Medical care in detention - the death of Simon Marule

Simon Marule was a twenty year old political activist. He died in detention of an easily diagnosed and a treatable disease. An inquest, held recently into the circumstances surrounding his death, found no-one responsible. This case raises serious questions about the quality of medical treatment received by detainees.

Marule's detention and medical history

On June 20, 1986, Marule was detained under the Emergency Regulations at the Dunnottar Police Station and on July 1, was transferred to Modderbee Prison. He was unwell on arrival, having been assaulted by police. (During the inquest, the police admitted to the assault.)

A fellow detainee at Dunnottar testified that Marule could barely move; he thought Marule might even die. He also testified that he saw injuries on Marule's back that were consistent with Marule's story that the police had assaulted him with a plank. As stated in the detainee's affidavit, it was only after detainees threatened to go on hunger strike that Marule was examined by a doctor. A witness testified during the inquest that the examination by the district surgeon was extremely superficial, and only involved looking into Marule's eye. The district surgeon insisted, at the inquest, that Marule did not complain of assault to his back. As a result, he did not think it necessary to do a urine test, which is performed to detect blood in the urine as a result of trauma to the kidneys. Doctors' evidence during the inquest suggested that the kidney disease which caused Marule's death, was probably present at the time of his detention and could have been detected from a urine test at this point. Despite the fact that many doctors may not perform a urine and blood pressure test, if the patient only seems to have trauma to the eye, detainees, in terms of prison regulations are required to undergo a proper medical examination whilst in detention. The examining doctor is obliged to "report fully on the physical and mental condition" of the prisoner. It is widely accepted that urine and

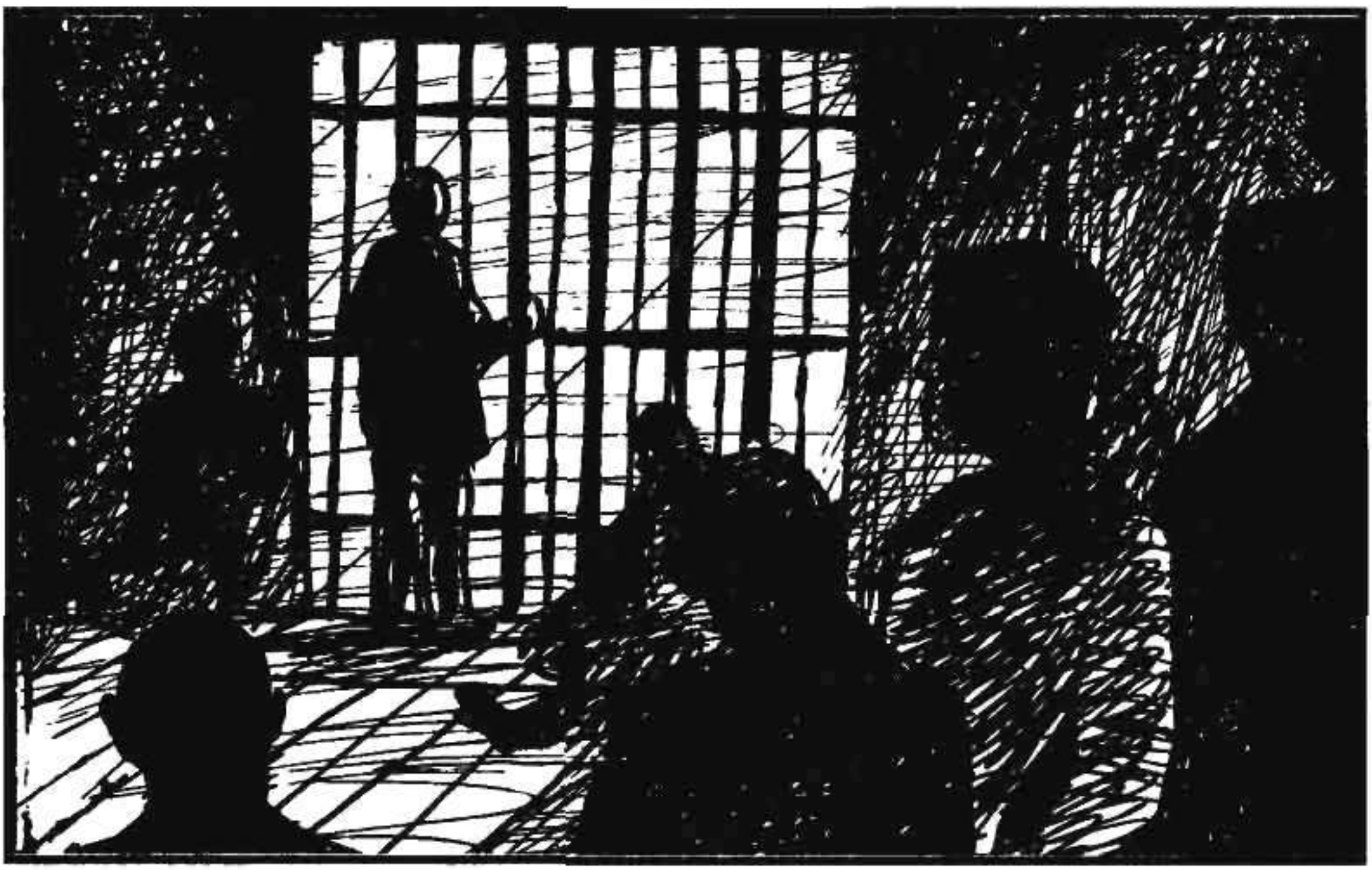
blood pressure tests are fundamental in a proper medical examination. The inquest held into Marule's death revealed that these were never performed.

