

THE COMMISSION ON ADMINISTRATIVE JUSTICE

Office of the Ombudsman



Hata Mnyonge ana Haki

CAMPUS CRISIS



AN INVESTIGATIONS REPORT

ON

MISHANDLING OF THE UNIVERSITY OF NAIROBI STUDENTS'

ELECTIONS AND SUBSEQUENT RIOTS OF APRIL, 2016

OCTOBER, 2016.

Serial No. CJUN No.34/2016

Foreword

The Commission on Administrative Justice (CAJ), pursuant to its mandate as stipulated under section 8 of CAJ Act, undertook investigations into perceived mishandling of the University of Nairobi students' elections and subsequent riots of April, 2016.

The investigations were undertaken *suo motu* following the students' unrest on the 4th April, 2016. The students burnt down the SONU office and a prefab hostel disputing the re-election of Paul Ongili Owino a.k.a. Babu Owino as the SONU Chairman. The investigation explored the circumstances of the students' unrest and the role played by of the University of Nairobi Administration in the management of the elections.

Pursuant to Section 37 of the CAJ Act, the Commission notified the Cabinet Secretary Education, Cabinet Secretary Interior and Coordination of National Government, the Vice Chancellor University of Nairobi, Inspector General of Police, Dean Faculty of Law, University of Nairobi and Chairman, National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) of its decision to investigate the matter.

This compilation of this report was informed by interviews held with members of staff and students of the University of Nairobi and police officers. The report was also informed by the examination of documents recovered in the course of investigations.

Investigations revealed that the University management was faced with a challenge of managing the students' organization due to historical lapses that have led to a culture of hooliganism among some students and that the GSU contingent which went to quell the riots used excessive force and beat some students who sustained injuries.

The finding of this investigation will inform the management and governance of public universities students' leadership organizations and in particular, the election processes.

Signed this.....day of October, 2016

Dr. Otiende Amollo, EBS

Chairperson of the Commission

Commission on Administrative Justice (Office of the Ombudsman)



Table of Contents

Foreword	iii
Acronyms	v
Executive Summary	vi
1.0 Introduction to Investigations	1
1.2 Investigative Process.....	2
1.3 Normative Framework	4
2.0 Analysis and Findings.....	8
3.0 Consequential Observations	28
4.0 Conclusions	29
5.0 Determinations	32



Acronyms

ADD	Architecture Design Development
CCTV	Closed Circuit Television
CS	Cabinet Secretary
DVC	Deputy Vice Chancellor
KNH	Kenyatta National Hospital
NACADA	National Authority for the Campaign against Alcohol and Drug Abuse
NARC	National Rainbow Coalition
SONU	Students Organization of Nairobi University
SWA	Students Welfare Authority
UoN	University of Nairobi
VC	Vice Chancellor

Executive Summary

The Commission on Administrative Justice undertook *suo motu* investigations following media reports of riots by University of Nairobi students. The riots ensued subsequent to the disputed SONU elections held on 1st April, 2016. During the riots, the students destroyed and burnt University property, and consequently the University Senate closed down the institution in the evening of 5th April, 2016.

The Commission sought to investigate the mishandling of the University of Nairobi students' elections and the subsequent riots of April, 2016 and in particular, the regime of the students' elections, the mandatory contributions by all students towards SONU and accountability in the disbursement and management of the funds, the administrative and disciplinary process following the students unrest, malfeasance through inaction by the University administration, safety and security within the University of Nairobi and Police intervention in terms of actions and commissions.


CAJ wrote to the Cabinet Secretary Education, Cabinet Secretary Interior and Coordination of National Government, Vice Chancellor University of Nairobi, Inspector General of Police, Dean Faculty of Law, University of Nairobi and Chairman, National Authority for the Campaign against Alcohol and Drug Abuse (NACADA) to notify them of CAJ's decision to investigate the matter.

CAJ investigators visited several offices at the University of Nairobi, interviewed the Vice Chancellor, Deputy Vice Chancellors, several members of staff and students of the University of Nairobi. The investigators also recovered and analysed several documents relevant to the investigations.

Findings

General information

CAJ confirmed that the Student Organisation of Nairobi University (SONU) held elections on Friday 1st April, 2016 in which the main contenders for Chairmanship




were Mr. Paul Ongili Owino a.k.a Babu Owino and Mr. Michael Jacobs Odhiambo.

Mr. Paul Ongili Owino was declared the SONU Chairperson for a fourth term and sworn in together with other officials on 2nd April 2016 at the Council Chambers between 11.00 am and 12.00pm but the results were disputed by a section of students led by Mr. Michael Jacobs Odhiambo. Mr Odhiambo and his supporters demonstrated to seek nullification of the results. The University Vice Chancellor, Prof. Mbithi advised the students to petition to the Independent Elections Petition Panel if not satisfied with the election results, instead the students rioted. The UoN management called in police officers to help quell the riots. The police engaged the students in running battles for the better part of the day.

On Monday 4th April, 2016 the group of students led by Michael Jacobs Odhiambo resumed the rioting after the end of the first lesson. Three Members of Parliament joined the rioting students and marched to the Administration Block to seek audience with the Vice Chancellor (VC) but failed to meet the him. The Members of Parliament, Hon. Paul Simba Arati, Hon. Dr. James Wambura Nyikal and Hon. Opiyo Wandayi then addressed the students and left. The students then set on fire the SONU office and a prefab hostel. The contingent of police officers who had been called in to quell the riots , repulsed the students at the Mamlaka hall before they set it on fire.

On the same day, rumours circulated within the students population that General Service Unit (GSU) officers who were called in to quell the riots, had allegedly entered a hostel for female students and raped students. It caused a stampede in which some students sustained injuries in their attempt to escape. The University security personnel called in the Officer in Charge of the GSU contingent and on reaching the hostels confirmed the rumour was false.



The UoN senate met and decided to close the University on the afternoon of 5th April 2016 following the receipt of intelligence reports to the effect that the rampaging students intended to set on fire the University Tower, Examinations Centre, Mamlaka Hall and the Main library among other facilities.

Student Organisation of Nairobi University (SONU)

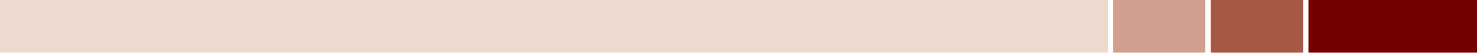
SONU was established in 1982 as a central body representing University of Nairobi students. SONU in its present form is constituted as a students' organisation in line with the Universities Act 2012. It has a constitution to govern its affairs approved by the students and the University Senate. The constitution has a provision for review from time to time.

The aims and objectives of SONU shall be: (a) to use all lawful, proper and prudent means to ensure that members' aspirations and interests are realized; (b) to promote students' welfare; (c) to seek and undertake representation and/or participation in the organs of the University; (d) to work in close solidarity with other students' organizations within the University and to establish friendly relations and understanding with other relevant organizations whose objectives are similar to those of SONU.

The regime of the students' elections

The SONU Constitution provides specific clauses for the entire electioneering process for SONU officials. There are 117 elective positions for SONU officials. Article 18 (1) of the SONU Constitution provides that the election should be held annually between 15th April and 15th May of every year. The SONU elections for the 2015/2016 were held on 1st April, 2016 earlier than what is provided by the SONU Constitution. The University management explained that the election date was brought forward due to the end of semester examinations.

According to Prof, Mbithi, the Vice Chancellor the campaigns were quiet and University business continued well. The April 2016 SONU election day was



generally peaceful unlike the previous two years. Problem ensued soon after the results were announced and the situation worsened upon the swearing in of the elected officials. Michael Jacobs Odhiambo and his supporters rejected the outcome and decided to riot, despite the Vice Chancellor having advised them to petition to the Election Petition Panel.

CAJ noted that there were a number of issues that may have contributed to the students' unrest. These include the review of SONU constitution that enabled Mr. Babu Owino to vie for Chairmanship for the fourth term after serving as SONU chairman in 2011, 2014 and 2015 academic years, the fact that the election process was marred by violence, harassing and beating of election officials, threatening and intimidation of opponents and their supporters, use of excessive amounts of money in the campaigns, presence of non-university students, forgery of ballot papers, stuffing of ballots and desruption of the tallying process.


CAJ also noted that there is general insecurity in the university, instances of peddling and abuse of drugs, and occasions of accommodation of non-students in the halls of residence. There is an emerging culture of hooliganism and destruction of property among the students, the origin of which is attributed to the previous UoN administrative regime.

The fact that the SONU Electoral Commission are appointed from the previous SONU leaders is in itself a bad practice.

CAJ also noted that a culture of hooliganism and destruction of property had developed among students at the watch of the University Administration. This situation was attributed to the previous UoN administrative regime.

The hooligans continue to intimidate the University Administration who appear helpless and hence the status quo.

The mandatory contributions by all students towards SONU and accountability in the disbursement and management of the funds.



