

Ban on blood donation from homoaffective people: a bioethical study

Edison Vítório de Souza Júnior¹, Diego Pires Cruz², Uanderson Silva Pirôpo³, Giovanna Maria Nascimento Caricchio⁴, Cristiane dos Santos Silva⁵, Bráulio José Ferreira Neto⁶, Átala Rodrigues Souza⁷, Franciele Soares Balbinote⁸, Fernanda Luz Barros⁹, Gabriele da Silva Santos¹⁰

Abstract

This study aimed to identify and discuss bioethical aspects that involve the ban on blood donation from homo-affective people. This is an integrative review of the literature, with a critical-reflexive approach to articles available in the Virtual Health Library and published between 2013 and 2018. Seven studies were selected that covered the theme, from which four categories emerged: “unfit for blood donation”; “are homosexuals the only ones who practice anal sex?”; “public health or heterosexism in health?”; and “considerations of principlist bioethics for blood donation from homo-affective people”, referring to the four pillars of the principlist theory. Bioethics promotes social reflections, directs lines of thought or questioning and creates new avenues for discussing the subject. The dilemmas involved in this approach are related to the denial of the four bioethical pillars to homo-affective subjects, inducing maleficence to this vulnerable group and to blood tissue recipients.

Keywords: Public health. Homosexuality. Blood donors. Health equity. Human rights.

Resumo

Proibição de doação sanguínea por pessoas homoafetivas: estudo bioético

Este estudo teve o objetivo de identificar e discutir aspectos bioéticos que envolvem a proibição de doação sanguínea por pessoas homoafetivas. Trata-se de revisão integrativa da literatura, com abordagem crítico-reflexiva de artigos disponíveis na Biblioteca Virtual em Saúde e publicados entre 2013 e 2018. Foram selecionados sete estudos que contemplaram a temática, a partir dos quais surgiram quatro categorias: “inaptidão para doação de sangue”; “só homossexuais praticam sexo anal?”; “saúde pública ou heterossexismo na saúde?”; e “considerações da bioética principialista para doação sanguínea de pessoas homoafetivas”, remetendo aos quatro pilares da teoria principialista. A bioética promove reflexões sociais, direciona linhas de pensamento ou questionamento e cria novos espaços para discussão do assunto. Os dilemas envolvidos nessa abordagem dizem respeito à negação dos quatro pilares bioéticos aos sujeitos homoafetivos, induzindo maleficência a esse grupo vulnerável e aos receptores do tecido sanguíneo.

Palavras-chave: Saúde pública. Homossexualidade. Doadores de sangue. Equidade em saúde. Direitos humanos.

Resumen

Prohibición de donaciones de sangre por homosexuales: un estudio bioético

Este estudio tiene el objetivo de identificar y discutir algunos aspectos bioéticos que implican la prohibición de donaciones de sangre por homosexuales. Se trata de una revisión integrativa de la literatura con el abordaje crítico y reflexivo elaborada con artículos incluidos en la Biblioteca Virtual en Salud y publicados entre 2013 y 2018. Se seleccionaron siete estudios para abordar el tema, de los que resultaron cuatro categorías: “imposibilidad de donar sangre”; “¿Solo los homosexuales practican el sexo anal?”; “¿Salud pública o heterossexismo en la salud?”; y “consideraciones de la bioética principialista para la donación de sangre de las personas homoafectivas”, abordando los cuatro principios de la teoría principialista. La bioética promueve la reflexión social, dirige las líneas de pensamiento o el cuestionamiento y crea nuevos espacios de debate. Los dilemas de este enfoque se refieren a la negación de los cuatro pilares bioéticos a los sujetos homoafectivos, lo que induce a la maleficencia a este grupo vulnerable y a los receptores de tejidos sanguíneos.

Palabras clave: Salud pública. Homossexualidad. Donantes de sangre. Equidad en salud. Derechos humanos.

