

A critical review of crime and punishment during the 2023 election year in Aotearoa New Zealand.

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**“It takes something more than intelligence to act intelligently.”
Fyodor Dostoevsky. Crime and Punishment.**

Abstract

The 2023 elections in Aotearoa New Zealand raised crime as a major political issue. This was in spite of a general fall in crime statistics. In spite of major population growth, levels of crime have fallen over past decades, Politicians focused on crimes that were shown on television such as ram-raiding and violent retail robbery. While the focus was on these crimes, other more serious crimes were ignored e.g. domestic violence, fraud and scams, and shoplifting. This paper raised the need for an agreed way of measuring crime rates and the need to focus on serious crimes rather on visually confronting images of crime on TV news.

A number of different sources have been used for this analysis: Government statistics, journal papers, opinions of politicians and journalists, published material from academics with an interest in crime, and an experiential account of a gang member. The two main political rivals (Labour and National) have declared their policies on crime and punishment, as well as penalties for belonging to a gang. In particular, the National party has elevated crime as an election issue. Cheng reported on a speech by National leader Christopher Luxton at the National party conference. ‘Crime is out of control’ and ‘Kiwis don’t feel safe in their own homes or business or communities’ declared Luxton (Cheng, D. NZ Herald. 20.7.2023). Policies focus on heavier penalties against people convicted of crime.

These policy proposals raise a number of issues:

1. Is crime actually rising? There are divided opinions as whether this is happening. Over the long term, crime rates have fallen.
2. Does harsher penalties reduce crime? So far the evidence is that it doesn’t.
3. Should we treat convicted 17 year olds as criminals or as children in need of our care and understanding? In their early years, they have already been subjected to poverty, violence and neglect and the result has been psychological damage.
4. Should we assume that all gang members are criminals? Rather, should we try to intervene in their lives as opportunities occur: e.g. when they are young and moving through the education system?
5. It does seem that the main political focus is on certain crimes and not on others. For example, white-collar crime is rarely mentioned but

results in tax fraud of around \$5.7 billion (compared to welfare fraud of \$26 million). (Powell, I. Scoop.13. 7.2023)

1. Crime statistics.

In determining levels of crime, a difficulty arises as to which set of data to use:

- reported number of crimes made by the public to the police,
- number of charges made by the police,
- number of convictions by the courts
- public surveys of victimisation.

Reported levels of crime have fallen over the past decades. In 1980, 292,316 people were charged by the police. In spite of major population increases, by 2022, this figure had fallen to 183,000. Most serious offences have also fallen from 151,198 in 1980 to 60,059 in 2022. More recent figures also show a fall in crime:

Table 1: Number of crimes in NZ

Year	Number of crimes
2020	186,142
2021	208,445
2022	89,165
2023	110,512

Source: Police stats 2003

NZ Herald journalist, Derek Cheng (20.7.2023) looks at recent figures from a yearly survey on crime and victims and it showed:

- No change in 7 out of 10 people experiencing a crime-free life.
- A leveling out in the number of people charged and convicted following a declining trend for more than a decade.
- An increase in the number of reported crimes since 2019, including theft (partly due to changes in reporting) and violent crime (due to law changes). Ram raiding also increased.
- A slight increase in youth offending
- A large increase in fraud and cybercrime offences.

More recently, prison population numbers have also fallen.

Table 2: Prison population in NZ

1960	2,000
2018	9469
2023	8610

The latest figures should be seen against a rise in remand prisoners (3,791. June 2023) due to delays in cases to be heard before the courts.

Cheng concludes that it is complicated to determine if crime rates are rising or falling. 'There is no uniformly complete data, and no way to fully account for all the variables that might contribute to crime rates, such as Covid lockdowns, law changes, truancy levels or the cost of living crisis (2023).

However, Cheng's survey figures clash with those given by National party leader, Christopher Luxton at the recent National Party conference, where he stated that violent crime had risen by 33% and retail crime by 50%.

2. Penalties.

Leading contender for the toughest, the National Party, states, '... a National-led government would toughen up sentences by stopping judges discounting sentences by more than 40 per cent.' (NZ Herald. 25-6-2023). It goes on to state specifically on gangs, 'If you choose to align yourself with a criminal gang and engage in criminal activities you will face tougher sentences for crime' (NZ Herald. 25-6-2023). Labour has also adopted new policies against ram-raiders and similar retail-crime offenders. However, at the same time it does not want to lock up children in prison-like facilities. The building of new facilities for convicted children, as promised by Labour, will take time.

