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**Abstract**

The instructions of Iran’s Genetic Identity Database establishment have recently been approved by the judicial power. While the creation of such databases in some countries has expanded to non-detained individuals, regardless of their conviction or conviction, and in some cases, the entire population has grown as long as the creation of genetic identity databases has caused some doubts, defects, and philosophical, legal and moral concerns. While the collection of genetic identity data is justified by good ideas, goals and intentions and intended to benefit the community, the protection and support of the fundamental rights of individuals must be guaranteed and protected against any possibility of harm and also avoid the abuse of these genetic data by identifying precise executive mechanisms and providing appropriate and transparent regulations. On the one hand, evidence of the abuse of genetic identity databases by individuals around the world exists, and on the other hand, in our country there is no mechanism of protecting the privacy of individuals, maintaining confidentiality and protecting the basic rights of human specimens, and procedures and control, access, and licensing process for the development of new ones have remained inactive.

**Key words:** Right, Genetic, Health, Identification, Individualism.

**Introduction**

The guidelines "Genetic Identity Database of Iran" (1) which has been approved on 19/11 / 1392 due to the implementation of paragraph 1 of Article 211 of the act of the 5th Development Program of the Islamic Republic of Iran (2), with the aim of providing a genetic identity and the conformity assessment for identification. According to this, the Iranian Gene Bank is responsible for obtaining the genetic identifiers of individuals and human specimens from laboratories approved by the Gene Bank for the storage, comparison and adaptation of them. In spite of the legal assignments and judicial guidelines contained in Chapter VIII of the Fifth Development Program, including the reduction of criminal offenses, the crime scene and the preparation of the genetic identity of individuals through the use of specialized forces and updated methods and equipment, on the one hand, and its practical objectives include: Specialized services in the field of genetic sciences in order to discover the identity of offenders, provide specialized services in the field of genetic sciences in order to recognize the identity of unidentified individuals and, ultimately, to contribute scientific and applied research on the other. On the other hand, the National Center of Genetic and Biological Diseases of Iran aims to collect, identify, control, classify, record, maintain, reproduce and distribute a variety of cultivated and renewable microorganisms and cells, including bacteria, fungi, viruses, seeds, cells, plant and animal and genomic DNA and nucleotide products were established in March 2007 by Jahad-e-Daneshgahi (3). This center, with the goals of reaching the national and international pioneer center of collecting, organizing, standardizing and preserving the country's genetic and biological resources for the development of knowledge, technology and improving the quality of life, the health and conservation of the country's biodiversity. The missions of this project are listed below:

•Collection, Discover, identification, quality control, classification, registration, maintenance, reproduction, distribution and exploitation of all types of microorganisms and cultivated and renewable bacteria including bacteria, fungi, virus, human, animal and plant cells, genomic DNA and Nucleotide products

*• Creation of Scientific Information Network (National Network of Genetic and Biosphere Reserves)*

*• Compilation of guidelines and necessary standards*

*• Training of expert human resources has been established.*

It is worth noting that, despite the adoption of the "Iran Genetics Identification Database", and despite the establishment of the National Center of Genetic and Biological Diversity of Iran, which is somehow a substitute to the lack of law and executive instructions, and the lack of organizations and executive agencies associated with it, seems that this instruction has serious legal gaps and challenges, and considerable professional ethics and concerns, including the possibility of ignoring individual rights, in particular the rights of individuals in conjunction with genetic privacy and the possibility of conflict with the principles of secrecy and preservation of confidentiality and the impossibility of securing the genetic information of the people. The current concerns about the spread of these databases to the entire population are in the majority of countries that create such databases (4).

This paper, by considering the philosophical, legal, moral principles and rules seeks to evaluate the legal ambiguities and ethical concerns arising from silence or legal ambiguity and make them consistent with ethical principles and legal rules.

***Natural rights of human***

Traditionally, human rights standards are meant to guide the actions of governments, whereas ethics in health care much more generally include concern for the specific actions, inspirations, and relationships of individual health workers, researchers, and organizations. The ethical main beliefs that guide our work are the product of broad-based consultation, are drafted by representatives of professional bodies and organizations, and exist in the form of guidelines and offered codes of conduct (5). By contrast, human rights standards tend to be conscripted by government representatives, negotiated in political forums, and assimilated in the body of international law in the form of international treaties that impose legal compulsions on the governments that approve them (5). The natural rights of man, which are defined by the religions, refer to the law that derives from a pure human being and is inherently inescapable, and cannot be transmitted. The new idea of ​​natural law has been created, with the rise of individualistic ideas based on old innate theories in the 17th century. The traditional theory of innate rights was based on the assumption that humans, as the creators of nature and God, had to manage their lives and organize their own society, based on the commandments and laws of nature and God (6). John Locke, the leading Western philosopher, defines the law as "natural and non-existent." Locke, like Hobbes, is one of the most important thinkers in the social contract. He believes that life, freedom and property are the natural rights of human. There are numerous definitions and notions of non-statutory natural rights, including non-transferable, non-marketable, and non-transferable natural and legal rights (7). On the other hand, statue rights refer to rights that derive their reputation from the will of the legislator or the shareholder and are formed through legislative bodies and in the form of specific legislative mechanisms, and the social contract is an agreement between the members of a country that live in a common legal system in which the state establishes to protect those statue rights and legislations (8). Natural rights advocates essentially limit their analysis to the statue rights of the subject and regard the natural rights as emotional, non-argumentative, indeterminate and metaphysical, and thus ineffective (9).

