INVESTIGATION REPORT INTO THE ALLEGED VIOLATIONS OF THE RIGHT TO HEALTH AND MISMANAGEMENT OF RESOURCES AT KARONGA DISTRICT HOSPITAL

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EXECUTIVE SUMMARY
On 28th December, 2023, Malawi Human Rights Commission (the Commission) received a request from the Principal Secretary in the Ministry of Health (hereafter PS for Health) to carry out an independent investigation into the alleged violations of the right to health and mismanagement of resources at Karonga district hospital. The PS for Health made reference to a social media article that raised issues concerning management of health workers and flow of medicines and drugs meant for the public.

The social media article alleged that Karonga District Hospital is being run by a cartel of heartless mafia of health workers; that doctors and senior managers run their own pharmacies, clinics, and surgical shops; that patients were advised to buy essential medicines due to drug stock outs; that girls were dying while giving birth for the first time; that there was negligence on the part of health workers and that health workers discriminate northerners on the basis of tribalism and regionalism.

OBJECTIVES OF THE INVESTIGATIONS
The main objective of the investigations was to establish the alleged human rights violations with regards to the scope, circumstances and the actual perpetrators (individuals and entities such as private pharmacies, drug stores and clinics).

The following were the Specific objectives:

- To establish drug pilferage into private pharmacies, drug stores and surgical shops (pilferage) in the district;
- To ascertain stock status of drugs and supplies such as catheters, sutures, plaster of paris (POP), paracetamol (Panadol) and amoxicillin during the alleged period at the hospital;
- To ascertain the occurrence and the causes of maternal deaths of first mothers during the alleged period.
- To ascertain the allegation of discrimination against northerners in the provision of health services at the hospital.
FINDINGS

The Commission finds the following:

- THAT some health workers including health officers operate private health facilities within Karonga District depriving their patients the necessary services at the District Hospital where they are employed;
- THAT drug pilferage was confirmed from public health facilities into private facilities as evidenced by the incidence at Lupembe health Centre and the conviction of the health worker in Karonga;
- THAT there were consignments of expired medical supplies such as the POP and the perennial drug stock out that were caused by financial challenges in the procurement system of drugs and supplies at the CMST;
- THAT there was a convicted health worker that was still maintained on Government pay roll;
- THAT the hospital was operating with inadequate resources including financial, human and ambulance services. This was affecting health service delivery in the district;
- THAT the office of the hospital ombudsman was entangled into bureaucracy and capacity issues that affected their effectiveness;
- THAT maternal and neonatal deaths were compounded by inadequate facilities in the labour ward and negligence by nurses and midwives on the mothers or the newly born babies.
- THAT acts of discrimination were not confirmed. There was no evidence and the author of the article denied the assertions.

CONCLUSION

Investigation has established violations of the right to adequate health care services at the hospital. The violations are as a result of inadequate availability of drugs and supplies including logistical inadequacies such as fuel, ambulance services and technical health workers among other factors. Investigation has further established the occurrence of perennial stock outs of essential drugs and supplies at the hospital due to funding inadequacies at the hospital.
RECOMMENDATIONS

In line with the mandate of the Commission under Section 22(e) and (f) of the Human Rights Commission Act the Commission makes the following recommendations:

- The Medical Council of Malawi, the Nurses Council of Malawi and the Pharmacies and Medicines Regulatory Authority should scale up their regulatory and monitoring roles and certification of the health workers in public service operating their private health facilities to curb abuse of this right; **The Commission will monitor the implementation of the recommendation six months from the date of this report**;
- The Ministry of Health and Ministry of Local Government should strengthen drug monitoring systems at Karonga District Hospital and other public health facilities to address drug pilferage; **The Commission will monitor the implementation of the recommendation five months from the date of this report**;
- The Ministry of Finance should provide adequate and stable funding to the central medical stores trust to ensure timely procuring of drugs and supplies and that such drugs are not expired. **The Commission will monitor the implementation of the recommendation six months from the date of this report**;
- Karonga District Council should remove from the payroll the health worker who was convicted of drug theft at the hospital; the Police should further investigate this matter. **Karonga Police Station Officer in Charge and the District Commissioner should furnish the Commission with a written report one month from the date of this report**;
- The Ministry of Finance through the Ministry of Local Government should provide adequate financial and non-financial resources including human resources such as nurses and midwives and ambulance services to Karonga District Hospital to improve on service delivery. **The Commission will monitor the implementation of the recommendation six months from the date of this report**;
• The Office of the Ombudsman and Ministry of Health should strengthen the hospital ombudsman’s recruiting guidelines and enhance their capacity\(^1\). The Commission shall monitor the implementation of this recommendation six months from the date of this report;

• Additionally, Civil Society Organizations and other Non-Governmental Organizations in the district should come up with a consortium with a monitoring role over inefficiencies at the hospital including reporting the same to professional regulatory bodies. The Commission will monitor the implementation of the recommendation six months from the date of this report;

• Social media users should exercise due diligence as they publish stories on various media outlets to avoid confusing people with unfounded allegations.