National and the Act party propose to reintroduce the 'three strikes and you're out' policy whereby repeat offenders of serious crimes are subject to harsher penalties and no opportunity for parole. The policy was first passed by a National government in 2010. The policy was introduced to lock-up offenders longer and through that make society a safer place. It meant a sentence of at least seven years with no parole. Problems arose in its application as judges were given the discretion to decide which offences fitted the criteria. The first case of such a sentence was clearly unjust. The offender had squeezed the bottom of a prison officer and for this offence was subjected to seven years imprisonment and no parole. Labour abolished the policy. Recently, the Act party has proposed its reintroduction.

3. Gang membership.

The early life of a gang member is described by ex-mongrel mobster, Tuhoē Isaac. In his book, he says, 'This manuscript will give the public of Aotearoa New Zealand a glimpse into the plight of the unwashed, the underprivileged, the unloved, the lost, the fatherless, the disinherited, the rejected, the disenfranchised, the poverty stricken and the uneducated' (T. Isaac. 2007).

His early story shows a steady move away from the whanau before joining the Mongrel Mob. He left home in Wairoa at 15 years to study sheet metal work in Auckland plus a five-year apprenticeship. He joined other students in heavy

drinking at the weekends. He became depressed away from home and family. Eventually he gave up the apprenticeship and moved to Australia. He found a job and continued a life of partying and drinking. Following a fight over a woman he faced the courts and ended up in Parramatta prison. He was only 17 years old, feeling dehumanised by the prison system and homesick. On his release, he spent a period working and drinking and missing his family. On his return to Aotearoa New Zealand he fell in with a group of men from the Mongrel Mob and enjoyed their friendship. He joined the Wellington chapter (pp.25-35).

Criminal barrister, E. Priest (NZ Herald. 12.1.2023) states that National policies, '... fly in the face of evidence and criminal justice practice.' She goes on to say 'Those who end up in prison have common experiences of deprivation, poverty, abuse and family mental health issues, learning deficits, disabilities and head injuries.' Out of different experiences, she and Tuhoe have reached the same conclusions. Priest (NZ Herald. 12.7.2023) also argues that, 'Gang membership is a sad but inevitable solution to those separated from family and seeking a sense of belonging in our society.'

This point is recognised by the Chief Science Adviser's report on gangs (2023). It recommends a stronger focus on prevention and early intervention 'to slow the flow of young people into gangs' (p.5).

It makes the final important statement:

Addressing the harms associated with gang membership will not be quick. Short term suppression interventions might provide immediate outcomes, but medium to long-term intervention and prevention strategies are required to build the society that we want in the long term. Addressing gang related harms cannot be left purely to Police. Multi-agency collaboration is essential, and it is equally important that interventions to facilitate behavioural change in gang communities are informed by communities themselves. (2023. p.13)

4. Young Offenders

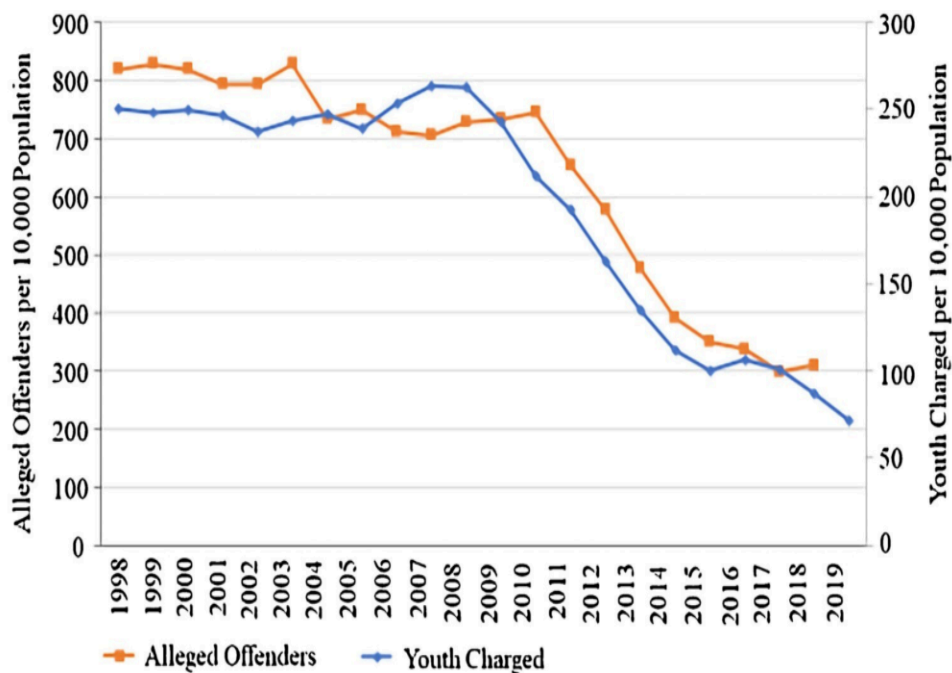
Since the Covid lockdown ended, a few young people have been in the news, engaged in ram-raids and attacks on retail staff to steal products and cash; all seen on TV through CCTV. The government plans to introduce stricter penalties for young people convicted of retail crime. The perpetrators are often aged between 10 years and 17. A public appetite for greater punishment has been triggered by seeing the drama of the raids on TV. This resulted in a political response. Both National and Labour have proposed harsher penalties.

