

1 'A determined campaign against the terrorist bands'

The Mau Mau movement wrought violence on Kenya for much of the 1950s (see [map 1](#) for Kenya Colony). Confined mainly to the Kikuyu, Embu and Meru tribes of the central highlands, unrest had been gathering pace for several years before the government declared an official State of Emergency in October 1952. The rebellion was devolved and complex in organisation and motivation. A large number of grievances were involved, ranging from an anti-colonial desire to expel Europeans, to dissatisfaction with imposed agricultural techniques. Probably the most important single cause of the revolt was the belief that the Kikuyu had been cheated out of their rightful lands by European settlers. Despite the anti-colonial dimension, the conflict is normally now described as a civil war within the Kikuyu, as the squatters (temporary workers on European farms) fought against the landed establishment. Important alliances were forged between the rural dispossessed and urban activists in Nairobi.¹

The rebellion was limited geographically, mainly to the Central and Rift Valley Provinces, and to Nairobi (see [map 2](#)). So in most of Kenya life carried on as normal during the Emergency. Out of a total African population of around 5 million, the 1.4 million Kikuyu were nearly all considered unreliable by the government. At this point the Asian community in Kenya stood at about 97,000, and the European settlers at 29,000. The settlers dominated local politics, and there was no democracy for the Asians or Africans in the country. The origins of the conflict can be seen in the Kikuyu's poor economic conditions, the lack of political representation, and a growing land hunger as the population

Chapter title from TNA, CO 822/378: Kenya Intelligence Committee fortnightly appreciation (KICFA) 7/53, 30 June 1953.

¹ R. Hyam, *Britain's Declining Empire: The Road to Decolonisation, 1918–1968* (Cambridge University Press, 2006), 188. John Lonsdale provides the following explanation for the meaning of the term 'Mau Mau': 'in Swahili *ka* is a diminutive prefix, *ma* an amplifying one, enhanced by repetition. *Mau* would thus connote something larger than *Kau* (the colloquial form of the Kenya African Union).' J. Lonsdale, 'Mau Maus of the Mind: Making Mau Mau and Remaking Kenya', *Journal of African History*, 31 (1990), 393–421.



Map 1 Kenya Colony

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Map 2 Administrative areas affected by the Emergency

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mushroomed. Perhaps the most convincing account of the brewing troubles argues that these causes prompted three political blocs to emerge by the 1950s. The conservative element in Kikuyu society comprised chiefs, headmen and senior Christian elders, who believed in supporting the colonial project. The moderate nationalists, such as Jomo Kenyatta and Koinage wa Mbiyu, were westernized, believing in social progress and political representation. These moderates formed such groups as the Kikuyu Central Association and later the Kenya African Union. The third group, the militant nationalists, first appeared in the 1930s. They gave shape to the Mau Mau in the 1950s and grew more influential as the failure of the moderates to achieve any meaningful progress became obvious. By 1952 Mau Mau attacks on settler property and on perceived collaborators were becoming widespread in Kikuyuland.²

Ten months into their campaign in Kenya, the army staff received a depressing progress report. It diagnosed a failure to disrupt the Mau Mau gangs, ineffective tactics, lack of discipline and efficiency in many military units, poor liaison with other security forces and incorrect intelligence methods. The author concluded that 'The military has, therefore, failed.'³ Yet just over three years later, the military campaign against the Mau Mau was won, the gangs (as the authorities described them) were reduced to negligible proportions and the civil authorities were able to govern largely without military help. Compared with many other insurgency wars, the military phase lasted for a short period. The British Army performed a decisive role in crushing the rebellion relatively quickly. Drawing on experience, commanders knew how to coordinate their forces with the civil powers in overwhelming insurgency by force. Holding the population in place through the exercise of drastic restrictions on normal liberties, the army simultaneously sought to eliminate the armed rebels by killing or capturing them. The delicate balance required in targeting these two groups – the population as a whole and the armed gangs – shifted throughout the conflict. But the determination to coerce both at once remained a constant.

How the army tried to defeat the Mau Mau can best be understood in four distinctive, though in some senses overlapping, periods. From the declaration of the Emergency in October 1952, through to June 1953, the campaign lacked strategic leadership and sufficient forces to defeat the Mau Mau. The second period began when General Sir George Erskine arrived in June 1953. During his early military career Erskine

² D. M. Anderson, *Histories of the Hanged: Britain's Dirty War in Kenya and the End of Empire* (London: Weidenfeld and Nicolson, 2005), 9–53.

³ TNA, WO 276/382: Memorandum by C. C. T. Aston on the Emergency Operations, 11 August 1953.

served in Ireland and India, and fought in Europe and the Middle East in the Second World War. For over a year he commanded the famous 7 Armoured Division, including in Normandy. From September 1944 he headed the Supreme Headquarters Allied Expeditionary Force's mission to Belgium, and in 1945 served as the deputy British military governor in Germany. After the war his most important post was in Egypt, where he commanded British troops from January 1949 until April 1952. During this period, widespread anti-British violence took place, and escalated to quite serious levels in Suez, Ismailia and Cairo.⁴ These experiences, in colonial policing, major combat command, civil-military cooperation and suppressing rebellion, would prove highly relevant in Kenya. During his tenure of command Erskine attempted to introduce strategic direction and bring the various security forces under his control. The third period was the war's most decisive. It began with the massive security sweep through Nairobi, Operation Anvil in April 1954, and the taking control of the Kikuyu, Embu and Meru Reserves away from the Mau Mau. The fourth period witnessed the final surrender negotiations and large-scale, and then small special forces, operations in the forests to destroy the few remaining gangs, with the military finally handing over control to the civil power in the last areas in November 1956.

Opening moves, October 1952 to June 1953

When Governor Sir Evelyn Baring declared a State of Emergency on 20 October 1952, the military response to the Mau Mau began. But the police and administration had been countering growing violence throughout the year.⁵ Arson attacks against European settler properties were common in 1952, with over sixty such crimes recorded from January to March around the town of Nyeri alone.⁶ Settler farmers were not the only victims, with thirty-four Africans murdered between 1 August and 20 October.⁷ From the year's start the settler community agitated for tough action, and the police responded, arresting 547 Kikuyu 'preventatively' in September.⁸

⁴ Erskine, Sir George Watkin Eben James (1899–1965), by H. Bennett, *Oxford Dictionary of National Biography* (Oxford University Press, 2011), online edition, at www.oxforddnb.com/view/article/97289, accessed 1 June 2011.

⁵ F. Furedi, *The Mau Mau War in Perspective* (London: James Currey, 1989), 3; D. A. Percoc, 'British Counter-Insurgency in Kenya, 1952–56: Extension of Internal Security Policy or Prelude to Decolonisation?', *Small Wars and Insurgencies*, 9 (1998), 50–9.

⁶ R. W. Heather, 'Counterinsurgency and Intelligence in Kenya: 1952–56' (doctoral thesis, Cambridge University, 1993), 20.

⁷ D. Branch, 'Loyalism during the Mau Mau Rebellion in Kenya, 1952–60' (doctoral thesis, University of Oxford, 2005), 76–8.

⁸ Furedi, *Mau Mau War*, 116, 119.

A major problem right from the outset was identifying exactly who in the Kikuyu population supported the Mau Mau. An intelligence drought severely hampered what operations could achieve, though many went ahead regardless.

Operation Jock Scott was conducted by the police and army in cooperation, setting a pattern for the future. Launched on 20 October, it aimed to decapitate the Mau Mau leadership; 150 members of the Kenya African Union, a legal organisation connected (erroneously) with the Mau Mau, were arrested. At the same time, the 1 Lancashire Fusiliers arrived from Egypt and immediately set about patrolling the settled areas in a bid to reassure the European inhabitants. In addition to the Fusiliers, the forces in Kenya comprised five King's African Rifles (KAR) battalions, a battalion of the territorial Kenya Regiment, the East Africa Armoured Car Squadron and the 156 (East African) Heavy Anti-Aircraft Artillery (HAA).⁹ The KAR, the armoured car squadron and the artillery all consisted of African troops from Britain's colonial territories in East Africa, officered by British Army men on secondment, and were part of the regular chain of command. The Kenya Regiment was also officered by regulars on secondment, but the majority of the rank and file were European settlers, although a small number of Africans served with the unit during the Emergency. For administrative and financial purposes the Kenya Regiment came under the Kenya government, but for discipline and operations it followed the normal British Army chain of command.¹⁰

Military operations in the first months were quite seriously flawed. The initial arrests failed to halt the violence, but generated complacency in the government, which was subsequently sluggish in mounting offensive operations.¹¹ When these offensive sweeps eventually happened, in Kiambu and Nyeri, they achieved no tangible results.¹² The Kenya government came under criticism for lacking a clear strategy, reacting in a frantic and ad hoc manner to the Mau Mau.¹³ Attacks on Europeans initially exerted a disproportionate influence on deployment decisions,

⁹ *Ibid.*, 62.

¹⁰ TNA, WO 276/542: Booklet 'The Story of the Kenya Regiment T.F. 1937-1959'. For a debate about how 'British' the Kenya Regiment and KAR were, see R. Thornton, "'Minimum Force": A Reply to Huw Bennett', *Small Wars and Insurgencies*, 20 (2009), 215-26; and H. Bennett, 'Minimum Force in British Counterinsurgency', *Small Wars and Insurgencies*, 21 (2010), 459-75.

¹¹ Heather, 'Counterinsurgency and Intelligence in Kenya', 32-3.

¹² Anderson, *Histories of the Hanged*, 69.

¹³ B. Berman, *Control and Crisis in Colonial Kenya: The Dialectic of Domination* (London: James Currey, 1990), 347; W. Maloba, *Mau Mau and Kenya: An Analysis of a Peasant Revolt* (Bloomington: Indiana University Press, 1993), 81.

with small units scattered throughout the Rift Valley to protect the settlers.¹⁴ As a result, some saw the opening months as nothing more than a 'phoney war', with confusion on both sides.¹⁵

Compared to the operations launched by three full brigades later on in the Emergency, the opening months certainly lacked large-scale military operations. However, the 'phoney war' tag, reflecting a eurocentric refusal to take African violence seriously, is deceptive. Such a characterisation masks the growing violence seen throughout this period. Both settler and government action accelerated the onset of the rebellion by radicalising a large proportion of undecided Kikuyu into supporting the Mau Mau cause either actively or passively through providing food and information.¹⁶ Some even describe the period as one of 'pre-emptive repression' by the state.¹⁷ Large numbers were expelled from their homes in the Rift Valley by settlers paranoid that each formerly loyal Kikuyu employee was waiting for nightfall to exert a bloodthirsty treachery with panga and spear.¹⁸ The government viewed such (hugely disproportionate) retaliation as inevitable.¹⁹ By doing nothing to stop the settlers, who often evicted their labour with illegal force, the government condoned their behaviour. While evicting all Kikuyu from areas where alleged Mau Mau crimes had occurred only became official policy on 15 December 1952, the authorities assisted with evictions before this date.²⁰ In the week following a violent attack on the Meiklejohn residence in Thomson's Falls in late October, resulting in Commander Meiklejohn's death and his wife's mutilation, the Lancashire Fusiliers removed 750 Kikuyu men and 2,200 children during a large sweep through the surrounding area.²¹ In another case, after a European was killed in Leshau on 22 November, 4,324 Kikuyu were evicted.²²

Several units mounted sweep operations throughout November. The 156 HAA Battery formed into sixteen motorised infantry patrols, each about ten men strong, and worked alongside various KAR units (and later independently).²³ By 12 November both police and army units were engaged in extensive and continuous sweeps through the Kikuyu

¹⁴ Heather, 'Counterinsurgency and Intelligence in Kenya', 37.

¹⁵ Berman, *Control and Crisis*, 348; Percoc, 'Counter-Insurgency in Kenya', 62.

¹⁶ Percoc, 'Counter-Insurgency in Kenya', 67. ¹⁷ Furedi, *Mau Mau War*, 8.

¹⁸ Heather, 'Counterinsurgency and Intelligence in Kenya', 41. A panga is a heavy bladed tool, similar to a machete, used for agricultural work, but also lethal as a weapon.

¹⁹ Percoc, 'Counter-Insurgency in Kenya', 62.

²⁰ *Ibid.*, 68. The primary evidence does not fully clarify the distinction between autonomous settler removals and official government practice.

²¹ Anderson, *Histories of the Hanged*, 90. ²² Furedi, *Mau Mau War*, 119.

²³ Oxford Development Records Project (ODRP), Bodleian Library of Commonwealth and African Studies at Rhodes House, University of Oxford: P. E. Langford, MSS Afr. 1715.

Reserves.²⁴ These sweeps suffered from an intelligence deficiency and thus innocent persons were adversely affected. The police were in a poor position to provide accurate intelligence on which to base operations. There was hardly any substantial Kenya Police presence in the Reserves, the first posts having been built in these areas in 1943. At the Emergency's declaration, the police Special Branch, responsible for political policing, comprised only four officers and a handful of rank and file.²⁵ Another common type of operation was the screening of all persons in a given location, usually with the aid of loyalist chiefs, the administration and police. The exact meaning of 'screening' varied. The common denominator was the extraction of information from suspects. Soldiers wanted information to launch operations, policemen wanted information to secure criminal convictions, Special Branch and military intelligence men wanted information for building their intelligence networks, and the administration wanted information to punish and/or rehabilitate Mau Mau adherents. From early November 'A' Company of 23 KAR constantly took prisoners and searched property for signs of collusion with the Mau Mau. In a typical action on 28 January 1953 they helped screen 1,500 people at Limuru, resulting in 96 arrests.²⁶

November also saw the extension of powers to magistrates for trying Mau Mau offences, alongside new regulations facilitating the seizure of property and increased penalties for certain crimes.²⁷ In December Governor Baring announced a new Emergency tax, levied against all Kikuyu, which proved extremely unpopular.²⁸ Similarly controversial with the African population, the trial of the popular and respected political leader Jomo Kenyatta began on 3 December, leading to his conviction for leading the Mau Mau.²⁹ On the military front Baring requested a director of operations in November and again in December, but the War Office instead appointed Colonel G. Rimbault as Personal Staff Officer, a position with limited authority.³⁰ His appointment reflected a wider failure on the part of the War Office to appreciate the seriousness of the situation. This was again evident when the reluctance to send more British battalions led to the overstretching of KAR units.³¹

²⁴ Percox, 'Counter-Insurgency in Kenya', 64.

²⁵ D. Throup (1992), 'Crime, Politics and the Police in Colonial Kenya, 1939-63', in D. M. Anderson and D. Killingray (eds.), *Policing and Decolonisation: Politics, Nationalism and the Police, 1917-65* (Manchester University Press, 1992), 129, 139.

²⁶ ODRP, H. N. Clemas, MSS Afr. 1715.

²⁷ Heather, 'Counterinsurgency and Intelligence in Kenya', 38.

²⁸ Percox, 'Counter-Insurgency in Kenya', 64. ²⁹ Anderson, *Histories of the Hanged*, 63.

³⁰ Heather, 'Counterinsurgency and Intelligence in Kenya', 49.

³¹ Percox, 'Counter-Insurgency in Kenya', 62.

Perhaps given the worrying conflicts going on in Korea and Malaya, the refusal to prioritise Kenya in late 1952 to early 1953 should be considered reasonable.

In January 1953 substantial sweep operations pushed into the forests for the first time. After declaring the northern Aberdare Mountains area a prohibited area (PA) for all civilians, the army and police launched Operation Blitz on 6 January.³² In PAs troops could open fire without warning. The PA policy received official sanction from Whitehall in late February on the condition that it was restricted to really dangerous areas, clearly defined, given adequate publicity, and that a reasonable amount of time elapsed between giving notice and starting operations.³³ The Blitz operations were confined to the forest fringes and thus the Mau Mau avoided the security forces fairly easily by moving deeper into the dense forests.³⁴ Still suffering from manpower shortages, the security forces were limited in their ability to launch offensives by the constant demands for static protection. Even when not on the offensive, the government found protecting all those vulnerable a difficult task.³⁵ But the pressure to do so mounted as attacks on settler farms increased in the first months of the year, creating a febrile atmosphere among the settlers.³⁶ The brutal murder of the Ruck family, including a young child, at Kinangop on 24 January radicalised the settlers more than any other incident so far in the Emergency.³⁷

One solution to the manpower problem appeared to be creating Kikuyu, Embu and Meru Home Guard units, some of which existed in an unofficial capacity before the Emergency was declared. They were best organised in Nyeri, and by March 1953 there were 18,000 Home Guards in Central Province.³⁸ The nature of the Guard changed as the war did. Initially founded to protect chiefs and headmen, their role changed over 1953 as units began to patrol large areas and fight in combat. The abiding image of these units was of the increasingly ubiquitous fortified posts, surrounded by spike-filled moats, barbed wire and overlooked by watchtowers. Each post typically held ten rifles and shotguns allocated to the most trustworthy men, the rest carrying pangas, spears and other traditional weapons. When not manning the post, the Home Guard patrolled localities, guarded schools, escorted chiefs and headmen, acted as guides for the military and participated in

³² Heather, 'Counterinsurgency and Intelligence in Kenya', 57.

³³ TNA, CO 822/442: Copy of draft reply, Secretary of State for the Colonies to Baring, in reply to his telegram of 24 February 1953, no date.

³⁴ Percox, 'Counter-Insurgency in Kenya', 71.

³⁵ Branch, 'Loyalism during the Mau Mau Rebellion', 96.

³⁶ Anderson, *Histories of the Hanged*, 91. ³⁷ *Ibid.*, 93.

³⁸ Branch, 'Loyalism during the Mau Mau Rebellion', 83–4.

screenings. They normally operated in the Reserves, leaving the forests to the police and army.³⁹

Throughout February important changes were made to the command and control structure in Kenya. Major-General William Hinde arrived on the first of the month to take up the post of Chief Staff Officer to the Governor.⁴⁰ He spent a month touring the affected areas in order to draw up recommendations for combating the insurgency.⁴¹ Aside from proposing social measures to win over the population, Hinde wanted the army to be active on offensive operations, and ended the unsuccessful 'grouse shoots' in favour of smaller-scale patrols.⁴² In suggesting these approaches Hinde laid some of the groundwork for Erskine's fuller strategy developed several months later. He optimistically believed that the Mau Mau could be beaten with existing resources, reflecting the poor intelligence on the enemy at the time.⁴³ The Chief of the Imperial General Staff (CIGS), Field Marshal Sir John Harding, visited from 19 to 24 February. He took a less optimistic view and decided that further British battalions and air support were required, marking a growing prominence for the army in the conduct of the Emergency.⁴⁴ Harding recognised the need to curb the 'European hotheads', to develop an overall plan and to ensure that everybody worked to it effectively rather than pulling in different directions. As a result of his visit, the KAR battalions were brought up to strength, and 1 Devonshire Regiment, 1 Royal East Kent Regiment (The Buffs) and two brigade headquarters were earmarked for Kenya.⁴⁵

Two events on a night in March 1953 escalated the conflict, pushing London into promoting Hinde to Director of Operations, and later sending General Erskine out to win an increasingly messy war.⁴⁶ On 26 March the Mau Mau attacked Lari village and Naivasha police station almost simultaneously. At Lari the Mau Mau massacred 120 civilians, while the raid at Naivasha, releasing prisoners and stealing arms and ammunition, greatly embarrassed the government. Lari represented the beginning of an assault on the Home Guard aimed at discouraging loyalism.⁴⁷ These events forced the authorities to realise that the Mau Mau was a serious, organised movement that would not go

³⁹ *Ibid.*, 22, 110, 112. ⁴⁰ Percox, 'Counter-Insurgency in Kenya', 71.

⁴¹ Heather, 'Counterinsurgency and Intelligence in Kenya', 59.

⁴² A. Clayton and D. Killingray, *Khaki and Blue: Military and Police in British Colonial Africa* (Athens, OH: Ohio University Center for International Studies, 1989), 256.

⁴³ Heather, 'Counterinsurgency and Intelligence in Kenya', 62.

⁴⁴ M. Carver, *Harding of Petherton* (London: Weidenfeld and Nicolson, 1978), 63.

⁴⁵ TNA, CO 822/442: Report by CIGS on his visit to Kenya, 27 February 1953.

⁴⁶ Percox, 'Counter-Insurgency in Kenya', 73.

⁴⁷ Branch, 'Loyalism during the Mau Mau Rebellion', 129.

away quickly.⁴⁸ A week later the government decided to systematically arm the Home Guard and appoint European officers to oversee them.⁴⁹ Judicial powers were enhanced and security force activities intensified.⁵⁰ In early April a major sweep took place around Kariokar in Nairobi, detaining or sending to the Reserves around 800 Kikuyu.⁵¹ Intelligence reports noted how patrols by 23 KAR and the Home Guard 'met several groups of terrorists' in the Kiambu area near Lari. In one night the Home Guard claimed to have killed twenty-one, and 23 KAR another twenty-four (plus thirty-six wounded) 'in a running fight with a large semi-armed gang'. The report concluded, 'Most of those killed and wounded were thought to be involved in the LARI massacre.'⁵² Who the others were is unclear. Following Lari, the security forces scarcely cared to pause and ponder such questions.

Having acclimatised and trained in Nyeri, The Buffs and the Devons were ready for operations by late April and fully deployed by 10 May. They formed part of the new 39 Brigade with responsibility for the Aberdares forest area, while 70 (East Africa) Infantry Brigade operated in the Reserve areas.⁵³ Meanwhile Hinde modified the colony's command system in a bid for greater coherence. He personally headed the Director of Operations Committee, below which were joint operations committees sitting from colony down to district level, with representatives from the military, police and administration.⁵⁴ They directed all operations by security forces and were distinct from the Emergency Committees, which focused specifically on policy matters.⁵⁵ In May the unwieldy Governor's Emergency Committee was replaced by the smaller Colony Emergency Committee, below which the existing provincial (PECs) and district Emergency Committees (DECs) were expanded in the Rift Valley and settled areas to include an unofficial European member. The authorities hoped that coopting the settlers would curtail their excessive behaviour.⁵⁶ This proved a little hopeful.

Other organisational reforms in May were of greater long-term importance. The military's operational intelligence capability received a boost with the creation of provincial and district military intelligence

⁴⁸ See Anderson, *Histories of the Hanged*, 119–80.

⁴⁹ Branch, 'Loyalism during the Mau Mau Rebellion', 107.

⁵⁰ Anderson, *Histories of the Hanged*, 133.

⁵¹ Heather, 'Counterinsurgency and Intelligence in Kenya', 75.

⁵² TNA, WO 276/379: Northern Brigade intelligence summary, 4 April 1953.

⁵³ Heather, 'Counterinsurgency and Intelligence in Kenya', 85.

⁵⁴ For further discussion of the command system, see [chapter 2](#). The administration of the country was divided into the following levels: colony, province, district, location, sub-location.

⁵⁵ Heather, 'Counterinsurgency and Intelligence in Kenya', 82. ⁵⁶ *Ibid.*, 79.

officers (DMIOs), aided by field intelligence assistants (FIAs). These officers were specifically tasked with enhancing the intelligence network, and in particular giving new vigour to the army's relations with the Special Branch. The new system gradually improved intelligence collection, collation, analysis and dissemination.⁵⁷ On 29 May the War Office announced that East Africa, previously subordinate to Middle East Land Forces (MELF), would become an independent command, reporting directly to London and with Erskine as the commander-in-chief.⁵⁸ This marked a turning point in the professionalisation of the war's conduct. But it should not be interpreted as meaning that strategy prior to Erskine's arrival completely lacked coherence. As of 19 May, the security forces had managed to wound 343 Mau Mau and kill 619 of them. They had also, by 31 May, arrested 103,379 people, of whom 89,820 were screened.⁵⁹ An intelligence report from this time concluded that the government's failure to destroy the Mau Mau should be considered against broad success in preventing the insurgency spreading to other tribes and provinces, described as the 'Government's primary task'.⁶⁰ The need to demonstrate the state's commitment to crushing internal revolt to a wider audience than just the Kikuyu explains much about the use of force in the opening stages of the Emergency, and indeed beyond. Within Kikuyuland the insurgency had spread quickly, from Kiambu and Nairobi to Fort Hall, where it remained at its most fierce. By August 1953 it would spread to Embu, Meru and the Rift Valley areas adjacent to Central Province.⁶¹ Rather than quelling the uprising, government action actually exacerbated the problem. This is especially true of the population movements taking place, with even Baring admitting that it 'has probably led to a further facilitation of gang recruitment and some diversion of effort on the part of the forces of law and order'.⁶²

Erskine develops an operational plan, June 1953 to April 1954

General Erskine's arrival on 7 June 1953 came to mean both a decline in settler influence over the campaign and the beginning of the end for the

⁵⁷ *Ibid.*, 107. ⁵⁸ Percox, 'Counter-Insurgency in Kenya', 75.

⁵⁹ TNA, CO 822/373: Special Branch fortnightly intelligence summary (SBFIS) 5/53, Appendix A, 31 May 1953.

⁶⁰ TNA, CO 822/378: KICFA 4/53, 15 May 1953.

⁶¹ Branch, 'Loyalism during the Mau Mau Rebellion', 129.

⁶² TNA, CO 822/442: Savingram from Governor to Secretary of State for the Colonies, 24 February 1953.

Mau Mau.⁶³ While he transformed the Emergency, Erskine built on Hinde's decisions. Command and control reforms, offensive action, the PA policy, and the creation of a one-mile strip along the edges of the PAs were all instigated before Erskine's arrival.⁶⁴ The one-mile strip policy was intended to stem food supplies into the forest and allowed the security forces to monitor movement between the Reserves and the forests.⁶⁵ In September the government approved the burning down of property within the strip which owners had failed to destroy themselves.⁶⁶ But Erskine's first priority was to instil his troops with the correct ethos. His initial directive ordered 70 Brigade to be 'as aggressive and offensive as possible against the MAU MAU'.⁶⁷ Erskine assumed operational control over all the security forces and was thus able to direct a much more centralised campaign.⁶⁸ He supported the police force's expansion so that it could take control over areas cleared by the army, and expressed a clear desire for the army to avoid defensive policing tasks.⁶⁹ Keeping Hinde as his Deputy Director of Operations (DDOps) and General Cameron as deputy commander-in-chief for the rest of the East Africa theatre, Erskine concentrated his attention on quickly assuming the offensive.⁷⁰

He deployed 39 Brigade and RAF aircraft in the Aberdares, Mobile Column A (of the armoured car unit) patrolling through the Reserves and around Mount Kenya, and 70 Brigade defensively in the Reserves and the settled areas. The army sustained almost continuous attacks throughout June and July, the first being Operation Buttercup around Fort Hall (23 June–8 July), then Operation Carnation I in South Nyeri (12–26 July), followed by Operation Grouse in Meru/Embu (10–15 July) and Operation Plover in the Rift (18 July–7 August).⁷¹ Buttercup appeared to improve loyalist morale and civil-military cooperation alike.⁷² As these operations took place, the two sides clashed in a series of brief but bloody skirmishes that had started after Lari and would continue until mid-1954.⁷³ Extensive search and screening operations

⁶³ Anderson, *Histories of the Hanged*, 180; Heather, 'Counterinsurgency and Intelligence in Kenya', 92.

