

Video transcript
Video Tutorial (i): Non-fatal offences against the person (chp 7)

Hi! In this video I want to talk to you and give you a bit of advice about the offenses against the person. This is something, of course, we discuss in detail in Chapter 7 of the textbook.

Now, rather than at looking each the offenses in great detail what this video is rather about is thinking about the structuring of how you would apply your knowledge of the offenses against the person to particularly problem-based facts. So, in what order are you going to do that. Now within this we're going to focus in particular on the so-called ladder offenses these are the main offenses within the offenses against the person act, starting with section 18 at the top (grievous bodily harm with the intention causing grievous bodily harm) all the way down to assault and battery as the more minor offenses at the bottom of this kind of ladder of liability. Now, this ladder of liabilities is quite useful. It's quite novel within the law particularly to have a number of offenses of this kind but it creates problems - it creates complications for you - when it comes to applying those offenses to problem facts.

Now, usually when we look at a potential criminal offence and we want to identify the potential crime we usually start off with the most serious potential offense and then work our way down until we find liability. That's certainly true of homicide offenses for example where you always begin with murder and then whether you find liability or not for murder defines the route you take afterwards. Now when it comes the offense against the person, it is not always practical to do that. Because let's say for example you have a scenario where someone simply nudges or pushes another person without their permission - it will be illogical to start with "okay, it's not section 18 GBH because there's no GBH there's no intention to cause GBH, it's not section 20 for these reasons, it's not section 47 for these reasons, it's not an assault for these reasons". You end up using a lot of time and a lot of words within either your coursework type question or time within the exam and actually you're not getting very far because it's very obviously that it's is not one of those listed first of all.

So therefore it's sometimes impractical to start at the top in the way that you usually would. But equally it's impractical and it's not advisable to start at the bottom. When we're teaching these offenses in even the way it's presented within the textbook, we tend to start with the most minor offenses and then build up to the more serious ones as we go along. But equally if you have a scenario whereby I don't know somebody stabs somebody else in the leg you're not going to start with it's an assault because when he saw the knife coming he apprehended force - it was a battery when the knife touched - it then became section 47 as it went in a little bit - and then a more serious offense as it went in further. Again, it becomes like Russian dolls, where you do all of the analysis for each of those offenses but actually it's only the very, very end that you're analysing something which is important to answering the question.

So because it's often impractical and not advisable to start at the top or start at the bottom rather for the offense against the person with these ladder offenses it's often useful to think of various entry points for your discussion and we set this out within the flow chart that we give you within Chapter 7 in the assessment section we essentially say there's probably three useful starting points so what we would generally advise you do look at the potential criminal offense - so when John hits Sally or Sally stabbed John or whatever it might be - and think about the level of harm suffered by the victim. Now, if you think that level of harm potentially could be a very serious one, i.e. grievous bodily harm, then you should start right at the top of the tree and you should start with section 18 and potential liability and work your way down to until you find an offense which is likely to be committed. But if you look at the scenario and you think for example it's not grievous bodily harm it's not that serious level of harm or it's not a wounding, at most this will probably only be actual bodily harm, then you should start at middle level you should start with section 47. And you can say explicitly to your reader "the level harm here is not likely to engage the grievous bodily harm offences so therefore you start with section 47". And equally if we're just talking about and touching or causing someone to apprehend that you're going to use force again there's no point starting at the top but rather you would say to your reader that the level of force used or the lack of force used means that the only likely offense that is going to be committed here will perhaps be an assault or battery and therefore that's the point at which you start your analysis.

So the point is basically to make sure you're focusing your analysis in the relevant areas to either save you time within an exam or saving words with a coursework type essay but also importantly not just to pluck the offence out of the air but to tell your reader why you're choosing that offense. You are choosing to start at the top because of the level of harm you've seen is extreme. You are choosing to start in the middle because the level of harm is such that it would lend itself to that category of offenses or at the bottom, of course, because the harm is relatively minor.

And sometimes you'll find that you go through that entire ladder and actually drops out at the bottom that there isn't something that lends itself to any of those levels of harm and actually it's not something that fits within those offenses at all. So a classic example of that would be a harassment type scenario. So somebody simply harasses, they follow, they send unpleasant messages that kind of thing, it may well be that there's no physical contact or no causing of serious harm, such that sections 18, 20 and 47 are ruled out and battery is ruled out. And if it doesn't cause the victim to apprehend the immediate threat of force then assault is ruled out as well. You actually go down all the way through the ladder drop out the bottom and that's why we have these specific offences to deal with that kind of scenario. So that's why parliament created offenses of harassment because they recognize that our standard offenses against the person aren't equipped, aren't appropriate in all scenarios so again you can lead your reader through that or you can say it would be inappropriate to charge the more traditional offense against the person for these reasons which leads us to the offense of for example harassment and stalking and then apply those offenses in detail.

Thank you!