



Feasibility Study of Human Genetic Engineering Criminalization

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<http://dx.doi.org/10.18415/ijmmu.v8i9.3343>

Abstract

Genetic engineering has created unique opportunities in various areas of human life. Plant genetic engineering has led to the provision of more products and more resistance to natural pests and in the field of medicine and human genetics, the treatment and prevention of some incurable diseases are before us. Beyond that, it has provided the opportunity and ability to edit the human genome so that humans can intervene in their destiny and nature. On the other hand, there has been opposition to it and they have demanded the strongest social reaction against it; Especially in human genetic engineering and gene engineering with the aim of improvement. This study, after analyzing the concept of the three principles of criminology, namely the principle of harm, the principle of legal ethics and the principle of patriarchy-law, the possibility of criminalizing human genetic engineering in two areas of treatment and improvement according to the principles mentioned. The descriptive-analytical form is examined. Given some of the criteria for criminology, such as legal ethics and the protection of human values such as human dignity, freedom, and autonomy, governments can criminalize genetic engineering for recovery. They pretend.

Keywords: *Biotechnology; Genetic Engineering; Legal Ethics; Principle of Harm; Legal Patriarchy*

Problem Statement

Advances in biotechnology promise bright horizons for individual and collective human life. We all, to some extent, enjoy its blessings. It has made life easier and reduced its problems. This process continues and can further affect different aspects of our lives. Along with these promises, it has also caused moral, legal, and theological concerns. Due to the speed of this progress, its worries and preoccupations are increasing every day.

Human genetic engineering, or manipulation of the human genome, has provided the opportunity for humans to change their destiny by applying it. The technology claims that humans can travel the hundred-year-old path overnight by editing their genomes. This technology aims to deprive nature of the hand of nature from human destiny and by intervening in the human genome to gain muscle power, memory power, sex determination, height and other characteristics and act at the request of its customers. Parents may leave their embryos to genetic engineers for training in a particular field of art. This future child, as well as the generations after him, will inevitably follow this path. This part of biotechnology and biotechnology raises concerns. If genetic engineering continues in this direction and goal, should future

human beings be called independent and in control of their destiny or not? When a person's destiny is decided by someone else from the embryonic period, has his character and human dignity not been destroyed? These are questions that human genetic engineering poses to us and can be viewed from a variety of perspectives. In this research, we study the feasibility of criminology by considering the three principles of criminology, namely the principle of harm, the principle of legal patriarchy and the principle of legal ethics. At the beginning, we explain the concept of genetic engineering and the three principles mentioned above, and then we examine the possibility of criminalizing human genetic engineering with each of the mentioned principles.

The Concept of Genetic Engineering

Genetic engineering is part of the science of biotechnology and refers to a set of methods that are used to isolate, purify, insert a specific gene into a host, and ultimately give rise to a trait. Or the production of the desired product takes place in the host organism. This work began in 1946 to improve agricultural products. After that, the production of genetically engineered products with specific goals flourished. On November 28, 2018, Chinese scientist He Jiankui in Hong Kong claimed to have created the first engineered babies by manipulating and editing genes. The result of this initiative of Chinese engineers is the birth of two twin girls named Lulu and Nana. According to Chinese scientists, the two girls are the first "genetically modified" humans in the world. To do this, the scientists used very powerful and advanced molecular scissors called CRISPR. Using the CCR5 gene, which is part of the genetic material of HIV, they were able to create babies who are resistant to the virus and AIDS (<https://fa.euronews.com>). Human genetic engineering is performed for two purposes: treatment and improvement. Since there is no serious opposition to the first type and it is not problematic, in this research, only the feasibility study of the second type of criminology is considered.

The Three Principles of Criminalization

Criminalization is a process by which the criminal legislator, taking into account the basic norms of society and based on its accepted theoretical foundations, prohibits the current act or omission and sets a guarantee for its criminal execution. The principles or foundations of criminology play a decisive role in this regard. A positive response to these principles about behavior does not necessarily mean that it is criminal; Rather, it only means that behavior is under the control of the state and society. Some scholars have considered up to ten principles as the principles of criminology (Feinberg: 1986, p1), but these principles seem to have many examples and interfere with the three important principles of harm, legal patriarchy, and ethics. - Legal orientation returns. We first explain these principles as necessary and then examine the possibility or impossibility of criminalizing human genetic engineering based on them.