\(^1\) Section 1.1 of the Hospital Ombudsman Hand Book stipulates that hospital ombudsman shall be an employee of ministry of health.
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1.0 INTRODUCTION
On 28th December 2023, Malawi Human Rights Commission (the Commission) received a request through a letter dated from the Principal Secretary for Health (PS for Health) to carry out an independent investigation into the alleged violations of the right to health and mismanagement of resources at Karonga District Hospital (the hospital). In the letter, the PS for Health made reference to a social media article that raised issues concerning management of health workers and flow of medicines and drugs meant for the public.

In the month of December 2023, a social media posts by Ipyana (whistleblower on face book) alleged that the hospital was being run by a “cartel of heartless mafias. Doctors and senior managers who ran their own pharmacies and surgical shops” were using the hospital to enrich themselves at the expense of the provision of accessible and quality public health care services.

The whistleblower alleged that every patient at the hospital was told to buy medicine and surgical items at pharmacies owned and operated by members of this cartel. The medicines included basic drugs like Panadol and amoxicillin as well as testing kits while the surgical items included Plaster of Paris (POP’s), catheters and sutures.

The whistleblower specifically alleged that he witnessed these incidents while nursing his sick mother who was admitted at the hospital for five days. The whistleblower added that while nursing his sick mother at the hospital he had an opportunity to engage with the hospital ombudsman. The whistleblower concluded by alleging that he witnessed “a lot of girls dying while giving birth especially those giving birth for the first time” and further alleged that Karonga district hospital might have a certain doctor or doctors “who just hated northerners”.

On 28th December 2023, the Ministry of Health released a press statement signed by the Principal Secretary for the Ministry of Health, in which the Ministry stated that it had come to its attention that there were reports circulating on social media on allegations of the delivery of substandard health services at the hospital and that there existed a cartel of health workers at the hospital who were diverting patients to their private clinics, pharmacies and drug stores.

The Ministry of Health’s press statement then went on to inform the public that, in view of the foregoing allegations, it had engaged relevant stakeholders namely the Malawi Health Equity
Network (MHEN) and the Commission to “get to the bottom of the matter so that appropriate measures could be put in place as soon as possible” and that “the report of the findings would be made public”.

The following were the alleged concerns that the media article carried:

1. The hospital was being run by a cartel of heartless mafia health workers.
2. Doctors and senior managers run their own pharmacies, clinics, and surgical shops.
3. Stock-outs of essential medicines and patients told to purchase drugs from private pharmacies and drug stores.
4. Girls dying while giving birth, especially first time mothers.
5. Negligence on the part of healthcare workers.
6. Doctors discriminating against northerners.

2.0 HUMAN RIGHTS ISSUES

The allegations made by the whistleblower in the social media post bring to the fore several human rights issues namely;

1. The right to healthcare and necessary social services

   Section 30 (2) of the Constitution of the Republic of Malawi (the Constitution) states that;

   The State shall take all necessary measures for the realization of the right to development. Such measures shall include, amongst other things, equality of opportunity for all in their access to basic resources, education, health services, food shelter, employment and infrastructure.

   Section 13 (c) of the Constitution provides that;

   The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving the following goals –

   To provide adequate healthcare, commensurate with the health needs of Malawian society and international standards of health care.

2. The right to equality

   Section 20 (1) of the Constitution provides that;

   Discrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race,
3.0 OBJECTIVES OF THE INVESTIGATIONS

3.1 Main Objective

3.1.1 To establish the alleged human rights violations with regards to the scope, circumstances and the actual perpetrators (individuals and entities such as private pharmacies, drug stores and clinics)

3.2 Specific Objectives

3.2.1 To establish drug pilferage into private pharmacies, drug stores and surgical shops in the district;

3.2.2 To ascertain stock status of drugs and supplies such as catheters, sutures, plaster of paris (POP), paracetamol (Panadol) and amoxicillin during the alleged period at the hospital;

3.2.3 To ascertain the occurrence and the causes of maternal deaths of first mothers during the alleged period.

3.2.4 To ascertain the allegation of discrimination in the provision of health services at the hospital.

4.0 METHODOLOGY

4.1 A team of investigators from the Commission, Medical Council of Malawi (MCM), Nurses and Midwives Council of Malawi, Drugs and Poisons Board of Malawi, Malawi Health Equity Network (MEHN) and the Ministry of Health travelled to Karonga district and conducted investigations using the following methodology:

4.1.1 Conducted Face-to-face interviews with the whistleblower, the author of the social media article and the Director of Health and Social Services at the hospital, the internal auditor at the Karonga district council, the hospital ombudsman, chairperson for Karonga district council, chairpersons for the hospital management committee and for the health and environmental committee for Karonga district council, officials from Catholic Commission for Justice and Peace (CCJP) for Karonga office, owners/operators/employees of private pharmacies, drug stores and clinics and chairperson for Karonga town municipality.

