



**AN INVESTIGATION REPORT INTO
INJURIES SUSTAINED BY POLICE
OFFICERS AND MR CLIFFORD KHOMBA
IN BLANTYRE**

AN EXECUTIVE SUMMARY

DECEMBER 2022

1.0 Background

On Monday 16th May, 2022, a motorist identified as Clifford Henry Khomba is alleged to have hit three traffic police officers while they were on duty. According to a report written by Jonathan Pasungwi in the Nation Newspaper dated 20th May, 2022, the incident occurred at Bestobel on the Masauko Chipembere Highway in Blantyre. The report indicates that Clifford Henry Khomba was stopped by traffic police officers for exceeding the highway speed limit of 60 kilometers per hour. According to the report, Khomba had inadequate funds and pleaded with the traffic police officers to let him go. However, the traffic police officers confiscated his driver's license but this did not please him.

Khomba responded by warning the traffic police officers that he would hit them. Khomba stayed true to his word and drove his car towards the police camera, hitting the four traffic police officers and damaging the speed trap camera in the process. In the aftermath of the incident, Khomba and the traffic police officers were taken to Queen Elizabeth Central Hospital (QECH) to receive medical treatment. The three traffic police officers who were heavily injured in the incident were Ojesi Mtambo, McLord Dzinga and Yohane Douglas¹

However, the Malawi Human Rights Commission (the Commission) later learnt of allegations from both mainstream and social media that Clifford Henry Khomba was severely beaten whilst in police custody and was receiving medical treatment at Queen Elizabeth Central Hospital in Blantyre.

¹ Nation Newspaper, 16th May 2022, a report by Jonathan Pasungwi

This prompted the Commission to institute investigations into both incidents. This report contains findings of the investigation and recommendations to relevant stakeholders.

2.0 Mandate of the Commission

The Commission is a national human rights institution (NHRI) established under Chapter XI of the Constitution of the Republic of Malawi (The Constitution). The Commission is mandated to promote and protect human rights in the broadest sense possible and to investigate violations of human rights on its own motion or upon complaints received from any person, class of persons or body.

The Commission is further regulated by an Act of Parliament, the Human Rights Commission Act, (Cap 3:08) with regard to its powers, functions, duties, responsibilities and operations. Thus, the Commission instituted investigations into the allegations to determine the truth of the matter in line with its mandate.

3.0 Human Rights Issues

The allegations in this matter raise prima facie violations of the following rights:

- a) Right to human dignity
- b) Rights of detained persons
- c) Right to life

The Constitution in Section 19 (2) states that:

In any judicial proceedings or in any other proceedings before any organ of the State, and during the enforcement of a penalty, respect for human

dignity shall be guaranteed.

Section 19 (3) of the Constitution stipulates that:

No person shall be subjected to torture of any kind or to cruel, inhuman or degrading treatment or punishment.

Section 19 (4) states that;

No person shall be subject to corporal punishment or in any other proceedings before any organ of the State, and during the enforcement of a penalty, respect for human dignity shall be guaranteed.

Section 42 (1) (b) of the Constitution states that;

Every person who is detained, including every sentenced prisoner shall have the right to be held under conditions consistent with human dignity, which shall include at least the provision of reading and writing materials, adequate nutrition and medical treatment at the expense of the state.

4.0 Purpose of the Investigation

1. To establish the alleged human rights allegations
2. To identify perpetrators if any
3. To make appropriate recommendations.

5.0 Methodology

The investigation was carried out mainly through interviews and review of documents, laws and reports. It also included visits to the crime scene.

6.0 Findings

Based on the evidence collected and analysis of the same, the Commission has come up with the following findings: -

6.1.1 THAT On 16th May 2022, police officers from the South West Division at Chichiri in Blantyre were patrolling traffic using a speed camera along the Masauko Chipembere Highway.

6.1.2 THAT on the same day, at around 11:30am, the police officers pulled over Mr. Khomba for over speeding. According to testimonies from the police, Mr. Khomba was driving at 89kph on a road that had a maximum speed limit of 60kph.

6.1.3 THAT when Mr. Khomba was pulled over, he was ordered to surrender his driver's licence before proceeding to pay for the traffic offence of over speeding. Mr. Khomba initially complied but later began to argue with the police.

6.1.4 THAT police officers eventually allowed Mr. Khomba to drive off after serious arguments and he indeed drove off towards the direction of Road Traffic Offices in Ginnery Corner. Before doing so, he had threatened to kill or hit the policemen.

