



F29 Forensic Archaeology: The Legal Aspect for a Practical Application in the Italian Context

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After attending this presentation, attendees will understand how archaeology could be applied in the forensic context, not only in the field, but also in court.

This presentation will impact the forensic science community by demonstrating not only the potential of forensic archaeology as a discipline, but also by proposing a review of the legal tools that can allow the application of archaeological techniques to the forensic context.

According to the etymology (*ἀρχαῖος* and *λόγος*), archaeology is an evidence-based science that employs methodologies and procedures to reconstruct past events from the physical traces left under and above the ground; however, past events are not limited to those that occurred hundreds or thousands of years ago. The actions related to a recent crime could be considered an “ended event” frozen in the past. For this reason, it is possible to transfer archaeology’s *modus operandi* into the forensic world. Forensic archaeology is, in fact, the discipline that applies the stratigraphic techniques to the search, recovery, and interpretation of evidence to reconstruct events with a forensic relevance.

Unfortunately, even if the contribution of forensic archaeology for both the investigation and the trial is recognized worldwide, in some countries, it is still difficult to observe its extensive use. The reasons are related to the complexity of the legal systems, the prerogative of only a few categories of experts on death investigations, and the general lack of knowledge regarding the discipline and its undoubted potential.

Adopting the Italian perspective as a relevant example, the legal instruments for both forensic archaeologists and all other practitioners involved in the investigation could benefit from the use of stratigraphic techniques. With a comparison between the scientific reliability of archaeological methodologies and the Code of Criminal Procedure, it will be possible to delineate how forensic archaeology can fit into the legal system and can be applied for the benefit of a fair trial.

Stratigraphy and evidence-collecting techniques, if performed according to international protocols and guidelines, provide evidence that can be used in court under the rules that control the scientific evidence and its acquisition. In addition, to perfectly integrate the role of the forensic archaeologist in the trial, the possible scientific tasks that the various parties (judge, prosecutor, and defense) could assign to the practitioner will be addressed. This will help practitioners act properly at the scene and in court; at the same time, it will encourage judicial authorities and lawyers to promote the application of archaeological methodologies in cases in which it is necessary to search and recover concealed pieces of evidence.

In conclusion, useful legal references and tools will be provided, not only for the forensic archaeologist, but also for everyone involved in the crime scene investigation and trial. The practitioner and other parties will be able to cooperate and will be aware of the potential provided by the application of stratigraphic techniques to the forensic investigation, particularly when search, recovery, and documentation of buried evidence is required.

An analysis of the practical and legal aspects of forensic archeology, reviewing the legal principles, and the jurisprudence useful to the application of this discipline is necessary.

Forensic Archaeology, Penal Code, Stratigraphy