

Honour Suicide and Forced Suicide in the UK

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journals.sagepub.com/home/clj**Mukaddes Gorar**

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Abstract

The article aims to explore the phenomenon of suicide in relation to honour based violence (HBV). Although HBV is explored in depth in relation to honour killing, forced marriage and female genital mutilation, its link and manifestation in the form of suicide has not been discussed in existing literature. This article examines how suicide can manifest itself in honour based patriarchal communities as either honour suicide or forced suicide. Although both forms of suicide are carried out as a result of HBV, there is a crucial difference between them and this needs to be identified and distinguished to hold perpetrators accountable before the law. Honour suicide and forced suicide both occur in honour based patriarchal communities and such practices spread around the world via immigration; hence the UK is not immune from this. Due to the complexity of the incidents and vulnerability of the victims, honour suicide and forced suicide are likely to be unreported and unrecognised by the legal system. Therefore, the discussion in this article will look at the national law in England and Wales related to suicide and critically examine whether it can address instances of honour suicide and forced suicide if they occur under its jurisdiction. Accordingly, it will suggest law reforms to address effectively the issue of suicide committed as a result of HBV and abuse.

Keywords

Honour suicide, forced suicide, honour based violence, suicide, UK law

Introduction

This article aims to explore the phenomenon of suicide in relation to honour based violence (HBV). It will examine how suicide can manifest itself in honour based patriarchal communities as either in the form of honour suicide (honour based suicide) or forced suicide. Although both forms of suicide are carried out as a result of HBV, there is a crucial difference between them which needs to be identified and distinguished to hold perpetrators accountable.

Although honour based suicides are widespread in honour based patriarchal communities, they are not specific to one country, culture, or religion. HBV is a form of gender based violence as well as a sub

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specific of domestic violence (DV).¹ Both, DV and HBV are capable of inducing their victims to commit suicide.² Empirical research conducted in 2018 on domestic abuse and suicide, involving a sample of more than 3500 of a Refuge's clients, illustrated worrying statistics: 24% of the participants had felt suicidal at one time or another, 18% had made plans to end their lives and 3.1% had made at least one attempt.³ This Report highlights the prevalence of suicidal ideation and attempts at suicide among domestically abused victims in the UK. It supports existing research by illustrating a significant association between the experience of domestic abuse and its negative psychological effects on victims.⁴ Similarly, in a recent submission of evidence to Parliament by Southall Black Sisters, BAME regarding migrant women's vulnerability to several type of abuses including domestic homicide, 'honour' killings and suicide were acknowledged.⁵ According to research, the number of attempted or successful suicides is up to three times higher among British Asian women than the national average in the UK, especially among those aged between 15 and 24 years old.⁶ This is the age group mainly exposed to other types of HBV such as arranged or forced marriage. Another empirical research added that 12.9% of HBV victims in South Asian community, had attempted suicide at the time of the research.⁷

Honour suicide and forced suicide both occur in honour based patriarchal communities and such practices have spread around the world via migration and into second generation communities where cultural norms and justifications for conduct and expectations of women's behaviour have been passed down through generations. Due to the complexity of incidents and the vulnerability of victims, honour suicide and forced suicide are likely to remain unreported and unrecognised by the legal system. In the absence of any recorded cases specific to HBV related suicide in the UK, literature on DV related suicide will be considered as analogous. In discussing HBV induced suicides, cases from different countries will provide evidence illustrating how both types of suicide are manifested.

DV and HBV are both considered as examples of gender based violence as they are mainly directed at women and girls and perpetrated mostly by men in order to control female behaviour.⁸ Both types of violence have similarities as well as differences but there can also be a transitional relationship between them where DV can transfer itself to HBV.⁹ As acknowledged by Munro and Aitken, despite evidence suggesting a significant relationship between domestic abuse and suicidality, and notwithstanding the fact that domestic homicides perpetrated by abusive partners are an ongoing priority and a source of concern to the criminal justice system, the issue of domestic abuse related suicide has received remarkably little attention from the state.¹⁰

The discussion in this article will look at the existing national law in England and Wales relating to involuntary manslaughter and suicide and critically examine whether it can address instances of honour suicide and forced suicide effectively. This article will also consider how HBV can contribute to a victim's suicide as well as considering relevant cases of DV leading to suicide. In addition to

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1. R Reddy, 'Domestic Violence or Cultural Tradition? Approaches to "Honour Killing" as Species and Subspecies in English Legal Practice' in AK Gill et al. *'Honour' Killing & Violence* (Palgrave MacMillan 2014) 29.
 2. UN News, 'Forced marriages, domestic violence contributes to female suicide in Turkey – UN expert' (1 June 2006).
 3. R Aitken and VE Munro, 'Domestic Abuse and Suicide Exploring the Links with Refuge's Client Base and Work Force' (2018) 2 Refuge and Warwick aw School.
 4. Ibid 3.
 5. Written evidence submitted to Parliament Committees by Southall Black Sisters (COR0082) points 3 and 10 (April 2020).
 6. GA Gregory et al., 'Honour-based Violence: Awareness and Recognition' (2020) 30(11) Paediatrics and Child Health; B Ineichen, 'Suicide and Attempted Suicide among South Asians in England: Who is at Risk?' (2008) 5(3) MentHealth Fam Med.
 7. R Khan, S Saleem and M Lowe, "'Honour"-based violence in a British South Asian community' (2018) 17(1) Safer Communities Journal 16.
 8. M Gorar, *Honour Based Crimes and the Law: Defining the Limits of Honour Based Violence and Abuse* (Routledge 2021) 35.
 9. Ibid.
 10. VE Munro and R Aitken, 'Adding Insult to Injury? The Criminal Law's Response to Domestic Abuse – Related Suicide in England and Wales' (2018) 732 Crim LR.

this, the Suicide Act 1961 will be examined and, accordingly, this article will suggest law reforms to effectively address the issue of suicide committed as a result of HBV.

Honour Suicide

Honour suicide can be defined as follows:

‘Where ‘honour’ killings are robustly prosecuted, families may deploy a strategy of forcing women to kill themselves in order to remain technically innocent of murder. This is particularly associated with regions of Turkey; however, it may not be clear in any country whether an individual woman has committed suicide due to direct coercion, to spare her brother the jail sentence he might face as her murderer, whether an outright murder has been disguised as self-killing, or whether a woman has killed herself due to the unbearable pressures of the restrictions upon her life and her family’s disfavour or abuse.’¹¹

This is an umbrella definition which aims to define honour suicide but it does not distinguish between forced suicide and honour suicide. In honour based patriarchal societies, familial honour is an important concept and is codified into customary law.¹² When a woman or girl (actually or allegedly) infringes honour codes, this act will be perceived as dishonouring her family and community. As a result, she may choose to kill herself rather than live with the stain of betraying these codes.¹³ In such suicides, the amount of psychological abuse and pressure that the victim endures needs attention and consideration to bring perpetrators to justice. The reasons for alleged acts of dishonour can be simple such as being a victim of rape, seeking a divorce, exercising sexual freedom, being gay (sexual orientation), falling in love, a westernised life style such as going to the cinema, wearing jeans or even requesting a song on a radio programme.¹⁴ Such incidents of this behaviour produce a heightened sense of shame in women who are required not to bring shame upon their family.¹⁵ In the case of any allegation, families do not even have to seek for evidence that any alleged or perceived immoral or shameful behaviour took place. ‘Women in [honour based patriarchal] societies can be killed like hens: they have no way of escape and no say in what happens to them’.¹⁶ Honour crimes, particularly honour killings are presented and perceived by the perpetrators and their community as ‘wiping away the shame’ and ‘cleansing the family honour and as a way of wiping away a ‘stain’ on the family name. Ironically, such a cleansing process is achieved through the spilling of blood.¹⁷ This was illustrated in the case of 16 year-old Heshu Younes who became a victim of honour killing in West London in 2002.¹⁸ Heshu had a Christian boyfriend, and her father feared she was becoming westernised. She was stabbed by her father 17 times leading to her death.

It is important to note that members of honour based patriarchal communities may internalise gender biased values such as accepting that women’s behaviour and sexual autonomy should be controlled by their family and community. Growing up in a patriarchal community, women may internalise their

11. Honour Based Violence Awareness Network <<http://hbv-awareness.com/forms-of-hbv/>> [10/10/2021].

12. M Gorar, *Honour Based Crimes and the Law: Defining the Limits of Honour Based Violence and Abuse* (Routledge 2021); M Gorar, ‘Female Sexual Autonomy, Virginity, and Honour-based Violence with Special Focus on the UK’ (2021) 22(5) *Journal of International Women’s Studies*.