SONU draws its membership from all undergraduate students in the government sponsored programme (Module I) and self-sponsored students (Module II) in line with Part Two, Article 5 of its constitution. The students pay a compulsory annual subscription fee of KSh. 500 for government sponsored and KSh. 1000 for self-sponsored. These funds are estimated to be between KSh. 43 and 60 million per financial year running from July 1st to June 30th as that of the University.

The expenditure of SONU is approved in the first instance by the University Management Board on the recommendation of Parliament and expended on a day to day basis by the Chairperson or Finance Secretary, with the guidance of the Executive or Finance Committee and the overall guidance of the University's Finance Officers.

A perusal of the audited accounts for the year 2014/2015 indicated that the University collected KSh. 40,731,235.00 as SONU subscription fee and spent KSh. 36,970,725 on SONU activities. It is not clear what happened with the balance of **KSh. 3,760,510.00** which is not reflected in the audited accounts as having been carried forward to the 2015/16 financial year.

CAJ also established that in the year 2015/16 SONU collected **KSh 35,261,000.00** and spent **KSh. 31,453,454.00**, leaving a balance of **KSh 3,807,546.00**. It is also not clear where this balance is, although the audited accounts for the financial year in question are not yet available.

According to the Dean of students who is incharge of accounting of SONU funds, there is lack of transparency in the utilization and accounting of SONU funds. Some of the funded activities do not take place but funds are spent by the SONU officials. He pointed out that some SONU officials normally over exaggerate budgets and activities and falsify receipts and other supporting documents to account for the used funds. He further stated that some students' leaders are known to solicit for funds from politicians in the name of SONU but the funds are put into personal use.



Malfeasance through inaction by the University Administration


SONU was banned after the coup attempt in 1982. It was revived in 2002 after NARC came to power. All students who had been expelled from University were readmitted and this act came with attendant challenges. Primarily, the return of students with questionable character. This has with time led to the rise of “*hooliganism culture*” amongst the students posing discipline challenges to the University administration. SONU intimidates the University administration with threats of riots any time the students fail to get their way or the UoN administration takes measures they consider unfavourable. This has contributed to delay in handling disciplinary cases among students by the University administration.

According to some of the student leaders interviewed by CAJ, the University did not provide effective dialogue, counselling and mentorship of the various aspirants to the SONU leadership.

It was noted that there are non-students residing in the halls of residence some of whom are said to be involved in anti-social and criminal activities yet there are clear regulations governing admission into the halls of residence. A case in reference is Hall 9 whose occupants perpetuated illicit activities and resisted control and inspection by the University halls management.

Administrative and disciplinary process following the students unrest

According to the Vice Chancellor, SONU is a vehicle for internal leadership training among the students, but there is external interference and funding which has brought in the culture of hooliganism in the University. This has over time increased the students’ democratic space without corresponding observance of the obligations and discipline. This state of affairs has resulted into general insecurity.



CAJ noted that following the 1st April, 2016 riots, the University Management put in place measures to re-instil discipline among the errant students including holding disciplinary proceedings for the students involved in violent attacks on fellow students, arson, destruction of University property and other offences.

The University handled 218 discipline cases out of which 36 students were expelled, 25 suspended, 139 given strong warning, 3 remained pending while 15 students had their suspensions lifted. The disciplinary action by the University management has brought sanity in the institution.

Safety and Security within The University of Nairobi

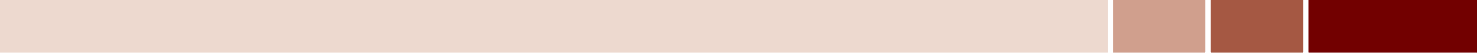
CAJ also received information alleging that some politicians were involved in the election process and that some were alleged to have funded the students' campaigns. The students' politics appeared to reflect the national political scene.

With the rise of terrorism, the UoN developed an Action Plan that identified several security aspects for implementation, starting with intensified patrols within the UoN campuses in collaboration with police officers.

The UoN management introduced custodians to not only monitor the flow of students and visitors into the halls of residence, but to also ensure general security of the students, their property and University property.

The biggest challenge in implementing the action plan has been both financial and human resources. The number of halls custodians is insufficient in relation to the number of halls to cover and the attendant responsibilities.

Another challenge to security is the porous nature of the fences that surround the halls of residence. Students and visitors take advantage of this and use illegal entry points to sneak in contraband that compromises the general security of the University.



It came to light that there are many strangers living in the halls of residence meant for students. This is due to a weakness in the system when it comes to allocation of rooms to students. No routine checks are done to monitor the occupancy of individual rooms. This explains the scenario where some SONU officials appear in SWA records to be occupants of specific rooms but a check proved otherwise.

The Commission noted with great concern that there is potential growth of criminal elements within the university halls of residence which if left unchecked would lead to a serious security problem. It is possible that such situation could be found in the other public universities in Kenya.

Police intervention

Police intervention was timely and saved University property from further destruction. However, in the course of quelling the riots and safe guarding property, the GSU officers used excessive force which led to serious injuries to some of the students.

CAJ recovered a list from the UoN Chief Medical Officer of Health Services confirming that **18** Male students were assaulted by GSU Police officers during the riots that lasted between 1st and 5th April, 2016, following SONU elections. The students sustained soft tissue injuries and fractures. Five other students were attacked by fellow students while one male student was hit by a flying object bringing the total of those injured to 42 students.

The GSU officers under the command of Chief Inspector Stanley Mbuvi arrested a group of UoN students and marched them to the entrance of YMCA hostels. The students were then forced to lie down. The police beat the students repeatedly with huge buttons inflicting soft tissue injuries and fractures. CAJ invited Chief Inspector Stanley Mbuvi to clarify the matter but he did not attend the interview.

Allegations of rape against female students were not established contrary to media reports. The female student alleged to have been raped was diagnosed with Bipolar Disorder as a result of drug overdose.

Consequential Observations

- i. Article 18 (1) of the SONU Constitution provides that SONU elections shall be held between the 15th April and 15th May every year but the 2016/2017 SONU elections were held on the 1st April, 2016. The University management cited examinations as the reason for bringing the elections forward.
- ii. Outgoing SONU officials serve as Student Commissioners in subsequent elections presenting a clear conflict of interest situation.
- iii. The Election Petition Panel consists of student representatives appointed by outgoing SONU officials giving rise to lack of confidence in the panel by losers.
- iv. There is external interference in the students governance as demonstrated by the presence of politicians at the Main Campus on the morning of 4th April, 2016.
- v. SONU leadership is perceived as a preparatory ground for National politics hence the high profile campaign strategies contenders employ.
- vi. There is excessive amount of money used and given to students during electioneering process.
- vii. There is a growing culture of hooliganism (goonism) and anti-social behaviour among some of the students. An increasing number of students are involved in trafficking and abuse of drugs and alcohol in the halls of residence.
- viii. Two GSU officers, Mr. Andrew Changwony SSP and Chief Inspector Stanley Mbuvi were found unresponsive during the investigations process. CAJ is separately commencing legal action against the said officers under Section 52 of the CAJ Act and may include their names in the list of unresponsive public officers.

Conclusions

- i. CAJ confirmed that SONU elections were held on 1st April, 2016.
- ii. Paul Ongili, a.k.a. Babu Owino was declared winner with 15,000 votes against Michael Jacobs Odhiambo who had 3,000 votes.
- iii. The swearing in ceremony took place on 2nd April, 2016 between 11.00 am and 12.00 noon at the University Council Chambers.
- iv. It was established that during the tallying of votes, hired youths disrupted the process and stuffed fake ballot papers in ballot boxes.
- v. Michael Jacob and his supporters were dissatisfied with the election results.
- vi. UoN management advised Michael Jacobs Odhiambo with his team to petition the SONU elections results with the Independent Election Petition Panel but the students did not heed the advice.
- vii. They instead rioted to seek nullification of the results despite the University management's advice.
- viii. The rioting students burnt down SONU Offices and one prefab hostel. The Police repulsed them at Mamlaka hall which they also intended to burn down.
- ix. Police engaged the rioting students on Saturday, 2nd April, 2016, and chased them to the halls of residence. However, the students regrouped, came back and engaged the police in running battles.
- x. The GSU officers used excessive force in quelling the students' riots and caused fractures and soft tissue injuries many students.
- xi. Monday, 4th April, 2016 students went to class but upon completion of first lesson, led by Mr. Michael Jacobs Odhiambo, assembled at the University square, where he addressed them. Shortly after, the students were joined by Hon. Paul Simba Arati, MP Dagoreti North, Hon. Dr. James Wambura Nyikal, MP Seme and Hon. Opiyo Wandayi, MP Ugunja, who together with students wanted to see the Vice Chancellor, UoN.

