

## How satisfactory is the law on voluntary manslaughter?

Voluntary manslaughter, as established by the Homicide Act 1957, is determined by three sections: diminished responsibility, provocation, and suicide pact.

Diminished responsibility is established by Section 2 of the Homicide Act. It may be used as a defence to murder if the defendant can prove an abnormality of the mind (if, for example, the defendant is an alcoholic, or has a mental condition as in **R v Byrne**, where the defendant had uncontrollable sexual desires.) The defence is that the defendant does not have the necessary control over their actions, when compared to a reasonable person.

Diminished responsibility has been criticised for a number of reasons:

- The very term 'Diminished responsibility' has been criticised by authorities such as the Butler Committee, who say that it is 'not a medical fact relating to the accused'. It was suggested by them that 'a person should not be convicted of murder if there is medical or other evidence that they were suffering from a form of mental disorder'. The criminal law committee agreed with this, but were not happy with the wording, suggesting that instead it should be:
- 'The mental disorder was such as to be a substantial enough reason to reduce the offence to manslaughter.'
- There is a danger for the accused when using it, because the prosecution sometimes responds by arguing that the defendant is insane.
- This defence can also be used for political reasons, as in so-called 'mercy killings', where often the prosecution will accept diminished responsibility as a defence, to avoid public outcry.
- This has also occurred the other way around, in the 'Yorkshire Ripper' case, **R v Sutcliffe**, as the defendant was refused the defence and convicted of murder due to public opinion.

Provocation, as defined in s3 of the Homicide Act 1957, allows the defendant to be convicted of manslaughter instead of murder if they can prove that they were

provoked by something said or done by the victim, and that a reasonable person would have reacted in the same way.

- This defence has been criticised as discriminating against women, due to the phrase 'a sudden and temporary loss of control'. Helena Kennedy, QC describes a woman's loss of self-control as quite different to a man's. A man is likely to react suddenly where as a woman is more likely to have more self control over her actions but react later to a series of events. This has been illustrated in the cases of *R v Thornton*, and *R v Ahluwalia*, both cases of the now recognised 'battered woman syndrome'. In these cases, women who had been abused for years finally killed their husbands, but with a lapse in the time between their victim's 'provocation', and the killing. In the case of *Ahluwalia*, the defendant, was convicted after a failed defence of provocation, and then released after a successful plea of diminished responsibility, following the acceptance of 'battered woman syndrome'.
- However, the acceptance of this defence has caused concerns that it will give women 'a licence to kill', using a defence of 'slow burn'. This is not really a realistic criticism, as it ignores the fact that the successful raising of this offence still leads to a manslaughter conviction, with a possible custodial sentence, not an acquittal.
- It has been suggested that this development is not enough to even the stakes between men and women, and that Britain should follow the example of Australia, by allowing the defence of provocation to be used regardless of the time lapse between the provocation and the death of the victim.
- Women's campaigners have suggested that a defence of 'self preservation' should replace that of provocation for both men and women, to reduce liability to manslaughter. This would not be the same as pleading self-defence, which would lead to an acquittal, but rather a partial defence, which would allow society to mark its disapproval of killing.

### Suicide Pact

This dependence is very rarely used, but may arise if there is a common agreement between two or more persons (including the Defendant) that both or all of them should die. If in pursuance of this agreement, and intending his own death, the Defendant kills one or more others but fails to kill himself, the Defendant may be guilty of manslaughter rather than murder.

- The main criticism when dealing with the Suicide Pact is deciding / the burden of providing the existence of the pact and his own intention to carry it out.