

The Construction of Legal Institutions About Using Biometric Data for Identity Inspection when Immigration

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Abstract

With the technologies and inventions that are continuously being innovated, the means that can be adopted by the government when carrying out the mission of preventing risks or harm are becoming more pluralistic. Among them, by pre-capturing biometric data with personal specificity, such as fingerprints and facial images, and then creating files as well as recording and retrieving such data, the use of specific biometric recognition technology in the procedure of identity inspection compared with personal biometric data when entering and/or exiting the State can achieve the purpose of confirming identity; this even can build a large database for future use. The technology seems to provide a substantial improvement in the efficiency and accuracy of law enforcement, but using biometric data to inspect the identity may also bring new types of risks and harm to the fundamental rights and freedoms of the people. It is worthy of attention by the relevant legal institutions whether this can provide a sufficient foundation and adequate guarantees or not.

This article will first take stock of Taiwan's relevant immigration regulations and focus on the procedure of identity inspection when entering and/or exiting the State, as well as introduce and analyze the norms of using biometric data. Second, it focuses on similar norms in German laws, including legal frameworks, collected objects, data types, legitimacy elements and disputes, and so on, in hope of making our legal system better than it is now by consulting German law. Finally, when thinking about the technologies with rapid development, this article discusses how to guarantee the fundamental rights and freedoms of persons while at the same

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time refining the legal norms governing the use of biometric data for identity inspection when entering and/or exiting the State. This paper will bring some personal observations and suggestions, hoping to open the conversations between practices and theories.

Keywords: biometric data, fingerprint, face images, identity inspection, e-Gate, Personal Data Protection Act, Immigration Act