

Pistorius trial tells us a lot about our society



By [Anton Harber](#)

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We have seen one style of cross-examination at the Oscar Pistorius trial: the pit-bull approach. It is tough and brutal...

The target is trapped in the witness box - not unlike a dog thrown into a fighting pit - and the lawyer for the other side sets out to tear apart every aspect of their life and their history, slowly and relentlessly.

It is as if we cross-examine in the same way we play rugby: we are bigger, tougher and more brutal than anyone else and we can wear you down over time through relentless pressure. Who needs brains when we have enough brawn?

Certainly, this approach often works, and prosecution bulldog-in-chief Gerrie Nel has shown that with Pistorius.

Then there's the other approach

But what happened to what I call the Sydney Kentridge approach: using wit and gentle but sharp skill to nudge the witness into a corner and get them to admit things they do not even realising they are admitting?

One recalls Kentridge outsmarting the Steve Biko killers in that most famous inquest so that - even as he knew he could not win the case under an apartheid-era magistrate - he showed the police to be cruel, dishonest and foolish.

His agile tongue and timely use of irony and sarcasm became the subject of plays and films and are still held up to show how you can score points by being cleverer than your opponents, even when they have all the muscle. This is the work of a terrier rather than a boerboel.

I am not saying that the pit-bull approach is inappropriate, only that one expects some light and shade, some variation in the approach.

Setting the trap

When we want to show that an expert is not up to scratch or sow some doubt on an eyewitness version of events, why do we need always to leave them in a heap on the floor, bruised and beaten?

There are some members of the Bar who still work in the Kentridge tradition.

I once made the mistake of agreeing to be an expert witness in a dispute that went to court and was caught off-guard when

the advocate for the other side spent the first few minutes of his cross-examination telling me how smart, expert and skilled I was.

He laid out my experience and achievements better than I could have done it myself. He flattered and cajoled me.

And then he caught me.

He did not need to humiliate me, he just needed me to concede one point, and he led me slowly into that trap. And when he did, it counted that much more because I was all puffed up.

Then there's *this* trial

Of course, it is different in a criminal trial like the Pistorius case.

Criminal lawyers are tough players in a rough game, and Nel's technique was forged in the daily battles of criminal prosecution rather than the more lofty debates of civil dispute.

But I raise the point because I think it tells us a lot about our society and our culture.

In all the coverage of the trial, I am struck that we seem to be avoiding some of the hard issues it has thrown up.

What does the trial tell us about our gun culture? It is not just that a large part of our society has an undue affection for these weapons of individual destruction, but that they are careless and showy about it.

Pistorius did not have a gun; he had an arsenal. Nothing was more telling than the description of his indignation at a policeman who once touched his gun, as if he was fondling parts more private.

What has it told us about the fear that lurks behind our gated communities and how people seek refuge in cars and weaponry?

What does it tell us about the seemingly unchanged lifestyle of many of those in these communities, who seem to be as separate from the rest of society as they were under apartheid?

It is a story of masculinity and muscularity and it is a truly South African story, pause for thought during an election campaign that sometimes seems to be more about brawn than brain.

ABOUT ANTON HARBER

Anton Harber, Wits University Caxton Professor of Journalism and chair of the Freedom of Expression Institute, was a Weekly Mail (now Mail & Guardian) founding editor and a Kagiso Media executive director. He wrote *Diepsloot* (Jonathan Ball, 2011), *Recht Malan* Prize winner, and co-edited the first two editions of *The A-Z of South African Politics* (Penguin, 1994/5), *What is Left Unsaid: Reporting the South African HIV Epidemic* (Jacana, 2010) and *Troublemakers: The best of SA's investigative journalism* (Jacana, 2010).
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