⁶⁴ Percox, 'Counter-Insurgency in Kenya', 76.

⁶⁵ Heather, 'Counterinsurgency and Intelligence in Kenya', 94.

⁶⁶ ODRP, W. R. Hinde, MSS Afr.s.1580, Vol. IV: Director of Operations Committee minutes, 15 September 1953.

⁶⁷ TNA, WO 276/526: GHQ East Africa Operational Directive no. 1, 16 June 1953.

⁶⁸ Percox, 'Counter-Insurgency in Kenya', 75.

⁶⁹ TNA, CO 822/693: letter from Erskine to Harding (CIGS), 7 July 1953.

⁷⁰ Percox, 'Counter-Insurgency in Kenya', 76.

⁷¹ Heather, 'Counterinsurgency and Intelligence in Kenya', 98–100.

⁷² TNA, CO 822/378: KICFA 8/53, 15 July 1953.

⁷³ Branch, 'Loyalism during the Mau Mau Rebellion', 94.

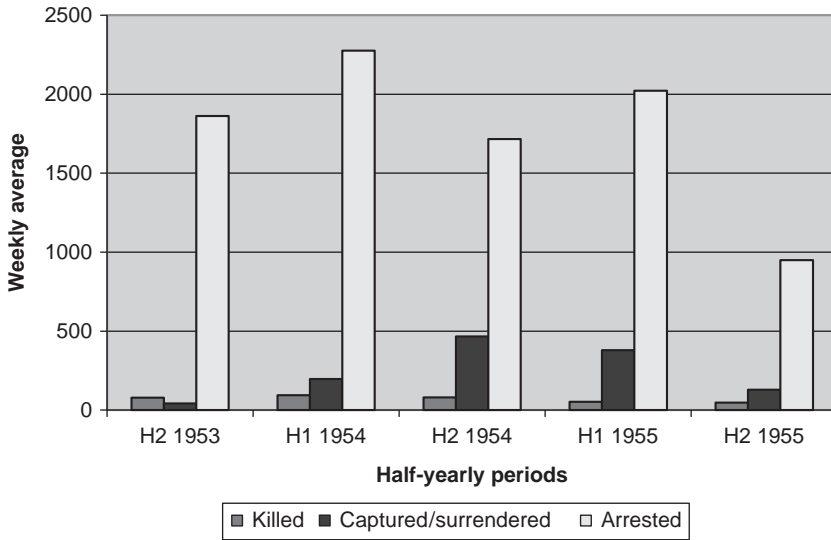


Figure 1 Counter-insurgency activity, 1953–5

were launched in Nairobi, the largest being Operation Rat Catcher (18–31 July), when 17,000 inhabitants were screened for their political allegiances. A second series of forest operations, Operation Carnation II (29 July–7 August), involved over 6,000 personnel and the RAF, but also failed in destroying gangs and diminishing the number of attacks.⁷⁴ Overall, major operations such as Buttercup succeeded in denying the Mau Mau a certain area, only for them to return once the operation concluded. Intelligence reports began to see a clear connection between a visible government presence and Mau Mau activity in an area.⁷⁵ For this reason, offensives against the armed gangs and population control measures in the Reserves relied on each other for success. Figure 1 shows the significance of arrest operations compared to the more limited number of fatalities inflicted on the Mau Mau.

From these intense actions Erskine decided to rest the Kenya Regiment, active without respite since October, and called for extra troops to escalate the offensive.⁷⁶ The pause allowed a new tactic to be developed. By 10 August, five tracks were constructed into the forest, with camps at the end, allowing for deep penetration into enemy-dominated

⁷⁴ Heather, 'Counterinsurgency and Intelligence in Kenya', 100–1.

⁷⁵ TNA, CO 822/373: SBFIS 10/53, 11 August 1953.

⁷⁶ TNA, CO 822/693: Letter from Erskine to Harding, 23 July 1953.

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territory. Operation Primrose (10–27 August) in the Aberdares made use of the tracks for the first time. Subsequently Erskine ordered a further twenty tracks be constructed, and an element of 39 Corps Royal Engineers arrived in October to speed up their construction. After the large-scale forest operations from July and August, the army adopted a lower-profile role, using the tracks to launch small patrols, pursuing food denial measures and attempting to deny Mau Mau control of the Reserves while the police and administration strengthened their positions.⁷⁷

The reinforcements arrived in September: 1 Black Watch replaced the Lancashire Fusiliers, 3 KAR arrived from Malaya and 49 Brigade, comprising 1 Royal Northumberland Fusiliers and 1 Royal Inniskilling Fusiliers, arrived from Britain.⁷⁸ Twelve battalions were now in Kenya, and by late October they were deployed in brigade areas where they stayed until the year's end: 39 Brigade operated in the east Aberdares, Fort Hall, South Nyeri and Thika; 49 Brigade in the western Aberdares and the Rift Valley; and 70 Brigade around Mount Kenya, Embu, Meru and Nanyuki.⁷⁹ During the late summer Erskine decided that the Mau Mau could not be beaten by military operations alone. In August he wrote to Harding that: 'Mau Mau is not like a town riot which can be brought under control by a show of force . . . Unless we deal with the fundamental causes which allowed Mau Mau to grow up and prosper we shall get further trouble in a different form.'⁸⁰ This thinking informed the decision to announce the first surrender offer on 24 August. The government publicised the offer via leaflets and word of mouth, with surrenderers instructed to carry green branches to identify themselves. It was hoped the scheme would boost the previously paltry surrender numbers, as up to this date only twenty-nine Mau Mau had given themselves up voluntarily.⁸¹

However, large-scale operations resumed in September, when the newly arrived and acclimatised units deployed. Some heavy losses were inflicted, but more significantly, the security forces managed to break the gangs down into smaller sizes, restricting their ability to launch attacks on loyalists and settlers. Despite this and improvements in the Reserves as the civil powers grew in strength, Nairobi remained lawless and the gangs were far from beaten.⁸² Erskine decided that the eviction policy was in fact worsening matters, as it polluted the Reserves with 'bad chaps'.⁸³ Accordingly the practice was abandoned at the end of

⁷⁷ Heather, 'Counterinsurgency and Intelligence in Kenya', 105, 120. ⁷⁸ *Ibid.*, 103.

⁷⁹ Percox, 'Counter-Insurgency in Kenya', 79.

⁸⁰ TNA, CO 822/442: letter from Erskine to Harding, 15 August 1953.

⁸¹ Heather, 'Counterinsurgency and Intelligence in Kenya', 114–16. ⁸² *Ibid.*, 94.

⁸³ TNA, CO 822/693: Letter from Erskine to Harding, 29 September 1953.

September, except in exceptional circumstances, in order to stem the flow of new recruits to Mau Mau.⁸⁴

Operations continued in October, with the Inniskillings assisting the Nairobi police on sweeps in African areas, resulting in notable intelligence improvements. By early November the emphasis of army operations shifted to the Mount Kenya region, with 49 Independent Infantry Brigade in the west and 70 Brigade in the south.⁸⁵ These forest operations proved counterproductive, as they pushed many Mau Mau fighters into the Reserves.⁸⁶ Perhaps the conduct of the campaign during this period was also somewhat impaired by Erskine's need to focus on discipline within the security forces. The parliamentary delegation in Kenya from 8 to 26 January 1954 advised further developing the Home Guard, despite their notorious reputation for abuses of power.⁸⁷

The government enjoyed a major propaganda victory, and a turning point in the intelligence war, when the important leader General China fell into captivity on 15 January. His interrogation, conducted by Ian Henderson of the Special Branch, provided invaluable insights into the structure, deployments and *modus operandi* of the movement. Up to now the 'Green Branch' surrender plan had been disappointing, with only 159 surrenders by 10 February. China's capture presented an opportunity for reviving the plan. However, the government was determined that the new surrender offer should not appear as a sign of weakness, and thus operations continued. Operation Columbus (26 March – 2 April) involved large-scale sweeps through the Aberdares and the Fort Hall district. The China plan involved similar conditions to the earlier 'Green Branch' terms, with the significant difference that the government suspended the death penalty for prior offences. Unfortunately, talks mediated by China and the Special Branch with the Mau Mau were scuttled by an accidental engagement between a KAR unit and Gatamuki's gang at Gathuini on 7 April, as they met to discuss surrendering. This inadvertent episode led the Mau Mau leadership to believe the security forces had set a deliberate trap, and so the China negotiations came to an end.

At the political level, the Secretary of State for the Colonies, Oliver Lyttelton, visited Kenya in March. He proposed a multiracial constitution, set up a Council of Ministers and established a small War

⁸⁴ TNA, CO 822/505: Telegram from Baring to Secretary of State for the Colonies, 28 September 1953.

⁸⁵ Heather, 'Counterinsurgency and Intelligence in Kenya', 129, 122.

⁸⁶ Branch, 'Loyalism during the Mau Mau Rebellion', 130.

⁸⁷ TNA, PREM 11/696: Report to the Secretary of State for the Colonies by the Parliamentary Delegation to Kenya, January 1954, Cmd 9081.

Council to replace the inefficient Colony Emergency Committee. The new system increased the decision-making efficiency of the political leadership and gave Erskine greater power at the top table.⁸⁸ These reforms were vital for the next stage in the offensive, which demanded effective cooperation.

Dominating the population: Operation Anvil and villagisation, April to December 1954

These enhanced powers allowed Erskine to launch the most important military action of the Emergency, Operation Anvil. But before this the authorities cashed in on the information gleaned from China, arresting over 1,200 Mau Mau in the Reserves during Operation Overdraft (11–15 April).⁸⁹ On 16 April secret deployment for Anvil began. Erskine was determined to achieve surprise.⁹⁰ The Home Guard had been expanded in time to help patrol areas vacated by the army for Anvil, with Kikuyu Guard combat units fulfilling roles formerly taken only by the military.⁹¹ By 4.30 am on 24 April, when the security forces sealed every road, track and path in and out of Nairobi, the government was prepared to put the 'Mau Mau's beating heart' into coronary arrest. No Africans were allowed to pass the checkpoints, and the city was a closed district for the next month, with five British battalions, one KAR battalion, 300 police, hundreds of Home Guards and numerous Kenya Police Reserve (KPR) officers systematically searching every area. Screening teams enjoyed absolute power; they detained around 24,000 people.⁹² The government knew that not all of these people could be Mau Mau members, but thought the incarceration of innocents inevitable.⁹³ In fact the military planned to detain half the Kikuyu, Embu and Meru inhabitants before the operation began.⁹⁴ So the screening teams worked to a quota rather than making informed decisions about a person's subversive attributes. Those chosen for detention were sent away to camps, where many would remain for years without criminal charges being brought against them.

Operation Anvil marked a major turning point in the war. Mau Mau supplies, command and control and recruitment were severely disrupted,

⁸⁸ Heather, 'Counterinsurgency and Intelligence in Kenya', 145, 119, 157–9, 151, 160–7.

⁸⁹ *Ibid.*, 168.

⁹⁰ TNA, CO 822/774: telegram from C-in-C GHQ East Africa to VCIQS, 12 April 1954.

⁹¹ Branch, 'Loyalism during the Mau Mau Rebellion', 131.

⁹² Anderson, *Histories of the Hanged*, 200–1, 204. ⁹³ Maloba, *Mau Mau and Kenya*, 87.

⁹⁴ TNA, WO 276/473: Accommodation in detention camps. Note by Commander-in-Chief, 17 April 1954.

never to fully recover.⁹⁵ Other successes during the same month, such as 70 Brigade's operations in South Nyeri, northern Fort Hall and western Embu, resulting in 400 killed, were significant.⁹⁶ Although gang activity in Nairobi dramatically declined, large numbers of Mau Mau still roamed the forests with virtual impunity. Support for Mau Mau actually surged in Embu and Meru after large numbers of people were returned to the districts as part of Anvil.⁹⁷ Smaller searches were required in Nairobi afterwards, to maintain the gains made during Anvil. Operation Broom, ending on 9 August, led to 217 arrests.⁹⁸

Anvil's impact in the city cannot be separated from what happened in the Reserves. The villagisation policy rapidly accelerated after the operation.⁹⁹ Traditionally, the Kikuyu, Embu and Meru peoples lived in small scattered settlements, which were difficult for the security forces to control. Villagisation was thus a considerable disruption to normal life, forcing people into larger villages surrounded by barbed wire, and under Home Guard protection. How far these new villages improved the standard of living and sense of security is contested. Throughout 1954 the administration villagised Central Province, with Embu and all three Kikuyu districts completed by August.¹⁰⁰ Although unpopular and often coercive, the policy proved highly successful from the military's perspective, allowing the authorities tight control over the population.¹⁰¹ Kiambu district, in the Central Province, proved harder to villagise and the results there were less fruitful than elsewhere, as heavy gang activity continued in August and September.¹⁰² This activity may have represented a renewed Mau Mau offensive around Nairobi, largely against the police and loyalists.¹⁰³ The attacks were futile, for two principal reasons. First, Anvil and villagisation changed the character of loyalism in Kenya. As the security of loyalists improved throughout the year, condemnations of Mau Mau from ordinary Kikuyu became more frequent. This coincided with the introduction of material benefits for loyalism in the second half of the year,

⁹⁵ Anderson, *Histories of the Hanged*, 244.

⁹⁶ Heather, 'Counterinsurgency and Intelligence in Kenya', 176.

⁹⁷ Branch, 'Loyalism during the Mau Mau Rebellion', 128.

⁹⁸ TNA, WO 276/42: Telegram from 49 Bde to Force Nairobi, 10 August 1954.

⁹⁹ Percox, 'Counter-Insurgency in Kenya', 85; Imperial War Museum, Sound Archive (IWMSA): R. Z. Stockwell, 10065/2.

¹⁰⁰ Branch, 'Loyalism during the Mau Mau Rebellion', 153.

¹⁰¹ J. Newsinger, 'Revolt and Repression in Kenya: The "Mau Mau" Rebellion, 1952–1960', *Science and Society*, 45 (1981), 176.

¹⁰² Heather, 'Counterinsurgency and Intelligence in Kenya', 202.

¹⁰³ D. M. Anderson, 'The Battle of Dandora Swamp: Reconstructing the Mau Mau Land Freedom Army October 1954', in E. S. Atieno Odhiambo and J. Lonsdale (eds.), *Mau Mau and Nationhood: Arms, Authority and Narration* (Oxford: James Currey, 2003), 162.

such as the preferential issuing of trading licences or government employment.¹⁰⁴ Secondly, villagisation occurred alongside offensive military operations which gradually wore down the gangs.¹⁰⁵ By November, intelligence reports showed that villagisation was working in making contact between armed insurgents and their 'passive wing' supporters harder. Because their material support from the population was deteriorating, armed gangs spent longer on securing their own supplies and less time attacking people. Where gangs continued to rely on local supporters, their routes and habits became predictable, allowing the security forces to ambush them with a higher success rate than before. Screening operations in the villages were easier now the population were fixed compared to the high amount of transience earlier in the Emergency. The only perceived disadvantage was that villagisation made it more difficult for informers to circulate without people becoming suspicious.¹⁰⁶

With Nairobi maintained as a secure base, post-Anvil operations developed in three phases. Phase 1 started with the districts closest to the city – Kiambu, Fort Hall and Thika, for example, with five battalions on Operation Pugilist in the Reserves in these areas. Phase 2, from August to November 1954, focused on Nyeri and Embu, with phase 3 in Meru and the settled areas next to Mount Kenya and the Aberdares. The security situation improved in all of these areas by the end of the year, with the post-Anvil operations considered militarily successful.¹⁰⁷ To increase the security of settler properties in the Rift Valley, the number of Farm Guards, similar to the Home Guard, was expanded by 50 per cent.¹⁰⁸ In addition, British soldiers on leave sometimes spent a weekend or a couple of weeks at settler farms in case of attack.¹⁰⁹

By the end of 1954 the combination of military operations and villagisation had largely driven the Mau Mau out of the Reserves, inflicted heavy casualties and prevented access to logistical and manpower reinforcements. The rebels found themselves mainly confined to the forests of the Aberdares and Mount Kenya. Not only did the security forces manage to inflict losses of over 600 per month on the Mau Mau between October and December, but the operational intelligence situation greatly improved. Havoc was wreaked on the Mau Mau by the elimination of fourteen gang leaders during 1954 and the establishment of a forest

¹⁰⁴ Branch, 'Loyalism during the Mau Mau Rebellion', 173, 44.

¹⁰⁵ Heather, 'Counterinsurgency and Intelligence in Kenya', 179.

¹⁰⁶ TNA, WO 276/408: Kenya intelligence summary (KISUM) 25/54, Appendix B, 1 November 1954.

¹⁰⁷ Heather, 'Counterinsurgency and Intelligence in Kenya', 177, 201, 203–4.

¹⁰⁸ Branch, 'Loyalism during the Mau Mau Rebellion', 153.

¹⁰⁹ IWMSA: T. L. Hewitson, 26853/12; R. J. Carriage, 18267/3.

warfare school at Nyeri.¹¹⁰ These developments assumed significance in the final military stage of the Emergency, as small patrols proliferated and the hunt for key leaders such as Dedan Kimathi became an obsession.

Eliminating the forest gangs, January 1955 to November 1956

Two major forest operations took place before the shift to smaller-scale tactics. The first of these was Operation Hammer, from mid-December 1954 until 11 February 1955, in the areas immediately adjoining the Aberdares.¹¹¹ The second was Operation First Flute (22 February – 7 April) in the Mount Kenya area.¹¹² General Erskine was pleased with First Flute’s results: 189 killed, 43 captured and 45 surrendered.¹¹³ He set up a small number of tracker combat teams (TCTs) in July to try out smaller-scale, deep-penetration tactics.¹¹⁴

Meanwhile, several political developments took place. On 12 February the army handed over primary responsibility for law and order to the police and administration in Thika and Fort Hall districts of Central Province, and on 10 March all of Southern Province except Narok district, and all of the Rift Valley Province except for Laikipia and Naivasha districts. None the less, serious Mau Mau activity continued in Kiambu and Nyeri districts.¹¹⁵ The War Council had decided in January to renew efforts to secure a mass surrender. The surrendered Major Chui played a key role with Special Branch, attempting to reach an agreement with the two senior Mau Mau leaders in the forests, Dedan Kimathi and Stanley Mathenge.¹¹⁶ The final agreement benefited both Mau Mau surrenderers and the security forces. At the time, police CID investigations into serious Home Guard malpractices were thought to be undermining morale, to the point where a mutiny or widespread desertions might be provoked.¹¹⁷ Therefore, on 18 January the government announced a ‘double amnesty’ whereby Mau Mau surrenderers would be immune from prosecution, as would all security force members for crimes committed before the amnesty. The authorities sought to partially rein in the Home Guards by disbanding them in January and absorbing them instead into the tribal police and local ‘Watch and Ward’ groups.¹¹⁸

¹¹⁰ Heather, ‘Counterinsurgency and Intelligence in Kenya’, 173, 226, 206, 209, 233.

¹¹¹ *Ibid.*, 234. ¹¹² *Ibid.*, 236.

¹¹³ TNA, WO 276/450: Special Order of the Day, General Erskine to all units in Kenya, 11 April 1955.

¹¹⁴ Heather, ‘Counterinsurgency and Intelligence in Kenya’, 237–8.

¹¹⁵ *Ibid.*, 241. ¹¹⁶ *Ibid.*, 246.

¹¹⁷ *Ibid.*, 229. ¹¹⁸ Branch, ‘Loyalism during the Mau Mau Rebellion’, 158.

Several months of difficult negotiations ensued, made more problematic by a split in the Mau Mau leadership between Kimathi and Mathenge. Security force operations continued throughout, which probably made it harder for the insurgent factions to meet and agree a common position. For example, Operation Hungerstrike took place in mid-April around Nanyuki, resulting in a decline in stock thefts in the area.¹¹⁹ On 2 May 1955 Lieutenant-General Sir Gerald Lathbury arrived in Kenya and took over command from Erskine.¹²⁰ He had military experience in the Gold Coast before the Second World War, and North Africa and Europe during the war, most famously commanding a brigade at Arnhem in 1944. Just before going to Kenya he had been Commandant of the Staff College, and then the Vice-Adjutant-General.¹²¹ Lathbury initially stuck to Erskine's approach. After negotiations broke down on 20 May when Mau Mau leaders came to a meeting without the token surrenderers they had promised, the campaign changed direction. The double amnesty, although unsuccessful in prompting a complete capitulation, achieved notable results. It yielded 979 surrenders, compared with the 857 surrenders for the entire Emergency up until January 1955.¹²²

Operation Gimlet started soon afterwards, lasting until 30 June, and aimed at killing Mau Mau and splitting up the gangs in the central Aberdares.¹²³ This large operation involved elements of all three brigades and applied pressure leading to the withdrawal of the surrender offer on 10 July, which was widely publicised in an effort to draw more surrenders beforehand. The security situation continued to improve, with the civil powers taking control of Embu and Meru in June; Kiambu, South Nyeri, Naivasha, Laikipia and Nairobi in July; and Nanyuki in August, by which time the Royal Northumberland Fusiliers and part of the RAF could leave Kenya without replacement.¹²⁴ In these areas the government tightened its grip in the new villages by intensifying food control measures to stop people passing supplies to the Mau Mau.¹²⁵ An innovative tactic developed was the mass sweeping of Reserve locations with thousands of civilians assisting the security forces to ensure both wider coverage and loyalty on the part of the inhabitants.¹²⁶

¹¹⁹ Heather, 'Counterinsurgency and Intelligence in Kenya', 247, 240.

¹²⁰ TNA, WO 236/20: General Lathbury's final dispatch, 1.

¹²¹ Lathbury, Sir Gerald William (1906–1978), by J. Hassan, rev. *Oxford Dictionary of National Biography* (Oxford University Press, 2004), online edition, at www.oxforddnb.com/view/article/31335, accessed 1 June 2011.

¹²² Heather, 'Counterinsurgency and Intelligence in Kenya', 258, 260.

¹²³ TNA, WO 236/20: General Lathbury's final dispatch, 6–7.

¹²⁴ Heather, 'Counterinsurgency and Intelligence in Kenya', 259, 263.

¹²⁵ *Ibid.*, 239.

¹²⁶ Branch, 'Loyalism during the Mau Mau Rebellion', 152.

On 15 July Lathbury launched the final large-scale offensives of the Emergency. Operation Dante in the Central and Southern Aberdares, and Operation Beatrice around Mount Kenya, employed nearly every security force member in the colony. They used similar tactics to First Flute, sweeping through the forests to drive insurgents into manned stop lines on the forest edge. The objective was to break the gangs up, and in this they succeeded. From now on Lathbury would use only small, special-forces-style operations to destroy the few remaining Mau Mau.¹²⁷ These Special Methods Teams built upon the methods developed by Frank Kitson's pseudo-gangs and similar units run by the Kenya Regiment since 1953. By early 1956 the special methods teams were running most operations, sometimes using ex-Mau Mau in deep penetration, long-duration patrols into the forest to destroy the last gangs.¹²⁸ During this last phase many of the loyalist members of the labour force displaced from the Rift Valley were moved back to their former places of employment.¹²⁹ Although the Emergency continued until 12 January 1960, the military phase effectively concluded with the capture of Dedan Kimathi on 21 October 1956. British Army units were finally withdrawn from forest operations against the Mau Mau on 17 November.¹³⁰

Countering the gangs, controlling the population

After the handling of the Emergency got off to a bad start, with poor intelligence leading to the misapplication of armed force, the conflict was gradually conducted with increasing expertise. This should come as no surprise, because initial failure followed by gradual strategic refinement is common in insurgency wars. That the security forces would hit out at the innocent was unavoidable in the beginning, given the limited information available about who the enemy were. The only alternative was for the state to wait until sophisticated knowledge concerning the erupting violence arrived. Paranoia from the settler community, and a real sense of weakness within the government, demanded offensive action.

General Hinde set in place some crucial reforms to the command system and introduced influential new policies, but the first major turning point in the conduct of operations came with Erskine's arrival

¹²⁷ TNA, WO 236/20: General Lathbury's final dispatch, 11–12.

¹²⁸ Heather, 'Counterinsurgency and Intelligence in Kenya', 261.

¹²⁹ Branch, 'Loyalism during the Mau Mau Rebellion', 171.

¹³⁰ For the internal security situation in Kenya between the end of military operations and independence, see D. A. Percox, 'Internal Security and Decolonization in Kenya, 1956–63', *Journal of Imperial and Commonwealth History*, 29 (2001), 92–116.

in June 1953. After a series of generally unsuccessful large-scale operations in the forests and Reserves, Erskine embarked upon the crucial clearing of Nairobi, which along with the consolidation of government control brought about by villagisation, would ultimately ensure the defeat of the Mau Mau. Attempts at securing a mass surrender failed but did prevent the war from becoming utterly indiscriminate, as did policies such as the PAs. Recruitment of former Mau Mau members not only provided vital intelligence, such as in the case of General China, but also facilitated the work of pseudo-gangs and other special operations forces. General Lathbury exploited these methods in successfully bringing the Emergency to an end. However far Hinde, Erskine and Lathbury managed to professionalise the campaign in Kenya, they were both unwilling and unable to halt its fundamental brutality. Tighter rules of engagement came into force, but the strategic plan to coerce the entire Kikuyu, Embu and Meru tribes remained a dominant theme from October 1952 until the end. In Kenya in the 1950s, people from these tribes were deemed guilty until proven innocent. Often proving one's innocence was impossible whatever the evidence.

2 ‘Harmonious relations’: soldiers, civilians and committees

The army’s relations with outsiders are far from mysterious when it comes to the leading personalities in the Emergency. The opinions voiced by General Erskine, Governor Baring, settler leader Michael Blundell and Colonial Secretary Lyttelton were diligently recorded.¹ There is little doubt about the impact of personal rapport between key figures in the campaign against the Mau Mau. Such a perspective on the conflict coincides with an appreciation in studies on civil-military relations, which places the soldier–statesman dialogue at the very centre of strategy formation.² How should civil-military relations in Kenya be understood? This chapter analyses the relationship between soldiers and civilians in relation to the self-interest of major actors, and the institutional structures which mediated their interactions.