13. LL Osterman and RP Brown, ‘Culture of Honor and Violence Against the Self’ (2011) 37(12) *Personality and Social Psychology Bulletin*.

14. L Perzivat, ‘Namus, Tore, Kadin’, *Edebiyat, Sanat, Kultur 6 Numara*; M Gorar, *Honour Based Crimes and the Law: Defining the Limits of Honor Based Violence and Abuse* (Routledge 2021); J Brandon and S Hafez, *Crimes of the Community: Honour-based Violence in the UK* (Centre for Social Cohesion 2008).

15. AH Jafri, *Honour Killing* (OUP 2008).

16. Pakistan Violence Against Women, Amnesty International September 1999:1.

17. N Begikhani et al., *Honour-based Violence, Experiences and Counter-Strategies in Iraqi Kurdistan and in the Kurdish Diaspora in the UK* (Ashgate Publishing Ltd 2015) (Ashgate 2015) 32.

18. R v Abdulla Younes, Central Criminal Court (27 September 2003).

subordination and accept that they should be treated in that way. As a result, they may not perceive such violence as a form of abuse.¹⁹ As submitted by Begikhani, ‘many women in patriarchal societies believe that they are not full human beings and/or that they are not equal to their male counterparts.’²⁰ The culmination of all such feelings as well as the influence of family members and society play a significant part in covering up honour crimes as both family members and society may think that the victim deserves the punishment, thus setting an example to their daughters that if they dare to infringe honour codes they will receive the same punishment.

In most incidents, it is women, most commonly the mother of the victim, who instigate the murder or keep it secret.²¹ As acknowledged by Kandiyoti, as a result of women internalising their inferiority, of patriarchal bargaining, or both, women are often taking an active role in oppression and the subjugation of themselves and their female family and community members.²² This was illustrated in the murder of 19 year old Ruksana Naz who was the victim of an arranged marriage at the age of 15. She wanted to divorce her husband and to marry her lover whom she was pregnant by. When the news of this reached her family, she was strangled by her mother and brother after refusing to have an abortion.²³

The explanation of a woman’s role as a perpetrator in honour crimes involves complex issues. Most of the women in honour based patriarchal communities are often financially dependent on their husbands and sons and, therefore, they perceive their job as ensuring that their husband’s or son’s reputation is not tarnished. When the family plays a central role in the suicide of the victim, it is inevitable that there will be evidential difficulties in the absence of witnesses. However, there are certain indicators that need thorough investigation (such as a victim’s ethnic background) as to whether the victim was subject to HBV.

Honour killings are more straight forward when identifying the perpetrators and establishing criminal liability. However, when a HBV victim commits suicide, although the above mentioned internalised gender biased values are central to a victim’s decision (in other words, honour based oppression and abuse has driven the victim to take her own life), it can be said or perceived that, in this instance, honour suicide is being carried out as a result of a victim’s own will and the perpetrators contribution to her death remains unidentified.

Forced Suicide

Forced suicide is at the extreme end of honour suicide and could be considered as murder. It is a form of honour killing where a female member of society violates the alleged honour codes of that society by bringing shame to her family. In order to be technically innocent of murder, families force the victim to commit suicide.²⁴ The victim is locked in a room with a weapon (knife, gun or rope) and ordered by family or relatives to take her own life. The door is not opened until she has killed herself.²⁵ Like honour killings, forced suicides are the choice of a family and imposed on a victim by the family.²⁶

19. M Gorar, *Honour Based Crimes and the Law: Defining the Limits of Honor Based Violence and Abuse* (Routledge 2021) 25.

20. N Begikhani et al., *Honour-based Violence, Experiences and Counter-Strategies in Iraqi Kurdistan and in the Kurdish Diaspora in the UK* (Ashgate Publishing Ltd 2015) 30.

21. N Keyhani, ‘Honour Crimes as Gender-based Violence in the UK: A Critical Assessment’ (2013) 2(1) UCL Journal of Law and Jurisprudence 260.

22. D Kandiyoti, ‘Bargaining with Patriarchy’ (1988) 2(3) Gender and Society 279.

23. R v Naz [2000] EWCA Crim 24.

24. HBV Awareness Network <<http://hbv-awareness.com/forms-of-hbv/>> [15/10/2020]; AK Uskul and SE Cross, ‘The Social and Cultural Psychology of Honour: What Have We Learned from Researching Honour in Turkey?’ (2019) 30(1) European Review of Social Psychology 42.

25. UN probes Turkey ‘forced suicide’ <<http://news.bbc.co.uk/1/hi/world/europe/5010892.stm>> [12/10/2020]; Z Livaneli, *Bliss* (Thorndike Press 2002).

26. I Potts, ‘Forced suicide; laws drive murder into suicide in Turkey’ (22 March 2010), Middle East Society and Culture; I Potts, ‘Turkish Women Victims of Family Conspiracies’ (27 March 2011) Weekender.

Forced suicides are likely to be presented as honour suicides (committed voluntarily by the victim) or as 'accidental' deaths²⁷ carried out by the perpetrators to escape criminal liability.²⁸

The Turkish case of Elife Atlihan's suicide illustrates forced suicide. Elife was raped by her cousin at age 15 and became pregnant. The cousin denied the accusation and Elife was handed a rope by her mother and told to kill herself. Her brother was given the job of making sure that Elife committed suicide. He helped her set the chair in the right position and left the room. The Turkish court convicted the brother and mother of murder and imposed a life sentence. The cousin who had committed the rape was also convicted.²⁹

The law on honour killings in Turkey went through a major amendment and the new penal code took effect in June 2005. Until then, honour killings were considered to be crimes of extreme provocation and sentences were often minimal. Under Article 463 of the old code, the length of a prison sentence was reduced by one eighth, when a killing was carried out immediately before, during or straight after a situation of anticipated adultery or fornication. When the case of Elife was decided in 2003, although the existing penal code allowed a defence of provocation for a reduced sentence, the court followed the prosecutor's view that the Constitution's equality clause prohibited a reduced sentence on honour killings since the victim was raped and impregnated. This decision reflects a 'human rights-sensitive approach by judicial decision makers [who] can compensate for deficiencies in the law itself and underlies the importance of human rights and gender-sensitivity training for professionals.'³⁰ That is a crucial point in patriarchal countries like Turkey where enforcement of the law is in the hands of heavily male gendered professionals. In forced suicides, although it is very easy to see the connection between the perpetrator's act (such as in the case of Elife's suicide where her brother set the chair in the right position and made sure that she committed suicide) and the victim's suicide (Elife stood up on that chair and hanged herself), from a legal point of view it does not fit within other homicide parameters due to the causation rule (which will be discussed further down).

Although the facts are different from the above case, the inclusion of pressured suicide into manslaughter charges has attracted global attention in the US case of Conrad Roy. Conrad committed suicide following encouragement and pressure from his long-distance girlfriend, Michelle Carter, in what has become known as the Texting Suicide case.³¹ Carter was convicted by the judge of involuntary manslaughter mainly on the basis of her final phone call in which she ordered Roy to carry on with the final act of killing himself (i.e. in her final phone call, she ordered Roy, who had become scared, to go back inside his truck as it filled with lethal carbon monoxide). Although the law allows a maximum prison term of 20 years, he sentenced her to 15 months in prison followed by probation and released her until the appeal was concluded. Following an appeal, the Supreme Judicial Court of Massachusetts unanimously upheld the conviction and Carter began serving her prison sentence.³² Despite the fact that Massachusetts has no law against assisting or encouraging suicide, prosecutors instead relied on its law against the offence of involuntary manslaughter. In the UK, the Suicide Act 1961, section 2 provides criminal liability to those 'assisting and encouraging' others to commit suicide. This will be discussed further down alongside discussions on manslaughter law.

27. UN Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Implementation of General Assembly Resolution 60/251, A/HRC/4/34/Add.2, 5 January 2007, p. 12; LL Osterman and RP Brown, 'Culture of Honor and Violence Against the Self' (2011) 37(12) *Personality and Social Psychology Bulletin*.

28. HBV Awareness Network <<http://hbv-awareness.com/forms-of-hbv/>> [15/10/2020].

29. UN Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Implementation of General Assembly Resolution 60/251, A/HRC/4/34/Add.2, 5 January 2007, p. 12.

