

Non Fatal Offences- Judicial Cornerstone or Archaic convolution?

Common Law NFO's

'Ignorantia juris non excusat' - Ignorance of the law is no excuse, but do you know what the non-fatal offences against the person actually are? In the case of battery and assault, the two have not been defined in statute, so how is the layperson ever to know?

The Law Commission suggested a new offence to act as an intermissionary bridge between the Common Law NFO's and the NFO's contained within OAPA 1861. This aggravated assault would have a maximum sentence of 12 months imprisonment, and would be an offence that was more than a mere assault but still didn't equate to such a long maximum sentence as Section 47 ABH could potentially lead to .

Not contained within statute- Charged under Section 39 of the Criminal Justice Act 1988, assault and battery are not contained within statute and instead are amalgamations of common laws that are centuries old, thus meaning the modern day person is at the mercy of outdated judicial rulings in place of democratic definitions.



In 1993, the Law Commission published a report describing the law of common assault as '...inefficient as a vehicle for controlling violence... many aspects of the law are still obscure and its application erratic...'

In 1998, a Draft Bill was published which set out the offences more logically and gave more specific definitions for some.



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OAPA 1861 NFO's

The malicious wounding or infliction of Grievous Bodily Harm is definitely 'the good' of the non-fatal offences, but Section 20 of the OAPA in particular, can have some absurd interpretations of what injuries this law pertains to.

The term 'GBH' and 'wounding' both have the same meanings in relation to the s.20 offence therefore, the requirement for causation is almost synonymous with the 'inflict' element of the s.20 offence.

S20 of GBH under the OAPA requires a higher level of injury, it still has the same sentence as ABH which is a less serious offence. This shows that there is actually no clear boundary between both of these offences and it's important to separate these offences especially if they have different levels of seriousness.