

Q1 PROBLEM QUESTION (1200 WORDS).....	3
COMMON ASSAULT.....	3
1. UNLAWFUL CONTACT.....	3
2. APPREHENSION OF UNLAWFUL CONTACT.....	4
AGGRAVATED ASSAULT.....	5
1. ASSAULT OCCASIONING ABH.....	6
2. ASSAULT OCCASIONING GBH.....	7
HOMICIDE.....	8
1. MURDER.....	10
2. CONSTRUCTIVE MURDER.....	11
3. MANSLAUGHTER BY UNLAWFUL & DANGEROUS ACT.....	12
4. MANSLAUGHTER BY CRIMINAL NEGLIGENCE.....	13
COMPLETE DEFENCES.....	14
1. SELF-DEFENCE.....	14
2. MENTAL OR COGNITIVE IMPAIRMENT.....	15
3. AUTOMATISM.....	16
PARTIAL DEFENCES.....	17
1. EXCESSIVE SELF-DEFENCE.....	17
2. INTOXICATION.....	17
3. EXTREME PROVOCATION.....	18
4. SUBSTANTIAL IMPAIRMENT.....	19
DISHONEST ACQUISITION.....	20
1. FRAUD (OBTAINING PROPERTY).....	20
2. FRAUD (OBTAINING FINANCIAL ADVANTAGE).....	21
3. FRAUD (CAUSING FINANCIAL DISADVANTAGE).....	22
4. LARCENY.....	23
5. DEFENCE OF CLAIM OF RIGHT.....	24
COMPLICITY.....	25
1. JOINT CRIMINAL ENTERPRISE.....	26
2. EXTENDED JOINT CRIMINAL ENTERPRISE.....	27
3. ACCESSORIAL LIABILITY.....	28
4. CONSPIRACY.....	29
COMPARISON TABLES.....	30
COMPLETE VS PARTIAL DEFENCE OF MENTAL IMPAIRMENT.....	30
RECKLESS MURDER VS MANSLAUGHTER BY CRIMINAL NEGLIGENCE.....	30
UNLAWFUL VS DANGEROUS ACTS.....	30
CONSTRUCTIVE MURDER WITH COMPLICITY.....	31
TEST FOR DISHONEST ACQUISITION.....	31
Q2 ESSAY QUESTION (800 WORDS).....	32
TOPICS.....	32
BEST OFFENCES/DEFENCES TO USE.....	33
ESSAY FRAMING.....	33
ESSAY TEMPLATES.....	34
SEXUAL ASSAULT.....	34
ONE PUNCH LAWS.....	34
EXTREME PROVOCATION.....	35
SUBSTANTIAL IMPAIRMENT.....	36
INTOXICATION.....	36
DOMESTIC VIOLENCE.....	37
DISHONESTY OFFENCES.....	37

Q1 PROBLEM QUESTION (1200 WORDS)

