

Who breaks a butterfly upon a wheel? The secondary torture of Joanna Mamombe in Zimbabwe

Daily Maverick By Tony Reeler

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Joanna Mamombe. (Photo: thezimbabwemail.com / Wikipedia)

When a doctor's medical evidence is dismissed by the court as not being 'neutral', there should be an outcry. The precedent in Joanna Mamombe's case in Zimbabwe will undermine all health professions if it is not protested against in the strongest possible terms: It suggests the courts can challenge professional medical opinion solely on grounds of professional 'bias'.

Zimbabwe is currently suffering from an outbreak of abductions, detailed recently in the cases of [Takudzwa Ngadziore](#) and [Tawanda Muchehiwa](#), and covered by *Maverick Citizen*. However, prior to these more recent cases, the abductions in May of the three young MDC women, Joanna Mamombe, Cecilia Chimbiri and Netsai Murova, caused an international furore.

One would think that this would prompt the Zimbabwean government not only to act on abductions, but also to ensure that they did not make things worse. However, this has not been the case. Abductees find themselves not only victims of terrible abuse, but charged themselves for offences. For Mamombe and her sisters, this has meant being charged with holding an illegal protest under Covid-19 regulations, and, worse than this, [charged with making false accusations](#) about their [abduction, torture and sexual assault](#).

Adding greater injury to insult, when Mamombe failed to make a court appearance because she was in hospital, she was dragged from hospital and charged with violating her bail conditions by not attending court.

Like so many others, I was appalled at the decision of the Harare Magistrate's Court on 24 September to commit Mamombe to Chikurubi Psychiatric Unit in order to undergo a two-week psychiatric evaluation by government psychiatrists. The public facts indicate that she failed to make a court appearance because she had been admitted to hospital for treatment, a necessity according to her treating psychiatrist, whose testimony was not upheld by the magistrate. The treating psychiatrist clearly indicated that her mental health status secondary to her abduction ordeal had left her with symptoms serious enough to warrant admission in a private mental health facility and sufficiently traumatised to temporarily limit her ability to follow court proceedings.

Her condition would not have come as a surprise to any member of the mental health professions: in the aftermath of abduction and torture, including sexual torture, it would be remarkable that any of the three young women did not suffer from a trauma-related disorder.

Mamombe, and all those that have recently been abducted and tortured, are highly likely to have debilitating common mental health mood disorders of anxiety and depression. This does not warrant an inpatient psychiatric evaluation in a maximum-security centre under [Zimbabwe's Mental Health Act](#) searching for psychiatric impairment.

Worldwide academic research has proved that abduction and torture victims have a high probability of prolonged and often debilitating manifestation of common mood disorders requiring supportive treatment and not further retraumatisation.

The appropriate response to trauma, particularly trauma from torture, is medical and psychological treatment; medical care for the injuries and therapy including pharmacotherapy for the psychological effects.

The appropriate response from the criminal justice system is to ensure all perpetrators are found, arrested and tried, as well as to ensure the victim is afforded treatment until such time that the medical team feels a person is fit to come to court.

International conventions against torture

It is important to draw attention to Zimbabwe's failure to ratify and domesticate the United Nations [Convention against Torture](#), the only country in SADC that has not done so. This failure is despite the clear prohibition against torture in both the old and new [Zimbabwe constitutions](#). Part 2 (Section 53) of Fundamental Human Rights and Freedoms is explicit:

"No person may be subjected to physical or psychological torture or to cruel, inhuman or degrading treatment or punishment."

The Zimbabwean government and state should also be cognisant of the General Comment 3 of the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment and Punishment (UNCAT) which says:

"All victims of torture are guaranteed the right to rehabilitation including mental health".

In the aftermath of Organised Violence and Torture (OVT), it is vital for the victim to be spared further trauma. The medical evidence is clear: the probability of a trauma-related disorder increases with the number of trauma experiences that a person suffers, what is known as the “dose-response” effect.

In Mamombe’s case, nothing like this has taken place. She and her colleagues (and not the perpetrators) were arrested, denied bail and imprisoned. The state not only arrested her (as well as Cecilia Chimбири and Netsai Murova), but also treated her as a perpetrator, making false claims, and going to great lengths to disprove the allegations of abduction, torture and sexual assault.

Now, in a wholly egregious decision, the magistrate and prosecutor suggest that a qualified medical practitioner was incorrect in diagnosing a serious medical condition that required hospitalisation. I can only presume that the rationale is that because she is said to be lying about her abduction, torture and sexual assault, she must be lying about her medical condition.

I have been working with victims of OVT for nearly 30 years, and I have never seen such an appalling travesty of the correct process for such cases.

Mamombe’s case raises two very important issues.

The first is the consequences for her mental health.

The initial trauma was very serious in its implications for her well-being, and nothing that I have seen in all the public material convinces me that she would not need urgent and sustained medical and psychological care. Her subsequent treatment – arrest, imprisonment, re-arrest, charged with making false accusations, dragged out of hospital and then re-imprisoned – will almost certainly guarantee Mamombe suffering from a trauma-related condition with life-long health consequences.

The state should be reminded of the victim’s right to claim damages for the consequences of such abuse.

Silence from the medical profession

The second is the silence from the caring professions about this latest assault on her health and dignity. I expected statements from every single professional body involved in healthcare delivery: doctors, psychologists, social workers, nurses. All of the health and allied professions are bound by multiple codes of ethics – the *Declaration of Geneva* (1983), the *International Code of Medical Ethics* (1983), the *Declaration of Tokyo* (1975), the statement on *Nurses and Torture* (1989) by the International Council of Nurses – and many others.

The intention behind all of these is to ensure that health professionals put their patients’ well-being before any consideration, and especially in the face of state pressure to inappropriately use legislation that will further harm patients. *Primum non nocere* (first do no harm) remains the guiding principle for all health care professionals, whether employed by the state or in their private capacities.

Thus, when a doctor provides medical evidence to a court that is dismissed by the court as not being “neutral”, there should be an outcry.

The precedent in this case undermines all health professions if it is not protested in the strongest possible terms: it suggests that the courts can challenge professional opinion solely on grounds that the professional is biased. The only grounds ever for seeking a second opinion can be where the examining doctor, him or herself, suggests that the case might require a more experienced medical professional and be in the patient's best interests.

The abuse of medical professional ethics by the officers of the Judicial Service Commission should be of grave concern to all medical professionals in Zimbabwe and requires a robust response from the professional associations. The public is reminded that the same magistrate's court also barred renowned legal professional Beatrice Mtetwa from representing her client on flimsy grounds and referred her case to the Law Society for investigation.

Is this the new power of our magistrates?

The health professions should be standing up and saying loud and clear that professionals do their jobs properly and courts are not in a position to dismiss medical evidence on the flimsy excuse that the doctor is biased.

None of this puts the Zimbabwe justice system in a good light. It suggests that the state will go to any lengths to disprove allegations of abduction and torture. It is an indictment that four months after the abduction the state has still not arrested any of the perpetrators. It is hardly surprising that there is such an outcry internationally. **DM/MC**

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