

MALAWI HUMAN RIGHTS COMMISSION



**INVESTIGATION REPORT INTO THE CIRCUMSTANCES THAT LED TO THE
DEATH OF SUPERINTENDENT USUMANI IMEDI AT MSUNDWE ON 8TH
OCTOBER 2019**

Table of Contents

| | |
|---|-----------|
| EXECUTIVE SUMMARY | 3 |
| 1.0 INTRODUCTION..... | 10 |
| 1.2. Human Rights Issues..... | 11 |
| 1.3 Mandate of the Commission..... | 11 |
| 2.0 PURPOSE, METHODOLOGY AND LIMITATIONS OF THE INVESTIGATION..... | 12 |
| 2.2 Methodology | 12 |
| 2.3 Limitation of the investigation and mitigation..... | 13 |
| 3.0 PRESENTATION OF FACTS AND EVIDENCE..... | 13 |
| 4.0 ANALYSIS OF FACTS AND EVIDENCE..... | 17 |
| 5.0 FINDINGS | 21 |
| 5.1 Factual Findings..... | 21 |
| 5.3 Legal Findings..... | 24 |
| 6.0 RECOMMENDATIONS | 25 |
| 7.0 CONCLUSION..... | 26 |

EXECUTIVE SUMMARY

Background

On 8th October 2019, some protesters had closed the main road between Mchinji and Lilongwe at Mpingu and Msundwe with the aim of preventing those who wanted to travel to the presidential function from Mchinji to Lilongwe from passing through.

This resulted in blockage of traffic from both Mchinji to Lilongwe and vice versa. Police Mobile Service was deployed to go and quell the situation but in the course of carrying out their official duties, one officer Superintendent Usumani Imedi (The Deceased) was stoned to death.

The Commission condemned the killing of officer Imedi and instituted an investigation to fully appreciate the circumstance leading to his death, in line with its constitutional and legal mandate. The death of police officer Imedi raised prima facie violations of the right to life and right to human dignity. The objectives of the investigation were to:

- a. Establish the circumstances that led to the death of the Deceased;
- b. Assess the level of capacity and preparedness by the police to deal with spontaneous protests;
- c. Document all cases of violence by community members occasioned against police officers;
- d. Facilitate access to remedies for the affected police officers.

Factual Findings

1. On 8th October 2019, the State President had a public meeting at Kamuzu Institute in Lilongwe. On the same day, some protesters

- blocked the main road at Mpingu and Msundwe in Lilongwe West. Police Officers from the Mobile Service C Division were deployed to control the situation and clear the road for traffic.
2. The Deceased led one of the teams which travelled on a Toyota Landcruiser. The other team used an armoured vehicle commonly known as Nyala. The team in the armoured vehicle was led by Superintendent Kulinji. Each team had ten officers, including some CID officers.
 3. The two teams managed to clear the illegal road blocks at Chitedze and Mpingu and then proceeded to Msundwe. This was after learning that the situation at Msundwe was even worse than Mpingu. While at Msundwe, they were surrounded by two groups of protesters, one on the Mchinji side of the road and another on the Lilongwe side where the patrol teams were coming from.
 4. The officers agreed to split into two groups and that one group should split away from the team, go around the houses and then try to disband the protesters on the Lilongwe side from behind, using an element of surprise. About six officers left the vehicle behind and walked on foot to disperse the crowd by surprise. The Deceased was part of this team of six police officers. When they approached the crowd, they noticed that it was too big, estimated to be 200 protesters. After initial hesitation, they proceeded and engaged in firing teargas at the crowd.
 5. When it became clear that the crowd was too strong for them, the Deceased ordered that the police officers should tactfully withdraw. At the same time, he called for backup from the team that was still guarding the vehicles.
 6. When the police started withdrawing, the crowd suspected that they had run out of teargas and were excited. Sub Inspector Chirambo who was part of the team temporarily dropped his beret and stopped to pick it up. In the process, his colleagues outran him and he ended up hiding in a bathroom, and later a toilet. The crowd missed him as they pursued the other group that was running ahead. Officer Chirambo hid

