

The Curious Case of Police Officer James

Here is the story of Officer James of the SAPS at a precinct in Knysna. He posted it after reading my article in City Press, headlined "A law unto ourself" (Sunday, March 25 2012).

The article explored the value of fairness as the intention of the law in resolving human conflicts, and to ensure justice in society.

The test of that value, it argued, was in our ability to insist on fairness towards those perceived to have broken the law, and who by emotional inclination, we are more ready, sometimes mistakenly, to have punished.

Fair legal process insists any judgment on a case must survive tough hurdles of rationality. If the law broke down under the pressure of strong sentiment against a perpetrator, then there was a risk of it breaking down for all, in all other circumstances.

Officer James tells of a story that never went to court. Fairness and justice broke down before it could. For this reason, he envies the thief in my story, whose case did go to court. Officer James is in a state of depression. He cries out for help.

"Lucky enough," he writes, "the case (of the thief) went to court the eyewitness was summoned etc. In my story it was worse let me share a bit with you: i am a police, my wife was 8 weeks pregnant when she was physically assaulted and being physically threatened to be killed by my colleague female constable in my own house daylight in fron of the public which was watching the incident on 14/02/2011.

"my wife opened a criminal case at knysna SAPS as per case 593/02/2011:JUSTICE; senior state prosecutor in knysna personally inteviwed myself and my wife and promised us that the case will come forward to court before the baby is born instead the case was later withdrawn; DEPARTMENTALLY(POLICE) investigating officer took the vary same POLICE WOMAN WHOM THREATENED TO KILL MY WIFE TO MY HOUSE, asked my wife to make peace with her coz she (invetigating officer) dont wnat the misconduct to [get to the] PROVINCIAL OFFICE SAPS CAPE TOWN coz it will affect the POLICE WOMAN'S CAREER.

"Later the same year the police woman was promoted....etc. The story is long, im suffering from major depression now. i need lial advise (sic) .??.?"

James posted his story on the website of a national weekly. He clearly wanted the public to know of his plight. In his posting, he provides contact phone numbers. I have omitted them. More curious readers will need to pass a test of determination and read James' thread online. Otherwise, I have reproduced his post without editing, except for minor bracketed connective insertions.

Little did I know as I read James' posting that news of the controversial reinstatement of Lieutenant General Richard Mdluli as chief of crime intelligence would break into public life, and that President Jacob Zuma and Minister of Police Nathi Mthethwa would appear to have a strong odour coming from their direction as the source of political pressure to drop the serious charges against Mdluli.

Little did I know that I would read with admiration of Acting National Commissioner of Police Nhlanhla Mkhwanazi's heroic efforts to blow away the odour. In the same way I was to be encouraged by Inspector General of Intelligence Faith Radebe, who reportedly also stood her ground. Their resistance indicates that prospects for retrieval remain good.

Little did I know that Reuel Khoza, chairman of Nedbank, would make some pointed comments on the state and quality of political leadership in South Africa today, and that Gwede Mantashe, general secretary of the ANC and Minister Mthethwa would aim ad hominem attacks at him, and throw little light on the issues that he raises. But I run ahead of myself.

The story of Officer James prompts questions and conjectures about the nature of professional relationships at the SAPS precinct in Knysna, from where the series of events he narrates appear to have originated.

What kind of working environment enables a female police officer to go to the home of a male colleague, beat up his pregnant wife and threaten to kill her? Did she feel confident that the precinct working culture would tolerate her conduct?

Would such a culture have resulted from benign management neglect, or was it developed by intention? Either way, the state of leadership at the

precinct could be directly or indirectly permissive of ill discipline.

Or, could there have been a love triangle among Officer James, his wife and his death-threatening female colleague that generated extreme emotion? At any rate, Officer James' wife opened a criminal case.

Enter the senior state prosecutor, who interviews the distraught couple and promises a swift trial. But the case is withdrawn. By who? It is not easy to tell from James' brief narrative. But there are a few possibilities.

Could it be that pressure was placed on James and/or his wife not to testify thereby resulting in insufficient evidence to proceed to trial thus providing the prosecutor with a reason to exercise prosecutorial discretion not to proceed? Certainly, the circumstances leading to the withdrawal of the case warrant investigation. Or did James' wife actually request that the case be withdrawn?

Since James is clearly unhappy that the case was withdrawn, there may be reason to believe that the decision not to prosecute was taken on improper grounds. Remedy in administrative law may be sought compelling the prosecutor to provide reason why he had the case withdrawn.

Otherwise, if James's wife did not withdraw the case, the senior state prosecutor would then have to explain how it was withdrawn, as he could not have withdrawn it at his own instance without the compliance of the aggrieved, who laid the charge.

Could her signature have been forged? Was a false letter of withdrawal composed?

But there is another scenario. Did James's wife actually withdraw the case after pressure from the investigation officer, who arranged a meeting between her and her attacker? The investigation officer mediates "peace" between assailant and victim, and puts greater moral pressure on the victim to sympathise with her assailant by withdrawing the case so that there would be no record of her misconduct that could jeopardise her career?

