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BIOETHICS AND DIPLOMACY

Abstract

The Declaration on Human Cloning was adopted at the 82nd United Nations plenary meeting on 8 March 2005. This Declaration crowned the efforts taken by France and Germany since 2001 to adopt a convention against the so-called reproductive human cloning. The negotiation was initially conceived as a bioethical debate that should have led to a general agreement to ban human cloning. However, more often, it took the form of a discussion on human rights, cultural, civil and religious differences among people, their interaction and the question of who or what has priority in case of potential conflicts among heterogeneous value systems. Neither the Declaration nor the negotiations gave any answers to these difficult questions, but they did allow superficial insight into the problems. They showed that international legislation falls into apories when professional argumentation does not prevail in conflicting attitudes, i.e. when political and other differences are in the middle of the dialogue. If one reads the Declaration carefully, it has an unexpected result since, because of its generality and attempts to establish a compromise between difficult-to-combine interests and definitions, it neither defines cloning of people nor prohibits it directly and unconditionally, including cloning for reproductive purposes. Finally, maybe it would have been better if the debate on the cloning controversies and subsequent comprehensive regulations were first left to scientists, philosophers and corresponding expert bodies and panels, who would explain the basic mechanisms of the cloning process and, more importantly, the bioethical implications of the process itself,

because cloning is in intrinsic relation with a deliberate act and with the thinking of acting thinking, and only after the public had been fully informed about it, the relevant supranational institutions should deal with this problem.

Keywords: contemporary world, Declaration, human cloning, reproductively, therapeutically, apories

A good example of how the functioning of the modern world is aporetic, in terms of transferring from a principled consensus on the need to preserve our planet and the welfare of mankind to a concrete unified reality, is the Declaration on Human Cloning (No. 59/280) adopted at the 82nd plenary session of the United Nations held on March 8, 2005. The Declaration represents the culmination of nearly four years of continuous efforts that, since 2001, were undertaken by France and Germany in order to have a convention against human reproductive cloning[1] adopted.

This negotiation was initially devised as a purely bioethical debate that was supposed to lead to a general agreement to ban human cloning.[2] However, it was more often conducted in the form of a discussion on human rights, cultural,

1 There is a general, if not absolute agreement, in the international community on the view that reproductive cloning to create new human beings is a deeply immoral and unethical act. Arguments against reproductive cloning are of technical and medical nature, such as weakening and undermining of the original idea of producing offspring and the concept of family, the unclear relationship between the cloned baby and its "creator", confusable personal identity and possible disturbance of psychologic development of the cloned baby, eugenic questions, promoting the creation of babies and their "enhancement", belief that reproductive cloning contradicts human dignity. The key argument that goes in favour of reproductive cloning is the increase of favourable reproduction possibilities. By helping infertile people with cloning, one promotes their welfare, preserves their personal autonomy and satisfies their natural desire to produce offspring. See: Strong, 2008: 130-136; Aramini, 2009: 151-166.

2 The word "cloning" originates from the Greek masculine noun κλών or κλάδος, which can be translated as "young shoot" or "twig", while in the New Testament, this word means "offspring". One of the definitions of cloning is: "Cloning of an organism commonly involves a technique called somatic cell nuclear transfer, where the nucleus of an egg cell (containing its genetic material) is removed and replaced with the nucleus of a somatic cell taken from the body of an adult. If the reconstructed egg cell is then stimulated successfully to divide, it may develop to the pre-implantation blastocyst stage. In reproductive cloning, the cloned blastocyst is then implanted in the uterus of a female and allowed to continue its development until birth. However, in cloning for research or therapeutic purposes, instead of being implanted in the uterus the cloned blastocyst is converted into a tissue culture to make a stem cell line for research or clinical applications". InterAcademy Partnership, "Statement Calling for a Ban on Human Reproductive Cloning". http://www.interacademies.org/13930/IAP-Statement-Calling-for-a-Ban-on-Human-Reproductive-Cloning. Consult: Zergollern-Čupak, 2006.

civilisational and religious differences between people, their interaction and the issue of who or what enjoys a priority in potential conflicts between different value systems. Neither the Declaration nor the negotiation process has led to answers to these complex questions. Instead, they provided insight into the issues, even though they were superficial, and showed that international law lapses into contradiction whenever expert argumentation does not prevail in the course of debate or whenever political and other differences become the focus of the discussion.