1. **PhD student** edison.vitorio@gmail.com – Universidade de São Paulo (USP), Ribeirão Preto/SP 2. **PhD student** diego_pacruz@hotmail.com – Universidade Estadual do Sudoeste da Bahia (Uesb) 3. **PhD student** uamder_som@hotmail.com – Uesb 4. **Graduate (specialist)** gmnricaricchio@uesb.edu.br – Uesb 5. **Graduate** cristianeimic@gmail.com – Universidade Norte do Paraná (Unopar), Jequié/BA 6. **Graduate (specialist)** braulio.josferreiraneto@gmail.com – Universidade Federal da Bahia (Ufba) 7. **Undergraduate** souzaatila@outlook.com – Uesb 8. **Undergraduate** fran_balbinote@hotmail.com – Uesb 9. **Undergraduate** nadalu1997@gmail.com – Uesb, Jequié/BA 10. **Graduate (specialist)** novaes.gabrielle@gmail.com – Ufba, Salvador/BA, Brasil.

Correspondence

Edison Vítório de Souza Júnior – Universidade de São Paulo. Escola de Enfermagem. Av. dos Bandeirantes, 3.900, Monte Alegre CEP 14040-902. Ribeirão Preto/SP, Brasil.

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Blood, indispensable for animal life, is defined as a polyphasic set of various figured elements (erythrocytes, leukocytes and thrombocytes), which circulate in the plasma, its liquid part, but also comprising gaseous and protein components¹. Despite the significant scientific and technological evolution of recent times, nothing has yet been discovered that can replace blood, which makes donation the only way to obtain it². In Brazil, this depends on the individual, altruistic and voluntary decision³.

To ensure the quality of donated blood, every candidate undergoes clinical screening, and some are considered unfit. This classification can be temporary or definitive, in accordance with the Ministry of Health (MS) Ordinance 158/2016⁴, which redefines the technical regulation of hemotherapeutic procedures. Among those considered unfit are *men who had sex with other men*⁴ within the last 12 months. Although temporary, this restriction has been questioned from a constitutional and bioethical point of view.

Bioethics is the field of study of human conduct with regard to biological and health sciences, of a systematic, epistemological, multi-, inter- and transdisciplinary character, with debates that support normative solutions to promote the well-being of living beings. In recent decades, due to advances in biotechnology, the term “bioethics” started to be associated with reflections on the protection of life and nature. Therefore, this field is not limited to the individual dimension, but also addresses social responsibilities and the expansion of civil rights⁵⁻⁷.

In the principlist model, bioethics is based on four pillars: autonomy, beneficence, non-maleficence and justice⁷. The first refers to each person’s ability to self-govern and be treated as an autonomous subject⁸, with freedom of action, thought and decision, based on biological, psychological and sociocultural aspects⁹. However, autonomy is not always absolute – sometimes it can be affected due to cognitive/mental impairment or, for example, when we are dealing with the early stages of human life¹⁰.

Beneficence, in turn, concerns actions geared to the good of others, and it is complemented by non-maleficence – the commitment to avoid harm and risks to third parties and not to perform any malicious acts⁵. Finally, justice refers to the distribution of goods or benefits from the perspective of equity and universality, that is, treating individuals equally, taking into account their specific needs^{5,8}.

However, these principles can be threatened in the case of vulnerable groups¹¹ and/or minorities¹². This is the case of homoaffective people, who are a minority not in quantitative terms, but due to the disadvantages and inferiorized positions they occupy in society.

Vulnerable individuals are those who are unable to defend their own interests in the face of important decisions, that is, those who lack a certain power and, as a consequence, are more susceptible to physical and moral damage, including those related to health. Vulnerability can result from external factors, such as economic, social or cultural situation, and internal factors, such as illnesses, old age and other conditions inherent to the individual^{10,11}.

A minority, on the other hand, is defined as a particularized group, which escapes the rule of normalization imposed by society, and is intertwined with the idea of inferiority. In this way, minorities and vulnerable groups have a close correlation, since vulnerability often comes from pressures for these subjects to follow majoritarian “standards of normality”^{13,14}. In this context and considering the principlist foundations, this study aimed to identify and discuss bioethical aspects of the ban on blood donation from homoaffective people.

Method

This is an integrative literature review with a critical-reflexive approach, including articles available at the Virtual Health Library (VHL), an online portal that offers support for a decentralized search for technical-scientific information in health sciences¹⁵. This type of review comprises, with systematic rigor, results of different methodological approaches in order to synthesize them and contribute to deepen the knowledge on a given topic. Its preparation goes through six stages, so that it is organized in a logical way and free from epistemological folly¹⁶⁻¹⁸.