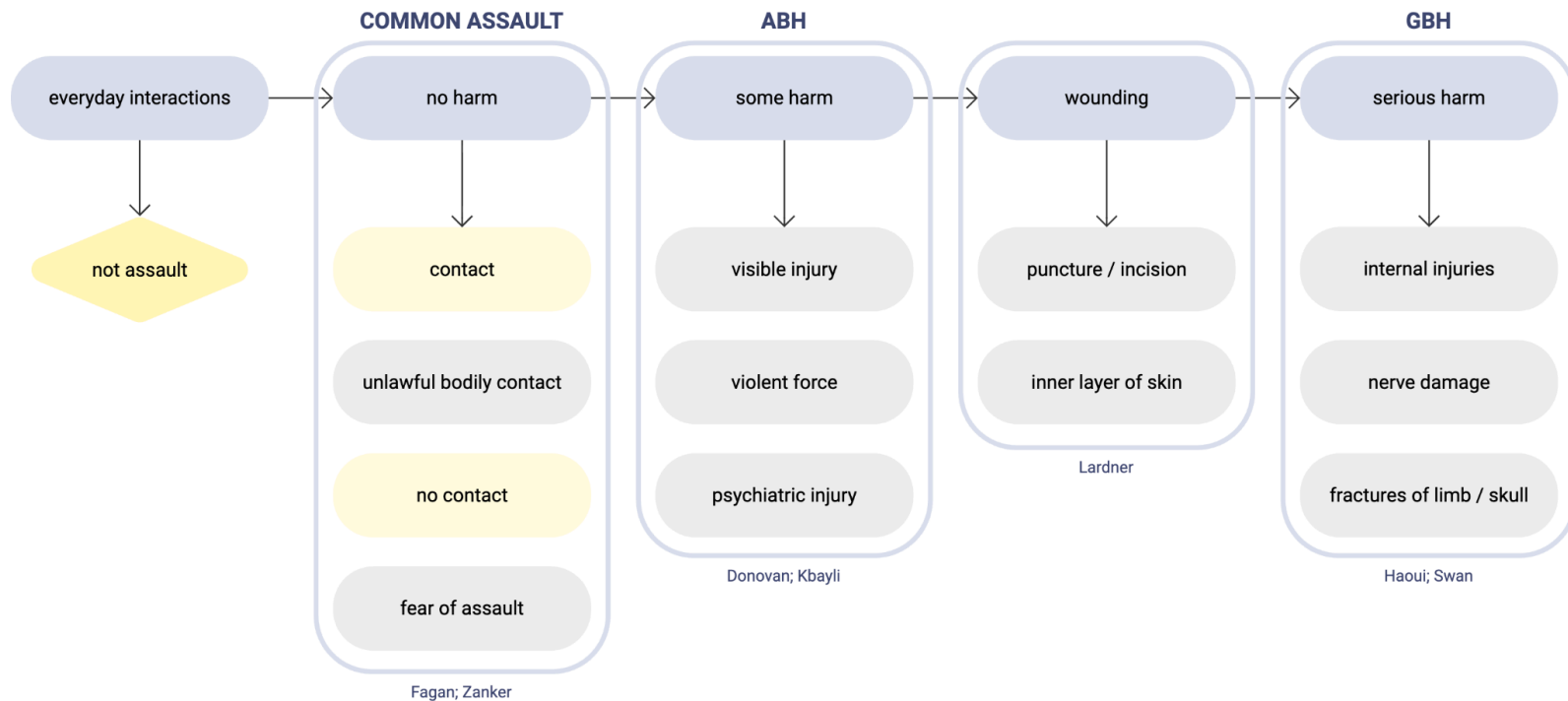
COMMON ASSAULT

1. UNLAWFUL CONTACT

Step 1	Rule
CA s 61	Whoever assaults any person, although not occasioning ABH, shall be liable for imprisonment for two years
Step 2	Burden of Proof
	To establish the offence, R must prove that the elements of the offence are satisfied BRD, then D bears the onus to rebut using a defence: Woolmington
Step 3	Actus Reus
Positive act of contact with the body that is unlawful (without consent)	Cannot be an omission; contact with body by an object is sufficient, such as driving a car into someone's foot: Fagan
	Everyday physical contact from ordinary course of moving around is not assault: Collins v Wilcock
	An assault with (implied or express) consent is not assault: Bonora
Step 4	Mens Rea
Intent to make unlawful contact / apply force	Forming intent or maintaining contact without initially having intent is sufficient: Fagan
Step 5	Defences
Lawful arrest	Under s 230 of LEPR , it is lawful to use reasonably necessary force
Self-defence	Under s 418 , self-defence is a complete defence if it was necessary & reasonable
Contact sports or dangerous recreation	Players consent to violence that occurs in the ordinary course of the game but not acts outside of what is usual: Stanley
Parent disciplining their child	A child struck by their parent may not be assault, but mere chastising instead, if force is REASONABLE: Cao v Cao
Consented medical procedures	Parents have ordinary scope of authority to consent to tx on behalf who lacks capacity: Marion

AGGRAVATED ASSAULT

Assault using weapons, dogs or rock throwing	Multiple aggravated assault offences RE NOTES
Administering poison	With intent to murder is an offence under s 27
Assault using drugs	Offence to administer a substance with intent to commit an indictable offence under s 38 & offence to spike under s 38A
Assault on victims of special status	Aggravated assault on children by parental figure under s 43A or adult carrying out child-care work under s 43B
Cannot consent to harm	Consent is not a justification or defence for intentional infliction of ABH or wounding: R v Brown