1. Harm Principle

John Stuart Mill (1803-1873) makes a well-known argument in his book on freedom that "the only purpose that can be justified, against the will of the individual, is to use force against a member of a civilized society." Prevention is to harm others "(Sandal: 1396, pp. 78-79). This principle became very popular among contemporary liberals and attracted a great deal of attention, as well as staunch defenders. This principle can well explain the liberal public attitude towards ordinary citizens and policymakers in Western democracies in dealing with individuals. The central idea of desire is that people should be free to do whatever they want as long as no one harms another. The state cannot interfere in a person's liberty to protect him or herself or to exercise the majority's beliefs about a better life. The implication, he said, is that the only actions a person is accountable to society for are those that negatively affect others. As long as I do not harm another, my independence in the field of rights is absolute (ibid.).

John Stuart Mill, by his liberal view, insisted on the priority of freedom and originality of the individual and its primacy over society and believed that the individual was more important and original than society and therefore the state. Should not interfere with the self-actualization of individuals by

interfering in personal spheres; Rather, they should leave people free and absolute in choosing and pursuing the ideals and goals that they are interested in, and in adopting a way of life and conditions. In his view, freedom is the only value, or at least at the top of the values that every government should be its guardian and guardian, and no government institution and even common custom and religion, and in its universal sense, the culture of society should not be based on goals. The will of individuals should be prioritized in the selection and acceptance of values and norms. He considers the restriction of individual freedom based on pleasant and customary beliefs to be an obvious mistake, and on the other hand, it does not fall into the valley of lawlessness and authoritarianism (Javadi and Hosseini Suraki: 1396, p. 78, p. 111). The conflict between the social freedom of individuals and the government has been going on since ancient times, but in the past, this conflict has existed between the government and some classes of society (Mill: 2009, pp. 4-5); But in the present age, one side of the story is the individual of the society, not a particular class, and the other side is the government.

This principle plays an important role in decriminalizing many behaviors that were once criminal. Consider whether homosexual acts should be subject to criminal guarantees. Liberals argue that if men choose sex with men, or women choose sex with women, it is up to them and has nothing to do with the law; In defense of this view, they often say, those who criminalize homosexuality have not been harmed. Indeed, this argument has played an important political role in the decriminalization of homosexuality.

The main purpose of Mill's design was not to delineate precisely the boundaries of criminal law but to pursue the extent of legitimate interference by public opinion and state power in general, due to his liberal approach. Therefore, by proposing the principle of harm, he wanted to reject the legal guardianship and legal moralism, which were common in his time, and prevent the government from interfering in the lives of citizens under the pretext of physical or moral expediency (Farahbakhsh: 2013 P. 332). For this reason, he did not clarify the concept of harm to those who should and perhaps did not and did not talk about its shortcomings, severity, and weakness. ; For this reason, citing the doctrine of desire, although it may be possible to distinguish the boundaries of the realm of public authority from the realm of behavioral freedom, it is not possible to say what harmful acts should be criminalized (ibid.). However, in his view, damage to another is limited to physical injuries, and tangible financial losses, and loss of assets (Javadi and Hosseini Suraki, ioc cit, p. 117).

2. The Principle of Legal Protectionism (Patriarchy)

In modern philosophy and jurisprudence, patriarchy is the act of doing good to others without their consent; The way a father treats his children. Patriarchy means the guardianship of a father towards his children, who, whenever he sees the doing or leaving of the present to their detriment, prevent him from doing or leaving it because of the province he considers for himself. Or commands it; This process can also be forced.

