

Non-Fatal Non-Sexual Offences Against the Person

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Focus: The values protected | The principle of correspondence | The need for reform

Psychic assault (s39 Criminal Justice Act 1988)

Mens Rea	Actus Reus	Any act (even words or silence; omission?)	Causes V to apprehend imminent unlawful force/touching
	Mens Rea	At least reckless as to V's apprehension of imminent unlawful force/touching	

Battery (s39 Criminal Justice Act 1988)

Mens Rea	Actus Reus	Touch or apply force to V (excluding everyday touchings; omission?)
	Mens Rea	At least reckless as to touching or applying force to V

Battery: The problem about *means*:

- Only direct application of force (Ireland, Wilson, Savage)?
- Also indirect application of force – so long as something physically touches V (Martin, DPP v K, Haystead)?
- Nothing physically touches V: D throws away V's medicine?
- Nothing physically touches V: D's words/conduct make V suffer a heart attack or depression (argument based on Burstow)?

s47: Assault occasioning ABH (s47 OAPA 1861)

Mens Rea	Psychic Assault or Battery	
	Actus Reus	Causes ABH

s20: Inflicting Wound or GBH (s20 OAPA 1861)

Mens Rea	Actus Reus	Any act or omission ('inflict' ≈ 'cause': <u>Burstow</u> , <u>Dica</u>)	Causes Wound or GBH
	Mens Rea	At least reckless whether V <i>might</i> suffer <i>some</i> harm	

s18: Causing Wound or GBH with intent (s18 OAPA 1861)

Mens Rea	Actus Reus	Any act or omission	Causes Wound or GBH
	Mens Rea	Intent to cause GBH (or: intent to resist/prevent arrest and reckless as to harm)	

Problems with the 'ladder'

1. Breaches the principle of correspondence
2. Penalties
3. Wounds
4. The problem about means: s20 broader than s47?
5. Stretching the language

The need for reform: but what should it be?

Consider: The values protected and the role of consent

Value of bodily integrity

Consent should never negate liability

Value of bodily autonomy

Consent should always negate liability

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