

Impact case study (REF3b)

<p>Institution: University of Oxford</p>
<p>Unit of Assessment: UOA27</p>
<p>Title of case study: Uncovering Evidence of Torture and Abuse during the Mau Mau Emergency in Colonial Kenya</p>
<p>1. Summary of the impact (indicative maximum 100 words)</p> <p>The Mau Mau Emergency at the end of empire in Kenya saw atrocities on all sides and extensive torture under the British administration. Professor Anderson’s historical research, uncovering much of this story for the first time, contributed vital evidence to a High Court case in which victims of colonial torture won recognition, a formal apology, and damages from the British government. This research has prompted widespread public debate over both historical and contemporary controversies in Kenya and the UK.</p>
<p>2. Underpinning research (indicative maximum 500 words)</p> <p>The research of Professor David Anderson into the history of the Mau Mau Emergency in Kenya sparked international public debate and fuelled a decades-old search for justice. First joining Oxford University as a Lecturer in African Studies in 2002, he was appointed Professor in African Politics in 2006. From 2006 to 2009, he also served as the Director of the University’s African Studies Centre. He left the University in January 2013.</p> <p>When Professor Anderson began at Oxford, his research focused on the history and politics of colonial Kenya, particularly on the Mau Mau Emergency of the 1950s. The Emergency began in 1952, when a subterranean nationalist organisation known to the European colonists as ‘Mau Mau’, largely drawn from the Kikuyu ethnic group, began brutal assassinations, primarily of Africans believed to be collaborating with British rule. The colonial administration embarked on a campaign of repressive military operations in the rural districts around Nairobi accompanied by large-scale internment of Kikuyu in order to determine their Mau Mau sympathies. While the colonial administration won the war by the late 1950s, it heralded the end of British rule in Kenya. Independence was achieved in 1963.</p> <p>Professor Anderson conducted archival research in Nairobi in 2003, where he explored the judicial records of capital punishment during the Emergency. His research revealed the startling statistic that, at 1,090 executions, the British administration put to death far more people than France during the brutal independence war in Algeria. Professor Anderson employed the detailed records of these trials to write the first robust general history of the Mau Mau war, published in 2005. It tells the story from all sides, nationalist and loyalist, rural and urban, to reveal the vicious crimes and complex intricacies of the conflict, and the impact of ‘Britain’s dirty war’ on Kenya’s subsequent history.</p> <p>A key aspect of this historical legacy was the complexity among Kenyans at the time, research revealing both the extreme brutality committed by some loyalist Kikuyu against Mau Mau suspects, as well as the loyalists’ own fears and complex relationship to British rule. The research drew vital attention to the divisions within nationalist politics that led to the first Prime Minister of independent Kenya, Jomo Kenyatta, maintaining the outlaw status of Mau Mau after the departure of the British. With Mau Mau remaining a controversial subject in Kenya as in Britain, this prohibition was only lifted by the Kenyan government in 2003.</p> <p>Most importantly, however, research around the capital punishment cases demonstrated the brutal crimes committed in the course of insurgent warfare and repression, from massacres, rape and murder to signs of torture and cover-up in the internment camps. When his research prompted the revelatory release of hundreds of files hidden by the British government, Professor Anderson led a research team of Oxford University graduate students that demonstrated from these files that the colonial administration and British government knew well of torture in the internment camps,</p>

encouraged an atmosphere of impunity for their agents, concealed known cases of rape and murder, and manipulated the investigative and judicial process to obstruct the course of justice.

3. References to the research (indicative maximum of six references)

Anderson, David. *Histories of the Hanged: the Dirty War in Kenya and the End of Empire*. London: Weidenfeld and Nicholson, 2005. Available on request.