As Cheng (2023) states, 'But just because youth crime is more visible doesn't mean it's on the rise, even if a huge majority of people think it is.' He points out recorded youth crime (aged 10 to 16) has been falling since 2007 (from 5,000 in 2007 to 1000 today).

The following graph by Polglase and Lambie shows the drop in youth crime (aged 14 to 16 years).

Figure 2 of 7

Figure 2. Rate of Alleged Offending and Rate of Formal Charges for 14- to 16-year-olds.



source: Polglase & Lambie (2023)

Commentators have criticised political policy making relating to youth crime. Journalist Sasha Borissenko points out that these offenders are legally children. She says:

The UN Convention on the Rights of the Child says adults are aged 18 years and over. Ratified in Aotearoa, the convention says “no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.”

Nicola Coupe (CEO, Kirikiriroa Family Support Trust) agrees and says society should understand the causes of crime:

‘... poverty, cultural disconnection, inadequate education and limited access to opportunities’ (Sunday Star Times. 23.7.2023). She argues that through interventions in education and health and using restorative justice practices a way forward can be achieved for troubled children.

Polglase and Lambie suggested one reason for the decline in youth crime rates is ‘the widespread use of diversion, decarceration, victims’ rights and family involvement (Introduction. Para 2). By ensuring young people avoid contact with the formal justice system (e.g. prisons) the results are falls in offending.

Polglase & Lambie also note that youth offending occurs when they are left to unstructured peer socialisation where heavy drinking might be involved (para.14). One way to avoid unstructured socialisation is by having sufficient trained youth workers in the community who can offer some form of supervision and outlets for youth recreation and study.

5. Serious crimes ignored during the election year.

a) Shoplifting

While accepting that attacks on retailers is a crime that needs immediate attention by the police and relevant community organisations, there is a more destructive retail crime, that of shoplifting. Retail NZ (2017) survey on shoplifting shows that it costs retailers (and ultimately customers) 1,085 million dollars. The following table shows the increase in shoplifting since 2003.

Table 3: Costs of shoplifting in NZ

	2017		2003	
Customers	\$836 million	77%	\$479 million	85%
Staff	\$249 million	23%	\$85 million	15%
Total	\$1,085 million		\$564 million	

Source: Retail NZ 2017

Security company owner, Catherine Hubbard (2022) states, ‘Shoplifting is on the rise in Aotearoa, and it’s increasingly the middle class that are getting nabbed.’

The owners of Foodstuffs supermarket are reporting huge increases in shoplifting (a 38% increase in the past year). The company reports 3,288 shoplifting and various assault incidents in the three months, February to April 2023.

In spite of the greater importance of shoplifting, it is disregarded by journalists and politicians in favour of the more dramatic visible crime of ram raiding by children

b) Fraud and scams

Fraud is a major contributor to crime statistics. The latest Crime and Victim (2023) survey showed there were 510,000 incidents of fraud and deception over the past 12 months. Fraud (theft by deception) occurs within all sectors of the economy (business, government and the voluntary sector). Lax auditing and inadequate accountabilities has led to many fraud crimes. Many organisations do not report fraud due to negative impacts on their reputation. The survey also noted that 10% of those surveyed reported they had been victims of fraud. The police Financial Crime Unit estimates that New Zealanders lose \$20-30 million from scams of various kinds. The poetic words of Woody Guthrie explain the difference between robbery and fraud:

Some will rob you with a six-gun
And some with a fountain pen.

Three main types of scams (cyber fraud) are noted here:

- Investment scams e.g. Ponzi schemes.
- Upfront money scams (e.g. honey trap scams where a supposedly attractive female seeks financial help).
- Phishing (cyber security attack where the attacker impersonates someone else via email to get sensitive information such as personal data).

In the UK, banks have signed a voluntary code whereby customers who have fallen victim of a scam are reimbursed by their bank. This code does not exist in Aotearoa New Zealand. L. Nichols in the NZ Herald explains that the NZ Banking Association has suddenly recognised a bank's responsibility in relation to scams. In relation to banking policy changes she states:

The changes include cracking down on "mule" accounts, removing weblinks from all text messages to customers and "confirmation of payee" account name-checking service to protect consumers. (Nichols. NZ Herald. 16 September 2023. Para 4).

The association recognizes that it has neglected to take action against scammers. However, it does not yet accept it has responsibility to recompense victim of scams.

