rapidly adopt the draft additional protocol to the Convention on Human Rights and Biomedicine on the prohibition of cloning human beings;
 - 8.2. invite all states that have not yet done so to sign the Convention on Human Rights and Biomedicine and therefore fulfil the precondition for signing the additional protocol on the prohibition of cloning human beings;
 - 8.3. transmit for opinion to the Parliamentary Assembly each new draft additional protocol as soon as it is finalised;
 - 8.4. call on governments of Council of Europe member and observer states, in line with the provisions of the draft additional protocol on the prohibition of cloning human beings, to create and implement legislation that bans any intervention seeking to create a human being genetically identical to another human being, whether living or dead ("genetically identical human beings" meaning "human beings sharing the same nuclear gene set"), and to provide for severe penal sanctions to deal with any violation. The parties should, however, guarantee the protection of human beings resulting from genetic interventions, albeit prohibited under the additional protocol to the Convention on Human Rights and Biomedicine;
 - 8.5. ask the United Nations General Assembly to adopt provisions for an explicit world-wide ban on the cloning of human beings, seeking inspiration from the Council of Europe's additional protocol on the prohibition of cloning human beings;
 - 8.6. encourage member states to improve and increase information and education on biotechnological research related to human beings with a view to enhancing public support for the principles contained in the Convention on Human Rights and Biomedicine and its additional protocols;
 - 8.7. strengthen the secretariat working with the Convention on Human Rights and Biomedicine and its additional protocols in order to speed up the progress of work.