Patriarchy in political terminology refers to a kind of social formation that regulates the modeling of the father-son relationship in the political and legal system by resorting to coercive power and through the judiciary (Hajjarian: 1374, p. 91 and 92, pp. 54-57). Other terms used to describe such a system are "guardianship" and "legal protectionism", which restrict a person's freedom for his or her benefit; That is, to protect oneself from certain physical or mental injuries, the law restricts one's freedoms and responds to the violation of these prohibitions with punishment (Dworkin: 1957, p. 278). According to this principle, the government stands in defense of the real rights of citizens, and forbidding certain behaviors does not allow them to harm themselves or even by creating certain duties and responsibilities, obliges individuals to make a profit and punishes leaving such a task. According to this criterion, even if a person's behavior does not cause any actual or potential harm to others, the legislature should still create a ban on his behavior to maintain and promote his good and happiness (Borhani and Rahbarpour: 1390, p. 4, p. 50).

The main justification given for this principle is the argument for utilitarian reasons (ibid., P. 9). If the ultimate goal of the principle of patriarchy is to increase social welfare, it is not right for society not

to take appropriate action against the behavior of people who harm themselves and neglect their good; Because this loss ultimately reduces the overall well-being and well-being of society, such as people who do not wear seat belts while driving or traveling by car.

The concept of harm in legal protectionism is different from the principle of harm to another, and because it is not limited to the loss of benefit resulting from the wrong action, but includes any physical, psychological, economic, and moral harm caused by the action. Take (Farahbakhsh: ioc cit, p. 338).

Another noteworthy point is to understand why liberal philosophers are reluctant to resort to legal protectionism. Legal protectionism is based on conservatism in political philosophy, which has principles such as pessimism about the human intellect, the use of religion to compensate for the defects of the human intellect, the denial of equality, the inherent preference of some over others, and a patriarchal attitude toward society. Is (Bashirieh: 1379, pp. 182-183). In such an approach, the existence of the individual is recognized in the shadow of society, and collective interests and interests take precedence over the interests of individuals. People with pure intellect and pure power are not enough to always be able to recognize their good and harmonize it with the public good. Accordingly, the government, as a mentor and guide of individuals, should behave like a father treats his children with his citizens (Mahmoudi Janki: 2006, vol. 1, p. 129).

Contrary to this view, liberals consider the individual to have the power of reason and consider him qualified to purify his good. From their point of view, individuals have inherent dignity, and individual rights and freedoms are valuable in themselves, regardless of any other purpose. Also, when comparing personal interests with collective interests, priority is given to individual interests and individuals take precedence over society. In such an approach, the government has minimal authority and its main task is to remove obstacles and provide a suitable environment for the lives of citizens. Accordingly, liberals do not see legal protectionism as compatible with their basic principles and consider it permissible in exceptional cases due to real necessities (Farahbakhsh, ioc cit, pp. 339-340).

3. The Principle of Legal Ethics

The efforts of governments and societies have always been based on raising the level of their individual and social morality to the highest possible level and preventing as much as possible the behaviors that lower the level of morality in society. Governments have a variety of tools at their disposal, criminal and non-criminal; Non-criminal instruments include formal and informal institutions such as education, mass media, the family, and cultural and religious institutions. Sometimes governments have to use criminal means to protect the individual and social morality of society; In this case, it has acted according to the criterion of "legal ethics". This criterion implies that law should be in the service of morality and that the legislature should criminalize immoral acts and declare them punishable. The end of the legal matter is the implementation of ethics and moral order in such a way that public order and the administration of society are ensured without any problems.

One of the theorists and jurists who has explained "legal ethics" and accepted it as a basis for criminal law intervention is Patrick Dowlin. In a 1958 speech, he attacked and rejected the liberal notion that "there is a moral and immoral privacy that does not belong to the law." In his opinion, "there is no theoretical restriction on rights against [immoral] matters." 8, p. 154). According to Dowlin, it is dangerous to ignore "legal ethics"; Because a serious attack on morality includes an attack on society, which must retain the right to use criminal law to protect its interests. He argues that rights should be used little by little and with more tolerance to implement morality (Devlin: 1956, p. 14).

Dolin's main purpose in proposing legal ethics is his argument for the community's permanent right to impose a moral judgment on citizens and the right to use criminal law to enforce this judgment. In short, he argues that society deserves to judge any public or private activity of citizens; Society, by his definition, is a set of political and moral beliefs. This implies that society is a collection beyond the people living in a land. The result of defining society as a "community with common beliefs" is that those

who are outside of these beliefs are considered a threat to the survival of society (Tibet: 1384, p. 187). Therefore, the government has the right to use various tools, including criminal tools, to deal with social threats.