4.1.2 Investigators made Observations of developments at the hospital including how patients on referral list to the district hospital were being transported to the hospital.
4.1.3 Investigators conducted inspections at the hospital, private pharmacies, drug stores and clinics located at Karonga municipality.

4.1.4 Investigators inspected a pharmacy operating under the business name ‘Chalo medicine store’ (not real name). The investigators led by a police officer arrested the salesman and sealed the pharmacy.

4.1.5 Investigators also interviewed service users (out-patients and guardians) at the hospital.

4.2 Investigators conducted a Focus Group Discussion with the following:

4.2.2 The director of health and social services for Karonga.

4.2.3 The district nursing officer.

4.2.4 The head of the hospital pharmacy section.

4.2.5 The head of the midwifery/gynecological section.

4.2.6 The head of the emergency/surgical section.

4.2.7 The head of the stores/procurement.

4.2.8 The head of finance/accounts.

4.2.9 The head of administration.

4.3 The investigators collected the following documents:

4.3.2 A list of all the registered private pharmacies, drug stores and clinics operating in Karonga municipality and Karonga district.

4.3.3 Drug stock registers of essential medical drugs and supplies at Lupembe health Centre during the alleged period and drug audit report from the district council.

5.0 LIMITATIONS

5.1 Period was limited for the scope of this investigation;

5.2 As a joint investigation, it was difficult to manage the expectations of every stakeholder in the investigation team.

6.0 FACTS AND EVIDENCE

6.1.1 Evidence from the key informant

The informant (name withheld) who owned Florida Pharmaceuticals in Lilongwe on 4th January 2024 submitted that he authored the social media post that had the allegations of the complaint. He added that the issues contained in the social media post occurred in 2022. At that particular time, he spent at least 5 days as a guardian to his sick mother when she was admitted at the hospital.
He explained that in the course of his mother’s illness, he bought drugs from one of the private pharmacies which he suspected to have been drugs from the government. He also observed that the pharmacy had bandages and catheters that he suspected to have been stolen from a public health facility.

He further stated that the drugs he bought were not displayed on the shelves but were hidden from the sight of customers. He stated that with his experience in running Florida pharmaceuticals, he was able to identify the source of the drugs and other materials.

He stated that during the alleged period (2022), he observed that patients were being asked to buy drugs such as paracetamol and the Plaster of Paris (POP) from private pharmacies despite strong suspicion that the hospital had these drugs in stock. This prompted him to bring the matter to the attention of the hospital ombudsman.

He stated that doctors and clinicians were advising patients to purchase drugs and other medical equipment from pharmacies and drug stores at the T-Junction leading to the hospital before they could be given medical treatment. The informant witnessed a health worker asking patients to buy POP from private pharmacies and he claimed that these pharmacies and drug stores are owned by doctors and clinicians who work at the same hospital.

He explained that during the 5 days he spent at the hospital nursing his mother, he observed the occurrence of maternal deaths. He observed pregnant women lying down in the corridors and stated that some of the women who were giving birth for the first time were dying. However, he stated that he did not witness any child death. The informant further explained that he had knowledge of 3 maternal deaths of first-time mothers that happened during the period. He was told that these women came from Iponga, Kasoba and Malembo villages in the district.

6.1.2 Evidence from Richard Banda (Not real name)
The witness explained that he was admitted at the hospital in January 2023. At this time, he was diabetic and had leg ulcers. He was discharged after a month and was re-admitted on 2nd February 2023 because of the worsening condition of his leg. He spent two weeks in the hospital without receiving any medical treatment.
He stated that medical personnel were demanding between K2,000 and K3,000 as payment for cleaning his leg ulcers. He further explained that he was asked to put money in his health passport book which would then be taken to doctors.

Concerned by the worsening condition of the leg, his uncle advised him to get a referral letter to Mzuzu central hospital. However, medical personnel at the hospital refused to grant him the referral letter. On 18th February 2023, he was given money by his uncle to travel to Mzuzu central hospital. At the hospital, doctors assessed the leg and concluded that the leg had to be amputated.

6.1.3 Evidence from a Male Diabetic Patient
The witness stated that on 16th September 2022, he waited for more than an hour to access the drug which doctors had prescribed for his treatment. He also explained that the pharmacist informed his guardian that the prescribed drug was out of stock at the hospital. This prompted the guardian to report the matter to the hospital ombudsman who proceeded to seek clarification on the matter from the pharmacist in the presence of the guardian. He explained that the drug he was waiting for was available and was close to where the pharmacist was sitting. The hospital ombudsman also confirmed this at the time she was interviewed.

