The state of forensic accounting: South Africa versus the United States of America

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A B S T R A C T

As a multi-faceted emerging profession, forensic accounting is surrounded by some issues, controversies, and challenges among them lack of consensus on the entry requirements and certification of the profession, misconstruction of the innate goal of forensic accounting, and the lack of consensus on the teaching pedagogies of forensic accounting. The claim of ownership of forensic accounting by different professional bodies in different jurisdictions also exacerbates these challenges. With these issues surrounding the profession, this study sought to examine the state of affairs of forensic accounting in a developed economy, USA, and a developing economy South Africa. The comparison was based on the following criteria: certification; the profession issues; constitutional and judicial issues; and legal and regulatory issues. The study employed a desktop literature review methodology involving an in-depth review of relevant and current literature. The paper found that both countries share a similar status of the forensic accounting profession only on the profession issues. Differences were noted on the certification; constitutional and judicial issues; as well as the legal and regulatory issues. To date the profession is regulated in both jurisdictions but it happened in 2000 in the US and 2013 in South Africa. It can therefore be concluded that the similarity in forensic accounting profession status for the two jurisdictions is based only on the profession criteria with differences existing in the certification; constitutional and judicial; and legal and regulatory issues. The paper recommends more studies on comparing the status of the profession in other jurisdictions because extant literature still alludes to unresolved issues and challenges on forensic accounting in some jurisdictions.

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Introduction

Forensic accounting has been in existence for many decades. Its existence can be traced back to as far as 1824 to a newspaper advertisement in Scotland although it was not defined back then (Nunn et al., 2006). During that time, ‘forensic accountants’ were employed by adjudicators, courts, and counsels to investigate fraud. The idea of forensic accounting then re-emerged in the United States and England around the early 1900s and this was evidenced by the appearance of articles that gave direction on presenting expert testimony (Nunn et al., 2006; Crumbley, 2001). Extant literature shows that the necessity for forensic accounting emanated from regulatory and criminal law enacted over the passage of time. For example, the assumption of Federal Income Tax in the United States in the early 1900s generated the need for ‘forensic accountants’ in order to arrest the evasion of income tax (Ziegengfuss, 2003). This saw the Federal Bureau of Investigation (FBI) employing more than five hundred forensic accountants between 1939 and 1945, during the second world war, to examine and keep track of financial transactions (Nunn et al., 2003). Consequently, the Internal Revenue Service produced numerous forensic techniques employed in the process of detecting tax evaders.

It was only in 1946 that the term forensic accounting was first coined by Maurice Peloubet, a New York Certified Public Accountant with inspiration coming from the liability of redressing financial mysteries to evince fraud and embezzlement (University of Scranton, 2022). The term forensic accounting has numerous definitions, but this paper has picked only a few. Forensic accounting was defined
Forensic accounting as a practice is besieged with some issues, controversies, and challenges (Alshurafat, Al Shbail & Mansour, 2021; Denhere, 2022; Issa, 2023). These include:

i. Lack of consensus on the entry requirements and certification of the profession - There is inconsistency amongst and within countries regarding the mandatory qualifications for forensic accountants, as there is no specific universal law that regulates the entry requirements and qualifications into the forensic accounting profession. There is also inconsistency regarding the required qualifications for the professional forensic accountants in various jurisdictions.

ii. Misconstruction of the innate goal of forensic accounting – There are variations in forensic accounting definitions bringing in some contradictions, specifically concerning the inclusion of fraud. Furthermore, there are conceptual dissimilarities between fraud examination and forensic accounting indicating that forensic accounting is extensive. This shows the complexity of the concept.

iii. Scarcity of exceptionally qualified forensic accounting practitioners - Instructors of forensic accounting should be able to teach the analytical skills, legal roles, investigative skills, and computer skills because they are critical for the profession. Instructors must therefore consider these skills for a valuable forensic accounting curriculum. Extant literature shows that it is difficult to find qualified forensic accounting instructors considering the profession involves a variety of services that require specialised instructors, which could also be costly for many organisations.

iv. Lack of recognition of the profession by the public as well as the absence of occupational reputation - Forensic accounting lacks public recognition because it is relatively new to both the public and businesses and this leads to confusion about the roles of the profession by the public.

v. Lack of consensus on the teaching pedagogies of forensic accounting - Currently there is no consensus amongst academics, practitioners, and service consumers on various issues regarding the forensic accounting education mode of delivery, content of the knowledge, and pedagogies due to its complexity.

Compounding these challenges, is that the forensic accounting field is obscure with lawyers, accountants and the investigative industry providing the service. With this multi-faceted nature, the profession is marred by challenges, issues, and controversies. Some of these challenges emanate from the varying practices in this field by different jurisdictions based on the status of the profession, constitution, judiciary, legal framework, certification, and the regulatory environment in those particular jurisdictions. With these issues surrounding the profession, this paper sought to examine the state of affairs in forensic accounting in a developed and a developing economy, i.e., the United States of America, and South Africa, respectively. It is envisaged that the study will add to the scarce literature in forensic accounting. The findings should also inform policy formulation regarding this multi-faceted and relatively new field in other jurisdictions.

