

# STUDENTS' RIGHTS AND ACADEMIC FREEDOM IN KENYA'S PUBLIC UNIVERSITIES\*

JAMES NDUKO

On November 23, 1997 the First National Students Conference was held in Nairobi. The outcome of this forum, the formation of KENASU, the Kenya National Students Union, will test in the coming months the government commitment to "democratization," while the conference itself was the launching pad for a future strong student movement in Kenya. This article places the Conference and the formation of KENASU in the context of the Kenyan students' long struggle for the right to organize.

## A SHORT HISTORY OF STUDENT ORGANIZING IN KENYA

Institutions of higher learning in Kenya have had a long history of repression during both the Kenyatta and the Moi regimes. Kenyan students have been denied their most basic rights, including the freedom to organize. Attempts by students to organize have been brutally crushed by the government's security forces. Students engaged in lawful activism have been expelled or suspended from their institutions, arrested, detained, tortured and even murdered. No means have been spared to repress any move towards student government in Kenya.

In 1987, for instance, the Students Organization of Nairobi University (SONU) was banned; in 1992, the government refused to

lift the ban. In the same year, the National Union of Students of Kenya (NUSKE) was refused registration; in 1994, it was the turn of the Kenya University Students Organization (KUSO)—the reason given by the Registrar for his refusal was that the registration of KUSO would be harmful to the peace, stability, and security of the state.

Early in 1997, the students presented a lengthy memorandum to President Moi decrying the state of affairs at the institution of which he was Chancellor. Among the demands that the students put forward to the president was that his government recognize the principle of the autonomy of the university as an institution devoted not only to intellectual pursuit but also to critical, ideological formation. In the memorandum, the students demanded that the government respect and institutionalize the principle of academic freedom and decriminalize the students' and lecturers' efforts to organize and express ideas different from those of the establishment. The students were demanding that both they and their lecturers be allowed to form umbrella unions capable of rallying around issues affecting their lot. After the students read the memorandum and presented a copy of it to the president, he played down this demand, arguing that as a parent he was not surprised by it, but what the young people were asking was too much and could not be granted all at once.

At the same forum he retorted that he had no problems with the students and lecturers forming a union, but his worry was what they would do with these unions, and whether they would serve the national interest (whatever that may be!). To this day, no response has come from the president, despite his promise that he would look into the issues raised by the students.

Over the years, as the Kenyan government has made it clear that it cannot tolerate the emergence of umbrella unions, a new phenomenon in student organizing has emerged. This has been the formation of district-based student associations and college/faculty based organizations. While district-based organizations are student set-ups wholly dependent on political patronage for survival, college-based organizations are an archetype of the pseudo-student professional clubs that mushroom, plagued with operational constraints, in the hostile environment set by the academic authorities and the government, before they are allowed registration.

The existence of college / ethnically based associations has obviously limited the students' capacity to unite and constitute themselves into a strong umbrella organization capable of championing their values, visions, and aspirations as both citizens and students. The result has been the fragmentation of the student body into small professional or ethnically oriented parochial units of young scholars who have a narrow understanding of what they could do with their intellectual potential.

As it now stands, the Kenyan university is not a citadel of critical thinking, but a factory mass-producing conformists who, even after graduation, will be safe for the maintenance of the *status quo*. The curriculum itself hardly allows for the development of a critical community holding debates on national policy or other key issues.

It is through continual interference and control that the government has succeeded in this policy of repression and denial of academic rights. Government control mechanisms, put in place to ensure that the university is constantly under close surveillance, include

tions of lecturers crusading for this right, and the refusal of the courts to accord them justice, which shows to what extent the state is determined to stifle academic freedom.

- The victimization of student activists crusading for academic freedom through arbitrary suspensions, expulsions, unwarranted exam failures, police surveillance, the use of anonymous letters and telephone calls threatening their lives and even physical elimination.

- The state's repression of the students' right to free assembly, association, and peaceful protest resulting in many unwarranted closures of the universities, and the deaths of several students due to state police brutality.

- The deaths of vocal student leaders under mysterious circumstances and the failure of the judicial system to conduct effective investigations probing the causes of such deaths.

- The haunting of the university precincts by state security agents and police reservists, resulting in the spread of fear and despondency among the university community and its unwillingness to engage in critical discourse at any level.

- The state's establishment of police stations inside the universities' compounds and university campuses, an infringement upon the university's extraterritoriality.

- The attendance of management meetings and students disciplinary meetings by senior special branch and CD officers, automatically instituting the state's control over the decision-making structures at the university, even those of an academic nature.

The political paranoia that has characterized the post-independence Kenyatta and Moi regimes, set the backdrop for the present state of repression in the public universities. Both regimes saw the universities as the cooking pot for the opposition to the *status quo*. Students and lecturers in the 1970s and early 1980s were seen as the forefront of criticism and opposition to the despotic one-party rule of KANU (Kenya African National Union). The university community was viewed as a community of nationalistic dissidents that needed to be curbed to suit the will and whims of KANU.

In this period, student politics moved away from welfare concerns to the more critical areas of national and foreign policy. Issues relating to governance and policy matters began to dominate

the university debates. At the University of Nairobi there emerged a strong student union, SONU, and the stage was set for a bitter showdown between ideologically oriented student activism and state brutality. Exemplary were the many student protests and the government crackdown of progressive students and lecturers carried out, in this period, under the guise of ridding the university of "Marxist elements." The period also saw the 1982 coup attempt, by the Air Force, during which university students came out in open support of the revolt. Many students from the University of Nairobi were killed on this occasion by loyalist government troops, many more were arrested, detained, some without trial, and sentenced to long jail terms. Many others were expelled and some forced to flee to exile.