- in the toilet for close to thirty minutes and while there he could hear shouts that a police officer had been caught and was being beaten. Later he heard shouts that the officer had been killed, and some women weeping.
7. Sub Inspector Chirambo called for backup in the safety of his hiding place. He used his mobile phone to communicate with officers at the camp base in Lilongwe. He later managed to escape by rushing out of his hiding place and stopping a privately-owned Toyota Sienta. He eventually linked up with his colleagues in the Toyota Land Cruiser that had picked up the Deceased and was heading to Kamuzu Central Hospital.
 8. According to Sergeant Bisala and Sergeant Richard Phiri, the Deceased lost control and fell down twice in the course of retreating while being hit by stones from the crowd. On the first fall, his colleagues picked him but on the second fall they left him because the situation had become too dangerous for all of them. In the process, Officer Chirambo and Sergeant Lucius Bisala also sustained some injuries on the foot and hand respectively. Another police officer, Maseya, sustained a cut in the head.
 9. After falling to the ground, the Deceased was stoned and got seriously injured. Sergeant Richard Phiri called for backup using his mobile phone and managed to rescue the Deceased from the mob. The Deceased was placed in a Landcruiser and rushed to Kamuzu Central Hospital where he died immediately thereafter.
 10. There was no postmortem examination conducted on the body of the deceased.
 11. Following the death of officer Imedi, the two teams from C Division were withdrawn from the mission and reinforcement came from A Division (National Police Headquarters), Central Region Police and Lilongwe Police. These continued the mission until early evening around 18:00hrs. Malawi Defence Force also deployed several officers, with one unit placed at Mpingu and Msundwe.

12. After medical procedures were done at KCH, the body of the Deceased was taken to his home village, Mangochi for burial. He was buried on 9th October 2019 in the morning. MPS provided transport, food for mourners and also some cash condolence to the family. The State Vice President also provided cash condolence to the family when he visited them a few days after his burial.
13. There is sufficient legal framework catering for situations where a police officer dies or gets injured in the line of duty.
14. Despite policy requirements for adequate protective gear and equipment for the Police deployed to handle demonstrations and protests, the police officers who were sent to Msundwe did not have enough protective gear against the stones and catapults and also no adequate communication equipment such that they had to rely on personal phones to communicate with each other.

Legal Findings

1. THAT in terms of Section 16 of the Constitution, every person is entitled to the right to life and the right not to have his life arbitrarily deprived. Section 16 also states that the imposition of a death sentence by a competent court on a person in respect of a criminal offence under the laws of Malawi of which of which he or she has been convicted shall not be regarded as arbitrary deprivation of life.
2. THAT at the time of his death the Deceased was working for the Malawi Police Service and had not been convicted of any criminal offence to warrant a death sentence. In other words, his death was not sanctioned by any court of law. Therefore, by stoning him to death, the mob arbitrarily deprived the Deceased of his life, thereby violating his right to life as guaranteed by Section 16 of the Constitution.

3. THAT the Constitution recognises that every person has inherent dignity and needs to be respected. For this reason, the Constitution protects every person's right to human dignity under section 19. Section 19 (3) provides that no person shall be subjected to torture of any kind or to cruel, inhuman or degrading treatment or punishment. By stoning the Deceased to death and exposing his body in public, the right of the Deceased to be treated with dignity was violated.
4. THAT four suspects were later arrested by police and charged with the murder of the Deceased.
5. THAT many more suspects were arrested in relation to causing public disorder and inciting violence.
6. THAT the Malawi Police Service were in breach of their own Policy Guidelines when they deployed the Police Officers without adequate protective gear.
7. THAT there is sufficient legal framework to cater for compensation for the death of the Deceased and other Police Officers who were injured under the Workers Compensation Act.

RECOMMENDATIONS

1. Malawi Police Service must conclude criminal investigations into the death of the Deceased and bring the suspects to justice.
2. The police must strengthen its intelligence collection service. This will help improve operational deployment in terms of number of police officers to deploy, the right equipment to use and also help management in decision making.

