Ethics and deontology in forensic medicine

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Introduction

The origins of medical expertise and medical doctors’ responsibility can be found in some of the oldest annals, religious books and laws. In the ancient times of human history, medicine and law were united under the auspices of the Priest-Sorcerer, who guarded “God’s laws” and passed judgment for the transgression of these laws. The Code of Laws of the Babylonian king Hammurabi (2200 B.C.) sets the foundations of the relationship between law and medicine and was the first to define the concept of criminal and material responsibility of a medical doctor for mistakes made during treatment. Clear regulations regarding forensic experts can be found in the legislation of the ancient Chinese civilization, as well as Rome, Greece, India, Persia, etc. The founder of medical ethics, Hippocrates (460-370 B.C.), in his voluminous written works and in the Oath itself, clearly emphasized the obligations and rights of medical doctors; he also personally testified as a forensic expert in a paternity case. Thus, throughout human history, and especially since forensic medicine emerged as a defined professional scientific-medical discipline in the 19th century, opinions provided by medical experts were deemed necessary and applied in various forms for specific needs in the domain of public life. In addition, particular attention was given to the rights and obligations of medical doctors, including their liability, in the process of treating patients. These were at times enforced through drastic penalties.

Ethics expertise

Ethics expertise cannot be separated from medical and general ethics, even though it has its own unique characteristics. These unique characteristics come from the specific content, goal and work environment of forensic medicine, which do not fall outside the bounds of medical ethics. If ethics is separated from medical ethics, this would deny that forensic is a part of medicine. The professional and ethical duty of doctors-forensic experts is to determine medical facts, which they then interpret in order to formulate a truth, determined through expertise, which is useful for the resolution of a given legal question 1. Determination of a medical fact, ie a truth determined through expertise, is used in the service of justice, which has been the subject of human aspiration from the beginning of humankind. This gives rise to the fundamental moral and ethical question of forensic experts. Forensic experts would have to possess a high level of ethics and professional morality, which includes being conscious of their own responsibility and self-criticism when accepting to act as a forensic expert, as well as remaining in control when faced with various pressures, threats and even insults etc., guarding control over their own emotions, and keeping the dignity of their profession 2. They have to be conscious that moral integrity, personal freedom, type and length of punishment of the accused, as well as the livelihood of his family, all depend on the truthfulness of their testimony. A precondition for the correct execution of the duties of forensic experts and for their own clear conscience is that forensic experts have both the necessary personal characteristics (strong character, high level of morality, ethics, courage) and medical knowledge, an understanding of the basic principles of acting as a forensic expert and legal concepts, as well as the ability to express themselves in a clear and understandable way 3. Vanity and corruption are in deep collision with the personality of real forensic experts. They have to be aware of the fact that the damaged party might be undergoing rent neurosis, obsessed by the desire to aggravate the position of the person that caused him harm etc., so that this situation calls for patience and an ethical manner of understanding and behavior, but that this should
never affect the correctness of the conclusion of the expert opinion 4. It can be concluded, directly or indirectly, by looking at the entire history of forensic expertise, that ethical and legal norms determined the profile of medical experts to be one of strong, just, character, and a stable moral-ethical personality. It is not surprising that a commonly asked question is: What kind of person should be someone who practices forensic medicine? This difficult, extremely responsible profession, which is always under scrutiny by different conflicting interests and in which various dramatic events collide, affecting human destinies, depends mostly on the just character traits of forensic experts and on their moral-ethical stability. Forensic experts will only be humanists, aware of ethical needs of their profession, in as much as they work on developing these traits. This kind of aspiration towards justice is in harmony with a righteous stance towards life and ethics. Life demands truth because of itself, and it demands justice for itself, so that we are always searching for truth while at the same time longing for justice. Love of truth, as one of the imperative characteristics of a forensic expert, demands a conscious investigation in each individual case of the forensic expert’s work because of each case’s uniqueness and many unknowns. Thus, the battle for the truth determined through expertise is of an investigative character, and it can be reached more quickly if investigation is constructed on correct bases in a just manner. Forensic experts persistently look for the truth, exerting in this task great effort and diligent work, to form a realistic picture, founded on integrity, morals and ethics. Honorable forensic experts state the truth clearly, without hesitation or disdain. They are honorable, even though they do not put down other forensic experts and if they admit their own mistakes. When forensic experts, in front of the court and parties to a dispute, behave arrogantly, conceitedly, artificially, and when they speak about themselves, trying to impose their own professional authority and in this, through general cliché phrases, negate the opinion and degrade other forensic experts, they are breaking the foundations of medical ethics and human honor. It should be understood that true forensic experts correct, through determined medical facts, the mistakes made by previous experts consciously or unconsciously; however, this should be done in a healthy collegial spirit and within the moral ethical principles of the profession. To negate the opinion of a previous forensic expert because of envy, self promotion, and especially materialistic reasons or protectionism, means to commit one of the biggest sins and to put oneself among the lowest sorts of humankind. Self promotion, through which forensic experts emphasize that they come from a larger forensic medicine institution and a larger urban center, by which they are trying to impose their own professional inviolability, only shows their professional inferiority or a conscious lack of objectivity. Forensic medicine institutions in large centers offer privileges and greater opportunities for access to scientific information and professional training, but this is no guarantee that each such medical expert will be superior in all respects compared to another one who comes from outside of such a center. It is clear that no scientific or urban center can give forensic experts the characteristics which they must possess on a personal level; they must bring these characteristics with themselves to school, which then provides them with technical knowledge. It is difficult to find an example of a sin, injustice or another human vice more grave than the abuse (or use for personal ends) of human suffering. The conscious and purposeful abuse of a forensic expert’s work out of material advantage and protectionism, no matter on which side, gravely undermines the legal, social and moral integrity of one of the parties in a dispute, while it makes the expert’s actions equal to crime and serious immorality. Forensic experts perform a job which often permeates human destinies, so that grave mistakes, especially those committed consciously or out of carelessness, help injure and aggrivate the suffering of people who are already in a difficult situation. In such circumstances of life’s misfortunes, succumbing to bribes, protectionism and envy, means treading over other people’s pain and human lives.