This study included articles with full and free access, with no language restrictions, published between 2013 and 2018, and that addressed content relevant to the proposed objective. Data collection took place at the Universidade Estadual do Sudoeste da Bahia in July 2018, from Health Sciences Descriptors (DeCS), with the help of the Boolean operator “and”. Eight combinations of DeCS were used, as shown in Table 1, totaling two studies^{19,20} that covered the theme and met the inclusion criteria.

Due to the relevance of the subject and the limited amount of national and international research on it, the time limit was removed, adding to the *corpus* five other scientific publications that

cover the chosen theme²¹⁻²⁵. It is noteworthy that these studies were found by random searches on research platforms and do not have indexing in the reported descriptors, as shown in Chart 1.

Table 1. DeCS combinations using the Boolean operator “and” for data collection in the VHL

N	Descriptor 1	Descriptor 2	Descriptor 3	Before*	After**	Result
1	Blood donors	Homosexuality	-	284	45	2 studies ^{19,20}
2	Blood donors	Homosexuality	Ethics	18	2	2 studies ^{19,20}
3	Blood donors	Homosexuality	Public health	34	1	0
4	Blood donors	Homosexuality	Bioethics	0	0	0
5	Blood transfusion	Homosexuality	-	16	11	2 studies ^{19,20}
6	Blood transfusion	Homosexuality	Ethics	5	2	0
7	Blood transfusion	Homosexuality	Public health	9	0	0
8	Blood transfusion	Homosexuality	Bioethics	0	0	0

*Before applying inclusion criteria; **After applying inclusion criteria.

Chart 1. Distribution of articles selected for integrative review

N	Author/year	Title	Conclusion	Journal
1	Riquin, Ozelle, Duverger; 2016 ¹⁹	Doit-on revoir, sur des bases éthiques, les conditions d'accès à des hommes ayant eu des relations sexuelles avec des hommes au don du sang?	Donor screening for emerging risks should be regularly reviewed. The exclusion of candidates must be managed, questioned and based on reality, without involving blood transfusion with safety dynamics inadequate to the risk. It is essential to consider the structure of the debate, which goes far beyond donation, also including the pursuit of equality and social justice.	<i>Transfusion Clinique et Biologique</i>
2	Béranger, Bellis, Bracconi, Mouysset; 2016 ²⁰	Transfusion et homosexualité: enjeux éthiques	Three topics allow reflecting on the ban on blood donation from homosexuals: high risk of infection, linked to this group's sexual practices; viability of serological tests, but highlighting the silent window period of infections, and recipient protection. The obstacle is to identify the mutual and harmonious understanding between precaution, non-discrimination and individual and collective duties.	<i>Transfusion Clinique et Biologique</i>
3	Alves, Pancotti ; 2017 ²¹	A inconstitucionalidade das regras discriminatórias para doação de sangue por homossexuais masculinos	The ban on blood donation from homosexuals has no scientific or social basis, since homosexuality itself does not express sexual risk behavior capable of infecting the blood. Therefore, there is no risk situation when allowing blood donation by homosexuals.	<i>Revista de políticas públicas e segurança social</i>
4	Terto Jr; 2002 ²²	Homossexualidade e saúde: desafios para a terceira década de epidemia de HIV/aids	Clinical research could consider sexual orientation to promote a deeper understanding of the vulnerability of homosexuals to certain diseases. Homosexuality and the health area show frequent conflicts, resulting from prejudices since the expansion of AIDS in the world, which constitutes a major obstacle to be faced individually and collectively.	<i>Horizontes antropológicos</i>
5	Reckziegel, Canello; 2014 ²³	Pela semelhança ou pela diferença na doação de sangue: necessidade de novos parâmetros norteadores	Homosexuals, just like heterosexuals, have the right and duty to donate blood. However, a homosexual is still seen as the gateway to all diseases, because even if he proves himself able to donate, by testing negative for diseases, he is discarded from the process. It is necessary to reflect on the urgency of allowing blood donation from homosexuals, as people are being exposed to death due to poor screening, “donor selection” and social opinion on the topic.	<i>Unoesc International Legal Seminar</i>

continues...