Writings on civil-military relations often address collaborative policy-making at the highest level in the state apparatus.³ Many accept Samuel Huntington’s idea that because war is a political phenomenon, soldiers follow directions from their political masters. The central concept is civilian control, where an autonomous military profession devises means to achieve policy ends enunciated by politicians.⁴ This institutional approach examines political interaction, asking whether soldiers have obeyed, and why – or why not? Soldiers ‘work or shirk’, depending upon whether their masters monitor them effectively, and on a system of rewards and

¹ M. Blundell, *So Rough a Wind* (London: Weidenfeld and Nicolson, 1964); C. Douglas-Home, *Evelyn Baring: The Last Proconsul* (London: Collins, 1978); O. Lyttelton, *The Memoirs of Lord Chandos* (London: Bodley Head, 1962); F. Majdalany, *State of Emergency: The Full Story of Mau Mau* (Boston: Houghton Mifflin, 1963).

² E. A. Cohen, *Supreme Command: Soldiers, Statesmen and Leadership in Wartime* (London: Simon and Schuster, 2003), xii.

³ Such as P. Smith (ed.), *Government and the Armed Forces in Britain 1856–1990* (London: Hambledon Press, 1996).

⁴ S. P. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations* (London: Belknap Press of Harvard University Press, 1985), 57, 72.

punishments.⁵ Quite unlike the American experience, which informs most political theories on the subject, the British case has received scant attention. Because the British Army owes allegiance to the monarch, normally abstains from playing party politics and avoids launching *coups*, it tends to be considered almost totally apolitical.⁶ Rather than the control model, the British tradition might better fit the principles of integration and mutual understanding proposed by Morris Janowitz.⁷ By aligning the military's internal values and beliefs with those of civilian society, Janowitz thought they could be brought under 'subjective control'.⁸ In assessing whether such convergence exists, scholars examined the close social and ideological proximity between the British military and political elites.⁹ But they failed to explain how social composition affected behaviour in wartime. In this sense, the sociological approach offers few insights into British counter-insurgency.¹⁰

However, considering integration as well as hierarchical control is important. Effective strategy requires a dialogue between soldiers and statesmen.¹¹ The committee system applied in Britain's small wars promoted integration, because even tactical military action could have political ramifications.¹² Committees were suited to the political conditions present in the Kenya Emergency. The British colonial state lacked the manpower and knowledge to combat the insurgency independently, so it needed to make alliances at the local level.¹³ The committees served as the vital bridge connecting government policy to variable

⁵ P. D. Feaver, *Armed Servants: Agency, Oversight, and Civil-Military Relations* (London: Harvard University Press, 2003), 10, 2–3.

⁶ A. Roberts, 'The British Armed Forces and Politics: A Historical Perspective', *Armed Forces and Society*, 3 (1977), 542.

⁷ R. Egnell, 'Explaining US and British Performance in Complex Expeditionary Operations: The Civil-Military Dimension', *Journal of Strategic Studies*, 29 (2006), 1054.

⁸ M. Janowitz, *The Professional Soldier: A Social and Political Portrait* (London: Collier-Macmillan, 1960).

⁹ M. A. Garnier, 'Changing Recruitment Patterns and Organizational Ideology: The Case of a British Military Academy', *Administrative Science Quarterly*, 17 (1972), 499–507; C. B. Otley, 'The Social Origins of British Army Officers', *Sociological Review*, 18 (1970), 213–39; C. B. Otley, 'The Educational Background of British Army Officers', *Sociology*, 7 (1973), 191–209; C. B. Otley, ' Militarism and Militarization in the Public Schools, 1900–1972', *British Journal of Sociology*, 29 (1978), 321–39; P. E. Razzell, 'Social Origins of Officers in the Indian and British Home Army: 1758–1962', *British Journal of Sociology*, 14 (1963), 248–60.

¹⁰ H. Strachan, *The Politics of the British Army* (Oxford: Clarendon Press, 1997), 11.

¹¹ H. Strachan, 'Making Strategy: Civil-Military Relations after Iraq', *Survival*, 48 (2006), 75, 67.

¹² Strachan, *The Politics of the British Army*, 163, 171.

¹³ D. Branch, *Defeating Mau Mau, Creating Kenya: Counterinsurgency, Civil War, and Decolonization* (Cambridge University Press, 2009), 15, 26.

circumstances, and a forum for negotiating how official responses should be formulated in each specific location.

The army pursued a political association with three major actors: the provincial administration, the European settler community and the British political firmament.¹⁴ Each group possessed considerable internal divisions and contradictions – including the army itself.¹⁵ Thus caution must be exercised when studying these groups, because the dominant ideological fault lines in interpreting the conflict passed straight through them. As John Lonsdale argues, apart from agreeing on the need to defeat Mau Mau savagery, people belonging to the same organisational and social groups often held diametrically opposed conservative and liberal views. The conservative view thought Mau Mau a reversion to base African savagery, which could only be eradicated by punishment. By contrast, the liberal view held that modernisation had disrupted traditional ways of life, and those who followed the Mau Mau needed to be educated and reformed to understand the true benefits that modernity offered. Lonsdale states that the army held a separate conception: Mau Mau to the soldiers was a rational movement with political aims and a military strategy.¹⁶ While certain soldiers, such as General Erskine, thought along these lines, the evidence suggests that military thought accepted elements of both the conservative and liberal interpretations simultaneously.¹⁷ The point is that each group – the British political establishment, the settlers, the administration – held multiple, often contradictory beliefs about the Emergency. These competing views merged in policy formation and execution.¹⁸ Each group exerted an identifiable influence on the army.

Within the British political establishment, serious influence derived mainly from the Cabinet, and in particular the Colonial Secretary, Oliver Lyttelton. The rest of the Cabinet were generally uninterested in Kenya, and Parliament and the press had limited sway. Despite short-lived press criticism and protracted pressure from a small group of backbench Labour MPs, the government ignored these critics on most questions, and they had little impact on the military. British political interference was circumscribed by the imperial principle of colonial

¹⁴ These were arguably the most powerful actors. Further studies are required on the army's relationships with the police and other components of the Kenya government, international organisations and the missionary movements.

¹⁵ R. G. L. von Zugbach, *Power and Prestige in the British Army* (Aldershot: Avebury, 1988).

¹⁶ Lonsdale, 'Mau Maus of the Mind', 395, 405, 414.

¹⁷ D. Kennedy, 'Constructing the Colonial Myth of Mau Mau', *International Journal of African Historical Studies*, 25 (1992), 245.

¹⁸ Lonsdale, 'Mau Maus of the Mind', 410.

autonomy. The administration in Kenya is often seen to have exploited the opportunities provided by the Emergency to expand and re-assert its diminishing authority.¹⁹ In doing so, provincial and district administrators resisted military influence and tried to play a leading role in directing the Emergency.²⁰ This chapter argues that while the administration may have wished to enhance its power, rather than seeing the army as a threat to this goal, most officers in the organisation realised that the army would help them achieve it. The administration was willing to suspend its status as the supreme authority in the African areas in exchange for the army's help in destroying the main threat to its position – African political activism. The settlers occupied a powerful position in dictating initial counter-insurgency policy. However, their influence is often exaggerated; it was successfully resisted before and after the arrival of General Erskine in June 1953.

The civil-military dialogue was institutionalised in the committee structure. The committees effectively advanced cooperation and reduced misunderstandings by providing a forum for regular debate. The military command structure could potentially have conflicted with the committees, but the dual role played by senior military commanders in aligning committees and command reduced these pitfalls to manageable proportions. There were instances when the committees exerted pressure on the military command hierarchy, and vice versa, yet in all cases the option to refer disputes upwards made resolution the likely outcome. A final threat to the cooperative attitude fostered by the committees arose from mistrust about the reliability of elements of the security forces. The Home Guard, army and police all experienced troubles with reliability which could have weakened the resolve of others to work with them; again, these were largely overcome.

Who were the civilians?

The administration

Bruce Berman argues that the provincial and district administration in Kenya must take centre stage when explaining the Emergency.²¹ Under the Emergency Regulations, district officers (DOs) in the African

¹⁹ Berman, *Control and Crisis*, 3, 347.

²⁰ Branch, *Defeating Mau Mau, Creating Kenya*, 71.

²¹ B. Berman, 'Bureaucracy and Incumbent Violence. Colonial Administration and the Origins of the "Mau Mau" Emergency', in B. Berman and J. Lonsdale, *Unhappy Valley: Conflict in Kenya and Africa. Book 2: Violence and Ethnicity* (Oxford: James Currey, 1992), 230.

locations enjoyed huge discretion in how they chose to deal with the unrest.²² New rules expanded the already considerable autonomy granted by central government to the man on the spot, who was entitled to treat higher policy as guidance open to challenge and adaptation. Discretion on such a scale prompted resistance to change, but by staffing the administration with men from a common social background the government sought to ensure broad ideological homogeneity.²³ Any disputes within the organisation tended to concern methods rather than first principles. The administration's self-interest and paternalism drove a rejection of outside interference, and an urge to crush the growing African political consciousness which threatened to undermine state power.²⁴

This analysis has prompted Caroline Elkins to believe that the administration essentially ran the Emergency by late 1954, implying that the military were seen as either a threat or irrelevant in major policy fields.²⁵ Such an interpretation is mistaken. However much disagreement arose over methods for crushing the insurgency, the army fundamentally supported the administration's goals. As an external force, the British Army made no claim on the administration's power in Kenya, and believed tighter bureaucratic control to be the best long-term solution to the violence. Anecdotal evidence suggests that the common social background of most DOs, district commissioners (DCs) and provincial commissioners was similar to that of the British Army's officer class.²⁶ One British Army subaltern described the DOs he had known in Kenya as 'excellent young men on the whole; they were very brave'.²⁷ The shared social attitudes generated trust between officers in the army and administration, minimising friction and disagreement. When he arrived in June 1953, General Erskine was empowered by the Cabinet to assume operational command over all the security forces, and to declare martial law if he thought the situation serious enough.²⁸ These powers gave Erskine a strong hand, but the threat to impose martial law was never enacted, because the civil administration never completely broke down.²⁹

²² Berman, *Control and Crisis*, 363.

²³ Berman, 'Bureaucracy and Incumbent Violence', 232–4. ²⁴ *Ibid.*, 237, 253.

²⁵ C. Elkins, 'Detention and Rehabilitation during the Mau Mau Emergency: The Crisis of Late-colonial Kenya' (doctoral thesis, Harvard University, 2000), 5.

²⁶ Interview with General Sir Frank Kitson, Devon, 5 July 2010. See also the sources cited above in fn. 9.

²⁷ Interview with J. Chapman, J. McFrederick and R. Moore, formerly Royal Inniskilling Fusiliers, Windsor, 27 February 2010.

²⁸ Percox, 'British Counter-Insurgency in Kenya', 75.

²⁹ Kenya National Archives (hereafter KNA), WC/CM/1/1: Letter from General Erskine to Acting Chief Secretary, 16 February 1955.

Also within the army's power was the discretion to decide when to hand districts back to the administration and police. In February 1955 the army turned primary responsibility over to the administration and police in Thika and Fort Hall districts, and then also Southern Province (except Narok District) and Rift Valley Province (except Laikipia and Naivasha Districts) on 10 March. The administration and police took control of Embu and Meru districts in June 1955, Kiambu, South Nyeri, Naivasha, Laikipia and Nairobi in July and Nanyuki in August.³⁰ By deciding when control could safely be transferred, substantial authority rested with the army. In practice the army were eager to hand over control quickly, in order to concentrate on fighting the Mau Mau in the forests without restriction, as these were free-fire PAs.³¹ General Erskine took the initiative in suggesting to the Minister for African Affairs and the Commissioner of Police that the first handover should happen in February 1955.³² After the handover in a district the civil authorities could still call for military assistance, through the provincial joint operations committees.³³ Military representatives stopped attending district committees, and as such ceased to have any influence over local policy in these areas.³⁴ The administration's temporary suspension of its supreme authority in the African areas thus paid off once a handover had taken place.

The European settlers

According to many accounts, the European settlers in Kenya played a decisive part in shaping the reaction to Mau Mau, pushing the government to crush the revolt harshly and swiftly.³⁵ The Kenya government's susceptibility to settler demands was a long-standing problem in the colony.³⁶ Authors credit settler influence with moves such as expanding the number of capital offences,³⁷ arresting Jomo Kenyatta and other African political leaders,³⁸ and government participation in the mass

³⁰ Heather, 'Counterinsurgency and Intelligence in Kenya', 241, 263.

³¹ TNA, WO 276/450: GHQ Operation Instruction no. 34, 16 August 1955, directed all battalions to place three companies in forest operations, with one company training.

³² KNA, WC/CM/1/1: Operational Command in Fort Hall and Thika. Note by the Commander-in-Chief, 19 January 1955.

³³ TNA, WO 276/174: CPEC minutes of a meeting held on 11 February 1955.

³⁴ KNA, RN/4/113: Nairobi Extra-Provincial DEC minutes of a meeting held on 2 November 1955.

³⁵ F. Brockway, *African Journeys* (London: Victor Gollancz, 1955), 131; Newsinger, *British Counterinsurgency*, 60.

³⁶ J. Lonsdale, 'Kenya: Home County and African Frontier', in R. Bickers (ed.), *Settlers and Expatriates: Britons over the Seas* (Oxford University Press, 2010), 74.

³⁷ *Ibid.*, 106; Berman, *Control and Crisis*, 358.

³⁸ Douglas-Home, *Evelyn Baring*, 228; Anderson, *Histories of the Hanged*, 63.

eviction of Kikuyu squatter labour from the Rift Valley in early 1953.³⁹ Pressure on the government increased following violence against Europeans. In the most dramatic demonstration, large numbers marched on Government House on 25 January 1953, after the Ruck family were hacked to death the day before.⁴⁰ Or, as a Treasury Department civil servant more placidly regarded the event on hearing about it in his Nairobi clubhouse, 'the deputation of over 1000 Europeans who tried to see the Governor'.⁴¹ The government could hardly afford to ignore settlers entirely, as their numbers grew from around 42,000 in 1953 to about 54,000 in 1956.⁴²

But their political power must be accurately assessed. Europeans were divided on a range of issues, along town and country as much as conservative-liberal lines.⁴³ At times settlers condemned excessive violence; in November 1953 R. E. V. Denning complained about screening teams in Naivasha beating up his employees. The authorities deemed his allegations to be a 'frame-up', concocted by a man with 'a rather unsavoury past'.⁴⁴ The harsh measures often attributed to settler influence had, in the preceding few years alone, been implemented by the British Army and colonial governments in Malaya and Palestine, where settlers played a less prominent political role.⁴⁵ Just because the settlers called for a harsh reaction to the revolt, this does not mean that the colonial state would otherwise have abstained from repression. Berman argues their influence was reduced by bringing them into the state apparatus.⁴⁶ If anything, the government's intention here was to enhance the state's repressive power by increasing manpower resources and local knowledge rather than aiming to moderate extreme behaviour. The White Highland farmers who tended to join the KPR and Kenya

³⁹ R. B. Edgerton, *Mau Mau: An African Crucible* (London: Collier Macmillan, 1989), 76; Heather, 'Counterinsurgency and Intelligence in Kenya', 41.

⁴⁰ Anderson, *Histories of the Hanged*, 95.

⁴¹ British Library, A. Hume, MSS Eur D724/84, diary entry 26 January 1953.

⁴² Anderson, *Histories of the Hanged*, 84.

⁴³ Lonsdale, 'Kenya: Home County and African Frontier', 79; Lonsdale, 'Mau Maus of the Mind', 394.

⁴⁴ Witness statement number three of Huw Bennett, in the case of *Ndiku Mutua and others v. Foreign and Commonwealth Office*, Queen's Bench Division in the High Court of Justice, 25 May 2012 (hereafter Bennett witness statement 3), citing Hanslope document INT 10/4/2/9A: Naivasha district intelligence committee summary, 27 November 1953.

⁴⁵ H. Bennett, "'A very salutary effect": The Counter-Terror Strategy in the Early Malayan Emergency, June 1948 to December 1949', *Journal of Strategic Studies*, 32 (2009), 415–44; D. A. Charters, *The British Army and Jewish Insurgency in Palestine, 1945–47* (Basingstoke: Macmillan, 1989).

⁴⁶ Berman, *Control and Crisis*, 352.

Regiment continued practising brutality on the Kikuyu population once in uniform, a pattern which continued to the Emergency's end.⁴⁷

Socialising brought intimacy between settlers and soldiers, especially in a shared enthusiasm for sporting pursuits.⁴⁸ A special scheme sought to assuage settler fears about the Mau Mau by giving soldiers weekend leave on farms. The side effect was better mutual understanding.⁴⁹ Personal connections changed relations between soldiers and settlers quite noticeably at times. Captain Richard Unett, with the King's Own Yorkshire Light Infantry in Kenya in August 1955, was relieved when his company commander went home on leave, as 'He didn't "get on" with the settlers.' His replacement did, and consequently life was easier.⁵⁰ At a senior level, Major-General Hinde's personal reputation for sympathising with the settlers attracted condemnation from some in government, and plaudits from those who noticed the benefits in areas where the security forces needed settler assistance, such as in food denial.⁵¹

Apparently the harmony produced a willingness in the army to disperse military units in small packets in the settled areas to protect farmers from attack in the first few months of the Emergency.⁵² This should come as no surprise – disagreements over whether troops should be used defensively or offensively were common in Britain's small wars.⁵³ Platoons were widely spread out in many places.⁵⁴ Commanders needed to protect vital positions, such as the command ammunition depot at Gilgil, from potential Mau Mau assault.⁵⁵ But the army did conduct active offensive patrols throughout the early phase. Far from caving in to settler demands, small patrols operated because they allowed frequent activity throughout the Emergency districts with the limited manpower available. An intelligence report in February 1953 noted 'a very sharp rise in MAU MAU casualties, many of which have been inflicted by the Security Forces in offensive as opposed to defensive operations'.⁵⁶ However, a report from the end of March recognised

⁴⁷ Kennedy, 'Constructing the Colonial Myth of Mau Mau', 246; Anderson, 'The Battle of Dandora Swamp', 165.

⁴⁸ Clayton and Killingray, *Khaki and Blue*, 217.

⁴⁹ Edgerton, *Mau Mau: An African Crucible*, 165.

⁵⁰ Staffordshire Record Office, R. Unett, D3610/21/7/1–30: Letter from Captain R. Unett, King's Own Yorkshire Light Infantry, Kenya, to 'Mum and Dad', 31 August 1955.

⁵¹ Anderson, *Histories of the Hanged*, 179.

⁵² Heather, 'Counterinsurgency and Intelligence in Kenya', 37.

⁵³ Townshend, *Britain's Civil Wars*, 31.

⁵⁴ TNA, WO 305/261: Historical record of 7 KAR, 1 April 1953 to 31 March 1954.

⁵⁵ TNA, WO 305/265: War diary of 'A' Company, 26 KAR, 5 February 1953 to 23 November 1953.

⁵⁶ TNA, WO 276/378: Jock Scott intelligence summary, 27 February 1953.

military deployments in the settled areas to protect European farms.⁵⁷ Wherever possible, the army sought to pass responsibility to the civil authorities for static defensive tasks, such as guarding detention camps.⁵⁸

Under General Erskine's auspices, the army's relationship with the settlers became rather hostile. His arrival ushered in the end of settler influence.⁵⁹ Erskine explicitly refused to waste troops on defensive tasks in the Rift Valley settler areas. John Lonsdale argues British troops were sent by London to stop the settlers taking control.⁶⁰ Building upon this idea, Randall Heather asserts that Erskine threatened martial law in order to quell the settlers.⁶¹ Rather than displacing the settlers, though, the arriving British troops drew them closely into the security infrastructure as policemen, administrators, soldiers and intelligence agents. Erskine could hardly employ martial rule as a threat against the settlers when many of them urgently wished for its application. Philip Murphy asserts that General Erskine left Kenya because the settlers demanded his removal.⁶² Apart from disregarding the fact that settler calls for Erskine's removal began almost immediately after he arrived, the claim is contradicted by archival evidence. The Cabinet Secretary's notebook records the Secretary of State for War, Antony Head, as saying that Erskine's agreed two-year appointment had finished, and Erskine himself wished to leave Kenya.⁶³ According to Frank Kitson, Erskine was the personal choice of Winston Churchill, which put him in a very strong position and ensured that his views carried great weight in all matters connected with the conduct of the Emergency.⁶⁴

The historiography overemphasises settler influence on the army and downplays the military's ability to institutionalise European Kenyans in the chain of command and the counter-insurgency strategy. Through the committee system the army embraced the settlers, monitoring them, restricting their freedom of action, listening to them intently – and ignoring them. In September 1953 Group Captain Briggs, the European member on the CPEC, expressed concern about possible attacks in the settled areas. The Commander of 39 Brigade promised that a task force

⁵⁷ TNA, CO 822/378: KICFA no. 1/53, 31 March 1953.

⁵⁸ TNA, WO 276/475: 'Security of detention camps. Note by the Commander-in-Chief', c. July 1954.

⁵⁹ Anderson, *Histories of the Hanged*, 180.

⁶⁰ Lonsdale, 'Mau Maus of the Mind', 408.

⁶¹ R. W. Heather, 'Of Men and Plans: The Kenya Campaign as Part of the British Counterinsurgency Experience', *Conflict Quarterly*, 13 (1993), 19.

⁶² P. Murphy, *Alan Lennox-Boyd: A Biography* (London: I. B. Tauris, 1999), 154.

⁶³ TNA, CAB 195/13: Record of the Cabinet meeting held on 13 January 1955.

⁶⁴ Interview with General Sir Frank Kitson.

would assault any definite gang positions, hardly the defensive reassurance Briggs hoped for.⁶⁵ From September 1954 the CPEC endeavoured to calm settler concerns by providing them with operational briefings, in Nyeri and Nanyuki, every two months. By December the Commander of 70 Brigade was complaining of a very poor attendance at these meetings.⁶⁶ The settlers were thus on some occasions apathetic about trying to influence the army. A final corrective concerning settler influence is the comparison of aspiration with achievement. Many settlers wanted harsher repression. Writing in April 1954, settler leader Michael Blundell condemned General Erskine's policy in the following terms:

It appears to me that at the present time the great majority of the Kikuyu people are in the position of having their cake and eating it. That is to say, they can encourage and assist the Terrorist Movement in the Reserves with a view to overthrowing the Government and at the same time receive benefits from the Government in the form of social services and economic life. I am sure that we should treat the whole Kikuyu people as one. Tell them that unless the support of the gangs and the Mau Mau Movement ceases at one [*sic*], economic sanctions will be placed on the whole tribe with the exception of the Resistance Groups who are cooperating with Government . . . It seems to me at the present time we alternatively [*sic*] kick the kid in the pants and then give it an ice cream.⁶⁷

Blundell advocated a policy based solely on harsh repression. Although the military strategy contained elements of repression, it also included elements of restraint, as this book will show. The army's ability to ignore the settlers' demand to resort to the stick and abandon the carrot says a great deal about their limited influence.

Settler soldiers: the Kenya Regiment

The Kenya Regiment was supposedly created to control settler political aspirations.⁶⁸ During the Emergency, approximately 1,800 men served in the regiment, which posted about 300 soldiers to the KAR.⁶⁹ The army high command only partially managed to impose discipline on the Kenya Regiment, and relied upon them for local knowledge. Arguably the regiment received decorations for its services wholly disproportionate

⁶⁵ TNA, WO 276/170: CPEC minutes, 18 September 1953.

⁶⁶ TNA, WO 276/438: CPEC minutes, 3 September 1954 and 17 December 1954.

⁶⁷ TNA, WO 276/473: Notes on Commander-in-Chief's memorandum on Emergency Administrative Policy, WAR/C.15, signed M. Blundell, 1 April 1954.

⁶⁸ Clayton and Killingray, *Khaki and Blue*, 213.

⁶⁹ I. Parker, *The Last Colonial Regiment: The History of the Kenya Regiment (T.F.)* (Kinloss: Librario Publishing, 2009), 206–7, 261.

to its size.⁷⁰ It was honoured with one OBE, nine MBEs, five MCs, one DCM, five GMs, six MMs, ten BEMs, one QPMG, two CPMs, thirty Mentions in Despatches and fifteen C-in-C's Commendations.⁷¹

Brigadier Donald Cornah, in charge of Northern Brigade from 18 January 1953, recalled that his command had to turn 'the Nelson blind eye' to Kenya Regiment behaviour from time to time.⁷² General Sir Frank Kitson was then a captain working as the MIO for Kiambu and Thika districts to which over time were added Nairobi and Narok. He also had some responsibilities in relation to Fort Hall district. In this capacity he directed the activities of the Kenya Regiment personnel operating as DMIOs and FIAs in these districts. He recalled that although these men needed much latitude to devise their own solutions in diverse field conditions, they none the less followed his instructions in the same way as any other British army soldier would do.⁷³ There is no doubt that the regiment contained individuals with hard-line views about the Emergency, and about Africans in general. But these views were not neatly confined; a war diary from mid-Emergency hoped for 3 KAR's lengthier placement in an area, in order to 'strike terror into the hearts of the civil population'.⁷⁴ Similarly, the Kenya Regiment's commanding officer (CO), Lieutenant-Colonel Guy Campbell, noted in 1955 his belief that 'The Kikuyu must be taught a lesson that will be remembered for generations and which will act as a warning to other tribes'.⁷⁵

So views on the conflict cannot be neatly demarcated simply with reference to regiment. British regular officers serving with the Kenya Regiment, including the CO Guy Campbell, all came from one of two English regiments, namely the King's Royal Rifle Corps or the Rifle Brigade. They therefore shared a common regimental background with a number of the other British officers in the colony at the time, including General Erskine. This may have made it easier for the Kenya Regiment to work with British units.⁷⁶ In September 1953 the Governor met the Kenya Regiment's officers, who pressed him to propose a clear political plan for the colony's future. Baring resisted these calls, asserting this was an inappropriately political question for soldiers to raise, and told the

⁷⁰ L. Weaver, 'The Kenya Regiment', in M. Page, *A History of the King's African Rifles and East African Forces* (London: Leo Cooper, 1998), 249.

⁷¹ TNA, WO 276/542: Booklet, 'The Story of the Kenya Regiment T.F. 1937-1959', 22-4.