6.1.4 Evidence from Peter James (guardian to patient, not real name)
The guardian stated that the patient was injured during a football match and was taken to Karonga district hospital on 2nd of September, 2023. After medical personnel conducted an assessment, it was recommended that the injury required a plaster of Paris (POP) and had to return to the hospital the next day. The following day, the guardian took the patient to the hospital to receive the prescribed treatment.

He explained that he met another medical officer (name not provided) who offered him the POP at K6 000 (K3 000 each). At this point, he suspected that there could possibly be a vibrant business of drugs and medical equipment within the hospital.

On a separate occasion, he took his wife to the hospital when she was bitten by a scorpion. Health workers offered him a syringe and drugs to treat his wife.
6.1.5 Evidence from Aaron Davies (pseudo name)
The witness explained that patients referred to Mzuzu Central Hospital for medical treatment are asked to pay money to foot the costs of fuel and allowances for ambulance drivers.

He stated that his cousin was once referred to Mzuzu Central Hospital and was asked to pay K70000. He added that his cousin did not pay the money and opted to use public transport. Furthermore, he stated that he bought a drug from a pharmacy behind Karonga FDH bank which he suspected to have been stolen from a public hospital. To prove his suspicion, he took a picture of the drug and sent it to a friend on WhatsApp. The friend is a health worker and he held the same view that the drug might have been stolen from a public health facility because the drug is only available in public health facilities.

6.1.6 The issue of stolen drugs at Lupembe Health Centre
The investigating team learnt that a pharmacist at Lupembe Health Centre had been caught stealing drugs by his supervisor. Apparently, the pharmacist was involved in similar cases before the current one but was not arrested.

The investigators interviewed the nursing officer at the health centre who stated that the pharmacist was instructed by Lupembe Health Centre in-charge to stop reporting for duties until further notice. On the day of the interview, the suspect was not at the health centre as he was on suspension. The hospital’s pharmacist who is in-charge of all pharmacies in public health facilities in the district, conducted an initial drug stock audit whose findings revealed enormous drug shortages at the health centre. The investigators reported the matter to Karonga police station for appropriate action.

6.1.7 Evidence from Director of Health and Social Services on the availability and management of health resources and services in Karonga district.
The Director of Health and Social Services (DHSS) explained that patients at the hospital were asked to purchase drugs elsewhere because the hospital was experiencing perennial drug stock outs. He stated that drug stock outs were as a result of irregularities in the drug procurement arrangements with the Central Medical Stores Trust. He added that this was exacerbated by the delays in government funding for the procurement of drugs.
He stated that the hospital serves 21 health Centres in Karonga. Two of these are CHAM hospitals and this number also includes the main hospital. The hospital had 7 ambulances, one ambulance was stationed at Chilumba Health Centre and another one was stationed at Kaporo Health Centre but was withdrawn because the driver did not have accommodation.

He also stated that the hospital experienced low fuel provision that usually affected transportation of patients from health centres to the district hospital. In desperate circumstances guardians were asked to purchase fuel using their money to transport patients to Mzuzu Central Hospital or they could hire their own transport. “The Investigation Team witnessed two private vehicles that were hired by guardians to transport patients to Karonga District Hospital from public health facilities within the district”.

He further acknowledged that the Central Medical Stores Trust had been supplying the hospital with expired POPs and this had been the case since June 2023. Furthermore, he confirmed that patients were being told to buy un-expired POP from private pharmacies to mix and improve the effectiveness of the expired ones. Although he confirmed that 7 medical practitioners working at the hospital were operating private pharmacies, drug stores and clinics, denied having knowledge of the officers’ directing patients to certain pharmacy/surgical shop to buy medicines and POP as he did not have evidence.

He acknowledged acute shortage of qualified staff in the orthopedic section and that some support staff at the hospital were oriented to be POP technicians. He suspected these could be the ones who were dealing with POP supplying in the hospital.

6.1.8 Evidence from the Hospital’s Transport Officer
The transport officer for the hospital confirmed that in desperate circumstances, he receives communication from medical personnel from public health centres asking for permission for guardians to purchase fuel for hospital ambulances.
He identified Leonard Simfukwe (not real name) as the driver who was reported to be the one who was demanding money from patients or their guardians to fuel ambulances. This matter was referred to the hospital administrator and the hospital ombudsman for their actions.

He stated that the hospital gets an allocation of K5 000 000 for fuel but it is hardly enough. To mitigate the problem, the hospital had entered into an agreement with two filling stations namely in the Municipality; who supply fuel and are paid when funds are available.

6.1.9 Evidence from the DMO
The DMO, stated that when the social media allegations came out, management at the hospital convened a meeting on 5th January 2024. They discussed the areas that were mentioned therein. These areas included the following: medicines and supplies, informal payments, private practice, patient care/ward care, deliberate actions to target northerners through maternal services.

