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Issues Of Legal Identification Of The Status Of The Human Genome

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Abstract

This article aims to identify the legal status of the human genome as a whole, classify areas of interaction, and differentiate variables of law and ethics via techniques related to an interdisciplinary approach that involve regression, inverse correlation. As a result, a smaller percentage of 18.6% of respondents suggested that human genetic material can be considered as an object of commercial turnover in the modern market space. In conclusion, one can indicate a certain kind of changes in the field of development of legislation regarding genetic engineering associated with the fields of transplantology, oncology, embryology and other similar sciences.

Keywords: Genetic, Genetic Engineering, Cloning, Scrapping.

Cuestiones De Identificación Legal Del Estado Del Genoma Humano

Resumen

Este artículo tiene como objetivo identificar el estado legal del genoma humano en su conjunto, clasificar las áreas de interacción y diferenciar las variables de ley y ética a través de técnicas relacionadas con un enfoque interdisciplinario que involucra regresión, correlación inversa. Como resultado, un porcentaje menor del 18.6% de los encuestados sugirió que el material genético humano puede ser considerado como un objeto de rotación comercial en el espacio del mercado moderno. En conclusión, se puede indicar un cierto tipo de cambios en el campo del desarrollo de la legislación relacionada con la ingeniería genética asociada con los campos de la transplantología, oncología, embriología y otras ciencias similares.

Palabras clave: Genética, Ingeniería Genética, Clonación, Desguace.

1. INTRODUCTION

1.1. The general concept of the problem

Genomic research is a current area of science in many countries. Accordingly, throughout the world, there is a tendency to develop some regulatory acts specializing in this sector of research. In some countries, provisions regarding cloning have been introduced, as was done in the Republic of Kazakhstan. So, in the new wording of the criminal code, the article human cloning appeared, implying responsibility for committing this act for industrial, commercial and military purposes. The problem is the unfounded and abrupt transition

of rulemaking. Without having studied in detail the legal status of the human genome and the genome as a whole, it is impossible to consider cloning. It is the legal status of the genome as a whole today is the most relevant topic since it is reflected in absolutely everything. Even today, in the electronic markets one can find a large range of goods necessary for conducting genetic engineering experiments at home. Therefore, it can be stated that it is difficult to control the chaotic shocks of the results in an uncontrolled environment. Nonetheless, one of the most closely related and most closely related branches in the study of the legal status of the human genome as a whole is the sector of in vitro fertilization. In this sector, on the basis of orders of the executive bodies in the field of public health, the present has been classified by frequency: genetic material, embryo, fetus and newborn. Consequently, to indicate the legal place and legal status of the human genome as a whole, it is necessary to analyze all four components in the reverse regression.

1.1.1. Newborn

In accordance with the legal norms of legal capacity, it can be designated that a citizen has rights from birth to death. Having designated the newborn as the very beginning of birth, it can be argued on the basis of constitutional principles that the spectrum of the rights of the child is designated during the period of his birth. However, in modern medicine, the concept of neonatology has relatively recently emerged, which presupposes the exceptional status of the newborn on the very first day of birth.

1.1.2. Fetus

Being in the womb for a certain time before birth, the embryo is a fully functioning organism capable of imaging, feeling, and even thinking. In situations where such children were born prematurely, having been born they immediately receive the full range of rights inherent to the newborn. These subjects are identical with newborns, with the exception of a temporary periodicity in birth.

1.1.3. Embryo

The legal status of the embryo has not yet been fully determined. Representing an organism that is being formed, an embryo cannot be called a body that is separated from the mother and is capable of volition. It is the will expression from the position that is one of the components of the legal capacity of the subject. However, the non-relevance of the embryo to a person from the perspective of modern law and its lack of legal capacity is not an acceptable norm for modern jurisprudence and requires careful legal analysis.

1.1.4. Genetic material

Many studies have been devoted to determining the status of genetic material in the United States and Western European countries, where an imbalance has arisen between the authors to which genetically material can be attributed: the form of ownership, the results of intellectual creativity or an integral component of citizen health.

1.1.4.1. Citizen health component

From the point of view of considering genetic material as an integral component of a citizen's health, one can designate a certain

personal space in which every cell of a citizen is its own component, which the others cannot use without the permission of the citizen.

