BOLD MINDS

The Role of Kenyan Academia in the Struggle for Change
KENYA HUMAN RIGHTS
COMMISSION

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<td>ACHPR</td>
<td>African Charter on Human and Peoples Rights</td>
</tr>
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<td>AG</td>
<td>Attorney General</td>
</tr>
<tr>
<td>CID</td>
<td>Criminal Investigations Department</td>
</tr>
<tr>
<td>Cj</td>
<td>Citizens for Justice</td>
</tr>
<tr>
<td>CJ</td>
<td>Chief Justice</td>
</tr>
<tr>
<td>DSI</td>
<td>Directorate of State Intelligence</td>
</tr>
<tr>
<td>SUEC</td>
<td>Student Union of Egerton University</td>
</tr>
<tr>
<td>FES</td>
<td>Friedrich Ebert Stiftung</td>
</tr>
<tr>
<td>FORD</td>
<td>Forum for Restoration of Democracy</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>JKUAT</td>
<td>Jomo Kenyatta University of Agriculture and Technology</td>
</tr>
<tr>
<td>JSC</td>
<td>Judicial Service Commission</td>
</tr>
<tr>
<td>JM</td>
<td>Josiah Mwangi Kariuki</td>
</tr>
<tr>
<td>KANU</td>
<td>Kenya African National Unity</td>
</tr>
<tr>
<td>KHRC</td>
<td>Kenya Human Rights Commission</td>
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<tr>
<td>KU</td>
<td>Kenyatta University</td>
</tr>
<tr>
<td>MMUST</td>
<td>Masinde Muliro University of Science and Technology</td>
</tr>
<tr>
<td>MP</td>
<td>Member of Parliament</td>
</tr>
<tr>
<td>NCA</td>
<td>National Convention Assembly</td>
</tr>
<tr>
<td>NCPC</td>
<td>National Convention Planning Committee</td>
</tr>
<tr>
<td>NAK</td>
<td>National Alliance for Kenya</td>
</tr>
<tr>
<td>NARC</td>
<td>National Alliance Rainbow Coalition</td>
</tr>
<tr>
<td>NSIS</td>
<td>National Security Intelligence Service (the successor to DSI above)</td>
</tr>
<tr>
<td>PhD</td>
<td>Doctorate in Philosophy</td>
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<tr>
<td>SONU</td>
<td>Students Organization of Nairobi University</td>
</tr>
<tr>
<td>SRC</td>
<td>Students' Representative Council</td>
</tr>
<tr>
<td>UASU</td>
<td>University Academic Staff Union</td>
</tr>
<tr>
<td>UON</td>
<td>University of Nairobi</td>
</tr>
<tr>
<td>TJRC</td>
<td>Truth, Justice and Reconciliation Commission</td>
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<tr>
<td>ZANU</td>
<td>Zimbabwe African National Unity</td>
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Acknowledgments

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Dedication

To the late Prof. Maathai and other iconic academia in Kenya

The KHRC dedicates this report to the gallant and bold academic community in Kenya, which heroically sacrificed their lives and careers in the struggle for democratization of the public universities and the Kenyan state at large.

We also take this opportunity to salute and honour the late Prof. Wangari Maathai. She was one of the few women, academia and political activists who successfully initiated, spearheaded and endured the struggle for political transformation in Kenya from the Kenyatta, Moi and Kibaki regimes. She passed on in September 25, 2011.

The late Prof Maathai will be remembered for leading a group of mothers and other women in 1992 to a hunger strike and stripping naked in a bid to force the KANU government to release political prisoners at what is known as Freedom Corner at Uhuru Park-Nairobi.

Prof. “You fought a good fight; you finished the race and kept the faith (2 Timothy 4:7).” May God rest your soul in eternal peace. Amen!

Aluta Continua.

The Late Prof. Wangari Maathai (front left in a neck brace - thanks to a beating from the police for leading a protest against deforestation) leads a group of mothers of political prisoners and other women in hunger strike and stripping naked to fight for the release of the political prisoners in 1992. Picture courtesy the Standard Newspapers.
Executive Summary
For many years, Kenyans have yearned for a democratic state that respects, protects and promotes human rights. This vision has cost them a great deal of personal sacrifice and national resilience, especially in the struggle to overhaul the oppressive post-colonial governance structure. This struggle can be attributed to peoples' organizations as expressed within the Civil Society Organizations (CSOs), political movements and political parties from the time of Kenya's independence to date.

As indicated in the different sections of this report, the Kenyan academic community has in many ways been the vanguards in the struggle for democracy in Kenya. During the formative and subsequent years of the struggle for people-centered governance, most of the government critics were labeled as political dissidents. This term often referred to the critics of the authoritarian regimes in power. The academia, within and outside the public universities in Kenya, have been the movers and shakers of most of the key political struggles in Kenya.

Key Findings
The KHRC documents ten key findings, which include the academia (both students and lecturers) being the vanguards of the liberation struggle mainly between 1970 and 2002 due to the high level of academic and political exposure and indisposition. Second, most of these struggles were caused or inspired by factors within the university, in the society and/or both. Third, while the University of Nairobi (UON) and the academia drawn from humanities and other social disciplines seem to be the cradle of this struggle, the campaign spread to other public universities and disciplines. Most of these struggles have been inspired by the social justice of human rights among other liberal political theories and models.

Fourth, despite depicting this struggle as a male-led or dominated initiative, women were directly and indirectly involved. Fifth, hundreds of academia were arbitrary arrested, unlawfully tortured, subjected to framed up charges, wrongfully imprisoned and dismissed from the universities for being in possession of seditious publications, political agitation, public incitement or membership to prescribed political movements, lecturers' and students organizations.

Sixth, the State through the executive, judiciary and university administration (that is, the Senate and Councils) is culpable for these serious human rights violations. Seventh, however, among the three regimes of Kenyatta, Moi and Kibaki, it is the Moi regime, which marks the darkest era of political repression in which hundreds of thousands of students, lecturers and other political activists were grossly violated.
Eighth, scholars and academia from other developing countries have experienced related struggles and violations as evidenced in South Africa, Iraq and Zimbabwe. The struggles within these countries are not much different from Kenya, which speaks to some sort of solidarity against bad leadership across the board. Ninth, although victims have not received adequate remedies as envisaged under international law, there are some success stories especially where victims have individually and in partnership with civil society organizations instituted strategic interest litigations pursuant to the former Constitution and the Constitution of Kenya (2010).

Tenth, some of the repugnant legal and institutional frameworks that exacerbated repression remain intact. Although a number of constitutional, legal, policy and administrative frameworks have been attempted to respond to these issues, most of these regimes are yet to be finalized and operationalized in order to yield tangible gains to survivors. Moreover, public universities are still being governed by the same systems of impunity.

**Key Recommendations**

1. **To the Government of Kenya**
   - Institute credible investigations possibly through a special institution or tribunal in order to identify the victims and perpetrators and provide remedial actions. We need to get the exact numbers and identities of those who suffered different violations and the extent of harms suffered. We hope the work being done by the embattled Truth, Justice and Reconciliation Commission (TJRC) will offer the starting point.
   - Initiate mechanisms for reparations and recognition of the academia icons and other freedom fighters through the different memorialization initiatives. For instance, according them national awards during the annual *Mashujaa* Day on 20th October; compensating and rehabilitating them for loss of jobs, livelihoods and terminal benefits; giving all the victims a public apology; declaring the torture chambers as monuments of shame in the official Kenya Gazette; declaring in the official Kenya Gazette that the 'Freedom Corner' is Prof. Wangari Maathai Corner; formulating and enforcing the heroes and heroines policy, and national policy and fund on reparations to victims.
   - Foster wide range institutional reforms especially within the criminal justice system and higher education sub-sector. Indeed, it is repugnant that the security, judicial and university systems have presided over human rights violations to the academia.
• Ensure an expeditious conclusion of all the filed court cases on the past atrocities and compliance with the orders or awards granted by the courts. The delays of these cases and execution of the awards granted should be addressed. Victims and CSOs should take advantage of the set precedents to institute more cases in court or seek to settle them out of courts where possible.

• Target also individual persons who are responsible for crimes committed under the guise of the state as a machinery. This will ensure individual criminal responsibility and accountability in all the transitional justice mechanisms.

• Empower the Kenya National Commission on Human Rights (KNCHR), Commission for Administration of Justice (CAJ) and TJRC to execute their human and justice rights mandates.

• Ratify the Optional Protocol on the United Nations Convention Against Torture (CAT); enact and implement the National Policy on Human Rights, the Prevention of Torture Bill; Leadership and Integrity Bill and other requisite legal, policy and institutional frameworks for reforms within the security, justice and educational sectors.

2. To University Administrations

• Assist the government and other partners to access the relevant and accurate documentation of the victims and perpetrators. This will be important in the realization of the recommendations herein.

• Revamp the academia and students' organizations and review the university statutes and other regimes and practices that are inimical to the implementation of the Constitution; realization of human rights and freedoms; and attainment of political development and academic excellence for the students, lecturers and general public.

• Initiate more programmes or fora to enhance vibrant public engagements and intellectual discourse on governance processes and other pertinent issues as it used to happen in the 1970s and 1980s.

3. To the Academia and other Victims

• Return to university and complete their academic pursuits, for those who were dismissed. In 2003, the then NARC government granted amnesty and opened new opportunities for those interested to resume their studies. This amnesty still exists.
• Sustain and inform the reform processes envisaged by the government and the society at large. The academia seems to have lost interest and control in these issues and processes. The Constitution of Kenya provides more opportunities for students and lecturers to be involved in governance processes at all levels in the society.

• Join efforts with other category of victims under the National Victims Networks and the CSOs effective redress to the injustices suffered.

4. To Civil Society and Media Organizations
• Support the victims towards the realization of remedies envisaged in different transitional justice mechanisms and opportunities in the society.
• Spearhead research, documentation and identification of all the victims who have suffered. This should recognize the gender and other diversity and vulnerability dimensions of the human rights struggle and violations.
• Engage the government, universities and international communities to advance and sustain the agendas for truth, justice, reforms and accountability in Kenya.
• Monitor and ensure pro-people governance processes in order to banish impunity and therefore ensure public accountability.

5. To the International Community
• Ensure that the government of Kenya complies with its international human rights obligations to respect, protect and promote all human rights for all people within its jurisdiction.
• Build the capacity for both the state and non-state actors captured in this section. This would equip them to comply with the above recommendations.

6. To all Kenyans and Stakeholders
• Ensure a timely and full implementation of the Constitution of Kenya (2010) and Agenda Item Four of the National Accord that was signed to end the Post-election Violence in February 28, 2000.
• The above two provide legal and policy frameworks for banishing impunity, fostering public accountability and enhancing national equity and cohesion towards a democratic State founded on human rights.
1.0 ABOUT THE RESEARCH PROJECT

1.1 Justification for Project

This project builds on the previous works of the KHRC and other scholars and practitioners in the field of transitional justice where the search for truth, justice and accountability remains elusive. Within the Constitution of Kenya (2010) and political dispensation (Grand Coalition Government from 2008), there is a need to upraise and locate the academia within the yet to be won struggle for a democratic and human rights state in Kenya.

1.2 Objectives of the Project

This project aimed to provide up-to-date as well as a rights-based account of the struggle for democracy in Kenya by the academia; the progress realized; and the violations and challenges encountered. The specific objectives included:

(i) to situate the academic victims in the struggle to liberate Kenya from independence (1963) to date (2011). This entails recognizing their rights, including the violations suffered in the hands of the government and the society at large; achievements and challenges faced;

(ii) to analyze the political and legal regimes which have either supported or frustrated the academia's struggle for change, both in public universities and the society at large. This includes analyzing the theoretical frameworks informing the struggles and the cases concluded in court;

(iii) to undertake a comparative analysis in other countries or jurisdictions for lessons and experiences of the struggles. This meant focusing on countries with the related and repressive systems like Zimbabwe, Iraq and Apartheid South Africa; and

(iv) to recommend mechanisms for addressing the violations and ensuring reparations and guarantee for non-repetition. We have recommended the requisite remedial action toward justice and accountability for victims and perpetrators respectively.

1.3 Project Scope and Methodology

This project covers mainly the post-independence year in 1963 to 2013. It also revisits the colonial period mainly for the purpose of establishing both the roots, causes and patterns of the struggles and violations realized by the academia in Kenya. The processes towards the development of this report included: undertaking background research and literature review as referenced in different sections of the report; developing questionnaires and conducting interviews with different victims, relatives, friends and key informants; complementing these interviews with documentation held by the KHRC on torture cases/incidences in Kenya; and finally, analyzing the findings and developing the final report.

1.4 Limitations of the Project

These included:

a) Some respondents were suspicious due to the violations they have faced. To counter this, the KHRC had to attach a letter of assurance and confidentiality.

b) The period covered and persons targeted are also very wide. This brought some challenges in the delimitation of the scope provided above.

c) Finally, most of survivors are either very expectant or lethargic about research into these areas, as they are yet to get remedies/benefits from related research.

2.0 STUDY BACKGROUND: REPRESSION OF THE ACADEMIA IN KENYA

2.1 The Colonial Era

The clamour for democratic governance in Kenya commenced immediately after the British colonial occupation in 1895. This struggle began as sporadic political resistance against the establishment of the colonial rule in 1900s. This initiative became more organized and fiery from 1920s onwards when the colonial government was finally established with its very oppressive governance systems.

Indeed, the autonomy that Kenya's pre-colonial societies had enjoyed was shattered as a transition from independent to colonial status took place amid scattered resistance and widespread acquiescence. The British colonizers passed legal instruments which transferred the land mass, power and generally natural resources from the local people to the United Kingdom and British settlers and officials in the colony. Constitutional rules were framed excluding the participation of the Africans.2

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The drive to overhaul such repressive governance regimes then became the catalyst to catapult and sustain that struggle to date. The “academia” of that time shaped these emerging struggles through the formation of independent schools, independent churches, political movements and started negotiations which finally led to the country’s independence in December 1963.

2.2 Academic Repression from 1963-2011: Kenyatta, Moi and Kibaki Regimes

For many years, The University of Nairobi was the centre stage for academic radicalism and political dissidence because in part it was the centre of the humanities. The university was established in 1951 as the Royal Technical College of East Africa and it received its first students in 1956. From 1964–70, it was part of the University of East Africa and was known as the University College, Nairobi. In 1970, it became The University of Nairobi.

Kenyatta College was established in 1972 as a teachers’ training college and it became an independent university in 1985. Moi University at Eldoret was established in 1948, and it became a public university in 1984. Egerton University was started by Lord Egerton as a colonial agricultural college until 1985 when it became a full-fledged university. Other public and private universities came on board later on and many more continue to receive university charters to date.

From the 1960s to date, there have been many confrontations between the academia and the university administration and political leaders most of which culminated into protests and closure of these public institutions. As documented by many scholars, most of the confrontations and violations took place during the Kenya National African Union (KANU) regime especially between 1969 and 2002. For instance, Prof. Gichaga observes: “There are times when student protests emerge from the environments created by the university, while at other times, student protests result from environment outside the control of university”.
Indeed, most of the altercations between the academia and the university administration and Kenyan state, bordered on the social welfare ideology and political developments within the university and the society at large. To clamour for such an ideology required and was based on radical political thinking and organizing spearheaded by the academia; but this came with a great deal of political persecution by the university and state towards the academia.

This suppressive approach or crack down by both the university and the Kenyan state led to horrendous human rights violations against the students, lecturers, their acquaintances and sometimes, extended to their families. Most of the abuses have taken the forms of unprocedural dismissals from the universities; arbitrary arrests, torture and detentions; incidents of politically-motivated killings and disappearances; denial of the freedoms of expression, assembly and association; subjection to trumped-up charges before courts and the often compromised university administrations among others.

The net effect was unprecedented decline of academic freedom due to the limiting of the quality of publications, teachings and speeches availed to academia. Academic freedom is generally viewed as the freedom to teach or learn without interference by government officials. To Kenya Human Rights Commission (KHRC), academic freedom entails individual or collective rights to the freedom of thought, conscience and propagation of ideas. Academic freedom was violated with impunity, especially during Moi's regime. For instance, all lecturers required clearance from the Office of the President to travel abroad. Neither research clearance, not travel clearance could be granted by the Office of the President unless there was prior approval from the Special Branch. Thus the government somehow managed to stifle any open political activity or criticism.

