

CRIMINAL LAW

BY

GEORGE LIGHTBOURNE

Module

Foundations of Criminal Law

Table of Contents

ANSWER 1	4
INTRODUCTION	4
LIABILITY FOR HOMICIDE OFFENSES	4
Murder	5
Analysis of Aalia's conduct: Actus reus and Mens Rea Element	5
Tests for Factual and Legal Causation	6
Considering Mens Rea for Murder	7
DISCUSSION OF AALIA'S LIABILITY	8
POTENTIAL DEFENSES	8
Diminished Responsibility	8
Lack of Intent	9
Provocation	9
Duress	9
Automatism	9
CONCLUSION	10
REFERENCE LIST	11
ANSWER 2	13
INTRODUCTION	13
OVERVIEW OF THE OAPA 1861	13
CRITICAL EVALUATION OF THE OAPA	14
Section 47	14
Section 18	15
Section 20	16
Case Examples	16

OAPA IN MODERN SOCIETY	17
Relevance of Traditional Definitions	17
Challenges in Prosecution	17
Technological Advances.....	17
Clarity and Conviction.....	18
Adjusting Legal Tradition	18
Case Examples	18
REFORMS AND ALTERNATIVES.....	19
Legislative Reforms:	19
Alternative Legal Frameworks	19
Procedural and Institutional Changes	20
CONCLUSION	20
REFERENCE LIST	22

ANSWER 1

Every murder strikes at the heart of civilization; it is an attack on all mankind- Rae Foley

INTRODUCTION

The presented scenario revolves around Aalia, a scientist in London working to find a new vaccine for Covid-19, away from her husband, who lives in Leeds. While away from her husband she started having the feeling of being stressed because of her work and other personal problems. Eventually one day, Aalia somehow finds out that Martin may be cheating on her and this makes her more upset because Martin, her husband had problems with feeling sad in the past and he totally depends on her wife to help him with his psychological health. However, when Aalia confront him and he admits to talking to women online, she gets very angry and send her husband some pills, telling him that they are his usual medicines and she tells him to take extra pills, more than he should. This result in the death of her husband, by taking too many pills as per her instruction. While in investigation, Aalia says that she was overwhelmed and just wanted to calm down her husband, not to hurt or kill him.

Now, What Aalia did and if she could be legally responsible for martin's death or not? remains a question.

All through this analysis, we will delve into the multifaceted lawful standards administering criminal obligation, analyzing how they meet with the particular conditions introduced in the situation. By examining the actus reus and mens rea components of homicide offenses, investigating potential defenses, and considering more extensive moral and policy suggestions, the intricacies of Aalia's circumstance will be reveal and shed light into the more extensive cultural social and moral questions it raises.

LIABILITY FOR HOMICIDE OFFENSES

Revealing the legal framework surrounding homicide offenses, as the seminal legal scholar, Sir William Blackstone, noted, "Homicide is the killing of any human creature" in Blackstone, Commentaries on the Laws of England, Book IV, Chapter 14¹.

¹ 'Commentaries on the Laws of England, Book 4 (1769)' (Lonang Institute, 2005). Available at <https://lonang.com/wp-content/download/Blackstone-CommentariesBk4.pdf> accessed 4 March 2024.

Murder

Murder is a form of homicide, defined as the unlawful killing of another person with malice aforethought,² shedding light on both its illegality and the requisite mental state, this statement captures the quintessence of the offense. The definition of murder, often drawn from legal authorities like statutes, case laws and legal commentaries. In common law jurisdictions like England, legal authorities may involve statutes like the Homicide Act 1957 or the Criminal Code and land mark cases.³ These legal authorities define murder as the intentional and deliberate act of causing the death of another person, accompanied by a premeditated intention to kill or inflict grievous bodily harm. It symbolizes the gravest form of criminal homicide inside the law framework.⁴ Murder typically involves two elements, Actus Reus (AR) and Mens Rea (MR). Actus reus in murder involves the physical act that directly leads to the death of the other person or victim. For example, the case of R v Challen (2019) where the defendant used a hammer to hit her husband to death. This case illustrates the actus reus of murder where the physical act of striking the victim with hammer resulted in his death.⁵ While the mens rea element of murder pertains to the defendant's mental state associated to the act, characterized by malice aforethought, leading to the death of victim. A case highlighting the significance of evaluating the defendant's psychological state in murder cases is R v Jogee (2016), where the Court redefines the law on joint endeavour, featuring the meaning of considering the defendant's perspective while deciding liability for homicide.⁶

Analysis of Aalia's conduct: Actus reus and Mens Rea Element

In analyzing Aalia's conduct in the given situation, it is essential to assess how they relate to the actus reus and mens rea components expected for homicide offenses.⁷

² Ojo-Adewuyi, Victoria. "Domestic Criminal Legal Responses to the Boko Haram Crisis." In Criminal Justice Responses to the Boko Haram Crisis in Nigeria, pp. 71-114. The Hague: TMC Asser Press, 2024.