Chart 1. Continuation

N	Author/year	Title	Conclusion	Journal
6	Carpinelli; 2016 ²⁴	A doação de sangue por homens que fazem sexo com outros homens à luz do princípio da igualdade no direito brasileiro	Although the 1988 Federal Constitution does not express in its article 3 discrimination based on sexual orientation, the principle of equality can be used to argue that banning homosexuals from donating blood is unconstitutional. This discrimination is revealed as a failure in logic and rationality. However, directly or indirectly, it affects individuals who are not part of heteronormativity, strengthening the stigma that homosexuals are risk groups for infections.	<i>luris in Mente: revista de direitos fundamentais e políticas públicas</i>
7	Moscheta, Fébole, Anzolin; 2016 ²⁵	Visibilidade seletiva: a influência da heterossexualidade compulsória nos cuidados em saúde de homens gays e mulheres lésbicas e bissexuais	Female homo- and bisexuality are masked and neglected, directing care only to reproduction, whereas male homosexuality is associated with sexually transmitted diseases. The divergence present in (in)visibility is understood as a result of a heteronormative society, which influences practices in the health area. As a result, there are significant barriers to access and quality of care provided to gay, lesbian and bisexual people.	<i>Saúde & Transformação Social</i>

Results and discussion

To discuss the research findings, four categories were considered: 1) unfitness to donate blood; 2) are homosexuals the only ones who practice anal sex?; 3) public health or heterosexism in health?; 4) considerations of principlist bioethics for blood donation by homoaffective people.

Ineligibility for blood donation

The supposed recipient safety is the main argument to prevent homosexuals from donating blood, since epidemiological data indicate this group as the most at risk for the human immunodeficiency virus (HIV)^{19,20}. Nevertheless, it is now recognized that safe intercourse, with proper use of male or female condoms, substantially reduces the risk of contamination.

Therefore, this restriction is overcome and strengthens discrimination against this vulnerable group²¹. Examples are the derogatory term “gay plague”, attributed to AIDS in the 1980s, from the belief that only homosexuals contracted the HIV virus²⁶, and the former English name of the syndrome, “gay-related immune deficiency”²⁴.

Ordinance MS 158/2016 in Article 64 classifies as unfit for blood donation men who have had homosexual relations in the last 12 months and/or their partners^{4,18}. Indirectly, this section of the document states that every male homosexual adopts

risky sexual practices. The idea is discriminatory, since heterosexuals, too, can adopt risky behaviors, just like homosexuals can have stable and monogamous partners, with safe sex and low risk for blood banks. So why are only homosexuals barred from donating²¹?

It is worth mentioning that such ineligibility is not applied to lesbian women or heterosexuals who have risky sexual practices, even though women can transmit HIV through this route as much as men²⁷. Moreover, the ordinance contradicts itself, as it recommends healthcare provision to homo-affective persons without prejudice in a paragraph 3 of article 2⁴. With this discriminatory measure, Brazil annually loses about 18 million liters of blood²⁸.

Vulnerability to HIV infection is low for all those who adopt safe practices. Therefore, forbidding blood donation from men who have sex with other men is a vexing, traumatic and unjustified action, because the danger itself does not stem from sexual orientation²¹. Risk behavior in this case refers to any unprotected sex (without male or female condoms) with infected people, whether homo- or heterosexual²⁵.

Are homosexuals the only ones who practice anal sex?

Anal sex is described as common in some ancient cultures and is still a frequent practice²⁹. The rectum consists of only one cell layer and does not protect against micro- or macrovascular trauma, due to the fragile mucosa, highly susceptible to

fissures, allowing substance absorption. Therefore, it is considered that such practice presents a higher risk for sexually transmitted infections (STI)^{24,28}.

The fact is that anal sex is not restricted to gay people and has been spreading among heterosexuals^{28,29}, which is omitted during screening for blood donation by heteroconservative practitioners²³. Ordinance MS 158/2016 does not consider this piece of data⁴, without making it clear that donation by heterosexuals exposed to anal intercourse is prohibited. If the ordinance can distinguish safe heterosexual practices from dangerous ones and allow the donation process, why is such differentiation not applied to homosexuals, who may have protected themselves during sex²¹?