⁷² Kenya Regiment Archive (hereafter KRA), Vol. VI: Notes on the Mau Mau affair, from Brigadier Donald Cornah to Guy Campbell, no date; War Office, *The Army List, April 1953* (London: War Office, 1953), 99.

⁷³ Interview with General Sir Frank Kitson.

⁷⁴ TNA, WO 276/492: 3 KAR historical record, April 1954 to March 1955.

⁷⁵ KRA, Vol. VIa: Typed papers, marked 'Narok 1955'.

⁷⁶ Interview with General Sir Frank Kitson.

officers to concentrate on defeating the Mau Mau.⁷⁷ Events such as this suggest that the regiment, and the settler community from which it was recruited, was less uniformly conservative than some believed. It did have political power. When East Africa Command attempted to break up the regiment in 1955, its commander argued that settler opinion demanded that the unit retain an independent operational capacity.⁷⁸ Campbell railed against merging into British units because his soldiers held a ‘conception of discipline . . . influenced by an independent Colonial outlook . . . The best is brought out of the Kenya youth by a wide application of discipline and I do NOT see this working harmoniously should the Kenya Regiment be completely “married” to a British Regiment.’⁷⁹ GHQ dropped the plan to attach complete platoons to British battalions and the Kenya Regiment retained an operational company.

Commanders knew that the settlers possessed the potential to cause unwelcome difficulties. Wishing to avoid trouble, and hungry for local knowledge and manpower, the army chose to harness the settlers to the campaign, expanding the colonial state, the Kenya Regiment and including settlers in the committees at every level. Settlers in uniform could overstep the line of acceptable behaviour, earning them reprimands from the high command, but those same commanders needed the settlers and, in many senses, agreed with them on the requirement to crush the Mau Mau violently.

British politics

The Cabinet

Writings on the British Army and government head in two opposing directions. One approach thinks that the military are less likely to achieve political goals without supervision from statesmen.⁸⁰ Politicians and the press certainly maintained a close interest in events in Kenya.⁸¹ Alternatively, the nature of British politics and the imperial system is thought to have militated against tight civilian control. Because society was broadly sympathetic to the military and deemed soldiers highly professional, politicians seldom felt compelled to interfere.⁸² Parliament failed to

⁷⁷ KNA, AH/5/2: Record of the meeting of H.E. the Governor with officers of the Kenya Regiment, 26 September 1953.

⁷⁸ TNA, WO 276/91: Letter from Major-General Heyman to Secretary, Emergency Joint Staff, 28 September 1955.

⁷⁹ TNA, WO 276/91: Letter from Guy Campbell to unknown recipient, 30 September 1955.

⁸⁰ Feaver, *Armed Servants*, 112; Cohen, *Supreme Command*, 5, 16.

⁸¹ A. Clayton, *Counter-Insurgency in Kenya: A Study of Military Operations against Mau Mau* (Nairobi: Transafrica Publishers, 1976), 37, 40.

⁸² Huntington, *The Soldier and the State*, 97.

compensate for the resulting complacency, as cross-party agreement existed on most defence issues, in an era when politics was highly consensual.⁸³ During operations within the Empire, the principle of indirect rule limited Whitehall's powers. Colonial rule relied upon local consent and collaboration, and due to extended lines of communication, deferred much decision-making to the 'man on the spot'.⁸⁴ In the Cabinet, only the Colonial Secretary sustained an energetic involvement, backing the army against the settlers and shielding East Africa Command from a spirited parliamentary lobby. Foreshadowing practice in Kenya, the Cabinet sustained its power to monitor faraway events by asking the various arms of government to report on each other's progress. So the lack of persistent Cabinet interference in military affairs might reasonably be adjudged the product of successful surveillance and soldiers and statesmen finding themselves in almost permanent consonance.

Within the Cabinet responsibility for the army in Kenya was split. The Prime Minister had supreme responsibility for defence.⁸⁵ From 1946 a Minister of Defence sat in Cabinet, a post held by Earl Alexander from March 1952 until he was succeeded by Harold Macmillan in October 1954, Selwyn Lloyd from April to December 1955 and Walter Monckton until October 1956. Winston Churchill behaved as though he held the office, and left the official ministers practically redundant. Even under Anthony Eden's premiership the Minister of Defence made no noticeable mark on events in Kenya.⁸⁶ Already eighty-one on the declaration of a State of Emergency, Churchill's deteriorating health

⁸³ P. Hennessy, *Having It So Good: Britain in the Fifties* (London: Allen Lane, 2006), 236.

⁸⁴ P. Murphy, *Party Politics and Decolonization: The Conservative Party and British Colonial Policy in Tropical Africa, 1951–1964* (Oxford: Clarendon Press, 1995), 14.

⁸⁵ N. Singh, *The Defence Mechanism of the Modern State: A Study of the Politico-Military Set-up of National and International Organisations with Special Reference to the Chiefs of Staff Committee* (New York: Asia Publishing House, 1964), 14.

⁸⁶ F. A. Johnson, *Defence by Committee: The British Committee of Imperial Defence 1885–1959* (Oxford University Press, 1960), 338; Alexander, Harold Rupert Leofric George, first Earl Alexander of Tunis (1891–1969), by D. Hunt, rev. *Oxford Dictionary of National Biography* (Oxford University Press, 2008), online edition, at www.oxforddnb.com/view/article/30371, accessed 7 July 2010; Lloyd, (John) Selwyn Brooke, Baron Selwyn-Lloyd (1904–1978), by D. R. Thorpe, *Oxford Dictionary of National Biography* (Oxford University Press, 2009), online edition, at www.oxforddnb.com/view/article/31371, accessed 7 July 2010; Macmillan, (Maurice) Harold, first earl of Stockton (1894–1986), by H. C. G. Matthew, *Oxford Dictionary of National Biography* (Oxford University Press, 2009), online edition, at www.oxforddnb.com/view/article/40185, accessed 7 July 2010; 'Monckton, Walter Turner, first Viscount Monckton of Brenchley (1891–1965)', by M. Pugh, *Oxford Dictionary of National Biography* (Oxford University Press, 2008), online edition, at www.oxforddnb.com/view/article/35061, accessed 7 July 2010.

probably limited his ability to monitor and intervene in events in Kenya. Roy Jenkins and Peter Hennessy consider him to have been unfit for office in the 1950s, often failing to read documents.⁸⁷ Despite these problems, in March 1953 Churchill asked in the Cabinet Defence Committee whether helicopters could be used in Kenya; and in May he advised in Cabinet against mass executions being allowed.⁸⁸ These interventions show that his military and political judgements remained sound, but after his stroke in June, his ability to supervise diminished severely.⁸⁹

The other two ministers directly concerned were the Secretaries of State for War and the Colonies. Antony Head served at the War Office throughout the military phase of the Emergency.⁹⁰ From the archival record, he seems to have taken hardly any interest in the conflict. For a generation of soldiers and politicians exposed to the Second World War, Kenya was a minor sideshow, a distraction from the potential for nuclear combat against the Soviet Union.⁹¹ In contrast the Colonial Secretary observed events carefully and intervened when necessary. Oliver Lyttelton, in post from October 1951 until July 1954, played an active part in proceedings. He wanted the rebellion to be crushed first, with political reform coming afterwards.⁹² Lyttelton visited Kenya in late October 1952 to assess the situation for himself. The Secretary of State met settler politicians in two separate sessions. At the first meeting, Michael Blundell argued that only drastic action could succeed in quelling the trouble. Ideally this meant 'shooting and a considerable number of deaths . . . it would clearly establish that force lay with Government'. In addition, collective fines would help matters along. Lyttelton rejected both notions.⁹³ At the second meeting another settler, Mr Edye, pressed for harder methods against the Mau Mau, saying:

This question of shooting people. I feel that until some real sign of force is shown, to show that you mean business – I am not advocating wholesale shooting, I am wondering how far the police have been restricted in their use of fire arms – if there is any restriction.

⁸⁷ R. Jenkins, *Churchill* (London: Macmillan, 2001), 845–6; Hennessy, *Having It So Good*, 179.

⁸⁸ M. Gilbert, *Never Despair: Winston S. Churchill 1945–1965* (London: Heinemann, 1988), 803, 834.

⁸⁹ P. Hennessy, *The Prime Minister: The Office and its Holders since 1945* (London: Allen Lane, 2000), 181, 187–8.

⁹⁰ Head, Antony Henry, first Viscount Head (1906–1983), by J. Colville, rev. *Oxford Dictionary of National Biography* (Oxford University Press, 2008) online edition, at www.oxforddnb.com/view/article/31214, accessed 7 July 2010.

⁹¹ Interview with General Sir Frank Kitson.

⁹² Lyttelton, *Memoirs of Lord Chandos*, 397.

⁹³ TNA, CO 822/460: 'Verbatim report. Meeting of Secretary of State and European Elected Members, held at Government House on Thursday, 30 October 1952 at 12.00 pm.

In his response, Lyttelton strongly resisted the implied suggestion, showing that the Cabinet offered a bulwark against settler demands for totally indiscriminate and widespread repression:

You are entering, naturally, as everybody will agree, an extremely dangerous area of Government action ... I mean, to go to the extreme case, where you gave police officers everywhere unlimited power to act as they thought fit, at the very best you could expect out of that would be widely different action, according to a man's temperament, or how he felt in the afternoon, which is the first way of bringing all forms of Government into disrepute, the tough guy attitude. One has to be frightfully careful. I would quite agree in these circumstances you do not want to put unnecessary restrictions on them, but there must be a very large measure of restriction, otherwise – I am not suggesting [*sic*] that is the point you are making – once you have said to the police 'Act as you think fit' you are in fact abrogating the principal function of Government.⁹⁴

Thus the Cabinet rejected the proposal to permit the police to shoot anyone they chose. This restriction applied equally to the army.

Later chapters will fully assess how far the restrictions were adhered to in practice. In the back of Lyttelton's mind during the meeting with settlers were the words of Mr Mathu, the African politician who had spoken to him barely an hour or so earlier. Mathu complained how, despite protestations to the Governor and his senior officers, large numbers of innocent Africans continued to be mistreated.⁹⁵ Speaking to Kenya in a radio broadcast on 4 November, Lyttelton asserted that it was only 'by these qualities of decision and restraint and not in the spirit of reprisal that we must seek to restore and maintain the Queen's peace'.⁹⁶ Back in London, the Colonial Secretary updated the Cabinet on 14 and 21 October about Baring's plans, including the arrest operations, the need for emergency powers and the reinforcement by 1 Lancashire Fusiliers.

Churchill's proposal of a demonstration parachute drop to frighten the rebels was judged impractical by Earl Alexander and quickly forgotten.⁹⁷ In 1953 Lyttelton's parliamentary private secretary, Hugh Fraser,

⁹⁴ TNA, CO 822/460: Verbatim report. Meeting of Secretary of State and Nominated Official Members, held at Government House on Thursday, 30th October, 1952 at 5.30 pm.

⁹⁵ TNA, CO 822/460: Verbatim report. Meeting of Secretary of State and African Representative Elected Members, held at Government House on Thursday, 30th October, 1952 at 3.45 pm.

⁹⁶ TNA, CO 822/459: Transcript of speech broadcast by Oliver Lyttelton on 4 November 1952 from Nairobi.

⁹⁷ TNA, CAB 195/10: Cabinet Secretary's record of Cabinet meetings on 14 October 1952 and 21 October 1952.

visited the country for the government.⁹⁸ Fraser noted that troop numbers were insufficient for widespread and constant offensive action.⁹⁹ By May Lyttelton confidently reported to the Cabinet that intelligence on the Mau Mau was very full and the atmosphere much improved. All that was needed was 'more punch and a few more troops to bring it off'.¹⁰⁰ The Secretaries of State for War and the Colonies agreed in late May 1953 on the need to inject greater urgency into the campaign by appointing General Erskine.¹⁰¹ When the new Commander-in-Chief asked for reinforcements in August, Head and Lyttelton backed him in Cabinet and quickly acquired Churchill's approval.¹⁰² Hugh Fraser returned to Kenya in September in order to observe the new arrangements. He found that:

Possibly the Kenya top combination is a good one. Erskine tends to be too decisive and H.E. not decisive enough. At lower levels relations seem in general to be harmonious. Generally I have only one main criticism which I have expressed to Sir George Erskine in more delicate language: 'Couldn't he get on faster, and couldn't his planning be a trifle less rigid?' Nevertheless, if a trifle elephantine, Erskine is being a success.¹⁰³

Despite the convention of trusting the man on the spot, matters in Kenya were considered sufficiently serious for the Colonial Secretary and his envoys to monitor progress through visits and direct interventions. In February 1954, the Cabinet discussed the on-going surrender negotiations which attracted such opposition from the settlers. Churchill thought Mau Mau General China should be spared execution in reward for his efforts to bring about further surrenders, whereas Lyttelton preferred to leave the decision to Baring. Ultimately China was spared the noose.¹⁰⁴ When Lyttelton met provincial commissioners in Nairobi in March, the Commissioner for Central Province congratulated the army for 'establishing good relations in the Reserve, particularly with the Kikuyu Guard'.¹⁰⁵ Asking one arm of the state to comment on the

⁹⁸ Fraser, Sir Hugh Charles Patrick Joseph (1918–1984), by J. Biggs-Davison, rev. *Oxford Dictionary of National Biography* (Oxford University Press, 2004), online edition, at www.oxforddnb.com/view/article/31122, accessed 7 July 2010.

⁹⁹ TNA, CO 822/479: Paper attached to report by Hugh Fraser MP, 'Instruments of policy against the Mau Mau', 14 April 1953.

¹⁰⁰ TNA, CAB 195/11: Cabinet Secretary's record of meeting held on 21 May 1953.

¹⁰¹ TNA, CO 822/457: Letter to Minister of Defence from A. H. Head, 27 May 1953.

¹⁰² TNA, CAB 195/11: Cabinet Secretary's record of meeting held on 18 August 1953.

¹⁰³ TNA, CO 822/479: Report of visit to Kenya 17th Sept. – 5th October by the Hon. H. C. P. J. Fraser, MBE, MP.

¹⁰⁴ TNA, CAB 195/11: Cabinet Secretary's record of meetings held on 10 February 1954 and 17 February 1954.

¹⁰⁵ TNA, CO 822/822: Minutes of a meeting between the Secretary of State for the Colonies and Provincial Commissioners held at Government House, Nairobi, on the 1st March 1954.

performance of another proved an efficient monitoring method for a Cabinet far removed from the action.

Alan Lennox-Boyd succeeded Lyttelton as Colonial Secretary in July 1954. He believed in using force to retain Britain's colonial possessions, making him sympathetic to the army. Like his predecessors, he upheld the notion of deferring to the man on the spot. When it came to complaints in Parliament and the press about brutality in Kenya, he sought to rebuff the allegations rather than change government policy.¹⁰⁶ Although Lennox-Boyd played a less prominent part in the Emergency than Lyttelton, this was due to the contours of the campaign having already been decided prior to his appointment, rather than his lack of interest. On visiting Kenya in September 1954 Lennox-Boyd discovered the settlers dissatisfied with cooperation between the army and the police, which they claimed hindered operations. He heard criticism about military tactics, especially large patrols and aerial bombing. Lennox-Boyd ignored the settlers, and both practices continued. Governor Baring thought General Erskine should be retained until the next year. Baring further expressed his confidence in senior officers such as Chief of Staff Major-General Heyman and Brigadier Thurlow.¹⁰⁷

The Colonial Secretary backed General Erskine's push for a renewed surrender scheme in January 1955, arguing in Cabinet that 'This is [the] moment for [an] imaginative move'.¹⁰⁸ Whether under Lyttelton or Lennox-Boyd at the Colonial Office, or Churchill or Eden in the premiership, the Cabinet consistently prioritised defeating the Mau Mau militarily before moving on to political, social and economic reforms in Kenya.¹⁰⁹ The Cabinet took important steps to support General Erskine in his efforts to improve discipline in the army through the Griffiths courts-martial and the McLean Court of Inquiry, discussed in [chapter 5](#). But here, as with the reinforcements granted by London, the initiative came from GHQ in Nairobi, with London acting to monitor events and approve suggestions. Lyttelton's early visits to the country placed clear limitations on what the government would accept from the settler community and reinforced the argument made here for reassessing the impact of these Europeans on military policy. The Cabinet generally trusted the army to conduct operations with the minimum of supervision from London.

¹⁰⁶ Murphy, *Alan Lennox-Boyd*, 102, 104, 151.

¹⁰⁷ TNA, 822/823: Notes on visit to Kenya, 10 September 1954.

¹⁰⁸ TNA, CAB 195/13: Cabinet Secretary's record of a meeting held on 13 January 1955.

¹⁰⁹ Percoc, 'British Counter-Insurgency in Kenya', 65.

Parliament and press

Despite formal legal subordination, since 1945 the British Army has avoided rigorous parliamentary scrutiny.¹¹⁰ Party discipline has kept a firm grasp on MPs, permitting little intra-party dissent on defence matters.¹¹¹ In opposition, Labour largely agreed with Churchill's policies on defence, except on nuclear weapons. The defence debate remained an area of high politics, largely removed from parliamentary and public influence.¹¹² There were exceptions to this – such as the popular calls for withdrawal from Palestine in 1948 following the high-profile murders of British servicemen – but nothing of the sort roused popular interest in the army in Kenya.¹¹³ A similar situation prevailed regarding colonial affairs. Though formally also the imperial Parliament, Westminster was in reality a minor player in the colonial political system.¹¹⁴ Few clashes over the colonies arose within the Conservative party during the Emergency. Most important ministerial decisions on Africa were never debated in Parliament.¹¹⁵ The Colonial Office tried to avoid parliamentary scrutiny, a desire which was aided by the broad cross-party consensus on colonial matters.¹¹⁶ In late July 1955 the Kenyan authorities provided information to the Colonial Office in response to a parliamentary question from Anthony Wedgwood Benn MP about offences committed by Europeans against Africans. Nairobi listed seven cases since October 1952, all connected to the Emergency.¹¹⁷ As we shall see in [chapters 7 and 8](#), the list seriously misrepresented the situation, contradicting much information sent to London since the Emergency's start.

¹¹⁰ Strachan, *The Politics of the British Army*, 265.

¹¹¹ P. Norton (ed.), *Dissension in the House of Commons: Intra-Party Dissent in the House of Commons' Division Lobbies 1945–1974* (London: Macmillan, 1975).

¹¹² W. P. Snyder, *The Politics of British Defense Policy, 1945–1962* (Columbus, OH: Ohio State University Press, 1964), 47–8, 66, 77.

¹¹³ P. Dixon, 'Britain's "Vietnam syndrome"? Public Opinion and British Military Intervention from Palestine to Yugoslavia', *Review of International Studies*, 26 (2000), 99–121.

¹¹⁴ V. Bogdanor (ed.), *The British Constitution in the Twentieth Century* (Oxford University Press for the British Academy, 2003), 19; Murphy, *Party Politics and Decolonization*, 12.

¹¹⁵ Murphy, *Party Politics and Decolonization*, 2, 23.

¹¹⁶ R. Holland, 'Britain, Commonwealth and the End of Empire', in V. Bogdanor (ed.), *The British Constitution in the Twentieth Century* (Oxford University Press for the British Academy, 2003), 656; J. Lewis and P. Murphy, 'The Old Pals' Protection Society? The Colonial Office and the British Press on the Eve of Decolonisation', in C. Kaul (ed.), *Media and the British Empire* (Basingstoke: Palgrave Macmillan, 2006), 55.

¹¹⁷ Bennett witness statement 3, citing Hanslope document CAB 19/4 Vol. I: Savingram from the Officer Administering the Government of Kenya to the Secretary of State for the Colonies, Parliamentary Question, 28 July 1955.

At the outset, the opposition pledged to support the government's desire to crush the Mau Mau rebellion.¹¹⁸ Official Labour support for the government was challenged by a group of committed, persistent critics.¹¹⁹ A parliamentary motion in December 1952 condemned the way the Emergency was being handled.¹²⁰ Fenner Brockway MP and the Congress of Peoples Against Imperialism voiced concerns about settler racism and its imprint on British policy, while urging greater concentration on remedying the conflict's economic causes.¹²¹ By aiming first to crush the rebellion, with economic reforms coming later, the government rejected Brockway's appeals. When Brockway and fellow MP Leslie Hale visited Kenya in 1953 they were obstructed from talking to Africans on several occasions; so Parliament's ability to monitor government action, let alone criticise it, faced severe limitations.¹²² When Barbara Castle MP visited the colony in 1955 her movements were closely monitored by the intelligence services, who thought her to be 'endeavouring to obtain information on atrocities committed by Security Forces in Kenya'.¹²³ Although there is anecdotal evidence that soldiers knew about the opinions espoused by Brockway and others, there is no evidence showing that this knowledge changed military behaviour.¹²⁴ After Labour MPs queried the utility of area bombing in the PAs, General Erskine produced arguments and statistics to prove the tactic's value, and continued using it as before.¹²⁵ The most heated parliamentary debates on Kenya, at their height in the autumn of 1955, concerned detention policy rather than the army. Even here Lennox-Boyd preferred to ignore his critics instead of changing course.¹²⁶ According to one source, MPs asked thirty-one questions on the Mau Mau from 1952 to late 1955, twenty-five of which concerned detention.¹²⁷

¹¹⁸ D. Goldsworthy, *Colonial Issues in British Politics 1945–1961: From 'Colonial Development' to 'Wind of Change'* (Oxford: Clarendon Press, 1971), 212.

¹¹⁹ On the Labour Party's attitudes towards decolonisation, see also K. O. Morgan, 'Imperialists at Bay: British Labour and Decolonization', *Journal of Imperial and Commonwealth History*, 27 (1999), 233–54.

¹²⁰ Percox, 'British Counter-Insurgency in Kenya', 64.

¹²¹ S. Howe, *Anticolonialism in British Politics: The Left and the End of Empire, 1918–1964* (Oxford: Clarendon Press, 1993), 204.

¹²² Brockway, *African Journeys*, 140–2.

¹²³ Bennett witness statement 3, citing Hanslope document INT 10/4/2/4/8A: Central Province South – provincial intelligence committee summary, 24 November 1955.

¹²⁴ F. Kitson, *Gangs and Counter-gangs* (London: Barrie and Rockliff, 1960), 6.

¹²⁵ S. L. Carruthers, *Winning Hearts and Minds. British Governments, the Media and Colonial Counter-Insurgency 1944–1960* (London: Leicester University Press, 1995), 172–3.

¹²⁶ C. Elkins, *Britain's Gulag: The Brutal End of Empire in Kenya* (London: Jonathan Cape, 2005), 275.

¹²⁷ D. R. Peterson, 'The Intellectual Lives of Mau Mau Detainees', *Journal of African History*, 49 (2008), 85.

Press coverage of the Mau Mau was sensationalist and short lived. When the Emergency broke out, British newspapers gave extensive coverage, mainly stressing the horrific African barbarism seen in the murders and cattle hamstringing.¹²⁸ From the end of the month to December 1955, the *Daily Mirror* criticised state repression and settler behaviour, and demanded that the government redress economic inequality in the colony. Concerning the Griffiths court-martial, the *Daily Mail* supported the army, whereas the *Daily Mirror* adopted a critical line, calling for an inquiry.¹²⁹ On the whole, the press gave coverage to government policy at several junctures throughout the Emergency, but there is little evidence to prove a decisive effect on policy-making.¹³⁰

The evidence suggests only marginal concern in military quarters with external oversight. The Royal Inniskillings complained in their war diary in January 1955 that 'fear of House of Commons comment' prevented them taking collective action against the Kikuyu.¹³¹ A soldier serving with 3 KAR in Nanyuki moaned about the 'constant flow of MPs, War Ministers & Generals to my HQ, which upsets the equilibrium a bit'.¹³² A police officer recounted discontent with the 'outraged cry of condemnation' coming from naïve humanitarians in England, without changing his behaviour.¹³³ Several witnesses at the McLean Inquiry made bitter remarks about press coverage.¹³⁴ Setting these relatively trivial remarks aside, neither the fourth estate nor the Commons managed to convert public condemnation into policy shifts, suggesting that defence and colonial affairs preserved their elite status during the 1950s, susceptible only to the direction of Cabinet ministers.

Command and control or war by committee?

Elitism and indirect rule therefore dictated that the civil-military dialogue would primarily take place in Kenya itself. The major interest

¹²⁸ J. Lewis, "'Daddy Wouldn't Buy Me a Mau Mau": The British Popular Press and the Demoralization of Empire', in E. S. Atieno Odhiambo and J. Lonsdale (eds.), *Mau Mau and Nationhood: Arms, Authority and Narration* (Oxford: James Currey, 2003), 231–3.

¹²⁹ *Ibid.*, 235, 240–2. ¹³⁰ Carruthers, *Winning Hearts and Minds*, 170–7.

¹³¹ Inniskillings Museum: Regimental Diary of the Royal Inniskilling Fusiliers, Vol. VII: March 1952 to January 1962, entry for January 1955.

¹³² National Army Museum, Department of Archives, Photographs, Film and Sound (NAM): NAM.2001–10–124–2, Letter from 'Neil' to Mr and Mrs W. Cannell, 11 January 1954.

¹³³ P. Hewitt, *Kenya Cowboy: A Police Officer's Account of the Mau Mau Emergency* (Weltevredenpark, South Africa: Covos Day Books, 2001), 12.

¹³⁴ TNA, WO 32/21720: Proceedings of the McLean Court of Inquiry (hereafter McLean proceedings), 35 (2nd Lt. R. E. Campbell, 6 KAR); 299 (Capt. S. E. Franklin, Kenya Regiment); 452 (Rev. F. T. Squire, Royal Army Chaplains' Department attached Devons).

groups exerted their influence on the army through two vitally important, and connected, structures: the chain of command and the committee system.¹³⁵ An agreed upon *modus vivendi* regulated relations between command and committees. The position was formalised in June 1953. The committees helped to ensure cooperation and coordination. Officers, whether in the army, the police or the administration, were commanded by their own responsible officers.¹³⁶ As General Erskine put it, 'Planning by Committees is essential but command by Committees is fatal.'¹³⁷

The evolving committee system

The command and control structure, devised in 1950, placed the Colony Emergency Committee at the pinnacle, with the Governor in charge and the Attorney-General coordinating security policy. The Governor also chaired the Sitrep (Situation Report) Committee, overseeing operations.¹³⁸ The military worked through East Africa Command, at first subordinate to MELF, and then an independent command. East Africa Command included, at the Emergency's outset, Northern Area headquarters. In January 1953 the headquarters in Kenya were reformed into Northern Brigade and Kenya Garrison.¹³⁹ The remit of the Governor's Emergency Committee was clarified in March 1953 as to:

formulate and approve policy governing all measures necessary to re-establish law and order. In pursuance of this function the Committee will (a) issue policy instructions for the conduct of operations to the Chief Staff Officer to the Governor. (b) issue policy instructions to Government Departments on matters designed to further the restoration of law and order. (c) co-ordinate the decisions of the Committee for social and economic improvement ('second-prong' Committee) with the measures necessary to re-establish law and order.¹⁴⁰

The Chief Staff Officer directed the conduct of operations by the police and the military. He suggested policy changes to the Governor's Committee for approval, and issued the orders necessary to see that the Committee's decisions were implemented. The Chief Staff Officer was

¹³⁵ M. Howard, 'Civil-Military Relations in Great Britain and the United States, 1945–1958', *Political Science Quarterly*, 75 (1960), 38.