After getting acquainted with the three criteria of criminology, we measure human genetic engineering with each of these criteria, which is possible for criminology, right? It should also be noted that the stated criteria may be contradictory in some cases, as it is possible for a behavior based on all three patterns to be criminal.

Principle of Harm and Human Genetic Engineering

The reasons given in support of human genetic engineering affecting future generations are largely based on the claim that upgrades are usually permissible and desirable. This claim is based on individualistic and liberal thought. Individuals should be free to choose their attitudes about the good and the desirable, and the government or social pressure should not impose their views on them in this regard. Some transcendentalists believe that if the traditional goals and virtues of human existence, such as science, health, happiness, sociality, and goodness, are good, the promotion of human abilities will make these things better and sooner, and through this, harm. Nobody turns around. What we have heard from transcendentalists in the description of recovery engineering pursues the utility of the human race. After identifying human weaknesses, they try to fix them; To make us better than we are, in the words "better than good."

Is the principle of harm, as a limiting measure of freedom, able to prevent such behavior? Or does the principle of freedom still maintain its influence over such behaviors and keep it under its jurisdiction? Can the principle of damages penalize such cases or not? The implication of the principle of harm for criminalization is certain cases where there is a certainty that it is harmful. In other words, this principle, as a cobra of analogy, includes only a minor that is definitely harmful, not a behavior that is in doubt to be harmful. The criminalization of behaviors in which there is a potential for harm is not acceptable based on the principle of harm. First, because it is an incomplete contradiction with the philosophy of the principle of loss. The principle of harm carries with it the mission that governments cannot deprive citizens of their liberty without a convincing reason, and this reason requires that the conduct be definitively harmful in the first place, and then there must be an interest in the prohibition. The certainty of the harm of human genetic engineering is not certain. In addition, it is in the interest of human society to develop science. Second, the government's indulgence in criminalizing behaviors whose harm is not obvious will ultimately be an excuse for the government to gradually deprive citizens of their liberty by describing the potential for harmful behavior. Build and strengthen its power base by developing a criminal arsenal, a move that runs counter to the principle of criminal minimum and the freedom of citizens.

Therefore, we are faced with two possibilities. The first possibility is that genetic engineering may be harmful; In such a situation, precaution should be taken to ban human genetic engineering from the possibility of harm and to prevent the possibility of harm using punishment. The second possibility is that if the government has the right to criminalize the behavior of its citizens with the means of probable harm, it may deprive them of their legitimate freedoms. In such circumstances, the most logical decision is to refer to the first principle, which in this discussion is the principle of freedom.

Ineffective engineering for future generations is based on the premise that a person with credible satisfaction and competence uses genetic engineering to improve himself. For example, he wants to strengthen his muscles to achieve more speed and strength, or he wants another manipulation. This action of his does not affect his future generations and is not contagious to them. Can the legislature criminalize such manipulation based on the principle of harm or not? The answer to this question is clarified by the priority given to what was mentioned in the effective improvement engineering of subsequent generations. In this type of genetic manipulation, not even a possible harm is done to anyone, so according to the principle of harm, it can not be blamed.

Principles of Legal Ethics and Human Genetic Engineering

Biotechnologies, including human genetic engineering, have caused the most concern for ethicists, and the most controversy has arisen from this perspective. Two general approaches to opposing human genetic engineering can be outlined here. An approach that seeks to oppose the themes of religious ethics, and a second approach that sees itself as independent of religious values and based solely on the principles of customary ethics as opposed to genetic engineering. From the point of view of the ethics-oriented approach, man has a high position among beings, and the claim that genetic engineering reduces his position to the level of a commodity and an object, and puts human destiny in the hands of the free market, degrades man's position. will be. In our day, the logic of the market has taken over social and individual life and is increasing its influence every day. We live in a time when almost everything can be bought and sold. Over the past three decades, the value of the free market has dominated us dramatically. We have not reached this house of our choice; Rather, everything has fallen on us.