30. *Ibid.*

31. M Tunick, *Texting, Suicide, and The Law* (Routledge, Oxon 2019).

32. *Ibid.*

Suicide Committed as a Result of HBV (Honour Based Suicide)

Intense honour based patriarchal control and practices often play a key role in the suicide of women and girls³³ and, therefore, honour based oppression and coercion may be a primary cause of that suicide. For example, Turkey is one of the countries where honour based suicide is widespread and has been internationally acknowledged.³⁴ It was investigated in 2007 by a special UN envoy who concluded that ‘in the absence of adequate State protection, suicide may be the only option for women to escape extreme violence and oppression’.³⁵ When examining the country report of Turkey, under its CEDAW 1979 obligations in 2016, the Committee on the Elimination of Discrimination against Women repeated the existence of forced suicide incidents. Accordingly, their concluding observations on the seventh periodic report of Turkey expressed a continuing concern on this matter.³⁶

As submitted by Osterman and Brown, adherence to strictly defined gender roles as well as hypersensitivity to reputational threats are root causes of interpersonal violence and may lead individuals who live in honour based patriarchal communities to consider death as an option.³⁷ In such communities, the expectations are different for women than for men. Women are expected to conform to the role of good or virtuous women, namely, staying virgin, being sexually chaste and loyal. Failure to comply is not only perceived as destroying their own self-worth and reputation, but also the reputations of their family.³⁸ In honour based patriarchal communities, protecting the familial honour is crucial and such an expectation is codified into customary law. A family as well as a community feel obliged to ensure that the code of honour is observed by its members.³⁹ As explained earlier, any transgression is seen as a stain on the entire family and society. Therefore, they feel that the stain has to be cleansed at any cost, if necessary through murder.⁴⁰ Under these circumstances, families have all the power and control over the victim to either force them to commit suicide or successfully disguise murder as suicide.⁴¹ Thus, honour suicide and forced suicide are emerging in society as alternatives to honour killing.⁴²

This was illustrated in Turkish cases where many of the women who had died were allegedly the victims of forced suicides. In other words, they were pushed to kill themselves by their husbands or relatives to cleanse a perceived offence against family honour. Bilefsky provides an example of a 17 year old girl called Derya who fell in love with a boy she had met at school. She received repeated text messages, fifteen times per day from her uncle to kill herself and these messages were served as a death sentence.

33. ‘Forced marriages, domestic violence contributes to female suicide in Turkey – UN expert’ (1 June 2006) <https://news.un.org/en/story/2006/06/180982-forced-marriages-domestic-violence-contribute-female-suicide-turkey-un-expert> [15/10/2020].

34. BA Corbin, ‘Between Saviors and Savages: The Effect of Turkey’s Revised Penal Code on the Transformation of Honor Killings into Honor Suicides and Why Community Discourse is Necessary for Honor Crime Eradication’ (2014) 29 *Emory International Law Review*; UN Urges Turkey to Probe Claims of Forced Suicide Among Women, KURD NET (May 1, 2006); UN News, ‘Forced marriages, domestic violence contribute to female suicide in Turkey – UN expert’ (1 June 2006); D Bilefsky, *How to Avoid Honor Killing in Turkey? Honor Suicide*, New York Times (July 16, 2006).

35. UN Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Implementation of General Assembly Resolution 60/251, A/HRC/4/34/Add.2, 5 January 2007, p. 14.

36. CEDAW/C/TUR/CO/7 (25 July 2016): Killings and forced suicide in the name of so-called ‘honour’ points 34–35.

37. LL Osterman and RP Brown, ‘Culture of Honor and Violence Against the Self’ (2011) 37(12) *Personality and Social Psychology Bulletin*.

38. *Ibid*; M Gorar, ‘Female Sexual Autonomy, Virginity, and Honour-based Violence with Special Focus on the UK’ (2021) 22(5) *Journal of International Women’s Studies*.

39. E Bozkurt, Report on Women’s Role in Social, Economic and Political Life in Turkey’ adopted by the European Parliament on 13 February 2007, at para.26.

40. UN Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Implementation of General Assembly Resolution 60/251, A/HRC/4/34/Add.2, 5 January 2007, p. 8.

41. *Ibid* 12.

42. A Corbin, ‘Between Saviors and Savages: The Effect of Turkey’s Revised Penal Code on The Transformation of Honor Killings Into Honor Suicides And Why Community Discourse Is Necessary For Honor Crime Eradication’ (2020) 29 *Emory International Law Review* 278.

The message stated: 'You have blackened our name. Kill yourself and clean our shame or we will kill you first'.⁴³ She received these threatening messages. A precedent had already been set in the family where Derya's aunt had been killed by her grandfather for seeing a boy. Derya said that 'I felt I had no right to dishonor my family, that I have no right to be alive. So I decided to respect my family's desire and to die'.⁴⁴ The overpowering shame and guilt forced her to commit suicide, she jumped into river. However, her attempt failed and she survived. Derya was determined to fulfil her family's wishes, so next she tried to hang herself; but a relative saved her life. Finally, Derya slashed her wrists with a knife. She ultimately survived her three suicide attempts, however, her story illustrates a frightening trend in Turkey how honour suicides take place as an alternative to honour killings.⁴⁵

Women are held accountable whenever honour issues are involved and this is shown in many cases around the world. For example, Amina Filali's case illustrates this clearly. Amina was 15 year old when she was raped in Morocco by a man 10 years older than herself. The case went to court and the judge recommended that the couple marry. This would enable her honour to be restored and her rapist would escape a lengthy jail sentence. For Amine, there was no choice and she married her rapist. However, shortly after, she committed suicide by drinking rat poison in 2012.⁴⁶ Prigmore and Walter provide further examples such as the suicide of Adyru Begum (died in 2010), Mitu Molla and Soud Sheikh (died in 2012) in Bangladesh, Gul Rukh (died in 1976) and Fariba (died in 2007) in Afghanistan.⁴⁷ These cases illustrate the interaction between different types of honour crime: rape leading to a forced marriage, and forced marriage ending in suicide. This can also occur without rape being involved where forced marriage leads to suicide. All of the cited cases support the view that there is a strong causal relationship between honour crimes and suicide.

All these young women mentioned above (forced marriage victims who eventually commit suicide) do not necessarily suffer from any psychiatric illness. The responsibility for these cases of suicide can be placed in the victim's adherence to the belief, culture and tradition of the society. Fawcett and Waugh submit that 'experiences of oppression, disempowerment, disconnectedness, physical and psychological abuse are frequently linked with violence against the self'.⁴⁸ These all contribute to psychological risk factors which play a role in the suicide of those victims who are not suffering from any mental illness. Pridmore and Walter stress that 'environmental and social events such as loss of health reputation and wealth may lead to not only psychiatric illness but also to suicide in the absence of mental disorder'.⁴⁹ The above mentioned cases illustrate how rape and forced marriage in themselves may lead to suicide. The motivation for suicide may be to escape the attention of a disliked man, the loss of an ideal future, loss of self-autonomy, a feeling of entrapment⁵⁰ feeling worthless and unimportant⁵¹ or any similar unacceptable life circumstances.

Some cases of HBV such as honour killing, forced marriage and female genital mutilation are well documented and efforts have been to tackle the problem in the UK. The Association of Chief Police Officers reports that there are twelve suspected honour killings in the United Kingdom each year.⁵² According to research, British South Asian women between the ages of 15–24 years (which is the age group when

43. D Bilefsky, 'How to Avoid Honor Killing in Turkey? Honor Suicide', New York Times, 16 July 2006.

44. BA Corbin, 'Between Saviors and Savages: The Effect of Turkey's Revised Penal Code on the Transformation of Honor Killings into Honor Suicides and Why Community Discourse is Necessary for Honor Crime Eradication' (2014) 29 Emory International Law Review 278.

