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REVIEW ARTICLE

# The Fundamental Rights and the Collection of Genetic Profile as a Method of Criminal Identification

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## Abstract

This article is about the relation of fundamental rights and the insertion of a genetic database profiles by Law 12.654 / 12. The possibility of compulsory collection of genetic material as a form of criminal identification was inserted, as well as the creation of a database with genetic material of those that whore convicted of crimes listed in art. 9th of Law 7.210/ 84. The importance of the application of the DNA test in the elucidation of crimes through the information stored in the database, as well as conflicts between the collection of the genetic material and the possible violation of the principles and constitutional guarantees, such as the principle of presumption of innocence and the Right of self-incrimination before the Democratic State of Law, will be analyzed here.

**Keywords:** *Criminal identification, Fundamental rights, Genetic database, Law 12.654/12.*

## Introduction

This article aims to demonstrate the relationship of criminal law with the scientific advances of forensic genetics, in order to analyse the criminal identification procedure by obtaining and storing genetic data in database, the limits of this use and the correlation with fundamental rights. Advances in science and technology represent a social reality, where technological developments allowed genetic engineering bring a paradigmatic evolution to other areas of knowledge, such as the criminal law.

Brazil passes through a social-political moment in which citizens are in search of repressive policies as a way of combating violence and combat impunity, factors that endangers social peace, the common good and public safety.

In this context, the forensic genetics as a science that uses genetic code via DNA. The goal is to help justice in scientific research, based on biological criminal examinations.

Law number 12.654/2012 deals with the procedure of criminal identification by obtaining of genetic data of the author of the fact, and the storage of information in database. With the advent of this law, the amendment of Law nº 12,037/2009 (Criminal Identification) and 7,210/84 (Criminal Execution), introduce the possibility of collecting biological material in two situations: in criminal identification and criminal execution, where the profiles are stored in databases, for use, when necessary, on the instruction of criminal investigations and identification of missing persons.

Thus, check the compatibility of the use of banks of genetic profiles in criminal prosecution with the Constitution (1988) is necessary to check, given that, even serving as evidence, nobody is obliged to produce evidence against himself (principle of non self-incrimination).

## Historical Evolution of Criminal Identification Methods

Since antiquity, elucidate and establish the identity of the human being is a great challenge, either within or outside the scope of criminal proceedings. Civil identity attached in official records qualifies the subject by name, affiliation, marital status, nationality or a physical identity, characterized by biological and morphological aspects of human being [1], it's were the identification basis.

Over hundreds of years, various methods were tested to establish the identity of citizens, through practical and scientific methods. The civil name, using the branding iron, tattoos, amputations, photography and body measurements were used as identification methods until we get to the current methods.

The "name" is known as the oldest identification method, because it is through him that the man is identified before the others within the life in society. Between the 16th and 18th centuries, there was another form of identification, known as "Branding Iron". This technique marked the bodies of criminals with an iron heated on fire and the format of that marking characterized the crime practiced [2].

The mutilation of body parts was also used and denoted, sometimes, the surgical removal of the organ of the delinquent related with the offense practiced immediately, as the genitals in sex crimes. So, it was believed that the penalty was equal to the offense taken and the offender would be healed of their criminal intentions [2].

In the 19th century, the English philosopher Jeremy Benthan proposed as a method of criminal identification tattoo. The proposal consisted of a tattoo on the inside of the right forearm a number to identify the delinquents. Even in the 19th century, arose one of the most employed identification techniques used nowadays, photography. This kind of faithful reproduction of reality was a major breakthrough in the search for identification of individuals [2].

The fingerprint or harvest dactyloscopy is another modern means of civil or criminal identification and consists in the existence of disposal of papillary ridges (dermal papillae) on pulp of fingers, which are placed in irregular rows, separated and limited by grooves and forming characteristic design, absolutely individual, you don't change a lifetime [3].

Some technical examinations make up required to harvest evidence, being held through skills. The term forensic comes from the Latin "means experience, knowledge, skill" [4], being essential in some cases, by means of specialized experts in areas such as medicine, chemistry, biology, law and others.