3. Malawi Police Service Should strengthen the policy framework for provision of protective gear to make it mandatory whenever the Police are deployed to manage demonstrations and protests. Most importantly the Malawi Police should make sure that within the next financial year they have purchased sufficient protective gear for its Police Officers.
4. Malawi Police Service should initiate and fast-track the compensation process for the Deceased's death and all the injuries suffered by other police officers in the course of carrying out their lawful duties at Msundwe.
5. Religious, political and community leaders in the affected areas should initiate dialogue with the Malawi Police Service and all relevant stakeholders aimed at bringing lasting peace.
6. Members of the general public should desist from taking the law into their own hands and understand that killing a person is a serious crime and the killers shall be subject to prosecution

CONCLUSION

- 1 This is a report of the investigation into the circumstance leading to the death of the Deceased on 8th October 2019 while carrying out his duties as a police officer.
- 2 The report has established that the Deceased was a team leader of a team of police officers from Police Mobile Service, C Division who were deployed to quell protests at Msundwe in Lilongwe West. The

investigation has noted that there were tactical errors on the part of his team that contributed to his untimely death.

- 3 It has also been established that the Malawi Police Service did not provide the officers with adequate communication and protective gear. Further, it has been noted that the public took the law into their own hands, which is a crime.

Dated this.....18.....day of.....December.....2019

Mrs. Rosemary Kunitsonyo Kanyuka
Commissioner

Ms Martha Chizuma
Commissioner

1.0 INTRODUCTION

1.1 *Background Information*

1.1.1 Following the announcements of the results of the 21st May 2019 Tripartite elections, there have been violent protests across Malawi. Whilst some of the protests have been organised and led by the Human Rights Defenders Coalition (HRDC) with specific demand for the resignation of Justice Jane Ansah, other protests have been spontaneous with various demands including better accountability but also expressing general dissatisfaction with the ruling government of the Democratic Progressive Party.

1.1.2. On 8th October 2019, the State President Professor Arthur Peter Mutharika was scheduled to address two public events in Lilongwe, the first one at Kawale Community Day Secondary School and the second one at Kamuzu Institute for Sports. Around 8:00am that morning, reports emerged that some protesters had closed the main road between Mchinji and Lilongwe at Mpingu and Msundwe with the aim of preventing those who wanted to travel to the presidential functions from Mchinji from passing through. This resulted in blockage of traffic from both Mchinji to Lilongwe and vice versa. Police Mobile Service was deployed to go and quell the situation but in the course of carrying out their official duties, one officer Superintendent Usumani Imedi (The Deceased) was stoned to death.

1.1.3 Since the beginning of such protests in May 2019, this was the first time that a police officer was caught up in the fracas and brutally killed. The Commission condemned the killing of officer Imedi and instituted an investigation to fully appreciate the circumstance leading to his death.

1.2. Human Rights Issues

1.2.1 The killing of police officer Imedi raised prima facie violations of the right to life and right to human dignity. Section 16 of the Constitution of the Republic of Malawi (The Constitution) states that every person has the right to life and no person shall be arbitrarily deprived of his or her right. Section 19 (3) states that no person shall be subjected to torture of any kind or to cruel, inhuman or degrading treatment or punishment.

1.3 Mandate of the Commission

1.3.1 The Commission is empowered by the Constitution to carry out investigations and make recommendations on human rights issues in response to a complaint or on its own volition. Section 130 of the Constitution provides as follows:

“The Human Rights Commission shall, with respect to the applications of an individual or class of persons, or on its own motion, have such powers of investigation and recommendation as are reasonably necessary for the effective promotion of the rights conferred by or under this Constitution, but shall not exercise a judicial or legislative function and shall not be given powers to do so.”

1.3.2 Further, section 12 of the HRC Act outlines the Commission’s competence and powers as regards the promotion and protection of human rights as

well as the investigation of human rights violations. It provides as follows:

“The Commission shall be competent in every respect to protect and promote human rights in Malawi in the broadest sense possible and to investigate violations of human rights on its own motion or upon complaints received from any person, class or persons or body.”

1.3.3 It was therefore within the mandate of the Commission to carry out an investigation into the alleged human rights violations.

