

MALAWI HUMAN RIGHTS COMMISSION



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

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EXECUTIVE SUMMARY

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

Mandate of the Commission

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

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.

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.

Purpose of the Investigation

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

Methodology

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

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 wrestling 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.

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.

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.

1.0 INTRODUCTION

1.1 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 Douglas²

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. This prompted the Commission to institute investigations into both incidents.

1.2 Mandate

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.

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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.

1.3 Human Rights Issues

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

- d) Right to human dignity
- e) Rights of detained persons
- f) Right to life

The Constitution in Section 19 (2) states that:

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2.0 OBJECTIVES OF THE INVESTIGATION AND METHODOLOGY

2.1 Objectives

The objectives of the investigations were as follows;

4. To establish the alleged human rights allegations
5. To identify perpetrators if any
6. To make appropriate recommendations.

2.2 Methodology

The investigation was carried out mainly through interviews and review of documents and reports. It also included visits to the crime scene. The Commission further visited Mr. Khomba on 20th and 27th May, 2022 at Queen Elizabeth Central Hospital in Blantyre. The Commission also sought a medical report for Mr. Khomba which was duly provided and forms part of this report. The injured police officers were also invited to make their own submissions to the Commission and this was done at the South West Division Police Headquarters at Chichiri in Blantyre.

Mr Khomba stayed in hospital for about two weeks. After he was discharged, he sought medical help at Mlambe Mission Hospital. The Commission collected and reviewed the medial reports from Mlambe. The Commission also collected a follow up statement from Mr Khomba and also conducted a telephone interview with him on 15th September 2022 where he provided additional information.

Below is the list of people that have been interviewed: -

NO	NAME	ROLE
1	Clifford Henry Khomba	Motorist
2	Superintendent Rebecca Ndilande	Regional Traffic Officer
3	Assistant Superintendent Robert Taita	Station Officer, Blantyre Police Station
4	Sergeant James Hetekere	Was with the City Patrol Troopers and arrived at the scene just after the incident had happened

6	Traffic Sub Inspector Ojesi Mtambo	One of the injured officers
7	Traffic Sub Inspector Pilirani Mulonda	One of the injured officers
8	Traffic Sub Inspector McLord Dzinga	One of the injured officers
9	Traffic Sub Inspector Yohane Douglas	One of the injured officers
10	Precious Wetiwa	Eye witness who accompanied the motorist to the Blantyre Police Station
11	Diana Maganga	Wife to the Motorist
12	Michael Mzunga	City Council Officer
13	Willard Mpendekera	City Council Officer

3.0 FACTS AND EVIDENCE

3.1 The hitting incident

3.1.1 Evidence from Malawi Police Service

The hitting incident has been reported by four police officers that were on the scene on the day of the incident. These are Assistant Supt. Nyalapa, Sub Inspectors Mulonda, Mtambo and Dzinga. According to them, on 16th May, 2022, traffic police officers from the South West Division at Chichiri in Blantyre were monitoring traffic using a speed camera. They had their operation near the old Universal Industries premises along Masauko Chipembere Highway. The place is also called Bestobell.

On the same day, at around 10:00am, the traffic 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. Sub Inspector Mulonda was manning the camera and it was Sub Inspector Dzinga who ordered Mr. Khomba to stop after getting a signal from Mulonda. When Mr. Khomba was pulled over, he was ordered to surrender his driving licence and park on the side road before proceeding to pay the on-spot traffic fine.

Mr. Khomba refused to cooperate and this caused some commotion as vehicles were failing to pass. He only complied after Sub Inspector Yohane Douglas entered his vehicle and negotiated with him to park on the Kidney Crescent Road. Yohane Douglass then confiscated the keys and gave them to Assistant Superintendent Nyalapa, the police team

leader who was the cashier. Khomba went to Nyalapa and pleaded with her to get his keys so that he could go and withdraw money from an auto teller machine and pay the fine. Nyalapa gave the keys to Mr. Khomba but he only drove for a short distance and parked the car near the roundabout at QECH. He went back to Nyalapa and argued that he had changed his mind. He wanted to get his licence and surrender the vehicle instead. At that point, Mr. Khomba was shouting loudly and this attracted the attention of the rest of the police officers who stopped manning their positions and the operation was temporarily halted.