As a stage on which to search find the reality through analysis of the traces left by an infraction, Paulo Enio Garcia da Costa Filho [4] conceptualizes how:

*[...] diligence that has the purpose of establishing the truth or falsity of situations, facts or events of interest to the justice, through evidence. It is the analyses of all matter taken as evidence of an infraction [...].*

Through the forensic advances observed throughout the ages have emerged several ways to identify human beings be civilly, biologically and physically. In recent years, the big breakthrough found is based on the use of genetic material for identification purposes and the storage of materials in a national database, as provided for in the law 12,654/2012 [5]. Clearly this is a revolution, since through the use of DNA, convict or acquit a suspect with a single drop of blood or through a single hair found at the crime scene, enabling the elucidation of criminal suits more effectively.

## General Focus of Constitucionals Principles

In the Brazilian Constitution of 1988 were celebrated important criminal procedural guarantees. Such warranties set limits to the punitive power of the State, imposing this, during the criminal prosecution and the process, observe the limitations of them derived [5]. Fundamental rights reveal double perspective and can be considered as much as subjective rights, as individual elements fundamental objectives of the community [6].

In principle, based on understanding underlying the article 5°, § 2 of the Federal Constitution of 1988, he contemplated two kinds of fundamental rights: formal law and fundamental materially (anchored in formal Constitution) and fundamental rights materially only (no seat in the constitutional text). Generally speaking, the fundamental rights in a formal sense may, in the wake of K. Hesse, be defined as those legal positions of the person in your individual collective or social dimension, which, by express determination of the legislator-Constituency, were enshrined in the catalogue of fundamental rights in a broad sense. Fundamental rights in material sense are those who, in spite of being outside the catalog, for your content and your importance, can be compared to the rights formally (and materially) fundamentals [6].

Jorge Miranda [7] notes the difficulty point which the theory of law that justifies the fundamental rights. In fact, this problem derives from the fact that, today, almost all the legal theories advocate the existence of basic rights of the human being.

To the natural law, fundamental rights are pre-positive rights, that is, prior to the Constitution itself; deriving human nature itself, and that there are before your State recognition. Legal positivism already considers that fundamental rights are those considered as positive standard basic, i.e. in the Constitution. This does not prevent recognizing the existence of implied rights in the face of what has, for example, art. 5, paragraph 2, of the CF. Finally, the American Legal Realism believes that fundamental rights are those conquered historically for mankind [8].

Fundamental rights are based positivized in article 5 of the Federal Constitution of 1988. In your heading is established which are inviolable right to life, freedom, equality, security and property, and item (III) provides that "no one shall be subjected to torture or to inhuman or degrading treatment", establishing the supremacy of the principle of Dignity of the human person [9]. Unfolding of referred to principle gives rise to constitutional guarantees of the right to Intimacy, privacy and physical and Moral integrity. Nicolitt and Wehrs [10] teach on the right to Privacy/Intimacy saying:

*The Man cannot be disturbe dor inhibited by the public discussion of your private life. However, the definitions of privacy and intimacy are not stable and fixed, unlike, are endowed with historical cultural relativity does oscillate the boundary between public and private in the transformation of civilization.* For Norberto Bobbio [11]:

*Human rights, for more fundamental they are, are historical rights, i.e, born in certain circumstances, characterized by struggles in defense of new freedoms against old powers, and born gradually, not all at one and not once and for all. (...) What seems essential in historical time and a certain civilization is not crucial at other times and in other culturas.*

Celso Antônio Bandeira de Melo [12] define principles as a commandment, one system's nuclear cornerstone of this. According to Melo [12] the principles define the logic and rationality of the regulatory system, and through knowledge of them which seeks positive legal system.

In 1764 already heard what would later be the constitutional principle of the presumption of innocence, along with the warning that "a man can be called defendant before the judge's sentence, and just society you can remove public protection after deciding that it violated agreements by means of which she was awarded" [13].

Provided for in article 9 of the Declaration of the rights of man and of the citizen (1789) and in article 11 of the Universal Declaration of Human Rights, adopted by the United Nations (UN), the principle of presumption of innocence of the defendant withdraws the evidential burden, transferring him to the accusation and demanding, in case there are no conclusive demonstration of the alleged, absolution (*in dubio pro reo*) [14].

