

MAU MAU REPARATIONS, MEMORIALIZATION AND KENYA'S FUTURE: REFLECTIONS AFTER FIFTY YEARS OF INDEPENDENCE

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Abstract: *On June 6, 2013, Kenya's Standard Newspaper reported that British Foreign Secretary, William Hague announced Kenyans tortured by British colonial forces would receive reparations totaling Sh1.82 billion. According to reports, "The British government sincerely regrets that these abuses took place and that they marred Kenya's progress towards independence." The regrets and settlement occurred on the heels of a court case that began on June 23, 2009 with Mau Mau veterans filing into a London courtroom seeking justice against atrocities committed during the war. After years of British legalities and stall tactics, only three of the initial claimants survive to see the settlement that includes British acknowledgement of abuse, regret, and agreement to pay 5,228 victims. This court decision has opened up new questions on what the settlement and reconciliation means to all impacted by Mau Mau war. Despite decades of silencing, this settlement process has created new space for abused Mau Mau participants to heal and remember what happened. This study attempts to understand the dynamic nature of Mau Mau historiography and nationalism in light of the Mau Mau human rights case settlement and the potential impact on Kenya's future. It argues for historians to boldly rewrite and reclaim Mau Mau as a means for Kenyan unity and progress. Will British reparations, apology, and memorial offer an opportunity for Mau Mau victims, their descendants, and Kenyans in general to move forward?*

Key Words: Mau Mau, Reparations, History

Introduction

Although it has been 50 years of independence, Kenya still deals with contested memories of the Mau Mau war. The brave individuals that joined the war participated for many reasons. In one interviewed account, a Mau Mau fighter, Daniel Mulwa claimed, "I participated to stop being ruled by the whites, to stop being seen as no people by the Europeans. They treated us like animals, not people" (Interview, January, 2009). From the very beginning of the war in October 1952, details and facts have been blurred and

polarized with tales of African savagery spreading among British populations in the colony and in Britain to the justified actions of African resistance. The African savagery label warranted the horrendous colonial acts in the British attempt to control the uncontrollable Mau Mau revolution that completely shocked the British Empire. According to Carolyn Elkins' study of the Mau Mau war in *Imperial Reckoning*, over the span of the war there may have been tens of thousands, perhaps hundreds of thousands of African deaths compared to fewer than one hundred European deaths (2005). The war also involved the detention of 1.5 million Africans

by British officials. The violence and pointed attacks have led Elkin beg the question of whether the war was a British attempt to erase an entire ethnic population (Elkin, 2005). However, it is clear there is still more to know as it was a topic that was silenced for 50 years during President Jomo Kenyatta and President Daniel Arap Moi's administrations, yet we cannot deny what happened. The evidence and level of abuse, death and suffering that occurred to so many Africans who fought for African land and freedom is a narrative that has been difficult to keep quiet and erase from public memory.

The removal of this ban and new literature on Mau Mau and the recent 2009 Mau Mau court case settlement decision are factors that have created new Mau Mau conversations. After 50 years of independence, an historical British announcement and decision was made that started a new chapter in the discourse and treatment of Mau Mau veterans. On June 6, 2013, Kenya's *Standard* Newspaper reported that British Foreign Secretary William Hague announced Kenyans tortured by British colonial forces would receive reparations totaling Sh1.82 billion paying out to 5,228 victims (Lough, 2013). According to reports, Hague firmly stated, "the British government sincerely regrets that abuses took place and that they marred Kenya's progress towards independence." (Karimi, 2013). "The regrets and settlement occurred on the heels of a court case that began on June 23, 2009 with Mau Mau veterans filing into a London courtroom seeking justice against atrocities committed during the war (Ray, 2009). The full Hague transcript related to this decision is widely available for analysis and shows that despite the settlement payments and a memorial that the British government ironically still wants to disconnect from Kenya's colonial past and used the settlement moment as an opportunity to voice this position.