Police officers told the Commission that Mr. Khomba threatened that he was going to hit the officers, another said he said that he will kill them.

When the argument ended in a stalemate, the police officers allowed Mr. Khomba to drive off and they went back to where they had parked their vehicle. They saw Mr. Khomba driving off in the direction of Blantyre Road Traffic offices. But suddenly police officers heard someone shouting a warning, “*apolisi thawani (police run!)*”. As officer Mulonda turned, the speeding vehicle that Mr. Khomba was driving brushed him on the leg and proceeded to hit the other three officers, Mtambo, Dzinga and Douglas before slamming into a tree. Before stopping into the tree, the vehicle also smashed a concrete electricity pole.

In the process, four police officers sustained injuries of various degrees. The vehicle was heavily damaged on the front side and the speed camera was completely destroyed and got stuck between the vehicle and the tree. Upon impact, Mr. Khomba was noted by Sub Inspector Mulonda to be lying motionless on the front seat of the vehicle. Mulonda ran to the vehicle and removed the key after stopping the engine. Thereafter, Sub Inspector Mulonda started looking for his injured colleagues and left Mr. Khomba motionless in his vehicle.

Mulonda found that McLord Dzinga was lying motionless on the ground. He then went to the main road and signaled for a commuter minibus to stop. The commuter minibus took the injured police officer to Queen Elizabeth Central Hospital. After Dzinga had been taken to the hospital, Mr. Mulonda’s attention went back to Khomba and noted that he was

bleeding and had a cut on the top side of his right eye. When Mr. Khomba eventually gained his consciousness, he allegedly tried to run away but was apprehended by Mr. Mulonda who was assisted by people that had now gathered at the scene.

Meanwhile, a vehicle from Blantyre City Council stopped by and two police officers in that vehicle joined Mr. Mulonda and the people who were on the scene in apprehending Mr. Khomba. The vehicle that they were using took the remaining injured police officers, Messrs. Douglas and Mtambo to QECH.

According to Precious Wetiwa, who witnessed the incident, Mr. Khomba was initially unconscious and lying on the steering wheel of his vehicle after the impact. When he was pulled out of the vehicle and gained consciousness, he wanted to run away but was stopped from doing so by a crowd that had gathered on the scene. He was violent and resisting arrest. The crowd started beating him but were restrained by one of the police officers who was with the Blantyre City Patrol Team. Mr. Khomba was finally arrested and bundled into the police vehicle and driven to Blantyre Police Station.

According to Wetiwa, on the way to Blantyre Police, Khomba tried to wrestle a gun from a police officer and in the process the butt of the gun hit him in the face which resulted into a cut. According to Precious Wetiwa, City Troopers beat Mr. Khomba with their sticks to restrain him from wrestling with the police officer.

It was Sub Inspector Mulonda who drove the police car to Blantyre Police Station. In the car, were two police officers working with Blantyre City Council Patrol Team and one G4S Security Guard that witnessed the incident.

3.1.2 Evidence from Clifford Khomba

In his initial statement to the Commission, which was taken while he was hospitalized at Queen Elizabeth Central Hospital, Mr Khomba stated that he could not remember what actually happened, He was able to recall that he had been stopped for a traffic violation and entered into an argument with the police. He claimed that the police used abusive words against him and that his blood pressure had gone up.

According to the initial statement, Mr Khomba blacked out and only came to his senses at

Blantyre Police Station where police beat him with gun butts and assorted items. He lost his phone and his wallet in the process. He did not recall hitting anyone and he did not talk about the accident involving the motor vehicle that he had been driving at that time.