Similarly, during the Kenyatta regime (1963-78), suppression of academic freedom was more pronounced from 1969 onwards as this marked the peak of his political dictatorship. Illustratively, the first major showdown was experienced in January 1969, when the government cancelled public lecture meant to be addressed by Some of the key social-economic and political issues are poor diet, congestion at the halls of residence, poor terms and conditions of work for the lecturers; denial of lecturers and students of their rights to form student's associations and trade unions among others. The fundamental societal issues include questions of impunity as manifested in economic crimes and political intolerance within Kenya. Attempts to address these among other societal issues was and is still to date (to an extent) viewed by those in power as working against the interests of the state.

The ramifications of this affront to civil, political, economic, social and cultural rights of both the academia and the citizenry are felt in the society to date. Most of the publications and teachings bordering on radical political discourses or revolution such as Marxism (especially material dialecticism and emergence of a labour-based state) or other 'foreign ideologies' were banned.

See Africa Watch Report, ibid.
Oginga Odinga at Taifa Hall in the University of Nairobi. The cancellation led to protracted violent protests which culminated to the closure of the university. For several years thereafter, university students used to undertake public demonstrations in memory of that day which violated academic freedom.

In 1972, the University was closed after the arrest of the editors of the student newspaper, the *University Platform*, whose criticism of the government had angered the ruling party – KANU. *The Platform* was subsequently banned in 1973. The 1975 assassination of Josiah Mwangi (JM) Kariuki, a popular and critical Member of Parliament for Nyandarua North led to student protests, a violent confrontation with security forces, and closure of the university. The KHRC observes thus:

> Thereafter, a climate of confrontation emerged with the state invariably using force to curtail student efforts to organize protests against government policy. The anniversary of J.M Kariuki's death on March 2 became an unofficial closing date for the university as the government violently put down marches and events commemorating the death.

By the time of Kenyatta's death in 1978, many academic and political activists had been arrested, detained and silenced. This is evidenced by among others: the assassination of J.M. Kariuki in March 1975, a political nemesis of President Kenyatta; the arrest, detention and dismissal of Ngugi wa Thiongo, a leading novelist, critic and the then chair of the Department of Literature in 1978; and the persecution of the many other academic activists.

Moi's rule between 1978 and 2002 forms one of the darkest moments of Kenya's history mostly remembered for macabre and bare-knuckled crackdown of the academia. To begin with a façade, the then new President Daniel Arap Moi released all political prisoners in December 1978. However, former President Moi expected uncritical loyalty from the university, since just a year later, the first group of academia were targeted. Anti-government criticism became an anathema as thousands of students and lecturers were grossly violated during Moi's 24-year dictatorship.

In December 2002, the Mwai Kibaki-led National Alliance Coalition (NARC) party replaced the Moi-KANU rule with many promises and substance on reforming Kenya. With regard to academic freedom, some of these stand out: the amnesty granted to those charged with politically-motivated criminal offences; a

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14 Oginga Odinga had resigned as the Vice-President of the Republic of Kenya and formed his own party, the Kenya Peoples' Union.
15 The *University Platform* was revived 10 years later in 1983 as *Sauti ya Kamukunji*. It would later become *Campus Mirror*. Moi University publishes *The Illuminator*, *Third Eye* and *Newsround*; Maseno University produces *Password* among others. For more formation see Benjamin Muindi, 'Troubled University Press' in *The Springboard: Daily Nation*, October 3, 2011, pp. 6-7. See also Report by *Africa Watch* published in *Academic Freedom and Human Rights in Africa*, April 1991.
16 KHRC, *Haven of Repression*, p. 3
moratorium for the expelled students to resume their university studies; Kibaki appointed new chancellors of the universities, a position previously held by serving presidents, but again has ended up presiding over some graduation ceremonies similar to his predecessors; the removal of the 1952 ban on Mau Mau political movement; and, relatively more academic and political freedoms within universities and colleges. However, under President Kibaki, there has still been suppression of academic freedom somewhat and other arbitrary arrests and prosecution of human rights activists as evidenced by the dismissal of students and lecturers within the main body of the report.

2.3 Ideologies shaping the Political Resistance by the Academia

The struggles and resistances by the academia, professionals and other elite and middle class groupings against the destructive tendencies of the oppressive post colonial state in Kenya have to a greater extent been inspired and influenced by the leading political scientists and philosophers. Political ideologies of Vladimir Lenin, Voltaire, Marx, Engels, Hobbes and so on dominated lecture theatres. The academia, mainly in the liberal arts, was known for unconventional dress style (African or Mao Tse-tung style) complete with long beards and sometimes unkempt hair. This somehow symbolized the ideological leanings and convictions shaping their struggles and resistance.

Stewart Clegg (1989), in his Circuit of Power model, distinguishes between two kinds of resistance which is also a positive reflection on Kenyan struggles: effective resistance which is organized or institutionalized, very rare and geared towards long interventions for instant the formation of workers unions and other civil society groups; or episodic resistance. This is spontaneous or instantaneous and calculated to respond to issues as they emerge, for instance in strikes and demonstrations.17

Further, Willy Mutunga presents a related postulation in his analysis of the role of the elite in what he calls the 'constitution making from the middle” thus:

a) it is true that the constitution-making reform project has been called a middle class or elitist initiative. And so, what if it is?
b) does the Kenyan middle class not have a right to agitate for reforms?
c) and, if the routes to the people are inaccessible, what is to be done in the meantime?
d) more so, if the organizations of workers and peasants have been co-opted and taken over by the comprador class because of the betrayal by the leaders of these organizations, is it not the duty of the middle class to take the lead in the reform process?
e) cannot the middle class speak for itself and its material interests?

f) why must the *comprador* and middle class speak for the people? And finally,
g) when will the people truly speak for themselves?

While he supports the middle class or elite role in constitution-making among other reform processes in Kenya, he notes that the narrow view of the middle class is that the status quo is jeopardizing the future of its livelihood and survival as a social group. Mutunga opines that:

"However, it is unacceptable that the constitution-making initiative should stay middle class. It needs some popular content. It needs all social forces in the society if a compromise or a national consensus of these social forces is to emerge. What cannot be in doubt is the desire of the middle class to extend the process to the community level." 18

Further still, Yash Pal Ghai builds on Mutunga's arguments about the political organizing and resistance from the middle. To Ghai, the middle class means a kind of middle class, a group of intellectuals not necessarily rooted in extremes of class. Ghai raises the following questions:

(i) How far can the 'middle' be effective without a solid and independent base of popular support?
(ii) What alliances should they built?
(iii) What should be the phase of reform?
(iv) What is the price of 'principle'?
(v) What kinds of compromises are justified and effective and, indeed necessary?
(vi) What are the costs and benefits of provoking state violence and oppression, a demonstration of inhumanity? 19

3.0 THE LEGAL REGIMES THAT SUPPORT(ED) REPRESSION OF ACADEMIA

There are numerous laws which facilitated the violation of academia freedom in Kenya. These include the former Constitution; the Public Order Act; the Preservation of Public Security Act; the Penal Code; the Books and Newspapers Act; and, also, the various Statutes that govern public universities. These are briefly highlighted below:

3.1 The former Constitution of Kenya

The former Constitution was repealed following the promulgation of the New Constitution of Kenya (2010) in August 27, 2010. In Section 72 of the former Constitution, it provided for restriction of personal liberty in certain circumstances such as upon reasonable suspicion of that person having committed, or was about to commit, a criminal offence under the law of Kenya. Further, the proviso to this section provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the Section to the extent that the law in question authorizes the infliction of any description of punishment that was lawful in Kenya on 11th December, 1963. Therefore, under this section, academia who were suspected of being about to contravene the below discussed statutes could be arrested.

Section 79 of the former Constitution of Kenya guaranteed freedom of expression whereby it provided that except with one's own consent, no person was to be hindered in the enjoyment of that freedom, holding opinions without interference, receiving ideas and information without interference, communicating ideas and information without interference and freedom from interference with his correspondence. Unfortunately, this Section contained a proviso that back-tracked this freedom by providing that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Section to the extent that the law in question makes provision that is reasonably required in the interests of defense, public safety, public order, public morality or public health. The proviso laid a constitutional foundation for the enforcement of the Public Order Act and the Preservation of Public Security (that are discussed below) in muzzling academia from exercising their freedom of expression.

Further, Section 80 of the former Constitution guaranteed freedom of assembly and association. It provided for enjoyment of freedom of assembly and association where there is consent that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests. However, it, similar to other freedoms above, was overridden by interests of defense, public safety, public order, public morality or public health.

While the former Constitution had these retrogressive provisions in the Bill of Rights, it had remedial measures in case of contravention of those freedoms. Section 84 provided once a person alleged that any of the freedoms in Sections 70 to 83 (inclusive) were to be contravened, then one could apply to the High Court for redress. Further, if in proceedings in a subordinate court a question arises as to the contravention of any of the provisions of Sections 70 to 83 (inclusive), the person

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But some Sections of the former Constitution are still operational. See “Extension of application of provisions of the former Constitution” in Section 3 of the Sixth Schedule of the Constitution of Kenya (2010).
presiding in that court may refer the question to the High Court, unless the raising of the question is merely frivolous and vexatious. This is one of the strongest provisions that was used to protect academia against violations of their rights. It ensured that persons, including academia, who had their rights violated, could make an application to the High Court for compensation for the same.

3.2 Public Order Act (Cap 56 – Laws of Kenya)

The preamble to this Act states that it is, 'An Act of Parliament to make provision for the maintenance of public order, and for purposes connected therewith'. Section 5 of the Act provides for regulation of public meetings and processions. Further, subsection (2) provides for the notification of such a meeting shall notify the regulating officer of such intent at least three days but not more than fourteen days before the proposed date of the public meeting or procession. The regulating officer referred to in the Act was generally the police officer in charge of the police station under whose jurisdiction the public meeting or procession was to take place i.e. the Officer Commanding Station (OCS). This OCS was given powers to stop any such meeting by virtue of Section 5(4) of the Act, which provides:

"where, upon receipt of a notice under subsection (2), it is not possible to hold the proposed public meeting or public procession for the reason that notice of another public meeting or procession on the date, at the time and at the venue proposed has already been received by the regulating officer, the regulating officer shall notify the organizer."

Subsection 10 declared any public meeting or public procession contrary to the provisions of Section 5 of the Act to be an unlawful assembly and subsection 11 declares: "any person who takes part in any public meeting or public procession deemed to be an unlawful assembly under subsection (10), or holds, convenes or organizes or is concerned in the holding, convening or organizing of any such meeting or procession (to) be guilty of the offence of taking part in an unlawful assembly under Chapter IX of the Penal Code and liable to imprisonment for one year". Thus any academia found attending any public meetings or processions disallowed by the State were liable to imprisonment.

3.3 Preservation of Public Security Act (Cap 57 – Laws of Kenya)

Section 2 of this Act provides that the preservation of public security entails the prevention and suppression of rebellion, mutiny, violence, intimidation, disorder and crime, and unlawful attempts and conspiracies to overthrow the government or the Constitution. Thus, any activity by academia that was branded as a conspiracy to overthrow the government by the authorities could result in academia being treated as per the provisions of this act.
Section 3 provides that if at any time it appears to the president that it is necessary for the preservation of public security to do so; the president may by notice published in the Kenya Gazette declare that part shall come into operation in Kenya or in any part of the country. It further went on that: "...where a notice under subsection (1) has been published, and so long as the notice is in force, it shall be lawful for the President, to the extent to which this Act is brought into operation, and subject to the Constitution, to make regulations for the preservation of public security."

Therefore it is this section that was used and abused by the government of the day to make provision for detention without trial for those, including academia, who opposed it. Further, Section 7 (2) provides that:

"Regulations made under this Act may... make provision for the apprehension and punishment of persons offending against the regulations, for the imposition of penalties (including the penalty of death and the forfeiture of any property connected in any way with any offence) exceeding those otherwise permitted by law to be imposed by regulations, and for the trial of such offenders by such courts, not being courts martial, and in accordance with such procedure as may be provided for by the regulations."

This therefore gave legal authority for the setting up of the so-called 'Kangaroo Courts' to try persons suspected of offences under the regulations created. The same subsection further provided that such regulations may "authorize the search of persons and the entering and search of any premises, vessel, vehicle or aircraft." This provision enabled the entry of security agents in the work places and homes of academia to search for material considered seditious that could then be used against them in trial.

As part of implementing this Act, legal notices were published. These include: Legal Notice 263/1966, Legal Notice 234/1978 & Legal Notice 206/1986. Legal Notice 263/1966 declared that Part II of the Act has come into operation in Kenya. Legal Notice 234/1978 & Legal Notice 206/1986 contained the Public Security (Detained and Restricted Persons) Regulations. Section 3 (1) of those regulations state thus:

"A Kangaroo Court' is an unfair, biased, or hasty judicial proceeding that usually ends in a harsh punishment. These 'Courts' are also considered an unauthorized trial conducted by individuals who have taken the law into their own hands, such as those put on by vigilantes or prison inmates and often, these Courts' have 'judges' who are considered sham, corrupt, and without regard for the rule of law. See for details: http://legal-dictionary.thefreedictionary.com/Kangaroo+Court. accessed in July 30, 2011
“If the Minister is satisfied that it is necessary for the preservation of public security to exercise control over the residence and movement of any person, he may order that such person shall reside in the area therein specified, or in any place to which he may be ordered by a removal order to remove or be removed, in accordance with and subject to such conditions as may be specified in the order.”

Thus, the Minister in charge of security was given powers to order the house arrests for persons or restrict their movement to a specified area. Section 6(1) of these regulations provides that “if the Minister is satisfied that it is necessary for the preservation of public security to exercise control, beyond that afforded by a restriction order, over any person, he may order that person shall be detained.”

Further, subsection (2) of the same Section provides “where a detention order has been made in respect of any person, that person shall be detained in a place of detention in accordance with these regulations, for as long as the detention order is in force, and, while so detained, shall be deemed to be in lawful custody.”

Finally, subsection (3) states that “the Minister may at any time revoke a detention order.” These kinds of power for the Minister laid the foundation for the detention without trial for extended periods that academia faced.

3.4 Penal Code (Cap 63 of Laws of Kenya)

In the Penal Code, Sections 77 to 98 deal with unlawful assemblies, riots and other offences against public tranquility. Section 78 (1) provides:

“When three or more persons assemble with intent to commit an offence, or, being assembled with intent to carry out some common purpose, conduct themselves in such a manner as to cause persons in the neighborhood reasonably to fear that the persons so assembled will commit a breach of the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons to commit a breach of the peace, they are an unlawful assembly.”

Subsection (2) of this Section states further that: “it is immaterial that the original assembling was lawful if, being assembled they conduct themselves with a common purpose in such a manner as aforesaid”. When an unlawful assembly has begun to execute the purpose for which it assembled by a breach of the peace and to
the terror of the public, the assembly is called a riot, and the persons assembled are said to be riotously assembled as per sub-section (3) of Section 78. Further, Section 79 states that any person who takes part in an unlawful assembly is guilty of a misdemeanor and is liable to imprisonment for one year while Section 96 deals with incitement to violence and disobedience of the law, states thus:

"Any person who, without lawful excuse, the burden of proof whereof shall lie upon him, utters, prints or publishes any words, or does any act or thing, indicating or implying that it is or might be desirable to do, or omit to do, any act the doing or omission of which is calculated.... (c) to prevent or defeat by violence or by other unlawful means the execution or enforcement of any written law or to lead to defiance or disobedience of any such law, or of any lawful authority, is guilty of an offence and is liable to imprisonment for a term not exceeding five years."

Thus any academia who led public gatherings or processions which the government of the day was against, could be denied authorization to do so and thus be said to be assembled with intent to commit an offence and be charged under the above section rendering him liable to imprisonment for up to five years.