1.1.4.2. The result of intellectual creativity

This is the most controversial point. On the one hand, having perspective genetic material, with successful and dynamic progress, is an integral part of the donor itself. However, the result of the work that was done on the modernization of a larger percentage of the properties cannot legally be protected by copyright.

1.1.4.3. Type of ownership

The most controversial from the perspective of modern law and ethics is the question of ownership of the patented technology of reproducing a viable human clone. From a moral point of view, hypothetically, if this genetic material after all stages can go into the category of a newborn and will be absolutely identical with a natural infant, its statement as a property right is slavery, which is not favorable for the development of modern society. However, from the standpoint of jurisprudence, or rather copyright law, the results of genetic research can be patented for the implementation of the patent owner for any purpose, including commercial ones. The article is devoted to this research.

1.2. The specification of the problem

Analyzing all the alternate points as the goal of this article, it was the study of the legal status of the human genome that was put,

since this question is the most disputable from the standpoint of not only jurisprudence, but also ethics and morality.

1.2.1. Introduction to detailed specification

So, after defining the research question, what exactly is the genetic material of a person to be taken into account should pay attention to the problems, why this problem is so important in modern jurisprudence and for humanity. In addition, you should identify previous studies that were associated with this topic. Hypotheses are also important in this matter. It is also necessary to indicate the theoretical and practical significance of the research.

1.2.1.1. The question of the importance of research for modern jurisprudence and humanity as a whole

The present affects not only the legal status of genetic research, genetic engineering, but also the norms of humanism in society regarding genetic code changes, mutations, and even evolution. This industry is dynamically developing. Twenty years ago it was something on the verge of science fiction. Today it is already a fully functioning sector. Therefore, for a certain control, it is necessary to seal, detail and systematize the present.

1.2.1.2. How the present study is related to previously conducting by analogy

Most of the research in this area was devoted to the alternative procedure of human cloning, the life activity of clones in general and the designation of their status as a result of intellectual property that would solve many problems of transplantology, immunology, and

others. This study examines the resonance of the relevance of genetic material to the form of ownership, the result of intellectual work or an integral component of the health of citizens.

1.2.1.3. Hypotheses: primary hypothesis, secondary hypothesis and tertiary hypothesis

Assuming certain results in the legal direction, hypotheses were proposed that allow analyzing and predicting the outcome.

1.2.1.3.1. Primary hypothesis

When considering human genetic material as a form of ownership, one can indicate the economic growth of the genetic engineering sector, as well as the resolution of most problems in transplantology, immunology and others, but a decline in human moral values that can return humanity to the slave system.

1.2.1.3.2. Secondary hypothesis

When considering human genetic material as a result of intellectual work, it is possible to designate the growth of the scientific component in the field of genetics, genetic engineering and biotechnology, which can also open up new horizons even in the evolution of humanity as a whole. However, this may affect the natural balance of human nature and its environment, including the entire ecosystem as a whole.

1.2.1.3.3. Tertiary hypothesis

When considering the human genetic material as an integral component of the health of citizens, one can denote the constitutional

protection and the ability of a citizen to protect legally the rights of his next generation. But at the same time, the present will slow down the development of the economic, scientific component, due to certain connectedness by sanctions.

1.2.1.4. The degree of interconnectedness of hypotheses with research design

The design of research is supposed to be qualitative with elements of cohort techniques. The present involves a sample of about 5,000 respondents to indicate the will of citizens regarding which of the selected three components is the most acceptable. Considering the issue pragmatically, it is necessary first of all to proceed from the position of society, since this is the basic principle of both jurisprudence and ethics. It is for this purpose that statistical studies are intended, the results of which are planned to be processed in the SPSS and R-STAT modes. Thus, the variables obtained as a result of the statistical analysis will allow identifying not only the public interest in the study of this issue, which in a certain way will affect the relevance, but also is a mechanism for fixing the will.

1.2.1.5. Theoretical and practical significance of research

The theoretical significance of these studies involves not only the enrichment of fundamental knowledge in the field of legal research in public health, genetic engineering, pharmaceutical activity and others, but also the development of methods for integrating an interdisciplinary approach to jurisprudence. Practical significance will

help to identify the status of the human genome in the economic, social and other sectors (Kahaki & Jenaabadi, 2014).