³ Tamanaha, Brian Z. Legal Pluralism Explained: History, Theory, Consequences. Oxford University Press, USA, 2021.

⁴ Downie, Jocelyn, Mona Gupta, Stefano Cavalli, and Samuel Blouin. "Assistance in dying: A comparative look at legal definitions." Death studies, 2022.

⁵ Storey, Tony. "Coercive Control: An Offence but Not a Defence: R v Challen [2019] EWCA Crim 916, Court of Appeal." Journal of Criminal Law 83, no. 6, 2019, 513-515.

⁶ Krebs, B. "Joint Enterprise, Murder and Substantial Injustice: The First Successful Appeal Post-Jogee: R v Crilly" (2018) EWCA Crim 168, The Journal of Criminal Law 82(3), 2018.

⁷ Duff, R. A. "Strict liability and strict responsibility." In The Routledge Handbook of Philosophy of Responsibility, Routledge, 2024, 480-489.

Aalia's conduct includes significant activities comprising the actus reus of the offense. These incorporate taking the barbiturates from the lab, modifying the medicine label to mirror Martin's antidepressants, and sending the pills to Martin with guidelines to take pills more than he should. These activities in combine, lay out the actual components of the offense, exhibiting Aalia's association in the occasions prompting Martin's death.

Concerning mens rea, Aalia's psychological state at that time of the conduct is significant. She states encountering burnout and emotional misery, intensified by Martin admitting his cheating. However, in any case, her particular intention stays questionable. While Aalia claims she intended to sedate Martin, her resulting activities, like misrepresenting the mark and teaching him to double the dose, propose a more vindictive intention.

To clarify, the instance of R v Jogee (2016) gives a pertinent point of reference to evaluating mens rea in cases including joint endeavor. For this situation, the High Court explained the mens rea necessity for secondary members, underscoring the requirement for Person liability and intention to help or empower the essential guilty offender⁸. Likewise, for Aalia's situation, her activities, especially in changing the medicine name and empowering Martin to expand the measurement, show a degree of wildness to intentionally hurt him. This lines up with the mens rea necessity for manslaughter offenses, as her direct shows a cognizant dismissal for Martin's wellbeing.

Tests for Factual and Legal Causation

Factual Causation

Often evaluated through the "but for" test, determines whether Aalia's actions were a direct cause of Martin's death. In this case, it must be established that Martin would not have died "but for" Aalia's conduct. The case of R V. White (1910) to illustrate the application of the "but for" test. In this case, the defendant attempted to poison his mother but she died of a heart attack before ingesting the poisoned drink. The defendant was acquitted of murder as his actions were not the factual cause of death.⁹

⁸ Krebs, B. "Joint Enterprise, Murder and Substantial Injustice: The First Successful Appeal Post-Jogee: R v Crilly" (2018) EWCA Crim 168, The Journal of Criminal Law 82(3), 2018.

⁹ R V. White (1910) 2 KB 124

In Aalia's situation, applying the "but for" test, it is clear that Martin would not have died if Aalia had not tampered with the medication and instructed him to take double dosage. Therefore, Aalia's actions satisfy the requirement of factual causation.

Legal Causation

Analyze whether Aalia's actions were a substantial and operating cause of Martin's death, considering any intervening factors. It examines the foreseeability of Martin's death and assesses if Aalia's conduct was the primary cause. For example, the case of *R v Kennedy (2017)* can be referred to delineate legitimate causation. For this situation, the defendant provided the casualty with heroin, yet the casualty self-managed the medication. The defendant was vindicated of homicide as the victim's self-organization broke the chain of causation.¹⁰ Taking into account Aalia's situation, while Martin's choice to consume the drug might be viewed as a mediating act, Aalia's altering and guidelines straightforwardly prompted the excess, which was the essential driver of death. Thusly, Aalia's activities can be considered a significant and working reason for Martin's passing, fulfilling the models for lawful causation.

The application of both causation principles supports the assertion that Aalia's actions were instrumental in causing Martin's death, fulfilling the actus reus element of the offense.