The rest of the study is organised as follows: literature review, theoretical framework, methodology, the comparative criteria, and discussion, followed by implications of the research findings for forensic accounting professionals, professional bodies, and policymakers, limitations of the study and then the conclusion.

**Literature Review**

The literature review covered the following: forensic accounting services; who hires forensic accountants; theoretical framework; and the empirical literature.
Conceptual Background

Forensic Accounting Services

Forensic accounting could be described as a multi-disciplinary specialisation because forensic accountants can be employed and offer their services in various organisations such as government agencies, public institutes, banks, insurance companies, and police forces (Hegazy et al., 2017; Tiwari & Debnath, 2017). According to Alshurafat et al. (2021), and Howieson (2018), the innate purpose of forensic accounting practice is to offer support to people, firms, as well as governments through provision of an array of services so that they execute their operations. Chen and Van Akkeren (2012); and Kranacher et al. (2008) share the view that forensic accounting has a complex nature, and that this complexity is part of the appeal for numerous accountants and other interested people to join the practice. The complexity stems from the wide range of services performed by the forensic accountant, among them detection of fraud and cybercrime, litigation, business advisory services, and court expert witnessing (Chen & Van Akkeren, 2012). It is acknowledged that there is an overlap between some forensic accounting services but the bulk of research in the practice has classified these services into five main categories namely litigation services, fraud investigation, expert witness, business valuation, and computer forensic analysis (Alshurafat et al., 2021).

Fraud Investigation: Since forensic accounting is an inclusive practice for investigating fraud, forensic accountants detect, prevent, and prosecute firms and individuals who get involved in financial crimes such as money laundering, financial misstatement, identity theft, embezzlement, manipulation of records, stealing of commodities, and tax evasion (Alshurafat et al., 2021; Honigsberg, 2020). The role of forensic accountants in investigating fraud is to identify, explain and communicate the hints hidden beyond economic and reporting events (Chen & Van Akkeren, 2012).

Litigation: Forensic accountants can also play an advisory role where they provide expertise support to lawyers in the legal proceedings (Alshurafat et al., 2021; Hegazy et al., 2017). Furthermore, they can also testify in a financial lawsuit and offer other services such as resolving disputes, consulting services, and dispute advisory services (Tiwari & Debnath, 2017). Disputes involving firms, individuals, and government might arise from, for example an injustice that involves another party’s action or inaction, a culmination of which a party would have suffered a loss either in monetary or nonmonetary form (Chen & Van Akkeren, 2012; Okoye & Akamobi, 2009).

Expert Witness: Usually forensic accountants can settle issues before the need for a trial testimony. However, in some instances there might be a need for them to testify as expert witnesses in the event that judges and juries require specialised knowledge to conclude a case (Alshurafat et al., 2021; Okoye & Akamobi, 2009). This role requires a specific special skill by the forensic accountants who will provide this service. In this regard DiGabriele (2010) suggested that transparency and objectivity are necessary to enable forensic accountants to deliver expert witness services. Also under these circumstances, Chen and Van VAkkeren (2012) argued that it might be imperative to professionalise the practice by offering explicit guidelines and pertinent training for forensic accountants.

Business Valuation: In some circumstances, forensic accountants can provide business valuations services like risk analysis, bankruptcy advice, matrimonial issues, fair value of financial reporting, family law, stock-based compensation, and personal injury (Alshurafat et al., 2021). Furthermore, a forensic accountant may render services to quantify suffered losses by business parties involved in disputes as well as providing their expert opinions and assist in resolving the disputes (Chen & Van Akkeren, 2012; Okoye & Akamobi, 2009).

Computer Forensic Analysis: The rapidly rising rate of cybercrime also requires forensic accountants to be in a position to tackle the challenge through their services. Rizaee and Wang (2019) emphasised that forensic accountants should be well versed with computerized environments to enable them to engage with IT, computer forensics, and data mining. Examples of cybercrimes which can be investigated by forensic accountants include wired narcotic sales, telecommunications fraud, email extortion, computer privacy theft and intellectual property rights, online gambling, and credit card fraud (Alshurafat et al., 2021).

Considering all the numerous services that could possibly be rendered by forensic accountants, the scope of skills required for this practice is wide and forensic accountants would need a certain degree of professional training in order to deliver competently (Alshurafat et al., 2021).

Who Hires Forensic Accountants

Extant literature shows that the rise in financial crime has increased the demand for forensic accounting services which go beyond just preparing financial statements for accountants and giving opinions on financial statements for firms by auditors, but now call for considerable awareness, detection, and control of financial crime. This has resulted in different organisations hiring forensic accountants as they would need their services. In addition to the obvious accounting firms, the following organisations could hire forensic accountants (Inquesta, 2022):

1. Criminal Defense Solicitors
2. Family Lawyers
3. Business Owners
4. Insurers and Loss Adjustors
5. Insolvency Practitioners
The Forensic Accounting Theory

Ozili (2020) puts forward a forensic accounting theory and derived some hypotheses from the theory. Ozili (2020) argued that it was necessary to have the theory since it explains observed forensic accounting practices because the field might become penetrable and disjointed as a result of the emerging academics who are yearning to recognise forensic accounting either as a branch of accounting or forensic science. The forensic accounting theory presents a new and comprehensive revelation on how to choose for methods and techniques and how to interpret the findings. The theory focuses on how the accounting and non-accounting decisions will trigger a profession, which was promulgated by Andrew Abbott in 1989, outlines the characteristics that guide in determining the professional status of the practice.