From the point of view of morality, man is a creature of dignity, freedom, and authority. These are the fundamental values without which man will be deprived of moral and human dignity. On the other hand, criminal law is the guardian of the high values on which society and human personality are rooted. If genetic manipulation or any other behavior conflicts with human authority, freedom, and dignity, the legislature can criminalize them. Therefore, the question arises as to whether these principles justify criminal involvement in human genetic engineering. To answer this question, we examine genetic engineering with each of these principles.

1. Human Genetic Engineering and Human Autonomy

Man's autonomy and his ability to choose is one of the first principles and bases of legislation, duties, and responsibilities. Because human beings are naturally intelligent beings with free and equal will, they are free to decide their destiny. The issue of human free will has been discussed among scientists for a long time and is considered as one of the confusing philosophical issues and many discussions have been expressed about it (Ghiyasi and Sarikhani: 2016, vol. 3, p. 8). Mulla Sadra defines free will as follows: Authority is that if the doer of the will does something, he does it, and if he does not want to do it, he can't do it (Mulla Sadra: 1981, vol. 6, 308). The late Allameh Tabatabai considers the criterion of authority about the equality of man to the action and its abandonment: According to him, it is an optional verb in which the preference of one of the two parties is in the possession of the subject, the subject is both able to perform the verb and can leave it, and to prefer the verb, the subject is not influenced by others Doing or refraining from action will not be optional.

Man's autonomy is one of the most obvious moral principles of Islam and one of the strongest Islamic teachings and beliefs. Throughout the Qur'an, it is stated that it has treated man as a creature with authority and responsibility (Mesbah Yazdi: 1384, vol. 1, p. 28). All the commands and invitations of the Holy Qur'an to think, ponder, reason and choose the right path and justice and avoid oppression, tyranny, and expression of the end of human actions, in a clear way, signify the freedom and free will of man as one It has the pillars and foundations of justice; Without which individual and social justice would be unreasonable. Not only is man's will and his ability to choose accepted by the Holy Qur'an, but also "human action can be measured if it is done with full awareness and freedom" (Sobhani Tabrizi: 1379, p. 33, p. 18). The moral valuation of human action becomes meaningful when no one other than him has a role in it and its origin is only his free will.

One of the claims of human genetic engineering is that it can determine how a person behaves and traits without being involved in it. Scientists in the field of genetics are constantly working to discover parts that are partially or completely dependent on the DNA molecule. And the capabilities that lie within it. These sections affect all material and psychological aspects of a person, from height, complexion, and muscle ability to intelligence, social or shyness, and the tendency to hope and happiness. Some scientists are trying to make the desired changes in humans by genetic manipulation in the human

fetus in the early stages (McKinney: 2003, vol. 3, p. 54). James Watson, the first director of the Human Genome Project, openly encourages people to use the new knowledge of genetics to study the perfection of human creation and to remove issues such as shyness and lack of self-confidence from human society. "Who wants an ugly baby?" He says. "If we can create better human beings by manipulating people's genes, why not?" (ibid).

Some proponents of genetic engineering have suggested the creation of strange creatures composed of humans and some animals. Jeffrey Bourne, a former director of the Amory University Prehuman Center, once said, "It is scientifically very important to create a cross between humans and apes" (Fukuyama, 2011, p. 303). A biotechnology institute called Advanced Cell Technology has reported that DNA transports a human to a bovine egg cell and upgrades it to a blastocyst stage (ibid).

If we look at the claims of proponents of human genetic engineering from the perspective of the principle of autonomy, its acceptance is controversial. Human autonomy, as one of the components of human dignity, requires that every human being has authority in his actions and no one imposes or dictates behavior on him from outside. This meaning is in stark contrast to human genetic engineering. The engineered man moves in a direction that his designers have predetermined for him. It is man's autonomy and voluntary effort and achievement of his dreams that give meaning to life. If we place our moment among those who have changed and improved in its genetic structure; In such a situation, if we ask ourselves whether our intelligence belongs to us or the result of proteins that have been implanted in our body cells? Do our academic achievements and aspirations belong to us or to someone who has artificially figured them out in us? How will we feel? Do we consider ourselves more than a robot? There will be no joy and no sense of pride in us. While autonomous success gives man a sense of pride.