Conducting of boycotts by academia could also be crushed by enforcing the provisions of Section 98 which states that:

"Whenever the Minister is satisfied that any boycott is being conducted or is threatened or likely to be conducted in Kenya with the intention or effect of bringing into hatred or contempt, exciting disaffection against or undermining the lawful authority of the government....he may, by notice published in the Gazette, designate that boycott for the purposes of this section and may, by the same or any subsequent notice so published, specify in relation to a designated boycott any action which he is satisfied is likely to further that boycott."

Subsection 2 of Section 79 states that any person who, with intent to further any designated boycott—by word of mouth publicly or by making a publication as defined in subsection (7)—advises, induces or persuades or attempts to advise, induce or persuade any person or class of persons to take any action which has been specified in relation to that boycott is guilty of an offence and is liable to imprisonment for a term not exceeding six months.

Under the Penal Code, publications by academia that were critical of the authorities could be prohibited under Section 52, which states that where the Minister on reasonable grounds, considers that it is necessary in the interests of public order, health or morals, the security of Kenya, to be reasonably justifiable in a democratic society, the Minister may, by order published in the Gazette prohibit
the importation of any publication. Finally, Section 53 then provides the penalty for prohibited publications. It prohibits any publication from the relevant authority as illegal and liable to imprisonment for a term not exceeding three years.

Over the years, many Kenyans were convicted of charges of possessing prohibited or “seditious” publications. In the four years between 1986 and 1990, for example, over 80 people were convicted, including Charles Rukwaro, a mechanic who was jailed for six months for possessing a banned copy of Financial Review. However, no book has been banned in Kenya since 2002.22

3.5 Books and Newspapers Act (Cap 111 of Laws of Kenya)

In this Act, Sections 6 and 7 provide for a number of copies of books and newspapers published or printed in Kenya to be delivered to the Registrar and the Director, Kenya National Library Services. Section 11 further provides that:

"...no printing or publication of any newspaper printed in Kenya, unless there is in force, executed, registered and delivered by him to the Registrar as provided, a bond in the prescribed form in the sum of one million shillings, with one or more sureties as may be required and approved by the Registrar, as security for or towards the payment of any monetary penalty or damages or costs awarded against him in respect of any libel printed or published in the newspaper after the execution of the bond."

This Section gives the registrar powers to demand a larger number of sureties for persons who were considered anti-establishment when they sought to publish or print a newspaper. If anyone attempted to print or publish without following the provisions of this act, Section 19 provided that any police officer may seize any book or newspaper, wherever found, which has been printed or published, or which he reasonably suspects to have been printed or published, in contravention of this Act.

This section further empowered any police officer above the rank of Assistant Inspector to enter and search any place where it is reasonably suspected that any books or newspapers printed or published in contravention of this Act are being kept, without a warrant if he has reasonable cause to believe that the delay which would occur in obtaining a search warrant would, or would tend to, defeat the purposes of this Act. This provision was prone to abuse as police officers were empowered to enter and search premises of academia even without a warrant.

22Peter Mwaura, Time was when one could be jailed for having a book on Chinese geography” in Saturday Nation, November 26, 2011, p. 14.
3.6 The Various Statutes of Public Universities

The various university statutes are not very detailed in relation to provisions that could have been used to violate academic freedom. For instance, in the case, Republic V. Vice Chancellor JKUAT ex parte Cecilia Mwathi and Anor, the Jomo Kenyatta University of Agriculture and Technology (JKUAT) university administration relied on provisions in the terms and conditions of service between the university and applicants in taking disciplinary action against its lecturers. In particular, the university relied on Article 9.4 of its terms and conditions of service which states:

a) the vice chancellor has power to suspend a member of staff;
b) thereafter, the case shall be referred to a committee appointed by the council with powers to terminate for good cause;
c) the notice of such termination shall be, for a professor and other staff of equivalent grades, six months;
d) all other staff is 3 months; and
e) a member of staff thereafter has a right to appeal of three weeks from the date of receipt of notification of the committee’s decision.

The applicants in this case claimed to have been victimized on account of their being members of University Academic Staff Union (UASU) JKUAT Chapter. In regards to the Jomo Kenyatta University of Agriculture and Technology Act (No. 8 of 1994), Section 16 (1) provides that the governance control and administration of the university shall rest in the council. Subsection (2) states that the council shall have power to make after consultation with the senate, regulations governing the conduct and discipline of the students of the university. Section 20(3) provides that all members of staff shall be appointed by the council. The vice chancellor thus has no power to terminate lecturers’ employment but only suspend them.

The Court therefore held that this was not an issue for judicial review but a labour dispute. As per the new labour laws, the Industrial court would be the appropriate forum to address the issues. Thus application for judicial review denied. It appears that most details governing the administration of the university are contained in the terms and conditions of employment, code of conduct and other internal documents of the various institutions.

The various Acts just give general provisions, For instance, Section 13 of both the Kenyatta University Act and the Moi University Act are identical. In both Acts, it is provided that: “subject to this Act, the Council shall be the governing body of the University through which the corporation of the University shall act and..... may,
after consultation with the Senate, make regulations governing the conduct and discipline of the students of the University.” Section 15 of The University of Nairobi Act has similar provisions. These provisions could have been the basis relied upon by universities when they violated the rights of academia and students.

Other relevant provisions would be Section 10 of both the Kenyatta University Act and the Moi University Act which provide for the establishment of the office of the vice chancellor in the two universities and state that the vice chancellor shall be the academic and administrative head of the university and shall have such powers and duties as may be provided by the statutes. Section 11 of the University of Nairobi Act contains a similar provision. Thus the generality of this provision, (that is, the vice chancellor shall be the administrative head of the university) may have been the provision used by vice chancellors to take administrative action against academia who spoke out against the status quo which then resulted in a violation of the academic freedom.

4.0 CASE STUDIES OF ACADEMIA STRUGGLES AND VIOLATIONS

4.1 Background of Respondents

Most of the respondents and victims were academic staff and students of various universities at the time that academic freedoms were violated. Majority of the student respondents were mainly involved in politics in their respective campuses and were serving as student leaders, representatives in the student unions or simply human rights activists. For instance, Mwandawiro Mghanga, serving as the chairperson of the Student’s Representative Council (SRC) of The University of Nairobi in 1982, was arrested and tortured by officers from the Special Branch after the failed coup d'état in 1982.23

Further, the respondents from the academic staff were serving as lecturers and professors of respective universities. They were also members and leaders of the University Academic Staff Union (UASU) which, according to Chief Justice Willy Mutunga was “the organizing force of dissent among students, administrative and academic staff.”24 Most of the academic staff responded that they were targeted and tortured because of their strong activism within UASU and for advocating for freedom of thought and expression within the universities. For instance Prof. Korwa Gombe Adar, serving as the chairperson of UASU between 1994 and 1996, was arrested after UASU members went on strike. The strike was a protest against the government’s refusal to register UASU as a fully-fledged union.25

See Mwandawiro Mghanga, “Chronology of Persecution and Torture; Thursday, October 23, 2008”. This is an published narration by that survivors availed to KHRC by Wachira Waheire; one of our project researchers and the coordinator of the National Victims Network

See Willy Mutunga, in response captured in a questionnaire to the KHRC project researchers. This forms part of the KHRC’s victims database.
An interesting finding in this study is that more than 85 percent of the victims directly affected or involved were male and their ages ranged between 37 and 60 years. From the literature review conducted, there are very few documented cases of human rights violations against female members of academic staff or students. The cases documented are those where the women were arrested or tortured because of their spouses' activities or profession.

However, this Report devotes a part to the role of these women in the struggle, as captured in this Section.

4.2 Nature of Human Rights Violations

4.2.1 Arbitrary Arrests, Detention and Torture

Most of the respondents indicated that they were illegally confined and detained: mostly *incommunicado*. They were subjected to torture and other cruel, inhuman and degrading treatment and also faced trumped charges when taken to courts of law. Most of those victims were initially detained and interrogated at the Turkoman Carpet House (then an operational base for special branch police operatives that were monitoring The Nairobi University) and Nyati House. Other victims were detained and interrogated at the Criminal Investigations Department (CID) headquarters on Milimani Road and some finally at the Nyayo House when the state of the art torture facilities were operationalized in 1980s.

Other interrogation and detention centers were police stations and prisons such as the Kamiti Maximum Prison, Naivasha Maximum Prison, Shimo la Tewa Prison and Hola Prison, among others. According to Ngotho Kariuki, there were three main differences between prison and detention. First, in prison a victim was allowed one visitor per month which was not the case in detention. Second, in detention one was kept *incommunicado* but in prison one was at least allowed to interact with inmates. Finally, in prison a victim was engaged in some work regardless of it being forced, but in detention you were not allowed to work.

Further, academia were also subjected to compromised court proceedings and disciplinary processes whose outcome was already dictated by the ruling regime and university administration respectively. Thus, they were subjected to framed-up

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[2]See Prof. Korwa in his response captured in a questionnaire to the KHRC project researchers. This forms part of the KHRC's victims database.

This forms part of the KHRC's victims database.

[3]Turkoman Carpets and Nyati Houses, located at the junction of Muindi Mbingu Street and University way, and along Loita Street, respectively. The Special Branch has since been transformed into the National Security Intelligence Service (NSIS) currently headquartered at Thika road in Nairobi.

[4]Prof. Ngotho Kariuki, in his responses captured in a questionnaire to the KHRC dated February 1, 2011. This forms part of the KHRC's victims database.
charges of such insidious offences such as sedition, treason, illegal possession of so-called 'seditious publications' and army paraphernalia, or even being accused of being members of outlawed political movements such as *Saba Saba*, February Eighteenth Movement (FEM), *Mwakenya*, among others.\(^8\)

*Mwakenya* was a clandestine socialist opposition organization or a 'united front' that came into existence sometime after June 1985 following a series of talks between members of the December Twelve Movement and other groups operating in London. Its major activities centered on the publication and distribution of its underground literature calling for all patriots to radically change the oppressive Moi government.\(^9\) Most of the respondents indicated they were arrested and tortured on account of being suspected to be members of this underground movement. During the interrogations and torture conducted by the special branch agents, the respondents indicated that they were being forced to confess to being members of such movements.

Moreover, reports by *Africa Watch* indicate that J. Martin, a lecturer in public law may be one of the first scholars to experience the wrath of the impervious state and university environment. He was detained by the police and charged with sedition in 1974. He was released before serving his sentence.\(^30\)

In January 1978, Ngugi wa Thiong'o, the country's leading novelist and chair of the Department of Literature at The University of Nairobi (UON) was arrested. He was detained without charge.\(^31\) Moreover, his open air theatre based at Kamiriuthu in Limuru was banned and closed down. According to a statement by Josiah Wamani, there was a procession in November 1979 demanding Prof. Ngugi's return and free and fair elections in Kenya. Consequently, many students were expelled, exiled, accosted and hounded by the regular police and special branch police.

Further still in 1979, Prof. Peter Anyang' Nyong'o was briefly detained for giving a report to the press on the opposition in South Africa. Prof. Nyong'o was a senior lecturer, teaching political science at the then Department of Government (University of Nairobi), which is currently the Department of Political Science and Public Administration.

\(^{28}\) *Saba Saba* is Kiswahili for 'seven-seven'. This day denoted the seventh day of the seventh month with its origins on 7th July 1990, when many political and human rights activists went out to the streets demanding for multiparty democracy and an end to political repression in Kenya. Since then, it has remained a formidable rallying call and day for demanding for reforms in Kenya, and is to date celebrated, the last celebrations being in 2010. See http://allAfrica.com/stories/201007061252.html, accessed Wednesday, October 26, 2011

\(^{29}\) The key publications were *mpataniishi* (the reconciliatory) and *mzalendo* (the patriot). See also, Friedrich Ebert Stiftung (FES) and Citizens for Justice (CJ); *We Lived to Tell: The Nyayo House Story*, Nairobi: p. 24. Although this book lacks date of publication, it was published in 2003.

\(^{30}\) Report by *Africa Watch*, op cit.

\(^{31}\) Ibid
Generally, the 1980s and 1990s marked the period when most of the academia and students were grossly violated. The 1980s will be remembered as the darkest decade when President Moi was struggling to popularize, centralize and consolidate his rule. As noted by Adar and Munyae:

"His grand design turned out to be a strategy geared toward the achievement of specific objectives, namely, the control of the state, the consolidation of power, the legitimization of his leadership, and the broadening of his political base and popular support. It turned out this strategy called for little respect for human rights".  

In March 1981, the demonstration called by student leaders in support of doctor's strike among other repressive actions by the Moi administration led to the arrests and exile of such students and their leaders as Makau Mutua, Odindo Opiata among others. Two months later, lecturers Ooki Ooko Ombaka, Micere Mugo, Michael Chege, Mukaru Ng'ang'a, Okoth Ogendo, Atieno Odhiambo, Peter Anyang' Nyongo and Shadrack Tutto had their passports seized following the riots where lecturers were protesting around welfare issues and against the political repression at the University of Nairobi. According to Odindo Opiata, he was arrested and detained twice in March 1981 around 2100hrs and March 1986 around 1300hrs. He narrates the following personal experiences at detention:

"First, detention was for five days and save for being held in incommunicado, there was no physical torture. The second detention lasted for about two weeks at the underground cells at Nyayo House was accompanied with harrowing physical torture including being in a 6 by 6 water drenched cell with no food for days. This was followed by a forced confession that led to a 4 year imprisonment at the Kamiti Maximum prison."  

In 1982, many lecturers and students were arrested and detained especially following the failed coup d'état in August 1982. These include: Alamin Mazrui, Edward Oyugi, George Katama Mkangi, Kamoji Wachiira, and Willy Mutunga among others. According to Prof. Edward Oyugi, he was a senior lecturer at Kenyatta University when he was arrested in June 1982 and July 1990.

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36 During his first and second arrests, he was an undergraduate and post graduate law student at The University of Nairobi. Currently, Odindo is the Executive Director of the Centre for Economic, Social and Cultural Rights (HakiJamii).  
37 Quoted from Odindo Opiata's, in his responses captured in a questionnaire to the KHRC. This forms part of the KHRC's victims database.
He was detained and tortured at Kamiti, Shimo La Tewa, Hola and Naivasha prisons.\(^3\)

Dr. Willy Mutunga posits that he was subjected to false arrest, illegal search and trumped-up charges of sedition and detention without trial. He thus narrates the following ordeals during his incarceration:

"I was in prison from June 10, 1982 until I was released in October 20, 1983. I was detained in Kamiti, Shimo la Tewa and Hola prisons. I did not have communication with my family on regular basis; and did not get enough books to read; was fed with food that did not constitute a balanced diet; although I received great medical attention and treatment, it was always delayed."\(^4\)

Prof. Alfred Sanya was also targeted following the attempted coup of 1982. Sanya together with Raila Odinga and Otieno Mak'Onyango were arrested on August 15, 1982 and taken to General Service Unit (GSU) headquarters.\(^5\) At this facility, they were tortured, held *incommunicado* and finally released on March 23, 1983, after the State terminated/withdrew the charges. They were later re-arrested at Nairobi Law Courts and each one of them put in different vehicles and driven to Nairobi area police, and finally to Kamiti Maximum Prison.\(^6\)

Moreover, David Onyango Oloo then a student at the University of Nairobi was imprisoned three times — August 4, 1982 to May 11, 1987; September 10, 1987; and also, October 28, 2005. He was arrested, tried and convicted on sedition charges. He was held at Kamiti Maximum Prison where he was subjected to many human rights violations. According to his testimony:

"I was arrested in the aftermath of the 1982 abortive coup, en route to my home in Mombasa. I was found with a draft handwritten essay speaking on the role of students and youth in fighting for democracy, peace and social justice. This document was deemed seditious. At first was charged with possession of seditious publication. This was upgraded to sedition. Prosecution tried to coerce me using my lawyer Richard Otieno Kwach. When I refused, I was tried in a 'Kangaroo Court', found guilty jailed for five years. I was deprived of remission."\(^7\)
Further, another victim, Wahinya Bore was arrested following the failed coup in 1982. He was jailed for 6 years and tortured at Nyati House and later at the GSU Training School in Embakasi.

Prof. Ngotho Kariuki was arrested in March 1986 and then again on July 11, 1990. He was held at Nyayo House from March 6th to 22nd, 1986 when he was detained. At Nyayo house, he was stripped naked and put in a cell clogged with water. He was blindfolded and could not tell whether it was day or night and taken by a lift to the 24th or 25th floors where he was interrogated by a panel of 20 to 30 police officers about his alleged Mwakenya links and subversive activities.