- xii. When they could not meet the VC, the MPs addressed the students who became rowdy and begun rioting again. Police were called in and they engaged the rioters.
- xiii. There was intelligence to the effect that the students also intended to burn down the University Tower, Main Library, Examinations Centre at Chiromo, Mamlaka Hall and Prefab Hostels.
- xiv. Upon consultation, the University Senate closed the University and ordered students to vacate halls of residence by 5.00pm on 5th April, 2016 to avoid further destruction of property.
- xv. According to the Director, Safety and Security, a rumour circulated within the campus that GSU officers had entered halls of residence occupied by female students and were beating and raping students.
- xvi. The University security called the Officer Commanding the GSU contingent assigned to quell the riots. Together they visited the halls and confirmed that was not true. However, the rumour caused a stampede and some female students jumped from the first and second floors of their hostel which led to some of the students sustaining soft tissue injuries and were treated at UoN's health facility and at KNH.
- xvii. The UoN security also discovered the presence of hired youths in the University compound who were chased away by police.
- xviii. It was established that police intervention was timely and helpful
- xix. The Vice Chancellor, the Deputy Vice Chancellor Student Affairs, Director Students Welfare Authority, Director Security and Safety and the University management assisted by the police carried out a search in the halls of residence and recovered various quantities of bhang, cocaine, alcohol, machettes, blood stained pangas, slings and security uniforms.
- xx. The exercise also confirmed the presence of non-students residing in the halls of residence which compromises the safety and security of the students and university property.
- xxi. UoN Administration initiated disciplinary measures targeting the rioters, arsonists and those in whose rooms, drugs and crude weapons were found.


- xxii. The University Act 2012 and the SONU constitution provides for students participation in the University management and development of students leadership. However SONU as currently run does not subscribe to the ideals as envisaged in the University Act 2012.
- xxiii. The SONU Constitution also provides guidelines for conducting elections.
- xxiv. Article 20(2) of the SONU constitution allows outgoing SONU officials to be part of the electoral commission. This makes them interested parties and therefore influences the outcome of the elections. This has given rise to cartels that determine the SONU leadership.
- xxv. Article 24(2) of the SONU constitution mandates the outgoing SONU officials to appoint student representatives to the Election Petition Panel. This makes the petition panel open to influence from the cartels that run the SONU elections, hence the lack of confidence in the independence of the panel by some losers.
- xxvi. SONU generates and controls enormous financial resources. This was said to be one of the reason behind the cut throat competition for leadership in the student organisation and the existence of cartels.
- xxvii. CAJ noted that regular students (module 1) pay KSh 500 while parallel students (module 2) pay KSh 1000 as membership fees annually.
- xxviii. It is worth noting that over KSh 35-40 million is collected annually, monies which are deposited in the University main account under SONU vote.
- xxix. The SONU funds are used for elections, allowances for SONU officials, charity and other activities identified by the SONU leaders.
- xxx. Students' leaders wanting to draw money from the SONU vote submit proposals to Dean of Students and once approved, forwards to DVC student Affairs who authorises payment by the Finance Officer. Payments are done in terms of impress to a University employee attached to the Dean of Student's Office for purposes of accounting.
- xxxi. There is no independent audit of the SONU funds. It is audited as part of the larger University account.
- xxxii. Audited accounts for the year 2014/2015 indicates that the University collected KSh. 40,731,235 as SONU subscription fee and spent KSh.


36,970,725 on SONU activities. A balance of **KSh. 3,760,510.00** which is apparently not reflected as having been carried forward to the 2015/2016 SONU vote remained. It is not clear what happened with the money.

xxxiii. CAJ also established that in the year 2015/16 SONU collected **KSh 35,261,000.00** and spent **KSh. 31,453,454.00**, leaving a balance of **KSh 3,807,546.00**. It is also not clear where this balance is, although the audited accounts for the financial year in question are not yet available.

Determinations

1. The SONU constitution should be amended to allow student leaders to vie for only one term as opposed to the current two terms.
2. The timing of SONU elections should be such that the elections are not held close to examination time.
3. Article 20 relating to the composition of the Electoral Commission and Article 24 on the composition of the Election Petition Panel in the SONU constitution should be amended so as not to involve outgoing SONU officials in the running of elections and hearing of petitions.
4. SONU membership fee be reduced for those paying KSh 1000.00 and harmonised across the board for both regular and parallel students.
5. The University Administration should train student leaders on public finance and procurement, and provide short term courses (3 days) on good governance and transformative leadership.
6. The UoN Administration to formulate a disciplinary mechanism and enforce resolutions arrived at out of this mechanism.
7. The Student Welfare Authority to strengthen mechanisms for allocation and actual occupancy of rooms in the hostels to weed out non-students/strangers occupying rooms at the expense of deserving students.
8. The management and accounting of SONU funds should be independent and separate from the university main accounts. Student activities should be monitored and processes audited to avoid fraudulent accounting of some of the funded activities or faking activities that do not take place

- 
- including falsification of receipts and other supporting documents for cash payments.
9. The University and SONU leadership should appoint an internal audit team to examine SONU expenditure vouchers and check on over exaggeration of budgets and activities.
 10. A balance of KSh. 3,760,510.00 which remained in the SONU vote account during the 2014/2015 financial year should be credited into the SONU account.
 11. The University should cause a special audit on SONU funds to ensure proper utilization of the same. The total of **KSh 7,568,056.00** being balances on SONU expenditure for the financial year 2014/15 and 2015/16 should also be properly accounted for.
 12. The University of Nairobi should set a ceiling on students election campaign expenditure and provide a policy to disqualify any candidate who spends beyond the stated amount from contesting as a SONU official.
 13. The University of Nairobi should undertake civic education among the student community on the dangers of alcohol and substance abuse and the peddling of narcotics and psychotropic substances.
 14. The University Management should come up with strategies to address the safety of the students and nurture them to be good citizens, besides just providing academic programs.
 15. The University of Nairobi should put in place continuous surveillance to enhance security within the university premises.
 16. The University of Nairobi should invest in relevant modern security equipment besides fencing the University.
 17. The inspection at the halls of residence undertaken by the UoN after the April 2016 riots is commendable but it should become a common feature to enhance safety and security and prevent the emergence of hooliganism, radicalization of students and also weed out none students and bad elements within the university halls of residence.

- 
18. The university senate should come up with a robust strategy to guide and mentor student leaders so that they are not taken advantage of by external others.
 19. The University of Nairobi Students Welfare Authority should intergrate student leaders with the others in the allocation of residential rooms and avoid the current isolation and preferential treatment resulting in their being uncontrollable.
 20. The Inspector General of Police should institute disciplinary proceedings and prosecution of the police who used excessive force thus injuring students.
 21. The National Police Service Commission and the Inspector General should retrain police officers on the management and respond to demonstrations and riots involving unarmed citizens.

1.0 Introduction to Investigations

The Commission on Administrative Justice (Office of the Ombudsman) is a Constitutional Commission established under Article 59 (4) and Chapter Fifteen of the Constitution, and the Commission on Administrative Justice Act, 2011. The Commission on Administrative Justice (CAJ) has a mandate, *inter-alia*, to investigate any conduct in state affairs or any act or omission in public administration in any sphere of Government and complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct.

In addition to the CAJ's investigative powers under Article 252 (1) (a), Sections 26, 27, 28 and 29 of the CAJ Act gives the Commission powers to conduct investigations on its own initiative or on a complaint made by a member of the public, issue Summons and require that statements be given under oath, adjudicate on matters relating to administrative justice, obtain relevant information from any person or Governmental authorities and to compel production of such information.

Pursuant to section 8 of the CAJ Act, 2011, the Commission undertook *suo motu* investigations on the failure of governance and management of the 1st April, 2016 Students Organization of the University of Nairobi (SONU) Elections. The elections were followed by student unrest on 4th April, 2016 whereby the SONU office was set on fire and a prefab hostel burnt down.

1.1 Issues under Investigations

CAJ sought to investigate the mishandling of the University of Nairobi students' elections and subsequent riots of 2nd and 4th April, 2016. The issues under investigations were:

- i. The regime of the students' elections
- ii. The mandatory contributions by all students towards SONU and accountability in the disbursement and management of the funds.
- iii. Malfeasance through inaction by the University administration

- iv. The administrative and disciplinary process following the students unrest
- v. Safety and security within the University of Nairobi.
- vi. Police intervention, action and commission.

1.2 Investigative Process

1.2.1 Notification

Pursuant to section 37 of the CAJ Act, the Commission notified the following people of its decision to investigate the matter.

- i. Dr. Fred Matiang'i Okengo, Cabinet Secretary, Education (**Annexure A1**).
- ii. Hon. Maj. Gen. (Rtd) Joseph Ole Nkaissey, Cabinet Secretary, Interior and Coordination of National Government (**Annexure A2**).
- iii. Prof. Peter M. F. Mbithi, Vice Chancellor, University of Nairobi (**Annexure A3**).
- iv. Mr. Joseph K. Boinett, Inspector General of Police (**Annexure A4**).
- v. Prof. Patricia Kamari-Mbote, Dean Faculty of Law, University of Nairobi (**Annexure A5**).
- vi. Mr. John Mututho, Chairman, National Authority for the Campaign against Alcohol and Drug Abuse (NACADA) (**Annexure A6**).

