



The Spring 2006 edition of this column discussed several federal bills on bioethics issues that were carried over into the 2006 session of Congress. In 2005, Senate leaders had tried without success to broker an agreement allowing these bills to receive a vote.

By summer of 2006 it appeared that such an agreement might still be possible, albeit with a different combination of bills than originally planned. Debates on cloning, stem cell research, and other issues also continued in Washington, with some “progressives” moving to strengthen their bonds with for-profit biotechnology companies to defeat those they see as “conservative.”

A New Senate Plan for Debating Stem Cell Research?

Senator Arlen Specter (R-PA) and other sponsors of the Stem Cell Research Enhancement Act of 2005 (S. 471), designed to expand federal funding of embryonic stem cell research, have waited a long time for a Senate vote on their bill. H.R. 810, an identical bill sponsored by Rep. Mike Castle (R-DE), was approved by the House over a year ago, on May 24, 2005. At the very end of 2005, Senate supporters agreed to allow a federal bill on public banking of umbilical cord blood stem cells to become law only after Senate majority leader Bill Frist (R-TN) pledged to allow Senate consideration of S. 471 early in 2006.

By June 2006, a proposal for allowing a vote on this bill and two other bills, without amendments, had begun to crystallize. However, earlier proposals for considering bans on human cloning, and on creating human-animal chimeras, were replaced by an offer to bring up two new bills, introduced by Senator Rick Santorum (R-PA) this year.

The Alternative Pluripotent Stem Cell Therapies Enhancement Act (S. 2754), introduced on May 5, would require the National Institutes of Health to fund research

in deriving cells that have the properties of embryonic stem cells but are not obtained from human embryos. In this respect it is similar to past bills, such as the Respect for Life Pluripotent Stem Cell Act (H.R. 3144 and S. 1557), introduced by Rep. Roscoe Bartlett (R-MD) and Senator Tom Coburn (R-OK) in 2005. (On June 6, in fact, Rep. Bartlett introduced a House version of the new Santorum bill as H.R. 5526.)

However, there were two differences between the new bill and earlier efforts. First, the new bill does not try to specify particular techniques (such as adult cell reprogramming or “altered nuclear transfer”) for deriving such cells, but simply demands that the cells are “not derived from a human embryo” (where “human embryo” is defined as in the annual Labor Department appropriations bill’s longstanding provision against funding destructive human embryo research¹). S. 2754 does not prejudge the appropriateness or feasibility of any scientific approach, but makes the ethical policy clear. Second, and more important in the political sphere, the bill’s first co-sponsor is Senator Arlen Specter himself, prime sponsor of the embryonic stem cell bill. His support gives the bill a more moderate profile, making it much harder to dismiss as simply an effort by conservatives to undermine embryonic stem cell research. Senators Specter and Harkin had said last year that they could support a bill to explore “alternative” routes to obtain pluripotent stem cells, as long as this did not interfere with the effort to secure a Senate vote on S. 471. This was the first concrete sign that Senator Specter, at least, was sincere.

The Fetus Farming Prohibition Act (S. 3504), introduced on June 13, would amend current federal law on the use of human fetal tissue. The law now forbids use of such tissue for human transplantation under certain circumstances—for example, if the researcher obtaining the tissue after an abortion has helped provide for “the costs associated with such abortion” (42 USC §289g-2). This bill would add that researchers cannot use such tissue, for any purpose, if they know that “a human pregnancy was deliberately initiated to provide such tissue.” To close a potential loophole, the bill also bars use of fetal tissue “obtained from a human embryo or fetus that was gestated in the uterus of a nonhuman animal.”

While such “fetus farming” may seem a grotesque scenario of science fiction, it has become a genuine threat. Several peer-reviewed studies in animals have claimed to provide a “proof of principle” for the idea of “therapeutic cloning” in humans—and all of these required placing the cloned animal embryo in an animal’s uterus and gestating it to the fetal stage to provide usable tissue. Simultaneously, as if to provide room for this practice in humans, several states have debated (and some have passed) laws to allow “therapeutic cloning” while forbidding “reproductive cloning”—and have specified that cloning does not become “reproductive” (or does not become the cloning of a “human being”) unless it is allowed to produce a *live birth*. Earlier

¹ The Departments of Labor, Health and Human Services, and Education Appropriations Act for 2006 (Public Law 109-149) defines “human embryo or embryos” to include “any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.”

legislative proposals, and the pending federal bill to allow “therapeutic cloning,” had forbidden efforts to implant the cloned human embryo in a womb at all.²