Acknowledging the fact that, at that point, only a small number of scientists and institutions had the required level of technical knowledge, Germany and France believed that human cloning for reproductive purposes could impact the entire human species, so they demanded broad action. Because they were looking for global instruments for action that would produce relevant normative acts, these two countries wanted this task to be entrusted to the UN General Assembly instead of being implemented by some specialised agencies, such as the World Health Organization (WHO) or UNESCO. It was expected, both because of the standpoints of the Council of Europe (CoE)[3] and because of the UNESCO Declaration[4], that the negotiations will be short-term and that the positions will be quickly and easily formulated into a clear and binding convention.

Given the fact that the consideration of these issues was a novelty and given the unfamiliarity with the medical and technical terminology, the negotiations in 2002 began with scientists and philosophers reporting on the basic mechanisms of the cloning process (Post, 2004: 447-467), as well as on the ethical implications of the

3 In the "Additional Protocol" adopted by the Council of Europe in January 1998 (Europ. TS No. 168) accompanying "Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings", Article 1 reads: *"1. Any intervention seeking to create a human being genetically identical to another human being, whether living or dead, is prohibited. 2. For the purpose of this article, the term human being «genetically identical» to another human being means a human being sharing with another the same nuclear gene set».* "Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings". https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007f2ca.

4 Article 11 of "Universal Declaration on the Human Genome and Human Rights" specifies: *"Practices which are contrary to human dignity, such as reproductive cloning of human beings, shall not be permitted. States and competent international organisations are invited to co-operate in identifying such practices and in taking, at national or international level, the measures necessary to ensure that the principles set out in this Declaration are respected".* «Universal Declaration on the Human Genome and Human Rights». http://unesdoc.unesco.org/images/0012/001229/122990eo.pdf (this Article (11) will be emphasised in the second part of the text for the purpose of analysing the «United Nations Declaration on Human Cloning»). Compare: *Unesco i bioetika*, 2008: 6.

aforementioned process.[5] The problem initially concerned only those countries that were involved in genetic research or that had the capacity to implement it. Some of them thought that the Franco-German initiative was acceptable because it aimed at banning human cloning, which everyone agreed on, leaving aside stem cell research and "therapeutic cloning".[6] Other countries did not believe that there was a difference between the two types of cloning, since both involved manipulation of the human embryo (Cohen, Wellman, 2005: 141-158). The discussion quickly moved from the field of cloning to the discussions about the issue of when human life begins (Rupčić, 2013: 135-156), what is a «human being», and the dilemmas related to abortion but also about the understanding of human rights, freedom of opinion and freedom of scientific research,[7] topics about which there is not even a far-fetched agreement in the international community.

In an attempt to obtain the agreement of several countries, France and Germany supplemented their original proposal to ban human cloning for reproductive purposes with the idea of including the regulation of stem cell research (Steinbock, 2007: 416-440). Their proposal immediately received support from Belgium, China, India, Japan, Russia, Singapore, South Korea and the United Kingdom, the countries that were already involved in stem cell research or had intended to orient their research in that direction. A counter-proposal for a convention banning all forms of cloning has been proposed by Costa Rica and supported by the Vatican, Italy, Portugal, Spain and the United States. These countries, indeed, also made certain concessions in order to make their own proposal more acceptable to a larger number of countries. To that end, the transfer of nuclei or other cloning techniques to obtain DNA molecules,

5 Jürgen Habermas tends to argue that ethics is the best approach to solving the problem of cloning. Namely, as long as it is a consequence of human action, it remains within the framework of human responsibility and, thus, ethics. See: Habermas, 2002.

6 Some scientists refer to therapeutic cloning as "cloning for research purposes" or "research cloning". The intention is to avoid using the term "therapeutic", which, according to them, may imply positive connotations, but which has not been proven so far, therefore, the aforementioned more neutral syntagm is being proposed. Nevertheless, therapeutic cloning is expected to help address various severe and chronic diseases, most commonly Parkinson's disease, Alzheimer's disease or diabetes. The major bioethical issue regarding therapeutic cloning concerns discussions about the moral status of embryos.