45. Ibid.

46. Morocco protest after raped Amina Filali kills herself, BBC News (15 March 2012).

47. S Pridmore and G Walter, 'Suicide and Forced Marriage' (2013) 20(2) Malays J Med Sci 47–51.

48. B Fawcett and F Waugh, *Addressing Violence, Abuse and Oppression* (Routledge 2008) 154.

49. S Pridmore and G Walter, 'Suicide and forced marriage' (2013) 20(2) Malays J Med Sci 47–51.

50. Ibid.

51. B Fawcett and F Waugh, *Addressing Violence, Abuse and Oppression* (Routledge 2008).

52. 'Domestic Violence, Forced Marriage and "Honour"-Based Violence', Home Affairs Select Committee, House of Commons, Sixth Report of Session 2007–08, p. 17.

most forced marriage incidents take place) are significantly more likely to self harm than white women.⁵³ Although the suicide rate is high in British South Asian women, there is no information on whether there are any reported or unreported forced suicide killings in the UK. However, the absence of such data may not necessarily mean that honour and forced suicides do not occur. If other types of HBV such as honour killing and forced marriage are occurring, it may be the case that honour and forced suicide are also happening but remain unidentified, such as the attempted suicide victim, Nooshen Azam and suicide of Krishna Sharma (both discussed below). Since honour killings are robustly prosecuted, forced suicide becomes more relevant where families force women to kill themselves in order to remain technically innocent of murder.⁵⁴ Alternatively, families may kill them and disguise the deaths as suicides or accidents.⁵⁵

The Case of Nosheen Azam

The case of Nooshen Azam is an example illustrating the relationship between HBV and suicide in the UK. Nooshen's case involved an attempted honour suicide. She was new to this country and trapped in an abusive marriage. There was no support given by her parents which might have allowed Nosheen to escape from the situation (such as seeking a divorce). In patriarchal communities, families do not often encourage their daughter to divorce. By doing so, they avoid facing cultural oppression and the shame of having a daughter back at home as a divorcee.⁵⁶

23 year old Nosheen had come to the UK from Pakistan to live with her British Pakistani husband. After a short while, she started complaining to her family that she was being abused by her husband's family. Her father Mohammed said that Nosheen had told them that she was frightened for her life and on that day she was found in flames in her garden in Sheffield, in 2005. Her suicide attempt failed and she was left brain-dead with over 60% burns.⁵⁷ As Nosheen is unable to talk, nobody knows whether someone tried to murder her by setting her on fire, whether she was forced into taking her own life or whether she committed suicide under her own will feeling that suicide was a better choice than the situation she found herself in.

Nosheen's case was treated as an attempted suicide case and, therefore, was not investigated. The issue of honour pressure in her suicide was not taken into consideration. Patel argued that, 'there has been no concerted effort to discover what drove Nosheen to attempt to take her own life [and] if she had died, there would at least have been an inquest'.⁵⁸ She further stated that, 'there is no motivation for the police to investigate whether it is a case of provable encouragement to suicide, despite that being nearly the same thing as murder'.⁵⁹

In suicide cases in Britain, prosecutions are rare. Only the coroner's court can compel investigations into suicides. In the absence of an investigation, perpetrators escape criminal liability. Following Nosheen's case, the Southall Black Sisters Organisation, a charitable organisation, is campaigning for a new homicide law of 'constructive manslaughter or suicide aggravated by violence or harassment'.⁶⁰

53. GA Gregory et al., 'Honour-based Violence: Awareness and Recognition' (2020) 30(11) *Paediatrics and Child Health*; B Ineichen, 'Suicide and Attempted Suicide among South Asians in England: Who is at Risk?' (2008) 5(3) *MentHealth Fam Med*.

54. UN Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Implementation of General Assembly Resolution 60/251, A/HRC/4/34/Add.2, 5 January 2007; AK Uskul and SE Cross, 'The Social and Cultural Psychology of Honour: What Have We Learned from Researching Honour in Turkey?' (2019) 30(1) *European Review of Social Psychology* 42.

55. UN Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Implementation of General Assembly Resolution 60/251, A/HRC/4/34/Add.2, 5 January 2007.

56. M Gorar, *Honour Based Crimes and the Law: Defining the Limits of Honor Based Violence and Abuse* (Routledge, 2021) 62.

57. A Hill, 'Campaigners call for new homicide law for inciting suicide' *The Guardian* (19 March 2012).

58. *Ibid.*

59. *Ibid.*

60. H Siddiqui and M Patel, 'Safe and Sane, A Model of Intervention on Domestic Violence and Mental Health, Suicide and Self-harm Amongst Black and Minority Ethnic Women', www.southallblacksisters.org.uk/sbs/sas-report-copyright-sbs.pdf [06/02/2015] p. 8.

to address suicide issues efficiently and to hold perpetrators of violent or abusive conduct to account when a suicide results from their actions.

Before Nosheen's case, another suicide case raised the same concerns with the death of another suicide victim, Krishna Sharma in 1984.⁶¹ Krishna was found hanged in her own home. As for Nosheen, Krishna had been subjected to her husband's violence over many years and the police were aware of this situation. In the last incident, the night before her death, the police advised her to contact the Citizen's Advice Bureau. Her death caught the attention of the Southall Black Sisters Organisation who initiated the Krishna Sharma Campaign in 1984.⁶²

Law on Manslaughter

Determining the criminal responsibility of perpetrators in cases of involuntary manslaughter is most relevant when discussing psychological abuse as a factor in induced suicides. Such psychological abuse may take the form of HBV, DV or both. In the current legal system, anyone accused of manslaughter has usually physically caused death by, for example, pushing the victim. However, in this discussion, a perpetrator may not have physically caused the death of the victim, but nevertheless has played a significant role in the victim's decision to kill herself. Even though the emotional abuse inflicted on victims in their daily life may fall short of a clinically diagnosable psychiatric injury, nevertheless it may lead victims to take their own lives.⁶³

As highlighted by Lodge, courts' acceptance of emotional harm has been problematic over time. It 'was not until the end of the 20th century that courts officially accepted the extension of the related concepts of 'actual bodily harm' and 'grievous bodily harm' to include clinically diagnosable psychiatric conditions'.⁶⁴ Now this issue is again at the centre of the debate, then the existence of only emotional harm- in the absence of bodily harm and/or the deceased not being clinically diagnosed with any psychological condition- should not preclude perpetrators being left unaccountable for their abusive actions. Lodge acknowledges the reality of abuse induced suicide in the domestic sphere and highlights the fact that more attention must be paid to the adequacy of the criminal law's response to cases where domestic abuse drives victims to suicide. She further submits the offence of the unlawful act manslaughter as being the 'most likely mechanism for bringing perpetrators of abuse-induced suicide to justice.'⁶⁵

Manslaughter can involve an unintended death resulting from an assault or death caused by negligence. It is an extremely diverse area of offending and, therefore, sentencing can vary widely, from suspended up to life sentences. Manslaughter falls into two broad categories: involuntary and voluntary. Involuntary manslaughter is the relevant category when discussing abuse related suicides and it means unlawful killing without the intent to kill or cause serious harm. There are two classes of involuntary manslaughter: unlawful act manslaughter (also referred to as constructive manslaughter) and manslaughter by gross negligence.⁶⁶ Each of these will be considered in turn.

61. Southall Black Sisters, Krishna Sharma Campaign 1984, <https://store.southallblacksisters.org.uk/krishna-sharma-campaign> [10/03/2022].

62. SSM Edwards, 'Recognising the Role of the Emotion of Fear in Offences and Defences' (2019) 83(6) *The Journal of Criminal Law*.

63. Ibid; A Lodge, 'Domestic Abuse, Suicide and Liability for Manslaughter: In Pursuit of Justice for Victims' (2020) 84(4) *The Journal of Criminal Law*; J Horder and L McGowan, 'Manslaughter by Causing Another's Suicide' (2006) *Criminal Law Review*; JE Stannard, 'Sticks, Stones and Words: Emotional Harm and the English Criminal Law' (2010) 74 *JCL*.

64. A Lodge, 'Domestic Abuse, Suicide and Liability for Manslaughter: In Pursuit of Justice for Victims' (2010) 84(4) *Journal of Criminal Law*; to tackle this Protection from Harassment Act 1997 and most recently Serious Crime Act 2015 (section 76) criminalised coercive control.

65. A Lodge, 'Domestic Abuse, Suicide and Liability for Manslaughter: In Pursuit of Justice for Victims' (2020) 84(4) *The Journal of Criminal Law* 274.

66. Sentencing Council, *Manslaughter explained* [6/03/2022].

Unlawful Act Manslaughter

‘Unlawful act manslaughter is charged when death occurs due to a criminal act which a reasonable person would realise must subject some other person to at least the risk of some physical harm.’⁶⁷ The unlawful act must be done intentionally (unlawful act means a criminal offence where the defendant has both *actus reus* and *mens rea*). The act must be dangerous (because it was likely to cause harm) and it must cause the death of the victim. It is irrelevant whether or not the perpetrator knew that the act was unlawful. This would suffice as long as the act was unlawful, dangerous and inflicted intentionally (voluntarily and deliberately). In addition, whether harm was intended by the defendant is not a consideration.