The principle of presumption of innocence is one of the most important constitutional guarantees, because through it the accused becomes subject of rights within the procedural relationship. This principle is in the Constitution of the Federative Republic of

Brazil of 1988 art. 5, section LVII: "No one shall be considered guilty until final transit of penal sentence of conviction ". Is one of the basic principles of the rule of law as criminal procedure guarantee the protection of personal freedom [15].

The Latin phrase "nemo tenetur se detegere" means, literally, that no one is required to find out [16] that is, any person accused of an illicit criminal has the duty to autoincriminar. Notably, Queijo [16] teaches that:

*The principle nemo tenetur se detegere presents important dimension in criminal proceedings, to the extent which ensures the accused the right to not autoincriminar. He draws respect for the dignity of the interrogation and that the evidence of your guilt should be collected without your cooperation. Such considerations derive from the conception that the accused can no longer be considered object of proof in the current feature of the criminal process.*

Argues that referred to principle comes from the right to silence and establishes itself as a brake system to State interference in the processes of criminal investigations, where police and judicial authority act. With regard to the accused person and your submission to the practice of bodily interventions, have understood that they cannot rest upon them the duty of collaboration with the investigatory activities and probative.

This means that the refusal is made available to the accused, sealing the incidence of any accountability by abstention. This understanding is built based on the argument that one should not transform the person accused in a mere object for the criminal persecution, firming the duty to act in strict compliance with the principle of human dignity, the right to silence and the presumption of innocence, in addition to the fundamental rights to physical and moral integrity, intimacy and privacy.

Substantially in primacy to the principle of non- self-incrimination in relation to bodily interventions in the field of criminal procedure, does not admit the adoption of coercive measures against the accused for the purpose of forcing him to cooperate with the investigative and evidentiary procedures of the process; there is no responsibility of any kind if there is negative of the defendant to cooperate; as well as not to admit that presumed the refusal to cooperate the veracity of the allegations against him expressed and the presumption of guilt [17].

**Advento Da Lei 12.654/12**

The BCI in Brazil is parameter in the Federal Constitution (1988), in your article 5, LVIII, which provides: "the civilly identified will not be subjected to criminal identification, except in the cases provided for by law". The caveat is regulated by legislation, 9,034 infra/95, which provides:

*Art. 5-the criminal identification of people involved with the action carried out by criminal organizations will be held regardless of civil identification.*

Reinforcing the provisions of Magna Carta, the theme was standardized through Law 10,054/2000:

*Art. 3°: the original document identified by civilly will be submitted to the criminal identification, except when:*

*I-Are indicted or accused for murder, crimes against property committed by violence or serious threat, crime of possession of stolen property, crimes against sexual freedom nor crime of counterfeiting a public document;*

*II-There is founded suspicion of forgery or tampering of the identity document;*

*III-The State of preservation or the temporal distance shipment of paper presented makes the complete identification of the essential characters;*
*IV-Appear on police records using other names or different qualifications;*

*V-There is no record of loss of identity document;*
*V – the indicted or defendant did not prove, in 48 hours, your civil ID.*

Comment on laws was repealed by Law 12,037/2009, that in your article 3° announces:

*Art. 3rd: Although presented identification, criminal identification may occur when:*

*I-The document present erasure or have evidence of forgery;*

*II-The document submitted is insufficient to identify fully the indicted;*

*III-The indicted bear distinct identity documents, with conflicting information among themselves;*

*IV-The criminal identification is essential to police investigations, according to order of the competent judicial authority shall decide ex officio or by representation of the police authority, the Prosecutor or the defence (highlight);*

*V-Appear on police records using other names or different qualifications; Vi – the State of preservation or the temporal distance or location of the expedition of the document presented would the complete identification of the essential characters.*

However, with the advent of 12,654 Law, 28 may 2012, art. 5 of Law 12,037/09 was added a paragraph, authorizing, in the cases of art. 3rd, Inc. IV, the collection of biological material for obtaining the genetic profile of the investigated.

*Art. 5° single paragraph: in case of item IV of the art. 3° the criminal identification may include the collection of biological material for obtaining the genetic profile.*

The law 12,654/2012 has generated great change in Brazilian penal process to bring the collection of biological material such as new method of criminal identification. Through DNA analysis, is provided for the storage of materials in a national database.