1.2.2 UoN Staff interviewed

The following people were interviewed during the process of investigations.

- i. Prof. Peter M. F. Mbithi, Vice Chancellor, University of Nairobi
- ii. Prof. Isaac Meroka Mbeche, Deputy Vice Chancellor, Student Affairs, UoN.
- iii. Prof. Henry W. Mutoro, Deputy VC, Academic Affairs, UoN
- iv. Prof. Patricia Kamari-Mbote, Dean Faculty of Law, University of Nairobi.
- v. Dr. (Fr.) Dominic Wamugunda Wakimani, Dean of students, UoN.
- vi. Prof. Godfrey Muriuki, Special Student Advisor, UoN.
- vii. Mr. Benard M. Waweru, Registrar Academics, UoN.
- viii. Mr. Peter Busienei, Finance Officer, UoN.
- ix. Mr. Robert Mwandonga Lugwe, Director SWA.
- x. Mr. Wilfred Muturi Wahome, Director Safety and Security, UoN.
- xi. Mr David Kimani Githecha, Deputy Director, Security and Safety, UoN.

- xii. Mr. Benjamin Musingila Katuva, Chief Halls Officer SWA
- xiii. Ms. Esther Wairimu Wahome, Halls Officer for Halls 4 – 9.
- xiv. Mr. Hastings Kumba, Halls Assistant for Halls 6, 7 and 8.
- xv. Mrs. Jackline Muhonja Ashiono, Custodian for Halls 2 – 10 which are Prefab Hostels.

1.2.3 SONU Officials interviewed

- i. Mr. Paul Babu Owino Ongili, SONU Chairperson
- ii. Michael Jacob Odhiambo, contender, SONU Chairperson.

1.2.4 Other UoN students interviewed

- i. Mr. Boniface Mumo, Lower Kabete Campus
- ii. Mr. Mbeja Galdinus, Lower Kabete Campus
- iii. Ms Diana Kemunto Otworu, Lower Kabete Campus
- iv. Mr. Wilson Julius Odek, Parklands Campus
- v. Mr. Edward K. Cheruiyot, Parklands Campus
- vi. Ms. Otieno E. Adhiambo, Parklands Campus
- vii. Mr. Jepher Kere, Parklands Campus
- viii. Mr. Derick Winston Shango, Main Campus
- ix. Ms Cherie Pearl Apungu, Main Campus
- x. Mr. Kennedy Ochieng Ochola, Main Campus

1.2.5 Police Officers interviewed

- i. The OCPD Central, Nairobi Area Police Division
- ii. DCIO Kilimani Police Division
- iii. OCS Spring valley Police Station
- iv. OCS Kileleshwa Police Station
- v. OCS Parklands Police Station

1.2.6 UoN Officials interviewed

The following UoN officials were interviewed.

- i. Prof. Isaac Meroka Mbeche, Deputy Vice Chancellor, Student Affairs.
- ii. Prof. Godfrey Muriuki, Special Student Advisor, UoN.
- iii. Mr. Benjamin Musingila Katuva, Chief Halls Officer SWA
- iv. Mr. Wilfred Muturi Wahome, Director Safety and Security, UoN.
- v. Mr. Robert Mwandonga Lugwe, Director SWA

1.2.7 Documents recovered

- i. The SONU Constitution
- ii. Internal memo dated 3rd December, 2015.
- iii. Internal memo dated 9th February 2016.
- iv. List of SONU Electoral Commission 2016.
- v. List of weapons and drugs recovered from hall 9 on 9th April 2016.
- vi. Letter Ref: UON/SEC/5/5/24 dated 21st April, 2016.
- vii. Fire incident report dated 5th April, 2016
- viii. Report of students' disciplinary cases following riots after SONU election.
- ix. Medical summary report of students injured following SONU elections
- x. Audited UoN Accounts for 2015
- xi. SONU expenditure vouchers for 2014/15

1.3 Normative Framework

The Constitution of Kenya

Article 73: Chapter Six—Leadership and Integrity

(2) The guiding principles of leadership and integrity include—

(a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;

(b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;

(c) selfless service based solely on the public interest, demonstrated by—(i) honesty in the execution of public duties; and (ii) the declaration of any personal interest that may conflict with public duties;

(d) accountability to the public for decisions and actions; and

(e) discipline and commitment in service to the people.

The National Police Service Act

Article 244. *The National Police Service shall—*

- (a) strive for the highest standards of professionalism and discipline among its members;*
- (b) prevent corruption and promote and practice transparency and accountability;*
- (c) comply with constitutional standards of human rights and fundamental freedoms;*
- (d) train staff to the highest possible standards of competence and integrity and to respect human rights and fundamental freedoms and dignity; and*
- (e) foster and promote relationships with the broader society.*

Section 49: General Powers of police officers

(1) Subject to Article 244 of the Constitution and the Bill of Rights, a police officer may exercise such powers and shall perform such duties and functions as are by law imposed or conferred on or assigned to a police officer.

(2) Where any duty, power or discretion is imposed or conferred by this Act or any other law on a police officer of any specified rank or holding any specified office, the police officer, shall, in the performance of such duty or the exercise of such power or discretion, and subject to the lawful orders and directions of any police officer to whom the police officer is directly subordinate, and any senior police officer, if the occasion arises where it is expedient to do so, perform any such duty or exercise any such power or discretion.

(3) Police officers shall make a report of all daily occurrences and incidents encountered and make it available to their superior.

(4) A police officer who performs an official duty or exercises police powers shall perform such duty or exercise such power in a manner that is lawful.

(5) Where a police officer is authorized by law to use force, the officer shall do so in compliance with the guidelines set out in the Sixth Schedule.

(6) Every police officer shall be competent to serve or execute any summons, warrant or other process whether directed to him or to any other officer.

(7) The storage and use of information by any member of the Service shall be done in compliance with Article 31 of the Constitution, and all other relevant laws and regulations that apply.

(8) The Inspector-General may make regulations on handling of information by the Service.

(9) Matters of a personal nature and operational information in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

(10) A police officer shall respect the law, regulations and the Service Standing Orders, and to the best of their capability, prevent and oppose any violations of them.

(11) A police officer who has reason to believe that a violation of the law has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

Commission on Administrative Justice Act, 2011

Section 8: Functions of the Commission


The functions of the Commission shall be to—

(a) Investigate any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice;

(b) Investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector;

(c) Report to the National Assembly bi-annually on the complaints investigated under paragraphs (a) and (b), and the remedial action taken thereon;

(d) Inquire into allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehaviour, inefficiency or ineptitude within the public service;

- 
- (e) Facilitate the setting up of, and build complaint handling capacity in, the sectors of public service, public offices and state organs;*
 - (f) Work with different public institutions to promote alternative dispute resolution methods in the resolution of complaints relating to public administration;*
 - (g) Recommend compensation or other appropriate remedies against persons or bodies to which this Act applies;*
 - (h) Provide advisory opinions or proposals on improvement of public administration, including review of legislation, codes of conduct, processes and procedures.*

2.0 Analysis and Findings

The Commission on Administrative Justice undertook *suo motu* investigations following media reports of riots by University of Nairobi students. The riots ensued subsequent to the disputed SONU elections that had been held on 1st April, 2016. During the riots, the students destroyed and burnt University property. Consequently the University Senate closed down the institution in the evening of 5th April, 2016.

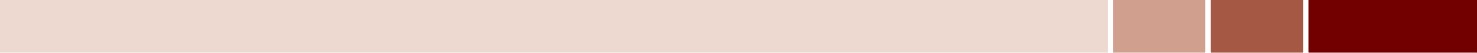
2.1 The regime of the students' elections

The SONU Constitution provides specific clauses for the entire electioneering process for SONU officials. There are 117 elective positions for SONU officials. The SONU elections for the 2015/2016 were held on 1st April, 2016 earlier than what is provided by the SONU Constitution. Article 18 (1) of the SONU Constitution provides that the election should be held annually between 15th April and 15th May of every year. The University management explained that the election date was brought forward due to the end of semester examinations.

The SONU constitution provides for elections to be held between 15th April and 15th May each year. The SONU Parliament is dissolved one month before elections. During this month, campaigns are conducted in the campuses by contenders. **(Annexure A 7)**

The students run their own elections though the University Senate oversees the electoral process courtesy of Staff Commissioners. The Staff Commissioners work in conjunction with Student Commissioners who are normally all outgoing members of the dissolved SONU executive and are not vying for any position.

It has been noted that some contenders use significant amounts of money to put up posters and manage expensive motorized musical caravans across the campuses during the campaign period. The source of these funds remains a mystery though there is reason to believe politicians sponsor some candidates.



The university safety and security officers stated during interviews that there was a noted trend in which SONU contenders hired fellow students with disruptive behaviour (*goons*) to intimidate opponents and create violence during the campaign period or on the voting day.