Selected reviews: ‘Anderson’s research ... not only transforms our understandings of empire’s end, but should produce political shock-waves ... What Britain did in Kenya was – as [Anderson] makes clear in unprecedented and shocking detail – vicious, shameful and unforgiveable’ Stephen Howe, *The Independent*, 21 January 2005; ‘a remarkable achievement ... not only an impressive work of serious scholarship, but also one that evokes in human terms one of the most important events in modern African history in a form that is both accessible and compelling. It is certainly one of the best books ever written on Kenyan history’ Charles Ambler, *The International Journal of African Historical Studies* 39/2 (2006): 332-334

Anderson, David M. ‘Surrogates of the State: Collaboration and Atrocity in Kenya’s Mau Mau War’. In *The Barbarisation of Warfare*, ed. George Kassimeris. 172–88, London: Hurst & Co., 2006. Available on request.

Anderson, David M. “Mau Mau in the High Court and the ‘Lost’ British Empire Archives: Colonial Conspiracy or Bureaucratic Bungle?” *The Journal of Imperial and Commonwealth History* 39/5 (2011): 699–716. Peer-reviewed journal. <http://dx.doi.org/10.1080/03086534.2011.629082>

Anderson, David M. “British Abuse and Torture in Kenya’s Counter-Insurgency, 1952–1960.” *Small Wars and Insurgencies* 23/4-5 (2012): 700-719. Peer-reviewed journal. <http://dx.doi.org/10.1080/09592318.2012.709760>

4. Details of the impact (indicative maximum 750 words)

In 2009, five elderly Kenyans lodged a claim against the British government for the abuse they experienced in the Mau Mau internment camps, where they had been tortured, beaten, castrated and subjected to extreme sexual violence. They were backed by the Kenya Human Rights Commission, which considered Professor Anderson’s work, alongside that of Professor Caroline Elkins at Harvard University, as having ‘changed our understanding of this period of history’^[i]. Professor Anderson joined the plaintiffs’ legal team in 2010 to provide expert testimony, alongside Professor Elkins and Dr Huw Bennett of Aberystwyth University. The contribution of Professor Anderson’s research lay in the documentary record of the colonial administration. On the basis of indications in his research that around 300 files were missing from the archival record^[ii: §32], the High Court ordered the British government to conduct a search that eventually revealed some 8,800 hidden files from 37 former British territories, concealed for fifty years. This public revelation has prompted a heated debate between historians who recognise the need to reconsider the history of the end of empire.

In July 2011, Justice McCombe ruled that the documentary research had demonstrated ‘viable evidence’ for a trial. On this basis, he declared that it would be ‘dishonourable’ for the British legal system not to consider a case alleging the use of torture by the British government since ‘there is ample evidence even in the few papers that I have seen suggesting that there may have been systematic torture of detainees’, and he duly refused the government plea for the case to be struck off^[iii: §125, §130, §134, §154]. In the subsequent preliminary hearing in July 2012, the government made the historic acknowledgement that Kenyans were indeed tortured and abused under the colonial administration. Professor Anderson presented further research on the institutional sanctioning of torture and the obstruction of the judicial process during the Emergency, research that Justice McCombe considered as indicating ‘a continuing pattern of abusive conduct’^[iii: §128]. Justice McCombe granted the plaintiffs leave to claim compensation from the British government, and on 6 June 2013 a settlement was announced. Recognising the crimes of the past with statements in the House of Commons and in Kenya, the British government will pay compensation of around £13.9

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million, comprising of payments of £2,600 each to around 5,000 survivors of colonial torture, and will finance the construction of a memorial in Kenya^[iv]. According to Dan Leader, lead barrister for the plaintiffs, without Professor Anderson's identification of the missing archive material and 'meticulous' research on it, 'the claims would not have succeeded'^[1, v].