Politicians who support human embryo cloning for research purposes have generally reacted to such warnings about “fetus farming” with righteous indignation, protesting that no one wants to do such a thing in humans. (The appropriate response, of course, is to point out that they should then have no objection to banning it.) Their allies in the biotechnology industry have been more cagey. A spokesperson for the Biotechnology Industry Organization (BIO), for example, testified to the President’s Council on Bioethics in March 2003 that the organization supports a fourteen-day limit on maintaining a cloned human embryo, and would not reconsider that stance for “umpteens years”—but the same spokesperson had already testified months earlier in support of a New Jersey bill that, as enacted, clearly violates this limit.³

In terms of the “slippery slope” in this field, it is important to remember that President Clinton, all members of Congress, and many newspapers with editorial policies in favor of abortion agreed in the mid-1990s that specially creating human embryos by any means for research purposes was a “step too far” in the ethics of human research—only to set this principle aside in 2001, when biotechnology companies claimed that cloning human embryos may be essential to embryonic stem cell treatments.⁴ It is a sad but true commentary on contemporary politics that one cannot assume political support for banning “fetus farming” will remain strong if Congress sits back and waits a year or two for the threat to become more obvious. If everyone agrees now that this is a grotesque and unacceptable abuse, now is the time to prohibit it.

The Senate majority leader’s proposal, then, is to allow S. 471 and these two new bills to come up for separate, “up or down” votes in the full Senate, without amendments. This offers something to supporters of S. 471, who may or may not have the sixty votes necessary to end a filibuster or the fifty votes necessary to defeat any and all amendments to their bill. (Even a seemingly friendly amendment would

²For this scientific and related legislative trend, see Secretariat for Pro-Life Activities, U.S. Conference of Catholic Bishops, “Research Cloning and ‘Fetus Farming’: The Slippery Slope in Action,” March 18, 2005, at www.usccb.org/prolife/issues/bioethic/cloning/farmfact31805.htm.

³See Michael J. Werner, remarks on behalf of the Biotechnology Industry Organization (BIO) to the President’s Council on Bioethics, June 12, 2003, www.bioethics.gov/transcripts/jun03/session4.html; and his testimony on behalf of BIO in support of New Jersey Senate Bill 1909, Senate Health, Human Service and Senior Citizens Committee, November 4, 2002, www.bio.org/local/bioethics/tst200211.asp. For the final New Jersey law that allows human cloning but prohibits developing a cloned human to the newborn stage, see N.J. Stat. Ann. §2C: 11A–1.

⁴For this history see Richard M. Doerflinger, testimony on behalf of the Committee for Pro-Life Activities, National Conference of Catholic Bishops, before the U.S. Senate Commerce Subcommittee on Science, Technology and Space, May 2, 2001, www.usccb.org/prolife/issues/bioethic/clonetest5201.htm.

change the bill's text and send it to a conference committee to resolve differences between the House and Senate versions, potentially allowing opponents to tie up the legislation indefinitely.) They would be able to pass the bill, declare their support for (hypothetical) "cures" for disease, and attack President Bush for vetoing it as he has repeatedly said he will do. Opponents of destructive embryonic stem cell research would have an opportunity to pass two new bills that would otherwise not be receiving time on the Senate floor at all: one bill that may ultimately help demonstrate the complete lack of any "need" for embryo destruction, and one that will prohibit an abuse of cloning in which some companies and some states have already shown a morbid interest. And President Bush would be able to sign those two bills while vetoing the morally unacceptable one, highlighting his message that he supports both scientific progress and sound ethics.

Cynics in Washington will say that this bargain is so nonpartisan, so fairly attuned to give something to everyone and to violate no one's deeply held convictions, that it cannot be approved in today's Senate. Time will tell.

A Celebration of Adult and Umbilical Cord Blood Stem Cells

Even as the political drive for embryonic stem cell research has gained strength, adult and umbilical cord blood stem cells have quietly advanced toward helping more and more suffering patients. These cells have been used in clinical trials for seventy conditions.⁵

On June 20, Senator Sam Brownback (R-KS) and Do No Harm: The Coalition of Americans for Research Ethics held a press conference and reception on Capitol Hill to celebrate recent advances in this field. Wine for the evening reception was donated by Bogo Wines, a company that donates part of its proceeds to support adult stem cell research. These events featured five patients or families who have benefited from non-embryonic stem cells:

- Abigail ("Abby") Pell of Manassas, Virginia, who suffered brain damage in three of the four lobes of her brain after being deprived of oxygen at birth twenty-one months ago. Abby's mother recounted the remarkable progress she has made in meeting developmental goals and interacting with others since being treated with her own umbilical cord blood stem cells.
- David Foege, Ph.D., of Naples, Florida, whose heart damage was considered irreparable and terminal by physicians until he underwent treatment with his own bone marrow stem cells in Bangkok early in 2006. Dr. Foege says his heart function is already 50 percent better and continues to improve, and

⁵ For a list and references, see Do No Harm: The Coalition of Americans for Research Ethics, "Benefits of Stem Cells to Human Patients: Adult Stem Cells vs. Embryonic Stem Cells," www.stemcellresearch.org/facts/treatments.htm. For an overview of the state of the science, see David A. Prentice, "Current Science of Regenerative Medicine with Stem Cells," *Journal of Investigative Medicine* 54.1 (January 2006): 33-37.

even the symptoms of a stroke he experienced before the stem cell treatment are less severe.