Any biological material collected will be added to the National Bank of Genetic Profiles (BNPG) and the integrated network of Banks of Genetic Profiles (RIBPG), both founded by Decree No. 7,950/2013, with a view to promoting the intersection of genetic information already registered with traces of DNA from the crime scenes, making possible the identification of the criminal [5].

The use and storage of these data are objects of concern and discussion since articles 5-, 7- and 7-B, plus the law 12,037/09 offers:

*Art. 5-a: data collection-related genetic profile should be stored in genetic profiles database, managed by official crime lab unit.*

*§ 1° The genetic information contained in the databases of genetic profiles may not reveal somatic or behavioural traits of people, except genetic gender determination, according to constitutional and international norms on human rights, human genome and genetic data.*

*§ 2º the information contained in the databases of genetic profiles have secrecy, answering civil, criminal and administratively that you allow or promote your use for purposes other than those provided for in this law or court decision.*

*§ 3 the information obtained from the coincidence of genetic profiles should be contained in expert report signed by a qualified official expert.*

*Art. 7A: the exclusion of the genetic profiles of the databases will take place at the end of the deadline set by law for the prescription of the offense.*

*Art. 7°-B. The identification of the genetic profile will be stored in database classified as regulation to be issued by the Executive branch.*

In addition to these insertions, article 9°- 7,210/1984 law, called law of Criminal Execution, went into effect the following:

*Art. 9. The convicted crime practiced intentionally, with violence, serious nature against person, or for any of the crimes referred to in art. 1 of law No. 8,072, of 25 July 1990, shall be subject, to identify the genetic profile, by extracting DNA-deoxyribonucleic acid, by proper and painless technique.*

*§ 1° the identification of the genetic profile will be stored in database classified as regulation to be issued by the Executive branch.*

*§ 2º the police authority, federal or State, you may apply to the competent judge, in the case of inquiry established, access to the database for identifying genetic profile.*

Therefore, the convicted of intentional crime, with serious nature violence against person, or for any of the crimes labeled as heinous or assimilated, the identification of the genetic profile is mandatory, by extracting DNA and should follow proper and painless technique.

The collection of genetic profile can develop in the research stage and after definitive conviction. During the investigation, the evidence to be produced must be essential to establish the authorship of the crime. The identification through genetic profile may be required by the police authority or by a public prosecutor and crime need not have been committed with violence or serious threat against the victim, showing only the essential collection for investigative purposes, as the art. 5 of law No. 12,037/2009 [18].

After the final conviction, the convicted crime practiced, intentionally, with violence of serious nature against the person, or the crimes provided for in art. 1 of law No. 8072/1990 (law of heinous crimes), shall be subject, to identify the genetic profile, by DNA extraction, by proper and painless technique (Art. 9-A da Lei 7.210/84) [18]. Criminal identification through genetic profile has dual purpose, being the first to serve as a means of identification and the second to serve as evidence in the subsequent case.

The period of storage of genetic material in the databases of genetic profiles will occur until the expiration of the time limit established by law for the prescription of the offense. After the exclusion of the genetic profile of the databases.

According to Pereira [19], the prescription of the crime and the exclusion of the data bank, shall apply by analogy. 748 of the code of criminal procedure, which deals with the notes relating to archived surveys. The aim is to preserve the right to privacy of defendant in processes that have occurred to the acquittal of the accused by penal sentence final or in cases of extinction of criminality.

The integrated network of Banks of Genetic Profiles (RIBPG) arose from the joint initiative of the Ministry of Justice and of the secretariats of State public security, with the objective to promote the exchange of genetic profiles of interest of Justice and identification of missing persons, obtained in official expertise laboratories. The traces are confronted with each other, permitting identification by means of confrontation with the genetic profiles of registered individuals (Law No. 12,654/2012). Other possibilities of registration from a judicial decision are the conditional suspension of the penalty provided for in article 79 of the Criminal Procedure Code and the conditional suspension of the procedure provided for in § 2 of article 89 of law 9.099/1995.

## The (in) Constitutionality of Genetic Database

It is important to note that although soon innovations have been brought by the aforementioned law, the fundamental rights cannot be left aside. The Federal Constitution (1988), in your article 5, presents a catalogue of fundamental rights of the human person, making clear the importance of due process of law, the presumption of innocence, the sealing of illegal evidence, contradictory and ample defense, among others of equal importance to the democratic State of law [20].