When Ngotho refused to confess his alleged involvement, a certain officer, Opiyo (named by many victims as one of the most notorious torturers) brought a 10-page confession which he was required to sign but he refused and tore the document. This was when the beatings started with whips, broken pieces of chair/table legs, until he was left for dead. Later Opiyo came with another team of two officers. Opiyo stepped on Ngotho's back where he was lying on the floor and since then he has been having a problem with his spine due to permanent damage. Ngotho was again put in a water clogged cell with simulated sounds of beatings, screams and movement of chairs. Finally, Ngotho was also at one time put in a cell where there was a snake at a corner which had the effect of instilling so much fear that he could not move.

Another victim, Njuguna Mutahi, asserts that he was arrested when he was a fresh graduate at The University of Nairobi's School of Journalism in 1986. He was tortured and detained at Nyayo House for 30 days and was later jailed for 15 months. Wafula Buke, the chair of Students Organization of Nairobi University (SONU), was arrested on November 16, 1987. He was tortured for 16 days at Nyayo House and finally imprisoned for 5 years at Kamiti, Naivasha and Bungoma prisons in the 1980s and 90s.

Further, many respondents indicated cases whereby detainees disappeared and applications of habeas corpus (production of a person before a court) proved to be ineffective. A case in point is that of Gibson Kamau Kuria, a lawyer and law lecturer, who became the subject of a habeas corpus application after having submitted a similar application on behalf of Mirugi Kariuki in 1987. After the application, Gibson Kamau 'disappeared' and the application for habeas corpus on his behalf was rendered useless after the State Attorney, Bernard Chunga and the Assistant Deputy Public Prosecutor produced a detention order against him. This detention order was issued under the Public Security Regulations on 6 March 1987, eight days after his arrest.

See Wahinya Bore in his responses captured in a questionnaire to the KHRC. This forms part of the KHRC's victims' database.
See Njuguna Mutahi in his responses captured in a questionnaire to the KHRC. This forms part of the KHRC's victims' database.
Wafula Buke in his responses captured in a questionnaire to the KHRC. This forms part of the KHRC's victims' database.
Njuguna Mutonya notes in his statement that he was arrested in Kwale in April 1989 and later transported to Mombasa where his house was searched and his personal materials confiscated. He was later driven at night to Nairobi where he was locked up in Kilimani Police station, then taken to Nyayo House torture chambers for 12 days where he was forced to sign a conviction under threat of death or detention. He was taken to court after normal working hours where he was convicted to serve 4 years. He was incarcerated at Industrial Area prison, Kamiti Maximum prison in January 1989.

Prof. Korwa Adar was arrested and detained at different police cells in 1994-1996. He was then the chairperson of the just resuscitated Universities Academia Staff Union (UASU). Ndolo Asasa was the Secretary General to the Egerton University Students Organization (SUEC) when he faced torture and detention between 1994 and 1996.

During the Kibaki era (2003-to date), there continue to be student cases that are critical. First, the case of Moses Wanjala Nandalwe: a student leader at Kenyatta University. He was first arrested by the CID officers on February 26, 2009 and taken to Kasarani Police Station before he was moved to the Industrial Area where he was detained without trial for 8 months. This happened after the university students had been agitating for academic freedom, against grand corruption and highhandedness by the university management. He was finally expelled on October 15, 2009.

Moses was arrested again in January 2010; an hour before President Mwai Kibaki arrived at the University to address the students. He was detained at Kasarani Police Station for a week without trial. He was further arrested at the University of Nairobi while agitating against the disbandment of SONU on May 18, 2010. At this time he had been legitimately elected as the Secretary of the Universities' Student Leaders Association-Kenya (USLA-K.) He was subsequently detained incommunicado at the Central Police Station for three days without trial.

The second case is that of John Ngaruiya, the chairperson of SONU in 2004. He was harassed by police when he was agitating for the students' academic freedoms at the University of Nairobi. He was expelled and threatened to be assassinated. He fled to South Africa and came back in the year 2008 and joined the University of Nairobi once again as a student. He was rigged out as he tried to vie again for SONU Chairman. University administration expelled him again for the second time without explanation of gross misconduct.

"Njuguna Mutonya was then a civil servant and was serving as a District Information Officer in Kwale in 1986. He was victimized because of his activism and association with struggles at the University of Nairobi (1980-1984). He lives in Mombasa where he writes for local and international media on politics, human rights, environment and culture. See his responses captured in an undated and signed questionnaire to the KHRC. This forms part of the KHRC's victims' database. His story is also captured in his book Crackdown, published by JC Books and Press in 2011 and serialized by Saturday Nation: A Journalist's Personal Story of Moi Era Purges", February 12, 2011, pp. 41-42.

"See the information captured in the interview with and questionnaire from this respondent.

"See Moses Wanjala Nandalwe, “Human Rights Violations in the Institutions of Learning”. This is a human rights violations report he compiled for the KHRC in October 2011.

"See Moses Wanjala Nandalwe, “Human Rights Violations in the Institutions of Learning”. This is a violations report compiled by this researcher for the KHRC in October 2011.

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4.2.2 Unprocedural and Politically-motivated Dismissals

From the 1970s to date, dismissals have been applied to punish both the students and lecturers, academically, economically and emotionally. Most of the protests by either students, lecturers, or both, led to victimization where the suspects are expelled without fair hearings within or outside the universities. For lecturers, most of their dismissals have been executed without considerations of the salary provisions among other material needs and livelihoods issues. A big chunk of the lecturers who were detained ended up in summary dismissals. Since the crackdown began in 1970s, thousands of students and their leaders have been expelled from public universities owing to their political activism.

The case of Prof. Daniel Mugendi is worth mentioning. Mugendi was the Deputy Vice-chancellor, Planning and Development, at Kenyatta University (KU) when he was sacked over allegations of insubordination after he declined to put a signature on a 645 million overdraft of August 11, 2011. He was sacked on September 26, 2011 after being accused of threatening the Vice Chancellor (VC) Prof. Olive Mugenda. The university administration went ahead and banned him from accessing the university and enjoying his privileges like medication and academic duties. Mugendi was traumatized and underwent psychological torture because he could not even be allowed to visit his wife who works in the institution and his two sons who study there.

Consequently, he filed a Constitutional application challenging his suspension in September 9, 2011. The court issued orders on September 21, 2011 directing that he be given allowances, the official car, and access to medical facilities, and to the university premises. He filed another application against the VC, Prof Mugenda; the chairperson of the University Council, Benson Wairegi and Eliud Mathiu (member) for disobeying the court order to pay him. This application for contempt of court together with the earlier one for reinstatement were dismissed by the High Court in November 5, 2011. In her submission, Justice Grace Mumbi Ngugi ruled that from the pleadings, there was nothing to suggest that Prof. Mugendi's rights were violated: "had there been any evidence of violation of rights, this court would have been able to give appropriate orders, what is before court in an employment contractual disagreement." Justice Mumbi concluded that the Constitutional Court has no jurisdiction to hear and determine the dispute, adding that the matter should have been filed before the industrial court.

"Paul Obemba, "Court dismisses case against KU varsity managers", in Daily Nation November 5, 2011, p. 8
Further, Prof. Sammy Kubasu also experienced violations as manifested in Box 1 below.

**Box 1: Prof. Sammy Kubasu in 2010**

Prof. Kubasu went to Bushiangala primary school, Musingu secondary school and Njoro high school before joining the University of Nairobi where he studied medical entomology. He got his PhD in medical entomology and parasitology from Kenyatta University in 1997. His Master’s and PhD studies were funded by a German Foundation on the basis of his need and merit.

Kubasu rose to become the head UASU. On May 20, 2010 lecturers voted to keep him as their national chairperson. On March 25, 2010, he was re-elected secretary general of the UASU chapter at the Masinde Muliro University of Science and Technology (MMUST).

In September 2010, MMUST fired him from his associate professorship for declining appointment as departmental chair. He says he declined the offer because his many duties as UASU chair, including negotiating with the university and government and for personal reasons. He noted that he could not do effectively as part of the university management. “There are many things that I can do, but I want my job back because it is the passion of my heart”, he told the *Sunday Nation*. UASU is filing a case in the industrial court over the matter.

When the 4,500 strong lecture’s union threatened to strike until he got his job back. Hon Dr. Kilemi Mwiria, an Assistant Minister for Higher Education, Science and Technology hurriedly organized talks between the union and government and promised that Prof. Kubasu will get his job back by the start of the year. But that has not happened.

A letter he received a few days ago from the MMUST appeals committee supported the termination of his contract, saying none of his rights, or the Constitution, was violated in his sacking. While his job description hands him the task of protecting and defending the rights of lecturers, ironically, it is his rights that he been infringed upon.

In December last year, Dr. Mwiria told Parliament that if by January 2011 he would not have been reinstated, then he can be blamed for frustrating Prof. Kubasu. Dr. Mwiria noted that: “The University gave him two options, to accept or reject the new job offer, but fired him when he made his choice”. Ironically, his tribulations came at a time when Dr. Mwiria, a victim of past arbitrary firing from universities himself, is heading the Higher Education Ministry. Some of Dr. Mwiria’s issues are captured in this report.

Without a source of income, his family is greatly suffering. Most of his children are in school. His first born is unemployed holder of Masters in Business Administration (MBA), the second born studying at the Kenya School of Law, and, the third born a fresh graduate of Business Administration?

(Source: Nyambega Gisesa, 2011 – *Sunday Nation*)

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**Nyambega Gisesa, 'PhD and all, Prof. Kubasu wastes away in village Barazas' in Sunday Nation, June 19, 2011, p. 10**
4.2.3 Unlawful limitation of Freedom of Expression

Through the confiscation of academic literature, publications and printing presses (for those in the printing and publishing fields); censoring of the academic syllabus, lectures and other materials and forums meant to foster informed public debate and engagements, academia suffered seriously. The KANU government for instance began to exert control over the public lectures given on the campus by outside speakers. Outside speakers were required to obtain a permit from the Vice-Chancellor, a government appointee, who frequently stated that if a professor attacked government policy in class, they would not be paid. Most of the publications and teachings bordering on radical political discourses or revolution such as Marxism or other 'foreign ideologies' were banned.

These repugnant tactics by the government were employed contrary to the civil and political rights which were safeguarded in the Constitution of Kenya, the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples Rights (ACHPR).

4.3 Role of Women Academia in the Struggle for Change

4.3.1 Introduction

Women (both academia and non-academia) played varied roles in the struggle for democracy in Kenya. They suffered dire consequences for their involvement. Most of the women were arrested, detained and tortured leading to gross abuse of their academic freedom and human rights. Unfortunately, most of the women who struggled have rarely been recognized. Professor Makau Mutua attributes the male dominance and visibility in this struggle to patriarchy by noting:

"We know that the public square, especially open politics has largely been a man's domain in Kenya. But it is because of male chauvinism that historically, the leading reform advocates have been men. This means that while the men were detained and persecuted, their wives, children and partners became the invisible victims."

Makau also notes that many women struggled in the front lines with men, just as many others held families together at great odds. Not even KANU could break their will to live. In many cases, the women became the breadwinners, some lost jobs on punitive circumstances and children were kicked out of schools and traumatized. To the State, women and children associated to male democracy activists were mere collateral damages. Odinda Opiata opines thus:

"I think in the initial stages of this struggle when the regime was too brutal, many women tended to avoid situations that would expose them to the extreme violence that was the modus operandi of the state apparatus—for the simple and logical reason that violence against women is usually more brutal than violence against men, but it is obvious that the women played a less visible and extremely important role as the covert supporters of the resistance movement hiding materials, passing information and providing places to hide during times of crackdown."

Below are case studies of the various struggles by Kenyan women, and violations to women academia, within Kenyatta, Moi and Kibaki regimes.

4.3.2 Philemena Chelagat Mutai

Philemena Chelagat Mutai will be remembered as one of the few pro-change advocates in Kenya who began their engagements with powers that-be from secondary school, then moved with increased vigour to university and finally to parliament.

Chelagat was born in 1949 at Terige village in Lessos, Nandi District. She started her profile as a firebrand activist and politician at a very young age in high school. While at Highlands Girls School, she earned her first expulsion after leading a students' strike. Chelagat sat for her A-level examinations from outside the institution but to the surprise of many, excelled and joined the University of Nairobi to study Political Science. At the University of Nairobi she continued with her activism and was a lead editor of the student paper, University Platform, which was shut down in 1972 following the spate of heavy crackdown by the KANU regime on dissident academic staff and students.

During this time, she was expelled along other university students for opposing the government's decision to close down the university for a few months after students protested and boycotted classes when the late Oginga Odinga – the leader of the opposition party, was barred by the government from speaking at the then University College of East Africa (currently, University of Nairobi).

Chelagat was elected to Parliament in 1972 to represent Eldoret North, taking up a seat that became vacant after her uncle, the late William Saina, was jailed for incitement. At only 24, she trounced 12 other candidates to become the country's youngest legislator and the first woman legislator from the Kalenjin Community.

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5 Responses by Odindo Opiata as captured in his questionnaire to the KHRC
6 The Standard, Wednesday, June 22, 2011 p. 6
Chelagat rose to the national limelight after the then Attorney General, Charles Njonjo, named her as one of the “seven bearded sisters” in reference to a group of MPs whose fiery debates in Parliament gave the KANU regime sleepless nights. During her tenure as an MP, Chelagat was arrested and jailed for six months after she complained of land-grabbing and accused of inciting her constituents to invade a plantation in Ziwa. After completing her jail term, she returned to parliament but continued with her firebrand advocacy against the then ruling regime and liberation struggle. She was hunted by the KANU government because of her militancy and was accused of falsifying mileage claims alongside other MPs and was due to be arrested when she fled to Tanzania in 1983 to escape a second twist in jail.

After losing her parliamentary seat in 1984, Chelagat took up a job at a bank in Nairobi but subsequently lost it. In those days, it was impossible for democracy activists to survive as professionals in public and private sector jobs. Thus, Chelagat eventually left for her village in Nandi where she took up farming. However the frustrations of her political life led her to battle briefly with alcohol. Chelagat later relocated to Nairobi’s Kasarani estate where she was hosted by her long-time friend and former house help, Jane Wanza.

Chelagat suffered a spinal injury following a road accident in 2006 which has pushed her to the verge of destitution. In 2009, she withdrew Kshs. 1 million from a retirement kitty for former MPs to be able to pay her hospital bills at Nairobi Hospital. Upon realizing that her medical bills were becoming too expensive, she retreated to seek medical care from the clinics in Kasarani estate.

It was not until after Chelagat wrote to the Hon. Raila Odinga (Prime Minister, Republic of Kenya) seeking some assistance that her story and her plight came to the public limelight in June 2011, yet she is considered as one of Kenya’s premier woman liberator. Raila and Hon. James Orengo (Minister for Land) have facilitated for her to be taken to the Nairobi Spinal Injury Hospital where she is receiving medical attention. According to Hon. James Orengo, Chelagat “took the KANU Government head on, long before the others [seven bearded sisters] came to the scene. She helped to change the political landscape so that people can face the state.” Hon. Raila Odinga adds thus: “we thank her because she is among those whose contribution has made Kenya what it is today.”

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1. The other “six bearded sisters” were: Onyango Midika (Nyando), Koigi Wamwere (Nakuru), George Anyona (Kitutu East), Chibule wa Tuma (Kaloleni) and Mwashegu wa Mwachofi (Wundanyi). The Standard, Wednesday, June 22, 2011.
2. Sunday Nation, June 26, 2011
3. Ibid
4. The Standard, Wednesday, June 22, 2011
5. Ibid
6. The Standard, Wednesday, June 22, 2011
7. Ibid
8. The Standard, Wednesday, June 22, 2011
10. The Standard, Wednesday, June 22, 2011

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4.3.3 Prof. Wangari Maathai

The Late Professor Wangari Muta Maathai was one few remnants (from both the academia and political class) who kept their resistance and resilience against bad governance, from the Kenyatta era to date. She was widely renowned for her strong advocacy work on environmental and political reforms. Over the years Wangari locked horns with the government on issues ranging from governance to the failure of the government to defend the human rights of ordinary Kenyans and to its short-sighted economic and environmental policies.