6.1.5 THAT within minutes of his driving off, Mr. Khomba returned and drove directly to where the police officers were discussing and hit four of them before slamming into a big tree where the vehicle came to a halt. The motor vehicle got seriously damaged on the front side as a result of the impact. All the four police officers were injured and taken to QECH where they were treated as out-patients for various injuries before being discharged.

6.1.6 THAT the four police officers that suffered injuries are Traffic Sub Inspector

Pilirani Mulonda, Traffic Sub Inspector Douglas, Traffic Sub Inspector Ojesi Mtambo and Traffic Sub Inspector MacLord Dzinga. Of the four, Traffic Sub Inspector Mulonda was cleared to start work almost immediately while the rest were given bed rest before they could resume work.

6.1.7 THAT Mr. Khomba was also injured during the impact as his vehicle hit the electricity pole and the tree. He was initially observed to be unconscious but later gained consciousness. He was apprehended before trying to flee the scene. Some members of the crowd manhandled him but they were later restrained by two police officers who had been working as part of the Blantyre City Patrol Team and stopped by at the place of the incident.

6.1.8 THAT Mr. Khomba was violent and argumentative throughout the process and some Blantyre City Officers beat him up on the way to Blantyre Police. It has also been reported that Mr. Khomba tried to wrestle a gun from one of the police officers but did not succeed. However, he suffered a cut from the gun butt in the process.

6.1.9 THAT at Blantyre Police Station, Mr. Khomba was taken to the custody area, had his name recorded in the cell book but was not placed in a cell. He was then referred to Queen Elizabeth Central Hospital by the Station Officer for Blantyre Police Station, Assistant Superintendent Tahita. According to Mr Taita, Mr Khomba had been assaulted by members of the crowd who were infuriated by his action of hitting police officers with a vehicle.

6.1.10 THAT he was admitted at QECH up to 2nd June 2022 when he was discharged and also granted court bail. During his stay at QECH, he was observed to be malingering. He was sometimes placed in handcuffs by police officers who were guarding him as a crime suspect.

6.1.11 THAT the injured police officers had not yet considered any action for their

situation because they were just focusing on their health situation. From their interaction with the Commission, they were not aware of what procedures to follow in order to get compensation for their injuries.

6.1.12 That Mr Khombas injuries were caused four possible causes

- a) The motor vehicle accident whereby he smashed into a big tree
- b) The beating by members of the mob
- c) The wresting for a gun from a police officer
- d) The beating by Troopers from Blantyre City Council

6.1.13 That when the Commission visited Mr. Khomba at Queen Elizabeth Hospital, he was unable to speak or walk. The Commission asked him to show where he was injured and he showed scars on his back which he later explained in writing that they were scars from lashes which were as a result of being beaten by the police at Blantyre Police Station. He also showed the Commission a cut on his forehead which he also attributed to the beating at Blantyre Police Station. However, these allegations are not supported by any of the evidence gathered during the investigations and the medical report from Queen Elizabeth Central Hospital does not make a direct reference to the injuries.

6.1.14 That the police officers that were guarding Mr. Khomba at Queen Elizabeth Central Hospital had chained his leg to the bed as a security measure. The police explained that Mr Khomba was being treated as a crime suspect. However, he has not been charged or taken before a court of law, even months after his discharge from the hospital.

7.0 Recommendations

In line with its mandate under Section 22 of the Human Rights Commission Act,

the Commission makes the following recommendations:

- a) The Police must investigate Mr Clifford Khomba for his role in causing injuries to four police officers who were on duty.
- b) Mr Khomba is advised to go for regular check-ups on his mental health status.
- c) Malawi Police Service must address the health and welfare of its four officers that were injured in the course of discharging their duties.
- d) The Malawi Police Services must within 24 months develop a clear policy for addressing the needs of its officers that get injured in the course of discharging their duties. Meanwhile, the injured police officers must apply for compensation for the injuries they suffered in line with the current labor laws.

8.0 Conclusion

This report has addressed the human rights issues pertaining to injuries sustained by Police Officers and Mr Clifford Khomba in Blantyre. The evidence gathered by the Commission points to the fact that Mr Khomba caused injuries to four police officers that were discharging their official duties, in the aftermath of that action, Mr Khomba was assaulted by mob and suffered various injuries. The evidence before the Commission is not conclusive on whether or not Mr Khomba was tortured by police as previously alleged.

**Scader Louis
CHAIRPERSON**

16th December, 2022