**Ethics role of the forensic expert**

Forensic medicine is utilized by legal institutions in the process of determining the legal truth, but at the same time it illuminates, for health institutions, the existing problems in the domain of the public health care. This necessary link between forensic and curative medicine is most commonly established through medical documentation used in expertise. It seems as though the accuracy and completeness of medical documentation is of an increasingly weaker quality, despite contemporary epochal accomplishments in the domains of medical science and medical technique. An expert needs documentation, which contains data from the anamnesis, objective finding, laboratory procedures, clinical diagnosis and therapy. Because such complete documentation is more unusual than superficial and incomplete documentation, the forensic expert must not resort to improvisation and assumptions; he must instead demand additional documentation or an examination of the damaged party and he must present conclusions conditional on available medical facts. Through the advancement of medical science and the acquisition of new knowledge, the professional obligations of medical doctors are becoming much greater, while medical and social tasks are becoming more complicated 5. For this reason, a medical doctor in the role of a forensic expert, who does not keep up with the latest knowledge and possibilities, becomes trapped in professional inertia, which causes him to make mistakes towards people and his profession. The concept of deontology combines both ethics and professionalism, and this symbiosis ensures that the humane principles of medicine are guarded. For this reason, medical forensic experts, who neglect to keep educating themselves in their profession, while performing the tasks of forensic medicine, can never get past the threshold of morality and ethics, and can never stand on the platform of justice and law, no matter what their self-promotional skills, current position or title 7.

In matters of forensic medicine expertise, one often hears about investigations of the scene of the crime, which, at least in the area of the Balkans, are not treated with ade-
quate importance. It is clear that it is the job of the investigative judge to organize and implement the investigation at the scene of the crime, and that all participants work according to the judge’s instructions and permission. Forensic medicine specialists should be understood as assistants, or consultants, to the investigative judge. They work in agreement, with the permission, and under the leadership of the judge, helping the judge in the discovery, recording and gathering of traces and other evidence. They call the judge’s attention to all the particularities of the specific case related to the domain of the forensic profession; they provide the necessary clarifications with respect to the value of certain observations. Even though the help of medical doctors to the investigative judge during the investigation of the crime scene often plays a significant role in the investigative phase of the process, their role should not be overstated. Medical doctors at the investigation of the crime scene must not behave arrogantly, with too much self-confidence, and improperly, if they wish to stay within the moral-ethical bounds of their profession. In the same way that the primary obligation of police officers is to ensure that the crime scene remains intact, and that of investigative judges is to organize the investigation of the crime scene, the primary obligation of medical doctors is the procedural and moral-ethical obligation to help the judges in gathering evidence important for the subsequent investigative process, and to do this using their professional knowledge in a correct and responsible way.

This topic (ethics and deontology in forensic medicine) should not be closed without commenting on forensic medicine in conflict situations, and especially post-conflict environments, in which the morality, ethics, and humanity of forensic experts are put to the greatest test. Wars leave human bodies in pieces, body parts, mass graves, human bones mixed up in piles, micro-traces of burnt human bodies, etc. It happens that families spend months and years waiting for their missing members, hoping, even when there is no more hope, that they will come back. After the wars in the Balkans, the discovery of mass and individual graves has been difficult and slow; these are being hidden, so that forensic experts, together with anthropologists, geologists, stomatologists, criminologists, and other members of the team, come across the remains of human bones mixed up together, making it necessary to separate, differentiate and identify them. There is no subject of forensic expertise, in the field of forensic medicine, with so many enigmas, as these types of corpse remains, which the family of the deceased awaits with sorrow. In these cases, forensic medical experts have in front of them the remains of human bodies, and, without asking which warring party, religion, or race they belonged to, they reconstruct the skeleton, determine the cause of death and identity of the deceased. There is no alternative to a diligent investigation and professional integrity of forensic experts in such situations; only in this way can this complex and human job, which resolves long-lasting suffering and uncertainty for the family of the deceased, be done correctly. In this way, forensic medical doctors, who are being looked to for answers and who are the subject of hope and expectations, undoubtedly perform the most human deed, and confirm themselves as highly moral and professional people.

Conclusion

Professional and ethical duty of doctors, forensic experts is to determine medical facts, which they then interpret in order to formulate a truth, determined through expertise, which is useful for the resolution of a given legal question. The determination of a medical fact, ie a truth determined through expertise, is used in the service of justice, which has been the subject of human aspiration from the beginning of humankind. This gives rise to the fundamental moral and ethical question of forensic experts. This topic (ethics and deontology in forensic medicine) should not be closed without commenting on forensic medicine in conflict situations, and especially post-conflict environments, in which the morality, ethics, and humanity of forensic experts are put to the greatest test. In this way, forensic medical doctors, who are being looked to for answers and who are the subject of hope and expectations, undoubtedly perform the highest human deed, and confirm themselves as highly moral and professional people.

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