Wangari was born in Nyeri district in 1940. She obtained a degree in Biological Sciences from Mount St. Scholastica College in Atchison, Kansas (1964). She pursued her doctoral studies in Germany and the University of Nairobi, obtaining a Ph.D. (1971) from the University of Nairobi where she also taught veterinary anatomy. She became chair of the Department of Veterinary Anatomy and an associate professor in 1976 and 1977 respectively. During this time, Wangari campaigned for equal benefits for the women working on the staff of the university, going as far as to attempt to turn the academic staff association of the university into a union, in order to negotiate for benefits. The courts denied this bid, but many of her demands for equal benefits were later met.

Following the establishment of the Environment Liaison Centre in 1974, Wangari was asked to be a member of the local board, eventually becoming the chair of the board. The Environment Liaison Centre worked to promote the participation of non-governmental organizations in the work of the United Nations Environment Programme (UNEP), whose headquarters was established in Nairobi following the United Nations Conference on the Human Environment held in Stockholm in 1972.

Wangari became involved in politics herself when she joined the National Council of Women of Kenya (NCWK) in 1976-87 and was the Chairperson of this Council from 1981-87. On Earth Day in June 1977, Wangari put her plan into action by planting seven trees to honor Kenyan women environmental leaders. Later that year, with backing from the National Council of Women, the budding environmentalist quit teaching and formed the Green Belt Movement.

As the Green Belt Movement expanded, Wangari found herself increasingly at odds with the Kenyan government. Wangari became an outspoken advocate for environmental policy reform; she also held seminars to educate citizens on holding government officials accountable for managing natural resources. One of Wangari’s first public confrontations with the government came in 1989 when she openly protested the building of a US$ 200 million, sixty-story skyscraper in Nairobi’s Uhuru Park that was slated to be used for government offices. During the protests, Wangari was beaten and jailed for her campaign against Moi’s KANU regime.

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60 See http://www.greenbeltmovement.org/w.php?id=3 accessed on August 4, 2011
61 Thus becoming the first woman in East and Central Africa to earn a doctorate degree
63 See http://www.guardian.co.uk/world/2011/mar/08/wangari-maathai-100-women accessed on August 14, 2011
In 1991, Wangari formalized her political activism by co-founding the Forum for the Restoration of Democracy (FORD). As a result of this she became a particular target of Moi's crackdown on dissenting voices. For example, in 1992, while participating in a hunger strike with mothers who were protesting the imprisonment of their sons—men who were pro-democracy activists—Maathai was brutally beaten and jailed by police. According to Wangari and the women, they had been beaten and jailed because they had voiced their support for an end to the one-party rule that was in place during Moi’s regime.

Four days after the women began their strike in Uhuru Park, riot police launched a sustained assault on the protesters, lobbing tear gas canisters at them and beating them. Wangari herself was clubbed into unconsciousness and was later hospitalized. The beating continued even after the women, who were unarmed, defended themselves by stripping naked, an act that is believed in some African cultures to bring on a curse to the perpetrator.

Throughout the 1990s, Wangari was arrested, imprisoned, and intimidated time and again for speaking out against the Moi administration. She remained undaunted however, and even made several attempts to run for public office. During her term in parliament, Wangari worked to enact laws to protect not only the environment but also women's rights and human rights. She served as the MP for Tetu constituency from 2002-2007. Wangari was simply, “unbowed” and as notes in her autobiography titled *Unbowed: One Woman's Story*:

“I had been publicly humiliated during my divorce and denied re-employment at the University of Nairobi because I had dared to challenge the ruling party [KANU]. Indeed, it was almost the price I had to pay to be free.”

For her lifelong dedication to political reforms and the promotion and protection of environmental and human rights, Wangari has received numerous awards, including the Goldman Environmental Prize, the Right Livelihood Award, and the United Nation's Africa Prize for Leadership. In 2004, Wangari was honored with the prestigious Nobel Peace Prize. Wangari was the first black woman and environmentalist to receive the Nobel Peace Prize. She passed on in September 25, 2011. May the Lord rest her soul in eternal peace.

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"Named after Swedish industrialist Alfred Nobel (1833–1896), the award is given annually by the Nobel Committee to individuals or organizations that work to promote peace, resolve conflict, or uphold human rights.
4.3.4 **Prof Micere Mugo**

Professor Micere Githae Mugo is a Kenyan scholar, poet, playwright and a veteran democracy activist. After attaining her master's degree in 1973, she was a lecturer at the University of Nairobi where she rose up to become the first woman Dean in the Faculty of Arts. Micere was a political activist who became active in leftist politics and was in the front line in fighting against human rights abuses in Kenya that were very rampant with the government of the day.

Micere's central involvement in activism and critics to the government against human rights abuses led to her arbitrary arrest, police harassment and being remanded. At one time, Micere was arrested and detained in a jail cell with only men. In 1982, Micere went into exile as she was among the major targets of the police for her role in activism and critics to the government on human rights abuse. Since 1984 she has been a citizen of Zimbabwe. Currently, Micere teaches African American (Pan African) studies at the Syracuse University in New York, USA. She is also a consultant for many foundations and has been an official speaker for Amnesty International.66

4.3.5. **Mumbi wa Maina (Kinyatti)**

Mumbi is the wife of the famous Maina wa Kinyatti; the latter being a lecturer at Kenyatta University in early 1980s. When her husband was imprisoned in 1982, Mumbi campaigned for his release and she was subsequently arrested. On 2nd June 1982 plain-clothes officers attached to the Criminal Investigation Department (CID) came to search their house and when Mumbi requested their search warrant, the officer in charge told her that they could enter anyone's house twenty four hours a day and that a warrant was not necessary.

With a lot of harassment from the police during the search, Mumbi stood firm and even demanded a list of all the items the police had taken away from her house. In April 11, 1987, Mumbi was seized and detained by Kenyan police officers at a drama festival in Embu for three days. In April 20, 1987, she was arrested and held *incommunicado* for 24 hours. This was a time when the opposition to president Moi's government appeared to be growing rapidly. Together with Maina they were granted political asylum in Canada but their relatives in Kenya continued to be harassed by government authorities.67

4.3.6 **Ida Betty Odinga**

Ida was born in 1950. She is a teacher by profession and has taught for a period of over 20 years since she graduated from the University of Nairobi with a Bachelor of Arts in 1974.85


She has been very instrumental in Raila Odinga's political tribulations and political journey which has eventually seen him rise to the position of Prime Minister in 2008. For more than two decades, Ida came to be known as the face of defiance to injustices and intolerance that was witnessed during Moi's KANU regime.

According to Makau Mutua, the late former Police Commissioner Phillip Kilonzo for instance took particular delight in persecuting her. The idea was to break her will and that of her husband, Raila Odinga, who was then a detainee. During Raila's arrest, re-arrest and detention between 1982 and 1988, he became known as the 'longest political widow'. However, she persevered and successfully raised four children amidst this torment.

Ida's untold suffering during Raila's detention and the period in which he fled the country to Norway, led her to found the League of Kenya Women's Voters in 1991 where she served as National Chairperson. Her major aspiration as chairperson of this leading women's institution was to advocate for women's participation in politics and the end to decades of women's suffering with regards to poverty, human rights abuses and domestic violence.

In 1992, she joined the group of mothers and women who went on hunger strike to press for the release of their sons and relatives. She recalls: "Long before Freedom Corner, a group of women has started meeting regularly to share their experiences. I remember meeting with Elizabeth Matenjwa, Milka Wanjiku, Monica Wamwere and Gladys Kariuki whose sons were among those detained." She concludes that it was women who kept the flame burning by ensuring that issues around political detainees remained in the limelight so the public would not forget those who had given their all for the sake of change.

In May 2009, Ida was nominated and accepted to serve as the Ambassador for Freedom from Fistula and has recently launched a programme that mentors girls to stay and complete their education. She is also celebrated for her great mentorship role of many young women into leadership and into various high level offices in Kenya. Finally, she is considered as one of the first women in Kenya to head a major private sector organization since 2003, she has been the Managing Director of East Africa Spectre.

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*Lilian Aluanga, "Ida Odinga: I was sacked because of visiting the women" in Standard on Saturday, October 22, 2011 p. 25.
*Ibid*
4.3.7 Other Women

Florence Nyaguthie Murage was an administrative officer at the University of Nairobi. She was falsely charged with possession of 'seditious material', *Africa Confidential* (which was not banned in Kenya) but which had content that offended the KANU regime. This issue had an article entitled "Security Home Boys" which listed members of President Moi's ethnic group as having dominated all the branches of the security forces as well as the civil service and businesses.74

Florence was arrested alongside seven other prisoners of conscience in the early 1990s during the heavy crackdown on dissenting voices that was being carried out by President Moi's regime. She says her torture experience was mainly psychological especially the anxiety surrounding her arrest. She adds "I was held in isolation for the days that I was in prison. I was forced to wear a lice infested uniform and walk barefoot. I had only one blanket which could not keep me warm and the prison food was also bad."75

Another woman, Shalmat Naum Kasim was the vice-chair of Kenyatta University Students Association (KUSA). She was arrested on 26th August 2010 over her campaign against high level of corruption and the highhandedness and intimidation of the students union under the leadership of the vice-chancellor, Prof. Olive Mugenda. Shalmat was taken to Kasarani police station before she was ferried to the Industrial Area remand, where she was detained without trial. She was released after two weeks and thereafter suspended from the university up to date. She underwent trauma and psychological torture.76

Winnie Mukiri was arrested on 17th March 2010 from the University of Nairobi and taken to Central Police Station. This happened when tension was very high after the university administration tried to rig in its favorite candidate during the 2010 SONU elections. She was harassed and maimed by police before she was taken to a cell at the Central Police Station. After she was released, Winnie was suspended from campus up to date. The government has never bothered either to assist or to look into the issue. She also underwent trauma and psychological torture.77

Many of the other women who suffered out of the heavy government crackdown on academia were the spouses of the men detained. This group of women suffered psychologically because they faced ostracization from their neighbours following the arrests of their husbands. During the crackdown, whole families were

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74Amnesty International Report “Kenya: Silencing Opposition to One-Party Rule”

75See publication on “We Lived To Tell - The Nyayo House Story”, *op cit* p. 54.
This was accessed in July 29, 2011.

76See Moses Wanjala Nandalwe, “Human Rights Violations in the Institutions of Learning”. This is a human rights
violations report compiled by this researcher for the KHRC in October 2011.

77See Moses Wanjala Nandalwe, “Human Rights Violations in the Institutions of Learning”. This is a human rights
violations report compiled by this researcher for the KHRC in October 2011.
by the police agents who conducted impromptu house searches. In most families, the men were their sole breadwinners hence the wives had to adjust to providing for their children. Wahu Kaara says that coping with life was not easy during the time that her husband Kaara Macharia was in exile. She said that she and her family were constantly under surveillance by the agents from Special Branch. She had to learn to adapt on how to interact with her neighbours as she tried to lead a normal life. 79

The mothers of political prisoners are yet another group of women who played a key role in the fight for democracy in Kenya. The dramatic protest that these mothers staged at Freedom Corner serves as a good example of women who knew that their role as mothers included fighting for human rights and justice. Some of these women, such as Njeri Kabeberi, Wahu Kaara, Wanjiru Kihoro, among others, were political activists in their own right. 79

4.4 Perpetrators involved in violating the Academia’ rights

The main perpetrator responsible for violations of academic freedom was the KANU political dictatorship through the former presidents especially Jomo Kenyatta and Daniel arap Moi. Second, the security agents of government, especially the then Directorate of State Intelligence (DSI), also code named the Special Branch, and the prisons officers were the second level of perpetrators. Third, University Senates and their security departments at the University of Nairobi, Kenyatta University, Moi University, Egerton University, Maseno and Jomo Kenyatta University College of Agriculture and Technology, Masinde Muliro University of Science and Technology were, strangely, also culpable for violations of academic freedom. Fourth, the executioners of these violations were the torturers namely Messrs James Opiyo, Limo, Elias Mjomba, Mathenge, Mureithi, Machiri, Kingori, Majani among others. Some of these still ‘roam free’ in Kenya today, and with impunity. Finally, blame can also lie in the entire Kenyan society, especially by stigmatizing and ostracizing the political/democracy activists and their families.

4.5 Why 'Join the Boat'? The Sacrifices

Most of the survivors joined this struggle in order to protect and promote academic freedom and freedom of expression in the society. According to Prof. Mazrui academic freedom is also general freedom of expression for teachers and students need the necessary intellectual infrastructure for mental development and intellectual creativity. 90

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79 Ibid, p.55
80 Ibid p. 54
90 Extract from Prof. Ali Mazrui “Academic Freedom in Africa : The Dual Tyranny” http://afranx.oxfordjournals.org/content/74/297/393.extract
Thus:

"...the belief that the freedom of inquiry by students and faculty members is essential to the mission of the academy, and that scholars should have freedom to teach or communicate ideas or facts (including those that are inconvenient to external political groups or to authorities) without being targeted for repression, job loss, or imprisonment." 

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) provides a clear connection between the two variables from a human rights perspective by asserting:

"Everyone shall have the right to hold opinions without interference [and that] everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers either orally, in writing or in print, in the form of art, or through any other of his choice."

Therefore, it is clear from the respondents that they became targets of human rights violations due to their active involvement in politics, advocacy for democracy in Kenya, open criticism of the dictatorship of KANU regime and calling for academic freedom in universities at a time when there was a major crackdown by the government on dissenting voices and anyone who was deemed as a threat to the ruling regime. For instance, Wafula Buke observes that the government of the day was uncomfortable with progressive student political leadership. Box 2 below documents some statements from some of the survivors interviewed, which depict what inspired the students and lecturers to spearhead these struggles and why the KANU ruling elite was uncomfortable with the academia-led political struggles.

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These rights were also safeguarded in Article 79 of the Constitution of Kenya. The New Constitution of Kenya (2010) enshrines the same rights in Article 33.
Box 2: In their Voices

(i) Dr. Kilemi Mwiria: "If this country has to change for the better, formally educated citizens have to be more active in promoting change"… and, "I was fed up with university and national governance systems that are conditioned more by tribal and political patronage than merit. I was also disillusioned by the widening social inequality and the marginalization of those not ready to tow political lines."

(ii) Dr. Willy Mutunga: “The University was then the centre of dissent in the country. UASU became the organizing force of this dissent among students, administrative and academic staff.”… and, “I hated a University that did not allow me to teach without police presence; a University that denied Ngugi wa Thiong’o his job after his detention; a University that removed books from the library because they were allegedly radical and subversive.”

(iii) Odindo Opiata: “In all my young life as a student especially of history, I was always fascinated by the story of the great revolutions and in later life; I started to get a little more acquainted with details. Further reading of our own history of struggle as a country further convinced me that the early freedom fighters have sacrificed their lives for had clearly been betrayed and that it was the role of the intelligentsia to correct this wrong.”

(iv) Njuguna Mutonya: “The realization that the government in place was deliberately looting the country’s resources for self enrichment or a kleptocratic clique, that they had absolutely no idea how to manage the taxpayers money and expectations and that we were heading nowhere. Their attempt to suppress positive criticism was the final straw”.

(v) Prof. Korwa Adar: “I come from a humble Christian background and do not, in that respect alone, condone oppression and discrimination against fellow human beings”.

(vi) David Onyango Oloo: I was inspired by “my socialist political beliefs and militant anti-imperialist values”.

(vii) Dr. Samuel Kaberere Njenga: “My being socialized to respect other people’s rights, to value social justice, my realization that capitalism is responsible for such injustices as slave trade, colonialism, poverty and dehumanization characteristic of today’s world”.

(viii) Wahinya Boore: “As a student leader I was involved in the publication of many documents enlightening Kenyas of their democratic rights. There was the arbitrary arrest and imprisonment of progressive Kenyans and academia and the infamous one party rule hence lots of discontent”.