The claimants all filed for compensation and an apology for inhumane treatment, abuse, and injuries during the Mau Mau war (Ray, 2009). The abuses were unimaginably "terrible things" done to Mau Mau war veterans ranging from violent death, unjust hanging, castration, torture, rape, and both

mental and physical scarring and pain. Their severe injuries were life-long and inhumane. One instance, reported by 85-year-old Mr. Nzili, involved him being chained and castrated at the Embakasi detention camp. He explained that he was never able to have children or sexual relations with his wife. The terrible things also applied to the abuse of Mrs. Mara, who at 73 years old remembers how she was beaten and subjected to sexual abuse. She comments that she felt "utterly violated" and experienced pain that has worsened with age (BBC News, July 17 2012). Mr. Nyingi, 84-year-old male was beaten until he became unconscious while detained at Hola camp. The final story is that of Mr. Mutua, from the Machakos district who beaten and then castrated with pliers during the Mau Mau (The Guardian, June 22, 2009). He was the fourth defendant but passed away prior to the government's acknowledgment and reparation decision. The four claimants are just a few out of thousands who have similar heart-breaking stories of abuse and torture. The drive and desire for justice on behalf of Mau Mau veterans over the years show the conviction, memory, and restlessness of the war and its relevance in contemporary Kenyan society. According to the Kenyan Human Rights Commission, 90,000 Kenyans were executed and tortured during the eight years of the Mau Mau war (BBC News, July 10 2012).

This study attempts to understand the dynamic nature of Mau Mau historiography in light of the Mau Mau case settlement and the potential impact on Kenya's future. It argues that the Mau Mau settlement represents a new discourse and moment to recast, reshape, and remember Mau Mau. It is a moment that should be handled with care, as there is much at stake in how we now present Mau Mau at this 50 year independence marker. The study questions what "really" happened during this war and how those in power continue to control the Mau Mau discourse; this recent court decision must also be interpreted as yet another move to shape our memory, narrative and stories surrounding Mau Mau. The case serves now as another example to explore the treatment and implementation of human rights worldwide. There

are known reparation payments to victimized groups like Jews and Japanese Americans (McCarthy, 2004). As such, the reparations have allowed these groups to progress and has provided a level of security and healing from their abuses. Will British reparations, regret, and memorial offer an opportunity for Mau Mau victims, their descendants, and Kenyans in general to move forward?

Reparation is often controversial. In July 2012, the reparation issue surfaced several times during the fieldwork for this study in Kenya. More attention was on the issues of reparations versus the potential positive impacts. The problems were widespread from the fraudulent association of Kenyans to the Mau Mau as freedom fighters to the ramifications of reparations to other cases of colonial violence and injustice straining the already fragile British economy (H.M Ngei; W. Macharia : Interview, July 2012). These obstacles distract from the Mau Mau victimization and suffering which should be the focus of the case reward. The treatment of the Mau Mau victims during the war was unconstitutional and correlates to present day suffering and economic condition. According to the Bill of Rights of the Kenyan constitution, the State shall enact and implement legislation to protect and respect human rights and fundamental freedoms (Republic of Kenya, 2010). According to the Kenyan Constitution these human rights and fundamental freedoms include but are not limited to the “freedom from torture and cruel, inhuman or degrading treatment or punishment” (Republic of Kenya, 2010, p.25). These human rights and fundamental freedoms are statements that are used in many societies; however, the implementation of these so-called rights and freedoms are not always consistent.

Explicating “Reparations”

The notion of righting wrongs is not new, but an old yet progressive concept for reconciliation, healing, and restoring communities and individuals back to a state of peace and normalcy. In pre-colonial East Africa, the Kikuyu and other ethnic communities that eventually

contributed to the Mau Mau revolution had laws and practices designed to restore communities’ members for wrongful acts. For example, in customary law accounts, there is clear documentation on payment expectations for perpetrators in the acts of violence (murder, harm, adultery, theft, and so on) that usually involved compensation and or payment to the victim and the victim’s family. The term “reparations” is at the simplest level a process of compensation for injustices committed in order to reconcile wrongs. However, over the years the term has become a target of scrutiny and confusion unnecessarily, probably as a means to avoid the real discussion of paying for crimes. This is a difficult task for those in power who were specifically able to build power and nations based on the human rights violations of others. According to Federico Lenzerini in his reparations study, reparations are associated with “all measures aimed at restoring justice through wiping out all the consequences of harm suffered as a result of wrong as well as re-establishing the situation which would have existed if the wrong had not happened” (2008, p.13). Thus reparations are defined as the victim’s ability to find a remedy that gives access justice, offers effectiveness, and secures information about the injustices (Lenzerini, 2008, p. 8). In other accounts, reparations are often defined as the combination of apology and compensation. The different interpretations show that there is still ambiguity to the term of reparations and how it is to manifest.

