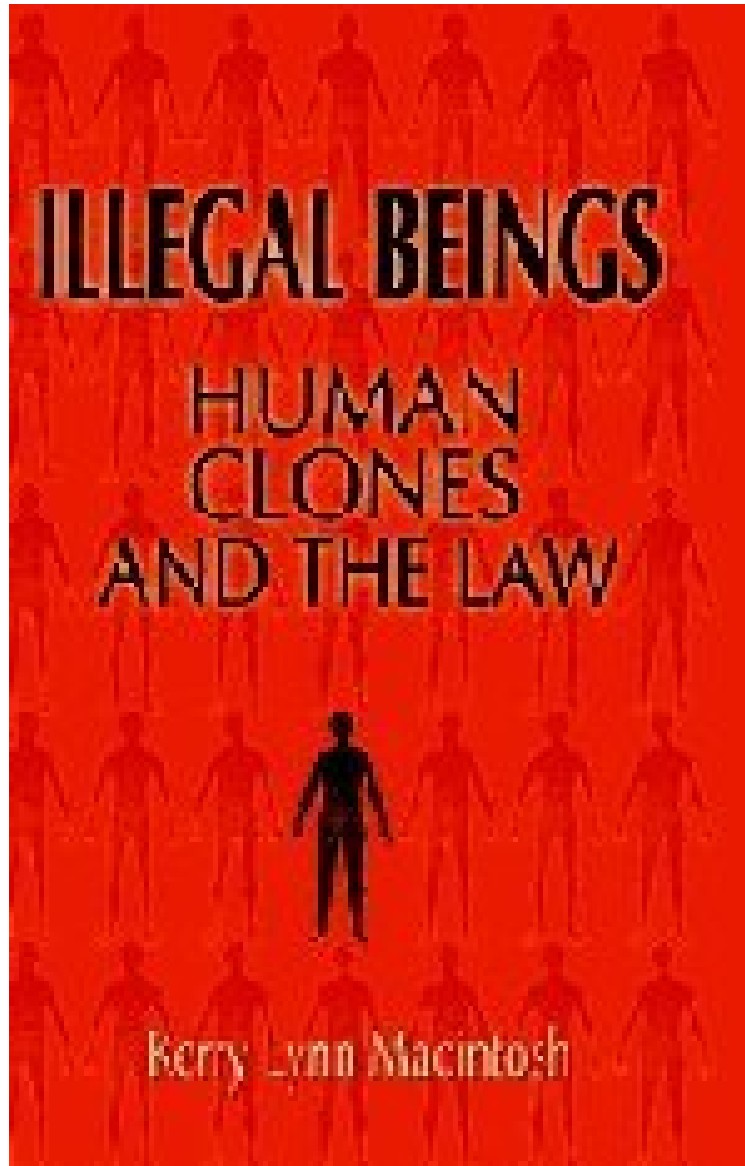



[Download] *Illegal Beings: Human Clones and the Law*

Illegal Beings: Human Clones and the Law

Kerry Lynn Macintosh

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Kerry Lynn Macintosh : *Illegal Beings: Human Clones and the Law* before purchasing it in order to gage whether or not it would be worth my time, and all praised *Illegal Beings: Human Clones and the Law*:

7 of 7 people found the following review helpful. Another breath of fresh air By Dr. Lee D. Carlson Consider the following scenario: a married couple is told by a government official that they will not be allowed to have sexual intercourse since the woman among them may get pregnant. Sexual reproduction is very hazardous for embryos, fetuses, and gestational mothers they are told, and the statistics supporting the dangers in procreation is presented to

