

# Strengths and weaknesses of non-fatal offences



Strengths	Weaknesses
<p>Law allows words to negate actions, which can limit the number of cases.</p> <ul style="list-style-type: none"> <li>➤ <u>Tuberville v Savage (1669)</u> <ul style="list-style-type: none"> <li>Two men; one placed his hand on his sword and told the other 'If it were not assize-time, I would not take such language from you'</li> <li>Justices of assize were in town</li> <li>Words can prevent an act from being an assault (but it depends on the circumstances)</li> </ul> </li> </ul>	<p>The Offences Against the Person Act 1861 is outdated.</p> <p>Example: differences of understanding 'mental health' problems, or 'bodily harm'.</p> <p>Inflicting V with a disease was not considered GBH until R v Dica (2004)</p> <ul style="list-style-type: none"> <li>➤ <u>R v Dica (2004)</u> <ul style="list-style-type: none"> <li>D knowingly affected two people with HIV</li> <li>Affecting someone with a HIV virus can amount to GBH</li> </ul> </li> </ul>
<p>Rules have built up through cases, so law is tried and tested.</p>	<p>No clear hierarchy of offences.</p>
<p>Law punishes severe consequences more harshly, showing a higher level of blame.</p>	<p>Resisting arrest seems to be as serious as intending to cause very serious injuries.</p>
<p>Law offers flexibility of interpreting words/phrases. This benefits the victims.</p> <ul style="list-style-type: none"> <li>'Immediate' = does not necessarily mean instantaneous; in the near future <ul style="list-style-type: none"> <li>➤ <u>Smith v Chief Constable of Woking Police Station (1983)</u> <ul style="list-style-type: none"> <li>D looked through V's bedroom window late at night</li> <li>V feared D could enter the house =&gt; V was threatened</li> <li>Sufficient for the AR of assault</li> <li>'immediate' = in the near future</li> <li>V foresaw D's actions</li> </ul> </li> </ul> </li> <li>Force can be the 'merest' (slightest) touch. <ul style="list-style-type: none"> <li>➤ <u>R v Thomas (1985)</u> <ul style="list-style-type: none"> <li>A schoolgirl + a caretaker</li> <li>Caretaker touches girl's skirt and rubs it</li> <li>Battery: 'the merest' (the slightest) touch + battery can be applied directly</li> </ul> </li> </ul> </li> </ul>	<p>Correspondence principle can easily be breached.</p> <p>Correspondence principle = proportional punishment for a certain crime.</p> <p style="text-align: center;">↓</p> <p>Inconsistencies between offences =&gt; ABH s.47 = 5 years imprisonment =&gt; GBH s.20 = 5 years <b>BUT</b> GBH s.20 is more serious</p> <p style="text-align: center;">↓</p> <p>s.47 – same mens rea for assault and for battery, but different sentences.</p>
<p>Law justifies everyday actions =&gt; 'everyday jostling'.</p> <ul style="list-style-type: none"> <li>➤ <u>Wilson v Pringle (1986)</u> <ul style="list-style-type: none"> <li>Two boys in a school corridor pull each other's bags</li> <li>Not considered hostile (normal boy's actions)</li> <li>'Everyday jostling' is not unlawful</li> </ul> </li> </ul>	<p>People can be charged with a more serious offence than supposed to.</p>