The term profession was defined by Freidson (1989) as a kind of occupation whose members control recruitment, training, and the work they do. According to Freidson (1989), some profession theorists distinguished professions as being exceptional by reason of the distinctive type of education, knowledge, and skill that their members have. Hedman and Sundin (2005), posited that the theory of professions emphasises the relationship between occupations, conceptual knowledge, and the likelihood for practitioners to solely apply the knowledge within their practice. Some theorists of professions holding an essentialist view which presupposes a defined essence, have shown keen interest in comparing occupational traits as a way of distinguishing professions from occupational groups (Fry, 2019; Hedman & Sundin 2005; MacDonald, 1995). According to this view the distinguishing traits are that:

- systematic theory should be the starting point for conducting professional practice.
- a profession should be a distinctive, clear, and essential social service.
- for a profession emphasis should be placed upon intellectual techniques in conducting services.
- there should be specialised training for an extended period for a profession.
- a profession should be a comprehensive organisation of self-governing practitioners.
- the profession in question is acknowledged as an authority within its domain.
- the venture in question is endorsed by society.
- for a profession, the practitioners work in conformity with ethical codes.
- the professional body manages its own training program.

As much as there are distinguishing traits, Adams (2015) highlighted the increasing complexity encompassing professions, as well as noting their highly effective enmeshment in organisational and extensive societal contexts in the present-day world. Saks (2016) acknowledged the increasing importance of professions in the contemporary world. Furthermore, Saks (2016), and Brock et al. (2014) argued that some professions such as accountants, and lawyers have become salient economic players in their own capacity as well as mediating, controlling, and supporting national and international trading and that addition of new professional expertise will trigger one of the key aspects of socio-economic development. From its services discussed earlier on, forensic accounting as a profession will also contribute immensely towards the socio-economic development considering the increasing demand of its services in the contemporary highly digitalized world.

Hedman and Sundin (2005) highlighted that as students train for a profession, they learn to acquire cognitive and practical skills; as well as becoming members of a community guided by specific norms, values, and beliefs regarding personal conduct. The forensic accountants meet this distinction since they have to acquire a special education and training to qualify for this work. This qualification as a profession requires them to be guided by a professional body.

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taken at the beginning, during or at the conclusion of the investigation determine which forensic detection methods and techniques to use as well as the analysis of investigation findings. Furthermore, the theory asserts that in addition to the investigator’s knowledge, experience and skills, the techniques and methods deployed to detect fraud are also reflective of the accounting and non-accounting decisions considered by the forensic accountant.

The theory is premised on the following working assumptions:

i. A humane objective, which is to identify and expose suspected matters and make recommendations of corrective actions that deter recurrence.

ii. The corrective actions might include imprisonment and charging of fines.

iii. The forensic investigation findings and outcome should not ultimately result into the demise of the guilty firm or death of the individual convict. This assumption prevents the forensic accountants from seeking the downfall of either the firm or individual being investigated. Hence it is critical as it eradicates the forensic accountant personal judgmental bias as well as preventing forensic accountant personal bias from interfering with the forensic investigation.

In addition to the above assumptions, the following hypotheses were postulated from the forensic accounting theory and then tested to elucidate the accounting and non-accounting considerations that determine how to choose the methods and outcomes of an investigation: Materiality hypothesis; Ability signaling hypotheses; Bonus contract hypothesis; Anonymity hypothesis; and Collapse avoidance hypothesis. The first two hypotheses, materiality, and ability signaling are categorised as accounting decisions whereas the bonus contract; anonymity; and collapse avoidance are categorised as non-accounting decisions. In postulating the forensic accounting theory, Ozili (2020) empirically tested all the above hypotheses.

The insinuation of the theory is that forensic accountants should take into consideration the broad-ranging innuendos of the forensic detection methods they choose in any investigation assignment they are carrying out (Ozili, 2020). Furthermore, forensic accountants should also fathom their working devices and investigative environment, factor in the pertinent accounting and non-accounting considerations, and also consider divergent interests of the forensic accountants and the investigated firms or individuals. This theory is relevant and applicable to this study as it informs the operations of the forensic accountants and safeguards it from being mistakenly recognised as either a branch of accounting or forensic science. The theory confirms that forensic accounting is a profession and not one of any other practices.

**Empirical Literature**

Research has been conducted in the past around forensic accounting with scholars critically examining its role, benefits, and challenges, how best it could be incorporated into the accounting curriculum, and its impact on private and public business enterprises (Emmanuel, n.d.). However, Denhere (2022) shares the view with Alshurafat et al. (2021); and DiGabriele and Huber (2015) that generally there is scarcity of research in this field specifically in the area of the regulation of forensic accounting.