Key reparation factors in the Mau Mau case

There are many factors that contributed to the conditions for reparations in the 2009 Mau Mau reparation case decision. One of the strongest areas that helped to support the settlement decision was the evidence to support the cases of abuse. The events and injustices happened with documentation to support the victims’ claims. The large volume of evidence and files that were recorded, mostly by the British colonial administration, supported the Mau Mau case. In fact, the case triggered the release of 17,000 secretly held Mau Mau files. Additionally, the British offenses during that time were wrong

then and now as they were and are viewed as serious violations of human rights. Often those arguing against reparations attest that the wrongs committed back in time were not wrong and governments should not be held accountable for these acts. But, the abuses and testimonies reveal injustices that are timeless. Another related argument is that the generation that conducted the abuse is different, but this argument fails in the case of Mau Mau because the abusing generation is still alive and in some cases thriving and if not, it is still necessary to treat the injustices. Despite the generation in power, we should not turn a blind eye to the abuses. The element of time was also a factor in that some of the victims are still alive to provide first hand testimonies and narratives of injustices. This is an important element because some denials of reparations are often associated with the fact that the victims are deceased and that entirely too much time has passed between the injustices and addressing the wrongs. This is an argument that has been used in the denial of reparations for groups that suffered during slavery that occurred over four centuries. Since the initial 2009 court hearing, there has been the death of one claimant and this is an issue to track carefully in the actual process of distributing reparation payments (especially if the process, like the court case hearings/trial is drawn out). The issue of political fallout from reparations is also an issue for consideration and is often used to deny claims based on the premise that payment to one group would by law require the payment to other communities impacted by injustices. For the Mau Mau case this was addressed by Hague's speech on the topic which outlined the numbers able to qualify for reparation payments, as well as carefully crafted language that does not outright say "sorry". Finally, this case was very visible and followed worldwide. This is an important case because the Mau Mau discourse has been changing since the publication of Elkins' book on Imperial Reckoning and Anderson's Histories of the Hanged. Both are scholars that have had involvement with the case. Together these components show why in the 2009 Mau Mau case the decision to

acknowledge abuses, compensate claimants and build an additional memorial was made.

Although it is necessary to conceptualize and theorize the factors involved in this case, it also helps to remember the real human element of the case to understand the meaning and importance of the case to individuals. On January 2, 2009, Mau Mau fighter Joshua Wambua provided his memory of the Mau Mau war. Wambua's testimony and reflections on why he joined Mau Mau, what it meant, what he experienced, and finally what he perceived as the outcome of his involvement reveals his conviction and courage to stand up for what he felt was right. The ultimate Mau Mau goal, he states, was "to liberate my country from colonialism for ourselves and future generations" (J. Wambua: Interview, January 2009). Although he is viewed as a hero for his involvement, he clearly stated that he still feels that colonialism and the Mau Mau issue is unresolved. When asked about his life purpose, Wambua responded, "I desire the British government to pay Mau Mau for the atrocities it purported to them." It was clear that there is resentment from what occurred in the past; for him reparation was necessary. Wambua and many other interviewed freedom fighters mentioned the triumph of independence in the midst of unfinished economic conditions based on the state of Kenya today, a country still struggling from the colonialism and more specifically still dealing with the pain of Mau Mau (J.M. Wambua, A. N. M. Matingo. K. Mulwa. J.M. Malei. S. Kakie. P. Musuo. L.N. Muli. V. M. K. M. Kimongo. M. N. S. Munguti: Interview, December 2008 - February 2009). Wambua and many of the other Mau Mau fighters still long for what they view as justice.

Mau Mau memorialization for healing

In addition to the remarks of regret and victim compensation, Hague on June 6, 2013 announced the plan to construct a memorial in Nairobi for healing. In many cases, memorial sites are controversial because of the past and present political entanglements. Typically, the sites are in place because of a specific historical event or occurrence; these sites are often contested with

different or conflicting memories or interpretations of the history. We have already seen this with the statue of the former freedom fighter, Dedan Kimathi that was unveiled on February 18, 2007 which raised questions about the location of statue and the location of Kimathi's grave. Reported statue defacing also serves as a reminder that there is still controversy around Kimathi and the statue has become a target place for these contested memories.