7 At the end of the text "Bioethics and Hereditary Genetic Modifications" (Kaluđerović, 2018: 31-44), Article 12b of the "Universal Declaration on the Human Genome and Human Rights" was emphasised in a similar aspect. In addition, parts of the "Universal Declaration of Human Rights" (Articles 18 and 19) were cited (https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf) and "International Covenant on Economic, Social and Cultural Rights" (Art. 15 (3) (https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx), in support of the arguments why research related to therapeutic cloning should be continued.

organs, plants, animals, tissues and cells other than human embryos were excluded from the proposal of a general ban. The gap between the mentioned groups of states was very pronounced, and the only thing they were interested in was not reconciling opposing positions but lobbying for their own proposal among other undecided states. After facing such a dead-end situation, Iran's proposal, on behalf of the Organization of the Islamic Conference (OIC), to postpone the negotiations between the opposing camps for two years, more precisely until 2005, was accepted.[8]

The publicity that the aforementioned dispute started to gain led to an increased public interest in the overall issue. NGOs that supported the inalienable right to life were, of course, on the side of a comprehensive ban on cloning. On the other hand, scientific organisations and many scientists were concerned that this radicalisation of attitudes would lead to stem cell research being limited or abandoned altogether (Kass, Wilson, 1998: 61-74). "The InterAcademy Panel on International Issues (IAP)", an association of (then) sixty national academies of science in different parts of the world[9], issued a statement on September 22, 2003, opposing the ban on therapeutic cloning and supporting the ban on human reproductive cloning. Their proposal to the negotiating team at the UN, supported by the International Federation of Societies of Human Genetics, was not to disregard the importance of scientific research and the development of potential ways of treating people with the help of cloning.[10]

The key group of countries from the Organization of the Islamic Conference finally made a decision that they were going to accept only a declaration for which a consensus would be reached. This accelerated the negotiations between the opposing parties about the text of the resolution that would be acceptable to everyone. After many reversals, a compromise version proposed by Honduras was accepted, with Belgium's amendment to the first preamble paragraph (UN Doc. A/C.6/59/SR.28, par. 42 (2005). The lengthy negotiations and compromises reached provided an opportunity for both sides to declare a "victory" in some way and to be able to interpret the paragraphs in accordance with their own views. In order to illustrate how much the positions had changed since the initial one and over the course of the lengthy negotiation process, it would be sufficient

8 The proposal was accepted by a narrow majority, with only one vote more (80 countries were in favour, 79 against, with 15 abstentions).

9 Today, over 140 national, regional and global member academies are united under the new "umbrella" organisation InterAcademy Partnership. http://www.interacademies.org/31840/About.

10 Consult the article "Science and Ethics in Times of Crisis" (Kaluđerović, 2020: 151-160), especially the claims of Carl Friedrich von Weizsäcker.

to say that even the initial proponents disagreed about the final vote. France voted against the Declaration, and Germany in favour of the Declaration!

Britain and the United States, two close allies on many issues, also found themselves on opposite sides. The British argued that they could not support a *political* declaration that could be interpreted as banning all forms of human cloning. An additional British argument was that a consensus on therapeutic cloning should be reached in each country individually, bearing in mind the potential benefits of new procedures for millions of people. Finally, the British were of the opinion that the adopted Declaration was non-binding and did not reflect the consensus within the UN General Assembly. The United States, on the other hand, felt that, through the Declaration, the international community had reaffirmed its contempt for human cloning and committed itself to protecting the sanctity of human life and respect for human dignity.[11] The Americans understood the Declaration as an invitation to all members of the United Nations to introduce the laws that will immediately ban all forms of human cloning. The U.S. pointed out that the activity of the Sixth Committee was an important step on the path to achieving a culture of life, by ensuring that scientific achievements are in function of human dignity under any circumstances.