them. The couple takes the statistical data to a trained statistician in order to obtain an opinion on the reliability of the data. The statistician informs them that the data is correct, including the statement that up to 75 percent of embryos conceived through sexual intercourse never make it birth. Most of the embryos do not implant in the uterus and are spontaneously aborted. The couple, because of the current legal environment that forbids behavior that leads to these kinds of dangers, is therefore prohibited from procreating using traditional intercourse. This scenario sounds absurd, and one cannot imagine a society whose government would prohibit procreation because it deemed it too "risky." But human reproduction via nuclear somatic transfer, colloquially known as human cloning, has been prohibited for this reason, among many others. Those who want to outlaw reproductive human cloning frequently point to the supposed dangers in carrying it out. These dangers have not been validated, due mostly to lack of experimental data, but even if they were, this would still not be an acceptable reason for prohibiting reproductive human cloning, given the "dangers" of "ordinary" reproduction. If because of technological advances, reproduction via human cloning resulted in only 10 percent of the embryos failing to reach actual birth, would it then be viewed as a more viable method of reproduction? Probably not, for objections to human cloning are based more on irrational reactions than sound, rational, or scientific thinking. Scientific and ethical refutations of the arguments against human cloning have appeared in a few excellent books in the past five years. This book includes many of these arguments, and the author refines some of them to make them even better. But she includes arguments that the reader cannot find in these earlier books. Her arguments are both original and fascinating, for they pertain to the legal ramifications of anticloning laws, the latter of which have been aggressively proposed by politicians who neither understand the science of human cloning nor its social, legal, and political ramifications. The legal argumentation in the book occurs mostly in chapter three of the book, wherein the author attempts to show that anticloning laws will violate the equal protection clause of the U.S. Constitution and will result in an effective discrimination against children that are born as the result of nuclear somatic transfer techniques. She assumes, realistically, that there will be human clones born sometime in the near future, regardless of the status of anticloning laws at that time. These children will be subjected to 'existential segregation' the author contends. This is a kind of discrimination that is similar to kind experienced in the past by mixed couples who wanted to marry but were prohibited from doing so in some states by 'antimiscegenation' laws. What is most valuable in her discussion of the legal issues involved in anticloning laws is that it educates the reader on various aspects of constitutional law. The insights that the reader will gain from this part of the book will be useful even outside the context of human cloning. The equal protection guarantee she argues is applicable to anticloning laws in that these laws will 'classify' human clones. This legal classification she argues will result in 'strict scrutiny' and is therefore suspect under the equal protection guarantee. Indeed there is much in this book that supporters of human cloning will find both interesting and important. It is important to note that the technology is now available to perform human cloning, albeit somewhat risky (but still within the boundaries of what is risky in 'ordinary' human reproduction). As technology advances and the possibility of asexual reproduction via cloning or some other technique becomes even more viable, we should be even more attentive to the legal rights of those individuals born in this way. They should be viewed as full-fledged human beings, deserving of every right that all humans possess. They will no doubt have their imperfections or faults as all humans do. Hopefully some of them will work to ending all prejudicial attitudes and any notion of an 'illegal being.' These kinds of actions on their part will certainly prove their humanity, if indeed any proof is needed. Hopefully the words in this book will be heeded by more people, and remove the author's status as a minority in rational and coherent thinking on human cloning. But the image of a beautiful newborn (cloned) baby in a crib will no doubt also alleviate much of the remaining skepticism or repugnance towards human cloning.

0 of 0 people found the following review helpful. Bought for book research
By PS Wright
I purchased this book to use as research for my fictional work on human clones. So, please keep that in mind when reading my review. I found this book very helpful in that it provided copious research citations, many of which I am still following up, many months later. Kudos to the author for their well documented research. It is also very helpful from the standpoint of being a succinct overview of the many ethical and legal permutations of current human cloning. It looks at the realistic concerns of the individuals involved. Many of the concerns it brought up echo those I had already considered, but the author also brought to mind many that I, and doubtless many others, had not thought of yet. On the more negative side, I had rather hoped it would delve more deeply into the details of both the science, and the law. I was looking for case law, citations, current real world examples (not hypothetical examples), and an explanation of the techniques and processes, and how they differ. Sadly, the book covers such a wide subject treatment, that it could not possibly cover anything in much depth. It is an easy read, though dry, as might be expected from this type of work. It makes a great research tool, and could also be the bases for deciding on future research. I could see this book being used in a college classroom to initiate discussion. I would give it 5 stars if only it delved more deeply into any of the fascinating subjects it covers.

7 of 8 people found the following review helpful. Defense of the Clones
By Professor Hugh V. McLachlan
This book is superb. The writing is very clear and the restatement, at convenient intervals, of the points previously established is very useful. It gives a comprehensive, thoughtful and balanced account of the scientific as well as the ethical and legal issues concerning human reproductive cloning. Those who argue against human cloning often suppose that clones will be identical to those they are cloned from. The absurdity of this position is demonstrated beyond any doubt by Professor Macintosh.

