

Examining The Legal Perspectives Of Autopsy

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Abstract: One of the issues considered in practically proving crimes and verifying people's identity is forensic autopsies in criminal investigations laboratory (practical police). The right to live is known as the inalienable human right, and if this right is denied without a legal cause, quick steps with adequate facilities must be taken to discover the committed crime and punish the perpetrators. This study analyzes the concept, objectives, and methods of autopsy and also investigates its significance and effect on practicing justice and coroner's responsibilities. Autopsy is of high importance in legal procedure, and a diagnosis in harmony with reality guides the judge in discovering the truth. One of the issues discussed in this study is the imperative or supplementary nature of autopsy for diagnosing coroners that illustrates its approach in terms of legal actions. The legislator occasionally considers judges independence and in some cases emphasizes expertise and knowledge; the legislator's two-way thinking without considerations of determining the priority in practice have caused some problems for law practitioners and coroners. In this study, historical process of autopsy in criminal law and legal procedure in Islamic Republic of Iran is investigated, and the type of judges' supervision and coroners' roles in terms of a connoisseur, experts, and specialist are analyzed and discussed later. Regarding that Islamic Republic of Iran's Law and legislation is based on Islamic religion laws, Islamic jurists ideas on autopsy are introduced, and it is shown that despite the initial prohibition of autopsy by jurists and religious principles, autopsy is allowed in some cases and under some circumstances. Autopsy is of high importance in discovering the truth, and it has significant contributions to serving justice. This issue requires a legal permission although the coroner has authority to choose the type of method and procedure of autopsy.

Key words: body examination, autopsy, forensic, legal procedure, expertizing

The origin of autopsy

There were novel medical rules in Iran, particularly in the era of Median and Achaemenid cultures which were reached by Parthian and Sassanian, when the medics embarked on doing specific legal medications. The procedure of autopsy was followed only to respect the ancient customs in an attempt to identify the cause of death or to recognize the criminal aspect, leading to justification of addressing the rights of corpse. The use of medics besides the court of justice was inevitable after the establishment of justice.

The act of autopsy was first followed by Naseroddin shah era in Iran in an attempt to identify the cause of death dealing with one of the engineer professors who was incited from Austria. Criminal autopsy and its secondary issues are the new discussions in jurisprudence which is the result of scientific development in different fields such as police-based investigations. These evidences prove the fact that autopsy and body examination have been the center of attention such as saving mothers' lives when it comes to the death of fetus.

The scientific development of Muslims led to the understanding of autopsy in higher levels of respect. In addition to the "law" the science work of Boali and "life of animals" the science wok of Damiri, Muslims offered other astonishing paradigms such as anesthesia, tracheostomy and pipe feeding in second and third AD.

Autopsy in Iran's criminal law

No clear definition has been developed on the autopsy or body examination in criminal law of Criminal Law Code. The identification of the concept requires the examination of legal medics' quality of examination when it comes to examine the bodies within the legal procedure. The consideration of laws offer perspective to geniuses and experts. Thus, examination is a general term determined in criminal laws which addresses the corpse and other similar cases. Therefore, autopsy is taken into account as part of the examination and preliminary criminal investigation. Act 88 of the public and revolutionary courts in the criminal procedure law addresses this very issue.

The act 88 of Code of Criminal Law states: "to examine the corpses and injuries along with the beats and physical as well as psychological damages, the judge summons the legal medic to complement the procedure in case the medic is not available or when the legal medic is not accessed, other confident medic is invited. When the legal medic is not expert in particular field, the judge is liable to summon the expert medic". Act 136 of Criminal Law Code confirmed in 2013 states: "the interrogator akas the forensic to make examinations on injuries, beats, physical and psychological damages and other medical tests. I case the forensic is not available, confident expert medic is invited".

Act 88 of former law substitutes the term judge to the new interrogator term in new law. What was considered in former law was that in case the forensic is not accessed, other confident medic can be substituted; however, the act 136 of the new law emphasize on expertizing in addition to the confidence.