Huber (2012) conducted a research study to investigate the prospect of forensic accounting as a profession independent of accounting. This was after the realisation that in the United States, public accounting was considered a profession because it was defined by statute and also that it fulfilled a remarkable number of sociological criteria that qualify a profession. Huber (2012) had also observed that the escalation in demand for forensic accountants had resulted in a notable increase in forensic accounting certification as well as the number of corporations issuing forensic accounting certification. Furthermore, forensic accounting had been referred to as a niche, i.e., specialised market, within the public accounting profession, but it exhibited a considerable number of the same characteristics of a profession as public accounting. Results of the study revealed that forensic accounting met most of the criteria of a profession among them education, training and continuing professional education; the existence of an organization; certification as symbol; specialized knowledge; examinations; independence, and a code of ethics. However, these attributes were fragmented and some of the attributes such as practical experience necessary to receive certification were partially fulfilled. The study also established that the recognition of forensic accounting as a profession by the public might not yet have been complete, but it could be concluded with relative confidence that forensic accounting is not a niche but a young and perhaps immature profession that needed time to evolve and mature.

Following an adoption of an argument by Huber (2012) that forensic accounting had become a profession, Huber (2013) conducted a study to examine whether the forensic accounting profession and its certification industry should be regulated. This study was prompted by an observation made from a number of recent studies that had brought to the fore remarkable problems that existed inside the forensic accounting profession as well as its certification industry. Some of the problems included failure by forensic accounting firms to publish either their legal status or the qualifications of their practitioners and board of directors, failure to publish financial statements, and also failure to embrace or enforce a Code of Ethics or Standards of Practice. The failures by these firms were worsened by forensic accountants’ failure to assiduously investigate the firms that issued their certifications before enrolling for their qualifications. It was also observed that this scenario led to a notable number of forensic accountants possessing certifications from firms that were contradicting with their beliefs that a forensic accounting firm should be not-for-profit, and their practitioners and board of directors should be qualified. The proposed solutions to the cited problems were not sufficiently evaluated so as to produce a solid recommendation for a solution to be implemented. The results from this study established that the most feasible
solution was for government to enact legislation for the regulation of forensic accounting at national level. The lack of consistency in certification leaves room for compromised quality of service delivered by the forensic accountants in that particular jurisdiction. This resulted in the public not having confidence in the firms.

Another study was conducted by Alhusban et al. (2020) after realising the lack of regulatory provisions for forensic accountants in Jordan and that the profession was exercised indirectly in that country. Alhusban et al. (2020) observed that this lack of regulatory provisions led to minimal quality of service delivery from those non-specialist practitioners in the field. As a result, they conducted a study in which they examined the available regulations, standard laws, and codes of conduct that could guide a forensic accountant in performing forensic accounting services in the country. They also investigated the applicability of the general rules of contract and tort law in addition to the Companies Act in order to provide sufficient protection for forensic accountants in Jordan. The study found that the Jordanian legal system did not recognize forensic accounting as a profession with a specific job title because legally a forensic accountant’s duties and responsibilities in that country were covered by different pieces of legislation such as company law and civil law. Also, in the accounting context, such duties and responsibilities could be offered by experts in the financial field in general and in accounting in particular. These findings are an indicator of the issues and challenges surrounding the profession where differences continue to exist in the way forensic accounting is recognised in different jurisdictions. It also shows the lack of consensus on the real status of this field as well as the perpetuation of its challenges.

Huber (2014) also conducted a study to compare the forensic accounting in the Anglo-American countries and the United States of America. To achieve the objective of the study the researcher first reviewed the constitutional, judicial, legal, regulatory framework of forensic accounting as well as the forensic accounting profession and the forensic industry in the United States of America. The study established that the forensic accounting profession and forensic accounting industry was well established in the U.S but both were unregulated leading to a high degree of variability consistent with the misperception in the market with respect to the status and reputation of the various forensic accounting certifications and the corporations that issue them. The present study employed the methodology that was used in the Huber (2014) study since it is a similar study save that the present one has replaced the Anglo-American countries with South Africa, a developing country in Africa.

The various studies cited indicate the existence of challenges in the forensic accounting field. There are issues and challenges that have to be addressed to reach a consensus on the recognition and regulation of forensic accounting globally. The studies also showed that different jurisdictions treat the field differently as guided by the laws of their land.

Research and Methodology

The paper employed an exploratory review of extant literature on forensic accounting for both South Africa and the United States. The literature search was also conducted on forensic accounting issues, challenges, and controversies. This involved an in-depth review of relevant and current literature on the forensic issues in both countries. Literature searches were conducted from journals from: the electronic databases such as the JSTOR, ScienceDirect, Scopus, and Google Scholar; books on forensic accounting, and government websites for the two countries in question.

The Comparative Criteria

Certification

Certification refers to “the process of providing an individual with an official document attesting to a status or level of achievement,” (Cambridge Dictionary, 2022). Huber (2012) argued that certification on its own is not a symbol of a profession but is just one of the numerous factors linked with a profession and similarly, having an organisation comprising members of a profession on its own is not a symbol of a profession but also another of numerous factors linked with a profession. Furthermore, Huber (2012) highlighted that there are numerous firms as well as numerous certifications in forensic accounting and collectively these might form the basis of forensic accounting as a profession. It should be further noted that the public accounting profession also started with several accounting organisations that in due course evolved into the public accounting profession. According to Huber (2012), it can therefore be acknowledged that “certifications and organizations either alone or together do not make a profession, however, they are a salient part of a profession and therefore a review of both the firms and certifications is necessary in order to conduct a proper analysis”. Different jurisdictions offer various certifications for the forensic accounting profession hence there is a lot of inconsistency in the profession.