Sociologist, Jarrod Gilbert makes the point that the crime of the future is fraud. It is going to get worse. He explains, 'scammers are already starting to incorporate AI tools into their work'. This will enable '... fake phone calls, text messages and emails, which will be crafted to target victims' unique behaviours and vulnerabilities' (para 7). Gilbert also notes that the police see fraud as a low-priority crime and often as a private matter. He calls for the police to focus more on fraud and ensure that the police are trained to respond.

c) Domestic violence

One in three women have experienced physical or sexual intimate partner violence (IPV) in their lifetime. It is more prevalent among young women (15 to 19 years) than other years. However, according to the Crime and Victim Survey, 90% of such assaults remain unreported.

Leask reports that victim advocates say the situation has got worse this past year. There has been a huge increase in brutality and severity of attacks resulting in severe injuries, such as strangulations and stabbings.

To deal with the rise in severe forms of violence, government enacted some new laws. Strangulation or suffocation became an offence with a maximum penalty of seven years in prison (Ministry of Justice. 2018). The Labour government is also proposing a new law making stalking an offence with imprisonment.

Discussion

National party politicians have claimed that crime rates are increasing and that we should be tough on crime. However, it seems that crime rates are actually falling. Professor Chaudhuri from the University of Auckland states, ' ... the pattern is clear – there is no significant increase in crime across the six years (2015 to 2020). He provided the following data:

Crime	2015	2020
Acts to cause injury	46,319	55,646
Theft	140,556	121,525
Burglary	61,104	53,208

Source: A. Chaudhari. 2021

There are different ways of measuring crime and penalties and these are described in the text of this paper. However, it is essential to understand the context of crime. The following contexts may lead to a clearer understanding of criminality:

- New computer systems may affect how crimes are recorded.
- There may be different ways of recording multiple offences.
- Law changes (e.g. the proposed new laws on vaping) may result in increased recordings.
- Changes in police practices (e.g. use of diversion and decarceration) may reduce imprisonment rates.
- Covid lockdown's effect on the number of burglaries and IPV crimes.

Compared with other progressive western countries, Aotearoa New Zealand has a high rate of imprisonment. The level of imprisonment is an indicator of politicians' and peoples' attitudes to crime and criminality. The tables below show:

- The imprisonment rate rising over the decades and starting to fall in recent years.
- The rates of imprisonment in various countries. EU countries have low rates of imprisonment similar to that of Ireland. Compared with other western countries (with the exception of USA), the imprisonment rate has been high in Aotearoa New Zealand.

Table 4: Rate of imprisonment in NZ

Year	Rate of imprisonment per 100,000 population
1950	54
1960	74
1970	83
1980	83
1990	116
2000	148
2010	195
2020	186
2023	167

Source: World Prison Brief. 2023

Table 5: Rates of imprisonment

Country	Rate of imprisonment
New Zealand	167
USA	629
Australia	167
England/Wales	145
Ireland	75
Japan	35

Source: various

An agreed system is required for measuring criminality. The lack of such a system results in politicians using cheap slogans such as 'Let's get tough on crime' that are difficult to refute.

Control of the narrative around crime by some politicians has created problems for more moderate ones that want to demonstrate the real rates of criminality. For example, in 2021, MP Simon Bridges accused the police commissioner of

being a 'wokester' i.e. soft on crime, knowing that the commissioner is unable to respond. Bridges said:

What you see is, right from the top, an agency or police force that's much less about arrest, much less about catching gangs and criminals despite huge problems in our society at the moment, and much more about being hip and doing things to impress a bunch of other wokesters. (Manch. 2021. para 3)

They have latched on the dramatic ram raids seen on TV and pressed their case. In doing so, they failed to observe such serious crimes of domestic violence, fraud, shoplifting and scams. In relation to the latter, police should upskill in the technology often used in scams. Responsibility should also be shared with the banks

The case for reducing incarceration should also be seen against the economic costs of imprisonment at \$151,000 per prisoner per year. Fewer people in prison will not only be an economic benefit to the country but ensure many people's lives are not permanently damaged by the prison system.

Conclusions

Both main political parties have responded to crime as a key election issue. National tends to favour harsher penalties than Labour. However, this paper has shown that over time New Zealand crime rates have fallen. Despite claims that some crimes have recently risen, overall the trend is down. The complexity of measuring crime rates has left a space for politicians to resort to cheap slogans and cause public anxiety. Some politicians are keen to gain political points out of this anxiety. Such politicians focus on some crimes (usually visual ones such as ram raids) while neglecting other more serious crimes that are invisible to cameras: domestic violence, fraud, shoplifting and scams.

It is suggested that:

- a) There needs to be an agreed methodology of measuring crime statistics.
- b) There should be greater scrutiny by the media of serious crimes such as violence, fraud/scams and shoplifting.
- c) That a whole of government approach, including schools, community organisations and Iwi, should be instituted to work with young people who are vulnerable to joining gangs.

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