Considering Mens Rea for Murder

In evaluating Aalia's mens rea, or mental state, for the offense of murder, it's crucial to consider whether she possessed the requisite intent to kill or cause grievous bodily harm to Martin. The mens rea for murder typically involves either an intention to kill (direct intent) or an intention to cause serious bodily harm (oblique intent), where death is a foreseeable consequence of the defendant's actions. While Aalia may contend that her intention was only to sedate Martin and, her actions rise question on this claim. By changing the label on the barbiturate bottle and instructing Martin to take double dose, Aalia exhibited a wild disregard for Martin's life. This shows the intention to cause harm, as she was aware of the risk of death by the double dose of the pills. So, Aalia's actions

¹⁰ *R v Kennedy (2017) UKSC 2*

unreel the requisite mens rea for the offense of murder, justifying more legal examination and potential action. The case of R v Matthews (2018) where the Court of Appeal addressed the issue of intention and the application of the "virtual certainty" test established in the case of R v Woollin (1998) ¹¹¹²

DISCUSSION OF AALIA'S LIABILITY

Aalia's potential risk for crime offenses depends on the evaluation of both actus reus and mens rea components. As far as actus reus, Aalia's activities in giving Martin a twofold portion of barbiturates, camouflaged as his standard stimulant, straightforwardly added to his demise. This conscious conduct fulfills the actus reus prerequisite for crime. Also, Aalia's mens rea, or mental state, is critical in deciding her obligation. Her choice of instructing the deadly portion of drug to Martin, combined with her awareness of the deadly harm it could cause, demonstrates the presence of the imperative mens rea for murder offenses. Her guidelines to Martin to consume the pills create her guilty mental state. Considering aggravating variables, maltreatment of her position as a researcher to get the drug and her purposeful action to deceive Martin worsen her liability. Her harmful text messages and unfeeling disregard for Martin's prosperity mirror an absence of regret or compassion, further display her liability.

POTENTIAL DEFENSES

Diminished Responsibility

Aalia might argue that her mental state, described by burnout and emotional pain, weakened her ability to realize the consequences of her conduct. This defense could moderate her liability by reducing the charge from murder to manslaughter. As it happened in the case of R v. Golds (2016) where the Supreme Court elucidated the necessities for establishing diminished responsibility, highlighting the implication of substantial weakening of mental responsibility.¹³

¹¹ R v Matthews [2018] EWCA Crim 175

¹² R v Woollin (1998) AC 82

¹³ R v Golds (2016) UKSC 61

Lack of Intent

Aalia may claim that she did not possess the requisite intent for murder, contending that her conduct was not planned but rather a result of a momentary loss of control. This defense may be successful and could potentially reduce her liability from murder. For example, the case of *R v Woolfall* (2018) where the Court of Appeal considered the accused's lack of intent in a murder case, highlighting the importance of assessing the accused's state of mind at the time of the offense.¹⁴

Provocation

Aalia could contend that Martin's confirming his cheating and the inner emotions made her comprised adequate provocation to relieve her liability for the following activities. The case of *R v Clinton* (2012), where the Court analyzed the defense of provocation with regards to a homicide case, underlining the need to survey the sensibility of the blame's reaction to the provoking occasion.¹⁵

Duress

Aalia might assert that she felt compelled to act under duress, either due to external pressure or intimidation, which impacted her decision-making process. For example the case of *R v Hasan* (2019), where the Court analyzed the defense of duress in a criminal case, emphasizing the importance of assessing the immediacy and severity of the threat faced by the accused.¹⁶

Automatism

Aalia may reveal that her actions were involuntary and outcome of a state of automatism, she may be forgiven of criminal responsibility. Like happened in the case of *R v Allen* (2019) where the Court measured the defense of automatism in a criminal case, highlighting the necessity to evaluate whether the accused's actions were involuntary and past their control.¹⁷

¹⁴ *R v Woolfall* (2018) EWCA Crim 1810

¹⁵ *R v Clinton* (2012) 2 All trauma center 947

¹⁶ *R v Hasan* (2019) EWCA Crim 456

¹⁷ *R v Allen* (2019) EWCA Crim 222

CONCLUSION

By an analysis of the given scenario Aalia's conduct portrays potential liability for homicide offenses, specifically murder, because of her deliberate administration of a deadly dose of barbiturates to Martin, her husband. This is supported by both actus reus and mens rea element of the offenses with provoking elements such as abuse of authority. However, Aalia may argue defenses like lack of intent, her state of automatism, provocation by Martin cheating and other factors to moderate her liability as much as possible as seen in multiple cases having situation like Aalia. The scenario highlights the intricate web of assessing criminal liability and potential defenses, focusing on the need for a thorough examination of all relevant elements.