2.0 PURPOSE, METHODOLOGY AND LIMITATIONS OF THE INVESTIGATION

2.1 Purpose of the Investigation

2.1.1 The overall purpose of the investigation was to establish the circumstances that led to the death of the Deceased. Specifically, the objectives of the investigation were to:

- e. Establish the circumstances that led to the death of the Deceased;
- f. Assess the level of capacity and preparedness by the police to deal with spontaneous protests;
- g. Document all cases of violence by community members occasioned against police officers;
- h. Facilitate access to remedies for the affected police officers.

2.2 Methodology

2.2.1 The investigation was primarily carried out through individual and group interviews. These interviews were conducted with members of the

community at Msundwe and members of the Malawi Police Service from Central Region Police Headquarters, Lilongwe Police Station, A Division, C Division and Namizana Police Unit.

2.3 Limitation of the investigation and mitigation

2.3.1 This investigation was focusing on a matter that is criminal in nature. The Commission does not have such capacity and has therefore only provided descriptive analysis of the events as they unfolded. Despite this limitation, the criminal investigations by police have proceeded and four suspects were arrested in connection with the death of the Deceased. At the time of writing this report, the four had been charged and remanded at Maula Prison.

3.0 PRESENTATION OF FACTS AND EVIDENCE

3.1 Based on the investigation conducted, the Commission has come up with the following facts and evidence-

3.2.1 On 8th October 2019, the State President had a public meeting at Kamuzu Institute for Sports in Lilongwe. During early hours on the same day, some protesters blocked the main road at Mpingu and Msundwe in Lilongwe West thereby blocking any traffic between Lilongwe and Mchinji. Police Officers from the Mobile Service C Division were deployed to control the situation and reopen the road for traffic.

3.2.2 Two teams of police officers were deployed from C Division. The Deceased led one of the teams which travelled in a Toyota Landcruiser. The other team used an armoured vehicle commonly known as Nyala and

was led by Superintendent Chipililo Kulinji (Deceased). Each team had ten officers, including some CID officers. The teams were armed with 2KC rifles, live ammunition, teargas cannisters and teargas launchers.

3.2.3 The two teams managed to clear the illegal road blocks that were mounted at Chitedze and Mpingu and then proceeded to Msundwe. This was after learning that the situation at Msundwe was even worse than Mpingu.

3.2.4 While at Msundwe they were surrounded by two groups of protesters, one on the Mchinji side of the road and another on the Lilongwe side.

3.2.5 The teams then agreed that one group that was led by Officer Kulinji should deal with the crowd on the Mchinji side and the other one with a new group of protesters that had emerged on the Lilongwe side. The Deceased led the team of officers that were assigned to deal with the crowd on the Lilongwe side. This team that was led by the Deceased decided to deal with the crowd by splitting into two groups, with a group of six police officers attacking the crowd from behind in a surprise attack. The six officers left the vehicle behind and walked on foot towards the protesters. The team agreed that once the advancing team started engaging the protesters, the other team that remained where the vehicle was parked would come in with reinforcement. When the advancing team approached the crowd, they noticed that it was too big, estimated to be 200 protesters. After initial hesitation, they proceeded and engaged in firing teargas at the crowd. But the crowd grew with excitement.

3.2.6 When it became clear that the crowd was too strong for them, officer Imedi ordered that the police officers should tactfully withdraw. The

reinforcement team that was expected to provide backup did not react as agreed. The Deceased called for backup but it did not come in time.

- 3.2.7 When the police started withdrawing, the crowd suspected that they had run out of teargas and grew more excited and intensified the stoning. Sub Inspector William Chirambo who was part of the team temporarily dropped his beret and stopped to pick it up. In the process, his colleagues outran him and he ended up hiding in a bathroom, and later a toilet in a nearby house.
- 3.2.8. The crowd missed him as they pursued the other group that was running ahead. Officer Chirambo hid in the toilet for close to thirty minutes and while there he could hear shouts that a police officer had been caught and was being beaten. Later he heard shouts that the officer had been killed, and some women weeping.
- 3.2.9 Officer Chirambo called for backup in the safety of his hiding place. He used his mobile phone to communicate with officers at the camp base in Lilongwe. He later managed to escape by stopping a private Toyota Sienta saloon vehicle and eventually linked up with his colleagues in the Toyota Land Cruiser that had picked up the injured Imedi.
- 3.2.10 According to Sergeants Lucius Bisala and Richard Phiri, the Deceased lost control and fell down twice in the course of retreating while being hit by stones from the crowd. On the second fall he dropped his mobile phone and when his colleagues attempted to pick him up, he insisted to pick his mobile phone. At this point they left him behind because the situation had become too dangerous for all of them. In the process, Sub Inspector Chirambo and Sergeant Bisala also sustained