The United Nations Declaration[12] on Human Cloning[13] is short and concise, consisting of eight preamble and six operational paragraphs[14]. The language of

11 The very notion of human dignity is not explicitly defined in this context, except that the proponents of a general ban on all forms of cloning have linked this notion to the asexual creation of human beings. However, the representative of the Vatican tried to define dignity as an intrinsic value that is common and equal for all human beings, regardless of their social, intellectual or physical condition. Human dignity is also related to Immanuel Kant's second formulation of the categorical imperative (Kant, 2002: 46-47), i.e. with the fact that the creation of children by cloning could cause the treatment of offspring as objects, i.e. consumables like a house or a car. See: Putnam, 1997: 1-13; Čović, Gosić, Tomašević, 2009: 49-80.

12 As a less binding document, the Declaration has been adopted instead of the originally envisaged convention. The full name of the Declaration is "United Nations Declaration on Human Cloning". https://digitallibrary.un.org/record/541409?ln=en.

13 Since then, 191 member states have voted in favour of the United Nations Declaration on Human Cloning, with 84 countries voting against it. A total of 37 countries abstained, while representatives of 36 countries were absent when voting on the text of the Declaration. Representatives of Australia, Austria, Bosnia and Herzegovina, Chile, Croatia, Malta, Mexico, Slovenia, Switzerland, and North Macedonia, among others, voted for the Declaration. Some countries that voted against adopting the Declaration are Brazil, Canada, China, Denmark, India, Japan, Netherlands, Norway, Singapore, Spain... The following countries abstained: Argentina, Egypt, Indonesia, Iran, Israel, Romania, Serbia, Montenegro, South Africa, Turkey, Ukraine... The following were absent: Armenia, Ghana, Greece, Libya, Nigeria, Peru, Russia, Turkmenistan, Venezuela, Vietnam...

14 Parts of this paper have been published in previous years in several shorter or longer editions and interpretations. It would be difficult to list here all the changes, especially those related to

the Declaration itself is general, and each of its main paragraphs is marked by gradual transitions, cautious formulations and references to key terms. This shows that during the negotiations, an attempt was made to reach a balance between conflicting and difficult-to-reconcile definitions of human life, which the opposing parties presented. Perhaps because of that, a Declaration was produced which, instead of expressing consensus on the issue of human cloning or the beginning of human life, does not define any of these terms. After being read carefully, it leads to a seemingly unexpected outcome, i.e. the Declaration neither defines nor directly and unconditionally bans human cloning, including cloning for reproductive purposes!

The only reference to reproductive cloning can be found in the second preamble paragraph, which states: "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, 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" («United Nations Declaration on Human Cloning». https://digitallibrary.un.org/record/541409?ln=en).

The remaining paragraphs in the preamble speak generally about the application of "life sciences". The phrase "life sciences" was opposed by the delegations of the countries that advocated that the Declaration on Human Cloning needs to be actually narrowed down and reformulated into a declaration on human cloning for reproductive purposes. According to them, the negotiation process was never focused on the discussion of "life sciences" in general, with the addition that it is not clear even what the mentioned term encompasses, nor what it means.[15] Life sciences are simply mentioned in the preamble part of the Declaration regarding concerns about «human dignity», «human rights», «fundamental freedoms of

the content and style, that I made in the edited version of the work at hand. The changes were made to minimise occasional digressions and introduce necessary clarifications caused by my subsequent insights due to the availability of additional literature and for the purpose of a clearer and more fluid presentation.

15 More details about the closer understanding of "life sciences" can be found in the footnote (No. 42) in Ivan Šegota›s text on the new definition of bioethics (consult: Šegota, 2000: 22). He, with some reservations, suggests that the phrase "life sciences" can be translated by the phrase "prirodne znanosti", although he is aware that there is also a coinage term of "natural sciences" for this scientific field in English. However, when Šegota lists some of the sciences that belong to the "life sciences" (physics, cell biology, chemistry, microbiology, molecular biology, biochemistry, genetics, immunology, neurology, oncology, pathology, toxicology, pharmacology, nutrition, psychology), it becomes more clear why he adds in the text below that it is "*really difficult to find a Croatian substitute for "life sciences"*.

individuals», as well as «relief from suffering», «improving the health of individuals and humankind as a whole» and «benefit of all». Whatever life sciences mean, they should, therefore, be understood in the context of the terms they are associated with, particularly with «human dignity». This is particularly pronounced in the last, eighth preamble paragraph, which states that the General Assembly: "Convinced of the urgency of preventing the potential dangers of human cloning to human dignity" («United Nations Declaration on Human Cloning». https://digitallibrary.un.org/record/541409?ln=en).

