

Section 2

We live in a corrosive society, trapped between fear and lawlessness

South Africa is beset by aggression, incivility and the denial of responsibility, writes **Mark Gevisser**

WHAT is the value of a human life? Is that of an intruder, crouching in Oscar Pistorius's bathroom, waiting to attack the occupants, worth less than that of Reeva Steenkamp? If the prosecution had managed to convince the court that Pistorius had wanted to kill Steenkamp, he would have gone down for murder.

But because the court was not persuaded of this, and thus accepted his defence that he thought there was an intruder behind the door, he merely acted negligently, albeit with undue force, and is thus guilty of only culpable homicide.

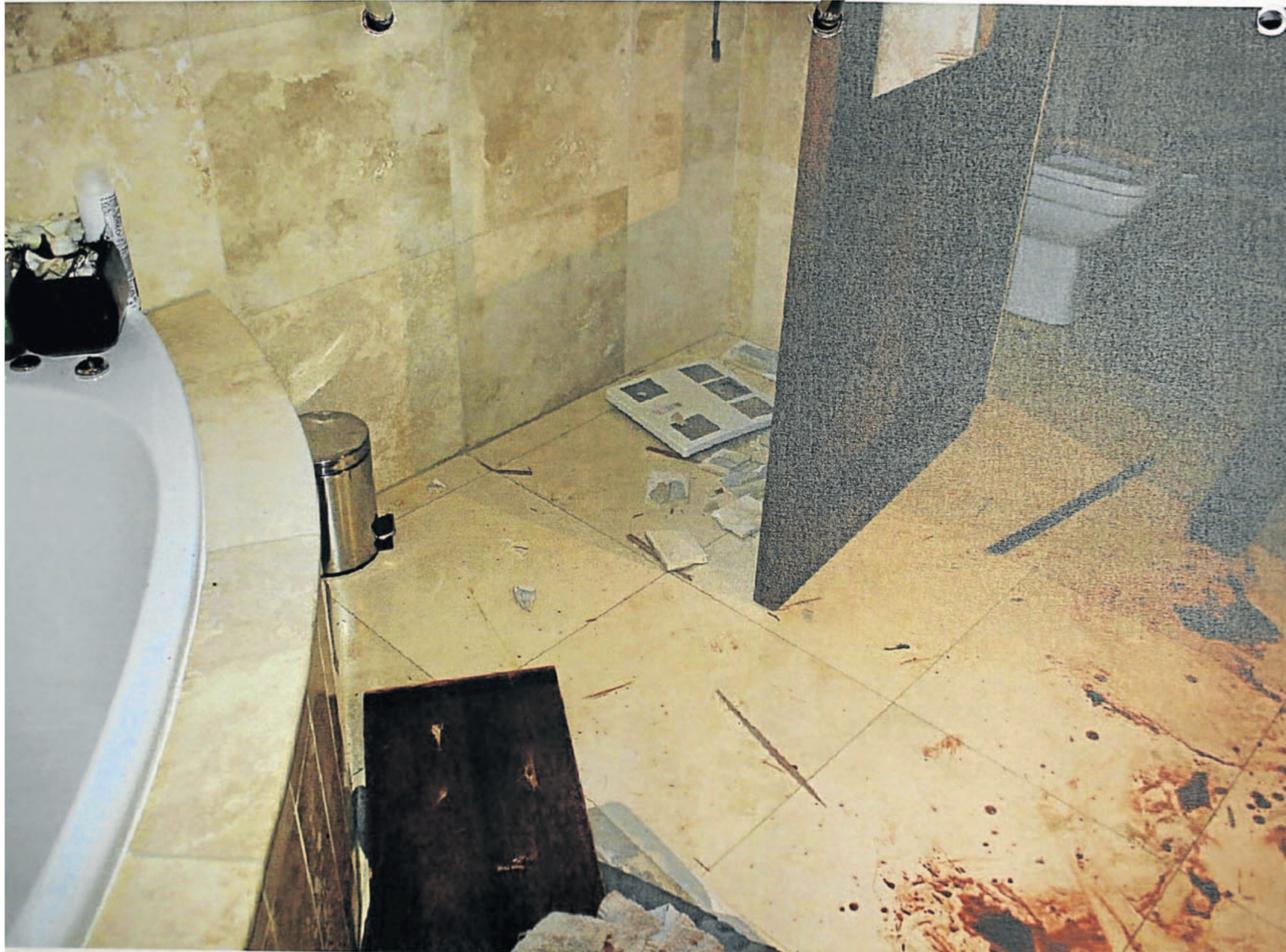
I am not disputing Judge Thokozile Masipa's interpretation of *dolus eventualis*: I am not qualified to do so. My question is a moral one, rather than a legal one.