REFERENCE LIST

- Commentaries on the Laws of England, Book 4 (1769)' Lonang Institute (2005). Available at <https://lonang.com/wp-content/download/Blackstone-CommentariesBk4.pdf> accessed 4 March 2024.
- Downie, Jocelyn, Mona Gupta, Stefano Cavalli, and Samuel Blouin. "Assistance in dying: A comparative look at legal definitions." *Death studies*, (2022).
- Duff, R. A. "Strict liability and strict responsibility." In *The Routledge Handbook of Philosophy of Responsibility*, Routledge, (2024), 480-489.
- Krebs, B. "Joint Enterprise, Murder and Substantial Injustice: The First Successful Appeal Post-Jogee: R v Crilly" (2018) EWCA Crim 168, *The Journal of Criminal Law* 82(3), (2018).
- Ojo-Adewuyi, Victoria. "Domestic Criminal Legal Responses to the Boko Haram Crisis." In *Criminal Justice Responses to the Boko Haram Crisis in Nigeria*, pp. 71-114. The Hague: TMC Asser Press, (2024).
- R v Clinton (2012) 2 All trauma center 947 Available at: <https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Judgments/r-v-clinton-parker-and-evans-judgment.pdf>
- R v Golds (2016) UKSC 61 Available at: <https://www.supremecourt.uk/cases/uksc-2015-0053.html>
- R v Hasan (2019) EWCA Crim 456 Available at: <https://publications.parliament.uk/pa/ld200405/ldjudgmt/jd050317/hasan.pdf>
- R v Kennedy (2017) UKSC 2 Available at: <https://publications.parliament.uk/pa/ld200607/ldjudgmt/jd071017/kenny-1.htm>
- R v Allen [2019] EWCA Crim 222 Available at: <https://crimecast.law/top-50-cases-2019/r-v-allen-leslie-2019-ewca-crim-1256/>
- R v Matthews [2018] EWCA Crim 175 Available at: <https://uollb.com/blog/cases/r-v-matthews-and-alleyne-2003-criminal-law>

R v Woollin (1998) AC 82 Available at:
<https://publications.parliament.uk/pa/ld199798/ldjudgmt/jd980722/wool.htm>

R V. White (1910) 2 KB 124 Available at: <https://ipsaloquitur.com/criminal-law/cases/r-v-white-1910/>

Storey, Tony. "Coercive Control: An Offence but Not a Defence: R v Challen [2019] EWCA Crim 916, Court of Appeal." Journal of Criminal Law 83, no. 6, (2019), 513-515.

Tamanaha, Brian Z. Legal Pluralism Explained: History, Theory, Consequences. Oxford University Press, USA, (2021).

ANSWER 2

INTRODUCTION

Is the OAPA still adequate for addressing these offenses in contemporary society, or does it requires reform?

For finding this, a critical evaluation of the relevance of the OAPA in modern time is to be identify along with the analysis of its strengths, weaknesses and its overall effectiveness in addressing assault and wounding offences. By a comprehensive analysis of legal principle, case laws, the answer will investigate whether the OAPA align with the contemporary societal values, provides adequate protection for victims and meets the demands for justice in today's legitimate scenario. By a critical assessment of the need for potential reforms and alternatives, the aim is to offer insight surrounding the OAPA's applicability in modern society.

OVERVIEW OF THE OAPA 1861.

The OAPA remains as quite possibly of the most persevering through statutes in English criminal law history, a vital part in molding the legitimate structure for tending to offenses of assault and wounding. Established during the rule of Queen Victoria, the OAPA arose during a period of critical social and political change in Victorian England. Its institution denoted an effort by legislators to classify and unite different common law offenses connected with Person brutality into a solitary rule. The main role of the OAPA was to give a thorough legitimate structure to indicting offenses against the Person, going from minor attacks to additional serious Acts causing grievous bodily harm. The Act entails a distinct section, addresses to precise forms of offenses and their concerning consequences. Sections 18, 20 and 47 of the OAPA are pertinent to the dialogue. Section 47 focusing attacks inflicting actual bodily harm (ABH), regarding activites causing physical damage to the opposite. Sections 18 and 20, cope with more most important offenses like grievous bodily harm (GBH). These reflect the Victorian lawmakers' target to address multiple offenses against the person, from minor assaults to acts causing

major harm. By delineating different offenses and their penalties, the OAPA aimed to promote clarity and consistency in the prosecution of such crimes. The OAPA 1861 holds significant historical and legal importance in shaping the criminal law landscape of England and Wales. Additionally, the OAPA 1861 remains relevant today, forming the basis for many prosecutions involving assaults and wounding, albeit in conjunction with modern legislative amendments and case law interpretations.^{18 19 20 21 22}

CRITICAL EVALUATION OF THE OAPA

Particularly section 18, 20 and 27 of the Act are pivotal in addressing various levels of harms and injuries inflicted upon individuals, ranging from minor to serious injuries or harm like (GBH).

Section 47

Section 47 of the OAPA tends to the assault bringing actual bodily harm (ABH), including acts causing actual injury or pain that impedes the victim's wellbeing. This arrangement gives a wide extension to indicting lower-level offenses of violence, mirroring the lawmaking body's plan to prevent and punish these conducts. By characterizing ABH and recommending punishments for wrongdoers, this section 47 advances responsibility and equity in cases including moderate damage.^{23 24}

Strength

Clarity: This section offers a clear definition and meaning of ABH, giving direction to examiners, judges, and juries in recognizing minor and more serious wounds.

¹⁸ Eugenicos, Alexandra-Maria. "Should We Reform the Offences Against the Person Act 1861?." *The Journal of Criminal Law* 81, no. 1 (2017): 26-32.