The following day Marule was taken to hospital for about 40 minutes. When he returned he told detainees there had been no doctors at the hospital and that, despite protests from the nurses, the police had insisted on bringing him back to the police station.

Following his transfer to Modderbee, detainees there also tried to draw attention to Marule's medical condition. The examination took place on 3 July 1986. During the inquest, the doctor responsible for this examination admitted that it was a superficial one. He testified that it is the prison authorities' job to do the urine and blood pressure tests. Despite the fact that the authorities were not doing such tests, he never complained about this nor did he take steps to ensure they were carried out.

Towards the end of 1986, Marule developed symptoms of tiredness, breathing difficulty, loss of appetite, headaches, stomach pains and body swelling. He complained to Lieutenant van der Westhuizen, the medical orderly at Modderbee Prison, that his body was swelling and that his shoes no longer fitted him. Many fellow detainees observed this too.

Affidavits by fellow detainees presented to the inquest court stated Marule was told by the orderly that he was getting fat from eating too much. The only treatment received at this stage was Panado (a painkiller) for his headaches.



Simon Marule's death has created concern over the quality of health care received by detainees

Despite numerous requests by Marule and his fellow detainees, he was not examined again until 22 December 1986 after detainees had threatened not to go back into their cells until he was taken to hospital. A prison officer called to defuse the situation informed the detainees that there were no doctors available on the weekend and that Marule would be examined on Monday. On the Monday, he was seen by Dr Dyson who suspected Marule was very ill, possibly in heart failure. Despite giving evidence at the inquest that he had advised hospital treatment that day, he had failed to write "urgent" on Marule's medical card and had not taken any steps to ensure that he was transported urgently to hospital. In fact, Marule was only to leave for hospital the next day. Counsel for Marule's family argued that failure to ensure that Marule be taken to hospital on the same day amounted to a culpable omission which hastened his death.

Marule collapsed in his cell after weeks of requests for medical attention

Marule collapsed that evening in his cell. Detainees tried for a long time to alert the wardens but were told "julle lieg, julle kaffirs, slaap" (you are lying, kaffirs, sleep) or words to that effect. The detainees made a constant noise until the wardens came to investigate. Marule was found collapsed and with blood stained froth around his mouth. He was transferred that night to the Boksburg/Benoni Hospital where he died the next day.

