

The Defence of Loss of Control within the Coroners and Justice Act 2009: A Critical Discussion

Authors : Bader A. J. Alrajhi

Abstract : The 'loss of control' defence to murder as enacted in the Coroners and Justice Act 2009 (CJA) represents a legislative effort to bring greater coherence to an aspect of UK homicide law that has vexed several generations of jurists, practitioners, and academic commentators. The analysis developed in this paper illustrates that the loss of control defence as defined in CJA sections 54 and 55 is a laudable initiative; its fuller assessment must await further appellate court determination before a definitive conclusion of its utility is possible. The CJA amendments tend to embrace a legitimate policy that those who found to be provoked by the activities of others to lose their self-control should be dealt with in a different way than those who commit intentional killings when motivated by their own desires or pursuit of gain. However, the 2012 Court of Appeal decisions rendered in the Parker troika of cases, provide useful direction as to how the law is likely to be applied. It shows an attitude in the Court of Appeal that the whole circumstances that challenged the defendant must be examined. The Court of Appeal has introduced an important ingredient into the potential use of sexual infidelity as a section 55 trigger - it is not a permissible stand-alone factor, but it may legitimately form part of an entire qualifying trigger circumstance.

Keywords : loss of self-control, Coroners and Justice Act 2009, provocation, diminished responsibility

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