¹⁹ Fewtrell, E. M. "Offences against the Person Act, 1861, Sections 18 & 20." *The Police Journal* 21, no. 2 (1948): 148-151.

²⁰ Gardner, John. "Rationality and the rule of law in offences against the person." *The Cambridge Law Journal* 53, no. 3 (1994): 502-523.

²¹ Ferner, Robin E., and Jeffrey K. Aronson. "Medicines legislation and regulation in the United Kingdom 1500-2020." *British journal of clinical pharmacology* 89, no. 1 (2023): 80-92.

²² Participation E, 'Offences against the Person Act 1861' (Legislation.gov.uk, 1 June 1978) <https://www.legislation.gov.uk/ukpga/Vict/24-25/100/contents> accessed 5 March 2024

²³ Atoki, Morayo. "Assault and S 47 of the Offences against the Person Act 1861." *The Journal of Criminal Law* 59, no. 3 (1995): 299-304.

²⁴ Participation E, 'Offences against the Person Act 1861' (Legislation.gov.uk, 1 June 1978) <https://www.legislation.gov.uk/ukpga/Vict/24-25/100/contents> accessed 5 March 2024

Adaptability: The arrangement allows for a range of condemning choices, mirroring the fluctuating levels of mischief caused and the culpability of the wrongdoer.

Weakness

Subjectivity in assessing hurt: Deciding the degree of mischief caused can be abstract and not entirely clear, prompting inconsistency in condemning and results.

Restricted scope: section 47 may not sufficient to address current types of damage, for example, mental or emotional injury, which may not appear as actual wounds but rather still cause huge mischief to the person.

Section 18

Segment 18 of the OAPA relates to the most serious offenses including the purposeful infliction of grievous bodily harm (GBH). This arrangement forces rigid punishments on guilty parties who intentionally hurt others, mirroring society's judgment of such demonstrations. Section 18 epitomizes the standard of mens rea, requiring verification of intention to inflict any kind of damage or serious injury.^{25 26}

Strength

Deterrence: This section fills in as a strong obstacle against pre-planned conducts of brutality, especially those subsequent in extreme damage or bodily harm.

Accountability: By requiring verification of intentions, Segment 18 guarantees that guilty parties are considered responsible for their activities and face suitable ramifications for their cruel conduct.

Weakness

High threshold for prosecution: Prosecuting offences under Segment 18 requires verification of explicit aim, which can be challenging to lay out without question, prompting potential undercharging or acquittals.

²⁵ Fewtrell, E. M. "Offences against the Person Act, 1861, Sections 18 & 20." *The Police Journal* 21, no. 2 (1948): 148-151.

²⁶ *Participation E, 'Offences against the Person Act 1861'* (Legislation.gov.uk, 1 June 1978)

<https://www.legislation.gov.uk/ukpga/Vict/24-25/100/contents> accessed 5 March 2024

Inflexibility in sentencing: The provision imposes required least sentences for convictions, restricting legal caution and possibly bringing disproportionate punishments in specific cases.

Section 20

Section 20 highlights offenses of maliciously injuring or causing GBH, including act of brutality driven by malice. This catches an extensive range of actions of hurting people, mirroring society's condemnation of malicious or wild behaviour.^{27 28}

Strength

Extensive applicability: This, covers an extensive variety of lead, including acts of brutality caused by malignance and wild dismissal for the safety of others.

Recognition of harm: By addressing offenses resulting in GBH, this section recognizes the seriousness of damage caused upon victim and seek to ensure that defendant is considered responsible for their actions.

Weakness

Clarity Lack: The term "maliciously" in Section 20 is not entirely clear and open to interpretation, prompting weakness and inconsistency in its application.

Overlap with other offenses: This section cross-over with other rations of the OAPA, like the Section 18, causing possible confusion and repetitiveness in the prosecution of alike offenses.

Case Examples

R v. Savage: The respondent threw beer over the victim in a bar, making the glass break and harm the victim's eye. The House of Lords held that the respondent's demonstration comprised an attack occasioning actual bodily harm (ABH) under Section 47 of the OAPA, reaffirming that even circuitous demonstrations resulting in physical harm could comprise an offense under the OAPA.²⁹

²⁷ Fewtrell, E. M. "Offences against the Person Act, 1861, Sections 18 & 20." *The Police Journal* 21, no. 2 (1948): 148-151.