He stated that there were 12 maternal deaths in the whole of 2023. 3 maternal deaths occurred in December and the latest one was the death of a 22-year-old woman and there was no teenager among the dead. He added that the hospital had paracetamol since November 2023. However, he conceded that the hospital did not have amoxicillin at the beginning of December 2023 but received the drugs from Central Medical Stores Trust on 15th December 2023.

He conceded that since the hospital had expired POP stock, patients were asked to buy unexpired POP from private pharmacies and drug stores. He said the hospital has had expired POP for the whole of 2023 and as a result of this, patients have been flooding the hospital with complaints of improper bone healing and deformities.

He explained that the hospital serves more than 405 000 people at the cost of 80 – 100 million Kwacha per month to finance the procurement of drugs and other medical items. Due to financial challenges, Malawi government had put a ceiling of K304 million in the 2023/2024 financial year. This meant that there could be a monthly allocation of 25.4 million for drugs which is not enough and this leads to drug stock outs. In addition, the hike in inflation had brought challenges to the budget.
The DHSS went further and explained that the hospital requested for a waiver to use the 10 percent allocation provided for in Other Recurrent Transactions (ORT) to purchase medicine. However, the 10 percent translates into 3.8 million and this is made available on a quarterly basis and is not sufficient to address drug stock outs.

He explained that there was further problem with the current drug issuing system whereby a sticker or proof was generated or produced after consultation and the sticker indicates that medicine has been issued out to a patient even though the pharmacist advises patients to buy drugs from private pharmacies and drug stores.

6.1.9.1 On private practice
He stated that the hospital was in the process of updating the database of private clinics in Karonga. The available information was that there were 19 private clinics in operation in the district. 3 clinics are run by clinical nurses and 6 were run by medical officers and the rest were run by clinical technicians. There was no medical doctor or senior clinician who owned a pharmacy. He added that the regulation of clinics is the responsibility of the Medical Council of Malawi (MCM). He stated that as a hospital, they conducted an assessment in the district on drug pilferage and concluded that private clinics in the district were not getting drugs and medical supplies from hospital.

6.1.9.2 On the arrest of Rose Kaleya (not real name)
He stated that in 2021, a nurse Rose Kaleya (not real name) was implicated in drug theft and was subsequently convicted. However, the convicted nurse is still on payroll and the human resources department at the hospital has not taken stern action on the matter. He denied the allegation that the hospital or its workers were receiving informal payments for medical services.

6.1.10 Evidence from the office of the hospital ombudsman
The hospital ombudsman explained that on 24th September 2023, a woman came to the hospital in the 9th month of her pregnancy. She was hospitalized and on 26th September 2023, she started experiencing Labour pains and was due for delivery. When she was taken to the delivery room, the nurse on duty told her to make her own bed but she was in great pain that she could not manage and the woman ended up delivering on the floor and the baby died.
The vice ombudsman stated that patients and other hospital users were discouraged from reporting cases to the ombudsman because they feel that the ombudsman was part of the hospital staff and might not take firm action against fellow staff members. She suggested that it could be good if independent persons were assigned to hold the office of the hospital ombudsman.

She added that over 80% of the cases recorded in the hospital ombudsman’s register centered on the general conduct of health workers, such conduct included; reporting late for duties; keeping patients waiting on long queues, bad treatment of patients particularly at the maternity.

6.1.11 Evidence from Daniel Chitseko (not real name)
Daniel Chitseko is a health worker at Karonga district hospital. He denied selling POP to Peter James. Peter James (not real name) was a patient in need of POP at the hospital. He stated that he referred the patient to the plaster technicians who likely sold him the POP.

He explained that most patients identify hospital attendants as doctors and it was likely that the patient thought that he was the one who instructed the plaster technician to sell him the POP.

He stated that the hospital had in stock expired POP which was not effective as it could not dry and had an impact on the outcome of the procedures they conduct on patients. He added that there were instances whereby POP procedures had to be repeated. He stated that in such circumstances it was costly to patients because they were required to purchase materials again.

He further explained that the Orthopedic section had acute shortage of staff and hospital management resorted to orienting hospital attendants as plaster technicians. However, this resulted in patients’ Orthopedic experts to carry out the procedure again on the same patients to correct errors made by the plaster technicians, such as maligned bones.

He further stated that he used to monitor the plaster technicians when they were performing POP procedures. However, he conceded that due to pressure of work, monitoring of the plaster technicians is not thorough.

