

Guidelines and assessment question on *R v Kiranjit Ahluwalia*

Assignment: Write a summary of the Ahluwalia judgment

Finding answers to the following questions will help you organise your exposé.

1. Why do you think Mrs Ahluwalia – in the 1989 trial at Lewes - was indicted for murder as opposed to manslaughter?
2. What was the “fresh evidence” that the Court of Appeal considered in this appeal (that is, evidence that was neither available nor presented to the jury at the first trial)?
3. "Sudden and temporary loss of self-control" was an essential ingredient of the partial defence to murder of provocation. Why did defence counsel not succeed in raising this defence to explain why Mrs Ahluwalia killed her husband? (What was the law on the defence of provocation at the time of the trial?)
4. Lord Taylor, (the Lord Chief Justice), writes in his decision that under “Section 3 of the Homicide Act 1957 (...) provocation (...) remains a common law not a statutory defence”.
What is the difference between a common law defence and a statutory defence?
5. Lord Taylor comments that “[w]e are bound by the previous decisions of this court to which reference has been made, unless we were convinced that they were wholly wrong. Where a particular principle of law has been re-affirmed so many times and applied so generally over such a long period, it must be a matter for Parliament to consider any change.” Why does he consider it is Parliament’s role to introduce change and not that of the Courts?
6. On what grounds did the Court grant the appeal?

Note that **provocation** as a partial defence to murder was replaced in October 2010 pursuant to the Coroners and Justice Act, by that of **loss of control**. The new defence allows for a “slow burn” reaction.