²⁸ Participation E, 'Offences against the Person Act 1861' (Legislation.gov.uk, 1 June 1978) <https://www.legislation.gov.uk/ukpga/Vict/24-25/100/contents> accessed 5 March 2024

²⁹ R v Savage [1992] 1 AC 699

R v Mowatt: In this case the respondent punched the person, making him fall and experience a cracked skull. the respondent was accused of unlawful injuring under Section 20 of the OAPA. The Court of Appeal confirmed the conviction, underlining the seriousness of the wounds caused and the respondent liability in incurring hurt.³⁰

OAPA IN MODERN SOCIETY

Relevance of Traditional Definitions

While the OAPA's meanings of attack and injuring have given a lawful structure for addressing physical harm, they may not completely envelop the scope of harm experienced in modern society. With the rise of cyberbullying, online provocation, and mental maltreatment, there is a need to extend the meaning of damage and harm beyond physical injuries to include emotional and psychological harm.^{31 32}

Challenges in Prosecution

The OAPA's arrangements might present difficulties in indicting offenses that include complex types of hams, for example, cyberbullying or coercive control, where the damage caused isn't promptly apparent. Lawful translations of terms like actual bodily harm" may struggle to capture the full I degree of damage in these cases, prompting troubles in getting convictions.^{33 34}

Technological Advances

considering innovative advances and changes in cultural standards, the OAPA might require corrections or changes to address arising types of damage. Presenting new arrangements or refreshing existing ones to envelop online offenses and non-actual

³⁰ R v Mowatt (1968) 1 QB 421

³¹ Serediuk, Vitalii, Illya Shutak, and Ihor Onyshchuk. "Textualism as a Theory of Interpretation of Legal Norms in the Context of Doctrinal Views." *Statute Law Review* 45, no. 1 (2024): hmae006.

³² Turner, Jo, and Karen Corteen. "Crime and criminal justice: past and present." In *Forensic Psychology, Crime and Policing*, pp. 91-96. Policy Press, 2023.

³³ Marshall, Heather. "'We don't have blasphemy laws in England.'What does this mean for RE?." *Journal of Religious Education* (2024): 1-20.

³⁴ Turner, Jo, and Karen Corteen. "Crime and criminal justice: past and present." In *Forensic Psychology, Crime and Policing*, pp. 91-96. Policy Press, 2023.

damage could upgrade the Demonstration's viability in tending to current types of attack and injuring.^{35 36}

Clarity and Conviction

Critics argue that the OAPA's language and arrangements might need clearness and assurance in characterizing offenses, prompting inconsistencies in lawful translations and results. Changes pointed toward explaining definitions and laying out clear lawful principles could work on the Act's pertinence and guarantee predictable implementation across various settings.³⁷

Adjusting Legal Tradition

While the OAPA has shaped the foundation of assault and wounding offenses in English law for more than a century, there is a need to find some kind of harmony between maintaining lawful practice and embracing development. Changes ought to try to protect the Demonstration's major standards while addressing holes in its relevance to contemporary types of harm.^{38 39 40}

Case Examples

R v. Konzani: In this case, the defendant was charged under section 20 of the OAPA for causing grievous bodily harm to the victim by knowingly transmitting HIV to the sexual partner. However, the court faced challenges in determining the extent of harm inflicted due to the lack of visible injuries. The case highlighted the limitations of the OAPA in addressing modern public health concern, such as infectious disease, which may be equally damaging but not covered by the Act.⁴¹

³⁵ Goodrich, Peter. "Imaginal law." In *Research Handbook on Legal Semiotics*, pp. 327-337. Edward Elgar Publishing, 2023.

³⁶ Turner, Jo, and Karen Corteen. "Crime and criminal justice: past and present." In *Forensic Psychology, Crime and Policing*, pp. 91-96. Policy Press, 2023.

³⁷ Thomas, Cheryl. "Juries, Rape and Sexual Offences in the Crown Court 2007–21." *Criminal Law Review* 2023, no. 3 (2023): 197-222.

³⁸ Goodrich, Peter. "Imaginal law." In *Research Handbook on Legal Semiotics*, pp. 327-337. Edward Elgar Publishing, 2023.

³⁹ Afolayan, Seun Omowonuola. "Comparative legal analysis of the offence of rape in Nigeria, United Kingdom and the United States of America." (2023).

⁴⁰ Grolimund, Alexandra. "SM, the Law, and an Opaque Sexual Consent Narrative." In *Consent*, pp. 34-53. Routledge, 2023.

⁴¹ R v. Konzani (2005) EWCA Crim 706

R v Conner: This case raised queries about the adequacy of the OAPA in addressing modern forms of harm, such as cyberbullying and online harassment. The defendant was charged with assault under section 18 after engaging in a sustained campaign of online abuse against the victim. However, legal experts argued that the Act's provisions were ill-suited to address the complexities of online offenses and the psychological harm inflicted on the victim.⁴²

REFORMS AND ALTERNATIVES

Legislative Reforms:

Clarify Language: Update and clarify legal language to align with present-day consideration and modern terminologies.^{43 44}

New Offenses: Introduce new offenses to cover wide range of harm, such as online harassment or coercive control, etc.^{45 46}

Modernize Provisions: Streamline legitimate procedure, increase evidentiary morals, and update provisions to reflect developments in forensic science and societal customs.^{47 48}

Alternative Legal Frameworks

Merge Legislation: Incorporate pertinent arrangements from diverse statutes into a combined framework for addressing assault and correlated offenses.^{49 50}

⁴² R v Conner Phillips (2020) EWCA Civ 126

⁴³ Tolley, Rachel C. "Jeremy Horder, 'Rethinking Non-Fatal Offences Against the Person' (1994)." In *Leading Works in Criminal Law*, pp. 242-262. Routledge.