6.1.12 Evidence from Hospital Attendant
She was trained as a plaster technician in 2021 and the training took three days to complete. She explained that she is supervised by Orthopedic clinical officers when conducting the POP procedure. She added that the trained plaster technicians are limited in their scope as they are not
allowed to do wound dressing, suturing and wound debridement. She stated that plaster technicians are also assigned by clinicians to apply tractions, POP and back slabs to patients. She stated that perennial shortage of POP at the hospital drastically affected the quality of their work.

She also explained that patients particularly foreigners from Tanzania, had the tendency of putting money in the health passport books. The money was mostly taken by clinicians on duty. She stated that the foreigners do this for fear of being refused to access health services at the hospital. She denied the allegation that health workers charge patients for their services.

6.1.13 Evidence gathered from the inspection of Chalo medicine store (not real name)

The investigators inspected Chalo medicine store on 5th January 2024. They found some prescription-only drugs and medical supplies suspected to be unlawfully obtained hidden in a separate room inside the medicine store.

They also discovered some products meant for wholesale transaction such as surgical like linger’s lactate, glucose 5%, normal saline meant for wholesale were hidden in the medicine store. Investigators did not get proof of purchase of the suspected products from the medicine store personnel.

They came across records of wholesale transactions of POPs, litters and prescription drugs which was evidence that the medicine store was transacting as a wholesale dealer under a medicine store license.

The medicine store had no pharmacist’s contrary to the Pharmacy, Medicines and Poisons Board (PMPB) regulations, which demand full time supervision of a licensed pharmacy personnel. The matter was reported to Karonga Police Station who proceeded to arrest the operator.

6.1.14 Evidence from the inspection of the hospital’s pharmacy

The following were summaries of stock levels of the sampled products:

POP-Lot; AJ170627; Expired: 06/2020; the Pharmacy had an Out of Stock (OOS) of POP of unexpired POP from 04/12/2022- 25/05/2023.

The POP Lot no; AJ170627, expired 06/2020 was delivered to Karonga DHO pharmacy in quantities of 75, 44 and 622 on 27/06/2023, 27/10/2023 and 28/11/2023 respectively. The Pharmacy had never stocked unexpired POP since 04/12/2022-over a year.
6.1.15 Evidence from procurement records at Karonga District Council
The investigators reviewed procurement records at the district council and established that unregistered wholesaler, blue trading and medicine hub (not real names), were supplying medicines without licenses from PMRA. No proper explanation was given, when interrogations were made to establish why and how such unregistered wholesalers were earmarked to supply medicines.

6.1.16 Evidence from Central Medical Stores Trust (CMST) on the supply of expired Plaster of Paris (POP)
Through an email dated 12th January 2024, CMST confirmed that POP and other essential commodities have been out of stock for a long time due to forex challenges. CMST added that it sought consent from public health facilities who were interested in the expired commodities. Although CMST acknowledged supplying expired commodities to Karonga DHO including POP, no evidence in form of the consent form was sent to the investigation team.

6.1.17 Evidence on maternal deaths
Records at the maternity ward at the hospital revealed that maternal deaths of first-time mothers occurred in 2022. All the maternal deaths occurred between 20th and 26th November 2022 and the age range of the maternal deaths were between 30 and 32 years. According to the records, the causes of the maternal deaths were multiparous; (they had had more than one pregnancy). One of the deaths occurred in transit to the hospital while two maternal deaths occurred in the hospital. The duty roster in the maternity ward further revealed there was acute shortage of midwives working in the maternity unit.

6.1.18 Evidence gathered from a night spot check
Investigators observed that there was shortage of resources to support health workers in their work. The hospital had generator with inadequate fuel for the wards where patients on life supporting machines were admitted. There were only 3 midwives on night duty in the maternity ward and they were attending to 5 pregnant women. Similarly, there were only 2 midwives on night duty in the post-natal ward and they had over twenty antepartum and postpartum women in the ward.

7.0 HUMAN RIGHTS ANALYSIS
7.1 To ascertain allegations of violation of the right to health at the hospital.
Evidence gathered from the informant who made the allegation stated that doctors and clinicians were advising patients to purchase drugs and other medical equipment from pharmacies and drug stores within Karonga Municipality. The informant stated that he witnessed a health worker asking
patients to buy POP from such private pharmacies. He also confirmed that these pharmacies and drug stores are owned by doctors and clinicians who work at Karonga district hospital.

The investigation established that there were 9 health workers at the hospital who were operating private clinics and medical stores. There are 3 clinics that were owned by nurses, 6 were owned by medical officers while some other clinics were owned by clinical technicians. Section 38 of the Medical Practitioners and Dentists Act (Chapter 36:01 of the Laws of Malawi) allows medical practitioners to own clinics.

There was also an allegation that health workers abscond from work and spend much of their time at their private pharmacies, drug stores and clinics. No direct evidence was found to confirm the allegation. No direct evidence further confirmed that the health workers who own private clinics and medical stores were encouraging patients to buy drugs and get medical treatment from their clinics and pharmacies.