Ultimately, autonomy and the preservation of human dignity are appropriate for criminalizing and prohibiting behaviors that separate man from his dignity. A human being who has been deprived of the roots of autonomy and autonomy does not have full inherent dignity, and according to Habermas, gene improvement interventions aimed at gene amplification go so far as to return the person to the intended intentions. Inevitably restricts the third party and reduces moral freedom (Habermas: 2016, p. 84). Improvement deprives the human subject of genetic engineering of the understanding and concept of being, and no one will be the sole author of the book of his life; Rather, a hand has already written on this tablet the existence of things for which there is no choice but to accept it.

What Habermas has said does not end the debate between proponents and opponents of reform. Children who have not undergone a genetic engineering design process and are born naturally do not have the freedom to act on their genetic traits, just like designed children. It is not that if genetic manipulation is not involved, we can decide for ourselves about our genetic characteristics. In both cases, there is no role for the child to choose his or her future life plan, whether it is through genetic manipulation or intensive and exhausting educational care from childhood.

Habermas makes a deeper argument to answer this question. "We experience our freedom by referring to something that is inherently beyond our control," he says. (Santal: 1397, p. 85). To feel free, we must be able to attribute our roots to a beginning that is beyond our reach. This beginning can be God or nature (same). In any case, whether or not Habermas's response to pro-genetic improvement liberals is convincing, autonomy as a component of human dignity and from the perspective of legal ethics can criminalize genetic engineering with the goal of improvement to justify. According to a consensus, human dignity is the basis and fundamental goal of human rights systems (Foster: 2011, p. 93). Dignity is focused on moral choice (Fukuyama: 1398, 58). Any behavior that conflicts with it, legal ethics, justifies and necessitates its criminal prohibition; Because one of the important missions of criminal law is to protect human dignity.

It is worth noting that the effectiveness of the education system is completely different from that of genetic engineering, and one cannot be compared to the other. Many children successfully resist or adapt to the plan that their parents have for them. The school, as an example of an educational system, is a

place that frees us from the influence of our parents and we decide our destiny. In college, we come up with ideas, and to see them flush it out, it's really fun. The rejection of conventional ideas in college by some students confirms this. "Kierkegaard is very talkative about this. The result of his words is that we may think that we would like life to have an explanation of problems and solutions to problems, but we would not be happy if they gave us such a book." Because while it made life easier and simpler, it also turned us into machine people and, in that way, undermined our dignity." (Smith: 1385, 176). Moreover, this type of genetic engineering violates the privacy of newborns.

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The reasons presented to justify genetic engineering affecting future generations cannot justify the criminalization of ineffective genetic engineering on future generations. This type of genetic manipulation not only has no conflict with human autonomy; Rather, human authority and dignity require to be able to have this kind of possession in his body.

2. Human Genetic Engineering and Social Equality

Human history has seen two kinds of social inequality. The origin of a kind of social inequality is the rule of a minority over the fate of the majority; By claiming that this minority has a special privilege or legitimacy over the majority. Another source of social inequality is the rule of the majority over the fate of the minority. Although inequality is inherently bad; But inequality is worse for the benefit of the minority. Powerful struggles for the achievement and realization of equality and social justice have taken place and have become one of the universal ideals. Article 2 of the Universal Declaration of Human Rights recognizes in this position all human beings, on a global scale and the citizens of a country in that territory, without any distinction, having equal social rights and equality before the law.

Will genetic engineering take us back to the era of discrimination and social inequality? The premise is that genetic engineering enhances human capabilities and that the goal stated by some experts in the field is to create a new race of superhumans. "DNA," said Dr. Josiah Zayner, a former NASA researcher, and biochemist. It defines the nature of a race, and I think it will not be long before, in the future, human races become almost a new race as a result of these reforms (<https://www.bartarinha.ir/fa/news/655101>).

Even though this kind of manipulation in the gene is considered interference in God's work in terms of religious morality, right? Or can it be called a change in God's creation or not? Revival leads to racial discrimination. Even this kind of discrimination will be more dangerous than its predecessors. The racial superiority of one genus of humans over another and another race was naturally wrong, but breeding through genetic engineering gives these differences objectivity, and societies that have been empowered in this way will have an undeniable advantage over normal social groups; As we see in the weapons of mass destruction competition between the great powers. A competition that is almost out of control and is a big advantage for its owners and most countries in the world are legally barred from producing and owning it.