In other words, individual rights, such as some of the negative rights, like the right to die, the right to sickness, the right not to be tried, the right not to be ignored, the right to mistake, the right not to be spoken, may be valuable according to individual originality and invaluable according to collectivism originality. In contrast, many of the positive values ​​and expectations of collectivist attitudes may be against individual principles and freedoms. But if the basic principles of the affairs administration in public law are based on the authenticity of the real human needs, individual rights cannot be easily conceived and endowed with intentions. Thus, the right to refuse to give genetic tests as one of the individual rights is one of the doubts that different philosophical attitudes give different answers. On the other hand, the silence of the law, the defect of the law, the urgency of the law and the conflict of laws can never be regarded as an insult to the abandonment of the right, the denial of right, the transfer and assignment of the right and the denial of rights for fundamental rights. According to Article 3 of the Civil Procedure Code, "judges of the courts are required to comply with the laws in the lawsuits, issue an appropriate order or an offensive period " (10). It is worth noting that the silence with the vagueness of the law in the instructions of the "Iran's Genetic Identity law" in the accurate and complete expression of the mission of this database and the risk of its development to the ordinary people outside the cases specified in the instructions, with the approval of the board of directors of the Gene Bank, which is of great urgency and importance, which requires revision and correction in competent authorities, which implies serious gaps and legal and juridical issues. Thus, genetic research and determination of the genetic identity of individuals, in addition to allowing the legislator and approval by competent authorities, must be based on the free will of the individual, and not merely documentary on the coercive and unilateral permission of the legislator and competent authorities. Genetics and ethics have had abundant convergences and divergences over time. From Darwin through the Asilomar Conference and the Universal Declaration on the Human Genome and Human Rights, much has been achieved, but much still remains to be done (11). The usage of biological materials that are already being stored and the sufficiency of new technologies, such as clustered frequently interspaced short palindromic repeats (CRISPR), are some of the current challenges of this conceivable and essential contact (11).

***Individualism theories***

On the other hand, two important and influential theories of individual originality and total originality in the way of the attitudes and effects of this subject matter are of great importance. Individualism is a moral viewpoint, a political philosophy, an ideology, or a social discipline that emphasizes the moral value of the individual (12). Individualists encourage personal goals and desires, and therefore give value for self-reliance and independence. Individualization puts the individuality in the center of attention, and thus "begins with the basic foundation upon which the individuals attempt to reach liberty and freedom has an indispensable value " (13). In contrast to the theory of individual originality, collectivism is a term that refers to the type of behavioral interaction between individuals, groups, or different peoples and is based on group behavior and interactions. Collectivism is the opposite of individualism. Collectivism focuses on society and the group, while individualism depends on the individual and his personal desires. Accordingly, collectivism of group-orienteers calls for the acquisition of identity from the society and a kind of behavior according to collective preset patterns, so that group self-esteem produces causes individual self-esteem produces (9).

***Misuse of genetic privacy***

The cases of misuse of national genetic identity banks have been reported in a number of countries, including Iceland, Estonia, and Tonga. It is not possible even in cases of genetic identity banks that relate to volunteers, in which the emphasis is on naming and undocumented individuals. Because such banks are intended for medical use, and in order to examine the interactions between genes, the environment and health, adding contributors 'information to the individual registrants' inevitability is inevitable. Pharmaceuticals and biotechnology companies are the hottest recipients of such information for the development of new drugs and therapies (9). The results of recent studies have revealed more vulnerabilities in the security of genetic identity databases. From the point of view of ethical standards and professional principles, the views of the instrumental and inhuman nature of the character and dignity of humans are destructive, inanimate and even criminal. In the past few years, a large number of studies have suggested that a motivated, technically sophisticated adversary is capable of exploiting a wide range of genetic data. On the one hand, with the constant innovation in genetics and the rapid accumulation of online information, we can expect that new privacy breaching techniques will be discovered in the next few years and that technical barriers to existing attacks will diminish. On the other hand, privacy-preserving strategies for data dissemination are an active area of research. Rapid progress has been made, and powerful frameworks such as differential privacy and homomorphic encryption are now part of the mitigation strategy. At least for certain tasks in genetics, there are protocols that preserve the privacy of individuals (14). Although the natural law itself consists of the positive and negative rights that require the action or the ban of action to do, statue rights may be contradicted to the natural rights of individuals and oppose it, and at a time could be in the common path and in line with it, which can itself can be interpreted based on constructive rights and non-constructive rights in conjunction with natural rights. In the distinction between the sovereignty of the individual and the originality of the summit, it should be noted that in the supremacy of collectivist authenticity, rights of the individual may be ignored and easily allowed to be invaded and distorted, and also can be a means to offend and threaten the privacy of individuals and their Genetic research, and in particular the creation of bio-banks through the collection, storage, retrieval and use of human specimens to determine the genetic identity of individuals, especially offenders and defendants, in crime scenes and natural disasters, wars and criminal explosions are of an important factor, but the selection of each one from philosophical, legal, criminal, professional, and medical ethics has the different characteristics, qualities, and effects. This paper wants to discover the ambiguities, doubts and related concerns by examining the perspectives and principles and rules and evaluate it with professional principles, ethical standards and legal rules.