What would James' wife get out of this deal? Would the death threat be withdrawn? Did the assailant apologise?

What about the cause of the attack and death threat in the first place? Were they addressed? We cannot tell.

What did James' wife lose, regardless? Here we remember the reference to her eight-week pregnancy. Did she miscarry her foetus? We cannot tell. Did the perpetrator know of the pregnancy? We cannot tell.

James does tell us though that his wife's assailant was promoted. James reads a raw deal. He has been had.

There has been no justice and fairness for him and his wife. Devastated, he falls into depression.

There are twists and turns in James' story that he has not been able to disclose in his brief appeal to the public. They require investigation.

The questions and conjectures arising out of James' skeletal story strongly suggest that all is not well at the Knysna police precinct. Otherwise, we would not have known of it. Good governance and leadership at the precinct would have dealt with the problems according to standard police disciplinary procedures.

Police officers who beat people up and threaten them with death have no place in a police precinct. But someone at the Knysna police precinct recommended the promotion of a violent officer. It was not a faceless force that did it. It was someone with authority.

If the promoted officer stays at the Knysna precinct, she joins the membership of a management whose culture of tolerance for ill discipline resulted in her promotion. Her promotion is an initiation into illegal collusions. Thus, illegality in a police precinct is set to become standard practice.

There is one consequence of such a culture of illegality worth highlighting.

In a management culture of seniority by rank, experience and qualification, as would be the case in the police services, is it conceivable that the promoted, violent officer jumped over more competent, more experienced officers who may have been ignored precisely because they were dedicated to their professional obligations? This scenario is not

unlikely. But there is more.

Embittered, wilfully overlooked officers more deserving of promotion would now exacerbate a situation of deteriorated governance at the precinct. After this, it will be a long time before the violated command structure of the police services can recover its professional rectitude.

The goings-on in a police precinct in faraway Knysna take on enormous significance against the far larger context of media revelations regarding the law enforcement system at national level.

If at that level we can have an officer of the law reinstated to the senior most position of responsibility in crime intelligence, despite having faced charges of murder and fraud, and that these charges have not been brought to a court of law to be upheld or dismissed, the logic is clear that at the lower levels, a violent police officer who threatens murder can be promoted to a position of more responsibility without proven capability to carry it.

How should South African citizens react to more disconcerting news of law enforcement agencies being infested with lower-level officers promoted to higher positions without deserving them professionally?

Such officers are guaranteed to do violence to standard police practice, not because they are bad people, but because they were authorised by the manner of their promotion to uphold the unprofessional "law" of their promotion.

Soon, they will know no law other than the one that brought them along. Arbitrariness, corruption and illegality in police precincts across the land will replace the rule of law.

We have seen enough of this to know that what is happening can no longer be the result of chance. The signs are clear of a systematic capture of security, intelligence and military services by flooding them with officers of low-level capability who will be more subservient to a political leadership that tolerates illegality, lack of professionalism and weak public institutions.

It should be clear to anyone who observes recent national developments that Reuel Khoza's comments regarding a "degenerating" "moral

quotient” of our current political leadership are a logical outcome of the state of affairs at the Knysna police precinct, at crime intelligence and at the head office of the SAPS.

Minister Mthethwa’s ad hominem attack on a respected business leader of the stature of Reuel Khoza was below the standard one would expect of a minister of government.

The nature of the attack is itself reflective of the state of affairs that Reuel Khoza brings to our attention.

Reuel Khoza’s observations deserve serious attention. He has thought deeply and written profoundly about leadership. He has earned his respect.

Meanwhile, what will Minister Mthethwa do about the situation at the Knysna precinct?

What will the minister of justice do about case number 593/02/2011:JUSTICE at Knysna? Will he look into the matter regarding the withdrawal of the case? The senior state prosecutor may have questions to answer.

Officer James’ story presents Minister Mthethwa with a timely opportunity to prove he stands within a high-order moral quotient.

Within such a quotient leaders matter more for what they do and what gets done under the authority of their leadership sanction. That is what creates a culture of capability. It then gets reproduced geometrically across the country, with potentially astounding results that a capable state deserves.

If a police precinct can undermine law enforcement in its jurisdiction with impunity, a government as tolerant of criminality, secrecy and violence can devastate an entire country.

The story of Officer James suddenly becomes a metaphor for a larger condition of the state. The questions and conjectures it prompts must preoccupy the minds of millions.

The issues it raises strongly suggest that the trend of decay in national

governance can only be checked and stopped by a radical and professional act of retrieval.

Such retrieval will be at the heart of the health and wellbeing of our country. At bottom, it is about the actual workings of the state. It goes by the name of statecraft.

I pen off with the image of acting national police commissioner resisting, the Public Protector soldiering on, the Auditor-General impeccably rigorous and thousands of others in their different capacities who love their country because they are true to their professional obligations.

Dear reader, fellow citizen, supposing you were part of the “public” that witnessed Officer James’ wife being beaten, what would have been your public obligations?

» A case of common assault was opened on February 14, 2011 at the Knysna Police Station. Police say the matter was investigated and handed to the NPA for a decision. The NPA declined to prosecute.