Forensic Dentistry and Human Identification: Legal Framework

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The task of the forensic odontologist at the international criminal proceedings is usually to act as an expert witness. This means that forensic odontologist is to give factual information on the investigations enacted at the site(s) relevant to the court proceedings concerned [1]. All the conclusions and comments are therefore to be limited strictly on the professional sphere and competence of the expert witness [2]. All comments going beyond that sphere are nonsense comments and do no fall within the role of an expert witness, even if it is not seldom that the defence counsel or sometimes also the prosecutor may propose or encourage this kind of conclusions to be made. The situation does not change even if the expert is invited to testify for the prosecution or defence team as long as forensic odontologist is heard as an expert witness. It is not the task for an expert witness to build the case or fill the gaps in the evidence for the defence or the prosecution, instead, forensic odontologist is expected to provide facts and scientific conclusions solely based on these facts. It is the role of the defence or prosecution teams to connect those materials to other available evidence and the task of the judges of the court or tribunal concerned to decide what legal conclusions the presented forensic material might support or what possible circumstances that may exclude in the possible scenarios of chain-of-actions.

The situation may be different, if the expert has during his activities at the Host-State seen something relevant for the proceedings happen, which does not relate to his professional work, but may be important for the criminal court or tribunal. On those matters he should be heard separately as a (normal) witness. For these situations, if necessary, the international courts and tribunals have also developed effective witness protection measures, which may protect the identity of the witness if his security may be endangered by his testimony. Naturally, these measures do not concern the expert witness as their role is different in the proceedings.

The evolving concept of the universality of human rights is in formation to include the view that these rights are to be extended to the deceased in the form of dignified handling of human remains and burial. This view is also becoming widely accepted within in the forensic science community. The interpretation has its roots in the ethical framework. The most basic requirement is that the persons doing that work should be properly educated experts of forensic sciences.

References

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