***An overall report from three countries***

Genetic testing has become a progressively significant part of medical diagnostics as well as medical research. Through numerous providers and laboratories, it is presented to the broad public within diagnostic and research settings but also as direct-to-consumer genetic testing, providing consumers with facts on, for example, life style or ancestral source .

*Germany*

In 2009, the Federal parliament of Germany passed the Human Genetic Examination Act (GenDG) comprising the fields of medical diagnostics and determination of descent as well as insurance and employment sectors (15). It is aimed at determining the requirements for genetic inspections and genetic analyses and averting discrimination based upon genetic characteristics (15).

*Kuwait*

The new Kuwaiti law forces its citizens, residents and visitors to collaborate in the formation of a database inclosing the genetic profile of the whole population (16). This law disrupts the attitude of proportionality, the right to privacy and informational self-determination and, in the context of Kuwait’s immigration laws, it may also encourage discrimination (16).

*Argentina*

Human genetic identification has been increasingly associated with the protection, defense and compensation of human rights, in particular the right to genetic identity (17). The Argentinian military dictatorship of 1976–1983 engaged in a savage suppression and egregious violations of human rights, containing forced vanishing, torture, murder and assumption of children of the disappeared with suppression of their identity (17). The ethical, legal and social nuances in the usage of forensic genetics to back the right to identity in Argentina included issues such as the best interest of children being raised by criminals, the right to learn the truth of one’s origin and identity, rights of their biological families, the issue of voluntary versus compulsory testing of victims, as well as the duty of the state to investigate crimes against humanity, punish perpetrators and provide justice and reparation to the victims (17).

***Solutions***

It seems the privacy defense can, at best, be a mere stop-gap effort. In the long run, it will probably fail. The only way to obtain genetic privacy is to restructure the employment-insurance health care relationship also the current structure seems to make it profitable for employers and insurance carriers to discriminate against individuals with certain genetic configurations—that is, it is in their best financial interest to limit or even deny health care. A restructuring seems called for so that it becomes profitable to deliver, not withhold, health care also to accomplish this the whole nation will have to become more egalitarian—that is, to think of the nation itself as a single community willing to care for its own constituents (18).

**Conclusion**

According to what has been said, it can be understood that natural rights are intrinsic, inherent and fundamental rights which are inalienable, abandoned and transmitted, such as the right to life, the right to freedom, the right to health and the right to seek and to provide happiness, and safety. On the other hand, statue laws is a term in the philosophy of law that are governed by the decision of humans in a society, not necessarily based on morality, holy (divine), or natural law. This term is usually used against natural rights. Such a view suggests that the law must be established and verifiable. This attitude is against natural rights and does not accept that morality or the nature of human beings can create law for human society. On the other hand, individualism with emphasis on the human existence and the primacy of individual interests, is based on individual authenticity, and community-centered collectivism and the primacy of social interest based on the principles of aggregation. And yet, the controversy between individual fidelity and collectivism is a reflection of the fact that the natural rights of individuals are different in each of the attitudes of philosophy, and these statue rights continue to exist alongside human rights, and sometimes governments are forced to fulfill the vacuum created by natural rights by the statue law. Individualism, then, is often in contrast with authoritarianism or collectivism, but there is in fact a range of community-level behaviors ranging from highly individualist societies to mixed societies and collectivist societies. Crime-based views about offenders without screening them for the causes and factors of committing a crime, behavioral, occupational, educational and family characteristics are a factor in deprivation, isolation and social deprivation. Maintenance and storage of genetic identifiers and human specimens, even for perpetrators, especially for ordinary crimes such as convictions and unintentional crimes, and financial penalties, and short term imprisonment without the possibility of revocation and removal of these types of identifiers after being acquitted or removed. Convictions result in starvation of the individual and, consequently, the exclusion of his social, occupational and educational rights. Any intent and willingness of individuals to participate in genetic research and to obtain human specimens in the name of scientific research and development for military or security purposes in a coherent and unilateral manner, without the explicit and informed consent of individuals, is the ignorance of inherent dignity of humans and humiliation.

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