2. CONSTRUCTIVE MURDER

Step 1	Rule
CA s 18(1)(a)	Murder shall be taken to have been committed where the act of the accused, or omission, causing the death charged, was done during or immediately after the commission, by the accused, or some accomplice with him or her, of a crime punishable by imprisonment for life or for 25 years
Step 2	Burden of Proof
	Prosecution must prove that death resulted from an act done during or immediately after a life-imprisonable offence: Munro
Step 3	Actus Reus
Act causing the death of a person	Substantial & operating cause: Swan
	Death was a natural consequence of the act, reasonably foreseeable; act was a necessary condition: Royall
Death occurred during the commission of a base offence punishable by imprisonment of 25 years or life	Unintentional killing is murder if it occurs during the commission of a felony involving violence or danger to life → accidental killing is no excuse (base offence was armed robbery): Ryan
	Manufacturing a commercial quantity of meth that results in an explosion killing a bystander can be a relevant base offence: IL
	Assaulting with intent to rob, where injuries inflicted on X led to his death but D tried to argue it death was caused by old age: Munro
	Examples → choking with intent under s 37(2), kidnapping in company causing ABH under s 86(3),
Step 4	Mens Rea
NO MR , but base offence may require MR	Base offence such as robbery with wounding requires intent to rob: Munro
Step 5	Defences
Challenge causation	Where an intervening act is so overwhelming that the original act is not the substantial & operating cause: Swan
Challenge base offence	Where the base offences required being armed with a dangerous weapon, D must have acquired / possessed the weapon before or during the offence, or else it is may not be armed robbery: Foster; Penza Di Maria

3. EXTREME PROVOCATION

Step 1 Rule

CA s 23 It is a partial defence if the act causing death is in response to extreme provocation

Step 2 Burden of Proof

The Crown must prove AR & MR elements of murder, to which the onus is on D to raise a partial defence that the Crown must then negate: **Lane**

Step 3 Elements

Provoking conduct was a serious indictable offence	Under s 23(2)(b) , conduct must be a serious indictable offence, defined under s 4 as one punishable by life / 5+ years imprisonment
	Words only constitute provoking conduct if they are blackmail under s 194K or threats to damage property under s 199
	Such as attempted SA: Cust
Loss of self-control caused by the provoking conduct & directed towards D (SUBJECTIVE)	Under s 23(2)(a) , the provoking conduct must be towards or affecting D
	Under s 23(2)(c) , the conduct must have been the reason for D's loss of self control (causation)
	Prolonged history of abuse may be provoking conduct, recognising the "slow-burn" effect of DV: Chhay
	Cannot be based on second-hand reports / hearsay, must be from personal experience / conduct; a delay may suggest that the loss of self-control was not caused by the incident (hearing of SA of a child & going to X's house days later): Davis
An ordinary person would have lost control (OBJECTIVE)	Loss of self-control can still exist when there is a delay between the conduct & fatal act for long-term abuse: Ahluwalia
	Under s 23(2)(d) , the conduct COULD have caused an ordinary person to lose control → no personal characteristics in the test
	"Could have" is the standard as "would" is too high of a threshold: Heron

	<p>Extreme Provocation Doesn't self-defence suffice?</p> <p>Automatism Distinction is artificial medically, and should be combined with mental impairment as a substantial impairment as these involuntary actions are still a risk to the community. Especially the sexomnia case.</p>
Reform directions	<p>One Punch Laws Duplicative and lack of clarity</p> <p>Constructive Murder Absolute liability risks unfairness</p> <p>Intoxication Inconsistently applied especially for one punch laws where offenders caught at the scenes may face a mandatory minimum while others arrested later without evidence of intoxication may only face the non-aggravated ver. (difficulties in proving for one punch laws)</p>

BEST OFFENCES/DEFENCES TO USE	
Assault Causing Death	Removes intent, merely requires causation Overcriminalises potentially low culpability conduct Easy to enforce, easy to be unfair
Extreme Provocation	Limits to SIO where provoking conduct may be equally triggering but does not meet the threshold Very narrow statutory test that is based on historical excuses for male violence Can be used for women in DV contexts, but inconsistently
Substantial Impairment	Important defence but complexity of psychiatric standards and basis on jury decisions could be unfair
Dishonesty	Reliance on ordinary standards of honest and reasonable people are vague and inconsistent Uncertain outcomes as what if D is from a poor background?
Intoxication	The law treats intoxication differently for different offences Self-induced intoxication makes it easy to enforce, but there is still an impairment of MR Could be a defence to serious specific intent assault crimes, but aggravating under one punch laws