- Stephen Sprague of Staten Island, New York, one of the first adults to be treated for chronic myelogenous leukemia using umbilical cord blood in November 1997. Now completely cured, Mr. Sprague worked with the New York Blood Center to promote passage of the Stem Cell Therapeutic and Research Act last December, providing federal funds for a nationwide public cord blood bank.⁶
- Ryan Schneider of Chicago, Illinois, who was treated with his own umbilical cord blood after being diagnosed as having mild to moderate cerebral palsy. At the age of two Ryan was physically weak, had spasticity and limited mobility in his hands, could barely speak and weighed only twenty-five pounds. Attendees at the reception gasped to learn that the very active and healthy three-year-old boy they had seen running around the room and grabbing grapes from the buffet table was the same as the physically challenged child described by his mother.
- Jacki Rabon of Waverly, Illinois, who was paralyzed from the waist down after an automobile accident in August 2003. In October 2005 she received experimental spinal surgery in Portugal using adult stem cells and other tissue from her own nasal mucosa. She has regained some sensation in the lower half of her body and is re-learning how to walk with braces and a walker. A peer-reviewed journal article on the beneficial results of this pilot study for its first seven patients was published a few days after the Capitol Hill event.⁷

The next day, however, major news outlets refused to acknowledge these patients.⁸ Instead, they once again devoted breathless headlines to a “breakthrough” in embryonic stem cell research—the use of such cells to provide partial recovery from spinal cord injury in laboratory rats.⁹ The fact that such animal trials had already proved successful years earlier using adult stem cells, and that adult stem cells have now moved on to promising clinical trials in human patients, was ignored or suppressed in these politically charged accounts. Senate minority leader Harry Reid (D-NV) also took

⁶For details of the passage of this act, see Richard Doerflinger, “Washington Insider,” *National Catholic Bioethics Quarterly* 6.1 (Spring 2006): 19–21.

⁷Carlos Lima et al., “Olfactory Mucosa Autografts in Human Spinal Cord Injury: A Pilot Clinical Study,” *Journal of Spinal Cord Medicine* 29.3 (2006): 191–203.

⁸There were some exceptions. See “Brownback Holds News Conference to Highlight Successes of Adult, Umbilical Cord Stem Cells,” *Kaiser Daily Health Policy Report*, June 21, 2006, www.kaisernetwork.org/daily_reports/rep_index.cfm?hint=2&DR_ID=38028; and Nancy Frazier O'Brien, “Patients Said to Offer Stem-Cell Solution ‘We Can All Live With,’” *Catholic News Service*, June 21, 2006, www.catholicnews.com/data/stories/cns/0603573.htm.

⁹See, for example, Associated Press, “Stem Cells Help Cure Lame Rats,” *Washington Times*, June 21, 2006, A8.

the Senate floor to hail this “remarkable advance” (the one involving rats, not humans)—and to warn that if Republicans do not find floor time to consider the embryonic stem cell funding bill this year, Democrats “will have to force it upon this body.”¹⁰

“Progressive” Bioethics Fights Back?

In light of the uncritically enthusiastic response to destructive human embryo research in news media and many political circles, one might assume that its supporters are feeling confident and successful. Instead, they have felt a need to attack their critics in emotionally charged and sometimes insulting articles and press releases.¹¹ The basic premise here is that “progressive” bioethics—haven of progress, service to the common good, and sweet reason—is besieged and in danger of being overrun by a new “conservative” bioethics, grounded in superstitious fear of the new and ending in “efforts to indiscriminately condemn the advancement of science.”¹²

The actual situation is, of course, far more interesting and complex. Disagreements in bioethics cannot easily be forced into a “liberal vs. conservative” or “secular vs. religious” mold. The issue of human cloning, for example, has confounded such simple dichotomies. Highly secularized nations such as France, Italy, Canada, and Australia have banned human cloning for any purpose, with support from Green Party liberals and other progressives. A recent congressional hearing on the implications of the Korean cloning scandal featured testimony from two “pro-choice” feminists concerned about the cloning agenda’s exploitation of women as egg factories.¹³ The concerted effort to define bioethics in purely political terms, as “progressives” vs. “conservatives,” may be designed to eradicate such complexity, to impose an artificial consensus among secular ethicists and marginalize thoughtful progressives who oppose a laissez-faire approach to manipulating human life.