Just as many heterosexuals omit risky behavior, many homosexuals deny their sexuality in order to exercise citizenship based on the benevolence of their donations. This omission does not constitute a breach of law or character deviation. In fact, Brazilian society, although in the context of a democratic rule of law, has a strong influence of heteronormative, Christian and conservative standards. In addition, item X of article 5 of the Federal Constitution guarantees the right to privacy and intimacy, expressed as follows: *intimacy, private life, honor and image of persons are inviolable, and the right to compensation for material or moral damage resulting from their violation is ensured*³⁰.

Public health or heterosexism in health?

Heterosexuality was culturally established in society as a standard, or normal, sexual orientation, in such a way that it was consolidated on and in spite of the others. Thus, some authors claim that the normatizations aimed at issues of gender and sexuality in the health field are potentially oppressive, since they are recognized and implemented by the conservative system that produces them. Therefore, these heteronormative models on which healthcare is based segregate and mask the needs of non-dominant groups²⁵.

Homophobia in health is frequent and constitutes an obstacle to access adequate services and treatments. In countries like the United States and some in Western Europe, there are health units coordinated by publicly declared homosexual professionals, which facilitates these groups' adherence to healthcare. However, this does not occur in Brazil, in addition to the fact that there are

no specific care programs for gay men, lesbians, bisexuals, transvestites, transsexuals or transgenders (LGBTTT), as there are women's healthcare programs, for example²².

In an attempt to get LGBTTT closer to public health services, a few public programs and policies have been implemented in Brazil, such as *Brasil sem Homofobia*³¹, *Carta de Direitos dos Usuários da Saúde*³² and *Política Nacional de Saúde Integral de Lésbicas, Gays, Bissexuais, Travestis e Transexuais*³³. Despite these advances, there are still significant challenges to make them effective, due to homophobia and heteronormative standards. Discriminatory and prejudiced services fall on the LGBTTT population directly or indirectly²⁴, which separates them from these services³⁴.

As long as there is no specific legislation that recognizes the rights of homo-affective people with the consequent criminalization of homophobic speeches/acts, LGBTTT people will remain vulnerable to discrimination in all areas of society²³. This social reality diverges from the supreme law²³, the Federal Constitution, which establishes a *democratic state* and ensures *the exercise of social and individual rights, freedom, security, well-being, development, equality and justice for all people as supreme values of a fraternal, pluralistic and unprejudiced society*³⁵.

There have been several attempts to criminalize homophobia in Brazil through federal laws. Recently, in 2019, the Federal Supreme Court resumed the trial of criminalizing homophobia and transphobia through the Direct Action of Unconstitutionality by Default 26³⁶. The document argues about the state's duty to grant compensation to victims and punish such conduct. In addition, it mentions Injunction Order (IO) 4.733/DF³⁷, which denounces inertia and omission of the National Congress in this regard.

According to IO 4.733, *discrimination and prejudice against lesbians, gays, bisexuals, transvestites and transsexuals especially affects certain people and groups, which taint the principle of equality and leads to a special situation of serious physical, psychological and social vulnerability, in violation to the right to security, important prerogatives of citizenship*³⁷.

Social heteronormativity has always favored a specific group, that of the cisgender heterosexual, to the detriment of others. This scenario distances

the LGBTTT population from healthcare services and prevents them from enjoying comprehensive, universal and equitable care due to multiple factors, such as discrepancies in the care provided and the way these people are treated by health professionals³⁸.

It is noteworthy that the temporary (in practice, permanent) ineligibility of male homosexuals to donate blood breaks the international recommendation of the office of the United Nations High Commissioner for Human Rights, which bans discrimination and the creation of laws based on sexual orientation and gender identity. This places Brazil in a situation of disrepute, as it is a signatory to the document without respecting its agreements²¹.

Prevention and care must be integral and integrated, promoting public policies that value quality care and individual and collective happiness. Care to any population segments, especially those stigmatized, should not be based on authoritarian and moral standards, but on the articulation between different groups in search of emancipation and happiness. In this perspective, defending human rights is a significant part of health actions²².

Considerations of principlist bioethics

Banning blood donation from homosexuals seriously violates the principle of autonomy, as it prevents individuals from exercising their citizenship free from coercion, injury, prejudice and discrimination. As previously defined, autonomy refers to the self-determination of each person in deciding on matters of their personal life, health, physical, psychological and social integrity³⁹. To exercise the right to make a decision, the subject must be able to perform intentional actions and, above all, have the freedom to do so⁴⁰. Such freedom is taken away from gay men in blood donation.