¹³⁶ TNA, WO 276/526: Emergency Directive no. 7, 19 June 1953.

¹³⁷ JSCSC Library, 'The Mau Mau Rebellion', 5.

¹³⁸ Percox, 'British Counter-Insurgency in Kenya', 54, 69.

¹³⁹ TNA, WO 276/177: Signal from Force Nairobi to Troopers, no date, ref. signal of 24 June 1953.

¹⁴⁰ KNA, CS/2/8/198: Functions of Emergency Committees etc, forwarded from J. M. Kisch, Secretary to the Governor's Emergency Committee, to the Chief Secretary, Cabinet members, Provincial Commissioners *et al.*, 19 March 1953.

empowered to 'frame and issue operational plans for the guidance of Provincial Committees'. In doing so, he chaired the Operations Committee, which advised him on how best to exercise his powers. The PECs directed operations in their area under the chairmanship of the Provincial Commissioner. They carried out instructions from the Chief Staff Officer and issued their own orders to security forces in their area. During joint operations, the PEC would nominate one officer to command. They were authorised to instruct the district committees, and ensure cooperation between all government departments in re-establishing law and order. The district committees exactly replicated their structure and function at the lower administrative level.¹⁴¹

Baring announced these new arrangements to the press on 10 April 1953, citing the Malayan model as his inspiration. At the same time he declared that Major-General Hinde would be the Director of Operations. The other members on the Governor's Committee apart from Baring and Hinde were the Chief Secretary (H. S. Potter), the Member for Finance (E. A. Vasey), the Member for Agriculture (F. W. Cavendish Bentick), the General Officer Commanding (GOC) East Africa (Lieutenant-General Cameron) and settler leader Michael Blundell. Baring highlighted that each PEC and DEC would comprise administration, police and army representatives, and an unofficial European settler member. The DECs were to have an executive officer, who would chair the district operations committee, which was to meet daily to coordinate operations, through a district operations room.¹⁴² In practice the administration representative normally chaired the committees, while settlers often acted as the executive officers for the operations committees.¹⁴³

Hinde possessed an efficient personal staff comprising an army, a police and an administration officer.¹⁴⁴ He liked paying unannounced flying visits to the security forces in the field, which proved surprisingly popular.¹⁴⁵ General Erskine arrived on 7 June, finding Baring indecisive and weak, but managed to work around these flaws with the new Deputy Governor, Frederick Crawford.¹⁴⁶ Erskine possessed an able Chief of Staff in Major-General Heyman.¹⁴⁷ Field Marshal Lord Carver, who

¹⁴¹ *Ibid.*

¹⁴² TNA, CO 822/486: Telegram from Baring to Colonial Secretary, 10 April 1953.

¹⁴³ C. C. Trench, *Men who Ruled Kenya: The Kenya Administration, 1892–1963* (London: Radcliffe Press, 1993), 239, 240, 254.

¹⁴⁴ *Ibid.*, 239.

¹⁴⁵ D. Franklin, *A Pied Cloak: Memoirs of a Colonial Police Officer (Special Branch)* (London: Janus, 1996), 55; Kitson, *Gangs and Counter-gangs*, 48.

¹⁴⁶ Douglas-Home, *Evelyn Baring*, 243–5.

¹⁴⁷ KRA, Vol. Via: Guy Campbell papers: Views on Commanders, no date.

served for a time as Deputy Chief of Staff, thought that the division of responsibility between Erskine as GOC and Hinde as DDOps created confusion.¹⁴⁸ His view was confirmed in an illuminating letter to the Colonial Office from August 1953:

The soldiers tend to work in a watertight compartment, and being an unimaginative lot, have difficulty in understanding political stresses and implications. (One senior officer who has been dealing with the emergency for more than six months asked the other day what a 'squatter' was) ... It is true that General Hinde, who in my opinion is first class, attends the Emergency Committee as the link between the Commander in Chief and the administration; but he is in a difficult position and does not always know all that is going on at G.H.Q.¹⁴⁹

In February 1954, following Erskine's advice, Lyttelton and Harding pushed through reforms to the committee system. They dissolved the Governor's Emergency Committee, replacing it with the War Council, and abolished what had become the DDOps committee (originally the Operations Committee).¹⁵⁰ The smaller War Council met twice a week, and drew Erskine deeper into the committee system.¹⁵¹ Only the Governor, the Commander-in-Chief, the Deputy Governor, and an unofficial member (Blundell) sat on the Council, which heard intelligence reports from GHQ and the Commissioner of Police once a fortnight.¹⁵² The War Council devised long-term plans for the Emergency, as evident in War Council Directive no. 1, which set out the scheme for operations after Anvil. The plan advocated denying the Mau Mau arms and ammunition, stopping the Kikuyu in the Reserves from assisting the insurgents, building up loyalist elements and destroying gangs in the forests and Reserves. Interestingly on the attitude towards the Kikuyu, the plan stated 'There is little prospect of succeeding by enticement.'¹⁵³

Directive no. 1 required the army to operate mainly in the forest, the police to develop the capability to operate without army support, and the administration to control the population more closely. Commander 39 Brigade was given the lead in planning operations after Anvil in the Thika-Fort Hall-Kiambu areas. Importantly, the directive was signed by

¹⁴⁸ M. Carver, *Out of Step: Memoirs of a Field Marshal* (London: Hutchinson, 1989), 260.

¹⁴⁹ TNA, CO 822/697: Letter from John Moreton, Government House Kenya, to Henry [Hall], Colonial Office, 14 August 1953.

¹⁵⁰ Percox, 'British Counter-Insurgency in Kenya', 81.

¹⁵¹ Heather, 'Counterinsurgency and Intelligence in Kenya', 157.

¹⁵² TNA, WO 276/473: Emergency Organisation. War Council, WAR/C.6, 26 March 1954.

¹⁵³ TNA, WO 276/90: Appendix A to War Council Directive no. 1. Appreciation on action to be taken after Anvil, 23 April 1954.

Erskine, Blundell and Acting Governor Crawford.¹⁵⁴ In June 1954 the War Council created an Emergency Joint Staff to study issues in detail as directed by the Council and on their own initiative. The Staff, chaired by a man from the Ministry for Internal Security and Defence, also included members from the Ministry of African Affairs, the Treasury and GHQ.¹⁵⁵ Periodically the War Council gave reports to the Council of Ministers; but the latter failed to influence military affairs.¹⁵⁶ Instead, despite its unofficial position in the Kenyan Constitution, the War Council appears to have issued directives to the (constitutional) Council of Ministers. Erskine complained about 'certain Ministers resent[ing] being invited to do something by a certain date'. The Attorney-General condemned the War Council as 'Unconstitutional and Unprincipled'. Erskine resolutely refused to subordinate the War Council to the Council of Ministers.¹⁵⁷

Intelligence committees

Alongside the committee system sat a parallel intelligence structure. For the first few months, the police, administration and army maintained separate intelligence systems. Visiting the colony in February 1953 Sir Percy Sillitoe, the Director-General of MI5, advised a reorganisation. At the pinnacle would sit the KIC, under which existed provincial and district intelligence committees, meeting at least once a fortnight.¹⁵⁸ The Intelligence Adviser chaired the KIC, with the Assistant Chief Secretary, the Assistant Commissioner for Special Branch, the Security Liaison Officer (from MI5) and representatives of the Chief Native Commissioner and the GOC attending. It reported to the Governor and the Operations Committee. The provincial and district committees included administration, police, Special Branch and the army, in order to provide an agreed view on the situation. The Special Branch officer would carry out most of the work as he employed the appropriate staff. These provincial and district intelligence committees reported sideways to the DEC and PECs, in addition to the KIC.¹⁵⁹

¹⁵⁴ TNA, WO 276/90: War Council Directive no. 1, Emergency Policy, 23 April 1954.

¹⁵⁵ KNA, WC/CM/1/1: Establishment of an Emergency Joint Staff, note by the War Council Secretariat, 2 June 1954.

¹⁵⁶ TNA, WO 276/419: Monthly reports for the Council of Ministers, December 1955 to December 1956.

¹⁵⁷ TNA, WO 276/524: Letter from Erskine to Harding, 20 December 1954.

¹⁵⁸ KNA, DC/NKI/3/1/14: Letter from Potter, Chief Secretary, to all Provincial Commissioners, Commissioner of Police, and Heads of Departments, 4 March 1953.

¹⁵⁹ KNA, DC/NKI/3/1/14: Memorandum on the reorganisation of intelligence in Kenya Colony, 4 March 1953.

In May 1953 the KIC disbanded the extant joint army–police operational intelligence teams (JAPOITs), and replaced them with a more integrated organisation. Instead, soldiers now served as Provincial and District Military Intelligence Officers (PMIOs and DMIOs), aided by FIAs (normally Kenya Regiment sergeants). They directly briefed the intelligence and the emergency committees and coordinated all intelligence activity in their areas.¹⁶⁰ The system, called the 'Operational Intelligence Organisation', aimed to obtain information of tactical value. It worked closely with Special Branch, which was a separate organisation until the Branch assumed responsibility for collecting operational intelligence in July 1955.¹⁶¹ A Mau Mau investigation centre, also referred to more descriptively as the Mau Mau interrogation centre, opened in September 1954 near Nairobi, with a branch office opening in Mombasa in October. Special Branch ran the centre, the declared aim being 'the checking of any attempt at a Mau Mau revival and the identification of terrorists filtering back to the city, the interrogation of suspects sent in from outside districts, screening of convicts suspected of Mau Mau offences, and the arrest of petty criminals'.¹⁶² By September 1956 there were two military FIOs assisting their Special Branch colleagues at the centre.¹⁶³

Although subordinate to the Colony MIO who worked in Special Branch headquarters, Frank Kitson spent most of his time touring his area to keep in touch with his subordinates and also the DECs for whom they worked.¹⁶⁴ Away from the committee rooms, the police and army cooperated at every level on a daily basis.¹⁶⁵ By the end of January 1955 the army employed fifty-two FIOs – and planned to increase the number to seventy-three.¹⁶⁶ According to a report by the Intelligence Adviser, the police and army enjoyed good relations:

During the present Emergency, co-operation between the Special Branch and Military Intelligence has been very close. Apart from the valuable assistance

¹⁶⁰ Heather, 'Counterinsurgency and Intelligence in Kenya', 107.

¹⁶¹ Bennett witness statement 3, citing Hanslope documents Chief Secretary, Vol. III: 40A, War Council minutes, 1 February 1955, WAR/C/MIN.81; Chief Secretary, Vol. VIII: 40B, 'Long term requirements of District Officers (Kikuyu Guard) and Field Intelligence Officers. Report by the Emergency Joint Staff', 9 July 1955.

¹⁶² Bennett witness statement 3, citing Hanslope document CAB/MM/7/7: 'Mau Mau and the Kamba', by R. D. F. Ryland, April 1959.

¹⁶³ Bennett witness statement 3, citing Hanslope document AA 45/79/7A Box 148: Summary of CPEC (South) Plan in response to War Council Directive no. 10, 10 September 1956.

¹⁶⁴ Interview with General Sir Frank Kitson.

¹⁶⁵ Kitson, *Gangs and Counter-gangs*, 23.

¹⁶⁶ KNA, WC/CM/1/1: The Operational Intelligence Organisation. Memorandum by the KIC, 28 January 1955.

given by the Army in furnishing officers to fill the posts of P.M.I.O., D.M.I.O. and, in some cases, F.I.A.S, senior military officers are represented on intelligence committees at all levels. The Intelligence Adviser maintains frequent contact with the Commander-in-Chief and the P.A. to the Intelligence Adviser daily visits G.H.Q., East Africa, to ensure close liaison with army staff officers planning future operations. G.II(I), East Africa, is in almost daily contact with S.B.H.Q. and an officer of similar rank is now attached to S.B.H.Q. for dealing with operational intelligence.¹⁶⁷

The DEC's and PEC's occasionally intervened in intelligence matters when there were operational implications. For example, in the Central Province, the Commander of 39 Brigade complained that intelligence was not being properly disseminated to all commanders, and called for an investigation. The following week, the PEC directed the intelligence officers to issue summaries down to company commanders.¹⁶⁸ Other evidence suggests that the challenge was inculcating the right habits, rather than profound civil-military discord. Touring around his units, 70 Brigade's commander often came across 'useful bits of info which has [*sic*] not been passed up either to the PMIO to DMIOs, or Bde HQ'. He urged battalion intelligence officers to assiduously debrief troops returning from patrol and incorporate the relevant information into twice-weekly summaries, and to liaise closely with the PMIO and DMIOs.¹⁶⁹

Averting disagreements

Although these emergency and intelligence committee systems were complementary, they provided the government with two sources of information on the implementation of policy. There were two potential threats to the smooth functioning of the system. The first was that the military command might clash with the committees, and the second that distrust might destroy cooperation between the various organisations. On the first point Anthony Clayton argues the military command and the committees clashed, in particular over the detention policy.¹⁷⁰ By contrast Frank Kitson believes many army officers were familiar with civil-military committees from past service in places like India or Malaya. Furthermore many of those on the Emergency committees would have recently served in the

¹⁶⁷ Bennett witness statement 2, citing Hanslope document DO 3/2: Reorganisation of Intelligence in Kenya Colony. Progress Report August 1953 Part I, by the Intelligence Adviser, 7-8.

¹⁶⁸ TNA, WO 276/170: CPEC minutes, 23 October 1953 and 29 October 1953.

¹⁶⁹ Military Intelligence Museum: Letter from Bde Cmd, HQ 70 (EA) Inf Bde, to OCS [officers commanding] of 3 KAR, 5 KAR, 7 KAR and 23 KAR, 3 November 1953.

¹⁷⁰ Clayton, *Counter-insurgency in Kenya*, 9.

armed forces in the Second World War and thus understood each other. Few clashes arose because GHQ only issued orders for large-scale operations and the broad outlines of policy. Otherwise it was the DECAs that directed all day-to-day activity – and both committees and security force commanders understood and applied this distinction.¹⁷¹

Commanders occasionally asked committees to do things; the DECAs in Central Province (South) were required to send a weekly progress report on operations to the Provincial Commissioner and Commander of 39 Brigade at the army's behest.¹⁷² On the other hand, committees sometimes asked commanders to launch operations, or extend existing operations, such as Operation Hungerstrike in May 1955.¹⁷³ As stipulated in policy, committees arranged joint operations under a nominated commander, such as the operation in Konyu location in October 1953, headed by the CO of 23 KAR and involving police and Home Guard forces.¹⁷⁴ Problems arose from time to time, as when FIAs started to conduct operations in the Central Province without informing their DECAs.¹⁷⁵ But on the whole the relationship between the military command and the committees was widely understood and caused little friction.

The second potential source of trouble was over the reliability of the security forces. If soldiers distrusted their counterparts in the police, administration or Home Guard, how could they work effectively together? The Home Guard especially had a reputation for leaking information, prompting officers to withhold plans until the last minute.¹⁷⁶ Sometime between March and June 1954 twenty Home Guards deserted in two incidents, causing GHQ to warn that their 'loyalty should not be taken for granted', and to recommend better material conditions and European leadership.¹⁷⁷ Interrogations of Mau Mau prisoners revealed that the Home Guard gave them information on their own camps.¹⁷⁸ The administration suffered information leakages in Nairobi and at provincial headquarters, forcing the Chief Secretary to demand tighter control in all government departments, and the appointment of security officers.¹⁷⁹ Five months

¹⁷¹ Interview with General Sir Frank Kitson.

¹⁷² TNA, WO 276/171: CPEC (South) minutes of meeting held on 1 June 1954.

¹⁷³ KNA, VP/2/23: CPEC minutes, 13 May 1955.

¹⁷⁴ KNA: VP/2/22: Minutes of a meeting of the Nyeri DEC held on 2 October 1953.

¹⁷⁵ TNA, WO 276/439: CPEC, minutes, 11 November 1955.

¹⁷⁶ Clayton and Killingray, *Khaki and Blue*, 256.

¹⁷⁷ TNA, WO 276/7: Ground operations, 20 Mar–27 Jun 54, no date.

¹⁷⁸ TNA, WO 276/383: Report on Mau Mau tactics, Sergeant J. Dykes, Kenya Regiment attached to Special Branch, 19 August 1953.

¹⁷⁹ KNA, DC/LAMU/2/21/4: Letter from H. S. Potter, Chief Secretary, to All Heads of Departments and All Provincial Commissioners, 15 April 1953.

later, an inquiry discovered details of the surrender negotiations were leaked to the press in August 1953, directly contravening instructions.¹⁸⁰

The police also faced questions about their own reliability. A report by military intelligence on Kiambu district in December 1952 unveiled cases where the police accepted bribes to ignore curfew breakers.¹⁸¹ However, the military were not immune to questions concerning their reliability. Soldiers from 26 KAR were accused of indulging in looting in the Fort Hall district.¹⁸² A Lieutenant Davies found himself ignominiously sent back to the Kenya Regiment by the Nyeri Emergency Committee for breaching arms security.¹⁸³ KAR soldiers in 70 Brigade fell under such serious suspicion of selling arms and ammunition to the enemy that their commanders prohibited them from taking these items on leave, and only let them out until 6 pm.¹⁸⁴ East Africa Command noted that between October 1953 and June 1955 the military police investigated 125 cases of supplying ammunition to the enemy, leading to 62 discharges from the army and 33 soldiers being placed in detention.¹⁸⁵ The Commander of 70 Brigade distrusted his civilian African employees sufficiently to request that they all be screened in July 1955.¹⁸⁶

These few examples highlight how questions could be raised about the reliability of all three elements of the security triumvirate in Kenya. Had only one been suspect, then the distrust could have destroyed civil-military cooperation. Because administration, police and army alike suffered lapses in security, the problems could be forgotten rather than held as a matter for recrimination. Command and committees managed a harmonious co-existence because the rules governing their respective powers were clear, both systems employed efficient functionaries, and acrimony surrounding trustworthiness was dissipated by inadequacies on everyone's part.

Civil-military relations in Kenya

Civil-military relations are frequently assessed in terms of civilian control and military compliance. For the British Army in Kenya, these concerns mattered only to a minor extent and on few occasions. The

¹⁸⁰ KNA: DC/LAMU/2/21/4: Letter from Potter to All Heads of Departments, all Provincial Commissioners, all District Commissioners, all Provincial and District Emergency Committees, Deputy Director of Operations, Director of Intelligence and Security, and the Director of Information, 19 September 1953.

¹⁸¹ TNA, WO 276/378: Report on visit by GII (Int) to Kiambu District on 18 Dec 52.

¹⁸² *Ibid.* ¹⁸³ KNA, VP/2/22: Nyeri DEC minutes, 15 August 1953.

¹⁸⁴ KNA, VP/2/22: Nyeri DEC minutes, 21 January 1954.

¹⁸⁵ KNA, WC/CM/1/4: Subversive activities in East African Forces. Memorandum by the Chief of Staff, 13 June 1955.

¹⁸⁶ TNA, WO 276/439: CPEC minutes, 22 July 1955.

Cabinet trusted the army to handle what was deemed, understandably given recent history, a sideshow. Cabinet ministers intervened to strengthen the army's hand and provide additional resources, not to restrain it or offer opinions on how best to fight the campaign. Parliament and the press took fleeting interest in the revolt, and the attention they did lavish on events tended to focus on Mau Mau beastliness or detention camp abuses. East Africa Command, and indeed fairly junior ranking officers in the field, as a consequence held substantial political power.

There were certainly differences of opinion between soldiers and their civilian counterparts in Kenya. One can easily find in the historical record numerous examples of soldiers and civilians disagreeing on a daily basis. But these disputes tended to be about trivial, tactical matters. On the strategic issues, the settlers, administration, police and army all agreed. The Mau Mau had to be crushed, as soon as possible, by collective measures against all members of the Kikuyu, Embu and Meru tribes. Rather than it being considered an opponent, settlers and administration knew that the army was in Kenya to protect and enhance their interests. The command arrangements allowed the army to maintain independence, yet to draw the other branches of government into its campaign plan. The committees proved an essential tool for keeping good relations alive. As we shall see in [chapter 9](#), they also permitted the army to intervene in a range of policy areas strictly speaking outside their domain. Civil-military relations are normally concerned with civilians controlling soldiers. In the Kenya Emergency, the army operated largely free from civilian control.

3 'Possibly restrictive to the operations': marginalising international law in colonial rebellions

British counter-insurgency is often claimed to be special because it operates within a legal framework. Yet in Kenya the security forces perpetrated remarkably intense violence. Their actions have been condemned for violating the 1951 European Convention on Human Rights, the 1948 Universal Declaration of Human Rights, the 1930 Forced Labour Convention and the 1949 Geneva Conventions.¹ How can these antithetical ideas be reconciled? This chapter steps back from events in Kenya to show how the British approach to international and military law shaped the reaction to colonial rebellions. Besides the unique characteristics of the Kenya Emergency, we must understand the wider conditioning official mentality which shaped policy on the ground. Widespread mistreatment of the civilian population was legitimated via a complex legal regime. The British created a permissive legal environment conducive to atrocity behaviour which none the less contained elements of restraint strong enough to forestall genocidal practices. Law was indeed central to British counter-insurgency, but not in the way normally understood.

This chapter explains how the United Kingdom approached international law after the Second World War. The structure of that part of international law concerned with war changed dramatically. Because the *Zeitgeist* on these issues is so different today from in the 1950s there is a compelling reason to establish how far the British government and British Army adapted to these changes. In the 1940s and 1950s new ideas in international law about obedience to authority and extending protections into civil conflicts were not received sympathetically. The British government and British Army adopted a conservative attitude, and even awareness about existing provisions was patchy. These attitudes reflected systematic weaknesses in the international legal regime itself. Arguably British conservatism was far from atypical. Three

¹ Elkins, *Britain's Gulag*, 96–7, 117, 129–30, 135, 304, 315.

structural contradictions in international law undermined universal protections, and proved a problem for the British in practice. These were, first, the conflict between the military need for reflexive obedience and the legal requirement to refuse illegal orders; second, the conflict between military necessity and legal restraint; and third, the overly narrow codification which produced different rules for fighting non-Western opponents. Part of the reason why atrocities happened in the Empire was because they were not construed as crimes against international law.

In the years immediately following the Second World War, monumental changes occurred in the international system as the world was reordered. Where the laws of war were concerned, the two greatest developments took place with a trial in 1946 and a convention in 1949.² For the purposes of this book, the most important legacy of the International Military Tribunal (IMT) at Nuremberg came from the demand that soldiers receive no legal protection for committing atrocities under superior orders.³ Common Article 3 of the 1949 Geneva Conventions promised a revolutionary change in extending basic protections to non-combatants in internal conflicts, who had been previously exempt from the law's orbit.⁴ From reading the key texts in international law at the outbreak of the Emergency in 1952, one could have concluded that soldiers knowingly fought within legal restrictions, and were obliged to refuse any orders violating those restrictions. However, institutional changes after 1945 took time to ripple through into state thinking and behaviour.⁵ In the period prior to the Kenya Emergency, when attitudes on what constituted correct behaviour were formed, the two major changes in international law made little impact on the British people, government and army.

These concerns were pondered by those making decisions during the Emergency. After leaving Kenya in 1955, General Erskine stated: 'there were no Prisoners of War since we were not at war and did not give the Mau Mau the rights of a belligerent'.⁶ Denying combatant rights removed many basic protections.

² For a historical overview of developments from 1945 to 1950, see G. Best, *War and Law since 1945* (Oxford: Clarendon Press, 1994), 67–231.

³ H. McCoubrey, 'From Nuremberg to Rome: Restoring the Defence of Superior Orders', *International and Comparative Law Quarterly*, 50 (2001), 386.

⁴ L. C. Green, *The Contemporary Law of Armed Conflict*, 2nd edn (Manchester University Press, 2000), 44.

⁵ R. Falk, 'Telford Taylor and the Legacy of Nuremberg', *Columbia Journal of Transnational Law*, 37 (1999), 693–4.

⁶ JSCSC Library, 'The Mau Mau Rebellion', 4.

Nuremberg and the duty to refuse illegal orders

Following expert advice from Cambridge's Professor Hersch Lauterpacht, the British and Americans changed their official manuals of military law in 1944, anticipating the post-war trials.⁷ The British *Manual* now stated:

The fact that a rule of warfare has been violated in pursuance of an order of the belligerent Government or of an individual belligerent commander does not deprive the act in question of its character as a war crime; neither does it, in principle, confer upon the perpetrator immunity from punishment by the injured belligerent.⁸

According to the King's Regulations, soldiers of all ranks were held personally responsible for acquainting themselves with published orders, such as the 1944 amendment.⁹ There is clear evidence showing that civilian international lawyers accepted the Nuremberg Principle.¹⁰ Whether soldiers found time to study all the published material sent to them by the War Office is open to question. Both the initial officer training facility, the Royal Military Academy Sandhurst, and the Staff College taught international affairs and military law during the period 1945–52. Many of the junior officers who served in Kenya were National Servicemen, who received a shorter, sixteen-week, officer training course. Given the time limitations, it is unlikely they were given much training in international law. The syllabuses for these institutions lack sufficient detail to assess whether the duty to refuse illegal orders was taught. Military traditionalists argue that expecting an army to teach and think about disobeying orders is fanciful as it undermines the basis of the organisation's existence.¹¹

In the British context, however, awareness about the Nuremberg changes is evident in several articles published in the early 1950s in the

⁷ Best, *War and Law since 1945*, 190; G. Best, *Humanity in Warfare: The Modern History of the International Law of Armed Conflicts* (London: Weidenfeld and Nicolson, 1980), 293; L. C. Green, 'Superior Orders and Command Responsibility', *Military Law Review*, 175 (2003), 327.