Interviews with Police Officers at Central Police Station, Kileleshwa, Kilimani, Parklands and Spring Valley established that the campaign period preceding the 2015/16 SONU elections were characterized by violence by student goons. CAJ noted that on the 20th March, 2016 student goons allied to Paul Ongili a.k.a. Babu Owino and Mike Jacobs Odhiambo reportedly attacked each other at Kileleshwa Shell Petrol Station. An assault complaint was made at Kileleshwa Police station. Paul Ongili a.k.a. Babu Owino has subsequently been charged in court with the assault. Another incident involved violence against a student in Hall 9, by fellow students and he sustained a fractured leg.

The police further stated that on the 1st of April, 2016, they intercepted and impounded a Toyota saloon car registration number KBR 687T at Chiromo campus carrying dangerous weapons. Mr. Elvis Ochieng Ogola a UoN student, who was found driving the car has since been charged in court for the offence of Possession of Offensive Weapon vide Kilimani Police file number CR142/33/2016 and court file number 1587/16.

SONU elections were held on 1st April, 2016. Mr Paul Ongili, a.k.a. Babu Owino was reported to have won the SONU Chairmanship having garnered 15,000 votes against his challenger, Mike Jacobs Odhiambo with 3,000 votes. The swearing in ceremony took place on 2nd April, 2016 between 11.00 am and noon at the Council Chambers. The swearing in of the newly elected officials was done within a period of 24 hours after announcement of results as stipulated under Article 26 (3) of the SONU Constitution., The swearing in was done at the Council Chambers.

The UoN security team discovered the presence of youth assembled at the Chancellors court on the swearing in day. A contingent of Police Officers was called in and on seeing the officers, the crowd dispersed into different directions.




Demonstrating UoN Students at the Main Campus following the disputed 1st April, 2016 SONU elections.

There was dissatisfaction with the election results. The UoN management advised Mr. Michael Jacob Odhiambo and any other student dissatisfied with the results to lodge appeals with the UoN Election Appeals Panel as provided for in Article 25 of the SONU constitution. The composition of the Election Petition Panel is spelt out in Article 24 (2) of the SONU constitution. Michael Jacobs Odhiambo with his team felt they would not get justice hence incited their supporters into rioting to seek nullification of the results. The UoN administration called in the police to help contain the situation when the rioting students went out of campus and started stoning motorists.

Police engaged the rioting students on Saturday, 2nd April, 2016, and chased them to the halls of residence. However, the students regrouped, came back and engaged the police in running battles.

On Monday, 4th April, 2016 the students went to class but upon the end of the first lesson, Mike Jacobs came out of an economics class accompanied by a



group of students who assembled at the University Square and were addressed by Mr. Mike Jacobs Odhiambo. Shortly after, the students were joined by Hon. Paul Simba Arati, MP Dagoreti North, Hon. Dr. James Wambura Nyikal, MP Seme and Hon. Opiyo Wandayi, MP Ugunja, who together with the students demanded to see the Vice Chancellor, UoN. When they could not meet the VC, the MPs addressed the students who became rowdy and begun rioting again.

During the riots, a rumour circulated within the campus that GSU officers who had been sent to quell the riots had entered halls of residence occupied by female students and that they were beating and raping female students. The University security called the Officer Commanding the GSU contingent assigned to quell the riots. Together they visited the halls and confirmed that it was a false report. However, the rumour caused panic which led to some students jumping from the first and second floors of their hostel and sustaining injuries. Some of the students who sustained soft tissue injuries were treated at the UoN's health facility and others referred to KNH. **(See annexure A 8)**

CAJ obtained a list of students who were injured during the riot that lasted between 1st and 5th April, 2016, following SONU elections. The list was compiled by the UoN Chief Medical Officer, Health Services. The list indicates that a total of **42** students were injured as a result of the 1st April, 2016 students' riots. Of the forty two students, **3** were admitted at Kenyatta National Hospital, **2** at the University Sickbay and one (1) at Mater Hospital. **(Annexure A8)**. One female student appearing on the list was said to have been suffering from a mental (bipolar) disorder due to drug overdose.

A further analysis of the data revealed that **18** Male students were assaulted by GSU Police officers during the riots, while there were no recorded Police assaults on female students. Five **(5)** male students sustained injuries after attacks by fellow students as shown in the table below.

S/No	History of sustained injuries	Number of students	Male	Female
1	Hit by Flying object	1	1	0
2	Jump from top floors	3	2	1
3	Attack by fellow students	5	5	0
4	Fall during stampede	15	11	4
5	GSU officers assaults	18	18	0
Totals		42	37	5


It is worth noting that **(11)** male and **(4)** female students were injured in a stampede during the running battles with the Police. The allegations of rape against female students were unconfirmed.

The rioting Students set on fire the SONU Offices and burnt down one prefab hostel. They were repulsed at Mamlaka hall which they also intended to burn down.

The Director Safety and Security UoN indicated that there was intelligence about planned large scale arson attacks on University property by the rioting students. Some of the targeted buildings were the University Tower, Main Library, Examinations centre and all the Prefab hostels.

The UoN administration acted on intelligence reports by involving the police in maintaining security and subsequently closed the institution.

Investigations revealed that the University did not provide effective dialogue, counselling and mentorship of the various aspirants to the SONU leadership. Besides, there was mishandling of the review process of the previous SONU Constitution, giving rise to Mr. Paul Ongili Owino a.k.a Babu Owino to be elected **FOUR** times as the SONU Chair.



In addition, there were various abetted unprofessional conduct during the various SONU elections, in particular stuffing of fake ballot papers in the ballot boxes including general insecurity.

CAJ noted the University authority's dereliction from the previous regime in abetting a culture of hooliganism and destruction of property among the students, which renders the University of Nairobi culpable of failure in governance and management of SONU elections.

2.2 The Administration of the Student Organization of the University of Nairobi (SONU)

The University of Nairobi has a students' welfare organization referred to as SONU, in line with the University Act, 2012 which requires that every University must have a student organization. It is in this line that University of Nairobi has SONU as a student organization.

2.2.1 Membership

According to Article 5 of the SONU Constitution, all undergraduate students at the University of Nairobi are automatic members of SONU. The SONU Constitution provides for three categories of membership. These are Ordinary, Associate and Honorary membership.

Ordinary members are all undergraduate students who are either government sponsored (module one) or self-sponsored (module two) students. Government sponsored students pay an annual membership fee of KSh 500 while self-sponsored students pay KSh 1000. Students who are staff of the University of Nairobi are ineligible for SONU membership.

Associate membership is open to all Post Graduate students, any undergraduate student of the University under any other module or University member of staff who is a student. Associate members pay an annual membership fee of KSh. 1000. **(See annexure A 7)**

2.2.2 SONU Leadership


According to Article 18 of the SONU Constitution, elections shall be held between April 15th and May 15th of every year following the dissolution of the parliament by the Chairperson through a motion one month before the election date and in the event that the Chairperson fails to dissolve Parliament, Parliament shall stand dissolved within two (2) days after the date on which it should have passed a motion of dissolution.

SONU elections are conducted and supervised by an Electoral Commission as provided for by Article 20 of the SONU constitution which consist of outgoing SONU Executive officials who are not vying in the elections and 12 University Staff Commissioners who are appointed and approved by the University senate.

Article 20(2) of the SONU constitution allows outgoing SONU officials to be part of the electoral commission. This makes them interested parties and therefore influences the outcome of the elections. This has given rise to cartels that determine the SONU leadership.

Article 24(2) of the SONU constitution mandates the outgoing SONU officials to appoint student representatives to the Election Petition Panel. This makes the petition panel open to influence from the cartels that run the SONU elections, hence the lack of confidence in the independence of the panel by some losers.

The Electoral Commission is mandated to undertake all activities related or incidental to the election. Any regulations governing the conduct of campaigns by candidates and their supporters shall be published by the Electoral Commission. Once published, any such regulations may not be amended during the same election. The rules shall be availed to and be signed by validly nominated candidates. The Electoral Commission the sole interpreter of any such regulations, subject to the complaints procedures outlined in the



Constitution. The Electoral Commission organizes campaign debates in all the campuses for contestants for the Executive seats.


The SONU constitution also provide nomination and voting procedures for elections. Upon completion of the tallying of the votes, the Chairperson of the Commission in consultation with the Electoral Commission announces the election results within one (1) day and causes them to be prominently published immediately thereafter.

The organization's constitution provides for three organs; Members in General Meetings, Parliament and the Executive. SONU executive comprises of the Chairperson, Vice-Chairperson, Secretary General, Secretary Special Needs, Organising Secretary, Secretary for Finance, Secretary Academic Affairs, Secretary Gender Affairs, Secretary Sports and Entertainment, Secretary Legal Affairs, Secretary Health and Environment, Secretary Accommodation and Catering and Campus Representatives from UoN 11 campuses. This makes a total of 23 members of the SONU executive. The Chairperson is the chief executive officer of the organization.