⁴⁴ Hall, Lesley A. "Beyond the Law: The Politics of Ending the Death Penalty for Sodomy in Britain, by Charles Upchurch." (2023): xii+-290.

⁴⁵ Tolley, Rachel C. "Jeremy Horder, 'Rethinking Non-Fatal Offences Against the Person' (1994)." In *Leading Works in Criminal Law*, pp. 242-262. Routledge.

⁴⁶ Hall, Lesley A. "Beyond the Law: The Politics of Ending the Death Penalty for Sodomy in Britain, by Charles Upchurch." (2023): xii+-290.

⁴⁷ Tolley, Rachel C. "Jeremy Horder, 'Rethinking Non-Fatal Offences Against the Person' (1994)." In *Leading Works in Criminal Law*, pp. 242-262. Routledge.

⁴⁸ Hall, Lesley A. "Beyond the Law: The Politics of Ending the Death Penalty for Sodomy in Britain, by Charles Upchurch." (2023): xii+-290.

⁴⁹ Tolley, Rachel C. "Jeremy Horder, 'Rethinking Non-Fatal Offences Against the Person' (1994)." In *Leading Works in Criminal Law*, pp. 242-262. Routledge.

⁵⁰ Romanis, Elizabeth Chloe. "Abortion access and the benefits and limitations of abortion-permissive legal frameworks: Lessons from the United Kingdom." *Cambridge Quarterly of Healthcare Ethics* (2023): 1-13.

Embrace Modernized Rules: Study and adapt worldwide models, like the Model Penal Code or the Criminal Code of Canada, to develop a comprehensive legal framework.^{51 52}

Procedural and Institutional Changes

Improve Training and Education: Giving training on trauma-informed practices and victims' rights for legal professionals and law enforcement officers.^{53 54}

Resources in Support Services: Improve access to counseling, lawful guide, and community-based initiatives for survivors of assault.^{55 56}

Foster Stakeholder Engagement: Conduct consultations with legal experts, victim advocacy groups, and different partners to illuminate change endeavors.^{57 58}

CONCLUSION

(OAPA) has filled in as a foundation of English criminal law for over a century and a half, giving a system for addressing offenses of assault and wounding. we have embraced a basic assessment of whether the OAPA stays reasonable for contemporary society or on the other hand in the event that changes are important to address its limits. Our analysis revealed several strengths of the OAPA, including its historical significance, clarity in defining criminal offenses, and role in providing legal protection for victims of violence. However, these qualities are tempered by critical shortcomings, like obsolete wording, ambiguities in lawful arrangements, and limits in tending to present day societal attitudes and technological advancements. The significance of the OAPA in present day society is raised doubt about as cultural standards develop, and new difficulties arise.

⁵¹ Tolley, Rachel C. "Jeremy Horder, 'Rethinking Non-Fatal Offences Against the Person' (1994)." In *Leading Works in Criminal Law*, pp. 242-262. Routledge.

⁵² Romanis, Elizabeth Chloe. "Abortion access and the benefits and limitations of abortion-permissive legal frameworks: Lessons from the United Kingdom." *Cambridge Quarterly of Healthcare Ethics* (2023): 1-13.

⁵³ Tolley, Rachel C. "Jeremy Horder, 'Rethinking Non-Fatal Offences Against the Person' (1994)." In *Leading Works in Criminal Law*, pp. 242-262. Routledge.

⁵⁴ Sheldon, Sally, and Jonathan Lord. "Care not criminalization: reform of British abortion law is long overdue." *Journal of Medical Ethics* 49, no. 8 (2023): 523-524.

⁵⁵ Tolley, Rachel C. "Jeremy Horder, 'Rethinking Non-Fatal Offences Against the Person' (1994)." In *Leading Works in Criminal Law*, pp. 242-262. Routledge.

⁵⁶ Sheldon, Sally, and Jonathan Lord. "Care not criminalisation: reform of British abortion law is long overdue." *Journal of Medical Ethics* 49, no. 8 (2023): 523-524.

⁵⁷ Tolley, Rachel C. "Jeremy Horder, 'Rethinking Non-Fatal Offences Against the Person' (1994)." In *Leading Works in Criminal Law*, pp. 242-262. Routledge.

⁵⁸ Sheldon, Sally, and Jonathan Lord. "Care not criminalisation: reform of British abortion law is long overdue." *Journal of Medical Ethics* 49, no. 8 (2023): 523-524.

