

Judicial accounting expertise: Foundations, applications, and challenges

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Abstract---This research paper aims to explore forensic accounting expertise by examining various concepts related to expertise and forensic experts. The study employs a descriptive approach to analyze the legal framework, the challenges faced by forensic accounting expertise, and prospects for its development. The research yielded several key findings, including the following: forensic experts must possess both academic and practical qualifications to practice their profession; the judiciary relies on expert reports to issue rulings in cases brought before it; forensic accounting experts are indispensable, as judges often lack the technical knowledge required to resolve financial disputes; and forensic accounting expertise plays a crucial role in detecting fraud and tax evasion.

Keywords---forensic expertise; forensic accounting expert; development of forensic expertise profession; challenges of forensic expertise.

1. Introduction

Judicial expertise in accounting and auditing plays a significant role in uncovering financial facts and resolving economic and financial disputes within institutions. Courts rely on forensic accounting experts and certified auditors to provide objective reports that assist in making fair judicial decisions. The importance of this field has increased with the complexity of financial transactions and the rise of fraud and financial manipulation cases, necessitating the application of precise accounting standards and advanced auditing techniques.

The work of forensic accounting experts is based on legal and ethical principles requiring precision, impartiality, and the ability to analyze complex financial data. These experts face numerous challenges, including evidence collection and adapting to technological advancements.

This study aims to highlight the importance of judicial expertise, its practical applications, and the challenges it faces. It seeks to answer the following questions:

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1. What is judicial expertise?
2. What is the legal framework governing forensic accounting expertise?
3. What are the challenges faced by forensic accounting expertise?

Using a descriptive methodology, the study examines various concepts related to judicial expertise and its legal framework.

The research is structured as follows:

- **Section 1:** Concept and Importance of Judicial Expertise
- **Section 2:** Legal Framework of Forensic Accounting Expertise
- **Section 3:** Challenges of Forensic Accounting Expertise

2. First Section: The Concept and Importance of Judicial Expertise

2.1 First: Introduction to Judicial Expertise

- Definition of Judicial Expertise:

A judicial expert is a person with scientific and technical knowledge in a specific field, whom the judiciary consults to help evaluate technical matters that are beyond the judge's knowledge. The expert aids in uncovering the truth, and for this purpose, theoretical knowledge alone is insufficient; the expert must also have the ability to apply these theoretical principles to real-life cases, which is only achievable through experience. (mounir zamouri & kheireddine cherwati, 2023, p. 205)

Judicial expertise combines science, art, and procedure. It evolves with scientific and technological advancements, necessitating specialists capable of keeping up with these developments. The judiciary can consult these experts to clarify technical and financial matters, assisting judges in making decisions based on scientifically established facts, thus ensuring justice. Judicial expertise is also considered an art that requires integrating technical and scientific aspects. This work cannot be performed by just anyone; the expert must have a deep understanding of the field to create a comprehensive and coherent report that provides a clear picture for the judge regarding the dispute at hand. Moreover, judicial expertise is a procedural tool ordered by the judge to uncover unknown facts through practical examination, adding evidence to the case. It is important to note that judicial expertise is limited to technical matters and does not extend to legal aspects, as it is assumed that the court possesses legal knowledge. (Bouaita, Malika, 2024, p. 3)

Judicial Expertise in Accounting and Auditing:

Judicial expertise in accounting and auditing is defined as the procedures used to identify, record, reconcile, sort, report, and verify past financial data and other activities to resolve current or potential legal disputes. It also involves applying accounting principles and methods to uncover those responsible for fraud and financial manipulation. (Ramadanah souhila hadjer, 2024, p. 449)

Additionally, it has been defined as consultancy provided by specialists in various fields to assist courts or public prosecution in uncovering the truth, ultimately leading to legal and fair decisions. (Bouchak Nadja & Saih Assia, 2017, p. 381)(Bouchak Najia & Saij Assia, 2017, p. 381).

In summary, forensic accounting expertise in auditing and accounting is a technical process conducted by a specialized accounting expert appointed by the judiciary or requested by one of the disputing parties. The expert examines and analyzes financial records and data, providing an impartial opinion based on evidence regarding financial or accounting cases presented before the courts.