⁸ War Office, *Manual of Military Law, 1929, Amendments No. 34*, Notified in Army Orders for April 1944 (London: HMSO, 1944), 1.

⁹ War Office, *The King's Regulations for the Army and the Royal Army Reserve, 1940* reprint incorporating amendments nos. 1–44 (London: HMSO, 1945), 208.

¹⁰ See, for example, G. Brand, 'The War Crimes Trials and the Laws of War', *British Year Book of International Law* (1949), 414–27; L. Oppenheim, *International Law: A Treatise. Disputes, War and Neutrality*, 7th edn, rev. and ed. Vol. II: H. Lauterpacht (London: Longmans, Green and Co., 1952), 568.

¹¹ M. J. Osiel, 'Obeying Orders: Atrocity, Military Discipline, and the Law of War', *California Law Review*, 86 (1998), 4.

Journal of the Royal United Services Institute (RUSI Journal). The RUSI is a thinktank closely linked to government, and its publicly available journal enjoys a considerable readership in the armed forces. Serving officers frequently expressed their views in its pages. The first articles on the Nuremberg Principle appeared in 1951, some five years after the trial concluded, coinciding with Britain's first conventional engagement since 1945, in Korea. By 1951 'the fighting man ... is told that he must concern himself not only with the law of his own Country, he must also take into account the International Law of war'.¹² Soldiers found themselves bound only by legal orders, and readers were treated to a quotation from the *Manual's* 1944 amendment in case they had missed the original.¹³ In practice an officer would face few problems in discerning which orders were contrary to international law. The principles occupied not only the strange world of treaties, but also the familiar Army Act, the foundational document in army discipline, known to all officers. Courts would treat pleas of obedience sympathetically only if a superior officer exercised 'a degree of coercion [so] as to deprive him of the will or capacity to resist the execution of the order'.¹⁴

Officers may have assimilated knowledge on these points from participating in or observing the trials of the 1,783 Axis individuals convened by the British authorities up to 1949. These trials upheld Nuremberg's refusal to accept superior orders as a valid defence, although they were taken into account in sentencing in certain cases.¹⁵ Despite the awareness of the Principle shown in the journal debate, the overall sense of uninterest and complacency is inescapable. Along with the other victorious armed forces, the post-war army basked in a sense of its own moral rectitude.¹⁶ It had little incentive to take any great heed of Nuremberg, believing that Britain had followed the laws of war and already possessed a tradition inimical to automatic obedience, unlike the Germans.¹⁷ The crimes committed by the Axis powers were seen as 'perhaps least of all likely to arise in the British Armed Forces with [their] traditions of self-respect and initiative'.¹⁸

¹² H. A. Smith, 'The Defence of Superior Orders', *RUSI Journal*, 96 (1951), 617.

¹³ Anon., 'Obedience to Lawful Commands', *RUSI Journal*, 96 (1951), 71; The Earl of Cork and Orrery, 'Obedience to Lawful Command', *RUSI Journal*, 96 (1951), 258.

¹⁴ N. C. H. Dunbar, 'The Responsibility of Junior Officers to the Laws of War', *RUSI Journal*, 97 (1952), 171.

¹⁵ D. A. L. Wade, 'A Survey of the Trials of War Criminals', *RUSI Journal*, 96 (1951), 67.

¹⁶ P. Fussell, *Wartime: Understanding and Behaviour in the Second World War* (Oxford University Press, 1989), 229; M. Howard, *War and the Liberal Conscience* (London: Temple Smith, 1978), 115.

¹⁷ Wade, 'A Survey', 68. ¹⁸ Anon., 'Obedience to Lawful Commands', 72.

Military perspectives on the Nuremberg Principle reflected the government's hostility and the public's apathy towards the IMT and the subsequent 'lesser' trials. The Americans, especially under President Truman's leadership, pushed for establishing the tribunal. Prime Minister Churchill personally favoured shooting the entire Nazi leadership summarily, and accepted the American initiative only with great reluctance.¹⁹ For the Allied leadership, the primary purpose of holding the Nuremberg and Tokyo trials was to vindicate their own war aims and punish the aggressors. Establishing the individual duty to refuse illegal orders was hardly a priority, and the British prosecutors focused mainly on the offence of 'crimes against peace'.²⁰ Debates about the legal ramifications were deemed a minor concern.²¹ Lasting nearly a year, the proceedings soon lost the interest of a war-weary public, bored by the complicated technical arguments.²² Even after prolonged exposure to wartime propaganda about Nazi misdeeds, the true enormity of the mass killings in Europe only gradually sank in.²³ The IMT had limited impact on the national consciousness, and thus on the men who filled the British Army's ranks in Kenya.

Greater attention fell upon certain other trials taking place at the same time.²⁴ Public opinion demanded prosecutions in cases where British servicemen were the victims, such as the Stalag Luft III murders popularised in the film *The Great Escape*.²⁵ By 1949, 496 Japanese and over a thousand Germans and their European collaborators had been tried. Despite the high number, it is questionable whether the trials had an impact on the public or the army. The government's attitude towards the trials was unenthusiastic, under both Conservative and Labour administrations. The War Office and the British Army of the Rhine, the command responsible for holding the trials, complained about insufficient

¹⁹ R. Overy, 'The Nuremberg Trials: International Law in the Making', in P. Sands (ed.), *From Nuremberg to The Hague: The Future of International Criminal Justice* (Cambridge University Press, 2003), 4–6. The literature on Nuremberg is extensive. Two particularly interesting books are R. Overy, *Interrogations: Inside the Minds of the Nazi Elite* (London: Penguin, 2002) and A. Tusa and J. Tusa, *Nuremberg Trial* (London: BBC Books, 1995).

²⁰ D. Bloxham, 'British War Crimes Trial Policy in Germany, 1945–1957: Implementation and Collapse', *Journal of British Studies*, 42 (2003), 97.

²¹ J. Rabkin, 'Nuremberg Misremembered', *SAIS Review*, 19 (1999), 81–96.

²² Overy, 'The Nuremberg Trials', 24.

²³ D. Stone, 'The Domestication of Violence: Forging a Collective Memory of the Holocaust in Britain, 1945–6', *Patterns of Prejudice*, 33 (1999), 13.

²⁴ D. Bloxham, "'The Trial That Never Was': Why there was no Second International Trial of Major War Criminals at Nuremberg', *History*, 87 (2002), 41.

²⁵ P. D. Jones, 'Nazi Atrocities against Allied Airmen: Stalag Luft III and the End of British War Crimes Trials', *The Historical Journal*, 41 (1998), 543–65.

financial and manpower resources.²⁶ The Foreign Office first opposed the post-war trials, and then prevented a second major trial through 'honourable' stalling, rather than denouncing the American suggestion outright.²⁷ Foreign Office opinion solidified around pragmatically favouring German reintegration into the international community as the Cold War began.²⁸

The reluctant attitude to innovation in international law was further seen in the government's preference for holding the subsequent trials under the Royal Prerogative-derived Warrant of 14 June 1945, rather than through the Control Council Acts.²⁹ The Royal Warrant excluded 'crimes against humanity'.³⁰ Furthermore, the interpretations by the lesser trials of the duty to refuse illegal orders were generally more sympathetic towards the military desire for obedience.³¹ The dominant impression in Britain at the time was that the German military were largely innocent of involvement in Nazi atrocities.³² The myth of the apolitical, honourable soldier reflected not only impressions about the Germans, but also the British soldiery. Those few whose passions were aroused by the trials felt them unfair and the noted legal conservatism, emerging Cold War agenda and staff shortages dictated that the 'lesser' trials would leave no stronger impression than their grander forebears in Nuremberg and Tokyo. By the time the Kenya Emergency began in October 1952 there were few reasons to suppose that an ordinary soldier would know about his duty to refuse illegal orders, including the victimisation of civilians.

Attitudes to Geneva's Common Article 3

Common Article 3 of the 1949 Geneva Conventions promised to revolutionise the legal restraints on the conduct of counter-insurgency warfare. The provision extended basic protections to non-combatants in internal wars for the first time. If soldiers knew that they were supposed to act with restraint they might moderate their behaviour. Ignorance might lead soldiers to believe that they could treat the civilian population in any way they or their commanders chose, because international law was

²⁶ *Ibid.*, 550. ²⁷ Bloxham, "The Trial That Never Was", 49–50, 60.

²⁸ Jones, 'Nazi Atrocities against Allied Airmen', 543–4.

²⁹ A. P. V. Rogers, 'War Crimes Trials under the Royal Warrant: British Practice 1945–1949', *International and Comparative Law Quarterly*, 39 (1990), 780–800; Bloxham, "The Trial That Never Was", 54.

³⁰ Bloxham, 'British War Crimes Trial Policy', 96.

³¹ McCoubrey, 'From Nuremberg to Rome', 391; Osiel, 'Obeying Orders', 4.

³² Bloxham, 'British War Crimes Trial Policy', 112.

deemed irrelevant. The British government participated in the negotiations leading to the conventions with reticence, displayed open hostility towards Common Article 3 and delayed ratification until 1957. As a result, soldiers knew virtually nothing about the potential legal constraints on their actions. Although ignorance is not a legally admissible excuse for committing a crime, historically it helps in understanding the mentalities which created an atmosphere where atrocities could happen.

While praising the International Committee of the Red Cross (ICRC) for its role in the Second World War, the government distrusted any interference in national security, fearing that sovereignty would be undermined.³³ The Foreign Office contemplated attending the preparatory conference mainly for the benefit of other countries:

The fact is that the horrors of the war in Europe showed that much needs to be done to uphold decent and humane standards and as the Power with far and away the best record of all the belligerents I think we ought to be ready to speak at all these meetings.³⁴

These noble intentions vanished when the government failed to send anyone to the preparatory meetings in Stockholm. Representatives eventually arrived in Geneva after a last-minute decision to send them.³⁵ Under the chief negotiator, Sir Robert Craigie, the delegation constantly proposed amendments and quickly acquired pariah status for an 'obsessive and niggling' attitude.³⁶ These problems partly resulted from the absence from the preparatory discussions. To a larger extent, though, they stemmed from misgivings about the consequences for internal security and counter-insurgency in the colonies. Even two years prior to signing, the government anticipated the impact that a civil war clause might have on operations such as the campaign then underway in Palestine.³⁷ The government attempted to minimise the extent to which Common Article 3 would apply in the colonies by delegitimising their opponents. A report for the Army Staff College course of 1947 described the 'campaign of violence, terror, sabotage and murder' waged by 'illegal armed organisations' in Palestine.³⁸ The Security

³³ G. Best, 'Making the Geneva Conventions of 1949: The View from Whitehall', in C. Swinarski (ed.), *Studies and Essays on International Humanitarian Law and Red Cross Principles in Honour of Jean Pictet* (Geneva/The Hague: ICRC/Martinus Nijhoff, 1984), 6, 8–10.

³⁴ Foreign Office minute, 3 July 1946, cited in Best, 'Making the Conventions', 8.

³⁵ Best, *War and Law*, 81, 170. ³⁶ *Ibid.*, 89, 100.

³⁷ TNA, WO 32/12524: Army Council Secretariat Confidential Paper no. CRGC/P(47)7, Memo by Chairman of the Interdepartmental Committee on the Revision of the Geneva Conventions (ICRGC), 24 September 1947, 2.

³⁸ JSCSC, Army Staff College syllabus, 1947.

Service was 'concerned to ensure that we were not handicapped in dealing with such a situation as existed in Palestine'.³⁹ The insurgency in Palestine was viewed as 'terrorists campaigning against law and order'.⁴⁰ Such reasoning rendered international law inapplicable in the colonies before the negotiations at Geneva were completed.

While Palestine dominated thinking beforehand, events in Malaya loomed large during the negotiations themselves. Common Article 3 provoked lengthy, and at times acerbic, discussion.⁴¹ Craigie reported in May 1949 that 'the desirability of applying the Conventions to civil war is accepted by all countries except the United Kingdom'.⁴² After much obstruction and counter-argument, for example, that the (unbinding) Universal Declaration of Human Rights and the (unenforceable) Genocide Convention sufficed, constructive engagement ensued.⁴³ The Cabinet authorised the delegation to accept the civil war clause, provided the sovereign power could decide whether the clause applied to a conflict.⁴⁴ Despite the absence of a specific formula on these lines from the final convention, Craigie predicted that in practice the sovereign power would have the last word.⁴⁵ This interpretation precluded any encouragement which 'subversive movements' might glean from the article, while mitigating the horrors inherent in these savage wars.⁴⁶ The Home Office took a less positive view than the Foreign Office on the clause:

in colonial territories in particular [it] might successfully be used as a propaganda document to instruct the native that he owed no allegiance towards lawfully constituted authority.

According to the Home Office, the clause struck 'at the root of national sovereignty and endangers national security'.⁴⁷ Several months after the signing ceremony, the Army Council also expressed concerns:

³⁹ TNA, WO 32/12526: Extract from the minutes of the second meeting of the ICRGC, 17 September 1947, 3.

⁴⁰ TNA, WO 32/12526: Extract from the minutes of the second meeting of the ICRGC, 17 September 1947, 2.

⁴¹ Best, *War and Law*, 96; TNA, LO 2/674: Extracts from Sir Robert Craigie's Report related to points raised in the Cabinet, 1949, para. 41.

⁴² TNA, LO 2/674: Secret letter from Sir Robert Craigie, UK delegation in Geneva, to H. A. Caccia, Foreign Office, 9 May 1949.

⁴³ Best, *War and Law*, 171–4.

⁴⁴ TNA, LO 2/674: Secret letter from Sir Robert Craigie to H. A. Caccia, 9 May 1949, Enclosure 1.

⁴⁵ TNA, CAB 130/46: Letter from Craigie to Caccia, 9 May 1949.

⁴⁶ TNA, LO 2/674: Extracts from Sir Robert Craigie's Report related to points raised in the Cabinet, 1949, para. 43.

⁴⁷ TNA, LCO 2/4309: Brief prepared by the Home Office working party on the Civilian Convention, no date, 4–5.

we may come under pressure to apply Article 3 of the Conventions in Malaya and would find the application of the Article in full extremely objectionable and possibly restrictive to the operations.⁴⁸

This feared eventuality never transpired as the Foreign Secretary's interpretation dictated that 'the Article was not meant to apply in the case of ephemeral revolts or disturbances of the bandit type'.⁴⁹ Thus the government easily dismissed the post-war counter-insurgency campaigns from international law's restrictions on the use of force. Instead, under national law, an insurrection '[d]iffers from a riot in having an object of a general and public nature, and is really a species of treason known technically as "levying war against the King"'.⁵⁰

The government ensured the irrelevance of Common Article 3 by postponing ratification until 1957. To be sure, there were other reasons for the delay. Clauses on a prohibition on applying the death penalty, extending leniency in trials of foreign nationals and incorporating penal sanctions against grave breaches into domestic law proved troublesome issues.⁵¹ Lengthy inter-departmental deliberations began whenever another country ratified with reservations.⁵² The War Office, the Foreign Office and the Lord Chancellor's Department all blamed the Home Office, responsible for completing the ratification, for the delay.⁵³ The Home Office encountered immense difficulties in incorporating an international treaty into domestic law.⁵⁴ The War Office sympathised, stating:

The United Kingdom cannot undertake to incorporate anything in its national law since all legislation must be approved by the legislature. In addition, the difficulties of incorporating the Convention which is not drafted in legal language into legislation and to provide appropriate penalties for offences would be well

⁴⁸ TNA, WO 32/13616: Army Council Secretariat brief for Secretary of State for War, 1 December 1949, in preparation for Cabinet meeting of 2 December.

⁴⁹ TNA, CAB 130/46: Memo from Foreign Secretary to the Cabinet, 25 November 1949, 11.

⁵⁰ JSCSC, Army Staff College syllabus, 1947.

⁵¹ TNA, LCO 2/4312: Concluding notes of meeting of the ICRCG, 28 September 1950; Minutes of ICRCG meeting of 24 May 1951; Records of ICRCG for 1948–49 available in TNA, TS 46/103.

⁵² See the correspondence between departments in: TNA: LCO 2/4313.

⁵³ TNA, LCO 2/4312: Concluding notes of 28 September 1950 for inter-departmental disagreement over the need for legislation; TNA, PREM 11/2205: Letter of 12 March 1957, Lord Woolton to Marquess of Salisbury for blaming the Home Office; TNA, WO 32/18511: Detailed material from 1957 relating to the Bill's preparation.

⁵⁴ In addition to the issues mentioned above, the Home Secretary had problems with the provisions on extraditing civilians, see TNA, WO 32/18511: Army Council Secretariat extract from the conclusions of the 56th (51) meeting of the Cabinet, 30 July 1951.

nigh insuperable. Furthermore, it would be undesirable, if not impracticable, to prosecute every act contrary to the Convention.⁵⁵

According to Best, the requirement to incorporate the conventions into domestic law was only understood late in the day.⁵⁶ However, the evidence shows that technical problems were expected. An inter-departmental committee met several times prior to the signing, and a draft Bill emerged in 1952.⁵⁷ Best also points out that the legislative timetable was packed and the Geneva Conventions Bill was a low priority, especially given the vast reconstruction required after the war.⁵⁸ In 1952, for example, the Housing Bill was a more pressing concern.⁵⁹ Although Best provides a valid explanation, he underestimates the extent to which delaying ratification allayed concerns about the ramifications for national security. This is not to imply that nobody in government called for ratification. The Lord Chancellor wished to overcome the technical obstacles.⁶⁰ The Foreign Office advocated ratification for 'humanitarian reasons' and to maintain Britain's reputation abroad.⁶¹ The War Office wanted the conventions' protection in inter-state wars, and thought that ratifying would set the USSR an example.⁶² Yet the concern about inter-state wars is informative for what it leaves out: the counter-insurgencies engaged in throughout the post-war period were seldom considered within the orbit of international law. Indeed, the government recognised that bringing these campaigns within such limitations would hinder operations. The next section will demonstrate how the international legal system itself permitted such an interpretation.

The permissive international legal framework

Several scholars have argued that the British followed a particularly brutal trajectory in violating international law. According to this analysis,

⁵⁵ TNA, LCO 2/4309. Undated commentary.

⁵⁶ Best, 'Making the Geneva Conventions', 11, 15.

⁵⁷ For the details see TNA, WO 163/329; Draft Bill contained in: TNA, HO 45/25944.

⁵⁸ Best, 'Making the Geneva Conventions', 5.

⁵⁹ This sense of the conventions being a low priority permeates the records in TNA, LCO 2/4313 for 1956–57; see also TNA, WO 32/18511: Army Council Secretariat extract from the conclusions of the 17th (52) meeting of the Cabinet, 14 February 1952.

⁶⁰ TNA, WO 32/18511: Army Council Secretariat extract from the conclusions of the 56th (51) meeting of the Cabinet, 30 July 1951.

⁶¹ TNA, LCO 2/4312: Letter from C. G. Kemball, Foreign Office, to D. W. Dobson, Lord Chancellor's Office, 26 February 1952; TNA, WO 32/18511: Letter from C. G. Kemball, Foreign Office, to S. S. J. Evans, War Office, 29 October 1953.

⁶² See the series of minutes from the ICRGC in TNA, LCO 2/4312; TNA, WO 32/18511: Letter from S. S. J. Evans to C. G. Kemball, 11 December 1953.

brutality in colonial wars was the product of something uniquely British.⁶³ However, structural flaws within international law itself allowed this violation, in three ways. First, the Nuremberg Principle called for a utopian standard which armies would always consider unrealisable because it fatally undermined discipline and cohesion. Second, the humanitarian orientation towards restraint in the laws of war conflicted with the military requirement to kill people and destroy things. In the dispute between limitation and necessary violence, the legal regime permitted such a broad definition of ‘necessity’ that almost anything became justifiable. Third, the move towards human rights exemplified in agreements such as Common Article 3 of the Geneva Conventions and the European Convention on Human Rights clashed with the demands of state sovereignty. With a few minor exceptions, sovereignty triumphed and this meant that the international legal regime provided few protections for those subject to British methods in Kenya.

The Nuremberg tribunal is renowned for confirming the principle that soldiers have a duty to refuse illegal orders which have atrocities as their aim. However, debates about superior orders and command responsibility for atrocities date back at least five hundred and fifty years. The principle applies whether a conflict is a recognised war or not, an important point given British government efforts to conduct its counter-insurgencies within an emergency framework and away from international law. For example, English common law deemed killing a prisoner obviously illegal.⁶⁴ The *Manual of Military Law* closely mirrored the wording devised by the Nuremberg tribunal and from 1944 onwards expected soldiers to question or even refuse ‘obviously illegal’ orders. When a soldier struggled to decide whether an order was illegal he was to obey it and make a formal complaint afterwards.⁶⁵ The 1951 *Manual* stated that when an order was ‘manifestly illegal, [a soldier] is under a legal duty to refuse to carry out the order and if he does carry it out he will be criminally responsible for what he does in doing so’.⁶⁶ So when the Emergency erupted in 1952 neither civilian nor military law permitted obedience to superior orders as a defence for

⁶³ T. Parsons, ‘Book Review: David Anderson, *Histories of the Hanged: The Dirty War in Kenya and the End of Empire*; Caroline Elkins, *Imperial Reckoning: The Untold Story of Britain’s Gulag in Kenya*’, *American Historical Review*, 110 (2005), 1295–7; M. Curtis, ‘Britain’s Real Foreign Policy and the Failure of British Academia’, *International Relations*, 18 (2004), 276. See also M. Curtis, *The Ambiguities of Power: British Foreign Policy since 1945* (London: Zed Books, 1995); Curtis, *Web of Deceit*.

⁶⁴ Green, ‘Superior Orders and Command Responsibility’, 310, 361, 329.

⁶⁵ The element on making a complaint afterwards was removed in 1956: McCoubrey, ‘From Nuremberg to Rome’, 391.

⁶⁶ Cited in Green, ‘Superior Orders and Command Responsibility’, 334.

committing atrocities. Both systems employed a common-sense test based on the idea of 'manifest illegality'.⁶⁷

A judgment by Justice Solomon during the Boer War in 1900 set the tone for the rest of the century:

[I]t is monstrous to suppose that a soldier would be protected where the order is grossly illegal ... I think it is a safe rule to lay down that if a soldier honestly believes he is doing his duty in obeying ... and the orders are not so manifestly illegal that he ... ought to have known they were unlawful, [he] will be protected by the orders.⁶⁸

War is not a black and white business, and problems arise in the grey areas.⁶⁹ Much depended upon the conditions experienced, such as the recent behaviour of the enemy, and would be informed by the unit's subculture. As Osiel observes, manifest illegality rests upon social foundations, and when these break down, the concept provides little preventative power. As a concept it presumes that an ordinary person can easily decide what is legitimate behaviour.⁷⁰ When illegal acts are widespread, or the acts no longer appear to be illegal under local law, as happened in Kenya with the use of torture for perceived instrumental purposes, the notion of manifest illegality becomes less meaningful to those making decisions about how to act.

The traditionalist attitude supports absolute obedience. The argument normally proceeds along two lines. The first posits the soldier's incapacity for complex moral reasoning.⁷¹ Authors ridicule images of 'the private soldier ... march[ing] to war with his knapsack stuffed with tomes by eminent international jurists';⁷² and 'stopping in the midst of some desperate engagement to ponder what Aristotle would do in such a circumstance'.⁷³ The patronising assumptions aside, there is psychiatric evidence that in combat conditions soldiers cannot make complicated decisions.⁷⁴ Second, the approach advocates complete obedience because it is thought inherent and absolutely necessary for the military to fight effectively.⁷⁵ Discipline is seen to increase military effectiveness and offers a means of coping with the intense confusion present in war.⁷⁶ Obedience is the foundation of military cohesion, and therefore the

⁶⁷ *Ibid.*, 314. ⁶⁸ Cited in *ibid.*, 321.

⁶⁹ J. Blackett, 'Superior Orders – the Military Dilemma', *RUSI Journal*, 139 (1994), 15.

⁷⁰ Osiel, 'Obeying Orders', 3, 39. ⁷¹ Blackett, 'Superior Orders', 14.

⁷² R. Grenfell, 'This Question of Superior Orders', *RUSI Journal*, 96 (1951), 266.

⁷³ W. M. Hudson, 'Book Reviews. "Obeying Orders: Atrocity, Military Discipline and the Law of War"', *Military Law Review*, 161 (1999), 234.

⁷⁴ Osiel, 'Obeying Orders', 9. ⁷⁵ McCoubrey, 'From Nuremberg to Rome', 391.

⁷⁶ M. van Creveld, 'The Clausewitzian Universe and the Law of War', *Journal of Contemporary History*, 26 (1991), 422.

conflict between a duty to disobey illegal orders and the need for obedience in combat is probably irresolvable.⁷⁷ In reality, however, the so-called 'soldier's dilemma' between being hung by a judge or shot by a court-martial is only a dilemma on paper because few dare question orders and suffer the social consequences. In addition, from basic training onwards soldiers are taught to obey orders immediately, so that obeying a superior becomes a reflex reaction.⁷⁸ While these views surface in armed forces across the world, the British Army preached them too. A War Office study from 1947 saw a core function of discipline as:

producing a habit of obedience to those in authority which should have most of the automatic nature of a conditioned reflex, and whose inculcation will presumably obey most of the laws known to apply to such reflexes.⁷⁹

An article in the *British Army Review*, an in-house magazine, suggested maintaining the standards of discipline found during the First World War, where orders were obeyed 'without hesitation, with energy and cheerfulness'.⁸⁰ A contributor in the *RUSI Journal* worried about the Nuremberg Principle, speculating that 'it must give rise to questioning of all orders, which, in itself, is inimical to military discipline'.⁸¹ Another writer thought unquestioning obedience essential to successful military operations, and Nuremberg a challenge to the army's ancient ethos.⁸² Indeed, some viewed the only sound policy as 'to place no limits to obedience and to enforce discipline in the army irrespective of any ethical considerations'.⁸³ A War Office study circulated to commanders in 1952 approvingly quoted the American military theorist, S. L. A. Marshall:⁸⁴

Words repeated out loud down to the last man will be obeyed. But an order only half heard becomes a convenient excuse for non-compliance. Warmth in the giving of an order is better than studied self-containment. At the lower levels men do not fight calmly, and are not reassured by commanders with the manner of an undertaker or a poker-player.⁸⁵

⁷⁷ Osiel, 'Obeying Orders', 15. ⁷⁸ Blackett, 'Superior Orders', 12, 16.