Thus the offence requires proof that the victim was placed at the risk of harm as a consequence of the defendant’s criminal conduct. Such criminal conduct includes DV⁶⁸ and HBV, significantly contributing to the victim’s death. Therefore, DV and HBV may satisfy the prerequisite elements of an unlawful act manslaughter offence when such violence leads to a case of abuse induced suicide. However, it has been noted that the availability of this charge in DV instigated suicide cases has been problematic. The difficulties surrounding the proof of an underlying unlawful act and establishing a causal link between the unlawful act and a victim’s death have prevented successful convictions.⁶⁹

Causation

Causation refers to a factual link between the conduct of the accused and the result they are alleged to have caused or have contributed significantly to, or more immediately, to the resultant outcome.⁷⁰ As acknowledged by Edwards, the law on causation in DV induced suicide cases seems to be not mature enough to concede a causal link between a defendant’s domestic abuse and the victim’s suicide.⁷¹ This was illustrated in the case of *Dhaliwal*⁷² where the wife had committed suicide following her husband’s long period of abuse. The unlawful act relied on by the prosecution in this case was psychological injury, without the victim showing signs of any recognisable psychiatric illness and where the prosecution argued that psychological injury was capable of constituting bodily harm under the section 20 Offences Against the Person Act 1861. On analysis by the authorities, the judge ruled that there was no basis on which a reasonable jury, properly directed, could convict the defendant of either manslaughter or unlawful wounding. The prosecution appealed. However, the Court of Appeal confirmed the trial judge’s ruling.

However, it is important to note that, the trial judge in *Dhaliwal* stated that, where ‘a decision to commit suicide has been triggered by a physical assault which represents the culmination of a course of abusive conduct,’ it would be possible for the Crown ‘to argue that that final assault played a significant part in causing the victim’s death’.⁷³ This judgment indicates that, ‘there is at least an arguable case that a causal connection between domestic abuse and a victim’s suicide can be established. This proposition has been further substantiated in subsequent academic discourse, which promulgates the idea that causation could be established even without a final act of physical assault, on the basis of the cumulative effects of persistent abuse.’⁷⁴

67. *Ibid.*

68. A Lodge, ‘Domestic Abuse, Suicide and Liability for Manslaughter: In Pursuit of Justice for Victims’ (2020) 84(4) *The Journal of Criminal Law*.

69. *Ibid.*

70. LexisNexis, Legal Guidance, <https://www.lexisnexis.co.uk/legal/guidance/causation-intervening-acts-in-criminal-cases> [16/03/2022].

71. SSM Edwards, ‘Recognising the Role of the Emotion of Fear in Offences and Defences’ (2019) 83(6) *The Journal of Criminal Law*.

72. *R v Dhaliwal* [2006] EWCA Crim 1139.

73. *Ibid.*, point 7.

74. A Lodge, ‘Domestic Abuse, Suicide and Liability for Manslaughter: In Pursuit of Justice for Victims’ (2010) 84(4) *Journal of Criminal Law* 284.

As noted by Lodge, it was rather unfortunate that; the causation requirement was not subjected to any protracted legal analysis by the Court of Appeal in Dhaliwal; because of the inherent difficulties in establishing the existence of bodily harm, the prosecution's case did not meaningfully go beyond a discussion of the underlying unlawful act.⁷⁵ Cherkassky has noted that the unlawful act manslaughter is becoming renowned for criminalising consequences which were never intended or even foreseen by the defendant, but also highlighted that the doctrine of causation has not been applied consistently in recent times.⁷⁶

Establishing an unlawful act manslaughter charge for domestic abuse induced suicide has to overcome its own obstacles to succeed. For example, even if the difficulties around causation are overcome, it may be challenging to prove that the cumulative effect of abuse over a period of years affirms coercive control as the underlying unlawful act.⁷⁷ The victim, as the primary witness, is dead and her psychological condition cannot be assessed by experts.

Gross Negligence Manslaughter

Gross negligence manslaughter is a common law offence and 'occurs when the offender is in breach of a duty of care towards the victim, the breach causing the death of the victim and, with regard to the risk involved, the offender's conduct being so bad as to amount to a criminal act or omission. It could involve parents or carers failing to protect a child from an obvious danger ... or medical practitioners giving wholly inadequate care to a patient.'⁷⁸ It was established in the seminal case of *Adomako*⁷⁹ and 'it would appear relatively easy to establish that a perpetrator of abuse in the context of an intimate relationship would owe a duty of care to the suicide victim on the basis that the victim is a person who may be foreseeably harmed by the defendant's action.'⁸⁰ Thus, duty of care would be breached by virtue of the abuse, and this breach has the potential to be grossly negligent, considering the whole course of abusive conduct inflicted on the victim. The defendant's grossly negligent breach of duty of care must also expose a victim to the risk of death.⁸¹

According to Horder and McGowan, compared to the unlawful act manslaughter, the offence of gross negligence manslaughter against a violent abuser whose partner has committed suicide may give two advantages: firstly, grossness of negligent mistreatment of a partner is naturally regarded as a matter of degree and the cumulative nature of its effect is relevant. In contrast, 'the aggregation of the effects of individual offences against a person, so that the whole can be said to be greater than the sum of the parts, while possible, is an exceptional or unusual way to view such offences.'⁸² Secondly, the mistreatment of a spouse or partner is not confined to the impact of specific non-fatal offences against her. It can include all forms of mistreatment such as the imposition of degrading living conditions on the victim or on her family. This indicates a broader range of potential evidence available for prosecution in establishing a gross negligence manslaughter charge and this supposedly should make it easier for the prosecution to prove key facts beyond doubt than would be likely if those key facts involved specific non-fatal offences against the victim. It may be possible for judges to employ ordinary common law reasoning in establishing that causing suicide through violent abuse can fall within the scope of gross negligence

75. *Ibid.*

76. L Cherkassky, 'Kennedy and Unlawful Act' Manslaughter: An Unorthodox Application of the Doctrine of Causation (2008) 72 *The Journal of Criminal Law* 387.

77. A Lodge, 'Domestic Abuse, Suicide and Liability for Manslaughter: In Pursuit of Justice for Victims' (2010) 74(533) *Journal of Criminal Law*.

78. Sentencing Council, *Manslaughter explained* [6/03/2022].

79. *R v Adomako* [1995] 1 AC 171.

80. A Lodge, 'Domestic Abuse, Suicide and Liability for Manslaughter: In Pursuit of Justice for Victims' (2020) 84(4) *The Journal of Criminal Law* 289.

81. J Horder and L McGowan, 'Manslaughter by Causing Another's Suicide' (2006) *Criminal Law Review*.

82. *Ibid.*

manslaughter.⁸³ Horder and McGowan⁸⁴ argue that, in the Dhaliwal case, it would have been preferable to charge the defendant with gross negligence rather than unlawful act manslaughter, and to ground liability on his breach of the duty of care owed between spouses. This approach would reduce the scope of liability to situations in which a pertinent duty of care is established and rely on frequently opaque assessments of when negligence is sufficient to trigger criminality.

Horder and McGowan have suggested that ‘the aggregation of the effects of individual offences against the person, ... can be said to be greater than the sum of the parts’,⁸⁵ this approach having been endorsed by section 76 of the Serious Crimes Act 2015, in which coercive and controlling behaviour is criminalised. Furthermore, beneficial flexibility in the fact that ‘the grossness of mistreatment of a spouse or partner is not confined to the impact of specific non-fatal offences ... (but) can include all forms of mistreatment including, for example, violence towards the children of a family or the imposition of degrading living conditions on the victim’,⁸⁶ has also been extended to that of coercive control offence.⁸⁷ As noted by Munro and Aitken, allowing this more contextual and cumulative conception of harm within the criminal law helps to recognise psychological injury as an offence against the person, in its own right and for the purposes of constructive manslaughter.⁸⁸

Section 76, Serious Crimes Act 2015 recognises psychological injury as an offence against the person. This includes within its remit a range of positive acts that produce psychological harms, not all of which would be deemed to be criminal in their own right but where their occurrence in a broader abusive context may amount to a criminal offence. This recognises a prolonged exposure to abuse and its cumulative effect. This is far from being unproblematic in respect to its focus upon the actions of the perpetrator rather than its impact on the victim. Therefore, this offence overturns the formal principle of criminal law of not recognising psychological injury by creating the possibility for unlawful act manslaughter to be grounded in criminally coercive and controlling behaviour, irrespective of the existence of physical violence.⁸⁹ As noted by Munro and Aitken, although this was evident in Dhaliwal’s experience, it was perhaps difficult to articulate the relevance of that systematic dimension of domestic abuse within a legal frame at that time⁹⁰ (coercive control was not criminalised at that time).