(Source: KHRC Interview Data, 2011)
The KANU monolithic government had labeled the university as the 'unofficial opposition party' because of the major political activity and dissenting voices that were gravitating around militant academics like Ngugi wa Thiong'o, Micere Mugo, Willy Mutunga, Anyang Nyong'o, Maina wa Kinyatti among others. However with effective muzzling of dissent by the government, the University of Nairobi became the center of political organization for progressive forces.83

The period between 1980 and 1990 stood out as the years primarily in which there was a heavy crackdown on the academia by the Moi's KANU government. This is so because it was after the period after the 1982 failed coup d'etat by a section of the Kenya Air Force and of which many university students supported and participated. It was also the period in which the government carried out major crackdown against the outlawed Mwakenya movement and its clandestine publications, Mpatanishi and Mzalendo.

4.6 Consequences to Academia's lives

4.6.1 Loss of Lives and Livelihoods

Loss of lives has been caused by and manifested in two forms. First, there are those whose death was occasioned by the direct outcome of violations they were subjected to while in detention or prison. For instance, Tito Andungosi, a former student leader, was arrested in 1987 and later died in detention in December 1988. Second, there are those survivors who have succumbed due to indirect and the long-term impact of the emotional, social and economic distress to victims. Many victims have since died.

Loss of livelihoods or means survival is mainly attributed to loss of jobs after the politically instigated sackings or interdictions. Most of the victims who are arrested and detained never got their jobs back and some of them could not be employed in the public sector. This could perhaps explain how some of the academias and political activists ended up either in exile or the civil society. Dr. Nkule Laibuta Imaana in his testimony reflects:

"Although I completed my Medical Degree, it was made impossible for me to get a proper job in any of the government hospitals. And when I joined a different set up—it was made impossible for me to progress in the specialized field. On joining the UON health Services, I was summarily dismissed and exiled thereafter. Any time I visited the country prior to 2002, I was harassed in more ways than one. "84

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83 See "We Lived To Tell...", ibid p. 9
84 See Dr. Laibuta Imaana responses captured in a questionnaire to the KHRC. This forms part of the KHRC's victims database.
Dr. Kilemi Mwiria, on the other hand, says: “I have not been reinstated to my university job since 1994. I was awaiting promotion to the Associate Professor...[I] was largely jobless until I joined consultancy and politics but my dues are yet to be paid.”85 This economic deprivation had led to massive violations to victims' rights to human dignity, human security and human development.

4.6.2 Implications to Academic Development

Expulsions and dismissals made victims to lose many academic development opportunities. The following testimonies could explain this. For instance, Dr. Willy Mutunga who was then a senior law lecturer at the University of Nairobi by the time he was detained and dismissed in 1982 recounts: “It was only after 1989 [that] I was able to go back to school and do my doctorate. I never got my job back.” Further, Prof. Korwa Adar notes: “not even private universities in the country were willing to offer employment because of potential consequences from the government. It simply meant that I stayed without a job from 1994 to 1997 when I got an offer from one the universities in South Africa.”86

Moreover, Dr. Nkule Laibuta laments that detention and suspension from the university truncated any higher learning aspirations. Isaiah Wamoto concurs with this perspective in his observation that after being expelled in 1979 when he was in second year, he lost the steam to become a professor. Odindo Opiata recounts as follows:

“In 1985, I was expelled when in my second year and had to seek asylum in Tanzania where after sometime we were admitted to continue our studies although in the process losing one year. The second arrest occurred when I was writing my LLM research and the imprisonment prevented me from finishing my post graduate studies.”87

Finally was the effect of curtailing academic freedom and freedom of association to both the victims and the society. This caused Intellectual deprivation to the victims, hindered the freedom of the academia to demand their rights; and denied the society opportunities to possibly have better and alternative leadership from the educated elite.

85 Dr. Kilemi Mwiria was a University lecturer at Kenyatta University but never got the position of Professor which he deserved. He says: “I was awaiting promotion to the Associate Professor...I have not been paid my dues.” See Dr. Kilemi Mwiria's responses captured in a questionnaire to the KHRC. This forms part of the KHRC's victims database.
86 See Prof Adar's responses captured in a questionnaire to the KHRC. This forms part of the KHRC's victims database.
87 Dr. Laibuta Imaana, Ibid.
4.6.3 Social and Psychological Implications

Most respondents indicated that after their harrowing experiences at detention points and prisons, they suffer from sleep disorders such as insomnia, they have become overly fearful and experience nightmares and some have still been unable to integrate well back into the society. Others have developed abnormal habits such as eating very fast or even hatred for certain kinds of food due to intrusive memories of the mistreatments they faced in detentions among other examples.

Many survivors had their families destabilized or faced ostracization by the society. While some survivors separated with their spouses, others took very long to settle down in life. At times, being a political activist especially during the KANU era attracted stigma to victims, friends and family members. Many people were afraid of the political repercussions of being associated with such. For example, Njuguna Mutonya laments: "My plans for starting a family collapsed after my wrongful conviction and imprisonment. I exhibited anti-social behavior and awkward individualism which also led to heavy use of alcohol for a long time." Further, Njuguna Mutahi observes: "It has taken me a long time to readjust in society and professionally." Wahinya Boore recalls that the experience with detention and laceration left him in trauma and isolation; and led to the break-up of his family and death of his mother.

4.7 Achievements vs. Challenges of the Academia Struggles

4.7.1 Major Achievements

First, the academia was at the forefront in shaping the discourse on the governance processes in Kenya through their teachings, publications and public lectures and forums. These constitute the class of intelligentsia in the society. Intelligentsia is a group of intellectuals who form an artistic, social, or political vanguard or elite.

Second, the academic community was instrumental in developing and sustaining the culture of scholarly and political activism to issues of public interest in Kenya especially from the 1960s to the 2003. Critics blame the emerging decimation of the culture of resistance in Kenya due to the resurgence of academia who are more focused on becoming professionals for self gains than influencing change in the society. Such scholars, unlike the above, are referred to as frustrated intelligentsia, an educated crop of people who are aversive and inimical to social and political developments of the society.

See Njuguna Mutonya, ibid.
See Njuguna Mutonya, ibid.

Third, most of the fiery academia was also responsible for the formation of the pro-democracy political parties and other movements from the 1960s to 2003. For instance the Mwakenya Movement in the 1980s and 90s; FORD; the NCEC; Muungano wa Magenzi (Alliance for Reforms); and National Alliance for Kenya (NAK) were spearheaded by the academic finally turned politicians. These have been in many ways influenced the agenda for legal, political and constitutional reforms in Kenya from the mainstream.  

Fourth, the academia was generally responsible for the formation of the CSOs from the 1990s as the people's platforms for civic engagement and action on the human rights, gender, and justice and governance issues in the society. For instance, organizations such as the Kenya Human Rights Commission (KHRC), Centre for Law and Research International (CLARION), Kenya Land Alliance (KLA), Abantu for Development, Kituo cha Sheria (Centre for Legal Aid and Awareness), Legal Resources Foundation (LRF), Release Political Prisoners (RPP), National Convention Executive Council (NCEC), Constitution Reform Education Consortium (CRECO), Citizens Coalition for Constitutional Change (4Cs), and Independent Medico-Legal Unit (IMLU) among others were established by the then academic and political firebrands in Kenya.

Finally, a key achievement was the expansion of internal democracy within public universities which increased academic freedom and saw the return and growth of such students' organizations and associations such as SONU: Moi University Students Organization (MUSO), and UASU among others.

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The key academia and professionals in these political initiatives are Prof. Peter Anyang' Nyong'o, Dr. Gibson Kamau Kuria, Dr. Mukhisa Kituyi, Prof. Katuma Mkangi, Prof. Rashid Mzee, Kiliana Wamalwa, Prof. Kivutha Kibwana, Dr. Willy Mutunga, Dr. Apollo Njonjo, Prof. Wangari Maathai, James Orengo, Raila Odinga, Koigi wa Wamwere, Martha Karua among others.

The KHRC was founded in the US in 1991 by Makau Mutua, Maina Kiai, Kiraitu Murungi and Peter Kareithi. Both Makau and Kiraitu were in exile. Maina and Peter were students in the US. Willy Mutunga was studying in Canada. Kiraitu Murungi, the current Minister for Energy left the KHRC to join politics. He was later to form the Civil Liberties Union which ultimately found expression in the current Centre for Governance and Development (CGD). For details see: Willy Mutunga, Constitution Making from the Middle, Op Cit, p. 41.

CLARION which was mainly established by law and political science scholars and activists from the University of Nairobi led by Prof. Kivutha Kibwana, Dr. Smokin Wanjala, Lawrence Mute, Kichamu Akivaga, Prof. Winnie Mitullah among others has for long been one of the key initiatives for social and political research (through CLARI Press) and organizing (through the NCEC, 4CS and the current Civil Society Congress (CSC). According to Dr. Willy Mutunga (ibid), 4CS is another embodiment of continued struggle by yet another pro-democracy movement. 4CS is a broad civic initiative that has agitated for constitutional change and institutionalism since 1994. This initiative can be traced to the Coalition for the National Convention (CNC) in 1992 during the heat of agitation for multipartyism. The CNC's work was inherited by the KHRC and the resulted in development of the Proposal for a Model Constitution in 1994. This model was co-drafted with the Law Society of Kenya (LSK) and International Commission for Jurists (Kenya Section). A steering committee was formed to broaden civic engagement with the constitutional reform project. As more actors of the secular and religious civil society, 4CS was born.

Most of the founding directors and staff members were students/ student leaders or lecturers in public universities. That explains why political and academic activism was for long a major qualification for entry into the civil society sector from 1992-2003. The current qualifications are mainly academic and professional thus paving way for the proliferation of the so called 'arm chair activists' or 'NGO wallas'. These are in reference to the civil society workers who are driven by careers development as opposed to the social reform motivations.
4.7.2 Major Challenges

Some of the major challenges include, first, as indicated above, the frustration of intelligentsia has led to a reduced role in political leadership and lack of engagement of the academia in the reform processes. This to some extent has been occasioned by economic hardships, which has forced the academia to focus more on studies and career demands than general direction of the country. It is on this basis that David Aduda observes thus:

"Times were when university education was equated to revolutionary thinking. Academic staff easily identified with the masses and intellectual discourses took the dichotomy of the bourgeoisie and the proletariat. Political ideologies of Vladimir Lenin, Voltaire, Marx, Engels et al dominated lecture theatres. The academics, mainly in the liberal arts, were known for unconventional dress style (African or Mao Tse-tung style) complete with long beards and sometimes unkempt hair. Not anymore. University lecturers now cut the image of corporate executives, well trimmed and pruned in designer suits complete with the trappings of the capitalist world erstwhile pilloried by their peers of yester-year".

Second, some of the academia have joined the government but failed to deliver on many issues they previously agitated around such as the 'young turks', which currently include Kiraitu Murungi, James Orengo and Anyang' Nyong'o among others. This raises questions on whether they were genuine or they were eventually swallowed by impunity in the government. Koigi wa Wamwere responds to these criticism thus:

"There is the difficulty of satisfying those who believe reformers must always criticize everything, good or bad, and it is betrayal of reform to support good things by the government they don’t like. Without honesty there can be no reforms."

Koigi concludes by noting that Kenyans have not had a government of reformers, whose errors they can collectively bear blame for. This position is collaborated by Prof. Anyang' Nyong'o in his analysis of the challenges faced by FORD in the 1990s by arguing:

"The opportunists from the old Kenyatta regime and those from the Moi era trooped into FORD shouting anti-Moi slogans, but having no intentions whatsoever to dismantle the authoritarian regime. If anything, they wanted to inherit its rock, stock and barrel. In that case, they found us Young Turks an impediment to their interests."

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"David Aduda, “it's easy walk to freedom for K'Olae” in Daily Nation, Thursday, November 10, 2011. P 3
However, the 'young turks' must also take political responsibility for their own mess. Within the Kibaki government, reeling from high cost of living, high levels of corruption, impunity, tribalism and other governance challenges, the role of the 'Young Turks' in the running of the government cannot be ignored. It is on this basis that Wafula Buke, a human rights activist and former student leader, observes that: “the real test of consistency is measured when one gets into positions of authority and is able to wield power. To this extent, they have all failed miserably. Once on the dining table, they forgot all the ideals that they stood for. They have been a disaster.”

Further challenges include that leaders of the student's unions have been co-opted by the university administration, political parties and patronage systems in politics. They have also been unable to sustain constructive engagements with issues of national interest. This is contrary to what their intellectual and political precursors stood for. Related to this challenge is the accusation that the academia and other reformists abandoned their families and risked their lives for mere freedom, democracy and of course, fame that came with it. This critique however may be unfounded because opposing the impunity of the day came with great losses and risks as indicated above. Practically, one stood a better chance of deriving more immediate 'personal benefits' by being supportive of the powers that-be than defending the ideals whose future was unknown.

The final challenge, though accidental, is that some of the academia who ended up in exile landed on better economic opportunities in life. Questions have been raised at the extent to which they have sustained engagements with the national reform agenda. Some of them such as Prof. Oloka Onyango, Prof. Makau Mutua, Prof. Ali Mazrui, Prof Micere Mugo and Prof. Ngugi Wa Thiong'o have continued with the reform discourse through write-ups, public lectures, linkages with the civil society and direct engagements with the government. Many others seemingly abandoned local struggles after going into exile.

5.0 COURT JUDGEMENTS ON THE RIGHTS OF ACADEMIA

A number of judgments have been made by courts thus re-affirming the violations to the academia's and other victims' rights; granting the affected survivors reparations in the form of monetary awards; and, finally setting a more progressive jurisprudence on torture and other inhuman and degrading treatments. The following cases will be critical.

"Peter Leftie, "Have Young Turks' lived the reform dream or joined the grab bandwagon" in Sunday Nation, May 29, 2011, P. 10. This article captures in details the governance challenges faced by the fiery reformists since they joined government from 2003 to date.
5.1 Case One: Lempaa Vincent Suyianka & Others

This Case is titled: *Lempaa Vincent Suyianka and 4 others v. Kenyatta University and 2 others (2007): High Court at Nairobi (Nairobi Law Courts); Misc Appl. 1118 of 2003.* The applicants petitioned the court that their right to life had been breached by the University (1st Defendant). Their suspension from the university denied them an opportunity to make a living in the future and therefore they could not have meaningful economic gain. It also amounted to inhuman and degrading treatment contrary to Section 74 of the former Constitution.

The claims further amounted to criminalization of demonstration in a peaceful protest as guaranteed in the former Constitution. They further claimed discrimination on the basis of their political affiliation as they were free to be inclined to any political party of their choice. They sought damages suffered as a result and cost of the suit.

The court ruled that despite the plaintiffs not substantiating their cases and computing their damages, this did not prejudice them from being compensated for violations of their constitutional rights. They were each awarded eight hundred thousand shillings (Kshs 800,000).

5.2 Case Two: Wachira Waheire

This Case is titled: *Wachira Waheire v. Attorney General [2010] eKL-Republic of Kenya.* The applicant, Wachira Waheire, claims that he was unlawfully arrested at his workplace in December 1986. What followed was sixteen days of torture in the Nyayo House basement before being taken before a Magistrate and convicted on his own, albeit coerced, plea of guilty. He was sent to jail for four years. The High Court found that his arrest was unlawful and in breach of the rights outlined in the Constitution.

They also found that he was tortured at Nyayo House and that he was not produced to a Court within 24 hours of his arrest, or as soon as practicable — these things in breach of the Constitution also. The Court did not, however, find that his rights had been violated in relation to the guilty plea. Almost cruelly, perhaps, the Court acknowledges that at least one of the prisons that he was sent to was “then notorious for high prisoner mortality rate.”

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101Lempaa Vincent, 1st Plaintiff; Nyandoro George Nicodemus, 2nd Plaintiff; Wahome Isaac Thuku, 3rd Plaintiff; and, Maina Charles; 4th Plaintiff. VS Kenyatta University, 1st defendant; George Eshiwani; 2nd defendant; and John Shiundu; 3rd defendant
102http://www.kenyalaw.org/CaseSearch/view_preview1.php?link=83433721772867996610485&words=%27%

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This case was taken to court in the year 2003. The plaintiff brought a case against
the government on the basis that his fundamental rights and freedoms under section
70, 72 (3&5), 74(1) 77, 78(1), 79(1), 80(1), and 82(3) were contravened and
grossly violated by police officers and other government servants, agents,
employees and institutions in 1986 and on diverse dates thereafter.