⁷⁹ TNA, WO 291/1306: The Training of the National Service Man: A Preliminary Survey, Military Operational Research Unit, July 1947.

⁸⁰ 'A Senior Officer to Young Officers', 'The Duties of an Officer', *British Army Review*, 3 (1950), 46.

⁸¹ Cork and Orrery, 'Obedience to Lawful Command', 261.

⁸² Grenfell, 'This Question of Superior Orders', 266.

⁸³ D. Pal, 'Limits to Obedience', *Army Quarterly*, 72 (1956), 81.

⁸⁴ His most famous work is S. L. A. Marshall, *Men against Fire: The Problem of Battle Command* (Norman, OK: University of Oklahoma Press, 2000).

⁸⁵ TNA, WO 291/1537: Selected Quotations from 'MEN against FIRE' by Colonel S. L. A. Marshall, Army Operational Research Group Occasional Note no.1, June 1952.

In any case, although identifying serious atrocities should not have required any specialist knowledge, the lack of legal training in the army reduced the likelihood that a soldier would disobey orders. The capacity to question orders is closely intertwined with the extent of knowledge.⁸⁶ On these lines, the eminent lawyer and expert on military law Gerald Draper considered education as a preventative measure more effective than penal measures for stopping atrocity behaviour.⁸⁷ While the army altered the *Manual of Military Law* in 1944, changing the law in the books is only the start of organisational change. Training and education are also essential.⁸⁸ The available evidence on army education in this period, while far from comprehensive, plainly indicates the low priority accorded to current affairs and legal education.⁸⁹

Several articles from the period do mention the teaching of military law. It was recognised that officers needed to study the subject, and that ignorance had been common in the past. Experience of court-martial proceedings was thought especially desirable.⁹⁰ Military law was taught at initial officer training and later on.⁹¹ The records for Sandhurst from 1950 show military law being routinely taught.⁹² Even so, this was not necessarily the same as international law, and much time in the classroom would be spent on barrack-room matters.⁹³ Subjects covered under military law at Sandhurst included rules of evidence, arrest, summary and minor punishments, and discipline. There is no mention of the laws of war until 1961, when one hour was devoted to the Geneva Conventions. Students at the Staff College discussed the *Manual of Military Law* and the King's Regulations, the former including the laws of war – yet typically only an hour and a half was dedicated to these issues.⁹⁴ At both the Academy and the College international affairs were

⁸⁶ McCoubrey, 'From Nuremberg to Rome', 392.

⁸⁷ G. I. A. D. Draper, 'The Ethical and Juridical Status of Constraints in War', *Military Law Review*, 55 (1972), 185.

⁸⁸ Hudson, 'Obeying Orders', 227.

⁸⁹ For studies of army education see J. Beach, 'Soldier Education in the British Army, 1920–2007', *History of Education*, 37 (2008), 679–99; J. Crang, *The British Army and the People's War 1939–1945* (Manchester University Press, 2000); S. P. MacKenzie, *Politics and Military Morale: Current-affairs and Citizenship Education in the British Army, 1914–1950* (Oxford: Clarendon Press, 1992).

⁹⁰ M. J. P. M. Corbally, 'The Education and Employment of Senior Subalterns', *Army Quarterly*, 52 (1946), 223–6.

⁹¹ F. Warhurst, 'Training Army Officers', *Army Quarterly*, 52 (1946), 252–61; C. N. Barclay, 'The Training of National Armies in War', *Army Quarterly*, 58 (1949), 98–108.

⁹² The Sandhurst Collection, Royal Military Academy Sandhurst. The syllabuses for the years 1945–9 are unavailable.

⁹³ W. K. B. Crawford, 'Training the National Service Army Officer at Eaton Hall', *RUSI Journal*, 96 (1951), 134–8.

⁹⁴ For example, JSCSC, Army Staff College syllabus, 1947.

taught, as was internal security, and these may have included elements on the laws of war; unfortunately the syllabuses are too vague to be sure.

A brief content analysis of the three major military journals places the importance attributed to international law in context. Over the 1945–68 period the *RUSI Journal* contained 1,894 articles. Of these only nine dealt explicitly with the laws of war and four included some minor reference. In an ideal situation, an officer who read every article of each edition of the journal for twenty-three years would have spent 0.69 per cent of his readings on the laws of war. The *Army Quarterly* exhibited slightly greater awareness of legal matters: out of 1,178 articles, 9 embodied a detailed discussion, while 6 mentioned it in passing. Although an improvement at 1.27 per cent, this could hardly be called a substantive focus. In his foreword to the first edition of the *British Army Review*, CIGS Field Marshal Sir William Slim said: ‘I want every officer and NCO to read the British Army Journal and I want a lot of you to contribute to it.’⁹⁵ It was to be distributed like any other General Staff training publication, namely one per company in the regular army and territorials, and one per contingent or battalion in the cadet forces. Over the period, 731 articles were published, 7 directly concerning the laws of war and 9 indirectly. This amounted to a total coverage of 2.19 per cent, still a minuscule proportion.

Although there is no conclusive proof showing that the army failed to teach international law to ordinary soldiers, there are strong grounds for considering the eventuality extremely likely. From 1945 to 1948 military education was preoccupied with retraining soldiers for civilian life as mass demobilisation took place. After 1948 most activity focused upon vocational training as the majority of soldiers lacked the educational experience necessary for anything more sophisticated.⁹⁶ Many soldiers struggled with basic literacy, and thus coping with the laws of war would have been considered too demanding. The Nuremberg tribunal proceedings coincided with a decline in the teaching of current affairs.⁹⁷

⁹⁵ The *British Army Review* remained in intermittent publication from its inception in 1863. The title was *British Army Journal* until July 1954, when it changed temporarily to *British Army Annual*. In September 1955 the *Review* title was adopted. For the sake of convenience it is referred to as *British Army Review* throughout.

⁹⁶ On the National Service policies and experience see T. Hickman, *The Call-Up: A History of National Service* (London: Headline, 2004); T. Royle, *National Service: The Best Years of Their Lives* (London: André Deutsch, 2002); L. V. Scott, *Conscription and the Attlee Governments: The Politics and Policy of National Service 1945–1951* (Oxford: Clarendon Press, 1993).

⁹⁷ V. C. White, *The Story of Army Education 1643–1963* (London: George G. Harrap & Co. Ltd, 1963), 157, 181–9.

Writing in 1966, Gerald Draper considered lack of training in the laws of war throughout one's military career a major deficiency. Under the Geneva and Hague Conventions, states were required to give instruction during both peace and war, including disseminating the original treaty texts. Even in 1966 it was still apparent that instruction on the Geneva Conventions was not being provided at the staff colleges, Imperial Defence College or any other 'key Service institutions and units'. The Directorate of Army Legal Services failed to provide instruction and, even worse, itself needed instruction in the conventions.⁹⁸

Devising a military legal system capable of reconciling conceptions of civilian justice and military discipline can never be an easy task.⁹⁹ Despite changing the *Manual* in 1944, the army maintained traditional attitudes towards obedience and neglected to disseminate to either officers or men the duty to refuse illegal orders. This arose from an institutional dislike for abstract thinking, the belief that the army would never issue illegal orders of the kind seen in the Second World War anyway, and a determination to uphold absolute discipline. The international legal system favoured a military interpretation of what constituted legitimate force, reducing the likelihood that the Nuremberg Principle would be invoked at all.

What *isn't* necessary?

Military necessity is one of the oldest and most firmly entrenched principles of the laws of armed conflict.¹⁰⁰ It allows all acts required for achieving victory, so long as they adhere to the laws of war.¹⁰¹ Defenders of the idea emphasise its pragmatism in recognising the need for violence in war while imposing workable limits. Critics see the doctrine as dangerous because what is necessary is ultimately decided subjectively by the commander on the spot, thus giving an excuse for almost every conceivable action.¹⁰² In a sense, then, the military engages in 'manufacturing necessity' after the event.¹⁰³ Regardless of how atrocious

⁹⁸ G. I. A. D. Draper, 'The Place of the Laws of War in Military Instruction', *RUSI Journal*, 111 (1966), 189–98.

⁹⁹ D. P. O'Connell, 'The Nature of British Military Law', *Military Law Review*, 19 (1963), 155.

¹⁰⁰ W. V. O'Brien, 'The Rule of Law in Small Wars', *Annals of the American Academy of Political and Social Sciences*, 541 (1995), 42.

¹⁰¹ A. P. V. Rogers, *Law on the Battlefield*, 2nd edn (Manchester University Press, 2004), 5.

¹⁰² I. Detter, *The Law of War*, 2nd edn (Cambridge University Press, 2000), 394; Rogers, *Law on the Battlefield*, 3.

¹⁰³ The phrase is R. W. Gordon's, cited in M. D. A. Freeman, *Lloyd's Introduction to Jurisprudence*, 7th edn (London: Sweet and Maxwell, 2001), 1065.

a course of action may seem to the outside observer, the military can always argue that the commander only pursued the action demanded by the situation. As Jochnick and Normand contend: ‘By endorsing military necessity without substantive limitations, the laws of war ask only that belligerents act in accord with military self-interest.’¹⁰⁴ By adopting legal language, acts become validated simply by being legal, ignoring the surrounding politics and morality. Rather than supporting or deterring actions, then, the law actively internalises entire belief systems and legitimises them.¹⁰⁵ This is a helpful notion for understanding how perpetrators came to see atrocities as strictly necessary; for example, torture in the Kenya case.

The concept of *Kriegsraison*, generally ascribed to the German strategic style, dictates that military necessity should always outweigh international law, and holds that a ruthless war is quicker and therefore more humane overall. Arguably international law institutionalises the idea, although most would see the laws of war and *Kriegsraison* as intrinsically incompatible.¹⁰⁶ Whatever the relationship between the two concepts, when adopting a quick, ruthless approach to the use of force a commander or army rapidly ‘creates an atmosphere permissive of atrocities’,¹⁰⁷ even when atrocities are not directly ordered.

These conceptual points from international law were connected to British practice. The orthodox perspective sees British counter-insurgency as conducted firmly within a legal framework which demanded that only minimum force be used. However, as McInnes first intimated, the precise phrase in British legal and military doctrine is *minimum necessary force*. The national concern with the degree of force therefore reflects international law’s conception of military necessity. As most writers on international law avoid criticising its fundamental ability to limit violence, so writers on British counter-insurgency assume that what McInnes calls ‘the constraints of civil law’ effectively control armed force.¹⁰⁸ But because both international and national systems depend upon a highly permissive definition of necessity, an impression has emerged of impregnable solid standards when in practice fluid pragmatism benefiting the powerful prevailed. As [chapter 4](#) shows, the British colonial experience provides ample instances of exemplary force, designed to ‘nip rebellion in the bud’. The permissive nature of international law, and the British interpretation thereof, allowed repression to be considered legal by those who applied it.

¹⁰⁴ C. A. Jochnick and R. Normand, ‘The Legitimation of Violence: A Critical History of the Laws of War’, *Harvard International Law Journal*, 35 (1994), 58.

¹⁰⁵ *Ibid.*, 57. ¹⁰⁶ *Ibid.*, 64.

¹⁰⁷ *Ibid.*, 65. ¹⁰⁸ McInnes, *Hot War, Cold War*, 115.

Besides the Nuremberg Principle and the Geneva Conventions, there are grounds for suspecting that other aspects of international law may have affected military operations in Kenya. Systematically surveying human rights during British decolonisation, legal scholar Brian Simpson found the Universal Declaration of Human Rights to be not in the least bit binding upon states. Rather, the Declaration was seen as a general statement of intent, lacking the power of a mandatory treaty.¹⁰⁹ The British government was aware of the potential breach of the Forced Labour Convention, but circumvented it (legally) by engaging detainees only on works related to bringing the Emergency to an end.¹¹⁰ The agreements which deserve fuller discussion are the Geneva Conventions and the European Convention on Human Rights.

Before Common Article 3 to the 1949 Geneva Conventions the laws of war simply did not apply to internal conflicts. In classical international law, internal conflict exists in three escalating categories: rebellion, insurgency and belligerency. Only when belligerency is reached do the laws of war apply.¹¹¹ Crucially, the condition must be formally recognised by either a third state or the official government.¹¹² This situation, so obviously detrimental to insurgents, resulted from the close relationship between the emergence of modern international law and the rise of the state.¹¹³ Although expert commentators and bodies such as the ICRC had long viewed the distinction between internal and international conflicts as unjustifiable, they had failed to change the system.¹¹⁴ States could counter revolts in any manner they thought effective, without legal constraints on the severity of the measures adopted. In practice recognition of belligerent status was seldom accorded, last happening in 1902.¹¹⁵

When the 1949 conventions were drafted many states, besides Britain, expressed concern over the ramifications that Common Article 3 would

¹⁰⁹ A. W. B. Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford University Press, 2001), 11.

¹¹⁰ See the documents in TNA, LAB 13/2714 and TNA, CAB 128/27 on the applicability of the convention to Kenya during the Emergency. Elkins disagrees with this interpretation, viewing the efforts to circumvent the convention as illegitimate: *Britain's Gulag*, 304.

¹¹¹ L. Moir, *The Law of Internal Armed Conflict* (Cambridge University Press, 2002), 4.

¹¹² A. Cullen, 'Key Developments Affecting the Scope of Internal Armed Conflict in International Humanitarian Law', *Military Law Review*, 183 (2005), 66. Cullen views 'internal armed conflict' as synonymous with 'non-international armed conflict'.

¹¹³ Van Creveld, 'The Clausewitzian Universe', 412.

¹¹⁴ J. G. Stewart, 'Towards a Single Definition of Armed Conflict in International Humanitarian Law: A Critique of Internationalized Armed Conflict', *International Review of the Red Cross*, 85 (2003), 313.

¹¹⁵ Moir, *Law of Internal Armed Conflict*, 13, 19.

have for sovereignty.¹¹⁶ As a consequence the delegates devised the compromise term 'non-international armed conflicts'. Unfortunately it was not clearly set out what this term meant, and indeed no official definition emerged until an International Criminal Tribunal for the Former Yugoslavia ruling in 1997.¹¹⁷ In addition to the sovereignty issue, delegates disagreed on the precise level of violence necessary to trigger the article, although they agreed that the insurgents should possess a degree of organisation, including a coherent command structure, and be able to adhere to the article themselves.¹¹⁸ Even the article's supporters admit that it is easily avoided by states.¹¹⁹ As Cullen argues, this is because '[t]he absence of a definition has ... undermined the implementation of the international humanitarian law, allowing states latitude to deny the existence of armed conflict'.¹²⁰

Even when applied, Common Article 3 is severely limited in scope.¹²¹ For example, captured persons do not enjoy prisoner of war status and are liable to be tried for treason, which in effect happened in Kenya under the Emergency legislation.¹²² Government criminalisation of the insurgents can lead to a breakdown in reciprocity, and thus contribute towards atrocities happening.¹²³ A common argument made about low-intensity conflicts is that symmetry is less likely, and consequently reciprocity breaks down.¹²⁴ But the utilitarian logic present in the laws of war actually encourages deterioration by refusing to extend a symmetrical system of legal protections.¹²⁵ Another important weakness concerns reprisals, especially relevant here because collective punishment could be deemed a form of reprisal. In general the 1949 conventions prohibit reprisals against protected persons only, and Common Article 3 provides only very limited protections.¹²⁶ On the other hand Draper argues that the conventions outlaw reprisals as an enforcement mechanism, which is precisely

¹¹⁶ L. Lopez, 'Uncivil Wars: The Challenge of Applying International Humanitarian Law to Internal Armed Conflicts', *New York University Law Review*, 69 (1994), 930.

¹¹⁷ Moir, *Law of Internal Armed Conflict*, 25, 31, 34, 42.

¹¹⁸ S. R. Ratner and J. S. Abrams, *Accountability for Human Rights Atrocities in International Law: Beyond the Nuremberg Legacy* (Oxford University Press, 2001), 96; Moir, *Law of Internal Armed Conflict*, 36.

¹¹⁹ J. B. Kelly, 'Legal Aspects of Military Operations in Counterinsurgency', *Military Law Review*, 21 (1963), 100; Detter, *The Law of War*, 201.

¹²⁰ Cullen, 'Key Developments', 82.

¹²¹ Lopez, 'Uncivil Wars', 918.

¹²² Green, *The Contemporary Law of Armed Conflict*, 45, 318.

¹²³ Kelly, 'Legal Aspects of Military Operations', 106–9.

¹²⁴ K. W. Abbott, 'International Relations Theory, International Law, and the Regime Governing Atrocities in Internal Conflicts', *American Journal of International Law*, 93 (1999), 370.

¹²⁵ Osiel, 'Obeying Orders', 27. ¹²⁶ Detter, *The Law of War*, 300.

what collective punishment aims at.¹²⁷ Therefore there was no unambiguous position on the legality of collective punishment in internal conflicts under international treaty law by 1952. Not until the 1977 additional protocols were reprisals against civilians entirely criminalised.¹²⁸ At a deeper level, the article is flawed through the absence of enforcement or implementation mechanisms.¹²⁹

Much expert legal opinion suggests that Common Article 3 was inapplicable during the Kenya Emergency, and even if it had been applicable, the article would have afforded limited and ineffective protections. Britain signed the conventions in 1949 and ratified them in 1957, updating the *Manual of Military Law* in 1958.¹³⁰ Therefore international law failed to constrain military operations in Kenya. Or could Geneva have been applicable via customary international law instead? Writing in 1958, Draper declared the conventions in force from October 1950.¹³¹ On treaty law Roberts and Guelff state that:

By its *signature*, a state indicates its intent to be bound by a treaty . . . In general, a signatory state must subsequently ratify a treaty if it is to be bound. A state which has signed but not ratified a treaty is obliged to refrain from acts which would defeat the object and purpose of the treaty.¹³²

Therefore the British Army need only have acted in accordance with the spirit of the 1949 conventions; although as shown above, this was interpreted to exclude Common Article 3. This is also noticeable in the War Office's behaviour in relation to conventional conflicts. For example, on 3 December 1952, British Command Japan informed the War Office that the UN Commander-in-Chief in Korea had instructed all forces to treat prisoners of war in accordance with the 1949 convention, and that its humanitarian principles in general were in force.¹³³ Furthermore, in December 1953 the War Office observed that:

we have not been hindered by non-ratification since we have proceeded on the assumption that the enabling legislation will have been passed before there is a war or that there would then be a declaration by the Government that the 1949 Conventions would be applied.¹³⁴

¹²⁷ Draper, 'The Ethical and Juridical Status of Constraints in War', 182.

¹²⁸ Osiel, 'Obeying Orders', 21. ¹²⁹ Lopez, 'Uncivil Wars', 925.

¹³⁰ War Office, *The Law of War on Land, being Part III of the Manual of Military Law* (London: HMSO, 1958).

¹³¹ G. I. A. D. Draper, *The Red Cross Conventions* (London: Stevens & Sons, 1958), 1.

¹³² A. Roberts and R. Guelff (eds.), *Documents on the Laws of War*, 3rd edn (Oxford University Press, 2000), 17. Emphasis in original.

¹³³ TNA, WO 32/19272: Confidential cipher telegram, Britcom Japan to War Office, received 3 December 1952.

¹³⁴ TNA, WO 32/18511: Letter from Evans to Kembal, 11 December 1953.

However, several writers argue that Common Article 3 only became part of customary international law from around the mid-1970s to the late 1980s.¹³⁵ A rule of customary international law develops when most states behave in a certain way.¹³⁶ Britain was certainly not alone in ignoring Article 3 in its colonies in the 1950s, so in both theoretical and practical terms the article exerted little restraint on the armed forces. The customary rules relating to internal conflicts were extremely limited, and states cannot become subject to legal obligations without their consent.¹³⁷ The evidence clearly demonstrates the British government's refusal to restrict itself under Common Article 3.

In one last sense, however, international law confined the state's actions. In March 1951 Britain ratified the European Convention on Human Rights. The convention came into effect in Kenya on 23 October 1953, just over a year into the Emergency. Simpson depicts an enthusiastic Foreign Office, responsible for signing the convention, at odds with a suspicious Colonial Office. The Colonial Office and other detractors saw the convention as unnecessary when Britain was the true mother of liberty, who had protected her people's freedoms perfectly well without foreign agreements.¹³⁸ The convention attracted hardly any attention in Britain in the early years. There is no mention of it in the East Africa Command files and the likelihood of the average officer, let alone soldier, having been aware of its restrictions during the Emergency is virtually nil.

As only inter-state complaints were allowed until 1966, nobody in Kenya could have invoked the convention in order to change government policy. As the other European powers found themselves in similar messy counter-insurgencies during this period as well, they would hardly have raised complaints with Britain at the intergovernmental level (and in fact did not).¹³⁹ Derogations were allowed during emergencies, and the government lodged a rather late 'laconic' derogation on 24 May 1954. Certain things were still inviolable, such as the right to life, freedom from torture and slavery.¹⁴⁰ Therefore from 23 October 1953 until 24 May 1954 the army was restrained by the European Convention,

¹³⁵ Ratner and Abrams, *Accountability for Human Rights Atrocities*, 99, 106; M. Schmoeckel, 'Review of Best, *War and Law since 1945* and Andreopolous, *The Laws of War*', *Journal of Modern History*, 69 (1997), 572; Cullen, 'Key Developments', 67.

¹³⁶ M. Byers, *Custom, Power and the Power of Rules: International Relations and Customary International Law* (Cambridge University Press, 1999), 157; Peter Malanczuk, *Akehurst's Modern Introduction to International Law*, 7th rev. edn (London: Routledge, 1997), 39.

¹³⁷ Rogers, *Law on the Battlefield*, xxi; Byers, *Custom, Power and the Power of Rules*, 14.

¹³⁸ Simpson, *Human Rights*, 2–6, 808, 838, 17, 22.

¹³⁹ *Ibid.*, 4, 809, 824. ¹⁴⁰ *Ibid.*, 874–81.

and to a lesser extent afterwards. However, the army cannot be said to have been constrained in any conscious sense. And what is more, the worst excesses arose between October 1952 and June 1953, when none of the legal protections applied. In short, international law created a permissive environment for atrocities in Kenya.

Keeping law weak in colonial rebellions

Although directives explicitly ordering atrocities in Kenya were never issued, a permissive legal environment allowed atrocity behaviour to take place. The reasons for this stemmed from international law itself and the British interpretation of it. As a reaction to the Second World War, there were two major changes relevant to atrocities in internal wars: the rules on obedience and the extension of the laws of war to these conflicts. The government's formal position on obedience changed in line with the Nuremberg Principle, but in practice very few people within the army knew about it. After the war, military education and training concentrated on other priorities than instilling an understanding about Nuremberg. The country as a whole was apathetic about war crimes trials and focused on rebuilding and renewal. For most British soldiers, as for most of British society, the notion that the British Army needed to take heed of a legal reform designed to stop state-sanctioned brutality was absurd. Systematic abuse of civilians was something the Germans did, not something British soldiers could ever be capable of. The army as an institution resisted the Nuremberg Principle because reflex obedience would have been undermined by implementing the notion in training regimes. Compounding matters, the army's regimental structure promoted subcultures which may have compromised a soldier's ability to decide whether an action was 'manifestly illegal', a concept reliant upon universal reasoning. The consequence for the Kenya Emergency was that soldiers lacked the knowledge and training to discern illegal abuse and to stop it happening. As we shall see, the Emergency Regulations in Kenya permitted a great deal of force, and the ordinary soldier was poorly informed about his duty to challenge the widespread brutality he encountered. The soldier's intellectual impotence to halt abuses condoned by the state resulted from the deliberate government decision to exclude Nuremberg from military training and education.

The British government faced further incursions by international law into how the security forces countered colonial rebellions. The government adopted a plainly hostile line to Common Article 3 of the 1949 Geneva Conventions. Resenting the encroachment into sovereignty, above all else the government resisted the article for its potential effect

on operations in Palestine, Malaya and elsewhere. The British government's ability to sideline law in counter-insurgencies actually derived from international law itself, and not solely from national politics. As British policy on obedience reflected a transnational concern for maintaining military effectiveness within professional armies, so the reluctance to be bound by expanding rules on internal conflict reflected how international law traditionally elevated the state above all other entities. Military necessity privileged commanders in using whatever force they required. Extending Common Article 3, or for that matter other limitations such as the European Convention, to the colonies would have undermined state authority and prevented the use of repression as a method. This book will show how committed the government remained to using repression in Kenya. The British stance succeeded because international law on internal conflicts was weak in the 1950s, and most countries agreed with the position. The decolonisation wars which wracked the world through the decades following the Geneva negotiations ultimately proved the need for stronger protections. For the Kikuyu, Embu and Meru in Kenya, and many elsewhere, the ability of a colonial power to declare its policies outside international law had terrible consequences.

4 ‘The degree of force necessary’: British traditions in countering colonial rebellions

International law bestowed few protections on those caught up in the British Empire’s decolonisation wars. Yet some vestiges of restraint remained, an achievement normally attributed to the British ‘minimum force’ principle. After exploring what minimum force was and what it was supposed to achieve, this chapter presents a sustained critique. The concept is far from unique to Britain, and while an irresolvable debate about which came first is avoided, we should at least recognise co-existence with international law. The notion of minimum force stemming from national characteristics is rejected on the grounds that such claims constitute little more than romantic self-delusion.

Minimum force is better perceived as an organisational norm, but one perhaps less central or benign than sometimes thought. In conceptual terms, minimum force is less constraining to soldiers than advocates believe, as it replicates the international norm of *Kriegsraison* in granting virtually any action *ex post facto* legitimisation. Instead of dominating how British military behaviour in small wars is studied, minimum force should be given equal prominence with the phenomenon of exemplary force. Because the army disliked abstract thought and soldiers derived their conceptual understanding from actual practice, we must examine practice as much as doctrine. For this reason, the chapter provides a concise overview of military operations from the beginning of the twentieth century to 1952.¹ It examines how thinking about the use of force developed, and how in practice the notion of exemplary force often proved important. These years constituted the organisation’s immediate tradition, from which lessons about the legally permissible application of force in counter-insurgency situations were derived.

¹ B. Holden Reid, ‘Introduction: Is There a British Military “Philosophy”?’, in J. J. G. Mackenzie and B. Holden Reid (eds.), *Central Region vs. Out-of-area: Future Commitments* (London: Tri-Service, 1990), 1; C. J. McInnes, ‘The British Army’s New Way in Warfare: A Doctrinal Misstep?’, *Defense and Security Analysis*, 23 (2007), 127–41.

