

Lord Chief Justice's Sentencing Group

Sentencing Guidance Note

'Honour-based' Crime

Introduction:

This guidance is intended to deal with the wider concept of 'honour-based' crime generally (not just killings). For that reason, for the purposes of this guidance, 'honour-based' crime is considered to be any offence, violent or non-violent, which has been committed for the perceived defence of the honour of the family and/or community. While the offences are normally carried out against female members of the family, they can also be carried out against male members or non-family members (e.g. the boyfriend of a family member). The offences are very often committed with some degree of approval and/or collusion from other (often more senior) members of the family and/or community. Examples of offences may include murder, rape, kidnapping, false imprisonment, female genital mutilation, forced abortion, controlling sexual activity, child abuse, domestic abuse, threats to kill, assault and harassment.

Materials

Although he was speaking in the context of a Children Act case, Wall LJ, sitting in the Court of Appeal in England and Wales, had the following to say in relation to attributing the nomenclature of 'honour-based' to a crime:¹

"[117] My second point is that the time has surely come to re-think the phrase 'honour killings'. It is one thing to mock the concept of honour—as, for example, Shakespeare does through Falstaff in Henry IV Part I, Act V, Scene i. It is quite another matter to distort the word 'honour' to describe what is, in reality, sordid criminal behaviour. I put on one side the murder of a baby in this case, since brother 1's motivation for the murder is not known. However, the remorseless pursuit of the baby's mother who, the judge found, was a woman fleeing from domestic violence; the fact that the mother of the subject children in this case sprayed the nightclothes of one of them with white spirit and set fire to her house in order to implicate the intervener; the fact that the mother will not identify her brothers in the conspiracy for fear of reprisals; the fact that the grandfather appears to believe that the death of the baby was an accident and the will of God—these things have nothing to do with any concept of honour known to English law. They are, I repeat, acts of simply

¹ AM v A Local Authority and another; Re B-M (children) (care orders: risk) [2009] 2 FCR 505

sordid, criminal behaviour and a refusal to acknowledge them as such. We should, accordingly, identify them as criminal acts and as nothing else.

[118] ... The message from this case, which must be sent out loud and clear, is that this court applies a tolerant and human rights based rule of law: one which, under the 1989 Act regards parents as equals and the welfare of the child as paramount.

[119] That is the law of England, and that is the law which applies in this case. Arson, domestic violence and potential revenge likely to result in abduction or death are criminal acts which will be treated as such."

Offenders convicted of an 'honour-based' crime tend to justify their actions by claiming customary norms and moral conformity. They often seek mitigation on the grounds that the offence was committed as a consequence of the need to defend or protect the honour of the family.² There are no specific sentencing guidelines from the Sentencing Council of England and Wales dealing with 'honour-based' crimes, and the English Court of Appeal appears to have had limited opportunities to comment on it. One of the rare cases, however, is R v Ibrahim and Iqbal [2011] EWCA Crim 3244. In that case the two applicants were applying for permission to appeal both their convictions for murder and their life sentence tariffs of 28 years and 25 years, respectively. The applicants had started a fire at a family's home by pouring accelerant through the letterbox. Two of the occupants died. The motive for the attack was to kill the man who had been engaged in a sexual relationship with one of the applicants' sister, of which the applicant's family entirely disapproved. It transpired, however, that the applicants had set fire to the wrong house. In dismissing both the applications for permission to appeal conviction and permission to appeal sentence, the Court of Appeal had the following to say in relation to the impact the motive for the murders should have on the sentence:

"23. It seems to us that the point in this case was clear: this was a double murder, on the judge's finding, directed in error at the wrong persons, but was intended to be carried out as an honour killing. It was submitted, wholly without foundation, that the judge had double counted. He had not. He had taken, as the court endeavoured to put to counsel, the point that this kind of honour killing needed to be marked by a severe sentence. That was the point and sole point in this appeal. It is obvious from the way in which this court has looked at matters in the past that it has taken the view that honour killings cannot be tolerated in this society and must be marked by severe deterrent sentences. The vice of such conduct is exemplified in this

² Ursula Smartt, 'Honour Killings' (2006) 170 JPN 4

case by the fact that two entirely innocent people were killed and two young children left without their parents. It was entirely right, and there is not an iota of double counting in this case, the ground of this appeal is wholly and totally without merit.”

Guidance

There is no separate category of ‘honour-based’ crimes. An offender who is convicted of a crime which he/she seeks to justify as ‘honour-based’ will fall to be sentenced in accordance with normal sentencing principles. In many instances the very matter(s) which the offender seeks to justify his action will constitute aggravating factor(s) increasing the seriousness of the crime. One or more of the following list of aggravating factors will usually be present in the context of so called “honour based” crimes:³

- The offence was committed in an attempt to control perceived unwarranted sexual behaviour (e.g. homosexuality or perceived promiscuity);
- The offence was committed in an attempt to control perceived unwarranted social behaviour (e.g. use of alcohol or drugs, wearing make-up or behaving in what is perceived to be a ‘westernised’ manner);
- The offence was committed in an attempt to prevent a perceived unsuitable relationship (e.g. a relationship with someone outside the ethnic, cultural, religious or caste group);
- The offence was committed in order to ensure land, property and wealth remain within the family or is brought into the family;
- The offence was committed in the context of ‘hostility’ as defined by Article 2 of the Criminal Justice (No.2) (NI) Order 2004;
- The offender used their senior position within the family/community to encourage/counsel/coerce others to commit the offence.

Sentencers should also note that, where the defendant is young and has been manipulated or coerced into committing the offence by family or community elders, then it may be appropriate for lesser weight to be attributed to certain aggravating factors in the case.

³ When determining the aggravating/mitigating factors in any case, a sentencer should always be alert to the risk of ‘double-counting’ those facts/circumstances of the case which have already been used in the initial assessment of the ‘starting point’ or which may fall to be considered within two or more aggravating/mitigating factors.