The campaign to unite political liberals against “conservative” bioethics culminated on April 21, 2006, in a day-long conference on “Bioethics and Politics” sponsored by the Center for American Progress, a liberal advocacy group in Washington, D.C.¹⁴

¹⁰ Sen. Harry Reid, in *Congressional Record* (June 23, 2006): S6449–S6450.

¹¹ See, for example, Ruth Macklin, “The New Conservatives in Bioethics: Who Are They and What Do They Seek?” *Hastings Center Report* 36.1 (January–February 2006): 34–43; R. Alta Charo, “Passing on the Right: Conservative Bioethics Is Closer Than It Appears,” *Journal of Law, Medicine, and Ethics* 32.2 (Summer 2004): 307–314.

¹² See American Humanist Association news release, “Conservative Bioethics Agenda Bullying Americans to Support Total Cloning Ban,” March 8, 2005, www.americanhumanist.org/press/BioethicsAgenda.html.

¹³ See testimonies of Judy Norsigian and Diane Beeson before the House Subcommittee on Criminal Justice, Drug Policy and Human Resources, March 7, 2006, at <http://reform.house.gov/CJDPHR/Hearings/EventSingle.aspx?EventID=40390>.

¹⁴ For the conference program and transcripts, see the Web site of the Center for American Progress, at www.americanprogress.org/site/apps/nl/content3.asp?c=biJRJ8OVF&b=593305&ct=2181475.

No actual bioethical thinking was on display at this conference. Instead, attendees were presented with a report by Kathryn Hinsch of the Women's Bioethics Project, claiming to demonstrate "conservative dominance" in the current application of bioethics to public policy.¹⁵ The report's list of the "top five conservative organizations with bioethics as a primary agenda" includes the publisher of this journal, the National Catholic Bioethics Center (Is Catholicism, in any simple sense, politically "conservative"?), and its Protestant counterpart, the Center for Bioethics and Human Dignity, as well as small projects established by long-standing Christian and pro-life organizations (e.g., American Life League's American Bioethics Advisory Commission). The notion that these centers, individually or collectively, exert "dominance" over secular academia as well as over centers like the Hastings Center and the Kennedy Institute of Ethics is nice to contemplate, but seems exaggerated, to say the least.

Perhaps more disturbing was the conference's model for what it means to be a "progressive" in bioethics.

According to speaker James Fossett of the Alden March Bioethics Institute in Albany, it means collaborating with for-profit biotechnology companies to enact laws allowing and encouraging those companies to do whatever they want in the biotech field. Fossett, whose background is in political science rather than bioethics, acknowledged that some progressives will be "uncomfortable" making common cause with unprincipled corporate CEOs, but declared that this is necessary to defeat the common foe (which seemed to consist of anyone who believes in traditional ideas about the inherent dignity of human life): "In this kind of business, I would argue you take what you can get, and if it means being nice to the guys from Merck or GlaxoSmithKline, that's what you've got to do." He said "progressives" can make faster inroads in state rather than federal debates, because "the debate in states has been more about jobs and economic development and state prestige than it's been about ethics." In short, he seemed to be saying that "progressive bioethics" is the ethic for people who don't like ethics.

This call for progressives to cooperate with the most rapacious elements of laissez-faire capitalism was no isolated theme. It seems to have been the chief reason for the conference. Its organizer at the Center for American Progress, Jonathan Moreno, is chief bioethics advisor to the Bill and Melinda Gates Foundation. Kathryn Hinsch is a former marketing executive for Bill Gates' Microsoft Corporation—in fact, she boasted that her analysis of the "conservative bioethics" threat (which she called "a cutthroat analysis of the right wing on these issues") is similar to the "competitive analysis" reports she once prepared on Microsoft's rivals for market share. And the advisory board of her "Women's Bioethics Project" is dominated by current and former high-placed executives with Microsoft, Merrill Lynch, IBM, Amgen, and other corporate giants.

¹⁵ Kathryn Hinsch, *Bioethics and Public Policy: Conservative Dominance in the Current Landscape* (Washington, D.C.: Women's Bioethics Project, 2005), <http://womensbioethics.org/downloads/bioethicsandpublicpolicy.pdf>.

It seems that the chief superstitious fear now tainting the bioethics debate is the fear of traditional ethics on the part of companies who want to follow wherever researchers' desires and the profit motive may take them. Purchasing the loyalty and support of "progressives" who already oppose traditional Christian teachings on the sanctity of human life no doubt seems a good investment to these companies. Still, it is sad to contemplate that the secular bioethics movement, originally dedicated to combating medical paternalism and standing up for human beings' dignity and autonomy, should end its career with a slogan like "What's good for General Motors is good for the country."

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