As regards proving causation, it could arguably be easier to establish causation for this offence because the unlawfulness in gross negligence manslaughter cases is manifest in the grossly negligent breach of duty. Thus, when establishing liability, the focus of an enquiry is on whether, overall, what the defendant did was so bad as to be deserving of a manslaughter label.⁹¹ This could enable a more flexible approach to causation. On the other hand, the concept of unlawfulness in unlawful act manslaughter cases is entrenched in the underlying unlawful act, whereas the offence of coercive and controlling behaviour focuses attention on a potentially wide range of abusive behaviours, only some of which are criminal, therefore making it difficult to clearly establish the involvement of any criminality. For the reasons given above, it has been suggested that pursuing the gross negligence manslaughter option could make prosecutions easier in practice as well as being sound in principle. However, the offence elements, often

83. *Ibid.*

84. *Ibid* 1045.

85. VE Munro and R Aitken, ‘Adding Insult to Injury? The Criminal Law’s Response to Domestic Abuse-Related Suicide in England and Wales’ (2018) *Crim LR*.

86. Horder and L McGowan, ‘Manslaughter by Causing Another’s Suicide’ (2006) *Criminal Law Review* 1045.

87. VE Munro and R Aitken, ‘Adding Insult to Injury? The Criminal Law’s Response to Domestic Abuse-Related Suicide in England and Wales’ (2018) *Crim LR*.

88. *Ibid.*

89. *Ibid.*

90. *Ibid.*

91. A Lodge, ‘Domestic Abuse, Suicide and Liability for Manslaughter: In Pursuit of Justice for Victims’ (2020) 84(4) *The Journal of Criminal Law* 289.

criticised for their nebulous nature, could be flexibly applied to ground liability in homicide.⁹² Such an application ‘would operate to undermine any preference for applying [any] gross negligence manslaughter prohibition in this context. These developments, therefore, arguably circumvent the need for any unnecessary, some might say ‘undemocratic’, judicial development of the already unwieldy gross negligence manslaughter offence.’⁹³

As discussed above, both unlawful act and gross negligence manslaughter have their own limits and, in the light of the criminalisation of coercive and controlling behaviour in 2015, it will be only a matter of time before it will be seen observing this will bring more consistency in this area of law. The decision in the recent case of Justene Reece⁹⁴ seems a right step going forward. Reece killed herself in 2017 after a prolonged campaign of harassment by her former partner Nicholas Allen. She hanged herself, leaving a note stating that ‘*I’ve run out of fight*’.⁹⁵ Allen, who was jailed for ten years in June 2017 after admitting manslaughter, engaged in coercive or controlling behaviour, and stalking.⁹⁶ In sentencing, the judge stated that Allen had clearly caused Justene to commit suicide and made her life a living nightmare. He went on to tell the defendant that ‘It is not suggested that you intended at any time that she should die but clearly you intended that she should suffer serious psychological harm’. The judge further acknowledged that, Justene ‘committed suicide as a direct result of your sustained and determined criminal actions – actions which you clearly knew were having a profound effect upon her’.⁹⁷ The prosecutor referred to the case as being ‘an exceptional case’⁹⁸ and added that Allen ‘subjected Justene to a sustained campaign of torment until she was unable to endure his behaviour any longer’. ‘There is no doubt he ultimately caused her to take her own life’,⁹⁹ she added.

As noted by Lodge, although the offence of coercive control criminalises perpetrators’ abusive and controlling behaviour in the cases mentioned in this paper, difficulties in the legal foundations for constructing a manslaughter conviction on the basis of this offence prove to be largely problematic and untested.¹⁰⁰ She has further noted that, ‘Indeed, there have been pertinent cases of proven coercive and controlling conduct that have resulted in the suicide of the victim which could, in principle, have warranted an extension of liability for manslaughter; but the fact that convictions have, more often than not, been limited to non-fatal offences is perhaps indicative of the courts’ reluctance to extend liability in such cases’.¹⁰¹ However, as can be seen in the case of Allen, the court convicted him of the unlawful act manslaughter of his former partner. Allen pleaded guilty to charges of coercive and controlling behaviour, stalking and then manslaughter, following a prolonged campaign of abuse which ended with the victim’s suicide. As noted by Lodge, because of the guilty plea, there was no detailed discussion of the offence requirements. Thus, ‘while the conviction is welcome and may mark a potential shift in the court’s inclination to prosecute, many questions remain unanswered regarding the scope of liability for manslaughter in these circumstances’.¹⁰²

92. Ibid 289–90.

93. Ibid 290; also see JE Stannard, ‘Sticks, Stones and Words: Emotional Harm and the English Criminal Law’ (2010) 74 JCL.

94. Independent Office for Police Conduct, ‘Force accepts learning after investigation into contact with Staffordshire stalking victim who took her own life’ (29 April 2019).

95. BBC News, ‘Man jailed for manslaughter over ex-girlfriend’s suicide’ (28 July 2017).

96. Independent Office for Police Conduct, ‘Force accepts learning after investigation into contact with Staffordshire stalking victim who took her own life’ (29 April 2019); Women’s Aid Women’s Aid responds to IOPC’s investigation into Staffordshire Police’s response to Justene Reece’s reports of stalking (Monday 29th April 2019).

97. BBC News, ‘Man jailed for manslaughter over ex-girlfriend’s suicide’ (28 July 2017).

98. Ibid.

99. Ibid.

100. A Lodge, ‘Domestic Abuse, Suicide and Liability for Manslaughter: In Pursuit of Justice for Victims’ (2010) 84(4) Journal of Criminal Law.

101. Ibid 283.

102. Ibid 284.

Suicide Law

The law that governs suicide is the Suicide Act 1961. Section 2 provides criminal liability to those ‘assisting and encouraging’ others to commit suicide. Crown Prosecution Service policy on encouraging or assisting suicide provides for the occasion when:¹⁰³

‘a person commits an offence under section 2 of the Suicide Act 1961 if he or she does an act capable of encouraging or assisting the suicide or attempted suicide of another person, and that act was intended to encourage or assist suicide or an attempt at suicide. This offence is referred to in th[e] policy as “encouraging or assisting suicide”. The consent of the Director of Public Prosecutions is required before an individual may be prosecuted for ‘assisting and encouraging suicide’. The offence of encouraging or assisting suicide carries a maximum penalty of 14 years’ imprisonment.¹⁰⁴

The wording of section 2 of the Suicide Act 1961 is as follows:

2. Criminal liability for complicity in another’s suicide.

1. [A person (‘D’) commits an offence if – (a) D does an act capable of encouraging or assisting the suicide or attempted suicide of another person, and (b) D’s act was intended to encourage or assist suicide or an attempt at suicide.
 - (1A) The person referred to in subsection (1) (a) need not be a specific person (or class of persons) known to, or identified by, D.
 - (1B) D may commit an offence under this section whether or not a suicide, or an attempt at suicide, occurs.
 - (1C) An offence under this section is triable on indictment and a person convicted of such an offence is liable to imprisonment for a term not exceeding 14 years.
2. If on the trial of an indictment for murder or manslaughter [of a person it is proved that the deceased person committed suicide, and the accused committed an offence under subsection (1) in relation to that suicide, the jury may find the accused guilty of the offence under subsection (1)].
3. The enactments mentioned in the first column of the First Schedule to this Act shall have effect subject to the amendments provided for in the second column (which preserve in relation to offences under this section the previous operation of those enactments in relation to murder or manslaughter).
4. [...] no proceedings shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.

2(A) Acts capable of encouraging or assisting:

1. If D arranges for a person (‘D2’) to do an act that is capable of encouraging or assisting the suicide or attempted suicide of another person and D2 does that act, D is also to be treated for the purposes of this Act as having done it.
2. Where the facts are such that an act is not capable of encouraging or assisting suicide or attempted suicide, for the purposes of this Act it is to be treated as so capable if the act would have been so capable had the facts been as D believed them to be at the time of the act or had subsequent events happened in the manner D believed they would happen (or both).

