BRIEF EXPERT EVALUATION OF THE FORENSIC REPORTS ISSUED IN THE KHALED MOHAMED SAID SOBHI CASE

Assessment issued by Duarte Nuno Vieira, Chief Forensic Pathologist, Professor of Forensic Medicine and Forensic Sciences, Head of the National Institute of Forensic Medicine of Portugal (see attached CV) and Jørgen L.Thomsen, Chief Forensic Pathologist, Professor of Forensic Medicine, Head of the Institute of Forensic Medicine of Odense (see attached CV), concerning the forensic reports dated 10th June 2010 and 27th June 2010, following the autopsies performed on Khaled Mohamed Said Sobhi on 7th and 16th June, 2010.

The opinion expressed is based upon the forensic reports indicated above (an English version was provided) and upon a set of seven photographs, of which two show Khaled Mohamed Said Sobhi alive (Photos 1 and 2 attached), 3 in the morgue from the first autopsy (Photos 3, 4 and 5 attached) and two from the second autopsy (Photos 6 and 7 attached).

Thus:

1) The report of the first autopsy, performed on 7th June 2010, reveals that it did not comply with the minimum international standards for forensic autopsies and that there were numerous significant deficiencies. For example, the description of the macroscopic anatomopathological findings observed is manifestly inadequate: basic data such as the weight and individual characteristics of the various organs are not given; there was no histological study (always essential) or complementary imaging tests (which would have been very relevant in this case to prove the absence of lesions), and the dissection technique used (as shown in the description of the opening incisions provided in the second autopsy) was inadequate for the situation (for example, the neck should never have been dissected using a single mentopubic incision), etc.

The supposedly compelling diagnosis of death by asphyxia is not sufficiently supported by the data provided, and most of the aspects described, such as cyanosis or congestion, are non-specific and inconclusive on their own.

2) The photographs supplied are not clear, have no reference scale and offer no detailed view of the lesions. All in all, they are disturbingly amateurish and do not fulfil the

minimum requirements for forensic photography. As photographic documentation is absolutely essential in these situations, the fact that this is what has been made available is perplexing, suggesting that more reliable documentation may (should) exist. There must certainly be a photograph of the aditus laryngis with the package in place, as it would be absolutely unacceptable if one had not been taken, a fact that reinforces the superficiality of the first autopsy and the unreliability of the conclusions reached. Indeed, with these photographs, it is not possible to reach any firm conclusions, although they do raise concerns. For example, Photograph 3 seems to suggest traumatic lesions on the right lateral surface of the thorax that are not mentioned in either report.

3) Although the second report is a little more careful, it continues to have the same weaknesses and deficiencies as the first, and is much beneath the minimum international standards acceptable for forensic autopsies (cf. for example, the standards of the Minnesota Protocol or Recommendation No. R(99) 3 on the harmonisation of medico-legal autopsy rules from the Council of Europe, available in the *International Journal of Legal Medicine*, No. 113, 1999, pp 1-4). Given that this is a second opinion that seeks to prove the facts described in the first and compensate for its manifest inadequacies, this is even more perplexing and significant.

4) Although the lesions are described too superficially in both reports to allow reliable conclusions to be drawn, they clearly result from blunt violence, and are fully consistent with fighting/scuffle/kicking, etc. According to the description, none of them were serious enough to cause death, while the second report claims that "*there is nothing to prevent them happening as a result of beating and pushing during the attempt to control the victim*". However, this does not take account of the declarations made by the agents that detained the victim, transcribed at the beginning of the report, which state that no violence was used, or of the witness statements that support that claim. These declarations are not manifestly true in the light of the lesions described. It should also be added that, though there are witnesses who claim that the victim fell while being transported to the ambulance, the traumatic lesions described are much more consistent with a beating during arrest than with an accidental fall. That is to say, even if the victim did fall during transportation, he was clearly also subjected to physical aggression.

5) We also wish to express our profound disagreement with some of the statements made

in the second report in response to the memo of objections from the El Nadim Center. In particular, Point 8, No. 1 ("*in cases where the forensic doctor confirms the presence of obvious congestion oedema or pathological or traumatic changes, there is no need to take samples for pathology since the forensic doctor has confirmed the presence of such signs during autopsy*") is startlingly incorrect.

6) The absolute diagnostic value attributed in the signs mentioned in Point 8 No. 2 of the report is also surprising. None of these signs is specific to this diagnosis on its own, and although they may acquire more value taken together, other causes of death should have been excluded by means of a complete histological study, further complementary laboratory tests and a detailed anatomical dissection, none of which were done.

7) It is also wrong to claim that "*the external examination and autopsy done to the body immediately after the death was enough to diagnose the case and did not necessitate taking sample for pathology after exhumation*". This is so contrary to the most elementary international standards that no further remarks are required. However, it does reveal that the procedures adopted in both autopsies would seem to be common practice in the country, which is very worrying.

8) Equally incorrect is the statement that "*it is not necessary to do an x-ray for the skull and heart* (?, our question mark) t*o diagnose the condition of the bones, since the autopsy and examination of those bones are enough to decide whether or not there are any fissures or fractures*". Legal medical practice is replete with cases where complementary imaging tests have revealed fissures (and even fractures) that had not shown up in apparent detailed macroscopic examination.

9) Similar reservations are also roused by Response No.2 to the defence committee's memo of objections ("*It is not necessary to mention all manifestations and consequences of asphyxia as long as only some of those manifestations are enough to conclude the cause of death*"). This statement is unbelievable, as it is not possible to reach a diagnosis of asphyxia based on only some of the signs – and sometimes not even when all of them are present. Indeed, it is often necessary to perform complementary studies to exclude other causes of death, as mentioned above.

There are many other aspects of the report that cause profound reservations, which we feel do not justify additional remarks. As described, the deficiencies, inadequacies and incongruences in the reports of the two autopsies performed on the cadaver of Khaled

Mohamed Said Sobhi clearly make it impossible to reach any firm conclusions about the circumstances surrounding his death and the cause of it.

2010-07-25

Duarte Nuno Vieira

Jørgen L.Thomsen