The parliament consists of the secretariat with the Speaker as the head and the parliamentarians (Congressmen). Members of the secretariat are Speaker, Deputy Speaker, Clerk, Deputy Clerks, Hansard Editor, Deputy Hansard Editor, Sergeant-at-Arms, Deputy Sergeant-at-Arms, Public Relations officer (Female), Corporate Affairs Officer (Male), 3 Office Assistants nominated by SONU signatories.

The SONU members of parliament are Halls Representatives, Non-resident Representatives, International Students Representatives and Faculty, School or Institute Representatives, otherwise known as Congressmen.

All candidates for SONU elective positions must meet the qualifications as spelt out under Article 19 of the SONU constitution. Subsection 5 requires that a



student shall stand for election in any executive position if he or she has been a member of SONU for at least one academic year, and upon successful completion of first year of study.

Moreover, a candidate contesting SONU elections must be of good conduct and must have a good academic record and obtain a clearance letter from respective Dean, or Director of Faculty or School or Institution. **(See annexure A 7)**

Paul Ongili Owino was sworn in as the Chairperson of SONU, 2016/17 academic year. He qualified to vie because he was undertaking a Bachelor of Laws program and had successfully completed one academic year as per qualifications of the SONU constitution (reviewed in March 2015).

In addition, Mr Ongili was required to have a good academic record in order to obtain a clearance letter from the Dean, Faculty of Law as per article 19 (8). However, Mr. Ongili's provisional result slip for the second academic year 2014/15 indicates that he had failed one unit, Property law and was supposed to re-sit. It is therefore not clear if Mr Paul Ongili had the required good academic records to qualify for contesting in the SONU elections.

Investigations revealed that the focus of students aspiring for SONU leadership has with time changed from nurturing leadership qualities and advocating for students welfare to the control of SONU's enormous funds. This has led to SONU being viewed as a cash cow for those able to organize themselves into groups that can win the elective posts.

It was confirmed that the SONU leadership experiences external influence in which there is high level use of students for national political interests. SONU leaders are used by certain politicians to recruit voters in certain constituencies.

2.2.3 Electoral Petitions

Cases of disputes arising from the electoral process are handled by an Independent Election Petition Panel consisting of 1 student representative from every campus of the University of Nairobi appointed by the outgoing SONU officials and 2 members of staff appointed by Senate. The Chair of the panel is appointed by Senate but should not be a member of staff or a student of the University of Nairobi. The Chair of the Panel should be an advocate of the High Court of Kenya of at least ten years standing with a background, expertise, experience and integrity in constitutional law, constitutional democracy, electoral law, electoral processes and election petitions. Mike Jacobs and his supporters refused to petition with the Petition Panel.


2.2.4 Management of SONU Funds

The SONU constitution provides for the collection of subscription for all students joining University of Nairobi on regular and module II programmes. Government sponsored students (Module I) pay annual subscription fee of KSh. 500 each, while self-sponsored (Module II) students pay KSh. 1000.

The funds are banked at the University main account and managed under a different vote-head. Each year SONU leadership draws up a budget of about KSh. 35 Million to cater for the activities intended for the particular year. The activities include SONU elections, bursaries', allowances, corporate responsibilities among others.

Out of the SONU vote, KSh. 10 Million is set aside for elections. Officials are paid monthly salaries. Members of the executive and the Speaker to the SONU parliament earn KSh 6,500 per month, Congressmen earn KSh 2,000 and members of the secretariat earn KSh 3,000 per month.

It was noted that whenever SONU wants to undertake any activity, officials draw up a budget which is presented to the procurement department where an officer has been assigned SONU matters. The procurement officer scrutinises



the budget before presenting it to the Dean of Students for approval. Once the Dean approves, the budget is then given to the Deputy Vice Chancellor Administration and Finance or the Vice Chancellor for authorisation to the finance officer to release funds. Funds thus approved are paid in form of imprest to identified university staff for accounting purposes.

Investigations confirmed that SONU funds are spent on following student activities:

- i. Meetings
- ii. Bursary to special and needy students
- iii. Salaries and allowances of officials
- iv. Games and other sporting activities
- v. On first-year student orientation and
- vi. On charity activities (community service).

The Dean of students indicated that a Procurement Officer may accompany students during the undertaking of said activities to foresee and account for the spent money. However, students may also undertake activities by themselves and account to the staff who signed the imprest on their behalf.

The SONU Treasurer prepares Annual Accounts under the guidance of the University Finance Officer and in compliance with the University Financial Regulations and presents them to the Finance Committee which discusses and tables the accounts at the AGM after they have been audited by the National Audit Office. The University Auditor has access to books and records of SONU and is entitled to receive all relevant information necessary to complete the audit of SONU accounts. The auditor tables the report at the AGM and states in it whether or not SONU has kept proper books of accounts.

CAJ noted that each year the university collects over KSh 40 Million towards SONU out of which slightly over 10 million is spend on elections while the remaining is spend on allowances for the officials and on students activities.

A perusal of the audited accounts for the year 2014/2015 indicated that the University collected KSh. 40,731,235 as SONU subscription fee and spend KSh. 36,970,725 on SONU activities. It is not clear what happened with the balance of KSh. 3,760,510. **(Annexure A13)**

CAJ established that SONU collected KSh 35,261,000.00 and spent KSh. 31,453,454.00. The balance is KSh 3807546 in the 2015/16 financial year. The audited accounts for the financial year in question are not yet available.

In total, **KSh 7,568,056.00** is not reflected as having been carried forward to the consequent SONU financial accounts.

It was observed that there is no transparency in the utilization and account of SONU funds. It was pointed out that some of the funded activities do not take place but funds are spend by the SONU officials who are also paid monthly allowances. Over exaggeration of budgets and activities is common and the officials falsify receipts and other supporting documents.

Student leaders are known to solicit for funds from politicians in the name of SONU but the funds are put into personal use.

2.2.5 Management Challenges

The management of SONU account experiences the following challenges:

- i. Exaggerated/inflated project budgets
- ii. Budget non-compliance
- iii. Funds not used for the intended purposes but accounted for anyway
- iv. Non-compliance and non-corporation from students during accounting process
- v. Delayed accounting of imprest.
- vi. Non-disclosure of the intended student events in terms of time and venues

vii. Payment of allowances to SONU officials is apparently an incentive for chaos. Hence the unhealthy competitiveness for positions amongst students for various SONU positions.

2.3 The administrative and disciplinary process

Following the student unrest the University Senate met, reviewed the situation and announced the closure of the University in the evening of 4th April, 2016. The University was reopened on 3rd May, 2016.

In the intervening period following the University closure due to student riots, the UoN administration set up several committees to look into the issues affecting the SONU regime and student unrest. Amongst them were committees on Discipline, Hostels (Accommodation), SONU.

On the 9th of April, 2016, the VC, DVC Student Affairs, the Director, SWA, Director, Security and Safety, and other University administrative staff assisted by the police carried out a search in students' halls of residence and recovered bhang, alcohol, machetes, blood stained pangas, slings and security uniforms. This swoop together with CCTV's and intelligence received by UoN administration helped inform the University Disciplinary Committee's outcome.

Following recommendations of the Discipline Committee of the University which handled 218 discipline cases, the University expelled 36 students, suspended 25, gave strong warning to 139 students, lifted the suspensions of 15 students and remained with 3 pending cases. The disciplinary action by the University management brought back sanity in the institution. **(Annexure A9).**

2.4 Malfeasance through inaction by the University Administration


SONU was banned after a coup attempt in 1982. However, NARC Government revived SONU in 2002. The organization as currently run does not subscribe to the ideals of the students council as recommended in the University Act 2012. Students who rise to the SONU leadership often see themselves as an institution. As such SONU has since metamorphosed from mature leadership in relation to student welfare into a culture of unabated *goonism*, where SONU intimidates the University administration with threats of riots and lawlessness anytime the students don't get their way.

CAJ established that once elected, the SONU officials can now access the top echelons of University management without following protocol. This weakness in the system has emboldened the students' leaders and perpetuated the goonism culture amongst the student population which has with time grown and intimidates staff at various levels. The UoN Administration has become ineffective towards handling incorrigible behaviour amongst students.

There is noted reluctance or inaction on matters of indiscipline by the University administration.

SONU has exploited this weakness by the UoN administration and has become an epitome of hooliganism and insecurity. The students' leaders consider themselves above University regulations. Interviews with UoN security officers revealed that there is rampant substance/drug abuse and peddling of bhang within halls of residence amongst students including some SONU officials.

It was noted that there are non-students residing in the halls of residence some of whom are said to be involved in anti-social and criminal activities yet there clear regulation governing admission into the halls of residence. A case in reference is Hall 9 whose occupants perpetuated illicit activities and resisted control and inspection by the University halls management.