While the Act may align with traditional principles of criminal justice, its compatibility with contemporary values of bodily autonomy, human rights, and medical knowledge is less certain. Moreover, the Demonstration's capacity to really address the intricacies of attack and injuring offenses in a computerized age raises concerns about its practical application and efficacy. Our evaluation of the requirement for change recognizes the intricacies of authoritative change and the difficulties of balancing legal clarity with the protection of individual rights. While reforming the OAPA presents opportunities to address its shortcomings and enhance legal certainty, it additionally requires cautious thought of partner viewpoints, regulative cycles, and likely potentially negative results. Considering our examination, it is clear that changes to the OAPA are important to guarantee its proceeded with significance and viability in tending to offenses of attack and injuring in present day society. Proposed changes ought to intend to explain ambiguities, update wording, and adjust the Demonstration to contemporary qualities and legitimate standards. Moreover, elective lawful structures or approaches might offer significant experiences into expected changes and options in contrast to the OAPA. The decision to reform the OAPA requires a balanced consideration of legal principles, societal values, and practical considerations. By fundamentally assessing the Demonstration and proposing insightful changes, policymakers can ensure that the criminal law remains responsive to the needs of society and continues maintaining justice for victims of assault and wounding.

REFERENCE LIST

- Afolayan, Seun Omowonuola. "Comparative legal analysis of the offence of rape in Nigeria, United Kingdom and the United States of America." (2023).
- Atoki, Morayo. "Assault and S 47 of the Offences against the Person Act 1861." *The Journal of Criminal Law* 59, no. 3 (1995): 299-304.
- Eugenicos, Alexandra-Maria. "Should We Reform the Offences Against the Person Act 1861?." *The Journal of Criminal Law* 81, no. 1 (2017): 26-32.
- Ferner, Robin E., and Jeffrey K. Aronson. "Medicines legislation and regulation in the United Kingdom 1500-2020." *British journal of clinical pharmacology* 89, no. 1 (2023): 80-92.
- Fewtrell, E. M. "Offences against the Person Act, 1861, Sections 18 & 20." *The Police Journal* 21, no. 2 (1948): 148-151.
- Gardner, John. "Rationality and the rule of law in offences against the person." *The Cambridge Law Journal* 53, no. 3 (1994): 502-523.
- Goodrich, Peter. "Imaginal law." In *Research Handbook on Legal Semiotics*, pp. 327-337. Edward Elgar Publishing, 2023.
- Grolimund, Alexandra. "SM, the Law, and an Opaque Sexual Consent Narrative." In *Consent*, pp. 34-53. Routledge, 2023.
- Hall, Lesley A. "Beyond the Law: The Politics of Ending the Death Penalty for Sodomy in Britain, by Charles Upchurch." (2023)
- Marshall, Heather. "'We don't have blasphemy laws in England.'What does this mean for RE?." *Journal of Religious Education* (2024): 1-20.

Participation E, 'Offences against the Person Act 1861' (Legislation.gov.uk, 1 June 1978)
<https://www.legislation.gov.uk/ukpga/Vict/24-25/100/contents> accessed 5 March 2024

R v Conner Phillips (2020) EWCA Civ 126 Available at: <https://vlex.co.uk/vid/r-v-conner-phillips-840335861>

R v Mowatt (1968) 1 QB 421 Available at: https://www.iclr.co.uk/document/1961003961/casereport_53167/html

R v Savage (1992) 1 AC 699 Available at: <https://ipsaloquitur.com/criminal-law/assault-battery/>

R v. Konzani (2005) EWCA Crim 706 Available at <https://www.lawteacher.net/cases/r-v-konzani.php>

Romanis, Elizabeth Chloe. "Abortion access and the benefits and limitations of abortion-permissive legal frameworks: Lessons from the United Kingdom." Cambridge Quarterly of Healthcare Ethics (2023): 1-13.

Serediuk, Vitalii, Ilyia Shutak, and Ihor Onyshchuk. "Textualism as a Theory of Interpretation of Legal Norms in the Context of Doctrinal Views." Statute Law Review 45, no. 1 (2024): hmae006.

Sheldon, Sally, and Jonathan Lord. "Care not criminalisation: reform of British abortion law is long overdue." Journal of Medical Ethics 49, no. 8 (2023): 523-524.

Thomas, Cheryl. "Juries, Rape and Sexual Offences in the Crown Court 2007–21." Criminal Law Review 2023, no. 3 (2023): 197-222.

Tolley, Rachel C. "Jeremy Horder, 'Rethinking Non-Fatal Offences Against the Person' (1994)." In Leading Works in Criminal Law, pp. 242-262. Routledge.

Turner, Jo, and Karen Corteen. "Crime and criminal justice: past and present." In Forensic Psychology, Crime and Policing, pp. 91-96. Policy Press, 2023.