Furthermore, the evidence that one guardian was offered POP by a clinician when he went to the hospital with a patient was not a confirmation that the POP was from the hospital’s medical stock. The hospital and CMST confirmed that the POPs that were supplied to the hospital was of an expired consignment since 2022. It was further confirmed that patients were advised to procure drugs from private pharmacies and medical stores because of perennial drug stock outs at the hospital.

Although there was no direct evidence pointing to the allegation that health workers operating private pharmacies and clinics were selling drugs and other medical equipment from within the hospital during the alleged period, evidence gathered through the health worker at Lupembe Health Center and the other one who was convicted of similar charges was a manifestation of such malpractice. From the foregoing, the right to health and necessary social services as provided for in section 30 (2) and section 13 (2) of the Constitution of the Republic of Malawi was under threat and therefore was violated.
7.2 To establish whether drugs from public find their way into private pharmacies and drug stores.
Evidence from one of the informants stated that he bought drugs from a private pharmacy that had a government label. The name of the drug was not provided by the informant. The investigation team inspected a medicine store that was suspected to be stocking government drugs. However, no drugs with government labels were found in the medicine store. The foregoing notwithstanding, a nurse was convicted of drug theft but no evidence was given to suggest that the drugs were stolen from the hospital in question and that they were taken to one of the private pharmacies within Karonga district.

Theft of medicines puts the lives of patients at risk. Much as the practice is a crime, it often results in grave human rights violations as patients are denied access to medicines and adequate health care. However, based on the findings of the investigation, government drugs were not found in the private pharmacies. Furthermore, no concrete evidence was given to ascertain the allegation.

7.3 To ascertain the stock status of drugs and supplies at the hospital during the alleged period

Evidence from the inspection at Karonga DHO pharmacy revealed that there were supplies of expired stock of POP that expired in the year 2020. This stock was delivered to Karonga DHO Pharmacy on 28/11/2023. Records also revealed that the pharmacy did not have stock of unexpired POP since 04/12/2022. The supply of expired POP therefore amounted to a violation of the provision of quality healthcare services. The WHO framework further provides for quality health service that includes the supply of unexpired drugs. Malawi as a member state of WHO is under obligation to ensure the provision of quality health services in fulfillment of the right to health for her citizens. Evidence of supplies of expired POP in this case therefore confirms further violation of the right to health as again provided under section 30 of the Constitution of Malawi.
It is the duty of the state to provide adequate health care services to its citizens that is accessible, affordable and of good quality which was not the case at the hospital. The people who depended on public health facilities for medical care had therefore their right to health violated. Furthermore, perennial drug stock out, the provision of expired medical supplies and shortage of health workers at the hospital threatens the enjoyment of the right to adequate healthcare for the ordinary people who depend on the public healthcare services.

7.4 To ascertain that maternal deaths during the alleged period were due to negligence
Evidence revealed that maternal deaths occurred at Karonga district hospital. The duty roster revealed shortage of midwives working in the maternity unit and that one of the deaths could have been prevented if it was not for the low staffing levels in the maternity ward.

The United Nations (UN) Human Rights Council has highlighted maternal mortality as an issue bearing not just on development, but also on human rights. In this particular case, there is no evidence that suggests that the maternal deaths that occurred were caused by negligence of the midwife on duty. More over the deaths according to the available records had happened before the alleged period of the case.

7.5 To establish the occurrence of maternal deaths of first-time mothers
Evidence has it that the maternal deaths recorded at the hospital happened in 2022. The team established that the age range of the maternal deaths was between 30 and 32 years. All the maternal deaths were multiparous; they had had more than one pregnancy. One of the deaths happened in transit to the hospital while two maternal deaths happened at the hospital. One maternal death was due to chorioamnionitis and the other was concealed abruption placenta.

To establish or ascertain the plight of patients at pediatric section

The Committee on Economic, Social and Cultural Rights' (the "CESCR") authoritative interpretation of the ICESCR, General Comment 14: The Right to the Highest Attainable Standard of Health (the "GC 14") accordingly clarifies that the right "is not to be understood as a right to be healthy." It is instead a set of freedoms and entitlements to goods and services, namely those that are "necessary for the realization of the highest attainable standard of health." More precisely, it "must be understood as a right to the enjoyment of a variety of facilities, goods, services, and conditions necessary for the realization of the highest attainable standard of health."

Evidence points to the fact that Richard Banda (not real name) was admitted at the hospital for 2 weeks in February, 2023 with diabetic related leg ulcers. However, he spent two weeks in hospital without receiving any medical treatment. He alleged that medical personnel demanded between K2,000 and K3,000 to clean his leg. Noticing that there was no treatment to his problem at the hospital, he opted to travel to Mzuzu central hospital where the decision to amputate his leg was made by his doctors. An audit of his medical file showed that he was not attended to for over a week whilst at the hospital which likely led to the ulcer deteriorating. This was a gross violation of the right to health contrary to section 13 of the Constitution of the Republic of Malawi and the GC 14 on the rights to the Highest Attainable Standard of Health.