Later, after his release from the hospital, Mr Khomba gave more details about what happened. In his follow-up statement, he stated that when he was booked for over-speeding, he wanted to contact his brother to assist with payment for the traffic offence. Khomba alleges that the Police did not want his brother to be involved. According to him, his negotiations with the police did not bear anything. Police confiscated his driver's license and the insurance card for the vehicle and asked him to go. But as he was leaving, one police officer wanted to confiscate the vehicle keys when the vehicle was already in motion. It was this action by police that led him to lose control and he ended up smashing into a tree. He does not recall hitting any police officer and is not aware that police officers were injured.

After the accident, a vehicle with police officer and troopers from Blantyre City Council stopped by and when the police in the City Patrol Vehicle and the troopers learnt that Khomba had wanted to hit the police, they started beating him and bundled him into their vehicle, taking him to Blantyre Police Station.

According to Khomba, when they reached Blantyre Police Station, the police with Blantyre City Council handed him over to their fellow police officers at the station who continued to beat him with guns, brooms and other items. Someone grabbed him by the neck. He was so beaten up that he stopped talking.

At that moment, before he was taken into a cell, a senior police officer came and instructed that he should be taken to the hospital. He was hospitalized for about two weeks

3.1.3 Evidence from Eye Witnesses

Precious Wetiwa was among the first people to arrive at the scene of the incident. He arrived just before the hitting incident. He was attracted by heated arguments between the police and Mr Khomba. According to him, Mr Khomba was acting violently and shouting on top of his voice. He was demanding that the traffic police officers return his driver's license. Traffic police officers told him that they would only give him his license after he

surrenders the car keys. Khomba refused to surrender the vehicle keys. Khomba threatened that he was going to hit the Police with his vehicle. The Police officers allowed him to drive off. But instead of driving off, Mr Khomba turned his car in the direction of the police officers and hit them before hitting a tree. One police officer fell into a drain. A mini bus stopped by and its driver was asked to take the injured police officers to Queen Elizabeth Central Hospital.

According to Wetiwa, a Blantyre City Council vehicle that was patrolling the streets arrived on the scene. A police officer alighted from the Blantyre City Council vehicle. The patrol vehicle assisted to ferry an injured police officer to the hospital. The female traffic police officer that had been in a parked vehicle was just in tears. She looked disturbed.

Mr Khomba appeared to be unconscious in his vehicle that had stopped after hitting a tree. Wetiwa assisted in pulling out Mr Khomba, assisted by a man that was in a security uniform. By then, people had started gathering on the scene. After being pulled out of the vehicle, Mr Khomba sprang to life and wanted to flee the scene. He was apprehended by the crowd, He was once again acting violently and fighting back. Some members of the crowd started beating him but one police officer who was in the City Patrol Vehicle tried to restrain the crowd from beating him.

Mr Khomba was controlled but after a violent struggle and was taken into a police vehicle to Blantyre Police Station. While on the way to Blantyre Police Station, he kept arguing and struggling. He also attempted to snatch the gun from a police officer. In the process, the butt of the gun hit him on the face and he sustained a cut and started bleeding.

When they arrived at Blantyre Police Station, the man (Mr Khomba) was walking on his own and was placed behind the counter at the reception.

3.2 Injuries suffered by Police Officers and Mr Clifford Khomba

Following the hitting incident, four traffic police officers sustained injuries. These are Sub Inspectors Mulonda, Mtambo, Douglas and Dzinga. Apart from Sub Inspector Mulonda,

the rest were given bed rest after being treated as outpatients at QECH.

The officers sustained the following injuries: -

1. Mulonda: Painful foot.
2. Douglas: Bruises on the right side of the hip, deep cut at the back of his head.
3. Mtambo: Twisted Neck. Pain around the neck area.
4. Dzinga: Dislocated shoulder (ball and socket joint).

According to the medical report from Queen Elizabeth Central Hospital, Mr. Khomba was admitted at QECH on 16th May, 2022 at 12:40 hours and was admitted with a diagnosis of traumatic head injury with a Glasgow coma score of M5E4V3. He was discharged from hospital after about three weeks. Afterwards, he sought further medical attention at Mlambe Mission Hospital. The medical report from Mlambe shows that Mr Khomba has suffered soft tissue injuries on the right hip and right shoulder resulting from the accident and the assault.