ESSAY FRAMING	
Complexity v Clarity	Laws drafted in complex or unclear terms for different facts or to avoid loopholes but makes it difficult to apply or for the jury to understand
Ease of Enforcement v Fairness	Simplified laws make prosecutions easier but may compromise fairness by removing important elements like intent or context. Eg. complexity of SA laws makes prosecutions harder but risks unfairness for the victim while ensuring fairness for defendants who are framed
Modernisation v Outdated	Criminal laws must reflect current social values but some still remain outdated based on historical views such as EP
Gender Bias	SA laws and EP, laws are designed to reflect a lot of male views of crimes and also do not protect women
Controversial Issues v Necessity	Bias such as gender, race or disability, but avoiding this may also risk unfairness for victims. Some criticised laws may be necessary
Principle v Pragmatism	Strict principles such as culpability requiring MR may go against pragmatic goals of efficiency and deterrence, and vice versa
Reform Directions	Debates on whether certain laws should be retained, abolished or redrafted for clarity or fairness

SEXUAL ASSAULT

Sexual assault laws in NSW illustrate the fraught balance between securing justice for victims and preserving protections for defendants. Conviction rates remain notoriously low: although thousands of sexual assaults are reported annually, less than 10% of complaints result in prosecution and an even smaller fraction in conviction (BOCSAR). This disproportionately disadvantages complainants, the vast majority of whom are women, producing systemic under-enforcement of sexual violence and eroding public trust (Gray). Recent reforms, such as the introduction of an affirmative consent model under s 61HE of the *Crimes Act 1900 (NSW)*, aim to redress this by requiring an accused to demonstrate reasonable steps taken to ascertain consent, thereby modernising the law to reflect evolving community expectations of sexual communication (Smith).

However, the tension between fairness and enforceability remains unresolved. The high-profile Luke Lazarus case illustrates these difficulties: although the facts strongly indicated a lack of consent, the acquittal ultimately stood because the judge accepted that Lazarus held a “genuine and honest” belief in consent. While this outcome underscores the defendant’s protection under the traditional mens rea requirement, it simultaneously demonstrates how evidentiary burdens and subjective belief standards can leave victims without redress. The case exposes a key weakness in the pre-reform law—namely, that the complainant’s lack of consent could be effectively displaced by the accused’s asserted belief, even when that belief seemed unreasonable on the facts.

This is not an isolated controversy. Sexual assault trials often involve one person’s word against another’s in private settings, meaning the prosecution struggles to overcome evidentiary thresholds. In these contexts, reforms such as affirmative consent have been criticised as effectively reversing the burden of proof and threatening the presumption of innocence (Steel). This creates the risk of wrongful conviction where allegations are false or malicious, a concern that, as you note, cannot be ignored. The law thus embodies the policy dilemma of principle versus pragmatism: do we tilt the system to better vindicate victims, or do we preserve stringent protections at the risk of under-enforcement?

Moreover, statutory reform alone cannot address the deeper structural problems of sexual assault law. Trial practices such as invasive cross-examination, evidentiary restrictions on prior history, and delays in reporting continue to retraumatise victims and undermine confidence in the system (Gray). Unless these broader cultural and procedural dimensions are reformed, legislative amendments may remain largely symbolic.

Ultimately, sexual assault law highlights the enduring challenges of criminal law reform: complexity in defining consent, fairness in balancing rights, and controversy due to its intersection with gender and social power. While reforms like affirmative consent move towards justice for victims, they must be carefully balanced to avoid reproducing injustice in the opposite direction.

Yet, rape myths remain embedded in practice. For example, defence counsel frequently exploit delays in reporting to undermine credibility, despite statutory recognition in s 294 that delay is common. Quilter & McNamara found delay-based directions were given in only 38% of trials, even though delay was raised in 84%, showing entrenched myths continue to shape jury reasoning.

ONE PUNCH LAWS

The offence of “assault causing death” under s 25A of the *Crimes Act 1900 (NSW)* exemplifies legislative overreach, duplicating existing manslaughter offences while undermining principles of fairness and proportionality. Prior to the law’s enactment, unlawful and dangerous act manslaughter already covered one-punch deaths, with offenders typically pleading guilty on the basis that a reasonable person would have foreseen the risk of serious injury (Wilson). Between 1998–2013, 18 such convictions were recorded in NSW, representing 8% of manslaughter cases, with sentences imposed but perceived as too lenient (Quilter). In this sense, the reform was not addressing a gap in liability but rather public dissatisfaction with sentencing outcomes, especially in the wake of high-profile cases such as *R v Loveridge*, where the Court of Criminal Appeal increased a sentence from six to ten and a half years to reflect the gravity of alcohol-fuelled, unprovoked violence. This shows that existing manslaughter law was flexible enough to meet community expectations, particularly once courts recalibrated sentencing ranges.