103. Policy for Prosecutors in Respect of Cases of Encouraging or Assisting Suicide, Issued by The Director of Public Prosecutions in October 2014.

104. *Ibid.*

3. A reference in this Act to a person ('P') doing an act that is capable of encouraging the suicide or attempted suicide of another person includes a reference to P doing so by threatening another person or otherwise putting pressure on another person to commit or attempt suicide.

The Suicide Act 1961 section 2, as substantially amended by the Coroners and Justice Act 2009, clarifies what may amount to 'acts capable of encouraging or assisting' suicide. All these amendments potentially cover a very wide range of conducts of varying levels of culpability.¹⁰⁵ Section 2A (3), in summary, brings threats or coercion within the remit of the definition.¹⁰⁶

The concept of encouraging and assisting is a wide one: it includes arranging for others to commit acts which are capable of encouraging or assisting (section 2a (1)), and acts whose purpose is to encourage or assist even though, unbeknown to the defendant, they are not capable of achieving their objective (section 2(a) (2)). The offence may also be committed even where there is in fact no suicide, nor even an attempt to commit it (section 1(b)).¹⁰⁷

The key issue is in the enforcement of the provisions as the decision whether or not to prosecute is left solely in the hands of the *Director of Public Prosecutions (DPP)*. Section 2(4) expressly provides that no proceedings may be instituted except by or with his consent. Then it is for the *DPP* to determine whether it is in the public interest to prosecute.¹⁰⁸ When determining that, prosecutors must apply the Full Code Test as set out in the Code for Crown Prosecutors in cases of encouraging or assisting suicide. The Full Code Test consists of two stages: (i) the evidential stage; and (ii) the public interest stage.

The evidential stage must be considered first because a case which does not pass the evidential stage must not proceed any further, no matter how serious or sensitive it may be. Therefore, police investigations of suicide incidents need to bear in mind the possibility of honour suicide as well as incidents of forced suicide. Once the prosecutors establish that there is sufficient evidence to justify a prosecution, then they must proceed to considering whether a prosecution is required in the public interest.

When assessing the cases of encouraging or assisting suicide, prosecutors must apply the public interest factors set out in the Code for Crown Prosecutors. Unless the prosecutor concludes that the public interest factors tending against prosecution outweigh those tending in favour, then there will be a prosecution.

Public interest factors tending in favour of prosecution are listed under paragraph 43. Accordingly, a prosecution is more likely to go forward if *inter alia*:¹⁰⁹

- the victim had not reached a voluntary, clear, settled and informed decision to commit suicide (section 3);
- the suspect was not wholly motivated by compassion; for example, the suspect was motivated by the prospect that he or she or a person closely connected to him or her stood to gain in some way from the death of the victim (section 6);
- the suspect pressured the victim to commit suicide (section 7);
- the suspect did not take reasonable steps to ensure that any other person had not pressured the victim to commit suicide (section 8);
- the suspect had a history of violence or abuse against the victim (section 9);

105. T Elliot, 'Assisted Suicide', Overview (7 November 2013).

106. J Whitfield QC, 'Suicide etc', Overview (7 January 2014).

107. The Queen on the Application of Mrs Jane Nicklinson (in her own right and as administratrix of the estate of Mr Tony Nicklinson Deceased) Mr Paul Lamb v Ministry of Justice and DPP and Her Majesty's Attorney General and CNK Alliance Ltd British Humanist Association, [2013] EWCA Civ 961, para 22.

108. The Queen on the Application of Mrs Jane Nicklinson (in her own right and as administratrix of the estate of Mr Tony Nicklinson Deceased) Mr Paul Lamb v Ministry of Justice and DPP and Her Majesty's Attorney General and CNK Alliance Ltd British Humanist Association, [2013] EWCA Civ 961, para 23.

109. CPS, Suicide: Policy for Prosecutors in Respect of Cases of Encouraging or Assisting Suicide, Legal Guidance, Violent crime (October 2014).

Although honour suicide victims may appear to have reached a voluntary decision to commit suicide, in reality, they are exposed to immense honour based pressure and violence and not given any other means of escape (satisfies above sections, 3 and 7). Thus, sections 8 and 9 are self explanatory, in such circumstances. The same conditions also apply in forced suicide cases, but, because of their severity in the physical involvement of suspects in a 'suicide' (which is actually a 'killing'), therefore a law on murder is more appropriate in such circumstances.

This can be clearly seen in forced marriage cases where an abusive relationship continues but the victim is not encouraged to seek a divorce by either side of the family, in-laws or maternal family. Furthermore, terminating an abusive marriage by means of honour or forced suicide (instead of a divorce) enables the surviving party to keep his finances unshared. The financial implication is also a crucial element to consider. Therefore, section 6 of the above list may also become relevant.

Accordingly, the Code for Crown Prosecutor Paragraph 43(6) is highlighted in paragraph 44 and provides:

“On the question of whether a person stood to gain (paragraph 43(6) see above), the police and the reviewing prosecutor should adopt a common sense approach. It is possible that the suspect may gain some benefit – financial or otherwise – from the resultant suicide of the victim after his or her act of encouragement or assistance. The critical element is the motive behind the suspect’s act. If it is shown that compassion was the only driving force behind his or her actions, the fact that the suspect may have gained some benefit will not usually be treated as a factor tending in favour of prosecution. However, each case must be considered on its own merits and on its own facts.”

Paragraphs 46 and 47 read:

46. The evidence to support these factors must be sufficiently close in time to the encouragement or assistance to allow the prosecutor reasonably to infer that the factors remained operative at that time. This is particularly important at the start of the specific chain of events that immediately led to the suicide or the attempt.

47. These lists of public interest factors are not exhaustive and each case must be considered on its own facts and on its own merits.

Despite the CPS in its legal guidance acknowledging that honour based crimes could include encouraging or assisting suicide, as discussed above, the application of law can be very complex. According to the Policy for Prosecutors in Respect of Cases of Encouraging or Assisting Suicide, in theory it embraces both honour based suicide and forced suicide cases. However, one important point is that the nature of honour crimes, family and community involvement and the subsequent covering up of the crime (as explained earlier) needs to be taken into account and, therefore, suicide committed as a result of HBV should be acknowledged when relevant.

The Suicide Act section 2, regarding the issue of 'encouraging and assisting' suicide, has been discussed in detail in recent years when euthanasia cases are raised in the UK. However, euthanasia cases differ from HBV leading to forced suicide. The issue of assisting and encouraging suicide has been discussed in cases but none of these cases have involved HBV leading a victim to commit suicide. Some of the cases where section 2 of the Suicide Act was discussed, inter alia, are as follows:

In the cases of *R v Hough* (1984)¹¹⁰ a 60 year old woman helped an old lady to commit suicide by providing her with tablets and then placing a plastic bag over her head when she became unconscious. She was given a 9 month sentence. In *R v Wallis* (1983)¹¹¹ the appellant provided tablets and vodka for a 17 year old girl and did not call for an ambulance until after her death. He was given 12

110. *R v Hough* (1984) 6 Cr. App. R. (S.) 406.

111. *R v Wallis* (1983) 5 Cr. App. R. (S.) 342.

months' imprisonment. The most recent case of *R v Howe* [2014]¹¹² attracted a heavier sentence. The appellant was given 10 years imprisonment for assisting the suicide of a vulnerable victim who was the appellant's friend. He supplied the petrol used by the victim to set fire to himself.

The existing law on suicide with recent amendments sounds fit for purpose in theory. Section 2A of the Suicide Act clarifies what may amount to acts 'capable of encouraging or assisting' a victim. Although Section 2A (3) has been said to bring 'threats or coercion' within the remit of the definition¹¹³ of what may amount to 'encouraging or assisting', until this provision is applied to honour based suicides, the perpetrators of such suicides are likely to escape liability. A starting point is to raise and promote awareness of honour suicide and forced suicide incidents.

This also introduces another issue related to the motivation behind HBV, referred to as motivation of gain. If a victim commits suicide (either an honour suicide or forced suicide), the death of the victim is welcomed by both families (in-laws and the maternal family). The victim's own family would rather prefer their daughter to be dead than back at home as a divorcee, due to cultural oppression and shame. On the other hand, instead of divorcing and sharing the family assets, the husband gains financial benefit on the death brought about by the suicide of his wife. This provides some explanation as to why both family members can be reluctant to provide evidence in forced suicide cases.