Let us assume that there was an intruder in the Pistorius

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home in those early hours on Valentine's day. He climbs a ladder, squeezes through the open window into Pistorius's bathroom, and is crouching in the toilet, gun cocked, waiting to pounce. Oscar wakes up with a fright and jumps up to protect himself, his own gun loaded; he fires four shots through the toilet door. Reeva, in bed, screams in terror. A violent life is brought to a violent end. The security guards arrive, the police arrive; the intruder's body is removed. Reeva is consoled, Oscar tranquillised, a hero once more.

Perhaps the police will wonder whether this homeowner really did need to fire live ammunition through a door. Perhaps, if he were not Oscar Pistorius, he might have been



CRIME SCENE: A police picture of the bathroom at Oscar Pistorius's house, taken on Valentine's Day last year

Pictures: EPA/SOUTH AFRICA POLICE SERVICES

charged. Most likely, life will go on, as it does, with one gangster less and more doors bolted.

As I followed the trial, I found myself revisiting my own ordeal. A year before Pistorius killed Steenkamp, two friends and I were held hostage in their Killarney flat by three men with guns; we were repeatedly threatened with death and one of my friends was raped. One of our assailants, a young man

named Thabani Sibanda, was caught and charged, and I gave testimony against him.

We watched the wheels of justice turn, in the Johannesburg Magistrate's Court, against all odds: shoddy police work, an impossible case load and overstretched and distracted prosecutors. Even Sibanda, who had to await his trial for 17 months — the average, I am told — was represented by a diligent state-

appointed defence attorney.

There were no TV cameras in Court 17, but everyone was aware that I was a journalist who would be writing about the experience.

As I watched the other people in the gallery, shuffling in and out with dead-eyed forbearance, I realised how much easier it was to access justice — as everything else — if you have time, money and connections.

Sibanda was found guilty of housebreaking and robbery by a magistrate named Vincent Ratsibvumo, who justified handing down the mandatory minimum sentence of 15 years by emphasising deterrence: "Each of us," he said, "rich and poor, have a right to live in our homes in peace without fear that while we are watching TV and enjoying our family, a certain Sibanda might pounce, coming

to reap what he did not sow."

I do not feel guilt for the part I have played in ruining this young man's life: he must take responsibility for what he did. What stays with me, rather, is a terrible sadness at how little Sibanda's life has come to mean — not least to Sibanda himself. Throughout our ordeal, our assailant called my friend Katie "sister" and my friend Bea "grandmother". He was the son

of someone, the brother of someone; he was, we discovered in court, the husband of someone and the father of someone, too. And yet he forfeited his own humanity so drastically — perhaps because of his inability to meet his obligations to all these relations. The world had slighted his masculinity, and he was claiming it back with a gun. What remains with me most, of those horrible three hours, is

the smell of fear. Not just our own, but those of our assailants, too. They skate so close to death every time they "go to work" — for that is how they put it to us — because they know how many Pistoriuses there are out there; how many homeowners with firearms who will shoot to kill and get away with it.

Their lives are worth nothing; they have nothing to lose. Their victims' lives are worth nothing, too, of course, in comparison with the gains they will reap.

They are the men with guns, and we are the rest. I do not believe, as the expert witness persuaded Masipa, that people are either "fight" personalities or "flight" ones.

I think most people are like I was when attacked: compliant and law-abiding, hoping it will be over soon. But the culture of fear and lawlessness here — two sides of a coin — is creating this corrosive binary.

We see the "flight" in emigration, in the move away from cities, in the retreat behind high

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walls, in the privatisation of the middle classes, in the evacuation of any sense of public responsibility. We see the "fight" in increasingly aggressive machismo, from taxi drivers to Olympic athletes to trigger-happy commanders at Marikana to men who rape women and children. We see it in the dramatically deteriorating civility of our political discourse. And we see it in the way our own elected leaders are willing to gut the criminal justice system to protect themselves from prosecution.

Pistorius tried to persuade the court that he has an anxiety disorder, exacerbated by his disability. Masipa rejected this defence. So many South Africans are disadvantaged, she suggested, by their youth or their gender or their lack of power: if they all took the law into their own hands, we would live in a state of anarchy.

The anxiety disorder may or may not be in Pistorius's head, but it is all around him. Its consequence is, precisely, the devaluation of life that resulted in the death of Reeva Steenkamp.

● Gevisser's latest book is *Lost and Found* in Johannesburg

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