As for the judgment, the bench concluded that the plaintiff had established on a
balance of probability that his right to personal liberty under Section 72 was
violated when he was held at Nyayo House for more than 24 hours contrary to
Section 72(3) (b) and that the plaintiff was subjected to torture, inhuman and
degrading treatment contrary to Section 74(1) of the Constitution, during his
confinement at Nyayo House.

He was arrested and held by police officers, and that he suffered the violation of his
fundamental rights at the hands of the officers of the government. The government
must therefore take responsibility for the action. The court therefore ensured that
the plaintiff had redress for the violation of the constitutional rights of the plaintiff
through monetary compensation. Therefore an award of damages would be
appropriate. The costs of the suit and the interests were also awarded.

The damages included Kshs. 4.5 million in respect of malicious prosecution and
special damages of Kshs. 3,977,675 in respect of medical expenses, loss of salary
and loss of pension, all of which were proved. The plaintiff was further awarded
special damages of Ksh. 2.5 Million considering that he had not pleaded any special
damages. In totality, it was also concluded that the fundamental rights and
freedoms of the plaintiff under section 70, 72(3), (5) and 74(1) of the constitution
were contravened and violated by police officers and other government servants or
agents in the year 1986. He was also awarded damages for the violation and
contravention of his fundamental rights and freedoms under the former
Constitution.
5.3 Case Three: Harun Thungu Wakaba & Others

This Case is titled, *Harun Thungu Wakaba and 20 others v. The Attorney General.*\(^{104}\) This Case had a total of 21 plaintiffs who brought a case against the government, and included Harun Thungu Wakaba and 20 others.\(^{105}\) After consolidation of all these plaints, the defendant was the Hon. Attorney General. The suits were consolidated by virtue of orders made by the Hon. Chief Justice on 30th June, 2009 and 2nd July, 2009 since the relief sought by each of the plaintiff was identical. Each case sought a declaration that plaintiff's fundamental rights and freedoms under Section 70, 72(3 & 5), 74(1), 77, 78(1), 79(1) & 80(1), 82(3) were contravened and grossly violated by the police officers and other Kenyan government servants, agents, employees and institutions, on dates which were specified in each case, and diverse dates thereafter.

They also sought a declaration that the plaintiff is entitled to the payment of damages and compensation for the violations and contraventions of his fundamental rights and freedoms under the aforementioned provisions of the constitution and the award of general damages and exemplary damages on an aggravated scale, under Section 84(2) of the Constitution of Kenya, for the unconstitutional conduct by government servants and agents.

As for the judgment, it was concluded that the mandate of the court to deal with the plaintiffs' claims was provided under Section 84 of the former Constitution. Therefore, the court exercised its jurisdiction under that Section to provide redress for violation of fundamental rights and freedoms, and award damages to the individuals whose fundamental rights and freedoms had been violated. The court pointed out that it may not be possible to value or measure in monetary terms what an individual has undergone through violation of his fundamental rights.

The Lady Justice, Hannah Okwengu stated that: "an award of damages merely serves to vindicate and restore his dignity and also send a clear message to the Executive that it will be held responsible for acts of impunity committed by its servants or agents."\(^{106}\) The court thus found it appropriate to make a global award in respect of the violations, taking into account the element of punitive damages, the rights violated and the period of violations. The court also took note of previous awards that had been made in similar cases such as *Rumba Kinuthia vs the Attorney General, Wachira Waheire vs the Attorney General,* and *Dominic Arony Amolo vs the Attorney General.*

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\(^{106}\)See judgment: www.kenyalaw.org (http://kenyalaw.org/Downloads_FreeCases/76390.pdf); accessed in July 2, 2011
In this case, the court made individual awards to each of the plaintiffs totaling to about Kshs. 39 million for all. In addition, they were awarded interest on the sum awarded from the date of the judgment until payment in full, as well as costs of the suit.

### 5.4 Other Progressive Precedents

There are also recent developments where survivors have decided to target both the State and individual perpetrators in their suits. Otieno Mak’Onyango, the former Alego Usonga MP has for instance sued the former President, Daniel Arap Moi for unlawful detention. The former MP was a reporter with The Standard when he was arrested in 1982. He claims he was illegally arrested, detained and tortured because of the article he wrote on the death of politician J.M Kariuki. “He wants Mr Moi and the government to compensate him for unlawful detention for five years and violation of his rights.”

The Case continues.

In a related approach, the High Court of Kenya ordered Moi to pay Stephen Muriithi, a former spy chief, Kshs. 2 billion. In a precedent-setting ruling delivered in April 6, 2011, the High Court found Mr. Moi personally liable for illegal detention of Muriithi. Lady Justice Jeanne Gacheche said in her ruling that former president Moi was liable for detaining Mr. Muriithi without trial for three years and ordered him to pay the former detainee Ksh. 50 million as punitive damages and Kshs. 80 million as compensation. The Kshs. 80 million is to earn compound interest at 12% from July 1982.

This case is significant in a number of ways: Firstly, it marked the first time Moi lost a major case. Secondly, the case touches directly on gross human rights violations committed during his watch. Thirdly, lawyers' content that Justice Jean Gacheche's ruling is likely to open flood gates of suits over illegal detention. Tens of people were illegally detained and tortured during Moi's rule.

Fourthly, the case brings on board the notion of individual political responsibility for atrocities committed by state and non-state actors in their “corporate capacities”. Indeed, Lady Justice Gacheche said that times had changed and emerging international trends, individuals and corporate bodies could be held liable of for violation of human rights. She observed thus: “Under the old Constitution, it was deemed that the state was to hold duty to protect human rights. The new trend is that persons and corporations can be held personally liable for violation of human rights”.

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107 See Daily Nation, Thursday September 22, 2011 in “Mak’Onyango has sued State for illegal detention over botched coup”, p. 9.
110 Jillo Kadida, “Moi ordered to pay ex-spy chief Ksh. 2bn” in Daily Nation, Thursday, April 7, 2011, p. 2.
6.0 COMPARATIVE EXPERIENCE FROM OTHER COUNTRIES

6.1 Introduction

Similar to Kenya, students as well as lecturers in the world over have been at the forefront of demanding for change in their societies. Some of the other countries which have had vibrant student and lecturer activism include Iran, Zimbabwe and South Africa. The comparative experiences captured below showcase a component of political action by the academia be it by lecturers or students. 111

6.2 Iran

In Iran, students have been at the forefront of protests both against the pre-1979 secular monarchy and, in recent years, against the theocratic Islamic Republic. Students came out strongly to oppose the social injustice of Shah Mohammad Reza Pahlavi’s regime which was accused of corruption, extravagance, oppression and brutality. They also considered the Shah's regime to be beholden to, or a puppet of the 'West'. 112 Protests against the Shah's regime began in October 1977 and ended in January 1988. The first casualties of this protests occurred in the city of Qom where hundreds of students and Islamic leaders were demonstrating against a story in the government controlled press which they deemed to be libelous. The army moved in to quell the demonstrations leading to the deaths of about nine people according to the government or over 70 deaths according to the opposition. 113

During the revolution, students and militants also took over the United States embassy in Iran and held hostage 52 American citizens for 444 days in support of the revolution. The hostage taking was widely seen as a protest against the United States, its influence in Iran, its perceived attempts to undermine the Iranian Revolution, and its long-standing support of the recently overthrown government of the Shah of Iran. This episode reached a climax when, after failed attempts to negotiate a release, the United States military attempted a rescue operation, Operation Eagle Claw, on April 24, 1980, which resulted in a failed mission, the destruction of two aircraft and the deaths of eight American servicemen and one Iranian civilian. The hostage situation ended with the signing of the Algiers Accords in Algeria on January 19, 1981 and the release of the hostages the next day. 114

The protests continued steadily over the course of 1978, culminating in a general strike in October 1978 that paralyzed the economy, and protest marches on December 10 and 11, where a total of six to nine million anti-shah demonstrators marched throughout Iran. 115

112 Brumberg, Reinventing Khomeini (2001)
113 Kurzman, The Unthinkable Revolution in Iran, HUP, 2004, p.38
115 A Question of Numbers: IranianVoice.org August 08, 2003 Rouzegar

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While the total number of casualties in the period of the Iranian revolution remains unclear, it is estimated that between 3,000 and 60,000 people may have been killed by the army in its attempts to put down demonstrations leading up to the revolution.

After the revolution, human rights groups estimated the number of casualties suffered by protesters and prisoners of the new regime to be several thousand. The first to be executed after the revolution were members of the old regime—senior generals, followed by over 200 of the Shah's senior civilian officials—as punishment and to eliminate the danger of coup d'état.116

Whereas the revolution has resulted in improvements in women's rights in Iran, some other groups continue to suffer human rights violations with members of the Bahá'í faith being particularly targeted as they are considered to be heretical and subversive. More than 200 Bahá'ís have been executed or killed, and many more have been imprisoned, deprived of jobs, pensions, businesses, and educational opportunities. Bahá'í holy places have been confiscated, vandalized, or destroyed.117 In addition, several thousand young Bahá'ís between the ages of 17 and 24 have been expelled from universities for no particular reason.118

Whether the revolution has resulted in more or less severe political repression is disputed. Violations of human rights by the theocratic regime is said by some to be worse than during the monarchy, and in any case extremely grave reports of torture, imprisonment of dissidents, and the murder of prominent critics have been made by human rights groups.119 Censorship of media is also prevalent with censorship being handled by the Ministry of Culture and Islamic Guidance, without whose official permission, “no books or magazines are published, no audiotapes are distributed, no movies are shown and no cultural organization is established.”120

Students in Iran continue to play a pivotal role in the reform process. For instance, on July 8th 1999, students organized peaceful demonstrations in Tehran against the closure of the reformist newspaper, *Salam*. Following the demonstrations, a student dormitory was raided by riot police that night during which a student was killed. The raid sparked six days of demonstrations and rioting throughout the country, during which at least three other people were killed and more than 200 injured.121 A crackdown on reformists and reform policies followed the riots. Three actions followed:

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118 http://denial.bahai.org/
120 *Naghmeh Zarrabian in My Sister, Guard Your Veil, My Brother, Guard Your Eyes* (2006), (p.63)
(i) A "long-negotiated compromise" that would have weakened the Council of Guardians to screening candidates for parliament and president was vetoed, giving the Guardians "absolute vetting power".

(ii) A "thought crime" law was passed prohibiting "any violent or peaceful act by a person or group against the regime" including speech, and punishing such criticism with stiff sentences.

(iii) Another law prohibited "any contact or exchange of information, interviews or collusion with foreign embassies, organizations, parties or media at whatever level which could be judged harmful to Iran's independence, national unity or the interests of the Islamic republic." 22

Several students involved in the demonstration such as Manouchehr Mohammadi, Ahmad Batebi, Farokh Shafiei, Hassan Zarezadeh Ardehish, were imprisoned. One of the jailed students, Akbar Mohammadi died of a hunger strike while protesting against his prison sentence. Allegations of torture being meted out against those detained have also been raised with human rights groups calling for independent collection of information on the killed injured and arrested persons. The government however denies these allegations of rape and abuse against the detainees. 23

In 2009, protesters gathered near the gates of Tehran University to commemorate the 1999 demonstrations and protest the election result of that year's election. Police and the Basij, a paramilitary group, suppressed both peaceful demonstrators and rioters using batons, pepper spray, sticks and, in some cases, firearms. The Iranian government confirmed the deaths of 36 people during the protests, while unconfirmed reports by supporters of the opposition allege that there have been 72 deaths (twice as many) in the three months following the disputed election. Iranian authorities have closed universities in Tehran, blocked web sites, blocked cell phone transmissions and text messaging, and banned rallies. 24 More recently, protests erupted again in February 2011, concurrent with the major series of protests in the Arab World - so-called 'Arab Spring Uprisings.' 25

6.3 Zimbabwe

Students in Zimbabwe have played a vital role in political activism in Zimbabwe. Student activism was a major part of the popular movement against the ruling party since 1995 and the development of the opposition and continues to play a major role in Zimbabwe's recent political and economic crisis. 26
Student politics at the University of Rhodesia (currently the University of Zimbabwe) mirrored the wider Africa nationalist movement in the country. The Zimbabwe African National Union (ZANU) prescription for the student movement was very clear: students were to play an obedient role in the coming struggles, 'being part of the revolutionary movement you are to ... be directed by it', and there was no space for an 'independent line'.

Though university students did lead important struggles at the university, notably the 'pots and pans demonstration' in 1973, it was their exile and role in directing the liberation war that was more important. It was not only university students who gave up their studies to fight in the liberation war; after 1973 secondary school students joined en masse, forcing at least six rural schools to close down.

With independence in 1980, student activism entered a new phase. Between 1980 and 1995 there were broadly two periods of student activism. The first, a pro-government period, lasted until the anti-corruption demonstrations of 1988. The second, an anti-government period, was followed quickly by the struggles against privatization. A further period of activism emerged after 1995, with the consolidation of the ZANU elite around Structural Adjustment Programmes (SAPs) and the break-up of the regime's revolutionary nationalism.

In the first phase, one of the more famous cases of student activism was the demonstration and rioting outside the South African embassy after the death of the Mozambican president Samora Machel in 1986, widely believed to have been assassinated by the South African government.

However, by the late 1980s the blatant corruption of the government could no longer be ignored by the student activists. The first anti-government demonstrations were only against certain members of the government and regarded by students as supportive of President Mugabe's own 'anti-corruption drive'. When the students tried to launch an anti-corruption campaign appealing to an end of scandals and corruption in the government and the ruling party, they were refused permission to demonstrate in town and this resulted in four days of violent struggle on the campus and in town involving police.

An anti-corruption demonstration took place in September 1988. The demonstration - which was as a milestone in the student movement - marked an abrupt fissure in the relationship between students and the ruling party: a party that they had previously regarded as their own. Students in the demonstration called themselves 'revolutionary intellectuals' and protested in support of Mugabe's drive to return the ruling party to its 'Leadership Code'.

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Students issued an anti-corruption document detailing 10 cases of corruption within government circles. Mugabe's response was to angrily dismiss the demonstrators, who were protesting explicitly in his defense, was an abrupt and violent moment of truth for hundreds of student activists who had all along regarded the President as their hero.  

In 1989, the Vice-Chancellor of the University of Zimbabwe and student leaders agreed on common strategies for the discussion of Academic Freedom and University Autonomy and agreed to clear arrangements for a seminar on the same to take place. A meeting with the Minister of Education was to be arranged. However, before the seminar could take place, the predawn arrest of two student leaders sparked class boycotts, violence against university administration and damage of buildings and vehicles. Police were deployed in all day battles against the students forcing the Vice-Chancellor to close down the university.

The period after 1995 marked the sharp convergence of student and struggles in urban Zimbabwe. Students were no longer lone activists fighting on behalf of a voiceless civil society. They became intimately involved in a tumultuous period of strikes, demonstrations and political arguments about an alternative to the ruling party. This period, marking a new phase in student activism, saw the convergence of student activism with the wider movement for democratic and social change across Zimbabwe.

The anti-police brutality riot and demonstration in 1995 was a key moment in student mobilization, bringing students and the 'popular forces' together on a large scale for the first time. This demonstration was organized by ISO (International Socialist Organization) militants at the university, showing once more the huge impact that student activism has had in Zimbabwe. This demonstration also marked a new period of activism that eventually led to the political transitions in the late 1990s.

Deepening privatization – under a new programme for structural adjustment, Zimbabwe Policy Reforms for Social and Economic Transformation (ZIMPREST) introduced in 1996 – meant that students faced hardships. Battles were now fought at the university over what was commonly known as 'Economic Structural Adjustment Programme 2', which was an attempt to introduce 50 per cent grants and 50 per cent loans in 1997, and privatization of catering and accommodation services at the university in 1998.

The government moved to scrap grants. These 'cost-recovery' measures led to the government requiring students, to 'provide 50 percent of their university education costs'. The rapidity with which the university privatized essentially meant that

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there was no longer just student discontent, but outright student rebellion. Violent demonstrations occurred during the 1996 – 1998 period and during that period the prices for almost everything was liberalized: resulting in increases of fuel price, and almost all other goods.