some injuries on the foot and hand respectively. Another police officer, Maseya, sustained a cut in the head.

3.2.11 After falling to the ground, the Deceased was stoned and got seriously injured on the head. Sergeant Richard Phiri called for backup using his mobile phone and managed to rescue the Deceased from the mob but he had lost a lot of blood and was semi-conscious. The Deceased was placed in a Toyota Land Cruiser and rushed to Kamuzu Central Hospital (KCH) where he died immediately thereafter.

3.2.12 No postmortem examination was conducted on the body of the Deceased because the relatives did not approve of the procedure and wanted him to be buried on the same day.

3.2.13 Following the death of the Deceased, the two teams from C Division were withdrawn from the mission and reinforcement came from A Division (National Police Headquarters), Central Region Police and Lilongwe Police Station. Another group came from Namizana Police but was stationed at Mpingu and Mbwatalika. These continued the mission until early evening around 18:00hrs. Malawi Defence Force also deployed five teams of soldiers, with ten soldiers in each armored vehicle, armed with live ammunition, and one Land Cruiser that was used by military police. One of the units was briefly stationed at Mpingu and the rest at Msundwe.

3.2.14 After medical procedures were done at KCH, the body of the Deceased was taken to his home village, Mangochi for burial. He was buried on the morning of 9th October 2019. Malawi Police Service (MPS) provided transport, food for mourners and also some cash condolence to

the family. The State Vice President also provided cash condolence to the family when he visited them a few days after burial.

3.2.16 The majority of police officers stated that they were not adequately prepared for the operation. On that day, they were set on a patrol mission to the Presidential Function at Kamuzu Institute for Sports. They were diverted from that mission and sent to Mpingu and Msundwe. Apart from the above-mentioned weapons that they carried they did not wear protective gear.

3.2.17 Police officers deployed on this operation did not have appropriate communication equipment and had to rely on personal mobile phones to communicate with each other.

4.0 ANALYSIS OF FACTS AND EVIDENCE

4.1 Whether the right to life was preserved

4.1.1 Facts and evidence gathered by the Commission show that the Deceased was in robust health when he reported for work and was deployed to quell protests at Msundwe on 8th October 2019. He was a team leader for a group of about 10 police officers that were on this mission. He was injured by the stoning that he sustained and died soon after he arrived at KCH.

4.1.2 Although no post-mortem was conducted, there is abundant evidence that the cause of death was excessive bleeding from the head injury as a result of the beating and stoning that he suffered at the hands of the mob at Msundwe in the morning of 8th October 2019.

- 4.1.3 Four persons have been arrested in connection with his murder. They have all been charged with murder and they are on full remand at Maula Prison, awaiting trial.
- 4.1.4 In terms of Section 16 of the Constitution, every person is entitled to the right to life and the right not to have his life arbitrarily deprived. As at the time of his death, the Deceased was working for the Malawi Police Service and was not subject to any judicial proceedings. His death was not sanctioned by a court of law as per the proviso to Section 16 of the Constitution.
- 4.1.5 Therefore, by stoning him to death, the Msundwe mob arbitrarily deprived the Deceased of his life. By arbitrarily depriving the Deceased of his life, the mob violated the right to life of the Deceased as guaranteed by Section 16 of the Constitution and various human rights instruments to which Malawi is a party, including, the UDHR¹; the ICCPR²; and the ACHPR³.

