

IMPROVE LAW ENFORCEMENT

How to end the culture of impunity

David Benatar

ATTENTION is regularly paid in South Africa to a culture of impunity in government. That attention is entirely appropriate.

Indeed, more is needed. Less well recognised, however, is that the culture of impunity found at the top is also pervasive at the bottom – among the ordinary citizenry. Nor is disrespect for the law restricted to those who murder, assault, rape and steal. It is rampant in more quotidian contexts, and all too little is being done to curb this.

For example, people think nothing of littering. They treat the street as though it were their ashtray, depositing cigarette butts there. They leave their packets and bottles lying around, they toss refuse on the floor, and they fail to clean up after their dogs. People smoke even where it is prohibited to do so.

Behaviour on the road is particularly illuminating of the scant respect for the law. Exceeding the speed limit seems to be the norm rather than an exception. (To test this, drive at the speed limit and see how many vehicles overtake one.)

Some drivers do not merely speed. They appear to think that the roads are race-tracks in other ways too. They screech around, weaving between more law-abiding drivers.

Every day one witnesses drivers running red traffic lights. It is also not uncommon to see vehicles proceeding, knowingly, the wrong way on a one-way street. Taxi drivers make illegal stops, thereby blocking the traffic.

They also honk their hooters incessantly. Other vehicles – most commonly sports cars and motorcycles – have exhausts that vastly exceed the permissible decibel levels, thereby causing noise pollution.

Much of this behaviour does not simply break the law. It also endangers other people – threatening their safety and their lives. Other violations “merely” contribute to a nerve-

fraying environment of filth and noise, although even these have been demonstrated to have deleterious health effects. There is thus good reason why these kinds of disrespectful conduct have been legally prohibited.

Yet they persist. They do so in large part because enforcement is woefully inadequate. Understaffing of law enforcement agencies surely contributes to the problem, but that cannot be the full explanation.

One witnesses cars overtaking Traffic Police vehicles that are travelling at the speed limit without the offender being stopped. (Could this be because one sometimes even sees Traffic Police vehicles speeding when their lights and sirens are not activated and are thus, presumably, not responding to an emergency? Has violation of the speed limit become that accepted?)

One does occasionally see routine roadblocks where all vehicles are pulled over but I have never ever seen a speeding vehicle or one shooting through a red traffic light being pulled over and fined on the spot. Every day I see drivers speaking on hand-held cellphones, but I have never seen one stopped. If some are being stopped, it is clearly too few of them for a deterrent to have been created.

One has the distinct sense that many law enforcement officers are either unaware of the violations occurring around them or are indifferent. I have sometimes approached patrolling officers when, as a pedestrian, I have witnessed some or other violation.

Somehow they have not noticed what I have noticed and, although they are typically polite and pleasant, they display little real interest or resolve in addressing the problem.

I have been told, for example, that officers do not have the decibel measuring equipment that would be required to stop and fine a noise-polluting vehicle.



LEFT TO OWN DEVICES: There is a culture of blatant disregard for the law, and a lack of law enforcement in order to rectify it, says the writer.

When one calls the Metro Police to report such problems, they do not seem to understand what the problem is or what they should do about it. Some perfunctory gesture is made but enforcement levels remain unchanged and offences unchecked.

The problem, however, is not merely one of law enforcement. The judiciary is evidently also culpable. I have been advised, for example, that taxi drivers who have mounted up massive fines, plead poverty before the court, and in response to those pleas some judges slash the fines.

Offenders can then view the resultant minor fine as a licence fee for doing as they please.

Perhaps all this seems trivial in a country with soaring rates of murder, burglary, hijacking, rape and other violent crimes. That thought would be a mistake. First, it is not only violent crimes that kill and maim.

Speeding, running red lights, and using a cellphone while driving can all have fatal consequences, and they often do. Those practices have to be nipped in the bud rather than be allowed to run rampant.

Second, the duties of law enforcement are not restricted to violent crimes. We should be able to expect that the state will protect us in all the ways the law prescribes. That, after all, is the state's primary function.

Third, a culture of impunity is a malignancy that spreads if it is not treated. When people know that they can get away with their indifference towards the law, disincentives are removed from the path to further law-breaking.

Other people, noticing that violations go unchecked, also begin to

flout the law. This further fosters the culture of impunity.

One special case of this metastasising impunity is the prospect of vigilantism. One important argument against aggrieved people taking the law into their own hands is that law enforcement powers have been delegated to the state and its agents.

There are good independent reasons for such delegation. However, if the state does not assume its resultant responsibilities it opens the way for vigilantism.

Finally, the very people guilty of

some violations are also more likely to be guilty of other violations. For example, those driving without number plates may also be very likely to exceed the speed limit.

Indeed, they may have removed their number plates precisely in order to avoid being detected speeding. And those who exceed the speed limit are also more likely to be those who are indifferent in other ways to the safety of those around them.

There seem to be a significant number of people who are deeply frustrated about the lawlessness they see about them.

They can be found airing their views at meetings with their ward councillors and writing letters to community newspapers (and more recently to newspapers such as the Cape Times).

Of course, brazen violators pay no attention to the polite dissatisfaction of such people. Indeed, they are often indignant, if not belligerent, when reprimanded for their inconsiderate and dangerous conduct.

They seem to have a sense of entitlement to do as they please.

But that is exactly why we have laws – to regulate the behaviour of those who are indifferent to the reasonable demands of others. The law provides the selfish with an egoistic reason to do the right thing. It only works, however, when the law has teeth.

There are some countries where the law has appropriate dentition.

Contempt for the law is not tolerated. Law enforcement responds promptly and firmly to violations.

We do not need to emulate others blindly, but we should do so when we have something to learn from them. It is high time that our law enforcement officers be held to account and that the judiciary, while preserving its independence, not foster the culture of impunity that has taken root.

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