The words that allow for various interpretations in this paragraph are "potential dangers" and "human dignity". The careful choice of the wording in the Declaration is also visible in emphasising the word *potential* in front of dangers, suggesting that the danger that human cloning can cause to human dignity can be interpreted as *potential*, i.e. only as *possible*.

Two very important paragraphs of the second operational part of the Declaration, paragraphs' a' and 'b', brought consultations between the opposing parties to a fever pitch until the very end of the negotiation process. The paragraph *(a)* reads: "Member States are called upon to adopt all measures necessary *to protect adequately human life* (emphasis by Ž. K. and Z. K. M.) in the application of life sciences" («United Nations Declaration on Human Cloning». https://digitallibrary.un.org/record/541409?ln=en).

This paragraph was supported by delegations that voted in favour of the comprehensive ban on cloning, but it was strongly opposed by those countries that supported the ban on cloning for reproductive purposes only. Why is it so, since it does not even mention human cloning? Namely, it refers to the protection of human life in the application of life sciences. The reason for opposing this paragraph is probably the fact that the phrase "to protect ... human life" implies the possibility of a broader interpretation, including, for example, an interpretation that includes the prohibition of abortion. The paragraph has also been criticised for confusing the scientific definition of "human life" with the definition of "human being", which should be subject to legal regulation. During the negotiations, the adverb "adequately" was inserted in order to modify the verb "to protect", with the intention to emphasise that the coinage "to protect adequately human life" differs from the potential "full protection of human life". The delegations of the countries that were exclusively in favour of banning reproductive cloning could not accept paragraph *(a)*, even with this subtle addition. In their opinion, therapeutic cloning includes or encompasses the human embryo, which, from a scientific point of view, could be defined as a "form of human life" but not as a "human being". These

countries simply could not agree with the wording that requires the protection of all "forms of human life".[16]

Paragraph *(b)* is the only operational paragraph prohibiting human cloning, although it also contains significant diminution of the original wording. It reads: "Member States are called upon to prohibit all forms of human cloning *inasmuch as* (emphasis by *Ž. K.* and Z. K. M.) they are incompatible with human dignity and the protection of human life" ("United Nations Declaration on Human Cloning". https://digitallibrary.un.org/record/541409?ln=en).

This paragraph has also been the subject of debate by the states that have supported a ban on reproductive cloning only. Although the phrase "all forms of human cloning" is broad and includes human reproductive cloning, it has been mitigated and modified by the addition of the word "inasmuch as". This term in English was chosen because it covers several possible meanings, so in one sense it can mean "because", or "since", and in another context it can mean "if", "to the extent", so that everyone can choose the appropriate interpretation according to their own preferences. The version of the translation in which "inasmuch as" is understood as "because" ("Member States are called upon to ban all forms of human cloning, *because* they are incompatible with human dignity and the protection of human life") is a call for a total ban on human cloning. An alternative translation, where "inasmuch as" is interpreted as "if" ("Member States are invited to ban all forms of human cloning, *if* they are incompatible with human dignity and the protection of human life"), allows the possibility that there are forms of human cloning that can be "compatible" with human dignity and the protection of human life.[17]

Despite a number of restrictions and modifications, paragraph *(b)* was not acceptable to many delegations, especially those that supported the ban only on reproductive cloning. Their objections were directed to the fact that paragraph *(b)* did not explicitly prohibit the reproductive cloning of humans and that it repeated the words "protection of human life", which had already been sufficiently explained in paragraph *(a)*. For delegations that supported a comprehensive ban on human cloning, paragraph *(a)* refers to the application of life sciences and does not mention the explicit cloning of people and things mentioned in paragraph *(b)*. Belgium led the countries that also opposed paragraph *(b)*, and

16 Belgium, which led the countries opposing this paragraph, demanded its deletion or annulment, but its proposal was rejected in the Sixth Committee (with 57 to 48 votes, with 42 abstentions).