A reasonable attempt on 'assisting or encouraging suicide' has been made by the Coroners Justice Act in 2009, but the *DPP*' consent is required for a prosecution to be instituted, and, accordingly, the *DPP* published its Quasi-legislation (*DPP* protocol on the prosecution of cases involving assisted or encouraging suicide). Under its policy, individuals can be now charged with the section 2(1) offence. However, prosecutorial decision-making is now taking a central role in relation to this offence. As Elliott¹¹⁴ argues, it may be the case that a decision of not to prosecute may be taken, even though in strict terms the elements of the section 2(1) offence are made out. As there has been no single prosecution relating to ethnic minority women who are subject to HBV and where there is a statistically proved high rate of suicide among them, this raises concerns for the above argument.

Welchman and Hossain illustrated a coroner's position to investigate suicide cases through the example provided in A's case. In this particular case, a South Asian women (A) hanged herself in 2000 after she discovered that her husband was planning to divorce her in order to marry a younger women. Her husband inflicted domestic violence on her and made false allegations of adultery against her. In her community, this would reflect badly on her family honour and, together with the stigma of divorce, would have ruined her two daughters' prospects of marriage. From this point, it appears that A may have killed herself for the sake of preserving her family honour and protecting her daughters' future. At the inquest into A's suicide, Southall Black Sisters Organisation argued that A killed herself out of a need of preserving family honour but the coroner dismissed their argument and concluded that A committed suicide because of depression brought on by the prospect of divorce. Here, the coroner disregarded the cultural impact contained in the notion of 'honour' and the impact of cultural oppression for women in ethnic minority communities.¹¹⁵

Law Reform

The unlawful act manslaughter is renowned for criminalising consequences which were not intended or foreseen by the defendant. However, as can be seen in cases discussed earlier, difficulties in establishing a

112. *R v Howe* [2014] EWCA Crim 114.

113. J Whitfield QC, 'Suicide etc', Overview (7 January 2014).

114. T Elliott, 'Assisted Suicide', Overview (7 November 2013).

115. L Welchman and S Hossain, *Honour' Crimes, Paradigms, and Violence Against Women* (Zed Books 2005): 264 and 268.

causal link are a continuous problem and inconsistency remains.¹¹⁶ Despite reluctance shown by the courts, as long as the duty of care has been established, it should arguably be easier to establish causation in the gross negligence manslaughter charges examined earlier. HBV inflicted by family members may satisfy the duty of care principle but it is important to note that members of the wider community or relatives can be involved in HBV resulting in a failure to then satisfy the duty of care requirement. In addition, the offence elements, often criticised for their nebulous nature, could be flexibly applied to ground liability in homicide¹¹⁷ thus not applying in abuse induced suicide cases.

Edwards has argued that when establishing emotional abuse the understanding of fear and similar feelings and the reasonableness of such feelings has largely imposed a male understanding of scenarios of danger. As a result, this determines the legitimising of the kind of circumstances which can be lawfully responded to with violence. She further acknowledges that the law has been built around the credence of male emotions, where anger and jealousy still remain privileged. On the other hand, fear experienced by abused women is underestimated somewhat by requiring or assuming the need of physical violence to trigger it. Thus, although defences are assessed with consideration of the 'relevant circumstances' in a case, a hierarchy of circumstances related to what is reasonable and relevant¹¹⁸ is again assessed on the male understanding and interpretation of such circumstances. Therefore, a gender sensitive approach and interpretation of such concepts may be beneficial when assessing HBV and DV induced crimes in the cases where the victims are female.

When establishing a liability under the Suicide Act 1961, the influence of HBV on the suicide of women in certain ethnic minority groups needs to be given extra attention. The Suicide Act section 2 now further clarifies what may amount to 'acts capable of encouraging or assisting' suicide and all these amendments potentially cover a very wide range of conducts of varying levels of culpability,¹¹⁹ including Section 2A (3). In summary, bringing threats or coercion within the remit of the definition¹²⁰ allows for this to be done expressly under the Act (such as indicating or giving some example of what may amount to an encouragement, threat or coercion and HBV can be stated there). Otherwise, it will be left at the discretion of the law interpreters to consider the cause and gravity of suicide as being HBV and abuse.

The difference between honour suicide and forced suicide is crucial when determining the criminality of perpetrators. If the offence of forced suicide is established under section 2 of the Suicide Act, then the case should be treated as murder (reverse application of Section 2(2) Suicide Act).

HBV has not been identified and tackled effectively, as has been acknowledged in the England and Wales' first police response to the report of HBV.¹²¹ Raising awareness of incidents of honour suicide and forced suicide amongst those who are involved in investigating the crime as well as initiating the prosecution and interpreting the law may provide some remedy to this problem.

Conclusion

As illustrated in a series of cases and discussions, emotional abuse in the form of HBV and DV is capable of inducing the victim to commit suicide¹²² and case law indicates that, despite arguments on inconsistent

116. L Cherkassky, 'Kennedy and Unlawful Act' Manslaughter: An Unorthodox Application of the Doctrine of Causation' (2008) 72 JCL 387; see also cases *R v Dhaliwal* [2006] EWCA Crim 1139, *R v Carey* [2006] EWCA Crim 17 and *R v Kennedy* (No. 2) [2007] UKHL 38, [2007] 3 WLR 612.

117. A Lodge, 'Domestic Abuse, Suicide and Liability for Manslaughter: In Pursuit of Justice for Victims' (2020) 84(4) The Journal of Criminal Law.

118. SSM Edwards, 'Recognising the Role of the Emotion of Fear in Offences and Defences' (2019) 83(6) The Journal of Criminal Law 472.

119. T Elliot, 'Assisted Suicide', Overview (7 November 2013).

120. J Whitfield QC, 'Suicide etc', Overview (7 January 2014).

121. HMIC, The depths of dishonour: Hidden voices and shameful crimes An inspection of the police response to honour-based violence, forced marriage and female genital mutilation (December 2015).

122. UN News, 'Forced marriages, domestic violence contributes to female suicide in Turkey – UN expert' (1 June 2006).

application and difficulties, perpetrators may be sentenced on manslaughter charges. The Serious Crime Act 2015 provides a framework in which emotional abuse may amount to a crime. Case law (such as Allen) indicates that there is now an awareness of the devastating impact of psychological abuse on a victim's decision to commit suicide. Thus, this may indicate a step-change in authorities' willingness to deal with DV and HBV induced suicides (in the form of honour based suicide) where victims experience an intense psychological ordeal. As time moves on, a recognition of such violence and abuse in suicide cases will help to redefine the social spectrum in which attitudes and behaviours would qualify as criminal, where they have not been considered as criminal before.

Since the Suicide Act clearly prohibits assisting and encouraging others to commit suicide, forced suicide cases require extra attention by studying the merits of each case in order to establish a perpetrator's liability. Amending the section 2A (3) Suicide Act by giving some examples of what may amount to an encouragement, threat or coercion (including HBV) for the purposes of this Act may bring some clarity. Otherwise, it will be left at the discretion of law enforcers and interpreters to consider the relevance of HBV in suicide cases. In addition, raising awareness of such incidents, in those who are involved in investigating the crime and initiating a prosecution may remedy this problem. If the offence of forced suicide is established under section 2 of the Suicide Act, then the case should be treated as murder (reverse application of Section 2(2) Suicide Act). If the law on suicide accommodates instances of honour suicide and forced suicide, UK law will embrace and provide better protection to women's human rights.

Using honour as an excuse to inflict violence against female members of a family, is an aspect of honour based patriarchy, where gender inequality is favoured. In the case of honour suicide and forced suicide, the perpetrators gain emotionally (cleansing the family honour) and financially by making sure that the victim kills herself. Although it may appear, in the case of honour suicide, that the suicide is a victim's own choice, after immense oppression and abuse suffered by the victim, committing suicide may be the only means of escape. The victim may feel that she has no other choice than to use suicide as the only way of stopping the abuse. When death is imposed in the form of forced suicide, there is no escape from it anyway. Therefore, any suicide occurring in a *high risk* group should raise the possibility of honour suicide or forced suicide, when investigated. In such suicides, the extent of the perpetrators' involvement in the suicide of the victim needs to be taken into account and the perpetrators should be punished accordingly.

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