2. METHODOLOGY

The methodology for the study of the official status of the human genome from the standpoint of modern jurisprudence, ethics and morality involves the use of not only legal techniques expressed in deduction, induction, abstraction, but also other techniques related to an interdisciplinary approach that involve regression, inverse correlation, and some types copyright methods developed by the authors themselves (Akbari et al, 2014).

2.1. The main description of the methods

The materials and data of this article were analyzed using a number of techniques that help identify interdisciplinary research to achieve the goal of this article.

2.1.1. Legal methods

As legal methods, deduction, induction and abstraction were taken as a basis, which help to analyze the theoretical material and the interconnectedness of previous research in this field among themselves and in relation to this article.

2.1.1.1. Deduction

A Planetary transition from the larger to the lesser allows analyzing a certain hierarchy of legal acts ranging from the constitution, continuing with codes and laws, as well as narrowing to the orders of the executive bodies in a given area.

2.1.1.2. Induction

Induction allows you to undergo a specific periodical from the smallest to the greatest. In such an analysis, having examined one work, many other studies can be derived from it.

2.1.1.3. Abstraction

This methodology involves detailed and selective manipulations of regulatory acts regarding the status of the genome in the system of modern Kazakhstan legislation.

2.1.2. Statistical analyzes

Identification of the will of citizens and the position of society regarding the issue of designating the legal status of the human genome in the legal space makes it necessary to conduct statistical research by creating a specialized questionnaire.

2.1.2.1. Sample

As a sample, you can designate a random sample in which an equal population from individual territorial units of the state participates.

2.1.2.2. Base encoding

Encoding is supposed to be scheduled in a dichotomous form with two answer choices that are separated as 0-no and 1-yes.

2.1.2.3. Results

The results are achieved with the help of a certain manipulation with a base of 5,000 respondents and are processed using the software SPSS, R-STAT.

2.1.3. Author's tools

In order to achieve the research goal of determining the legal status of the human genome in the system of legal acts, specialized author technologies have been created that allow you to serve as the necessary tools for a more detailed analysis of the issue.

2.1.3.1. M.J.I is a classifier of the character of genomic research

The present author's mechanism allows defining and classifying genomic studies in accordance with the types of operations in various areas of genetics for determining the legal component in each of them.

2.1.3.2. Legal identifier of the relationship between ethics and law

Being a more ethical question, which is impossible without a legal definition, this topic is analyzed using this specialized mechanism to identify specific points of ethics and law to identify the common denominator - equilibrium.

2.1.3.3. The system of correlation of the norms of current legislation to the necessary alternative precedents

This authoring system serves as a universal tool for a thorough analysis of precedents on the basis of the norms of functioning legislation.

2.1.4. Legal experiment

To summarize the results, the provisions are verified using a parallel social-legal experiment involving two groups.

2.1.4.1. Test subjects

Test subjects are divided into two groups, one of which is not affected, and the second is informed weekly about the latest news in the field of human cloning. However, sometimes false information is allowed. For some time, the result will help show the position of society on this issue, which is a constant in these studies due to their legal basis.

2.1.4.2. Groups

Two groups take part in the experiment: the main group, the control group. In each group, the number of participants is determined by 10 people. One of the necessary conditions is the presence of a small level of legal nihilism in both groups.

2.1.4.3. Systematization

After the results are systematized using a specific encoding.

3. RESULTS

The results of the study of the legal identification of the human genome in the modern legal space of the state territorial unit are based on the three hypotheses mentioned earlier.

3.1. Consideration of human genetic material as an integral component of the health of citizens

3.1.1. The literary analysis of a predominantly regulatory nature, performed deductively

This result assumes that in the world literature the present was in legal research primarily reviewed from the standpoint of the Constitution, where the life and health of a citizen is the highest priority of any state on the example of the Constitution of the Republic of Kazakhstan (Daniel, 2015; Ghazanfarpour et al., 2013). In addition, the criminal legislation of the same state territorial unit designated a clause regarding human cloning, for which a sanction is even provided, in accordance with which a citizen is responsible for human cloning for commercial, military and industrial purposes, while equally taking out genetic material or embryo outside the state. The present also implies a certain level of influence of norms on the consideration of genetic material as an integral component of a citizen's health on the cloning situation, which was highlighted in the article by the authors of the Yasavi International Kazakh-Turkish University, which assumes that equally and other genetic material are regarded as the elements associated with and components of the health of citizens.