Besides the medical reports about the accident and assault, it has also come to the attention of the Commission that Mr Khomba has had a pre-existing mental health condition. This was revealed by his wife who indicated that he had suffered from epilepsy and had sought help from Queen Elizabeth Central Hospital. This has been verified by the Commission at Gateway Clinic where the Hospital records indicated that Mr. Khomba last visited the Clinic on 11th February, 2022 to collect medication for epilepsy.

It was brought to the attention of the Commission by Diana Maganga, wife to Mr. Khomba that her husband had a history of mental illness, hypertension and epilepsy. She stated that Mr. Khomba was getting his treatment for epilepsy at Gateway Clinic which is close to the QECH. She further explained that when Mr. Khomba gets into a confrontational situation, he can get very angry, which can culminate into epilepsy attacks. She added that when he is under the attack, he can be violent and that she restrains him using a wrapper when he is under attack.

Mrs. Khomba's testimony gives an impression that he might have been under an attack after the confrontation he had with the police. He stated in his written statement that

“Inenso B.P yanga inali itakwera kwambiri kenako ndinangozindikira kuti ndili ku police ya WENELA komwe anandimenya ndi mifuti kumutu ndi zikolopa za thabwa ena akundifinya pa khosi.” (my BP had shot up and I just realized that I was at Wenela (BT Police) where they beat me up using guns, broom sticks and other weapons while some grabbed at my neck)

4.0 APPLICABLE LAW

4.1 The Right to life

Section 16 of the Constitution of the Republic of Malawi provides that every person has the right to life and no one shall be arbitrarily deprived of his or her life. Article 3 of the Universal Declaration of Human Rights (UDHR) states that “Everyone has the right to life, liberty and security of person.

In the international covenant on civil and political rights the right to life is enshrined in Article 6 which stipulates the following; Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

4.2 The right to human dignity

Section 19(30) provides that: No person shall be subject to torture of any kind or cruel, inhuman or degrading treatment or punishment. Under the International humanitarian law (IHL) and international human rights law (IHRL), definition of torture comprises three main aspects:

- 1, Any act by which severe pain or suffering, whether physical or mental, is inflicted on a person;
- 2, The act must be intentionally inflicted;
5. The act must be instrumental for such purposes as: (a) obtaining from the individual or third person information or a confession, or (b) punishing him/her for an act he/she or a third person has committed or is suspected of having committed, or (c) intimidating him/her or a third person, or (d) Coercing him/her or a third person, or (e) for any reason based on discrimination of any kind.

4.3 Rights of detained persons

Article 9(1) of the International Covenant on Civil and Political Rights reads as follows:

“Everyone has the right to liberty and security of persons. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law”.

The European Convention on Human Rights stipulates that everyone has the right to liberty save in cases such as that stipulated under Article 5 (c) and in accordance with a procedure prescribed by law. Article 5(c) states “The lawful arrest or detention of a person affected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;”

5.0 Findings

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

- 5.1.1** 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.
- 5.1.2** 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.
- 5.1.3** 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.
- 5.1.4** 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.
- 5.1.5** 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.

- 5.1.6** 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.
- 5.1.7** 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.
- 5.1.8** 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.
- 5.1.9** 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.
- 5.1.10** 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.
- 5.1.11** 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.
- 5.1.12** That Mr Khombas injuries were caused four possible causes
- e) The motor vehicle accident whereby he smashed into a big tree

- f) The beating by members of the mob
 - g) The wrestling for a gun from a police officer
 - h) The beating by Troopers from Blantyre City Council
- 5.1.13** 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.
- 5.1.14** 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.

6.0 Recommendations

In line with its mandate under Section 22 of the Human Rights Commission Act, the Commission makes the following recommendations:

- e) The Police must investigate Mr Clifford Khomba for his role in causing injuries to four police officers who were on duty.
- f) Mr Khomba is advised to go for regular check-ups on his mental health status.
- g) Malawi Police Service must address the health and welfare of its four officers that were injured in the course of discharging their duties.
- h) 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.

7.0 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.



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CHAIRPERSON
16th December, 2022