Tougher Sentences for Attacks on Vulnerable Workers

Workers on the front line are serving an increasingly violent New Zealand

Labour calls itself the party of workers, but workers aren’t safe with Labour in charge.

The frequency and intensity of retail crime is on the rise. We see shocking images of workers being assaulted in the media every day. The raw numbers back up the fact that workers are now serving a more violent New Zealand.

• According to police data, there has been a 121 per cent increase in serious assaults resulting in injury from 2017 to 2022. Serious assaults not resulting in injury has also increased by 95 per cent. From 2017 to 2022 acts intended to cause injury have increased 41.9 per cent.

• Police data shows there were 18,769 aggravated robbery victimisations from 2017 to April 2023, but there were only 8,162 proceedings. Every instance of aggravated robbery in a workplace represents an instance where the worker faces a risk of real harm. Too often, workers on the frontline of an aggravated robbery suffer completely unprovoked assaults, making the prospect of an attack even more distressing.

• Police data also shows that the number of unique victims of crime in a community location where a weapon was used has increased 42 per cent from June 2015 to April 2023.

• Results drawn from Cycle 4 (2020/21) of the New Zealand Crime and Victims Survey\(^1\) show that, based on pooled data from the previous cycles, 18 per cent of interpersonal violence offences happened in business areas.

Dairy owners and other small retailers are now putting themselves inside cages so criminals can’t get behind the counter. In Labour’s New Zealand, business owners and workers are behind bars rather than the criminals who rob them. This is not who we are as a country. The law needs to reflect the seriousness of these crimes.

All workers deserve to be safe in their place of work and to come home safely to their families. Some workers who serve the public are particularly vulnerable, such as sole-charge workers. Taxi drivers, security guards, bus drivers, and hospitality workers all play a key part in the economy and should not feel like they are putting themselves at risk just by doing their job. Where workplaces are attached to the family home, most notably as is the case for many dairy owners across New Zealand, violent attacks can be particularly traumatising given the close proximity of their families whom they are trying to provide for and protect.

What’s at stake?

If violent crime on workers is not dealt with soon, workers will simply walk off the job and businesses will be forced to close. No matter how much someone values their job or small business, very few people are willing to risk their lives over it. This is where crime is not only tragic on a personal level, but has wider implications for the rest of the economy. When businesses decide it is too dangerous to keep their doors open at night, or a taxi driver avoids certain routes, or bus drivers quit because the level of abuse isn’t worth it, the entire New Zealand economy suffers.

Both workers and business are indicating they have had enough.

Taxi drivers in Hawke’s Bay were shocked when an offender who caused severe injuries to a taxi driver only received home detention and $5000 compensation. The victim was a part-time taxi driver who also owned two other small businesses. The victim’s businesses suffered because his injuries were so serious, he was unable to work for three months.

The victim’s friend Jaswinder Sehjal, who works as a taxi driver, was shocked when he learned of the sentence. “He (Kameti) should be in jail. It’s as simple as that.” He said a lot of taxi drivers were concerned for their safety, and “nobody wants to drive”.\(^2\)

In 2022, hundreds of dairy owners across the country closed up shop and participated in a nationwide protest following the death of Janak Patel, who was stabbed to death working at a dairy in November last year. For many, the death was a breaking point, with some dairy owners closing up shop, or expressing their desire to, and moving back to their home country. A member of the community, speaking on the closure of one such dairy said:

“H e’s been our dairy owner for 19 years, our children have grown up with him... he always takes an interest in how my boys are doing. [Help for them] has to start somewhere, they need security and to know they’re getting backed up.”\(^3\)

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Serious violence is also being committed against bus drivers, and the unions representing bus drivers say that the violence is getting worse. Earlier this year, a bus driver was seriously injured after being stabbed by a passenger, and Auckland Transport data show that on average, one bus driver a week is assaulted on the job.\(^4\) Fear of assault is a key reason why many bus drivers are leaving the job.\(^5\)

Supermarket workers are not safe either. Foodstuffs says\(^6\) burglary, assault, robbery, and other aggressive, violent, and threatening behaviour has gone up by 36 per cent in their stores in the last year. Shocking footage from Foodstuffs shows offenders attacking workers with iron bars and punching a staff member in the head.

The law is inadequate

There are stronger protections in the law for people in their homes than for people in their workplaces. ACT says we need to fix this inconsistency. A crime carried out against someone in their place of work can be just as traumatising as a home invasion and the effects just as devastating.

Section 9 of the Sentencing Act 2002 says:

“In sentencing or otherwise dealing with an offender the court must take into account the following aggravating factors to the extent that they are applicable in the case:

[...]

(b) that the offence involved unlawful entry into, or unlawful presence in, a dwelling place…”

People who run dairies, liquor stores, or takeaway outlets often spend more hours at work than they do at home. Sometimes they work alone and are particularly vulnerable to multiple offenders, or they’re at work with their family. Some workplaces, particularly dairies, are attached to their home.

For small businesses, their workplace is like a second home. The law should treat these crimes with greater seriousness. New Zealanders deserve to feel safe at their place of work, just as they should feel safe in their home.

ACT’s solution

ACT will amend the Sentencing Act 2002 so that judges must take into account the fact that a serious violent offence occurred against a worker during their course of work as an aggravating factor.

That means if a victim suffered a serious violent crime in their workplace or during the course of their work, a judge will be able to hand down a longer sentence. Particular regard should be taken if the worker was sole charge or had an adjoining home. Specifically ACT would add words to the effect:

“In sentencing or otherwise dealing with an offender the court must take into account the following aggravating factors to the extent that they are applicable in the case:

[...]

(ba) that the victim suffered a serious violent crime while in their workplace or acting in the course of his or her work, with particular regard to whether the worker was sole charge or working in a place with an adjacent dwelling place.”

A ‘workplace’ would carry the same definition currently used by WorkSafe in covering PCBUs (Persons Conducting a Business or Undertaking). A ‘serious violent crime’ would be an offence listed under s86A of the Sentencing and Parole Reform Act 2010.

This is a simple law change that will extend to someone’s workplace the sanctuary that is offered by the Sentencing Act to someone’s home.

Outcomes

There is no place in New Zealand for violence against workers and business owners.

Labour’s answer is to accept these crimes will happen and to hand out fog cannons. ACT says we need to tackle violence against vulnerable workers head on by sending a message to offenders: if you want to target people in their workplaces, you will be behind bars for longer.

The law needs to reflect the disdain New Zealanders have for these crimes.

Workers deserve to be safe in their workplace and to have stronger protections from brutal attacks on them.

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