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There are many ways to evaluate Law and Sentences on specific non-fatal offences, one way in doing so is looking at the criticisms of non-fatal offences.

The first criticism is the language of the laws being old (in the Act itself) as well as confusing. For example, in GBH section 20 and 18 it uses terms such as "Malicious" in modern day society nobody uses words like this, this therefore doesn't seem to be modernised, this was meant to define to be: "Recklessly" but gives the impression it infers committing something in an nasty/hateful manner, it was meant to be for the Mens Rea but Mens Res has been defined as "with intent". In addition to this, the term "assault" in modern day society implies physical injuries to a victim after beating them. But, in terms of law it is just making somebody feel fear, this is misleading so when a person in court claims they have been assaulted they really mean they have been a victim of either: GBH, ABH or a Battery depending on the seriousness of the injuries. Another criticism I am going to talk about is the fact that Mens Rea in Section 47 doesn't need any extra Mens Rea, it doesn't have the requirement of the defendant to foresee a risk/injury, like in the case R v Roberts where the defendant offered to give the victim a lift and then demanded her to have sex with him as she said no he drove off with her at a high speed leading her to injure herself by jumping out. The defendant claimed that he was unaware of risks and didn't mean for the victim to suffer from ABH, even though he put her in a fearful state of mind leading to her jumping out of his car. The third criticism I'm going to talk about is the lack of the seriousness needed in the actual harm sector in Section 20 GBH, the only thing the prosecution need to show is that the defendant had intention to cause some harm, which could be the smallest

form of harm. Like in the case R v Mowatt where the defendant beat the victim unconscious due to the victim confronting the defendant about the defendant's partner who helped steal from the victim.

It was decided that the Intention/recklessness to cause a wound and/or GBH doesn't need proving. Another criticism I'm going to talk about is the actual offence known as a "Battery" being misleading. Relating to Battery another criticism is there is no legal definition to define both "assault & battery" the only thing close to a definition is the requirements to cause them. Regarding ABH & GBH the separation doesn't seem to be visible, it is actual the courts that make the decision of what causes serious harm, but everyone has different opinions, especially when both ABH and GBH include psychological pain because it's hard to decide what extent of it comes under what offence, with no boundary as a guidance there will be no proper way in deciding. The final criticism I will be talking about is using a "wound" to separate Section 18 from 20 being useless as there should only be one Section for GBH because of the case Moriarty v Brookes where the defendant hit a customer and used force to remove him from a pub.

He was guilty as he broke the layers of the skin, but compared to a needle prick the seriousness is clearly different, so I believe if they had one Section they can easily charge somebody with GBH and giving them a suitable sentence rather than deciding over a wound. GBH Section 18 is the offence of inflicting either a wound or GBH. The Actus Reus in Section 18 is to wound/cause GBH to the victim.

The Mens Rea is the direct intention to cause GBH and not recklessness. The maximum sentence for GBH Section 18 is 25 years as it's the more serious out of Section 20 and 18. In addition to this, GBH Section 20 is the offence of inflicting a wound or GBH to the victim. The Mens Rea for this is the intention/ recklessness to cause some harm to the victim. The maximum sentence for GBH Section 20 is 5 years in prison as it's the least serious of the two.

Moreover Section 47 ABH, can be caused by either an assault or battery. The Mens Rea for this is intention or recklessness to commit the assault or battery or both.

In ABH Section 47 touching someone else's clothes or spitting on them can amount to a battery. Even though they do not physically injure the victim, but they could possibly psychologically injure them, this is unfair as they will be charged under ABH Section 47 and will have the same sentence as someone who has amounted GBH. Also, an assault can just be committed by saying something to make the victim feel immediate fear. An example of GBH Section 20 is breaking someone's bone. ABH Section 47 is caused by the slight direct touch.

By knowing this it is clear that the sentencing for these non-fatal offences have not been thought through due to the difference in the elements of committing the crimes. There are some similarities in the crimes such as intention, but nothing major that fit GBH Section 20 and ABH Section 47 into the same sentencing. Therefore, I believe that the sentencing for these opposite crimes should be reconsidered. However, the maximum sentence for GBH Section 18 is 25 years. This is a very big gap between the non-fatal offences even though GBH Section 20 and Section 18 are very similar in <https://assignbuster.com/there-section-20-gbh-the-only-thing-the/>

terms of the wounding, the problem seems to be if the sentence length should be dependent on the intention of causing GBH such as Recklessness or Direct intention? I believe Section 18 and Section 20 should both have the same sentence such as 10-15 years in prison where the judge is able to decide on the length of the sentence depending on how severe the victim's injuries are.