Therefore, it can be stated that at the legislative level in the Republic of Kazakhstan, the concept of genetic material is closely associated with some concepts regarding human organs and tissues, in which not only organs, but also hair, nails and other cellular components of a citizen are recognized as genetic material. Legislation on the health of the people and the health system of the same state territorial unit classified the genetic material of a citizen as part of the integrity of physical health, from which it should be understood a certain level of conjugation of such a person with the full health of the citizen (Wyrasti et al., 2019).

3.1.2. Statistical analysis of the will of citizens

According to the research conducted by Kainar Consulting Group LLP more than 38.6% of respondents consider genetic material as a component of a citizen's health. The present shows, on the one hand, the separation of genetic material from the form of ownership, since respondents recognize the genetic material as a part of themselves. Nevertheless, considering the possibility of carrying out trade operations with organs and tissues if necessary, the present can be recognized as a component close to the form of ownership for individual and one-time use.

3.2. Consideration of human genetic material as a result of intellectual work

3.2.1. Literary analysis

From the standpoint of the development of intellectual rights, any work introduced into the modern legal space is and should be protected by copyright. To date, gene manipulation is a rather complicated procedure that combines both genetic research and mathematical calculations and some types of experiments, the results of which have been achieved for years. Consequently, the hard work of researchers, as well as the results achieved by them, simply cannot be protected by patent law. Moreover, the law provides for civil law provisions in accordance with which any results of breeding achievements and genetic modifications can be considered as objects of intellectual property. Thus, from the position of current legislation, an artificially reproduced organism that functions and is identical with a person can be considered as a result of intellectual property, which causes a resonance in society from the position of law, ethics, morality and even theology. The present shows both the relevance and problems of the research question.

3.2.2. Statistical analysis

Statistically, it is possible to indicate that the correlation coefficient of the results of the pilot questioning showed that 42.8% of respondents agree that an artificially reproduced organism that is viable, functioning, adaptable, and is identical to a person by external and internal properties is the result of intellectual property, preferring many years of work. , to which some researchers have devoted their entire lives. Errors can be that in this survey, the sample was made by researchers of medical, biological and chemical specialties who can consider the issue quite pragmatically (Elena, 2018).

3.3. Consideration of human genetic material as a form of ownership

3.3.1. Literary analysis

Literary analysis of materials showed that logically, being an artificially reproduced object, viable, functioning and developing genetic material can be admitted to commercial circulation and can be considered as an object of commercialization (Shalkharov et al., 2016). Considering the number of components for which equipment, materials and many other things were purchased, it can be argued that the result of genetic research, by the will of the authors, can be accepted for commercial circulation as a patented technology that would solve many issues of transplantology, embryology, in-vitro fertilization, and other issues whose resolution is very problematic today (Wurtz et al., 2015). This position caused a fairly wide resonance in society from the standpoint of theology and ethics, in accordance with which opinions were divided into pragmatic segments of the population and the clergy (Westwood & Rieley, 2015). The clergy adheres to the norms of morality, which states that an artificially reproduced organism, provided that it is identical with a person, is the same person who has feelings, emotions and soul, and equating it with the product is unacceptable in our days (Szynkowska & Pawlaczykió6, 2015). More pragmatic segments of the population have suggested the resolution of a multitude of global problems, denoting that in fact both emotions and feelings are chemical compounds in the human body and at risk covers the benefits that such technologies can bring (Escalera et al, 2019).

In this field, discussions were held on the individual cultivation of human organs and tissues based on the genetic data of the donor, which could save millions of lives around the world (Jason & Jeffrey, 2015). However, according to the latest data, with the available technologies, such cannot be reproduced separately independently without the carrier itself (Ariela & Karasov, 2015). Consequently, the cultivation of such organs is impossible without creating the organism itself on the basis of the genetic material of the donor himself (Traci et al., 2015). Concluding the existing imbalance of opinions regarding the consideration of human genetic material as an object of commercialization in the market, it can be stated that the position of the law in force must adhere to the canons of ethics, morality and clergy that would not detract from human life and health (Scott et al., 2015). Thus, it is legally possible to designate that consideration of genetic material as a result of intellectual property, and consideration of genetic material as an object of commercialization on the market turnover depends on the consideration of the completed prototype as a viable organism endowed with rights and obligations (Kairat et al., 2017).