Forensic Accounting Certification in the USA

In the USA forensic accounting is a relatively new profession which started at the end of the 20th century following the global corporate fraud cases. In this jurisdiction, in addition to mastering accounting techniques, a forensic accountant must also master specific forensic techniques (Liodorova & Fursova, 2018). After recognition of the forensic accounting as a profession, forensic functions were clearly set out, and formally integrated into the certification and training programmes of professional organisations such as the American Institute of Certified Public Accountants (AICPA), and universities, that would offer certification of forensic accountants (Liodorova & Fursova, 2018). In this jurisdiction, accounting forensic examinations are conducted by certified accountants as a type of service while recognising these professionals by particular profession (Liodorova & Fursova, 2018). Seda and Peterson-Kramer (2014, p. 13) identified “approximately 155 colleges or universities in the U.S. that have degree programs in
forensic accounting, majors or minors in forensic accounting, or certificates in forensic accounting”. In the US, education is inadequate to qualify one as a forensic accountant, hence those intending to become such, have the option to either supplement a degree with a certification or forgo a degree and obtain only a certification (Huber, 2014). The AICPA is not a forensic accounting corporation but issues a forensic accounting certification called ‘Certified in Financial Forensics (CFF)’. Furthermore, to be eligible to receive the CFF, one must be a Certified Public Accountant (CPA) since membership is restricted to licensed CPAs. When one qualifies and is now practising, there is an additional requirement of continuing professional development (CPD) annually (Liodorova & Fursova, 2018).

Table 1 gives a summary of professional associations that provide recognition of forensic or fraud accounting certification in the US:

<table>
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<tr>
<th>Organisation</th>
<th>Focus</th>
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<tbody>
<tr>
<td>American Academy of Forensic Sciences</td>
<td>A multi-disciplinary professional organization which promotes professionalism, integrity, competency, education, foster research, improve practice, and encourage collaboration in the forensic sciences.</td>
</tr>
<tr>
<td>American Accounting Association: Forensic Accounting Section</td>
<td>Promotes the practice of forensic accounting services understanding that these professions often intersect with other professions including.</td>
</tr>
<tr>
<td>American Board of Forensic Accounting</td>
<td>Promotes forensic accounting through education, testing, analysis, and evaluation of the knowledge, skills, and abilities of applicants and to provide certification of applicants in the field of forensic accounting.</td>
</tr>
<tr>
<td>Association of Certified Fraud Examiners (ACFE)</td>
<td>The world's largest anti-fraud organization and premier provider of anti-fraud training and education.</td>
</tr>
<tr>
<td>Institute of Certified Forensic Accountants (ICFA)</td>
<td>Professional body for those committed to the development of the multidisciplinary profession of forensic accounting with the focus on professional values and high ethical standards.</td>
</tr>
<tr>
<td>International Institute of Certified Forensic Accountants (IICFA)</td>
<td>An international organization for Forensic Accounting Professionals globally.</td>
</tr>
<tr>
<td>National Association of Forensic Accountants (NAFA)</td>
<td>Provides training and certification to Certified Public Accountants in various fields of forensic accounting.</td>
</tr>
</tbody>
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Source: Author’s compilation from (Texas Wesleyan University, 2023)

Forensic Accounting Certification in South Africa

Just like in the United States, South Africa has a number of organisations that train forensic accountants and certificate them. However, the Institute of Certified Forensic Accountants of South Africa (ICFA SA) takes the lead in training qualified forensic accountants in the country (ICFA SA, 2022). The Institute of Commercial Forensic Practitioners (ICFP) is another organisation that also has a board of examination which accredits some forensic qualification from other institutions. Accreditation of a programme means that the institution offering the programme complies with the board requirements in terms of having in place the appropriate resources to enable the delivery of the programme at the required levels of quality and standards (ICFP, 2022).

Currently the following ICFP programs are fully accredited with this board:

i. University of South Africa - Postgraduate Diploma in Forensic Auditing

ii. North-West University - Short courses:
   a. Certificate in Commercial Forensic Accounting (CFA)
   b. Certificate in Commercial Forensic Law (CFL)
   c. Certificate in Commercial Forensic Investigation (CFI)
   d. Certificate in Commercial Forensic Information Technology (CFIT)
   e. Certificate in Practice and Fraud Risk Management (PFRM)

In addition to the above two universities, University of KwaZulu Natal also offers a bachelor’s degree in accounting which incorporates forensic accounting courses. There are also other private institutions that offer forensic accounting certificates in South Africa. Examples include South African Institute of Forensic Accountants (SAIFA), and Qhubeka Forensic Sciences.
Table 2: Forensic Accounting Bodies in South Africa