Memorials are fixed but the interpretations of the site are fluid and are sometimes met with unexpected public reactions. For example, in *Politics of Memory: Making Slavery Visible in the Public Space* Ana Lucia Araujo discusses issues of public representations by looking at the complexity of treating the memory of slave trade victims and the memory of slave trade perpetrators by looking at three different societies: Brazil, England, and Benin (Araujo, 2012). She shows in these three different slave societies that there were unexpected consequences of the public spaces where focus shifted from the victims of the Atlantic Slave Trade to the perpetrators. Instead of remembering the victims, the sites have resulted in the memorialization of the slave merchants of Francisco Felix de Souza, Joaquim Pereira Marinho, and Robert Milligan (Araujo, 2012). She explains the problems of these historical sites in light of the continued political and economic conditions in the countries where the descendants of the slave trade perpetrators continue to occupy elite positions in their countries compared to the slave descendants.

In the case of a new Mau Mau memorial site, it is important to note that Kenya is still dealing with a very polarized and contested history. There are competing interpretations of Mau Mau struggle and, as a result, the sites may be problematic. For us, it helps to question what the true purpose of the site is. This is a question that will unfold over time. But, the site goal will be a public space for a shared memory. What memory will be constructed and then what memory is being deconstructed in the process? On this point, Bernard Armada claims, "Whenever an act of remembrance is produced or performed, competing memories are issued a death sentence deflected by the former unless someone

else comes along to keep the latter alive" (Araujo, 2012). In our analysis of another Mau Mau memorial, we should question what the desired memory is, what will become silenced or forgotten in the process, and who has the power to write and decide the official story. As the proposed Hague memorial unfolds these are important areas to consider and if possible, we should stay actively involved in the development.

British reparation and the future of Kenya

"The moment in which reparations are materially granted is the moment in which the idea of justice crystallizes and only at that precise moment justice is effectively realized."
(Lenzerini, 2008, p.8)

Although justice has been denied to many victims of Mau Mau for years, the court decision is finally a step forward; a step that holds possibility and hope that all impacted by Mau Mau will find peace. Even though many ex-Mau Mau fighters like Joshua Wambua may still be waiting for retribution as they work through a tedious payment process. Reparation payments are never enough and never equate to the horrors, pain, and suffering of those wrongly treated; however, the combination of apology and payments despite the amount allows those impacted to receive closure. This closure also entails being able to know that publicly now that involvement and lingering accounts have been finally treated and analyzed showing the fault of perpetrator. The heartbreaking stories of the victims in this Mau Mau case study of abuse and torture present an opportunity to question the legacies of colonial structures and systems associated with Kenya's past and present. According to Thomas McCarthy in his reparations study, "A just society must, so far as possible and permissible, right the wrongs of its own past injustices" (2004, p. 750). However, it also becomes a moment in which we can now question what needs to happen to make things right, including elements preventing progress. Justice in all of its various forms like reparations is vital for healing from a history that

continues to cause so much pain, bitterness and shame.

The Mau Mau court case serves also as a reminder of unrealized justice in this case as it relates to the beliefs of human rights for Africans, which actually connects to inequalities and discrimination of many groups worldwide. Although Kenya seized independence in 1963, the battle for freedom is far from over. The land and even freedom that these Mau Mau fighters desired were not delivered. Britain has maintained economic and geopolitical interests in the country. Despite the success of driving out the British, the vast majority of the people remain destitute, disenfranchised and ignored. It is often difficult to accept the differential treatment based on race, class, gender and ethnicity in Kenya, but the differentials serve as a reminder that we still have

much to overcome. Mau Mau veterans have undoubtedly carried much of this hardship and they continue to represent the ghosts of an unforgettable and cruel time.

The truth of the war will continue to surface over time, file-by-file, case by case, and testimony by testimony. Since the election of President Mwai Kibaki in 2002, many Kenyans have begun to reshape their own memories and legacies of Mau Mau. And this settlement decision is a new moment for Kenyans and a powerful moment in shaping Kenya's future. Now, this history can become a way for Kenyans to remember who they are and what they want to be through the imaginations and stories associated with the war. Healing is necessary and the British payment of a debt owed to the Mau Mau sufferers is a start in the right direction.

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