The other arguments usually used to show that human reproductive cloning should be illegal and/or that it is unethical are also shown to be defective. Her further claims that anti-cloning laws conflict with an important principle of egalitarianism and that they are, in American terms, unconstitutional, are very stimulating and supported with erudition and cleverness. Even those who are not convinced by them will find them impressive. Sympathy for her fellow human beings, whatever their ethnic, genetic or reproductive background permeates this powerful, important and inspiring book. The title- *Illegal Beings*- is provocative and intriguing. Rape is an illegal act but any consequent babies are not illegal beings. Do laws against rape stigmatise those who are born as a consequence of it? If they did, would that be a reason for repealing them? Could not opponents of cloning - of whom I am not one- condemn cloning without thereby condemning clones? It will be interesting to see how they will respond to Professor Macintosh's arguments. Although it is set in the context of the United States, of the laws of which Professor Macintosh's knowledge and understanding is vast and deep, the arguments are of interest and relevance to those living in other jurisdictions. Students of law, social sciences, medical ethics and applied philosophy will, in particular, find this book to be invaluable and intellectually illuminating.

Many people think human reproductive cloning should be a crime-some states have even outlawed it and Congress is working to enact a national ban. However, if reproductive cloning soon becomes a reality, it will be impossible to prevent infertile couples and others from choosing the technology, even if they have to break the law. While most books on cloning cover the advantages and disadvantages of cloning technology, *Illegal Beings* describes the pros and cons of laws against human reproductive cloning. Kerry Lynn Macintosh, an attorney with expertise in the area of law and technology, argues that the most common objections to cloning are false or exaggerated, inspiring laws that stigmatize human clones as subhuman and unworthy of existence. She applies the same reasoning that was used to invalidate racial segregation to show how anti-cloning laws, by reinforcing negative stereotypes, deprive human clones of their equal protection rights under the law. Her book creates a new topic within constitutional law: existential segregation, or the practice of discriminating by preventing the existence of a disfavored group or class. This comprehensive and novel work looks at how anti-cloning laws will hurt human clones in a fresh perspective on this controversial subject. Kerry Lynn Macintosh is a member of the Law and Technology faculty at Santa Clara University School of Law. She is the author of papers, articles, and book chapters on the law and technology and has contributed to the *Harvard Journal of Law and Technology*, *Boston University Journal of Science and Technology Law*, and *Berkeley Technology Law Journal*.

"Professor Kerry Macintosh's book is an intellectual tour de force that demolishes all the staid arguments against illegal cloning. Everyone should read this book; it is destined to be a classic." Gregory E. Pence, author, *Who's Afraid of Human Cloning*, Professor, School of Medicine and Department of Philosophy, University of Alabama at Birmingham "In *Illegal Beings*, Kerry Macintosh offers a thought-provoking and ultimately persuasive case that there are serious constitutional doubts associated with banning human reproductive cloning. Her ultimate thesis-- that it is wrong to ban an entire class of human beings based on widely-held but unfounded fears associated with their potential existence-- should resonate powerfully with any American desirous of preserving an egalitarian society." Elizabeth Foley, Florida International University College of Law "The most valuable contribution of Professor Macintosh's *Illegal Beings* may lie less in what it has to say about human cloning as such than in its exploration of the distinctive harms that laws restricting reproductive liberty can visit upon those whose very existence such laws seek to prevent -- not upon the parents whose freedom those laws constrain but upon the children whose being those laws condemn. Hers is a thought-provoking contribution to a constitutional conversation that is just beginning." Laurence H. Tribe, Harvard University "Kerry Lynn Macintosh's new book is a thought-provoking contribution to a fascinating conversation about one of the most fundamental institutions in our society, and the ways in which technology shapes it and allows us to re-envision and re-imagine it." - *The Law and Politics Book* Zvi H. Triger, The College of Management, School of Law About the Author Kerry Lynn Macintosh is a member of the law and technology faculty at Santa Clara University School of Law. She received her B.A. from Pomona College and her J.D. from Stanford Law School, where she was elected to the Order of the Coif. She has published papers and articles in the field of law and technology in journals such as *Harvard Journal of Law Technology*, *Boston University Journal of Science*, and *Berkeley Technology Law Journal*.