Some of the conflicts commonly observed in investigations guide constitutional principles, as for example, the impossibility of autoincriminação and presumption of innocence. Listed in art. 5 of the Federal Constitution are: don't be considered guilty until final transit of penal sentence sentence (subsection LVII); When arrested, be informed of their rights, including that to remain silent (subsection LXIII).

Besides the constitutional scope in 1992 was incorporated into the Brazilian domestic planning the American Convention on Human Rights (Pact of San José of Costa Rica) that brings, explicitly, the preservation of non- self incrimination:

*Article 8-legal Guarantees: any person charged with an offence has the right to presumed innocence, pending your legally proven your fault. During the process, every*

*person is entitled, in full equality, to the following minimum guarantees: [...]g) right not to be compelled to testify against oneself, or to plead guilty; [...].*

Nucci [21], despite the legal infra forecast that "*the responsible authority shall take the necessary measures to avoid the embarrassment of the indicted*" criticizes art. 5, LVIII, CF. To the Honorable the view taken and magistrate, about undue standard insertion in the Federal Constitution, as your initial purpose was to fix the advertising that the fact of people known to the general public be criminally identified, as if it were inconvenient and humiliating, i.e., this is standard with outline of individual right, not subject to appear in a Federal Constitution.

On the other hand, Sauthier [1] claims that this genetic profile does not contain data that can lead to ethical questions, such as skin color, propensity to disease and sexual preference. Reports that, despite the DNA contain thousands of information, only in 5% for coding data able to solve individual characteristics (genes), not this part of the DNA inserted into the database for criminal purposes.

To Souza [22], DNA examination intended to serve as evidence in criminal proceedings added to the other evidence needed for procedural deslinde. Points out that in some cases the forensic examination of the DNA is the only element available for the solution of the conflict, without which becomes irresolute. It is evidenced thus your perfect application to be used in criminal investigations, getting the knowledge and handling of modern technologies, as an instrument of high power of individualization of the person.

Pereira [20] claims that this technique, can also be a wonderful instrument for the defence of the defendant. Highlights a thought of Federal Judge Carlos Henrique Borlido Haddad:

*[...]The acceptance of the compulsory DNA testing in the Brazilian penal process, since it is a novelty in relation to the type of evidence that will make available, do not represent any innovation on the restrictions and legal goods that already supports the accused.*

*The custodial sentence, the prison to investigate indirect purpose provisional, uninterrupted monitoring of dialogues, the capital and the security measure of indeterminate character are more harmful than the supremely harvest of organic material, especially in relation to that which does not have the character of invasiveness. It only takes back the eyes to the evidence and currently existing penalties in the criminal process and remember the existence of a restrictive measures to overcome the culture of absolute sacrosanct accused.*

Freitas [23] states that the procedural system and Brazilian penal has a nature abstract and individual rights will eventually prevent the effective exercise of the authorities acting in criminal prosecution, arguing that there is an indissoluble dilemma between the guarantee of individual rights guaranteed by the Constitution e combating new forms of contemporary crime.

According to Gava [24], it is necessary to find a balance between the law and the fundamental rights of the individual. The weighting based on the individual interest in the protection of fundamental rights and the social interest in prosecution of criminal and public safety must be accomplished in order to achieve the minimum possible to ensure maximum effectiveness, being for that required the application of the principle of proportionality [24].

Sarlet [6] defends as essential prerequisite for respect for human dignity to guarantee equality of human beings and should be treated equally, without any kind of discrimination. In this sense the Supreme Court through the trial of 23,452 RMS/RJ (Rapporteur min. Celso de Melo, 2000), decided that there are no absolute rights and guarantees us character, because the constitutional statute on civil liberties is intended to protect the integrity of the social interest, as well as to ensure the harmonious coexistence of freedoms, because no right or guarantee may be exercised to the detriment of public order or with disregard to the rights and guarantees of third parties.