According to the Vice Chancellor, SONU is a vehicle for leadership training among the students but apparently external interference and the goonism culture has resulted in the University Management having a hands-off approach in students' affairs. This has overtime increased the students' democratic space without corresponding control measures and discipline.

CAJ noted that following the 1st April, 2016 riots, the University Management has put in place measures to re-instil discipline among the errant students including holding disciplinary proceedings for the students involved in violent attacks on fellow students , arson, destruction of University property and other offences.

2.4.1 The Student Welfare Authority (SWA)

The University's Student Welfare Authority (SWA) allocates rooms for accommodation and settles students at halls 1 to 10. It was established that SWA reserves over 100 rooms for SONU executives and congressmen. Hall 9, which is adjacent to the Authority's administrative offices, including the office of the Deputy Director, Safety and Security is a preferred choice by SONU officials. Hence many SONU officials are accommodated in Hall 9.

The University Administration under the VC, DVC Student Affairs, the Director, SWA, Director, Security and Safety, and other University administrative staff carried out an inspection at the halls of residence on 9th of April, 2016 jointly with different specialised units from the Police Service. Crude weapons and drugs were recovered in the swoop most of them from Hall 9.

During interviews, Police Officers at Kilimani Police Station indicated that bhang previously recovered by security officers at SWA, was stored in the security office by the Deputy Director, Security and Safety instead of being handed over to police for appropriate action. **(Annexure A10)**

2.5 Administrative action on safety and security within the University of Nairobi

With the advent of terrorism and terror attacks, the University of Nairobi developed an Action Plan that identified several security aspects for implementation. The UoN has intensified security patrols in collaboration with the Police in its campuses at Kikuyu, Upper and Lower Kabete.

The UoN introduced custodians in every hall of residence within all campuses to not only monitor the flow of students and visitors in and out of the halls, but to also ensure general safety and security of the students, their property and University property.


During interviews with CAJ investigators, the halls officers shared challenges impeding their effectiveness.

The biggest challenge facing the officers is lack of adequate personnel which compromises security. One individual has several halls of residence to watch over at a given time and so it is not possible to cover all of them effectively at the same time.

Secondly, though some students have been allocated rooms in the halls of residence, they have let out the same rooms to other people (mostly fellow students who missed out on the allocation) at a fee. This is usually discovered during regular checks and it makes it a bit difficult to account for student movement in and out of the halls of residence.

Another challenge is the fence around the halls. It is either a hedge or chain link which is porous due to openings made by the students. The students subsequently use these openings as entry or exit routes to avoid security checks at the halls.

Students cooking their own meals in the halls is a challenge since it at times leads to power outages. These outages at times cause unrest. Also when they



clean their utensils, it clogs the drainage systems as they often dispose of the leftovers in the washrooms.

SONU officials consider themselves superior and so have no respect for the University staff manning the halls of residence. They consider themselves above the rules and regulations governing the halls of residence. In this regard, the SONU officials always want to occupy one specific hall of residence at any given time posing a big challenge to the staff.

The Halls officers are supposed to be mentors to the students. This however is made difficult by the different family backgrounds of the students. Some students because of their upbringing have a negative influence on their peers. The halls officers gave some recommendations to help them perform effectively. They recommended the employment of more personnel to boost their numbers to effectively cover the halls of residence.

The officers recommended that rooms should be allocated to students fairly without a bias towards SONU officials. According to them a student is a student regardless of SONU leadership position. The feeling is that needy students because of family background should be given preference during rooms' allocation.

The officers stated that it would be prudent for the University administration to put up more halls to ensure that all students are accommodated on campus. This would boost security.

The halls officers feel that the eateries on campus should be open 24 hours and offer variety on their menu relative to diverse cultural backgrounds of the students. This would solve the issue of students cooking in the hostels.

The halls officers agreed that there was crime in the halls of residence. Most common was substance abuse especially bhang and alcohol amongst the

students. The notorious hall for substance abuse is Hall 9 which is occupied mainly by SONU officials.

The halls officers stated that when a student is found in possession of bhang or any other narcotics, they report the incident to the security officers who in turn hand over the offending student to the police. However the students are usually bonded and finally released with no action.

The Commission noted with great concern that there is potential growth of criminal elements within the university halls of residence which if left unchecked would lead to a serious security problem.

2.5.1 Police intervention, action and commission

2.5.2 Police intervention

It was established that police intervention was timely, helpful and prevented further destruction/burning of University property. The Director of Security and Safety, University of Nairobi, stated that they had intelligence to the effect that the students intended to burn the Main library, an Examinations Centre at Chiromo, Mamlaka and Prefab hostels.

Investigations established that on 2nd, 3rd and 4th April, 2016 GSU officers engaged with the students in running battles within the University grounds. On 2nd April, 2016 the officers assaulted eight **(8)** students while on 3rd April, 2016, the officers assaulted **3** students. On 4th April, 2016, **7** other students were assaulted by GSU officers. In total, **18** students sustained injuries as a result of action by Police while controlling the student riots. **(See annexure A8)**

2.5.3 Police use of excessive force

It was established that while majority of the injured students sustained soft tissue injuries during the riots, on 2nd April, 2016, GSU officers used excessive force against a male student who sustained a fractured left knee and another who suffered a fracture of the skull. The two students were subsequently admitted at KNH and Mater hospital respectively.

Interviews held with University security officers at SWA revealed that on 4th April, 2016 Police Officers used excessive force against students who were made to lay along lower State House road pavement near the YMCA main gate. **(Annexure A11)**

A scene visit by CAJ investigators revealed that available static points and background corroborates a video clip circulating on social media and aired by NTV and Citizen TV showing police assaulting students along lower State House road. The static points include the YMCA main gate and its two sign posts erected on both sides of the lower State House road, three posts along the YMCA fence and a stretch of tarmac road pavement soiled in red, where students were ordered to lay in a row before being beaten with long buttons.

CAJ investigations confirmed that the video clips which went viral on social media from Monday, 4th April, 2016, showing police officers beating up the students along State House Road, outside YMCA main gate, is true. Police improvised unlawful methods and brutally assaulted students instead of dispersing them.



Police caught on video beating UoN students outside the YMCA main gate along Lower State House Road.

On 4th April, 2016, the GSU officers also used excessive force against Mr. Robert Ooko who sustained severe soft tissue injuries and was admitted at the University's health facility (sickbay).

On 13th June, 2016, CAJ investigators visited Chief Inspector Stanley Mbuvi at the GSU Garrison, Ruaraka for an interview regarding an allegation of assaulting 18 University students during the unrest on 4th April, 2016. Chief Inspector Mbuvi became unresponsive citing lack of clearance from his immediate boss Mr. Andrew Changwony, SSP, who is also the officer in charge of the GSU operations at the GSU Garrison, Ruaraka.

On 10th day of August, 2016, CAJ Investigations Officers visited Chief Inspector Mbuvi to serve him with a summons to attend the Commission. It was learnt that he was no longer serving from the same office. In his office was another officer Chief Inspector Mohammed Sanbur as the officer in charge of the Garrison. He reported the presence of Commission officers to Mr. Andrew Changwony, SSP who is in-charge of the Ruaraka GSU Garrison operations. Through a telephone extension, Mr. Changwony told his Chief Inspector Mohammed Sanbur to escort the Commission officers to his office situated nearby.

While in his office, one of the Commission Officers gave Mr Changwony a copy of the summonses and asked him to assist send his officer, Chief Inspector Mbuvi to attend the Commission on or before 23rd August, 2016. Mr Changwony asked his officers who he had called in his office to make sure that two officers were escorted out of the GSU premises. He also ordered that the copy left in his office be returned to one of the officers or else be arrested and put into cells. One of the officer physically forced to take a copy of the summonses back with him and threatened with arrest if he refused to take it. About 10 GSU officers came to Mr Changwon's office while two of them armed with an AK 47 rifle and all made sure that the Commission officers left the GSU premises immediately. **(Annexure 15)**

2.5.4 Commission of rape against female students

Interviews held with university officials, police officers and students who included females from halls of residence failed to confirm reports of rape against female students by police. The female student alleged to have been raped was diagnosed with Bipolar Disorder as a result of drug overdose. **(Annexure A12)**

The allegations of rape by police officers against female students in the University hostels were not confirmed.

3.0 Consequential Observations

- i. Article 18 (1) of the SONU Constitution provides that SONU elections shall be held between the 15th April and 15th May every year but the 2016/2017 SONU elections were held on the 1st April, 2016. The University management cited examinations as the reason for bringing the elections forward.
- ii. Outgoing SONU officials serve as Student Commissioners in subsequent elections presenting a clear conflict of interest situation.
- iii. The Election Petition Panel consists of student representatives appointed by outgoing SONU officials giving rise to lack of confidence in the panel by losers.
- iv. There is external interference in the students governance as demonstrated by the presence of politicians at the Main Campus on the morning of 4th April, 2016.
- v. SONU leadership is perceived as a preparatory ground for National politics hence the high profile campaign strategies contenders employ.
- vi. There is excessive amount of money used and given to students during electioneering process.
- vii. There is a growing culture of hooliganism (goonism) and anti-social behaviour among some of the students. An increasing number of students are involved in trafficking and abuse of drugs and alcohol in the halls of residence.