Large numbers of redundancies were created resulting in students supporting their parents on their student stipends, which were not enough, because their parents had been laid off work. Numerous students have suffered violations of their rights as a result of their activism. One prominent example is student activist leader Promise Mkwanazi who was arrested in May 2006. Mkwanazi was detained at a police station in Bindura for five days without charge. During that time he was repeatedly stripped, shackled and beaten with batons by policemen, who accused him of trying to overthrow the government.

From 2001 to 2006, there have been recorded over 1200 cases of human rights violations by the law enforcement agencies in Zimbabwe, including 363 cases of torture, 516 cases of assault, 58 cases of death threats, 399 cases of unlawful arrest and 451 cases of unlawful detention. Many of these incidents include multiple victims, amongst them students.

Reports of political violence against teachers have been recorded in eight of the ten provinces of Zimbabwe. Schools have also been closed down due to teachers fleeing violence perpetrated against them and their subsequent refusal to go back until their safety was guaranteed. The Zimbabwe Teachers Association estimates that at least 200 of about 6,000 government schools have been disrupted by intimidation and attacks.

Apart from school closures, some teachers in Zimbabwe have also been chased away from their places of employment by either 'war veterans' or Zimbabwe African National Union – Patriotic Front ZANU-PF (the ruling party) supporters. The perpetrators would either go to the school where the individual taught and then physically remove them from their places of employment, or just order the transfer of teachers that they suspected to be opposition supporters. Teachers were also threatened with either job loss or personal injury if it was established that they supported the opposition.

Student activism continues in Zimbabwe to date, with students protesting issues such as high university fees. In 2009, twenty-two students from Masvingo State University were arrested for leading a demonstration that left a trail of destruction at the campus.

The students were protesting against the payment of registration and examination fees which they claimed was too high and could therefore lead Zimbabwe back to the dark old days of the colonial regime where education was a preserve of the rich few.

Student activism is however slowly dying in Zimbabwe at a time when tertiary institutions are facing serious problems to do with high tuition fees, educational funding, college accommodation and a mass exodus of seasoned lecturers. At the country's leading university, the University of Zimbabwe, student activism has become an old shell of itself with no identified students' representative council since 2007.

In Zimbabwe the freedom of assembly is severely restricted by law. The legal framework is further stretched in practice, with law enforcement closely monitoring opposition demonstrations and public gatherings. Laws such as the Public Order and Security Act (POSA) and the Miscellaneous Offences Act (MOA) are used to violently disrupt peaceful demonstrations and justify the arrest of civil society activists. In some cases, the activists are held for more than the legally allowed limit, often without charge.

6.4 South Africa

The most famous Incident of human rights violations against academia in South Africa occurred during the Soweto Uprising. The Soweto uprising, also known as 'June 16', was a series of student-led protests in South Africa that began on the morning of June 16, 1976. Students from numerous Soweto primary and secondary schools began to protest in the streets, in protest of the introduction of Afrikaans as the medium of instruction in local schools.

The protest started off peacefully in Soweto but it turned chaotic when the police opened fire on unarmed protesting students. By the third day the unrest had gained momentum and spread to the townships around Soweto and other parts of the country. These protests by students overturned the whole notion that workers were the only essential force to challenge the apartheid regime. The students initially organized themselves into local cultural groups and youth clubs until the formation of an Action Committee on June 13, 1976, which was later renamed the Soweto Student Representative Council (SSRC). It consisted of two delegates from each school, meeting in secret and using pseudonyms.

These students were conscientized and influenced by national organizations such as the Black Peoples' Convention (BPC), South African Student Organizations.
(SASO) and by the Black Consciousness philosophy. They rejected the idea of being taught in the language of their oppressor. The association of Afrikaans with apartheid prompted black South Africans to prefer English. Even the homelands regimes chose English and an indigenous African language as official languages.

In addition, English was gaining prominence as the language most often used in commerce and industry. The 1974 decree making Afrikaans the official medium of communication in schools on a 50-50 basis with English, was intended to forcibly reverse the decline of Afrikaans among black Africans. The Afrikaner-dominated government used a clause of the 1909 Constitution that recognized only English and Afrikaans as official languages as pretext to enforce this decree.

Estimates for the death toll of the Soweto Protests on June 16 vary from 25 to 100 people shot dead. By the second day, 1,500 police armed with Sten guns, automatic rifles and hand machine carbines were called into Soweto and army units placed on standby. The casualties on the subsequent days were higher resulting in hundreds dead; the estimates of those who died range from 200 to 600.

Indiscriminate shooting was the order of the day. Raising a clenched fist and shouting the slogan, Amandla! was sufficient to warrant being shot at. This took place as the political baptism – with bullets and teargas – of a whole new generation of working-class youth in struggle. The academia to date continues being involved in activism though the focus has shifted to be less political and more socio-economic.

Access to higher education in South Africa is hampered by the high cost of accessing such education. On average, about 25 percent of students leave higher education institutions annually in South Africa because they are excluded on academic and financial grounds. To resist such putouts, student boycotts and protests are common despite the fact that student organizations were incorporated into decision-making processes at higher education institutions in South Africa in 1997.

However, the student unrest of today is no longer founded on only significant social issues like the student unrest of the 1960s and 1970s. Nowadays, almost anything is used as an excuse to demonstrate – anything from dissatisfaction with the quality of bread in the cafeteria to increases in fees are cause for destroying property, disrupting classes for those who do not want to protest, and clashing violently with police and security personnel.

141 ibid
142 "Student Activism and Student Exclusions in South Africa" International Journal of Educational Development, v26 n4 p4104-414, 1ul 2006
Consider some of the most recent examples: in March 2010, student unrest once again erupted at two campuses of the Durban University of Technology (DUT). The reasons appeared to be rather petty. The students' demands included that the number of buses available to and from the university be increased, the quality and price of food served at vending machines and cafeterias on campus be improved, and more vending machines be made available. Lectures were halted as the clashes between the students and police turned into violent running battles. Some 5,000 striking students chased non-striking students, who were eager to attend lectures, off the campus; and the cars of police and lecturers were stoned.

Higher Education Minister Blade Nzimande finally announced he would commission an independent investigation into the problems here, and the university secured a high court order against 15 members of the student representative council (SRC), preventing them from inciting violence or disruptions and vandalism on campus. That prompted the South African Students Congress (SASCO) to call for the campus to be 'rendered ungovernable.'

However, student demonstrations of today do have some similarities to those of the 1960s and 1970s. It is now a documented fact that much of the student revolution of the 1960 could be traced back to universities pushing out 'old degrees' for what were 'new jobs' due to technological changes. Student food and the like have today often became focal points for frustrations, as many students are heading toward an unsure job market; student jobs to help finance studies are not as easy to come by as they were in a fast-growing economy; and, many of the student's parents, as products of a previous dispensation, are not in a position to finance their studies.

In 2008, the then Safety and Security Minister Charles Nqakula informed parliament that in the preceding three years and the first three months of 2008, there had been no less than 648 marches or protests on various campuses. Of these, 211 had involved incidents of violence and destruction of property. Given the fact that in 2005 there were only 186 protests – of which 44 turned violent and destructive – which grew to 235 and 106 respectively in 2006, it is clear that the problem continues to grow and worsen.

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12 April 2010 | http://www.leadershiponline.co.za/articics/other/520-student-unrest

"Ibid"
7.0 CONCLUSIONS

First, it is quite evident that the academia (both men and women) in Kenya and other countries have been the cradle of the struggle for democratic transformation in the society.

Second, this leadership and passion has come with a major cost on their lives which has been evidenced by gross human rights violations faced by these icons.

Third, in the midst of these atrocities, the Kenyan state is yet to put in place concrete transitional justice mechanisms to remedy these and other manifestations of impunity in the society.

Finally, the Agenda No. 4 Item to the National Accord and the Constitution of Kenya remains the major pillars and cornerstones for the realization of remedies to victims and the democratization of the Kenyan state. This goes very well with the KHRC mandate of entrenching human rights and democratic values in the society.

*Aluta Continua: Pamoja Tutee Haki.*
### 8.0 APPENDICES

#### 8.1 List of Academia Victims

<table>
<thead>
<tr>
<th>No.</th>
<th>Name of the Victims</th>
<th>University/ Institution</th>
<th>Violations Suffered</th>
<th>Year</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Israel Otieno Agina</td>
<td>CGG Germany</td>
<td>Arrested</td>
<td>1989</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Justice Ong'eno Ong'eno</td>
<td>UON</td>
<td>Arrested</td>
<td>1986</td>
<td>Jailed</td>
</tr>
<tr>
<td>3.</td>
<td>George Ngunga Kithinya</td>
<td>UON</td>
<td>Arrested</td>
<td>1982</td>
<td>Remanded</td>
</tr>
<tr>
<td>4.</td>
<td>Richard Otieno &amp; Peter Kiarie</td>
<td>UON</td>
<td>Arrested</td>
<td>1982</td>
<td>Remanded</td>
</tr>
<tr>
<td>5.</td>
<td>Peril Kiarie</td>
<td>UON</td>
<td>Arrested</td>
<td>1982</td>
<td>Remanded</td>
</tr>
<tr>
<td>7.</td>
<td>Ong'a Ong'a</td>
<td>UON</td>
<td>Arrested</td>
<td>1982 &amp; 1985</td>
<td>Remanded</td>
</tr>
<tr>
<td>8.</td>
<td>Philip Murray</td>
<td>UON</td>
<td>Arrested</td>
<td>1982</td>
<td>Remanded</td>
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<tr>
<td>9.</td>
<td>Frank Inoni</td>
<td>UON</td>
<td>Arrested</td>
<td>1982</td>
<td>Remanded</td>
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<tr>
<td>10.</td>
<td>Jeff Mergi Karikis</td>
<td>KU</td>
<td>Arrested</td>
<td>1982</td>
<td>Jailed</td>
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<tr>
<td>11.</td>
<td>Oginga Oginga</td>
<td>UON</td>
<td>Expelled</td>
<td>1982</td>
<td>Exiled '82</td>
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<td>12.</td>
<td>Mukiru S. Muntho</td>
<td>UON</td>
<td>Arrested</td>
<td>1982</td>
<td>Tortured Jailed</td>
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<tr>
<td>13.</td>
<td>Nyong'o Thione</td>
<td>UON</td>
<td>Expelled</td>
<td>1982</td>
<td>Tortured Jailed</td>
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<tr>
<td>16.</td>
<td>Tom Addo Maling</td>
<td>UON</td>
<td>Arrested</td>
<td>1982</td>
<td>Jailed</td>
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<tr>
<td>17.</td>
<td>Herbert M. Inga</td>
<td>UON</td>
<td>Arrested</td>
<td>1982</td>
<td>Jailed</td>
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<tr>
<td>18.</td>
<td>Odoto Olgogon</td>
<td>UON</td>
<td>Arrested</td>
<td>1982</td>
<td>Jailed</td>
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<tr>
<td>19.</td>
<td>Titus Addoing</td>
<td>UON</td>
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<td>1982</td>
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<td>20.</td>
<td>Mungwe Mungwe</td>
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<td>21.</td>
<td>Wendi Mbiyu</td>
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<td>22.</td>
<td>Museme Mungo</td>
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<td>23.</td>
<td>Lumbungu Omedu</td>
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<td>Hallsader Goto</td>
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<td>29.</td>
<td>Malaka W. Kinyetu</td>
<td>KU</td>
<td>Arrested</td>
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<td>Later exiled</td>
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<td>30.</td>
<td>Mumbi M. Kinyet</td>
<td>KU</td>
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<td>Harassed by police</td>
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This list is not exhaustive of all the victims of human rights violations.
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<th>No.</th>
<th>Name</th>
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<th>Status 1</th>
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<th>Status 3</th>
<th>Year 1</th>
<th>Year 2</th>
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<td>Detained</td>
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<td></td>
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<td>Later expelled</td>
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<td></td>
<td></td>
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<td>36</td>
<td>Kalamu Mwangi</td>
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<td></td>
<td></td>
<td></td>
<td>1982</td>
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<td>Peter Amony Nyong'o</td>
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<td></td>
<td></td>
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<td>1979</td>
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<td>38</td>
<td>Ooko Ombaka</td>
<td>UON</td>
<td></td>
<td></td>
<td></td>
<td>1981</td>
<td>Passport seized</td>
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<td>39</td>
<td>Michael Chege</td>
<td>UON</td>
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<td></td>
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<td>Ooosth Ogingo</td>
<td>UON</td>
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<td>Ngugiwa W. Karutu</td>
<td>UON</td>
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<td>GPO Olu</td>
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<td>Maseno</td>
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<td>1995</td>
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<td>Arrested</td>
<td>Jailed</td>
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<td>Trop Kibra</td>
<td>UON</td>
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<td></td>
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<td>Wachira Waithira</td>
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<td>Eliah Juma Khauka</td>
<td>Maseno</td>
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<td>1988</td>
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8. Kinyanjui Thuo - Egerton University
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13. Cyprian Nyamwamu - Kenya Polytechnic Nairobi
14. Kepher Omanga
15. Okeyo Ramogi
16. Kepta Ombati, Kenyatta University Student Activist from 1993 To 1995
17. Solomon Muruli KUSO vice-chairman was locked in his university of Nairobi room and burned to death on 23 February 1997
18. George Morara,
19. Janai R. Orina
20. James Nduko
21. Odhiambo Oyoko
22. Kio Kinuthia 1991-94 KU harassment from senate then framed with charges expelled from hostel they were kept 2 years waiting for their graduation
8.2 List of Universities in Kenya

Public Universities in Kenya

- Kenyatta University - Nairobi
- Moi University - Eldoret
- University of Nairobi - Nairobi
- Egerton University - Njoro, Nakuru
- Maseno University - Maseno, Kisumu
- Jomo Kenyatta University of Agriculture & Technology - Juja, Thika
- Kimathi University College of Technology - Nyeri
- Masinde Muliro University of Science & Technology - Kakamega
- Kenya Polytechnic University College - Nairobi
- Kisii University College - Kisii
- Mombasa Polytechnic University College - Mombasa
- Multimedia University College of Kenya (formerly KCCT) - Nairobi
- Pwani University College - Kilifi
- Narok University College - Narok
- South Eastern University College - Kitui
- Meru University College of Science and Technology
- Bondo University College
- Kabianga University College
- Chuka University College
- Laikipia University College
- Chepkoilel University College
Private Universities

- Intraglobal University, Kenya
- Africa Nazarene University, Rongai
- Presbyterian University of East Africa - Kikuyu
- Pioneer International College - Ngara, Nairobi
- Africa Nazarene University – Kajiado
- Genco University - Nairobi, Kenya
- Inoorero University (formerly KSPS) - Nairobi
- Aga Khan University - Highridge, Nairobi
- Catholic University of Eastern Africa - CUEA- Karen, Nairobi
- Daystar University - Hurlingham, Nairobi
- East Africa School of Theology - Nairobi
- Great Lakes University of Kisumu (GLUK)
- Reformed Institute for theological Training (RITT) - Eldoret
- Gretsa University – Thika
- Kabarak University - Kabarak, Nakuru
- KCA University - Ruaraka, Nairobi
- Kenya Highlands Bible College - Kericho
- Kenya Methodist University
- (KEMU) - Meru and Mombasa, Kenya
- Kiriri Women's University of Science and Technology (KWUST) - Westlands, Nairobi
- Nairobi Evangelical Graduate School of Theology (N.E.G.S.T.) - Karen, Nairobi
- Nairobi International School of Theology [NIST] - Kilimani, Nairobi

- Pan Africa Christian University - Nairobi
- Scott Theological College - Machakos
• St. Paul's University - Limuru and Nairobi
• St. Mary's school of graduate
• Strathmore University - Nairobi
• United States International University (USIU-A) – Kasarani, Nairobi
• United States International University (School of Business) – Kasarani, Nairobi
• University of Eastern Africa, Baraton - Eldoret
• Mt Kenya university - Thika
• Migori university of Guidance and Counselling - Migori
• Bugema University Elgonview College Nakuru Town campus
• Bugema University Elgonview College Eldoret Town Campus
• Bugema University Elgonview College Kisii Town Campus
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