Autopsy: the court order or the forensic task

One can demonstrate that suspicious deaths require the forensic examination and intervention of police, law and justice officers. In general, when the initial examination cannot identify the cause of death, the attorney general is liable to allow autopsy. Severe deaths which might appear in the form of suicide or crime, the natural deaths which are categorized by abnormal conditions are types of deaths which call for the autopsy.

Autopsy must be put into practice in cases all deaths are immediate and suspicious, such an affair is completed by the forensic. The first goal of such an act is to determine the definite cause of death. Determining the case of death would not be feasible without embarking on autopsy and complementary actions such as toxicology and pathology. No theoretical claim using body examination is taken as valid. This implied the meaning that the court order regarding autopsy does not play a great role in forensic performance; rather, the determination of death cause is not feasible without the autopsy and other required procedures. Autopsy is allowed to be performed only when the forensic court addresses the cause of death in case the judge does not request the medic to demonstrate the autopsy, the forensic must seek of the cause of death. The first look on this issue might contradict to the Executive Regulation of Forensic Organization Establishment regarding the notion that the medic should embark on what the judge requests. Regarding the complexity of different cause of death such as illness, events, accidents and findings derived from examination of different corpse along with the effects of these findings on the ultimate reason, one can

demonstrate that the identification of death source is mostly related to the medicine and not the judicial court as if the determined cause by the forensic and reported to the judge does not prove the ultimate reason. Thus, one should follow the idea that both parties should intervene in the process through observing the scientific expert.

The forensic states in its theory that: "In case the injury of stomach or chest is determined to the judicial court, the cause of death as aa result of beating to sensitive parts of body is assumed. Temporary shock is a mechanism of death which is followed by the stimulation of nerves across sensitive organs (such as neck and chest, abdomen, genital) and results in constriction. The beating of afore-mentioned organs in the initial moments of the inclusion of beating can lead to the constriction and death the nature of beating is not fatal, but the area of beating to the sensitive parts can stimulate the nerves and result in constriction or death. When it comes to death, one can notice that the beating power was so severe that it could lead to death. Beating can be done in a way that no spots are identified in the place". In such a case, the court of law gives approval to the consensus regarding the notion that the manslaughter is convicted to offer atonement and murder is exempted. The justification is that the beating was no fatal based on what was reported by forensic and the cause of death was incidental in this case.

It is concluded through reviewing the historical procedure of legislative that the principle of autopsy requires the permission of law court; however, when it comes to the medical procedure, the medic is set free and is allowed to act based on what is decided in addition, acts 85 and 90 of Public and Revolutionary Courts Procedure in Criminal Matters emphasize that the court of law can take part in forensic procedure examinations.

Autopsy and judicial proceedings

To determine the injuries and causes of death in judicial proceedings, medics are employed. To this end, the forensics are requested to demonstrate their identification in judicial court. In case the medics are not available, corresponding medic are liable to be invited. In this situation, the inspector composes a letter to the health center asking for one of their medics.

In fact, the forensic demonstrations are regarded as h expert perspective and is allowed to be complained by the affected person. This is done through determining a committee involving other experts who consider the complaints.

The practical procedure is followed by two forensic in an attempt to make body examinations and under the

supervision of judge who would issue the burying certification. It is feasible that in some cases more medics are needed to offer their technical perspectives. In case the complaints are given after the determination of death cause, new commissions are formed which involve new forensics and expert individuals who work in General Forensic Administration. It is feasible that in some cases exhumation is requested by the judicial court based on the demonstration of forensic in order to determining the case of death. In civil proceedings, negative autopsy is subject to disproof since the body examination and injuries are not supported although the forensics are asked to provide their demonstration on the issues.

Conclusion

It is the task of judge to discover the truth and forensic is the most significant dimension to discover the truth in judicial court. The tasks determined for both judges and medics are complementary in that the medic should get the permission of autopsy from the judge and the court of law requires the technical reports of medic to identify the truth within the judicial proceeding.