4.2 Whether the right to human dignity of the Deceased was violated

- 4.2.1 The Constitution recognizes that every person has inherent dignity and this needs to be respected. For this reason, the Constitution protects every person's right to human dignity under section 19. Section 19(2) provides that the State should at all times respect human dignity in any proceedings that takes place at any of its organs. Further, Section 19 (3)

¹ See Article 3

² See Article 6

³ See Article 4

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

4.2.2 In the present matter, the mob acted in a cruel and inhumane manner by stoning the Deceased to death. This action by the mob contravened Section 19(3) of the Constitution.

4.3 Whether the Police has the capacity and is prepared to handle Spontaneous Protests

4.3.1. According to section 153 of the Constitution the Police is mandated to provide for the protection of public safety and rights of persons in Malawi. Accordingly, their functions and roles in public order are derived from general functions of the Police Service as provided in Section 4 of the Police Act which among other things provides for preservation of law and order.

4.3.2 In 2013 the Police also adopted the Policy and Operational Guidelines on policing public order events, including the use of force and firearms which has general provisions on amongst other things, the management of demonstrations including chain of command, use of weapons like firearms and post incident procedures.

4.3.3 Section 2.4.4. of the Guideline provide for some of the risks that the police are likely to suffer in the course of their work, including death and injury. It further provides that where suffering of such risks is likely, the Police officers are supposed to be provided with care and support which should include proper and adequate equipment including protective gear. What is important to note however, is that despite the dangers associated with the situations requiring protective gear, provision of such has not been made mandatory.

4.3.4 As stated above the demonstrations that have been taking place have been violent and have put the general population and Police lives at risk. In particular it was general knowledge that Msundwe area had been a particular hot spot for political violence and thus posing particular danger to the police necessitating the invocation of the above policy provisions.

4.3.5 In total contravention of the policy provisions, the Police Officers went to Msundwe without any particular wear except for few who had helmets on their heads. Otherwise they only carried the assault weapons in form of firearms and tear gas cannisters.

4.5. Whether there are remedies for the Deceased

4.5.1. Section 31 of the Constitution provides for the right to fair labour practices. The Workers Compensation Act provides for compensation for injuries suffered or diseases contracted by workers in the course of their employment or for death resulting from such injuries. Part III of the Act provides for compensation in fatal cases (death) and also compensation in cases of partial or permanent incapacity.

4.5.2 Rule 1:825 (5) of the Malawi Public Service Regulations (MPSR) also provides for payment of death gratuity. Under Sub reg 8 however, the death gratuity is not payable where compensation is awarded for the injury or death under Workers Compensation Act.

4.4.3 Otherwise section 2.4.5 of the Policy and Operational Guidelines on Policing, Public Order Events, including the use of force and Fire arms provides

for compensation of police officers and for their family who suffer injury or die whilst in the course of executing their duties in accordance with the Workers Compensation Fund.

4.4.5 Accordingly there is sufficient legal framework to cater for Police Officers who lose their lives or get injured in course of duty. Having lost his life in the course of executing his duties, the family of Superintendent Imedi and the Police officers who were injured are entitled to compensation in accordance with the Workers Compensation Act.

5.0 FINDINGS

5.1 Factual Findings

5.1.1 Based on the facts and evidence gathered during the investigation, as well as the legal analysis, the Commission has come up with the following factual findings:

5.1.1.1 THAT on 8th October 2019, the State President had a public meeting at Kamuzu Institute in Lilongwe. On the same day, some protesters blocked the main road at Mpingu and Msundwe in Lilongwe West. Police Officers from the Mobile Service C Division were deployed to control the situation and clear the road for traffic.

5.1.1.2 THAT the Deceased led one of the teams which travelled on a Toyota Landcruiser. The other team used an armoured vehicle commonly known as Nyala. The team in the armoured vehicle was led by Superintendent Kulinji. Each team had ten officers, including some CID officers.

5.1.1.3 THAT the two teams managed to clear the illegal road blocks at Chitedze and Mpingu and then proceeded to Msundwe. This was after

learning that the situation at Msundwe was even worse than Mpingu. While at Msundwe, they were surrounded by two groups of protesters, one on the Mchinji side of the road and another on the Lilongwe side where the patrol teams were coming from.