3.3.2. Statistical analysis

Analysis of the number of survey respondents showed that a smaller percentage of 18.6% of respondents suggested that human genetic material can be considered as an object of commercial turnover in the modern market space.

4. CONCLUSION

To test the results of research based on hypotheses, the main data were run into the discussion, conducted through interviewing and brainstorming process. This will allow depressurizing the existing provisions and enrich the results with outside opinions. It is also important the influence of outside opinions on the results of the research.

4.1. The effectiveness of hypotheses

This allows you to test how much the hypotheses are effective and multifaceted in order to capture the greatest part of the opinions possible to the analysis.

4.1.1. Provisions supporting hypotheses

This paragraph is devoted to other provisions in support of the existing hypotheses achieved as a result of the analysis.

4.1.1.1. Provisions supporting the hypothesis of considering the human genome, as well as genetic material as an integral component of a citizen's health

Examining human cells in the form of particles can be seen as belonging to the human body, which is an object of modern law. As proof of this, one can cite as an example the position of criminal law regarding the infliction of light, moderate or severe harm upon the loss of organs, tissues and limbs. The position of civil law in the part of life

insurance where there is such a point as additional coverage for temporary or complete disability due to amputation, loss of organs and tissues and others. This list can be continued to acts of the executive bodies of the state territorial unit. However, as far as it is possible to characterize it as an integral component of the health of citizens, this is more a question in the civil law sector, since it was the civil law that officially regulated that the norms of civil law should be interpreted in accordance with the literal meaning of their verbal expression. Consequently, referring the provisions of the Code of the Republic of Kazakhstan on people's health and the health care system in terms of the possibility of applying the norms on regulating relations in the human genome to the civil law can also denote the direct interpretation of its provisions in precedents, which is basically convenient and effective. Nevertheless, there is another position in which innovations and progress are formed strictly from precedents and not from the norms of established legislation, which lags behind the precedents in dynamics (Muniandy et al., 2018).

4.1.1.2. Provisions supporting the hypothesis of considering the human genome, as well as genetic material as a result of intellectual property

Considering the reasons for supporting scientific activities within the territory of the state territorial unit and the world space, it can be indicated that to achieve a certain result, many experiments and samples must be carried out worth a lot of time, effort, health and resources. Moreover, as a logical outcome of such a person who has achieved results, is constitutionally entitled to designate this result as his intellectual property, in which the state is obliged to guarantee him

the protection of his intellectual rights. For this, the author's legislation was created, which identifies, classifies and systematizes the legal relations in the field of intellectual creative work. However, the question of reproducing human genetic material remains controversial not only from the standpoint of the norms of modern law, but also from the standpoint of the doctrines of ethics and theology, in accordance with which the person who created the genetic material practically creates a new person by artificial means. No matter how developed the intellect of man is, does he increase his significance in the system of the universe? The present threatens the religious doctrines of most nations of the world, which can politically cause uncontrollable chaos throughout the world. This resonance can be controlled only by using legal mechanisms. Otherwise, it can deal a serious blow to democracy not only within the state territorial unit, but also in the world space as a whole. Based on this, it is possible to designate that a democratically developer of genetic material, a cell, a tissue, an organism is fully entitled to declare copyright (patent) on the result of its research, whether it is a genetic material, a cell, tissue, organ or a fully functioning, adapted full-fledged human organism (clone). Consequently, the reproduced clone of a person can be quite considered as the result of the intellectual activity of each.

4.1.1.3. Provisions supporting the hypothesis of considering the human genome, as well as genetic material as an object of commercial circulation of patented genetic technology

Based on the above, it should be noted that the developer of genetic material, cell, organ and even the human body is fully entitled to declare ownership of the object of his intellectual activity.