Diverse types of questions and inquiries raised by formal and judicial centers with respect to the forensics, crimes, different diseases and physical as well as psychological injuries, importance and sensitivity of issuing judicial orders, varied social damages along with the importance of crime prevention and right justification accompanied by observing the justice across all institutes and organization oblige the forensic to equip itself with modern technologies and to employ the best human forces. Forensic expertizing holds considerable importance when it comes to observing the justice since the judge requires accurate and correct information to issue its vote it is only the forensic hat is capable of offering reliable information and this gets feasible when the expert enjoys sufficient information on anatomy, physiology psychology, pathology and corresponding fields so as to perceive the knowledge power and pertinent expert. Suh an understanding can unleash the truth so that the judge can exempt the offender or to issue condemn based on the obtained information. This is where the importance and significance of forensics and breeding experts are acknowledged. One can conclude from the above results that the legislator emphasizes on independence of judicial courts and addresses the importance of medical sciences and dependence of causes identification on such knowledge when it comes to discover the truth. In these laws, the role of judge's management to follow the process of criminal proceeding is highlighted in that the judge inquires the

expert to provide information. Such a management has resulted in the fact that the legislator does not determine the role of each party, instead the legislator uses bilateral consideration. Drawing attention to the confirmed criminal proceeding and the establishment law of forensic justifies that the lawyer is allowed to accept or reject the demonstrations offered by the forensic and to ask for technical question it is questionable that how is it possible for the judge to ask technical questions when no technical background is enjoyed such as toxify with different materials such as arsenic, irritants, cyanide, opium, morphine, strychnine, cocaine, and mercury. Is it even feasible for a judge who has passed few courses of legislation to have fluency on the effects of different fractures, burns, choking, hanging, drowning and to ask questions in this regard. One should mention that although technical actions must be taken to ask expert's demonstration in important issues, assignment of crime detection and determining criminal responsibility and incorrect implications to the existing laws and such affairs are determined by the judicial officials.

When it comes to the case that he cause of death his suspicious and there is a probability of crime, the forensic examines the corpse scientifically and demonstrates the opinions through doing the autopsy. The forensic experts make decisions on the extent and level of autopsy based on the existing evidences and such an action can assist the survivors in terms of the reason of death and justification of victim's rights. The corpse autopsied and examined by the medic can testify the events. In most of the cases, a number of signs are observed in corpse which might demonstrate the truth and the quality of death occurrence. Identifying the cause of death, determining the identity, age, gender, race, time of death and issuing the burying certification are among the tasks of forensic center.

It is taken for granted that what is meant by corpse examination either in physical sections or in autopsy investigations is the response to the judicial officials' inquiries or to the suspicious offered by hospital-based diagnosis.

Autopsy of corpses which were dead due to the crime or suspicious deaths do not contradict to the legal affairs in case the goal is to identify the truth. Unleashing the truth means the state in which the rights of both parties are observed and no right is violated. These affairs are done aiming to observe the justice and it is not feasible to reach the goal but employing the experts who have been determined by the existing laws and initial certifications of forensics. In case these experts are not available, corresponding experts are the ones who assists the judicial officials. Determined tasks for the two parties complement each other. The forensic requires the permission of judicial

center to do the autopsy and the judicial official needs the information proved by the expert in order to identify the truth.

Forensic expertizing plays a great role in paving the way for justice running since the judge requires meticulous and accurate information to issue the vote. In some cases where the judicial decides on the physical dimension of humankind, it is only the forensic that can offer the required information and it is feasible only when the forensic has considerable knowledge on anatomy, physiology, psychology, pathology and corresponding fields so as to detect the issues and the ambiguous aspects. Such an action assists the judge to expect the offender or vote for condemn based on the obtained information. This is regarded as the importance and significance of technical experts' information.

The present study reviewed the important tasks of forensics under the notion of autopsy and its association with judicial proceedings as well as the type of judges' interaction with forensics. The study concentrated on the meaning and demonstration of autopsy, the historical background and the implication within the Criminal Court of Code as well as the Islamic theories on autopsy and the impeding factors.

The permission of accepting or rejecting the forensic demonstration should be consistent with the realities. The judge is not liable to accept or reject the forensic demonstration and report due to lack of technical knowledge. Thus, the rejection of forensics' demonstrations and perspectives is merely feasible through considering the perspective of other forensics. In this case, it is the judge who holds the authority to reject or accept the evidences based on the criminal files and such an affair has been emphasized in Criminal proceeding Code.

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