17 The words "protection of human life", can also be understood in the aforementioned context with the adverb "adequately".

proposed an amended version of this paragraph: "Member States are called upon to prohibit the reproductive cloning of human beings; they are also called upon to prohibit other forms of human cloning inasmuch as they are incompatible with human dignity".[18] This proposal recognizes various forms of cloning that are based on intent (reproductive or therapeutic), and prohibits reproductive cloning and other forms of cloning (therapeutic) if they are incompatible with human dignity. Probably because the proposal is less ambiguous and because it does not mention human life, it was not acceptable to countries that advocated a complete ban on cloning, and was rejected by the Sixth Committee.[19]

The next paragraph *(c)* calls on Member States to take the necessary measures to prohibit the use of genetic engineering techniques[20] that could be contrary to human dignity.

Paragraph *(d),* to some extent, repeats the parts of the seventh paragraph from the preamble, calling on Member States to take measures to prevent the exploitation of women, with the addition of "in the application of life sciences".

Paragraph *(e)* invites Member States to adopt and implement in their national legislation paragraphs *(a)* to *(d)* without delay.

The last paragraph *(f)*, proposed by a group of African states, does not apply to human cloning at all. It calls on Member States to take into account, when funding medical research, including life sciences, the urgency of addressing some global issues such as HIV/AIDS, tuberculosis and malaria which particularly affects developing countries. The original proposal was aimed at redirecting funds for stem cell research (including adult stem cells) to these truly urgent global health issues.[21] However, the final text has been clarified and generalized, and does

18 This sentence and parts of comments have been taken and paraphrased from: Arsanjani, 2006: 164-179.

19 With a slim majority of 55 to 52 votes, with 42 abstentions.

20 Some aspects of these techniques were discussed in: Kaluđerović, Dušanić, 2011: 61-76. Compare as well: Kaluđerović Mijartović, 2021: 99-118; Jašić, Kaluđerović Mijartović, 2021: 121-139.

21 For most African, and not only African, countries, to emphasize once again, human cloning and some related challenges do not represent a close or realistic medical or scientific problem, given that there are indeed much more essential health priorities in them. A confirmation of this thesis can also be obtained by a brief insight into the official statistics of the United Nations Organization. According to them, the leading causes of child mortality in developing countries are the following diseases: pneumonia, diarrhea, malaria and varicella (all illnesses that can therefore be relatively easily prevented by the elementary improvement of basic health care). Annually, from over 470,000 people die from malaria in the world, out of which about 80% are in seventeen mainly African countries. In 2013, over 140,000 children, mostly under five years of age, died of varicella. In the same year, less than 1.5 million people died from tuberculosis,

not invite anyone to change its national legislation towards this direction. This paragraph reveals the diversity of priorities of countries with relatively low levels of health care in relation to middle and highly developed countries.

Negotiations at the United Nations on a declaration banning human cloning have shown that bioethical dilemmas and scientific discourse are relatively easily replaced by statements that are not primarily driven by the interests of the profession and the needs of the human race, but are significantly influenced by political, economic, cultural and religious characteristics of groups of states or individual states. The attempt to universalize standards around one, from a scientific perspective, sophisticated problem, for UN Member States, has shown significant differences and divergences in their scientific and technological development and priorities. Therefore, no non-binding declaration could be adopted without numerous compromises and ambiguities, which significantly relativized the initial intention of the proposing countries. Perhaps it would be better, according to the authors, if the bioethical discussion on the issue of cloning and potential subsequent regulations were first left to experts and relevant expert bodies[22], and then, after detailed informing the public, submitted to relevant supranational institutions for further consideration.

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while the number of AIDS fatalities was also around 1.5 million people. Finally, nearly six million children under five years of age die annually from various diseases that can be cured. The UN's official data was taken from: *The Millennium Development Goals Report 2015*. http://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20(July%201).pdf. See too afore-mentioned text "Bioethics and Hereditary Genetic Modifications".

22 The then Director-General of UNESCO, Koïchiro Matsuura, believed that scientists and bioethicists should play a leading role in discussions about cloning and the fundamental ethical issues concerning cloning that are of interest to all mankind. He adds that other subjects, such as public opinion, should play a significant role in the general ethical debate on such an important issue. Consult: *Human Cloning Ethical Issues*, 2005: 5.

