

Publication

The investigations of deaths in custody : an analysis of problems and prospects

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The right to be treated humanely when detained is universally recognized. Deficiencies in detention conditions and violence, however, subvert this right. When this occurs, proper medico-legal investigations are critical irrespective of the nature of death. Unfortunately, the very context of custody raises serious concerns over the effectiveness and fairness of medico-legal examinations. The aim of this manuscript is to identify and discuss the practical and ethical difficulties encountered in the medico-legal investigation following deaths in custody. Data for this manuscript come from a larger project on Death in Custody that examined the causes of deaths in custody and the conditions under which these deaths should be investigated and prevented. A total of 33 stakeholders from forensic medicine, law, prison administration or national human rights administration were interviewed. Data obtained were analyzed qualitatively. Forensic experts are an essential part of the criminal justice process as they offer evidence for subsequent indictment and eventual punishment of perpetrators. Their independence when investigating a death in custody was deemed critical and lack thereof, problematic. When experts were not independent, concerns arose in relation to conflicts of interest, biased perspectives, and low-quality forensic reports. The solutions to ensure independent forensic investigations of deaths in custody must be structural and simple: setting binding standards of practice rather than detailed procedures and relying on preexisting national practices as opposed to encouraging new practices that are unattainable for countries with limited resources.

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