2.2 Importance and Objectives of Judicial Expertise

- Importance of Judicial Expertise:

Judicial expertise ensures objectivity and transparency in analyzing financial cases, which helps

achieve justice and strengthens confidence in judicial decisions related to economic matters. Its importance is also evident in:

- Investigating, detecting, and preventing fraud through the expert's examination of documents, records, and financial statements to ensure their accuracy and identify any wrongful practices. (Iman Ahmed Al-Hanini & Raafat Salama Salama, 2018, p. 90).
 - Enhancing the efficiency and effectiveness of accounting and auditing functions.
 - Uncovering facts and providing opinions in expert reports.
- **Objectives of Judicial Expertise:** The objectives of judicial expertise include:
- Investigating and detecting fraud in financial statements, including reviewing actual fraud cases, proposing solutions, and consulting experts from various fields as needed. The findings can be presented orally, in a report, or both. (Mansaf, 2023/2024, p. 41).
 - Determining financial losses or damages incurred or expected, collecting material evidence that serves as strong proof for legal claims to recover those losses, tracking lost assets, and identifying individuals responsible for fraud. (Asaad Mubarak Hussein Moussa & Asmaa Othman Ahmed Babiker, 2021, p. 87).
 - Conducting a thorough review of relevant documents to assess their value, examining appropriate evidence to develop an initial assessment, determining the extent of losses, and verifying the accuracy of compensation claims before the court. This is part of efforts to combat financial fraud. Moreover, expert witnesses provide written reports or oral testimony in court, presenting evidence in the form of documents, images, and professional opinions based on their expertise. (Zouash Zouhir & Ben Harko Ghaniya, 2019, p. 327).
 - Providing material evidence to assist the judiciary in combating corruption, achieving justice, and upholding rights.

Additionally, judicial expertise aims to:

- Identify financial discrepancies, quantify them, and determine the necessary legal actions.
- Verify claims made by relevant parties

2.3 Areas of Application of Judicial Expertise

The American Association of Forensic Accountants (FASNA) has identified the main areas where forensic accounting expertise is applied, including fraud and tax evasion, inventory losses, business valuation, lost profit estimation, and project losses. (Ahmed Mahmoud Abdel Halim, Nabil Yassin Ahmed, & Abeer Abdel Karim Ibrahim Sarour, 2021, p. 448).

Judicial expertise is used in various fields, such as:

- Identifying and uncovering fraud cases and gathering sufficient evidence for expert reports.
- Evaluating and examining internal control systems to identify weaknesses and vulnerabilities that can be exploited for fraud.
- Assessing businesses in disputes or liquidation cases and determining creditor rights.
- Evaluating compliance with applicable laws, regulations, and procedures. (Khaled Mohamed Ali Ahmed, 2013, p. 6).

3. Section Two: The Legal Framework Governing Forensic Accounting Expertise

Forensic accounting expertise operates within a strict legal and regulatory framework designed to ensure neutrality, accuracy, and objectivity in presenting financial evidence before the courts. This framework includes laws and regulations that define the conditions for appointing experts, their powers, and responsibilities, as well as the accounting and judicial standards that regulate their work.

3.1 Forensic Accounting Expert and Reasons for Their Appointment

- Definition of a Forensic Accounting Expert:

A forensic accounting expert is defined as a non-employee professional with technical expertise in specialized fields such as accounting. They are appointed to perform a specific task related to a case before the judiciary and prepare a report at the end of their assignment. The expert carries out their duties in accordance with legal requirements. (Fatima Saleh Mahdi Al-Gharban, 2022, p. 7)

According to Law 10-01, a forensic accounting expert is any individual meeting the necessary qualifications, whether they are a statutory auditor or a certified accountant, who routinely performs the tasks of organizing, examining, and assessing financial data under their responsibility.

The appointment of forensic accounting experts is subject to specific conditions, as outlined in Decree 95-310 on judicial experts (both individuals and entities), issued on October 10, 1995. These conditions include:

- **Algerian nationality**, in accordance with international agreements.
- **Academic qualifications**, requiring the expert to hold a degree that qualifies them to practice the profession and register as a forensic expert in court.
- **No prior criminal record**, ensuring the expert has not committed any acts that would disqualify them from practicing or result in their dismissal from the profession.
- **No history of bankruptcy or judicial liquidation.**

3.2 Reasons for Appointing a Forensic Accounting Expert

A forensic accounting expert is appointed by a judge through a judicial decision. The judge may appoint one or more experts to carry out the assigned task. The primary reasons for appointing a forensic accounting expert include:

- **Nature of the Legal Dispute:** The primary role of forensic expertise is to clarify material, technical, or scientific facts for the judge. If a case involves financial matters, the judge may appoint a specialized forensic accounting expert. This is particularly relevant in cases requiring financial data analysis, assessment, and auditing of accounts. These tasks fall within the core responsibilities of financial experts. To prevent accusations of judicial neglect, the law grants judges the right to seek assistance from financial experts, who help in verifying facts and clarifying financial figures presented in court, thus enabling the judge to form a well-informed judgment. (Zerwal Alaeddine & Awadi Mustafa, 2023, p. 1294)
- **Lack of Accounting Training for Judges:** Judges are typically trained in law, meaning they are not expected to be proficient in medical, scientific, or financial details. Their primary responsibility is to apply the law, and consulting experts in specialized fields ensures the correct application of legal principles. Therefore, experts must provide their opinions within the boundaries set by the judge. Their role is limited to explaining the technical and financial aspects of a case, while the judge remains responsible for interpreting the facts and legally framing the case based on their expertise and knowledge. (Bouchak Najia & Saij Assia, 2017, p. 381)
- **Application of the Law:** Judges must apply the law to achieve justice and issue accurate rulings. Consequently, they must seek the assistance of forensic accounting experts in financial matters, in accordance with the regulations governing forensic accounting expertise.

3.3 Procedures for Appointing a Forensic Accounting Expert

Under the **Administrative and Civil Procedure Law**, a forensic accounting expert may be appointed by a judge either on their own initiative or at the request of the parties involved.

According to **Article 126 of Law No. 09/08 on Civil and Administrative Procedures**, issued on **February 25, 2005**, the judiciary has discretionary authority to appoint an expert for consultation and resolution of financial disputes. The appointment must include the following details:

- **The expert's full name, address, and justification for their appointment**, if necessary.
- **A precise definition of the expert's tasks.**
- **Clarification and justification of the necessity for appointing one or multiple experts.**

- **Deadlines for submitting the forensic expertise report.** (Zerwal Alaeddine & Awadi Mustafa, 2023, p. 1294)

4. Section Three: Challenges Facing Forensic Accounting Expertise

4.1 Forensic Accounting as a Pillar of Financial Reporting Quality

The credibility of financial reports is the fundamental objective of the accounting system, as it is influenced by multiple factors that play a critical role in the production and dissemination of financial information. The effectiveness of the accounting system relies on a set of established standards and procedures designed to achieve transparency, accuracy, and compliance. These standards encompass various elements that reinforce the credibility of financial reports, including:

- **Legal Standards:** These standards aim to enhance the quality of financial reporting and ensure adherence to regulatory frameworks by implementing well-defined and structured legislative measures.
- **Regulatory Standards:** Oversight is a core component of corporate governance and financial management, closely monitored by boards of directors and investors. The effectiveness of this function is contingent upon the presence of robust regulatory mechanisms, thereby defining the roles of audit committees and financial and administrative supervisory bodies in overseeing financial reporting processes. (*Tariq Wafiq Ibrahim, 2019, p. 257*)

4.2 The Role of Technology in Forensic Accounting Practices

In cases involving substantial volumes of financial data, forensic accountants employ advanced technological tools to facilitate data collection, source identification, in-depth analysis, and the organization of results. These tools, including computer-assisted audit techniques (CAATs) and artificial intelligence-driven analytics, enhance the precision and efficiency of forensic examinations. Such technologies empower forensic accountants to detect asset misappropriation, substantiate or refute insurance claims through litigation, and uncover illicit corporate transactions and financial irregularities. The use of computer systems in financial fraud and corporate misconduct necessitates forensic accountants to conduct meticulous examinations of digital records and enterprise information systems to identify traces of fraudulent activities. Without access to sophisticated technological tools, proving financial misconduct can be exceptionally challenging. Consequently, forensic accountants must leverage specialized forensic software, digital forensics techniques, and data analytics platforms to collect, preserve, and analyze evidentiary materials effectively.

In the modern auditing landscape, the integration of digital transformation plays a pivotal role in enhancing audit quality and fraud detection. The efficiency of forensic accounting is directly influenced by factors such as time and resources allocated to auditing tasks. The deployment of automated auditing software not only streamlines forensic investigations but also mitigates the risk of material misstatements and financial misrepresentation.