The court case and Professor Anderson's research in particular sparked significant public debates in Kenya and the UK. British newspapers were pressed by the publication of *Histories of the Hanged* to consider the country's responsibility for extraordinary crimes and its attitude to its own past.^[vi] Explicit parallels raised by Professor Anderson's research were debated in the British press as challenging lessons for the contemporary scandals surrounding British and American counter-insurgency strategies and the use and cover-up of torture in Guantánamo Bay^[vii]. Kenyan debates, meanwhile, were prompted by the research to confront the country's own divided history over the position of Mau Mau veterans and other nationalist movements^[viii]. Inspired by the research on the Mau Mau executions, the commentator Muthoni Wanyeki further opened the debate out to question Kenya's modern reluctance to abolish the death penalty, its experience of extrajudicial killings and the abuses of security services^[2, ix].

Professor Anderson's research and the High Court case propelled public reconsideration of relations between the UK, Kenya and the world. On the basis of the evidence of brutal torture and cynical institutional deception, Archbishop Desmond Tutu publicly urged a moral confrontation with the past as an imperative for the British government to set aside its 'hypocrisy' and restore its international reputation as a champion for human rights^[x]. While the controversy of the revelations of the research and the outcome of the trial remain explosive, the Kenyan journalist Gitau Warigi subsequently wrote of the significance of Professor Anderson's research for the international image of the British, since 'one of their own' had pursued research that substantiated British ideals of justice and fair play by uncovering where these ideals had been betrayed^[xi]. This research into the dirty history of the Mau Mau Emergency drove the judicial search for justice and involved the public in widespread debate over historical truth, guilt, national values, and the links between Britain and her former colonies.

5. Sources to corroborate the impact (indicative maximum of 10 references)

Testimony

[1] Statement from lead barrister for the plaintiffs in the High Court Case.

[2] Corroboration of influence of research on public debates in Kenya available from Member, Kenya Human Rights Commission.

Other sources evidence

[i] Kenya Human Rights Commission. 'Mau Mau Case: Dealing with Past Colonial Injustices', 23 July 2012. <http://www.khrc.or.ke/media-centre/news/116-mau-mau-case-dealing-with-past-colonial-injustices.html>.

[ii] McCombe, Hon. Mr Justice. *Ndiku Mutua and 4 Others and the Foreign and Commonwealth Office: Approved Judgment*, Case No: HQ09X02666. London: Royal Court of Justice, 2011. <http://www.judiciary.gov.uk/Resources/JCO/Documents/Judgments/mutua-v-ors-judgment.pdf>

[iii] McCombe, Hon. Mr Justice. *Ndiku Mutua and 4 Others and the Foreign and Commonwealth Office: Approved Judgment* Case No: HQ09X02666. London: Royal Court of Justice, 2012. http://www.leighday.co.uk/LeighDay/media/LeighDay/documents/Mau%20Mau/Mau-Mau_Limitation-Judgment_5-10-12.pdf?ext=.pdf

[iv] BBC, 'Mau Mau torture victims to receive compensation – Hague', <http://www.bbc.co.uk/news/uk-22790037>.

[v] The case was followed in the Al Jazeera documentary, *The Last Battle*, <http://bcove.me/gw4qjds5>.

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[vi] Monbiot, George. 'The Turks haven't learned the British way of denying past atrocities'. *The Guardian* (London), 27 December 2005.

[vii] Macintyre, Ben. 'Torture device no. 1: The legal rubber stamp'. *The Times* (London), 11 April 2011.

[viii] Ulimwengu, Jenerali. 'Now we know how Britain crushed freedom in Kenya and gave the country to traitors', *The East African* (Nairobi), Opinion and Editorial, 13 October 2012.

[ix] Wanyeki, Muthoni. 'Torture and death are true legacy of empire', *The East African* (Nairobi), Opinion and Editorial, 13 October 2012.

[x] Tutu, Archbishop Desmond, et al.. Letter to Prime Minister David Cameron. February 2012.
http://www.leighday.co.uk/LeighDay/media/LeighDay/documents/Mau%20Mau/Archbishop-Desmond-Tutu-to-The-Prime-Minister_Feb2012.pdf?ext=.pdf

[xi] Warigi, Gitau. 'It's wrong for Britain to try and avoid compensating Mau Mau war victims'. *The Daily Nation* (Nairobi), 13 October 2012.