4.1.2. Provisions that do not support the hypothesis

In addition to the provisions that support the hypothesis, there are provisions that otherwise treat the right to a cell, genetic material, an organ or a fully functioning, adapted full-fledged human organism (clone). Consequently, the reproduced human clone can be attributed to the object of commercialization of the result of intellectual activity, which at the discretion of the developer can be published in circulation and be free to maneuver in the market the need for appropriate raw materials. Thus, considering a functioning, adapted, the full-fledged human body (clone) as an object of turnover, the study risks to arrive legally to the result of a return to the slave system, in which the owners order, buy and give people as goods, which directly contradicts all principles of ethics. The present also increases the risk of increasing the percentage of totalitarian and authoritarian regimes in world space. The psychological impact on society is also not the most favorable for this position since hardening a person can deform his psyche to other relationships with others. The labor exchange also bears the risk of being filled with cloned specialists of a different profile, in which the part of the population that has been reproduced naturally can remain without work. Consequently, highlighting the three main positions of sociopolitical problems, one can determine a certain level of disharmony and instability throughout the world. Nevertheless, speaking of the positive aspects of this position, it is possible to determine the resolution of many problems with infertility. Nevertheless, the issue of overpopulation of the population of the earth at this position arises with a sharp edge, since overpopulation is also replenished with clones

that will be owned by humans. At the same time, it should also be noted that the material state of society will also become higher after the delegation of physical labor to artificially reproduced samples of human genetic material

4.1.1.1. Provisions that do not support the hypothesis of considering the human genome, as well as genetic material as an integral component of citizen's health

As with any theory in this matter, there is an opposite opinion that contradicts the general provision on classifying human genetic material as an integral component of a citizen's health. In most studies, an artificially reproduced organ transplanted to the needy is recognized as a foreign body, which survives for a certain amount of time until the moment of complete symbiotic fusion. In society, the situation is similar. Public opinion also presupposes oppositionists, who consider artificially reproduced human organisms, characterized as clones as a foreign body in a society, which have no place for existing and functioning in modern human society, most of which were born naturally. At the same time, and radical segments of society including religious fanatics, neo-Nazi groups and other groups with a radical point of view, an increase in the number of s can seriously affect the peace and security not only within a particular segment of the state's territorial unity, but in the whole world space planet that could hypothetically lead to a crisis of society. Morality is the other side of the outcome of such consideration, in which, assuming the functions of God, a person risks disrupting the delicate balance in the religious policy of the state.

4.1.1.2. Provisions that do not support the hypothesis of considering the human genome, as well as genetic material as a result of intellectual property

In addition to the provisions supporting the hypothesis of considering the human genome as a result of labor, intellectual activity exists, and there is another position in which does it free of charge, taking into account the possibility of not being rewarded for such.

4.1.1.3. Provisions that do not support the hypothesis of considering the human genome, as well as genetic material as an object of commercial circulation of the patented genetic technology

Generally, the artificially reproduced human genome can be regarded as the result of intellectual activity, which can be transformed into the object of commercialization, most theologians have revealed a different opinion in which the sale of a living person is not the correct norm from the standpoint of the belt of government.

4.2. Consequences

It has an important value and alternatives the consequences of the implementation of each of the hypotheses in the regulatory production. Therefore, this paragraph is devoted to what the result may be as a result of the development of a particular legal norm on the basis of hypotheses.

4.2.1. Theoretical implications

As theoretical implications, one can denote the ambivalence of the interpretation of legal norms regarding the designation of the legal

status of the human genome. In the legal science of the Republic of Kazakhstan, this was started from the position of criminal law. Most of the opinions formed in countries with a well-developed level of genetic engineering consider this to be wrong due to the heterogeneity of the maneuverability of legislation. Criminal legislation has more sanctions than methods of regulation. Regulation is more the prerogative of civil law, which is the most acceptable for the Republic of Kazakhstan due to the fact that the initial stage is regulation.

4.2.2. Practical consequences

As practical consequences, one can indicate a certain kind of changes in the field of development of legislation regarding genetic engineering associated with the fields of transplantology, oncology, embryology and other similar sciences.

5. ACKNOWLEDGMENTS

This study is quite feasible within the capabilities of the above authors in accordance with the F.I.N.E.R criterion for which it has a sufficiently high significance, is interesting both for the author and for society, is new and unexplored, has an ethical factor, and is also important. In the execution of this study, it is important to note the work not only of the authors themselves, but also of the faculty members of the jurisprudence department of the Faculty of Social Sciences of the International Kazakh-Turkish University named after Shawn & Harmon (2015), collective of Kainar Consulting Group LLP (Jeanphilippe & Zaki, 2015).

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