Respect for autonomy is based on the principle of human dignity, fulfilling *the Kantian categorical imperative that states that the human being is an end in itself*³⁹. In addition, this prohibition breaks the values of the 1988 Federal Constitution, which guarantees that Brazil, as a democratic and legal state, is based on *citizenship and human dignity* (article 1, items II and III); promoting the *good of all, without prejudice as to origin, race, sex, color, age and any other forms of discrimination* (article 3, item 5)⁴¹; and freedom, since *no one will be forced*

to do or fail to do anything except under the law (article 5, item II)⁴².

Beneficence, in turn, which refers to *bonum facere* (doing the good), avoiding risks and maximizing benefits⁷⁻⁸, is denied for both potential homosexual donors and recipients of donation. For the homosexual, this ineligibility can lead to further feelings of indifference, injustice and inferiority¹², while for society it is reflected in the scarcity of blood banks⁴³, harming patients who depend on hemotherapy.

In order to meet transfusion needs in different countries, the World Health Organization establishes that 3% to 5% of the population aged 18 to 65 years must make continuous and voluntary donations. Currently, less than 2% of the Brazilian population donates blood⁴⁴, but the country insists on maintaining the ineligibility of gay people, strengthening the stigmatization of this group and banning the autonomy and beneficence of a significant number of possible donors.

The principle of justice, defined by the coherent relationship between rights and duties and by the equal treatment of everyone^{5,7,8}, does not differ from the other principles, in that it is also violated by the hemotherapy centers in the donation process. Injustice operates mainly when the homosexual with safe sexual practices is treated differently from the heterosexual, who, as already discussed, may be omitting his risky behaviors. Thus, the rule does not apply to risky practices, but it discriminates against both groups, being general and prescriptive towards homosexuals and permissive towards heterosexuals^{19,20}.

In this sense, bioethics is the field that promotes social reflections, directs lines of thought and allows the expansion of new avenues for debate¹⁹. It is essential to take a stand against this scenario that is both unethical and unconstitutional, as Ordinance MS 158/2016 contradicts the three pillars of the country, presented in item I of article 3 of the Constitution: freedom, justice and solidarity⁴¹.

Final considerations

The bioethical dilemmas involved in this approach are related to the denial of autonomy, beneficence and justice to homoaffective people and blood tissue receptors, and to the induction

of their maleficence. Therefore, it is necessary to recognize the equitable unity of all groups and individuals as autonomous, treating them equally in the moral, legal and social aspects.

Preventing blood donation from homosexuals, according to Ordinance MS 158/2016⁴, is to go against the scientific advances according to which the transmission of STIs results from risky behavior and is unrelated to sexual orientation, gender

identity and/or other social groups. Therefore, it is understood that the text of the law must be analyzed again in the light of the current political-scientific situation, in order to adapt information to reality and avoid discredit of science among the population. This may collaborate to reduce prejudice, discrimination and even heinous acts committed against homoaffective people.

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Participation of the authors

Edison Vitório de Souza Júnior, Diego Pires Cruz, Uanderson Silva Pirôpo and Giovanna Maria Nascimento Caricchio designed the study, collected the data, discussed the topic and wrote the manuscript. Bráulio José Ferreira Neto analyzed and interpreted the results, did a critical and scientific review, in addition to approving the final version of the manuscript. Cristiane dos Santos Silva participated in the corrections. Átila Rodrigues Souza, Franciele Soares Balbinote, Fernanda Luz Barros and Gabriele da Silva Santos helped in the discussion, critical review, grammatical and content corrections and approval of the final version of the manuscript.


Edison Vitório de Souza Júnior

 0000-0003-0457-0513


Diego Pires Cruz

 0000-0001-9151-9294


Uanderson Silva Pirôpo

 0000-0002-4476-4315


Giovanna Maria Nascimento Caricchio

 0000-0002-4631-9530


Cristiane dos Santos Silva

 0000-0003-3822-1397


Bráulio José Ferreira Neto

 0000-0001-8067-5048


Átila Rodrigues Souza

 0000-0002-7726-2637


Franciele Soares Balbinote

 0000-0002-2502-9892

Fernanda Luz Barros

 0000-0002-1854-0828

Gabriele da Silva Santos

 0000-0001-6969-0271