5.1.1.4 THAT the officers agreed to split into two groups and that one group should split away from the team, go around the houses and then try to disband the protesters on the Lilongwe side from behind, using an element of surprise. About six officers left the vehicle behind and walked on foot to disperse the crowd by surprise. The Deceased was part of this team of six police officers. When they approached the crowd, they noticed that it was too big, estimated to be 200 protesters. After initial hesitation, they proceeded and engaged in firing teargas at the crowd.

5.1.1.6 THAT when it became clear that the crowd was too strong for them, the Deceased ordered that the police officers should tactfully withdraw. At the same time, he called for backup from the team that was still guarding the vehicles.

5.1.1.7 THAT when the police started withdrawing, the crowd suspected that they had run out of teargas and were excited. Sub Inspector Chirambo who was part of the team temporarily dropped his beret and stopped to pick it up. In the process, his colleagues outran him and he ended up hiding in a bathroom, and later a toilet. The crowd missed him as they pursued the other group that was running ahead. Officer Chirambo hid in the toilet for close to thirty minutes and while there he could hear shouts that a police officer had been caught and was being beaten. Later he heard shouts that the officer had been killed, and some women weeping.

- 5.1.1.8 THAT Sub Inspector Chirambo called for backup in the safety of his hiding place. He used his mobile phone to communicate with officers at the camp base in Lilongwe. He later managed to escape by rushing out of his hiding place and stopping a privately-owned Toyota Sienta. He eventually linked up with his colleagues in the Toyota Land Cruiser that had picked up the Deceased and was heading to Kamuzu Central Hospital.
- 5.1.1.9 THAT according to Sergeant Bisala and Sergeant Richard Phiri, the Deceased lost control and fell down twice in the course of retreating while being hit by stones from the crowd. On the first fall, his colleagues picked him but on the second fall they left him because the situation had become too dangerous for all of them. In the process, Officer Chirambo and Sergeant Lucius Bisala also sustained some injuries on the foot and hand respectively. Another police officer, Maseya, sustained a cut in the head.
- 5.1.1.10 THAT After falling to the ground, the Deceased was stoned and got seriously injured. Sergeant Richard Phiri called for backup using his mobile phone and managed to rescue the Deceased from the mob. The Deceased was placed in a Landcruiser and rushed to Kamuzu Central Hospital where he died immediately thereafter.
- 5.1.1.11 THAT there was no postmortem examination conducted on the body of the deceased.
- 5.1.1.12 THAT Following the death of officer Imedi, the two teams from C Division were withdrawn from the mission and reinforcement came from A Division (National Police Headquarters), Central Region Police and Lilongwe Police. These continued the mission until early evening around 18:00hrs. Malawi Defence Force also

deployed several officers, with one unit placed at Mpingu and Msundwe.

- 5.1.1.13 THAT after medical procedures were done at KCH, the body of the Deceased was taken to his home village, Mangochi for burial. He was buried on 9th October 2019 in the morning. MPS provided transport, food for mourners and also some cash condolence to the family. The State Vice President also provided cash condolence to the family when he visited them a few days after his burial.
- 5.1.1.14 THAT there is sufficient legal framework catering for situations where a police officer dies or gets injured in the line of duty.
- 5.1.1.15 THAT despite policy requirements for adequate protective gear and equipment for the Police deployed to handle demonstrations and protests, the police officers who were sent to Msundwe did not have enough protective gear against the stones and catapults and also no adequate communication equipment such that they had to rely on personal phones to communicate with each other.

5.3 *Legal Findings*

- 5.3.1 THAT in terms of Section 16 of the Constitution, every person is entitled to the right to life and the right not to have his life arbitrarily deprived. Section 16 also states that the imposition of a death sentence by a competent court on a person in respect of a criminal offence under the laws of Malawi of which of which he or she has been convicted shall not be regarded as arbitrary deprivation of life.
- 5.3.2 THAT at the time of his death the Deceased was working for the Malawi Police Service and had not been convicted of any criminal offence to

warrant a death sentence. In other words, his death was not sanctioned by any court of law. Therefore, by stoning him to death, the mob arbitrarily deprived the Deceased of his life, thereby violating his right to life as guaranteed by Section 16 of the Constitution.