The radical activities at the university alarmed the conservative regime of both Jomo Kenyatta and Moi and nothing was spared to ensure that the *status quo* would be preserved. This has set the condition for the repression of academic rights in Kenya, whose long-term effect has been the whittling away of the earlier spirit of independence that made of the Kenyan students the conscience of the nation and an important influence on its political life.

#### SAP AND ACADEMIC FREEDOM

In the late 1980s and the early 1990s, the government introduced "cost-sharing" in its public institutions. This program was part of the implementation of the World Bank and IMF Structural Adjustment Program. The university was not spared, and it soon became clear that students too would be required to pay directly for their education. Prior to the introduction of this program, university students automatically received funds from the government to finance their studies. It was so automatic that, upon attaining admission at the final high school examinations, even students from poor backgrounds had the guarantee of being able to go to the university. Accommodations, food, and tuition fees were directly paid by the government to the university and a personal allowance was advanced to the students for their subsistence while in college.

The new policy stipulated that the students should be responsible for the financing of their education. It declared that government financing would no longer be automatic, and that needy stu-

dents would be required to apply for loans from a board set up by the Commission for Higher Education, the Higher Education Loans Board (HELB). Only deserving cases would be considered for loans awards.

This provision was worrisome, because the majority of students who make it to the university in Kenya come from poor backgrounds, and the new rule would make it impossible for them to continue their studies. There was obviously a concern for the criteria that would be used to ascertain whether an applicant student was really needy. Clearly, it was going to be impossible for many students to finance their university education.

The implementation of the World Bank/IMF policy for higher education sparked off many riots in all the state universities with students demanding the policy's immediate withdrawal, given its serious implications for the future of the country's university education. These riots saw a serious clash between the public universities' student body and the state police. The protests led to the closing of the public universities for periods ranging from nine months to over one year. Upon their being called back, the students were sent coercive forms that required them to either accept the new conditions and continue with their studies, or reject them and forfeit all chances at the institutions. There was a requirement that these bonds/form be signed before a magistrate. Faced with these alternatives, and separated from each other in the isolation of their homes, the students had no choice but to sign a declaration stating that they were ready to adhere to the new requirements. The loan forms were subsequently sent to the district headquarters, from where the students were supposed to make applications and forward them to the HELB. The recalling of the students then followed the pattern of the *colonial divide-and-rule policy practiced in the British colonies*. The younger students were recalled before the more mature and critical groups. The semester system, that would have all the students begin the academic year together, was deliberately interfered with and a new, irregular system was put in place, with sections of the student body being made extremely busy with exams and assignments at the same time when other sections would be busy settling down for their new semesters. A new system emerged that ensured that different student groups would have irreconcilable concerns at any one particular time of the year or of their stay in col-

lege. This essentially curtailed any possibility the students would have to demand the withdrawal of the new policy.

The new set-up made it difficult for the students to mobilize around common issues. The stringent demands of the new loan scheme now served to further fragment the student body, rather than to unify it. Soon a stratification among students became evident, as the students who got more of the loan awards would have an easy lifestyle, while those who received less, or none at all, would lead a miserable life in the next door room. An unheard-of and unimaginable division between rich and poor students began to emerge, that could now be seen in the groupings that naturally formed. It became difficult for students to face their problems as a body rather than as individuals. While the beneficiaries of the new scheme found it satisfactory, those who suffered its effects were still motivated to protest against the unfairness and arbitrariness of the criteria used to give the awards. There was no common rallying point for these two groups and what resulted was a silent, intra-student-body resentment, rather than a joining offerees against a common enemy.

The majority of the students' focus shifted sharply from the tradition of research, study, criticism, and free socialization at the university, to a new situation where they would act as isolated individuals, with little confidence in themselves, and concerned primarily with their own survival. Food and accommodations became the big issues in the students' daily lives at the university. Soon, more time was spent by the students cooking in their rooms rather than interacting with colleagues after lectures to discuss and resolve common problems. More time was also spent now commuting from relatives' houses in city estates, than doing research work in the library. Long hours were to be spent pondering on where the next penny would come from for the next meal. Money was to be spent purchasing electrical cooking gadgets, green vegetables, maize meal, cooking fat, and salt for survival's sake, rather than to buy books, pens, and papers.

In this situation, desperation and frustration have descended on the university students in Kenya. Thus, it may take quite a prompting to resuscitate the student movement into what it was in the 1970s and 1980s. Confronted with such struggle to survive, the higher values of academic freedom, the extraterritoriality of the university, and the need to democratize the governance of these institutions are

only secondary concerns for the average university student today. Gripped by biting poverty and faced with a daily existential drama unfolding on the campus, today's students' main concern is to complete their degree and go away, no matter where to. The demand for survival is also turning many students into intellectual beggars, thanks to the district-based organizations that often arrange for hand-out-dishing forums for their members. With the emergence of a hand-out-culture, in fact, well-to-do politicians have taken over the district/ethnic-based associations as patrons, thus effectively stripping them of their authority.

In spite of these drawbacks, the Kenyan university still has the potential of providing a progressive ideological formation. Little, however, can be expected from a university that fears its student body. The main challenge facing a student movement in Kenya today is whether the students will fulfill their responsibility towards the country and fight repression and dictatorship at all levels. For a start, Kenyan students should strive to establish the principle of the autonomy of the university, making it illegal for the state to maintain a police post and have security forces within its precincts. They should also struggle to obtain a curriculum reform that would make education relevant to the Kenyan situation, and for a greater student participation in the university government, and a greater presence of students in all the university organs.

Lastly, students should not await for the government's approval in order to start organizing. The November 23rd First National Student Conference was an expression of this principle and perhaps the beginning of a new student movement.

\* From *CAFA Newsletter*, N. 14, Spring 1998.