



E28 How Can the Question of Relevancy Ensure an Ethical Use of Forensic Science?

*Durdica Hazard, MS**, School of Criminal Justice, Ecole des Sciences Criminelles, UNIL-BCH, Lausanne, 1015, SWITZERLAND; *Joelle Vuille, PhD**, University of Lausanne, Institute of Criminology Law, Internef, 323, Lausanne, 1015, SWITZERLAND; and *Pierre A. Margot, PhD*, School of Criminal Justice, Ecole des Sciences Criminelles, UNIL-BCH, Lausanne, 1015, SWITZERLAND

Often cited, implicitly used, but not clearly defined, relevancy is a concept that may be understood differently depending on the legal structure and proceedings. The goal of this presentation is to define such a concept in the European forensic and legal communities, and what questions such a definition raises in terms of communication between scientific experts and lawyers, and in terms of right to a fair trial for a defendant.

This presentation will impact the forensic science community by raising its awareness to relevancy as a manifold concept that might be understood very differently by scientific experts and lawyers, and this discrepancy in definition can influence the course of a criminal proceeding.

The inquisitorial nature of the European criminal justice systems will be introduced in order to emphasize the importance of the role of the instructing magistrate in the evaluation of the forensic data used as evidence. After confronting the Anglo-American and European notions of relevance in the criminal investigation context, the importance of the concept will be outlined. It will be argued that relevancy from a legal standpoint is a rather vague concept in European criminal justice systems, leaving ample latitude to the investigating magistrate to determine which forensic information is relevant and which is not. Such a “laissez-faire” approach often results in an a priori evaluation of relevancy, which is hardly compatible with the scientific reasoning required by the forensic work and may, in the end, be prejudicial to the defendant.

It will be argued that the legal reasoning applied to a concrete case could be enhanced by the formalization of the concept of relevancy. To achieve this goal, one must go back to the investigative phase, the very beginning of the process, instead of considering only adjudication. Indeed, it is expected that a better understanding of the concept at an early stage of the criminal justice system will allow more relevant questions to be raised and will strengthen the interactions between the different stakeholders (forensic scientists and magistrates). In short, such an approach would produce more relevant clues from the forensic point of view and stronger evidence from the legal point of view.

To do so, it is necessary to go back to the notion of relevancy in science and specifically forensic science. The concept of relevancy represents one of the cornerstones of forensic science. This principle is understood as a key point between three entities: the trace, the clue, and the evidence, that are related within a context. The relationship between these entities will be discussed, and it will be argued that each is specific to a particular step of the forensic reasoning process. They all share a common aspect: they exist within a context specific to a case investigated, and this is aimed finally to insure that the right to a fair trial is safeguarded.

Confronting the legal and forensic definitions of relevancy would, eventually, allow a better definition of the expectations and needs of the instructing magistrate in terms of forensic information. This attempt to formalize such a manifold concept is aimed at showing that focusing on the initial phase of the process will help strengthening the information provided and, thus, the principle of equality of arms. Indeed, the concept of relevancy, if taken from a scientific point of view, is independent of the legal systems, whether European or Anglo-American will be shown. This principle is considered universal and should be considered as a scientific “guardrail” which guarantees an ethical use of forensic information by the justice systems.

Forensic, Legal, Relevancy Concept