To ascertain the allegation of discriminatory tendencies on the basis of tribalism and regionalism

General comment No. 21 of the Committee on Economic, Social and Cultural Rights clarifies that the International Covenant on Economic, Social and Cultural Rights imposes obligations on State Parties to guarantee the right to take part in cultural life is exercised without discrimination, to recognize cultural practices and to refrain from interfering in their enjoyment and development. State Parties must respect, protect and fulfil the enjoyment of this right.

From the evidence gathered, the allegations on acts of discrimination on the basis of tribalism and regionalism at the hospital were unfounded. Firstly, the key informant denied making such an allegation in his submission stating that someone might have added his or her sentiments to his post. The Director of Health and Social Services also denied having knowledge of such practice at

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the hospital. To add to this, the District Medical Officer stated that management of the hospital failed to establish the allegation of discrimination on the basis of tribalism and regionalism and that there has been no evidence for such assertions.

8.0 FINDINGS
The Commission finds the following:

8.1 THAT some health workers including health officers operate private health facilities within Karonga District depriving their patients the necessary services at the District Hospital where they are employed;

8.2 THAT drug pilferage was confirmed from public health facilities into private facilities as evidenced by the incidence at Lupembe health Centre and the conviction of the health worker in Karonga;

8.3 THAT there were consignments of expired medical supplies such as the POP and the perennial drug stock out that were caused by financial challenges in the procurement system of drugs and supplies at the CMST;

8.4 THAT there was a convicted health worker that was still maintained on Government pay roll;

8.5 THAT the hospital was operating with inadequate resources including financial, human and ambulance services. This was affecting health service delivery in the district;

8.6 THAT the office of the hospital ombudsman was entangled into bureaucracy and capacity issues that affected their effectiveness;

8.7 THAT maternal and neonatal deaths were compounded by inadequate facilities in the labour ward and negligence by nurses and midwives on the mothers or the newly born babies;

8.8 THAT acts of discrimination were not confirmed. There was no evidence and the author of the article denied the assertions.

9.0 CONCLUSION
Investigation has established violations of the right to adequate health care services at the hospital. The violations are as a result of inadequate availability of drugs and supplies including logistical inadequacies such as fuel, ambulance services and technical health workers among other factors. Investigation has further established the occurrence of perennial stock outs of essential drugs and supplies at the hospital due to funding inadequacies at the hospital.
10.0 RECOMMENDATIONS
In line with the mandate of the Commission under Section 22(e) and (f) of the Human Rights
Commission Act the Commission makes the following recommendations:

10.1 The Medical Council of Malawi, the Nurses Council of Malawi and the Pharmacies and
Medicines Regulatory Authority should scale up their regulatory and monitoring roles and
certification of the health workers in public service operating their private health facilities to
curb abuse of this right; The Commission will monitor the implementation of the
recommendation six months from the date of this report.

10.2 The Ministry of Health and Ministry of Local Government should strengthen drug
monitoring systems at Karonga District Hospital and other public health facilities to address
drug pilferage; The Commission will monitor the implementation of the
recommendation five months from the date of this report.

10.3 The Ministry of Finance should provide adequate and stable funding to the central medical
stores trust to ensure timely procuring of drugs and supplies and that such drugs are not
expired. The Commission will monitor the implementation of the recommendation six
months from the date of this report.

10.4 Karonga District Council should remove from the payroll the health worker who was
convicted of drug theft at the hospital; the Police should further investigate this matter.
Karonga Police Station Officer in Charge and the District Commissioner should
furnish the Commission with a written report one month from the date of this report.

10.5 The Ministry of Finance through the Ministry of Local Government should provide
adequate financial and non-financial resources including human resources such as nurses
and midwives and ambulance services to Karonga District Hospital to improve on service
delivery. The Commission will monitor the implementation of the recommendation six
months from the date of this report.

10.6 The Office of the Ombudsman and Ministry of Health should strengthen the hospital
ombudsman’s recruiting guidelines and enhance their capacity. The Commission shall

4 Section 1.1 of the Hospital Ombudsman Hand Book stipulates that hospital ombudsman shall be an employee of
ministry of health.
monitor the implementation of this recommendation six months from the date of this report.

10.7 Additionally, the Civil Society Organizations and other Non-Governmental Organizations in the district should come up with a consortium with a monitoring role over inefficiencies at the hospital including reporting the same to professional regulatory bodies. The Commission will monitor the implementation of the recommendation six months from the date of this report.

10.8 Social media users should exercise due diligence as they publish stories on various media outlets to avoid confusing people with unfounded allegations.