- viii. Two GSU officers, Mr. Andrew Changwony SSP and Chief Inspector Stanley Mbuvi were found unresponsive during the investigations process. CAJ is separately commencing legal action against the said officers under Section 52 of the CAJ Act and may include their names in the list of unresponsive public officers.

4.0 Conclusions

- i. CAJ confirmed that SONU elections were held on 1st April, 2016.
- ii. Paul Ongili, a.k.a. Babu Owino was declared winner with 15,000 votes against Michael Jacobs Odhiambo who had 3,000 votes.
- iii. The swearing in ceremony took place on 2nd April, 2016 between 11.00 am and 12.00 noon at the University Council Chambers.
- iv. It was established that during the tallying of votes, hired youths disrupted the process and stuffed fake ballot papers in ballot boxes.
- v. Michael Jacob and his supporters were dissatisfied with the election results.
- vi. UoN management advised Michael Jacobs Odhiambo with his team to petition the SONU elections results with the Independent Election Petition Panel but the students did not heed the advice.
- vii. They instead rioted to seek nullification of the results despite the University management's advice.
- viii. The rioting students burnt down SONU Offices and one prefab hostel. The Police repulsed them at Mamlaka hall which they also intended to burn down.
- ix. Police engaged the rioting students on Saturday, 2nd April, 2016, and chased them to the halls of residence. However, the students regrouped, came back and engaged the police in running battles.
- x. The GSU officers used excessive force in quelling the students' riots and caused fractures and soft tissue injuries many students.
- xi. Monday, 4th April, 2016 students went to class but upon completion of first lesson, led by Mr. Michael Jacobs Odhiambo, assembled at the University square, where he addressed them. Shortly after, the students were joined

- by Hon. Paul Simba Arati, MP Dagoreti North, Hon. Dr. James Wambura Nyikal, MP Seme and Hon. Opiyo Wandayi, MP Ugunja, who together with students wanted to see the Vice Chancellor, UoN.
- xii. When they could not meet the VC, the MPs addressed the students who became rowdy and begun rioting again. Police were called in and they engaged the rioters.
 - xiii. There was intelligence to the effect that the students also intended to burn down the University Tower, Main Library, Examinations Centre at Chiromo, Mamlaka Hall and Prefab Hostels.
 - xiv. Upon consultation, the University Senate closed the University and ordered students to vacate halls of residence by 5.00pm on 5th April, 2016 to avoid further destruction of property.
 - xv. According to the Director, Safety and Security, a rumour circulated within the campus that GSU officers had entered halls of residence occupied by female students and were beating and raping students.
 - xvi. The University security called the Officer Commanding the GSU contingent assigned to quell the riots. Together they visited the halls and confirmed that was not true. However, the rumour caused a stampede and some female students jumped from the first and second floors of their hostel which led to some of the students sustaining soft tissue injuries and were treated at UoN's health facility and at KNH.
 - xvii. The UoN security also discovered the presence of hired youths in the University compound who were chased away by police.
 - xviii. It was established that police intervention was timely and helpful
 - xix. The Vice Chancellor, the Deputy Vice Chancellor Student Affairs, Director Students Welfare Authority, Director Security and Safety and the University management assisted by the police carried out a search in the halls of residence and recovered various quantities of bhang, cocaine, alcohol, machettes, blood stained pangas, slings and security uniforms.
 - xx. The exercise also confirmed the presence of non-students residing in the halls of residence which compromises the safety and security of the students and university property.


- xxi. UoN Administration initiated disciplinary measures targeting the rioters, arsonists and those in whose rooms, drugs and crude weapons were found.
- xxii. The University Act 2012 and the SONU constitution provides for students participation in the University management and development of students leadership. However SONU as currently run does not subscribe to the ideals as envisaged in the University Act 2012.
- xxiii. The SONU Constitution also provides guidelines for conducting elections.
- xxiv. Article 20(2) of the SONU constitution allows outgoing SONU officials to be part of the electoral commission. This makes them interested parties and therefore influences the outcome of the elections. This has given rise to cartels that determine the SONU leadership.
- xxv. Article 24(2) of the SONU constitution mandates the outgoing SONU officials to appoint student representatives to the Election Petition Panel. This makes the petition panel open to influence from the cartels that run the SONU elections, hence the lack of confidence in the independence of the panel by some losers.
- xxvi. SONU generates and controls enormous financial resources. This was said to be one of the reason behind the cut throat competition for leadership in the student organisation and the existence of cartels.
- xxvii. CAJ noted that regular students (module 1) pay KSh 500 while parallel students (module 2) pay KSh 1000 as membership fees annually.
- xxviii. It is worth noting that over KSh 35-40 million is collected annually, monies which are deposited in the University main account under SONU vote.
- xxix. The SONU funds are used for elections, allowances for SONU officials, charity and other activities identified by the SONU leaders.
- xxx. Students' leaders wanting to draw money from the SONU vote submit proposals to Dean of Students and once approved, forwards to DVC student Affairs who authorises payment by the Finance Officer. Payments are done in terms of impress to a University employee attached to the Dean of Student's Office for purposes of accounting.

- xxxi. There is no independent audit of the SONU funds. It is audited as part of the larger University account.
- xxxii. Audited accounts for the year 2014/2015 indicates that the University collected KSh. 40,731,235 as SONU subscription fee and spent KSh. 36,970,725 on SONU activities. A balance of **KSh. 3,760,510.00** which is apparently not reflected as having been carried forward to the 2015/2016 SONU vote remained. It is not clear what happened with the money.
- xxxiii. CAJ also established that in the year 2015/16 SONU collected **KSh 35,261,000.00** and spent **KSh. 31,453,454.00**, leaving a balance of **KSh 3,807,546.00**. It is also not clear where this balance is, although the audited accounts for the financial year in question are not yet available.

5.0 Determinations

1. The SONU constitution should be amended to allow student leaders to vie for only one term as opposed to the current two terms.
2. The timing of SONU elections should be such that the elections are not held close to examination time.
3. Article 20 relating to the composition of the Electoral Commission and Article 24 on the composition of the Election Petition Panel in the SONU constitution should be amended so as not to involve outgoing SONU officials in the running of elections and hearing of petitions.
4. SONU membership fee be reduced for those paying KSh 1000.00 and harmonised across the board for both regular and parallel students.
5. The University Administration should train student leaders on public finance and procurement, and provide short term courses (3 days) on good governance and transformative leadership.
6. The UoN Administration to formulate a disciplinary mechanism and enforce resolutions arrived at out of this mechanism.
7. The Student Welfare Authority to strengthen mechanisms for allocation and actual occupancy of rooms in the hostels to weed out non-students/strangers occupying rooms at the expense of deserving students.

8. The management and accounting of SONU funds should be independent and separate from the university main accounts. Student activities should be monitored and processes audited to avoid fraudulent accounting of some of the funded activities or faking activities that do not take place including falsification of receipts and other supporting documents for cash payments.
9. The University and SONU leadership should appoint an internal audit team to examine SONU expenditure vouchers and check on over exaggeration of budgets and activities.
10. A balance of KSh. 3,760,510.00 which remained in the SONU vote account during the 2014/2015 financial year should be credited into the SONU account.
11. The University should cause a special audit on SONU funds to ensure proper utilization of the same. The total of **KSh 7,568,056.00** being balances on SONU expenditure for the financial year 2014/15 and 2015/16 should also be properly accounted for.
12. The University of Nairobi should set a ceiling on students election campaign expenditure and provide a policy to disqualify any candidate who spends beyond the stated amount from contesting as a SONU official.
13. The University of Nairobi should undertake civic education among the student community on the dangers of alcohol and substance abuse and the peddling of narcotics and psychotropic substances.
14. The University Management should come up with strategies to address the safety of the students and nurture them to be good citizens, besides just providing academic programs.
15. The University of Nairobi should put in place continuous surveillance to enhance security within the university premises.
16. The University of Nairobi should invest in relevant modern security equipment besides fencing the University.
17. The inspection at the halls of residence undertaken by the UoN after the April 2016 riots is commendable but it should become a common feature to enhance safety and security and prevent the emergence of



hooliganism, radicalization of students and also weed out none students and bad elements within the university halls of residence.

18. The university senate should come up with a robust strategy to guide and mentor student leaders so that they are not taken advantage of by external others.
19. The University of Nairobi Students Welfare Authority should intergrate student leaders with the others in the allocation of residential rooms and avoid the current isolation and preferential treatment resulting in their being uncontrollable.
20. The Inspector General of Police should institute disciplinary proceedings and prosecution of the police who used excessive force thus injuring students.
21. The National Police Service Commission and the Inspector General should retrain police officers on the management and response to demonstrations and riots involving unarmed citizens.