5.3.3 THAT the Constitution recognises that every person has inherent dignity and needs to be respected. For this reason, the Constitution protects every person's right to human dignity under section 19. Section 19 (3) provides that no person shall be subjected to torture of any kind or to cruel, inhuman or degrading treatment or punishment. By stoning the Deceased to death and exposing his body in public, the right of the Deceased to be treated with dignity was violated.

5.3.4 THAT four suspects were later arrested by police and charged with the murder of the Deceased.

5.3.5 THAT many more suspects were arrested in relation to causing public disorder and inciting violence.

5.3.6 THAT the Malawi Police Service were in breach of their own Policy Guidelines when they deployed the Police Officers without adequate protective gear.

5.3.7 THAT there is sufficient legal framework to cater for compensation for the death of the Deceased and other Police Officers who were injured under the Workers Compensation Act.

6.0 RECOMMENDATIONS

6.1 Malawi Police Service must conclude criminal investigations into the death of the Deceased and bring the suspects to justice.

- 6.2. The police must strengthen its intelligence collection service. This will help improve operational deployment in terms of number of police officers to deploy, the right equipment to use and also help management in decision making.
- 6.3. Malawi Police Service Should strengthen the policy framework for provision of protective gear to make it mandatory whenever the Police are deployed to manage demonstrations and protests. Most importantly the Malawi Police should make sure that within the next financial year they have purchased sufficient protective gear for its Police Officers.
- 6.4 Malawi Police Service should initiate and fast-track the compensation process for the Deceased's death and all the injuries suffered by other police officers in the course of carrying out their lawful duties at Msundwe.
- 6.5 Religious, political and community leaders in the affected areas should initiate dialogue with the Malawi Police Service and all relevant stakeholders aimed at bringing lasting peace.
- 6.6 Members of the general public should desist from taking the law into their own hands and understand that killing a person is a serious crime and the killers shall be subject to prosecution

7.0 CONCLUSION

- 7.1 The report has established that the Deceased was a team leader of a team of police officers from Police Mobile Service, C Division who were deployed to quell protests at Msundwe in Lilongwe West.

- 7.2 The investigation has noted that there were tactical errors on the part of his team that contributed to his untimely death.
- 7.3 It has also been established that the Malawi Police Service did not provide the officers with adequate communication and protective gear. Further, it has been noted that the public took the law into their own hands, which is a crime.

Annexes 1: List of informants interviewed by the Commission

| |
|---|
| 1. Senior Deputy Commissioner Katuya |
| 2. Assistant Commissioner Lewis Chigadula |
| 3. Assistant Commissioner Fly Khalichi |
| 4. Captain Cuthbert James Kalipinde |
| 5. Senior Superintendent Rhoda Luhanga |
| 6. Senior Superintendent Kazembe |
| 7. Senior Superintendent Paul Chipole |
| 8. Superintendent George Mbayani |
| 9. Superintendent Mphatso Chisale |
| 10. Superintendent Peter Edwin Msukwa |
| 11. Superintendent Luciano Kantchowa |
| 12. Assistant Superintendent H Chingolo |
| 13. Inspector Innocent Chipofya |
| 14. Sub Inspector Chimkwita |
| 15. Sub Inspector Kazembe |
| 16. Assistant Superintendent Andsen Magombo |
| 17. Sub Inspector Idrissa Kachala |
| 18. Ass Supt Francis Sixpence |
| 19. Inspector Joseph Kachingwe |
| 20. Sub Insp J Ng'ambi |
| 21. Sub Inspector William Chirambo |
| 22. Detective Sub Inspector Alfred Chigamba |
| 23. Sub Inspector Wilson Jones Balakasi |
| 24. Sub Inspector Ernest Kamuwona |
| 25. Inspector Joseph Kachingwe |
| 26. Sub Inspector Kondwani Kumwenda |
| 27. Sub Inspector Masanja Nyirongo |
| 28. Sub Inspector Chisomo Gaisi |
| 29. Sergeant Richard Phiri |
| 30. Sergeant Frank Phiri |
| 31. Sergeant Masache |
| 32. Sergeant Lucius Bisala |