



ANDERSONS
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LawTalk Blog



Will tougher laws reduce coward punch attacks?

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The news is flooded with people and politicians calling for tougher penalties for "coward punch" or "king hit" one punch attackers.

I have already spoken about some of the proposed laws in my blog, ["Alcohol fuelled violence. Where do you stand with the law?"](#)

" More recently the NSW Liberal government has announced that it will introduce laws to create a new offence for one-punch assaults which would carry a minimum mandatory sentence of eight years (and in fact these laws came into effect on Friday 31 January for the first time). There would also be a maximum sentence of 25 years for alcohol or drug-fuelled assaults where the victim dies. Family First MP Robert Brokenshire is calling for the same laws to be introduced here in South Australia.

Tough penalties are already available to Magistrates and Judges. For instance if a person dies as a result of a one punch assault in South Australia, the defendant could already be charged with murder or manslaughter. Any person found guilty of murder will be imprisoned for life (25 years). The maximum penalty for manslaughter is also life. The offence of assault causing serious harm has a maximum penalty of 20 years imprisonment and 25 years if the offence is aggravated (a circumstance of aggravation could be if a weapon was involved). The offence of assault causing harm has a maximum penalty of 10 years imprisonment, and 13 years if aggravated.

People who support mandatory sentencing argue that Magistrates and Judges are "too soft on crime." They argue that minimum mandatory sentencing will reduce crime. However there is overwhelming evidence from around Australia and overseas demonstrating that mandatory sentencing in fact does not reduce the crime rate, it does however lead to harsh and unfair sentences and disproportionality affects indigenous and other marginalised groups.

For example, in the Northern Territory, property crime increased during the mandatory sentencing regime, and decreased once it was repealed.

Our Judiciary is an independent arm. Mandatory sentencing undermines our Judges and Magistrates independence by taking away their discretion. We start running into real problems when politicians start telling Judges and Magistrates what to do. A Judge or Magistrates role is to listen to all the facts and circumstances and impose a fair and just sentence; not what our politicians believe to be a "tough sentence". They must balance a number of factors including:

- the particular circumstances of the case;
- the personal circumstances relating the defendant;
- the community's interest and general; and
- personal deterrence.

Of course each matter will differ and therefore penalties will differ.

Will tougher laws reduce coward punch attacks? I don't believe so, no. The nature of a one punch attack in itself is unplanned and not pre-meditated. Now don't get me wrong; something does need to be done. To lose one more young life to thoughtless violence would be a tragedy. However I don't believe mandatory sentencing is the answer.