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Focus</th>
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<tbody>
<tr>
<td>The Institute of Commercial Forensic Practitioners (ICFP)</td>
<td>A self-regulatory body mandated by its members to Cohere, Co-ordinate and Regulate the commercial forensic profession in South Africa.</td>
</tr>
<tr>
<td>Association of Certified Fraud Examiners (ACFE SA)</td>
<td>Provides bona fide qualifications for Certified Fraud Examiners through administration of the CFE Examination.</td>
</tr>
<tr>
<td>Institute of Certified Forensic Accountants (ICFA)</td>
<td>Offers an educational program leading to the designation of Certified Professional Forensic Accountant - CPFAcc - issued to qualified graduates.</td>
</tr>
<tr>
<td>South African Institute of Forensic Accountants (SAIFA)</td>
<td>Promotes the Forensic Accounting Profession in South Africa amongst its members and to the public.</td>
</tr>
<tr>
<td>Forensic Accounting Forum</td>
<td>The mandate includes the development of Standard Practices to improve the consistency and comparability of practice amongst Certified Fraud Examiners performing investigative and forensic accounting engagements in their capacity as Forensic Accountants.</td>
</tr>
</tbody>
</table>

Source: Author

Once a practitioner obtains any professional qualification from the above listed certification bodies, they are obliged to complete Continuing Professional Development (CPD) throughout their career in order to keep up the professional competency (ICFP, 2022).

The Profession

The Profession in the USA

According to Huber (2012), back then, forensic accounting could be publicly recognised as a profession, young and immature and needing time to evolve and mature. This position was based on the fact that it fulfilled most of the attributes that qualifies a profession from the attribute model. The attributes fulfilled include “education, training and CPD; the existence of an organization; certification as symbol; specialized knowledge; examinations; a code of ethics; and independence” (Huber, 2012, p. 276). The Association of Certified Fraud Examiners (ACFE) founded in 1988, has contributed significantly towards promoting forensic accounting to become a fully-fledged profession by establishing ethical and professional standards.

The Profession in South Africa

Forensic accounting is an emerging and growing profession in South Africa. Around 2012, the involvement of forensic accountants in the legal process was hampered by a lack of regulation of the profession (Slot, 2012). There were no standards to guide the persons who practised forensic accounting. Consequently, Slot (2012) pointed out that at the time there were no specific experience requirements to qualify oneself as a forensic accountant. This was buttressed by Gerber (2001, p.174) as he outlined the following inadequacies of the South African accounting profession:

i. Any person could freely call themselves a forensic accountant.

ii. There were no rules, restrictions or laws that prohibit anyone from conducting forensic investigations.

iii. No formal training, experience or qualification was required for a person to be called a forensic accountant.

iv. There was no regulation of the profession.

v. There were no professional bodies for this profession.

vi. There was no code of conduct, ethical code, authoritative standards, or guidelines with which a forensic accountant must comply.

These inadequacies led to the founding of the Institute of Commercial Forensic Practitioners (ICFP) on 1 May 2010. This marked the recognition of forensic accounting as a profession.

The Constitutional and Judicial Issues

The Constitutional and Judicial Issues in the USA

The US consists of fifty states, one district, Washington, D.C., which is the capital, and fourteen territories. The powers of the Federal government are not centralised as each state controls its own powers. According to Huber (2014, p. 156), the Bill of Rights in the Tenth Amendment 2013 of the US Constitution states that, “the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.” This implies that the Federal government has no innate power to regulate professions or corporate law, among them the forensic accounting profession. It can only regulate those units that are specifically delegated to it. Regulation of this profession is therefore left to the professional bodies.

Regarding judicial issues, the Supreme Court dictates rules which are then enacted into law for all Federal courts. Each Federal court espouses its own rules which are not law but are in alignment with the Supreme court (Huber, 2014, p. 157). One of the rules was
the Federal Rules of Evidence (FRE) as amended from time to time which was adopted by the Supreme Court and determines who may testify as an expert in a Federal Court. Therefore, the state courts determine their own rules for admitting or limiting scientific or non-scientific testimony by experts. Some Federal courts follow the rules that were set in the Daubert v Kuhlmo landmark case, while others do not (Huber, 2014). Therefore, there is no strict or specific rule that prohibits forensic accountants to be expert witnesses in the courts of law in the U.S.

The Constitutional and Judicial Issues in South Africa

Unlike the US, which is made up of states, a district, and territories, South Africa is just one republic which has one government. In terms of the South African constitution, the government does not directly control a particular profession but instead has delegated the powers to specific professional regulatory bodies. Therefore, each professional body has the powers to control its members.

In South Africa, it is policy that any person possessing relevant evidence needed by the court is compelled to attend that court to provide the evidence (Cook, 1982). This is substantiated by Section 51(1) of the Magistrates’ court Act 32 of 1944 provision as follows, “Any party to any civil or other proceedings where the attendance of witnesses is required may procure the attendance of any witness in the manner in the rules provided.” According to Cook (1982), the same rule also applies for the Civil Proceedings Evidence Act 25 of 1965, as well as the Supreme Court Act of 1959. There is no statutory exception made regarding expert witnesses (Grobler, 2007). This implies that forensic accountants are allowed to play the role of an expert witness in the South African courts. Furthermore, for the use forensic accountants as expert witnesses in the South African courts, a precedence was set in a landmark case of S v Prinsloo (2010) (Slot, 2012). The case demonstrated a remarkable importance of the forensic accountant’s role in the criminal law process. The case is one of the largest cases wherein a forensic accountant provided an expert testimony leading to the convict, Marietjie Prinsloo, being sentenced to imprisonment for a total of 29 010 years. Therefore, in South Africa, forensic accountants are allowed to provide their expertise in the courts of law, just like in the U.S.