The casualty officer who treated Marule on admission to the hospital told the inquest that no medical report had accompanied the patient from prison. At the hospital, Marule was treated for fits. He was then transferred from the casualty department to a ward where nothing further was done to establish the cause of the fits.

A post mortem was held but the cause of death could not be determined. However, a histopathologist, consulted by Marule's family, determined the cause of death as membranoproliferative glomerulonephritis (MPGN). It is important to emphasise that all the symptoms that Marule complained of fit the picture of this kidney disease and therefore should have alerted doctors to this condition.

Areas of alleged negligence

Medical experts interviewed by *Critical Health* have highlighted eight areas of apparent negligence in Marule's death:

1. He was not examined fully prior to his transfer from Dunnottar to Modderbee, contrary to prison regulations. A complete examination would in all likelihood have detected protein in the urine and a high blood pressure at this stage.
2. At Modderbee he was only seen (after threats from fellow detainees) a few days after his detention despite having been severely assaulted.

Commemorating the death of Neil Aggett who also died while in detention

A woman's anguish for loved ones in detention

3. The examination at Modderbee was only superficial and an adequate medical history was not taken. Legal representatives for his family argued that if a complete history of an alleged assault had been taken, the doctor would have realised the need for a urine test to look for kidney damage. The urine findings would have prompted further tests and the kidney disease could have been detected. Treatment could have then been initiated.
4. He was not examined again despite numerous complaints to the police.
5. The district surgeon did not ensure that Marule was taken to hospital on the same day that he was examined.
6. No medical report accompanied Marule to hospital.
7. Full attempts were not made at the hospital to establish the cause of his fits.
8. Detailed medical reports were not kept at the prison.

During the inquest it appeared that Dr Fletcher, another district surgeon at Modderbee, may have signed Marule's medical card despite the fact that Marule was seen by a Dr Dyson. The suggestion that a doctor may have signed a report of a patient he did not even examine, was not resolved during the inquest.

Marule's medical treatment in detention illustrates that not only are the existing laws insufficient to safeguard detainees' health, but that these very laws themselves

Detainees have a right to receive comprehensive health care while in custody

are not adequately adhered to. Health workers and prison authorities who do not adhere to the regulations should be held responsible for their actions. The University of the Witwatersrand's Medical Faculty has set out guidelines for district surgeons examining detainees. This protocol is included in this edition of *Critical Health*. Health workers responsible for the treatment of detainees have a responsibility to familiarise themselves with such guidelines.

The district surgeons and the medical orderly responsible for the detainees at Modderbee Prison, told the Inquest Court there were too many detainees to examine thoroughly. It is an unacceptable excuse to explain the poor treatment received by detainees. If the patient load is compromising treatment, the health worker is obliged to take the issue to the authorities to demand more personnel. This problem will only be solved by addressing the issue of detention itself.

Marule's case reveals that referral to a district surgeon often depends on the whim

of individual prison authorities. The medical orderly seemed to assume that Marule was "shamming" and did not, therefore, warrant a doctor's attention. Detainees stated in affidavits that the orderly appeared to be avoiding Cell 8 where Marule was held but this was denied during the inquest.

One of the district surgeons stated during the inquest that detainees cannot expect to be given the equivalent of an executive medical check up from the Mayo Clinic (a very sophisticated hospital in America). However, Professor Strauss, professor of Law at the University of South Africa, has stated: "The mere fact that a man becomes a prisoner .... is not regarded as divesting him of the right to receive adequate health care .....On the contrary, the modern view is that a special duty is cast upon police and prison authorities and upon medical officers, because in consequence of the deprivation of his liberty, the prisoner no longer has any access to medical practitioners and health care facilities."(1)

References

1. Prof Strauss: *The Clinical Independence of the Doctor in Treatment of Prisoners: A Critical Survey of our Law*
2. Court records of the inquest proceedings

Please note: copies of the court records can be obtained, upon request, from *Critical Health.*