For Tavares [8], there is no absolute among human right enshrined in the Constitution of the Republic and should always be

analyzed the concrete and your wide range of hypotheses which restrict the absolute range of fundamental rights. Therefore, it is necessary to consider that human rights enshrined and ensured they cannot serve as a protective shield for illegal activities, cannot support civil irresponsibility, do not cancel out the other rights also enshrined by the Constitution and they cannot set aside equal rights of other persons.

As the fundamental rights cannot have absolute character, it is necessary to study the mechanisms of limitation of these rights. The first limit that fundamental rights are is the very existence of other rights as fundamental as they. This is where conflicts arise (apparent) between the rights, because fundamental rights conflicts cannot be solved so abstract, but in the light of the case, the legal goods sopesando conflicts to see which of them should prevail in that case.

The principle of proportionality with regard to quantitative compatibility between means and ends, i.e. enables the analysis of equivalence of amount between cause and effect, means and end, act and consequence. On the other hand, the proportionality means not only the need to limit the restriction of fundamental rights (proportionality in negative sense), but also the obligation of the State to protect efficiently the legal goods more expensive to society (positive proportionality) [4].

As stated by Ingo Sarlet [6] the principle of proportionality means that the State must not act too much, not allowing exaggeration for more (excess) or less (handicap), configuring the principle violation if not irrefutable applied.

Therefore, the extreme necessity of adoption of proportional and reasonable measures by examining the specific case to be applied in such a way as to cause the least possible impact on the capacity to consent of each individual and without neglecting the fundamental constitutional principles [14].

The extraordinary appeal number 973,837, brought by the Defense of Minas Gerais before the Supreme Court, discusses, in the light of the constitutional principle of non-autoincriminação and art. 5, II, of the Federal Constitution, the constitutionality of art. 9-the 7,210 law/1984, introduced by law 12,654/2012. The Rapporteur of this resource, the Minister Gilmar Mendes, in your manifestation, pointed out that the limits of the powers of the State to collect biological material of suspects or convicted of crimes, trace your genetic profile, store them in databases and make use of that information are subject to discussion in the various legal systems.

The future decision to be handed down by the Supreme Court will clarify if reasonable measures were adopted for law enforcement 12,654/12, in order to respect the fundamental rights and guarantees of the Federal Constitution of 1988.

## Conclusion

With the insertion of 12,654/12 Law, which allows the extraction of genetic material in criminal persecution through the compulsory collection of genetic material from convicted of a violent crime against the person, displayed a principle conflict scenario, in addition to contain loopholes that can lead to serious violations of fundamental rights.

The yearning for justice and the search for effective punishment violates rights such as non-self-incrimination by withdrawing from the accused the right to silence, not to collaborate with an investigation, the right to declare that the facts are untrue in order to produce evidence that damages his legal situation. Note the importance of the application of proportionality in criminal proceedings not to relatives warranties, but to protect the individual against any excesses of the punitive power. It is observed that the requirement for the supply of material can be seen as unconstitutional, while focused on the obligation of providing genetic material that even painlessly, can be considered an embarrassment to produce evidence against himself.

Thus, it is necessary that Criminal procedure law to act in conjunction with the new technologies, especially in the context of forensic genetics which will allow the achievement of skills ranging from the investigation of biological kinship to the forensic biological expertise. Such

innovations need to be regulated compatibly with a constitutionally democratic oriented criminal process and the punitive power needs to be constantly limited.