The Legal and Regulatory Issues

The Legal and Regulatory Issues in the USA

For a long time, the forensic accounting profession went unregulated. This was as a result of the Tenth Amendment, wherein the Federal government had no power to regulate professions. However, each state regulated the licensing of Certified Public Accountants (CPAs) (Huber, 2014, p. 158). While the states regulated public accounting, they could not regulate both the forensic accounting profession and the forensic industry, hence anyone could call themselves a forensic accountant. However, to get public recognition it was necessary to acquire the necessary symbolic capital by obtaining a degree or certificate in forensic accounting (Huber, 2014, p. 160). The absence of regulation resulted in a high level of variability with a corresponding misperception in the market regarding the reputation and status of the numerous forensic accounting certifications and the issuing corporations. After having observed that the market was failing to assist participants to make well informed decisions, Huber (2013b) called for the regulation of the forensic accounting profession and industry and his call was heeded.

The famous accounting scandals that occurred in the early 2000 saw the introduction of the Sarbanes-Oxley Act of 2002. This Act enacted major requirements for accounting, management, and auditors, and introduced a completely new field of investigation for forensic accountants (Dreyer, 2014; Liodorova & Fursova, 2018). This marked the beginning of the regulation of the forensic accounting. Now the forensic accounting profession is regulated in the US. According to Brachmann (n.d.), forensic accountants are regulated by the U.S. Securities and the Exchange Commission.

The Legal and Regulatory Issues in South Africa

Just like in the US, forensic accounting went unregulated for a long time. Each forensic accounting body would run the profession their own way. This happened up until 2013 when thought leaders from SAICA, ACFE SA, and the University of Pretoria came together and agreed on the development of formal practice standards that would support forensic accountants and the forensic accounting industry in South Africa (Niemann, 2023). The ACFE SA established the Forensic Accounting Forum in 2018 to enact a specialist stream for Certified Fraud Examiners who are practising in the investigative and forensic accounting. This Forensic Accounting Forum is run by a committee consisting members of the ACFE SA interested in investigative and forensic accounting as well as representatives of various accounting professional bodies whose members are also involved in forensic accounting. The Forensic Accounting Forum is mandated to develop Standard Practices that would improve consistency in practice amongst Certified Fraud Examiners involved in investigative and forensic accounting engagements as well as to allow comparability of these.

Basically, the Standard Practices are meant to protect the public by ensuring consistency. They are also a set of principles and guidelines that high point the minimum standard for forensic accountants. The Standard Practices are also a guiding framework for applying professional judgment in forensic accounting engagements and restrain offensive practices. In enacting these standards there was recognition amongst the players that there are complexities in forensic accounting and hence the forensic accountant qualifying criteria was created to add value to a forensic accountant as they need relevant skill sets that integrate fraud examination and accounting knowledge (Mutizwa, 2023). The Forensic Accountant Professional Standard and Qualifying Criteria were launched on 30 June 2023. A lot of work has been done in South Africa to ensure the multifaceted and complex forensic accounting profession is regulated.
Discussion

Certification

In both the US and South Africa, forensic accounting education and training is offered in tertiary institutions at either degree or certificate level. In the US education is not enough to qualify one as a forensic accountant, hence those candidates intending to become forensic accountants either supplement a degree with a certificate in forensic accounting, or simply forgo a degree and just obtain a certification as indicated by Huber (2014). Whereas in South Africa, one can obtain the forensic accounting qualification by enrolling with any tertiary institution that have a forensic accounting qualification accreditation. In South Africa, these tertiary institution qualifications in forensic accounting are accredited with the Institute of Commercial Forensic Practitioners (ICFP) which also has a board of examinations which accredits forensic accounting qualifications from other institutions. However, the ICFA SA takes the lead in training forensic accountants in the country (ICFA SA, 2022). Therefore, in South Africa, one can qualify as a forensic accountant after having studied with a tertiary institution that is accredited to the ICFP or have studied with ICFA SA which is the leading provider of forensic accounting education or ACFE SA. Both countries offer CPD annually to the qualified and practising forensic accountants.

The Profession

In both jurisdictions, recognition of forensic accounting as a profession was based on meeting the attributes that qualified a profession based on the theory of profession by Abbott (1989). In both South Africa and the US, in its early days, forensic accounting satisfied the majority of the attributes and was described as a young, and immature profession which needed time to grow and mature. Therefore, the profession evolved over time to be recognised as a mature profession. This recognition only happened when there was proper certification and regulation of the profession. The inadequacies of the profession prompted the founding of proper examination institutions to promote consistency in the certification.

The Constitutional and Judicial Issues

The geographical orientation of the US is different from the one in South Africa. The US has a number of states and territories which have independent governing powers; hence each state and territory is in control of the forensic accounting profession in their jurisdictions. South Africa is one republic with one government. The government’s position on a particular issue applies across the whole country. Regarding judicial issues on forensic accounting, in the US, the different state courts have the liberty to decide on whether to admit forensic accountants in courts as expert witnesses or not. However, some Federal courts follow the rules that were set in the landmark case of Daubert v Kuhmo, while others do not. Similarly in South Africa, a landmark case of S v Prinsloo (2010) also set a precedence of having a forensic accountant to be an expert witness in court. In addition to the landmark precedence, it is policy in South Africa that any person possessing relevant evidence required by the court is compelled to attend the court to give the evidence (Cook, 1982). This policy provision does not therefore exclude forensic accountants from being expert witnesses in the courts of law.