To achieve superior forensic auditing standards and mitigate financial fraud risks, institutions must adopt state-of-the-art technological solutions, ensuring high levels of accuracy and reliability. Furthermore, consolidating audit functions and integrating digital tools are imperative, as modern computing capabilities enable the rapid processing of complex financial data with a high degree of precision. Organizations must embrace digital transformation as a fundamental shift in forensic auditing methodologies, requiring well-trained forensic auditors proficient in utilizing advanced electronic auditing techniques. (*Ammar Issam Abdulrahman Al-Samarrai & Nadia Abdul-Jabbar Mohammed Al-Shareeda, 2020, p. 23*)

4.3 Prospects for Advancing Forensic Accounting Expertise

Forensic accounting is an essential mechanism in combating financial corruption within governmental institutions, serving as a crucial tool for detecting financial misconduct and ensuring compliance with

regulatory frameworks. To enhance the effectiveness of forensic accounting practices, the following prerequisites must be met: (*Rania Sultan Mohammed Abdel Halim, 2022, pp. 29-30*)

- **Comprehensive Legal and Regulatory Frameworks:**
 - Establishing clearly defined legislation governing forensic accounting procedures within public and private institutions.
 - Implementing stringent regulatory policies that mandate the application of forensic accounting methodologies as an integral component of internal auditing and compliance systems.
- **Professional Development and Continuous Education in Forensic Accounting:**
 - Providing specialized forensic accounting training programs for auditors and accountants operating in both the public and private sectors.
 - Incorporating forensic accounting principles into academic curricula and continuous professional development programs.
- **Integration of Advanced Technological Tools in Forensic Accounting and Auditing:**
 - Utilizing cutting-edge financial analytics technologies, such as artificial intelligence and big data analytics, to enhance fraud detection and risk assessment.
 - Deploying digital forensic auditing tools to provide precise financial evidence and improve the efficiency of forensic investigations.
- **Establishment of Independent Forensic Accounting Oversight Bodies:**
 - Creating independent regulatory authorities staffed with forensic accounting experts specializing in fraud detection and financial investigations.
 - Strengthening collaboration between governmental agencies, regulatory bodies, and forensic accounting professionals to ensure the effective implementation of forensic auditing recommendations.
- **Enhancing Transparency and Corporate Governance Practices:**
 - Promoting the disclosure of financial reports with increased transparency to foster public trust and accountability.
 - Enforcing strict oversight mechanisms to monitor the implementation of anti-corruption measures and corporate governance policies within governmental institutions.

By adhering to these strategic advancements, forensic accounting will continue to play an instrumental role in strengthening financial integrity, mitigating fraud risks, and fostering a culture of accountability and regulatory compliance in both the public and private sectors.

5. Conclusion

Forensic accounting expertise represents a specialized branch of forensic expertise. This study aimed to highlight the significance and objectives of forensic accounting, as well as the reasons judges seek the assistance of forensic accountants to recover lost funds or assets. Forensic accounting expertise serves as a fundamental pillar in achieving financial justice, thereby enhancing trust in both financial and economic systems. With continuous advancements in accounting and technology, the need for qualified professionals capable of addressing contemporary challenges and providing precise and effective financial analyses that support justice impartially and efficiently is becoming increasingly critical.

The research paper yielded several key findings, including:

- Forensic accountants possess the necessary academic and practical qualifications to practice their profession and are subject to specific conditions and legal regulations governing forensic accounting practices.
- Judicial reliance on forensic accounting reports plays a crucial role in adjudicating financial disputes presented in court.

- The expertise of forensic accountants is indispensable, as judges often lack the technical knowledge required to assess complex financial disputes.
- Forensic accounting expertise significantly contributes to uncovering fraud, tax evasion, and estimating financial damages and losses.

Recommendations

The study emphasizes the need to:

1. **Strengthen the legal framework** governing forensic accounting to ensure its independence and regulatory compliance.
2. **Integrate modern technology** in financial data analysis to enhance the accuracy and efficiency of forensic investigations.
3. **Develop continuous training programs** for forensic accountants to keep pace with evolving financial and legal landscapes.
4. **Enhance collaboration** between financial institutions and judicial authorities to ensure the provision of precise and well-documented financial evidence in legal proceedings.

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