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Negotiations at the United Nations on a declaration banning human cloning have shown that bioethical dilemmas and scientific discourse are relatively easily replaced by statements that are not primarily driven by the interests of the profession and the needs of the human race but are significantly influenced by political, economic, cultural and religious characteristics of groups of states or individual states. From a scientific perspective, the attempt to universalise standards around one complex problem for the UN Member States has shown significant differences and divergences in their scientific and technological

Compare as well: Kaluđerović Mijartović, 2021: 99-118; Jašić, Kaluđerović Mijartović, 2021: 121-139.

27 For most African, and not only African, countries, to emphasise once again, human cloning and some related challenges do not represent a close or realistic medical or scientific problem, given that there are indeed many more essential health priorities in them. A confirmation of this thesis can also be obtained by a brief insight into the official statistics of the United Nations Organization. According to them, the leading causes of child mortality in developing countries are the following diseases: pneumonia, diarrhoea, malaria and varicella (all illnesses that the elementary improvement of basic health care can relatively easily prevent). Annually, over 470,000 people die from malaria in the world, out of which about 80% are in seventeen mainly African countries. In 2013, over 140,000 children, mostly under five years of age, died of varicella. In the same year, less than 1.5 million people died from tuberculosis, while the number of AIDS fatalities was also around 1.5 million people. Finally, nearly six million children under five years of age die annually from various diseases that can be cured. The UN's official data was taken from *The Millennium Development Goals Report 2015*. http://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20(July%201).pdf. See the aforementioned text "Bioethics and Hereditary Genetic Modifications".

development and priorities. Therefore, no non-binding declaration could be adopted without numerous compromises and ambiguities, which significantly relativised the initial intention of the proposing countries. Perhaps it would be better, according to the authors, if the bioethical discussion on the issue of cloning and potential subsequent regulations were first left to experts and relevant expert bodies,[28] and then, after detailed informing the public, submitted to relevant supranational institutions for further consideration.

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BIOETIKA I DIPLOMACIJA

Sažetak

Deklaracija o kloniranju ljudi usvojena je na 82. plenarnoj sjednici UN-a koja održanoj 8. ožujka 2005. godine. Ovom Deklaracijom okrunjeni su napori koje su Francuska i Njemačka, počevši od 2001. godine, poduzele u pogledu donošenja konvencija protiv tzv. reproduktivnog kloniranja ljudi. Pregovori su prvobitno bili zamišljeni kao bioetička rasprava koja je trebala dovesti do općega dogovora o zabrani kloniranja ljudi. Oni su, međutim, češće bili vođeni kao rasprava o ljudskim pravima, kulturnim, civilizacijskim i religijskim razlikama među ljudima, njihovoj interakciji i pitanju tko, odnosno što, ima prioritet prilikom potencijalnih konflikata heterogenih sustava vrijednosti. Ni Deklaracija kao ni pregovarački proces nisu doveli do odgovora na ova teška pitanja, ali su dali, makar i letimičan, uvid u probleme i pokazali da međunarodno zakonodavstvo zapada u aporije kada stručna argumentacija ne prevladava u konverzaciji, odnosno kada političke i druge razlike budu u središtu debate. Kada se pažljivo pročita, Deklaracija ima naizgled neočekivan ishod jer zbog svoje općenitosti i pokušaja uspostavljanja kompromisa između teško spojivih interesa i odrednica, niti definira kloniranje ljudi niti ga izravno i bezuvjetno zabranjuje, uključujući i kloniranje u reproduktivne svrhe. Konačno, možda bi bilo bolje da su rasprava o kontroverzama u vezi kloniranja i kasnija eventualna regulativa najprije bili prepušteni znanstvenicima, filozofima i odgovarajućim stručnim tijelima i panelima koji bi objasnili osnovne mehanizme procesa kloniranja i, što je važnije, bioetičke implikacije samoga postupka jer je kloniranje u intrinzičnoj

vezi s promišljenim djelovanjem i mišljenjem djelatnoga mišljenja, a nakon što javnost o tome bude temeljito upoznata, tek tada su se ovim problemom trebale pozabaviti relevantne nadnacionalne institucije.

Ključne riječi: suvremeni svijet, Deklaracija, kloniranje ljudi, reproduktivno, terapeutsko, aporije