The Legal and Regulatory Issues

In both the US and South Africa, forensic accounting went unregulated as it was evolving. During the time, the profession was not regulated, there were challenges such as the lack of confidence in the profession by the public, as well as quality issues. Before regulation of the profession, anyone would call themselves a forensic accountant causing a misperception in the market regarding the reputation and status of the forensic accounting certifications and the issuing corporations (Huber, 2013b). In South Africa this went on until 2013 when thought leaders in the field came together and agreed on developing formal practice standards. To date, the forensic accounting profession is now regulated. In the US, the regulation of forensic accounting started with the introduction of the Sarbanes-Oxley Act of 2002. Therefore, in both jurisdictions that were being compared in this study, forensic accounting is currently being regulated.

Implications

Findings from this study confirm that forensic accounting as a profession is beleaguered with challenges and issues. With the differences noted on the status of the profession regarding the certification; constitutional and judicial issues; as well as the legal and regulatory issues, the implication is that challenges such as lack of consensus on the entry requirements and certification of the profession, and lack of consensus on the teaching pedagogies of forensic accounting mentioned earlier on still persist. With these differences, it would be difficult for forensic accountants from one jurisdiction to get employed in another jurisdiction without converting their qualifications and probably doing extra courses to meet the requirements of a particular jurisdiction. There is still a need for the harmonisation of the profession in terms of certification to enable forensic accountants to work across the globe. Furthermore, according to Huber (2013), the lack of consistency in certification leaves room for compromised quality of service delivered by the forensic accountants in a particular jurisdiction resulting in the public not having confidence in the firms. With the increase in globalisation, forensic accounting professionals, professional bodies, and policymakers should still pursue the harmonisation of certification of the profession. This will also assist the public in gaining confidence with the profession and then recognising it also.
Conclusions

A number of studies confirmed the existence of issues and challenges surrounding the forensic accounting field. The issues and challenges varied according to jurisdiction. This paper undertook to compare the state of forensic accounting between a developed and a developing country. The paper looked at the state of forensic accounting in the US and South Africa and based the comparison on the following criteria: certification; the profession; the constitutional and judicial issues; and the legal and regulatory issues. The paper found that both South Africa and the US, though classified under different stages of economic development, have a similar status of the forensic accounting profession based on one out of the four comparative criteria issues namely, the profession issues. Differences were noted on the certification; constitutional and judicial issues; as well as the legal and regulatory issues. Regarding certification, in the US, in addition to education from tertiary institutions in forensic accounting, one still needs to supplement a degree with a certificate in forensic accounting, whereas in South Africa, one can obtain the forensic accounting certification after having studied with a tertiary institution that is accredited to the ICFP or have studied with ICFA SA which is the leading provider of forensic accounting education or ACFE SA. To date the profession is regulated in both jurisdictions but it happened in 2000 in the US and 2013 in South Africa. On the constitutional and judicial issues, the difference was that in the US, each state and territory had powers to decide on whether to admit forensic accountants into the courts as expert witnesses or not while in South Africa policy allows everyone who has the required evidence to be allowed into the court as an expert witness. However, despite this difference, the two jurisdictions in this issue still share the precedencies that were set by landmark cases that would guide in seeing the importance of allowing forensic accountants to be expert witnesses in the courts of law. It can therefore be concluded that the similarity in forensic accounting profession status for the two jurisdictions is based only on the profession criteria with differences emanating from the certification; constitutional and judicial; and legal and regulatory issues. The paper recommends more studies on comparing other jurisdictions because extant literature still alludes to unresolved issues and challenges on forensic accounting in some jurisdictions.

Limitations of the Study

Due to its dependency on existing literature sources, one of the limitations of this study could be outdated or inaccurate information due to the possibility of missing recent developments or unpublished data. Furthermore, the study could also have suffered from the narrow focus of the review of existing literature which may not cover all aspects and complexities of the comparative criteria used in the study. Another limitation of this study could be an inadequate depth or insight into other comparative criteria that would show more differences or similarities of the status of the forensic accounting in the two economies. Empirical studies on the research topic would improve the research findings since these would allow collection of current information prevailing on the ground from the relevant people.

Acknowledgments

I would like to acknowledge my host Professor Tankiso Moloi for mentoring me and teaching me how to do academic writing.

Author Contributions: Conceptualization, Methodology, Data Collection, Formal Analysis, Writing—Original Draft Preparation, Writing—Review And Editing by author. Author has read and agreed to the published the final version of the manuscript.

Institutional Review Board Statement: Ethical review and approval were waived for this study, due to that the research does not deal with vulnerable groups or sensitive issues.

Data Availability Statement: The data presented in this study are available on request from the corresponding author. The data are not publicly available due to privacy.

Conflicts of Interest: The author declares no conflict of interest.

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