

BOOK REVIEW

Illegal beings. Human cloning and the law.

Authored by Kerry Lynn Macintosh. Cambridge University Press, Cambridge, 2005, pp 286. ISBN 0521853281

A Professor of Law at Santa Clara University, Kerry Lynn Macintosh presents us with a rigorously structured book on anticloning legislation. Although written for US readers and thus focusing on US context and legislation, the book is very much relevant internationally, due to the similarities between the various anticloning legislative endeavours and (in particular) between their underlying premises.

The book is divided into three parts. In Part I, Macintosh identifies and discusses the five most common sources of objections to human cloning, and shows what the endorsement of each of these objections presupposes and suggests about cloning and clones: human cloning (1) offends God and nature (clones are grotesque, immoral and dangerous), (2) reduces humans to the level of manmade objects (clones are soulless, inert, unfeeling and inferior), (3) produces beings who lack individuality, copies (clones are evil, unoriginal, fraudulent, inferior, zombie-like, constrained, pathetic, disturbed, disgusting, identity thieves, destroyers, a threat to democratic values and subhuman), (4) threatens the survival of humanity, by causing overpopulation, diminishing diversity, facilitating programmes of eugenics or genetic engineering (clones are multitudinous, rapacious, dirty, diseased, dangerous, criminal, superior, arrogant, unfair and capable of destroying humanity), (5) is not safe (clones are grotesquely oversized, deformed, flawed at the epigenetic level and prematurely old and deceitful). A chapter is dedicated to rejecting each of these objections, with a special focus on the identity fallacy (the individuality objection).

In part II, Macintosh discusses the matter of anticloning legislation and shows how such

legislation is enshrined in the abovementioned five types of objections. In this part she offers a seductive and persuasive parallel between the legal endeavour to banning cloning and American antimiscegenation laws, both being examples of enforcement of existential segregation—that is, legislation meant to prevent the birth of certain people considered inferior, flawed etc. The author reviews the historical context of American antimiscegenation legislation, revealing its striking similarity with the present anticloning legal efforts: miscegenation has been forbidden because: it is “unnatural”, “productive of deplorable results”, who are “generally sickly and effeminate”, “inferior in physical development and strength” and who will “have difficulty in being accepted by society”, and will experience “feelings of inferiority”, it “violates the will of God” and corrupts blood (quoted from Court speeches in the States of Georgia, Louisiana, Virginia). A moderate anticloning policy, which forbids reproductive cloning but allows therapeutic cloning, makes things even worse, by enforcing the belief that human clones can only be conceived to be killed (a consequence unparalleled even by the antimiscegenation laws).

The costs of a federal (and to various degrees, of a state, or an international) ban on human reproductive cloning are, in Macintosh’s view, depending on their content, (a) violation of procreative freedom (of parents), (b) loss of scientific freedom (of researchers), (c) loss of human resources (the clones), (d) exclusion of citizens at the national border (the clones), (e) legal stigma (on the clones), (f) loss of parents, funds and assets (of the clones), (g) loss of medical and personal history (of the clones), (h) living a lie (parents and clones), (i) isolation (of the clones), (j) undermining of egalitarianism (where parents and clones are the victims).

Part III is written as an “advice manual” for human clones seeking justice in the US in the future, and its main claim is that US anticloning laws constitute violation of the equal protection guarantee.

Illegal beings shows us that, should we have believed that there is nothing “fresh” to say about the ethics of human reproductive cloning (at least not until we will have any news on the science of human cloning), we would have been utterly wrong: instead of focusing on the pros and cons of cloning as such, Macintosh brilliantly succeeds in exposing the flaws and harmful consequences of anticloning legislation as “existential segregation”.¹ Unfortunately, to conclude with the author’s words, “if one believes that human clones are dangerous and defective copies, one is going to perceive every cost that a national ban would impose on human clones, from nonexistence to legal stigma to passing to isolation, as entirely justified and a benefit to everyone else. To put it another way, if most of the costs of anticloning laws would fall on a small and unpopular group of human clones and their parents, who cares?”¹

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REFERENCE

1. **Macintosh KL.** *Illegal Beings. Human Cloning and the Law*. Cambridge University Press, Cambridge:130.

¹ Of course this is not the first time someone has accused anticloning policy of being bad policy. However the breadth and depth of Macintosh’s analysis recommends her book as one of the most thorough endeavour, to this purpose.

CORRECTION

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There were several errors in the references of an article published in the May issue of the journal (Barilan YM, Brusa M. Human rights and bioethics. *J Med Ethics* 2008;**34**:379–83). A corrected pdf is available online at <http://jme.bmj.com/supplemental>.