If genetic engineering services become so pervasive and cheap that they are available to everyone, should we still be concerned about them and continue to be pessimistic about them? Why not, instead of persecuting it, support its development and expansion so that all human beings benefit from its privilege and all benefit from its services on the same level. The correct answer to this kind of question is based on another question: does it exist in the history of justice or not? If there is justice in human social history and the development of science and technology, instead of worrying about the future of human genetic engineering, we can hope for it and look forward to its bright horizon. What we learn from history is the lack of justice in human history.

The passage to the historical destiny of human societies shows that the hierarchical system has been one of the dominant aspects of these societies. Humans were placed in certain classes, and each class had certain privileges and duties. The original imaginary origin of these social classes is gradually being forgotten and has a natural claim. For example, many who see the hierarchy between slave and free as natural and right believe that slavery is not man-made. Hammurabi said that slavery is prescribed by the gods (Harari: 1397, p. 199).

Another type of hierarchy is skin color; In this view, whites have superior dignity, intelligence, and intelligence than blacks. In another society, individuals may have more or fewer rights based on religion, and a social group may not have the least human dignity at all; Like the (untouchable) group of India (ibid., 203).

From what has been said, it is clear that there is no justice in history; Some social groups have resorted to every means to show themselves superior to others to enjoy more privileges than others; And this superiority is either recognized by God or natural and beyond the control of society. If this difference is materialized by genetic manipulation, a wealthy social minority will take over the fate of everyone and shape a stricter class system than ever before. Therefore, we do not have two more options; The first is to prevent this troubling process from beginning with social barriers, including punishment. Second, let this process continue whenever it deviates from its original path. Choosing the first way is more sensible and prudent; If an improved social group is formed using genetic engineering, it will be impossible to fight them. The premise of legal moralism is that any act that leads to racial discrimination and social inequality can be criminalized and necessitated by the past human destiny and its historical evidence.

However, the criminalization of genetic engineering that does not affect future generations is not justified based on ethics. A person who, for example, genetically strengthens his muscles does not violate any moral and fundamental social and human values; so that the government can criminalize this behavior. There is no difference between this type of genetic manipulation and cosmetic surgery and Botox injections in the hanging organs of the body in this regard. Just as cosmetic procedures and Botox injections do not have a criminal response, the same is true here. If one claims to create social inequality for criminality here, it must be said that creating inequality to the extent that it places society at two opposite poles does not result from this type of engineering; If so, it could be criminalized.

The Principle of Legal Patriarchy and Human Genetic Engineering

The requirement of legal patriarchy is the criminalization of behaviors that harm the perpetrator. Genetic engineering on the fetus is out of the question; Because the subject and the subject are not the same to provide the ground for the intervention of legal patriarchy. In genetic engineering, the impact on future generations is eliminated. Therefore, the principle of patriarchy or legal protectionism is not able to criminalize either of the two types of genetic engineering in question.

Conclusion

What follows from the previous discussion is that human genetic engineering aimed at improvement, the effects of which do not spread to future generations, can not be criminalized under any of the three criteria. It presupposes and maintains the basic principle of freedom or the practice of

sovereignty over it. But human genetic engineering, which also affects future generations, such as genetic manipulation of the human embryo for recovery, is, by some criteria, unjustifiable and by others justifiable. The principle of damages and legal patriarchy are not able to punish this type of genetic manipulation. In contrast, the principle of legal ethics, which aims to uphold transcendent moral values, protect human autonomy, and the consistency of justice and social equality, allows the government to provide this type of human genetic engineering to criminalize. Human autonomy and social equality are transcendent values that sovereignty is required to uphold.

It should be noted that to achieve the goal of criminalizing this type of human genetic engineering, an international consensus must be reached and all countries must submit to its ban. If this does not happen, countries that do not criminalize it will take over international order, as we see today in the case of nuclear weapons, and inequality at the international level. Will figure it out. Therefore, it is necessary to make efforts to achieve this goal through international forums and institutions.

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