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Book Review

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INTERSEXUALITY AND THE LAW: WHY SEX MATTERS. BY JULIE A. GREENBERG. NEW YORK: NEW YORK UNIVERSITY PRESS, 2012. 169 PP. \$32.00 CLOTH

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For nearly fifteen years, Julie Greenberg's scholarship has illuminated the complex legal and social issues faced by intersex ***930** individuals. Her new book, *Intersexuality and the Law*, synthesizes and develops upon her previous scholarship. It not only provides a comprehensive review of the law's past and present treatment of intersexuality, but also offers strategic suggestions for the future and, perhaps most importantly, democratizes the debate by making it accessible to those without legal training. Greenberg uses (and I have used) the term "intersex" to refer to individuals "with a congenital condition whose sex chromosomes, gonads, or internal or external sexual anatomy do not fit clearly into the binary male/female norm" (p. 1). She, however, acknowledges and discusses the fact that some have advocated replacing the term "intersex" with "disorders of sex development" ("DSD").

The book is divided into three parts. Part I describes the historical perception of intersex individuals as "freaks'D" (p. 11), as well as the historical treatment of intersex infants through genital-normalizing surgeries. Greenberg's descriptions illustrate the stereotyping inherent in doctors' sex-selection processes: For infants with XY chromosomes, the size of the penis was generally determinative, whereas for infants with XX chromosomes, the focus was on reproductive capacity. While practices have improved and the feminization of XY infants is now less common, Greenberg reports that many doctors continue to perform surgeries, without regard for the possibility that they may be destroying the ability to experience sexual satisfaction. Recognizing that intersex individuals are not monolithic in their views of the surgeries, Greenberg carefully assesses the circumstances under which doctors should legally be able to operate. She explains that informed consent doctrine is designed to protect patient autonomy, but that when minors are involved parents often have substantial latitude to make decisions. After exploring the competing rights and potentially conflicting interests of intersex infants and their parents, Greenberg makes two recommendations: first, that judicial approval be required prior to any surgery that will result in sterility and, second, that some type of safeguard be implemented prior to other surgeries.

Part II assesses the legal mechanisms for sex determination in three contexts: marriage, official documentation, and housing and bathroom use. Beginning with marriage, Greenberg situates the issues faced by intersex individuals within the broader context of social opposition to same-sex marriage--which, she explains, is the driving force behind the law's strict adherence to sex-based distinctions. While sex-based distinctions may not be targeted at intersex individuals, they in some cases entirely prevent intersex individuals from marrying. Because only two appellate courts, neither within the United States, have ruled upon the validity of intersex marriages, Greenberg draws on the more

developed doctrine associated with transsexual marriages. She explains how courts have grappled *931 with the issue of whether sex ought to be assessed at the time of birth (based on one's birth certificate) or at the time of marriage. Although Greenberg provides an incisive analysis of the legal doctrine and social debates surrounding LGBT marriages, she consistently reminds the reader of the unique issues faced by intersex individuals. The same is true in the context of official documentation and housing and bathroom use, where she draws on the numerous cases involving transsexuals to illuminate the reader's understanding of the more rare cases involving intersex individuals.

Part III considers the intersex movement, its internal debates, and its interaction with other movements. Greenberg traces the history of the intersex movement from its inception in the early 1990s to the present. In recounting its internal debates, she focuses on such issues as whether resources should be directed toward improving existing medical practices or eliminating sex stereotypes, and whether the preferred term should be "intersex" or "DSD." She provides a highly sophisticated analysis of the intersex movement's interaction with disability, feminist, lesbian, gay, bisexual, and transsexual rights organizations and the potential benefits and detriments of inter-group alliances. She concludes by surveying the legal frameworks that the intersex movement might deploy in the future, focusing primarily on disability and sex discrimination. Ultimately, Greenberg argues in favor of a "multi-pronged attack" (p. 135), which would include education, litigation, legislative reform, and the formation of alliances with other groups that seek to empower those who defy social norms.

Intersexuality and the Law provides a definitive account of the history and present of intersex issues, artfully interweaving stories from the lives of intersex individuals with explanations of complex legal doctrine and suggestions for future litigation and legislation. Few authors have illustrated such sustained commitment to understanding how intersexuality interacts with existing legal regimes, and Greenberg provides invaluable description, analysis, and critique.

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