## References


1. Sauthier, Rafael. The genetic criminal identification in the light of fundamental rights and Law 12.654 / 12. 1. ed. - Curitiba, PR: CRV, 2015.
2. Araújo, M. Elias and Pasquali, Luiz. History of Identification Processes. 2004. Available at: <http://www.institutodeidentificacao.pr.gov.br/arquivos/File/forum/historico_processos.pdf>. Accessed on May 25, 2017.
3. Figini, Adriano Roberto da Luz; Leitão and Silva, José Roberta; Jobim, Luiz Fernando; Silva, Moacyr da. Human identification. 2. Ed - Campinas, SP: Milleniumm, 2003.
4. Filho, Paulo Enio Garcia Da Costa. Legal and Criminalistics Medicine.Brasília-DF: Vesticon, 2012.
5. Pequeno, Izadora de Lima; PRADO, Florestan Rodrigo do. Analysis of the constitutionality of Law 12.654 / 12 on the creation of the database of genetic profiles.
6. Sarlet, Ingo Wolfgang. The effectiveness of fundamental rights. 6.ed.rev. Porto Alegre: Bookstore of the Lawyer Ed., 2006.
7. Miranda, Jorge. - The reception of the universal declaration of human rights by the Portuguese Constitution - a phenomenon of conjugation of international law and constitutional law, in: Revista de Direito administrativo n ° 199 (1995).
8. Tavares, André Ramos. Course of Constitutional Law, p. 528. São Paulo: Saraiva, 2010.
9. Feba, Beatriz Dias. Interventions against the law nº 12.654 / 12 in the light of fundamental principles and rights. Available at: <http://intertemas.toledoprudente.edu.br/revista/index.php/Juridica/article/view/5878/5588>. Accessed May 26, 2017.
10. Nicollit, André Luiz; Wehrs, Carlos Ribeiro. Corporal Interventions in Criminal Procedure and the New Criminal Identification - Law 12,654 / 2012. Journal of the Courts. 2nd edition. São Paulo, 2015.
11. Bobbio, Norberto. The Age of Rights. Rio de Janeiro: Campus, 1992.
12. Mello, Celso Antônio Bandeira de. Administrative law course.
    14. Ed. São Paulo, Malheiros: 2002.
13. Beccaria, Cesare. Of the crimes and the penalties. 2 ed., Rev. Sao Paulo. Journal of the Courts, 1997.
14. Gomes, Jaciara Assis de Castro. Constitutional analysis of law 12,654 of May 28, 2012. President, 2014. University Center Antonio Eufrásio of Toledo.
15. Filho, João Trindade Cavalcante. General theory of fundamental rights. 2010. Available at: <http://www.stf.jus.br/repositorio/cms/portaltvjustica/portaltvjusticanoticia/anexo/joao_trindadade__teoria_geral_dos_direitos_fundamental.pdf>. Accessed on May 25, 2017.
16. Queijo, Maria Elizabeth. The right not to produce evidence against itself: the principle nemo tenetur detegere and its consequences in criminal proceedings. 2nd ed. 2012.
17. Queijo, Maria Elizabeth. The right not to produce evidence against oneself (the nemo tenetur principle is deprived and its consequences in criminal proceedings). São Paulo: Saraiva, 2003.
18. Bastos, Thamiris Oliveira; PAULA, Fernando Shimidt de. The collection of the genetic profile as a form of criminal identification and the principle of non-self-incrimination. Available at: <https://www.metodista.br/revistas/revistas-ims/index.php/RFD/article/view/6764/5242>. Accessed on May 9, 2017.
19. Pereira, Antônio Tadeu Nicoletti. Civil identification and its interrelationship with criminal identification. Available at: <http://www.institutodeidentificacao.pr.gov.br/arquivos>. Accessed on May 25, 2017.
20. Pereira, Gustavo Lázaro. The criminal identification in the face of the new law 12,654 / 12: brief notes. Available at: <http://faef.revista.inf.br/imagens_arquivos/arquivos_destaque/vR49hgyhSNG7iKT_2013-12-4-17-43-58.pdf>. Accessed on May 9, 2017.
21. Nucci, Guilherme de Souza. Manual of criminal procedure and criminal execution. 6. ed. Rev., Current. E ampl. São Paulo: Ed. Revista dos Tribunais, 2010.
22. Souza, Priscila Cavalcante de. Application of DNA in human identification in criminal investigations. 2011. 40 f. TCC (Graduação) - Curso de Direito, Universidade Tuiuti do ParanÁ, Curitiba, 2011.
23. Freitas, Vladimir Passos de. Criminal Justice lives a dilemma between guarantors and contemporary crimes. Available at: http://www.conjur.com.br/2016-mai-15/segunda-leitura-justicacriminal-vive-dilema-entre-garantismo-crime-contemporaneo. Accessed on May 25, 2017.
24. Gava, Gabrielle Gasperin. The guarantee of non-self-incrimination against bioethics and the guarantee of non-self-incrimination. Available at <http://www3.pucrs.br/pucrs/files/uni/poa/direito/graduacao/tcc/tcc2/trabalhos2013_1/>. Accessed on May 25, 2017.