Filling the gap? Minimum force in British military thinking

Despite international law's structural failure to prescribe sufficient restraint on the employment of force, moderating influences may also exist within a national strategic culture.² In the British case, the main influence resided in the British Army's organisational culture. Minimum force is deeply ingrained in international law in the principles of proportionality and discrimination.³ Still, the British Army developed a distinctive view on the concept that is worthy of investigation.

The origins and nature of the concept

The minimum force concept originated in the English common law tradition which allowed the executive the right to restore the peace with no more force than absolutely necessary.⁴ At first limited to civil unrest in Britain alone, the concept evolved to incorporate all forms of unrest, from riots to full-scale revolution.⁵ The common law obliged every citizen, including soldiers who were technically nothing more than citizens in uniform, to assist the civil power in enforcing law and order when required.⁶ During civil disturbances it was a commander's duty to open fire if he could not otherwise stop the violence before him. The commander who does nothing 'certainly will be wrong'. By extension, he legally had to use enough force to be effective.⁷ During insurrections, the duty to stop violence with violence applied most strongly, which meant troops had to 'be prepared to live and fight hard'.⁸ Thornton moves beyond Townshend's and Mockaitis's emphasis on the common law in arguing that the concept derived from the national culture. In his view two sources were paramount: pragmatism and 'Victorian values'.⁹ These values were translated 'via a quartet of socializing media: the ideal of empire, the class and public school

² Van Creveld, 'The Clausewitzian Universe', 424; C. S. Gray, *Modern Strategy* (Oxford University Press, 1999), 68.

³ I. Clark, *Waging War: A Philosophical Introduction* (Oxford: Clarendon Press, 1988), 35, 43.

⁴ Townshend, *Civil Wars*, 19; Mockaitis, *British Counterinsurgency*, 18.

⁵ Mockaitis, *British Counterinsurgency*, 13.

⁶ JSCSC, Army Staff College syllabus, 1947. ⁷ *Ibid.*; Townshend, *Civil Wars*, 19.

⁸ JSCSC, Army Staff College syllabus, 1945.

⁹ R. Thornton, 'Understanding the Cultural Bias of a Military Organization and its Effect on the Process of Change: A Comparative Analysis of the Reaction of the British and United States Armies to the Demands of Post-Cold War Peace Support Operations in the Period, 1989–1999' (doctoral thesis, University of Birmingham, 2001), 128.

systems, and popular culture'.¹⁰ Furthermore, the British national character emphasised free will and individuality, leading to pragmatism within organisations. The army avoided developing a complicated counter-insurgency doctrine, preferring to extol individual decision-making, with minimum force as a simple guideline to be followed in all situations.¹¹

The concept apparently produced positive practical results. Large-scale casualties alienated the population, and avoiding civilian deaths helped win the population's support.¹² Although reprisals were occasionally effective in the short term, in the long run they produced hate, fear and mistrust. The Army Staff College course presented them as 'patently unjust and uncivilised'.¹³ Instead of employing maximum firepower in a bid to kill as many people as possible, taking prisoners provided intelligence, helpful for defeating elusive opponents.¹⁴ When suspects were interrogated, the need for trustworthy intelligence ruled out torture, thought to provide unreliable information.¹⁵ 'Respect ... is necessary: respect is achieved by law and order applied fairly and promptly'; keeping to this policy meant that the 'inhabitants will gradually drift apart from guerrillas'.¹⁶ The Staff College course recognised the difficulty in assessing the degree of force to use:

Generally speaking, success in battle depends upon the use of overwhelming force at the correct time and place. For internal security operations the reverse applies, since the most important single principle is that of minimum force.¹⁷

The position is reflected in the key 1949 booklet *Imperial Policing and Duties in Aid of the Civil Power*:

There is ... one principle that must be observed in all types of action taken by the troops: no more force shall be applied than the situation demands.¹⁸

At the Staff College the principle was oft repeated, for example in 1947: 'To enforce law and order no one is allowed to use more force than is necessary'.¹⁹ British soldiers naturally grasped the idea, by their 'friendly

¹⁰ *Ibid.*, 74, 83, 89. ¹¹ *Ibid.*, 75.

¹² Charters, 'From Palestine to Northern Ireland', 223.

¹³ JSCSC, Army Staff College syllabus, 1947.

¹⁴ Charters, 'From Palestine to Northern Ireland', 172.

¹⁵ Mockaitis, *British Counterinsurgency*, 25-7, 54-7.

¹⁶ JSCSC, Army Staff College syllabus, 1945.

¹⁷ JSCSC, Army Staff College syllabus, 1948.

¹⁸ TNA, WO 279/391. Booklet, *Imperial Policing and Duties in Aid of the Civil Power*. War Office Code no. 8439, issued by the Army Council 13 June 1949, superseding *Notes on Imperial Policing*, 1934, and *Duties in Aid of the Civil Power*, 1937 (and 1945 amendment), 5.

¹⁹ JSCSC, Army Staff College syllabus, 1947, and also for 1948.

attitude' and 'instinctive kindness and decency'.²⁰ A January 1949 article in the *British Army Review* encouraged 'discipline and behaviour [that was] absolutely correct', 'fair play', not doing 'any avoidable damage', and 'the minimum force necessary to achieve your object' during internal security operations.²¹ Another article a year later emphasised the importance of restraint in low-intensity operations.²² In one view, reprisals against a community for acts committed by its inhabitants who could not be identified were sometimes justified. Incarceration, fines and the seizure or destruction of property were options at the commander's disposal. None the less, they remained measures only to be resorted to in extreme circumstances, expert opinion deeming them generally illegal.²³ In riots the use of firepower was the last resort, for example, in self-defence. When used, a specified number of single shots were to be directed at individual ring-leaders and intended to wound instead of kill.²⁴ The Staff College course enjoined 'rigid discipline' when conducting searches, with 'civility'.²⁵

The doctrine, professional journal articles and Staff College syllabuses clearly show that the concept was specifically laid down, taught and discussed. An added incentive came from the official position actively criminalising excessive force:

a soldier is guilty of an offence if he uses that excess, even under the direction of the civil authority, provided he has no such excuse as that he is bound in the particular circumstances of the case to take the facts, as distinguished from the law, from the civil authority.²⁶

Enforcement came through the ordinary courts, which could scrutinise the legality of the use of force after the event.²⁷ This legal situation was taught at the Staff College, where it was stressed that self-discipline and the soldier's 'high code' safeguarded him from prosecution.²⁸ Raghavan argues that supervision by the civil power and fear of punishment ensured that the concept became a practical reality.²⁹

²⁰ JSCSC, Army Staff College syllabus, 1945.

²¹ No Author, 'Hints on Internal Security', *British Army Review*, 1 (1949), 54–61.

²² C. J. Gittings, 'The Bertrand Stewart Prize Essay, 1949', *Army Quarterly*, 59 (1950), 161–77.

²³ Wade, 'War Crimes Trials'. ²⁴ JSCSC, Army Staff College syllabus, 1948.

²⁵ JSCSC, Army Staff College syllabus, 1947.

²⁶ War Office, *Manual of Military Law*, 1929 edition, 246. The 1958 edition altered the wording of this paragraph only for clarification's sake. War Office, *Manual of Military Law, Part II*, 8th edn (London: HMSO, 1958), Section V, 1.

²⁷ Townshend, *Civil Wars*, 19. ²⁸ JSCSC, Army Staff College syllabus, 1947.

²⁹ S. Raghavan, 'Protecting the Raj: The Army in India and Internal Security, c. 1919–39', *Small Wars and Insurgencies*, 16 (2005), 259–60.

In his prominent study on British counter-insurgency, Mockaitis asserts that minimum force gradually expanded in doctrine and practice. Initially the *Manual of Military Law* distinguished between riots, where the concept applied, and insurrections, where it did not. Over time the distinction became blurred.³⁰ Moreman concurs by pointing out how 'colonial warfare' transformed into 'imperial policing' after the First World War.³¹ Raghavan places the change in the revised 1929 *Manual*.³² However, in Mockaitis's view a more substantial change arose in the 1934 publication *Notes on Imperial Policing*. The War Office pamphlet stipulated that when fighting rebels away from civilian areas the principle did not come into effect. But when dealing with a riot or other situations where the innocent were mixed in with the guilty, minimum force applied.³³ Arguably the final consolidation between riots and insurrections occurred in 1949 with the publication of *Imperial Policing and Duties in Aid of the Civil Power*. The pamphlet dictated that: no more force shall be applied than the situation demands.³⁴ The impetus for the evolving extension came from changing attitudes in Britain towards violence, evidenced in the public reactions to the Boer War, the Irish War of Independence and the Amritsar massacre.³⁵ As a result the army largely avoided retaliatory measures and the indiscriminate use of force.³⁶

Conceptual weaknesses

There is no denying the common law tradition from which minimum force emerged. However, as Simpson notes, in counter-insurgency situations it came into operation alongside emergency laws, which originated in Ireland in the nineteenth century. These generally suspended incompatible laws, including basic liberties such as *habeas corpus*, so the notion that minimum force worked within a liberal framework is certainly mistaken.³⁷ Carruthers describes the rule of law under Emergency legislation in Kenya as 'sham legalism', and in this respect Kenya was identical to Britain's other colonial campaigns.³⁸

³⁰ Mockaitis, *British Counterinsurgency*, 18, 24.

³¹ T. R. Moreman, *The Army in India and the Development of Frontier Warfare, 1849–1947* (Basingstoke: Macmillan, 1998), xvii.

³² Raghavan, 'Protecting the Raj', 260. ³³ Mockaitis, *British Counterinsurgency*, 24.

³⁴ Cited in *ibid.*, 25. ³⁵ *Ibid.*, 18. ³⁶ *Ibid.*, 27.

³⁷ Simpson, *Human Rights*, 78, 84.

³⁸ Carruthers, 'Being Beastly to the Mau Mau', 494.

From the military perspective, the concept bears a striking resemblance to the principle of economy of force, and as such is less than entirely ethical-legal in origin.³⁹ Similarly, 'Victorian values' should be treated with scepticism. As Ellis insists:

the widespread use of automatic weapons against adversaries armed only with clubs and spears could not by any stretch of the imagination be regarded as fair play. To a large extent, consciences could be calmed by the knowledge that Africans were not quite human, and therefore beyond the pale of Imperialist morality.⁴⁰

Arguments about national characteristics rely heavily on syrupy anecdotal evidence. The assertion that national characteristics remain consistent over centuries ignores alterations to social norms driven by technological developments, immigration and numerous other factors.⁴¹ The Empire and British society were both highly pluralistic, bringing into question the notion of a monolithic 'imperial culture'.⁴² If there was no single imperial culture, condensing national characteristics into two categories (such as pragmatism and Victorian values) is problematic.

The case made by Mockaitis for the ubiquity of the concept, supported by the Staff College syllabus, cannot be entirely refuted. However, he does exaggerate the extent to which minimum force applied in all situations. Official thinking supported much greater latitude in the use of force in dealing with insurrections than riots, and this matters because insurgencies were considered to be insurrections and not riots. For example, even by 1958 the *Manual* stated that: 'The existence of an armed insurrection would justify the use of any degree of force necessary effectually to meet and cope with the insurrection.'⁴³ Official doctrine and practice allowed a far greater degree of force to be used in the colonies than in the United Kingdom. Importantly, the key 1949 publication noted how: 'The degree of force necessary and the methods of applying it will obviously differ very greatly as between the United Kingdom and places overseas.'⁴⁴ As Mockaitis admits, two standard textbooks taught at Sandhurst and the Staff College advocated harsh early action to nip trouble in the bud, in contrast to the minimum force concept.⁴⁵ In addition the Colonial Office admitted that the concept clashed with British practices in the colonies:

³⁹ Jochnick and Normand, 'The Legitimation of Violence', 4.

⁴⁰ J. Ellis, *The Social History of the Machine Gun* (London: Pimlico, 1993), 106.

⁴¹ Thornton, 'Understanding the Cultural Bias of a Military', 74.

⁴² A. Thompson, *The Empire Strikes Back? The Impact of Imperialism on Britain from the Mid-Nineteenth Century* (Harlow: Pearson Education, 2005), xiv.

⁴³ War Office, *Manual of Military Law, Part II*, 1958 edn, section V, 10.

⁴⁴ War Office, *Imperial Policing*, 5. ⁴⁵ Mockaitis, *British Counterinsurgency*, 26.

a number of Colonies (notably in Africa) have on their Statute Book collective punishment Ordinances which provide that this form of punishment may be used to deal with offences such as cattle stealing and the like ... There are, however, the more difficult cases of the present disturbances in Malaya, and (to quote the most obvious example) the use of punitive bombing in the Aden Protectorate ... what might be described as 'collective punishment' *has* been used [in Malaya] – e.g., the burning of villages, and so on – and may well be used again.⁴⁶

The 1949 pamphlet recognised that collective punishment contravened minimum force and also the Hague Convention, but regarded the consequent hardships as 'inevitable' and 'a necessity'.⁴⁷

Another weakness with the concept reflected the problem with military necessity in international law. The concept was always limited by the question of who decided exactly what the term meant: the military commander present at the time. As only a soldier was in a position to know the power of his weapons, and the commander was present at the critical moment, he alone could decide how much force to use.⁴⁸ What minimum force meant was uncertain, and therefore arbitrary. This was partially inevitable as the circumstances of each particular case obviously varied.⁴⁹ In addition, although advocates claim that soldiers remained answerable to the civil courts, in practice commanders and soldiers were hardly ever called to account after putting down insurrections.⁵⁰ The 1947 Staff College course taught its students that so long as commanders believed their actions to be right, they should not fear an inquiry into their conduct.⁵¹ In order to protect soldiers who had used force, the government usually passed an Act of Indemnity.⁵² This was 'a statute intended to make transactions legal which were illegal when they took place, and to free the individuals concerned from legal liability'.⁵³ Therefore the idea that the military were subject to rigorous civilian oversight and dreaded prosecution is misleading.

The organisational concept of minimum force partially compensated for the lack of interest in international law within the British Army. The concept derived from common law, was adopted for ethical and pragmatic reasons, found clear doctrinal and educational expression and was

⁴⁶ TNA, LCO 2/4309: Letter from Trafford Smith, Colonial Office, to C. G. Kemball, Foreign Office, 25 June 1949. Emphasis in original.

⁴⁷ War Office, *Imperial Policing*, 35.

⁴⁸ JSCSC, Army Staff College syllabus, 1947. 'Commander' denotes anyone in command of other soldiers, potentially anyone from a field marshal to a lance-corporal.

⁴⁹ JSCSC, Army Staff College syllabus, 1947. ⁵⁰ Simpson, *Human Rights*, 61.

⁵¹ JSCSC, Army Staff College syllabus, 1947.

⁵² The double amnesty of January 1955 was effectively an Act of Indemnity for the security forces.

⁵³ JSCSC, Army Staff College syllabus, 1949.

bounded by civilian oversight. However, the concept is generally over-emphasised in accounts of British counter-insurgency. Emergency laws were widely permissive, the concept's ethical origins cannot be taken seriously, and it did not apply fully in insurrections or in the colonies. Widespread practices such as collective punishment were contradictory, and the commander could use almost any degree of force with impunity.

Exemplary force in British military thought and practice

A major argument in this book is that the role of minimum force has been exaggerated, at the expense of the equally important notion of exemplary, punitive force, characterised by a rapid, and harsh, response to rebellion which punished the general population and aimed at dissuading others from revolting. How exemplary force played a role in British responses to colonial rebellions is explored in two ways. First, by examining two key (though strictly speaking unofficial) doctrinal publications, showing the relationship between the use of force and the need to 'nip trouble in the bud'. Second, by re-examining three examples espoused by minimum force advocates: the Boer War, India (especially the Amritsar massacre) and the Irish War of Independence. Following this, similar examples from elsewhere in the Empire are provided to show that the practices found in these cases were commonplace. Finally, the chapter looks at some events in Kenyan history, establishing several trends which re-emerged in the Mau Mau Emergency. Regiments seldom received training in colonial warfare before going overseas, and lessons learnt were seldom recorded for the benefit of future generations.⁵⁴ Therefore the conflicts examined here constituted a traditional way of countering rebellion. They were the army's living memory about how to crush revolts in the Empire, engrained in regimental and personal recollections, ready to be drawn on anew when troops deployed to Kenya in 1952.

Exemplary force in theory

Charles Callwell was the British Army's most influential, and systematic, thinker on 'Small Wars'. His 1896 treatise, *Small Wars: Their Principles and Practice*, received official endorsement from the CIGS.⁵⁵ Callwell

⁵⁴ T. R. Moreman, "“Small Wars” and “Imperial Policing”: The British Army and the Theory and Practice of Colonial Warfare in the British Empire, 1919–1939", *Journal of Strategic Studies*, 19 (1996), 108; Moreman, *Army in India*, xix.

⁵⁵ Callwell, Sir Charles Edward (1859–1928), by T. R. Moreman, *Oxford Dictionary of National Biography* (Oxford University Press, 2008), online edition, at www.oxforddnb.com/view/article/32251, accessed 31 May 2011.

studied conflicts where regular troops fought irregular fighters, or 'savages' who came from 'semi-civilised races'.⁵⁶ Unlike in conventional war, where the object was to destroy the enemy's centre of gravity – his armed forces – small wars affected the entire population. This often involved confiscating cattle and burning villages, which Callwell recognised might 'shock the humanitarian'.⁵⁷ These 'punitive measures' would force the opponent either to fight in the open, and thus be destroyed in battle, or submit to British rule.⁵⁸ Callwell thought that severe actions at the outset to 'crush the enemy' eventually proved more humane, because they prevented a long and troublesome campaign from developing.⁵⁹ In any case, the 'lower races' only understood the language of force, and 'attribute[d] leniency to timidity'.⁶⁰

Charles Gwynn was another highly influential writer on countering rebellion in the colonies, who served as Commandant of the Army Staff College from 1926 to 1931.⁶¹ He differed from Callwell in advocating minimum force for practical and moral reasons. Excessive severity might foster lasting antagonism, and soldiers should always remember that rebels were fellow citizens in the Empire.⁶² However, Gwynn believed that 'the power and resolution of the Government forces must be displayed'.⁶³ During rebellions, government forces typically encountered difficulties in fixing individual responsibility for acts such as sabotage, and it was frequently 'necessary to deal with them by collective punishments'.⁶⁴ If reprisals were undertaken, they should be officially authorised.⁶⁵ Gwynn agreed with Callwell in recommending prompt offensive action to restore order at the beginning of a revolt.⁶⁶ Otherwise, enemy leaders gained in confidence and were able to attract more followers to their cause.⁶⁷ Gwynn suggested balancing exemplary, punitive action with minimum force:

Allied with the principle of the minimum use of force is that of firm and timely action. Delay in the use of force, and hesitation to accept responsibility for its employment when the situation clearly demands it, will always be interpreted as

⁵⁶ C. E. Callwell, *Small Wars: Their Principles and Practice*, 3rd edn (London: University of Nebraska Press, 1996), 21.

⁵⁷ *Ibid.*, 40. ⁵⁸ *Ibid.*, 145. ⁵⁹ *Ibid.*, 74. ⁶⁰ *Ibid.*, 72, 148.

⁶¹ Gwynn, Sir Charles William (1870–1963), by G. Sinclair, *Oxford Dictionary of National Biography* (Oxford University Press, 2010), online edition, at www.oxforddnb.com/view/article/98221, accessed 31 May 2011.

⁶² C. W. Gwynn, *Imperial Policing*, 2nd edn (London: Macmillan, 1939), 5, 14.

⁶³ *Ibid.*, 5. ⁶⁴ *Ibid.*, 23. ⁶⁵ *Ibid.*, 24. ⁶⁶ *Ibid.*, 383. ⁶⁷ *Ibid.*, 385.

weakness, encourage further disorder and eventually necessitate measures more severe than those which would suffice in the first instance.⁶⁸

As noted earlier, this type of argument mirrored the logic inherent in *Kriegsraison* at the international level.⁶⁹ The British normally described the idea as 'nipping trouble in the bud'.⁷⁰ A foremost advocate who killed Africans as though on an enjoyable country shoot at the beginning of the century, Richard Meinertzhagen, outlined the rationale behind the idea:

In the long run, inflicting heavy casualties on an enemy will shorten the duration of a conflict, it will teach a lesson and will result in a more enduring peace than less violent measures.⁷¹

Callwell advocated awing the population with force in such a fashion.⁷² Because the Empire lacked enough men to police every area, British power rested not only on prestige and credibility, but ultimately on fear.⁷³ There were two elements to the punitive use of force early in a revolt. First, advocates such as Callwell and Meinertzhagen thought that awing the population with overwhelming (and indiscriminate) force was the most effective means of avoiding protracted conflict. Second, this was desirable because the Empire was too vast for extended fighting commitments in many areas simultaneously; thus a quick, sharp shock prevented manpower problems from arising. The collapse of Ottoman Turkey and the resulting expansion of the British Empire exacerbated the problem.⁷⁴ Even by the end of the 1940s, when approximately 300,000 personnel were involved in extra-European defence commitments, military overstretch caused headaches for strategic planners. Employing force punitively at an early stage prevented Britain from

⁶⁸ *Ibid.*, 15.

⁶⁹ Hew Strachan suggests there was a relationship between the nature of colonial violence and the emergence of total war in the twentieth century: H. Strachan, 'Total War in the Twentieth Century', in A. Marwick, C. Emsley and W. Simpson (eds.), *Total War and Historical Change: Europe 1914–1955* (Buckingham: Open University Press, 2001), 264–5. The literature on total war is large, and growing. For a review, see W. Mulligan, 'Review Article: Total War', *War in History*, 15 (2008), 211–21.

⁷⁰ Simpson, *Human Rights*, 53.

⁷¹ R. Meinertzhagen, *Kenya Diary 1902–1906* (London: Welbeck Street, 1957), vi.

⁷² N. Collett, *The Butcher of Amritsar: General Reginald Dyer* (London: Hambledon and London, 2005), 436.

⁷³ D. Reynolds, *Britannia Overruled: British Foreign Policy and World Power in the Twentieth Century* (London: Longman, 1991), 29.

⁷⁴ D. Omissi, 'Britain, the Assyrians and the Iraq Levies, 1919–1932', *Journal of Imperial and Commonwealth History*, 17 (1989), 301; see also D. French, 'Big Wars and Small Wars between the Wars, 1919–39', in H. Strachan (ed.), *Big Wars and Small Wars: The British Army and the Lessons of War in the Twentieth Century* (London: Routledge, 2006), 36–53.

'losing face', providing a lesson for those elsewhere in the Empire who might consider challenging British rule.⁷⁵

The relationship between limiting manpower and financial commitments and punitive force is clearest when considering air power. After the First World War, several large garrisons were slowly replaced by the new system of 'air control'.⁷⁶ As David Killingray argues, air control operations against 'uncivilized' opponents, such as Kurds, Afridis, Somalis and Sudanese, permitted the indiscriminate use of machine-guns and aerial bombardment that was politically unacceptable against 'civilized' opponents, such as the Irish in 1919–21.⁷⁷ Air control adherents employed euphemisms such as 'salutary moral effect', and officials removed references to civilian casualties to obfuscate the indiscriminate, destructive reality.⁷⁸ In effect, air control relied upon exemplary, terrorising violence.⁷⁹

At the beginning of the twentieth century punitive expeditions were the tool most often taken up to nip trouble in the bud. During these operations the security forces marched through the miscreant area burning villages and crops, confiscating cattle and sheep and fighting with the inhabitants. Those spared an immediate death risked starvation resulting from the destruction of their livelihoods.⁸⁰ Even by 1957 General Lathbury, Erskine's successor in Kenya, expressed his support for the idea: 'It is often kinder to take strong measures in the beginning and so avoid subsequent loss of life.'⁸¹ The logic behind 'nipping trouble in the bud' advanced punishing a recalcitrant population and taking revenge on them for misdeeds (*Notes on Imperial Policing* advised this).⁸² Destroying property and people warned others what to expect if they stepped out of line. In general terms, mass killing is more likely when policing resources are overstretched, the territory is regarded as a vital

⁷⁵ S. Croft, A. Dorman, W. Rees and M. Uttley, *Britain and Defence 1945–2000: A Policy Re-evaluation* (Harlow: Pearson Education, 2001), 31–2.

⁷⁶ Omissi, 'Britain, the Assyrians and the Iraq Levies', 301. See also D. Omissi, 'Technology and Repression: Air Control in Palestine 1922–36', *Journal of Strategic Studies*, 13 (1990), 41–63.

⁷⁷ D. Killingray, "'A Swift Agent of Government": Air Power in British Colonial Africa, 1916–1939', *Journal of African History*, 25 (1984), 432.

⁷⁸ A. Clayton, *The British Empire as a Superpower, 1919–39* (London: Macmillan, 1986), 80.

⁷⁹ P. Satia, 'The Defense of Inhumanity: Air Control and the British Idea of Arabia', *American Historical Review*, 111 (2006), 16–51.

⁸⁰ D. Killingray, 'The Maintenance of Law and Order in British Colonial Africa', *African Affairs*, 85 (1986), 434.

⁸¹ Lieutenant-General Sir Gerald Lathbury, *Foreword* in Meinertzhagen, *Kenya Diary*, vii.

⁸² Simpson, *Human Rights*, 63; K. Jeffery, 'Colonial Warfare 1900–39', in C. J. McInnes and G. Sheffield (eds.), *Warfare in the Twentieth Century: Theory and Practice* (London: Unwin Hyman, 1988), 37.

interest, the victims cannot retaliate effectively and there is little chance of outside intervention.⁸³ Many of these conditions existed in the twentieth century, as Britain decolonised reluctantly and often only after a bitter fight.⁸⁴ They certainly prevailed in Kenya, which was regarded as a vital strategic base, with Mombasa commanding the Indian Ocean.⁸⁵

There is a weight of evidence illustrating how the British lacked sufficient manpower to police the Empire according to the minimum force concept. There were frequently critical deficiencies in resourcing defence policy in the post-war period.⁸⁶ In the short term before the Kenya Emergency the Conservative government cut defence spending, because the level of expenditure was damaging the economy and hindering post-war recovery.⁸⁷ However, the manpower problem was a long-term headache for all British governments, with the army suffering manpower shortages throughout the eighteenth and nineteenth centuries.⁸⁸ The shortfall arose from maintaining an over-extended empire without the concomitant commitment of resources.⁸⁹ The lack of resources argument can, however, be pushed too far. In 1950 Britain initiated, with American support, a massive rearmament programme, while maintaining a large conscript army.⁹⁰ In addition by 1952 arms production exceeded that of all Britain's European NATO allies combined, so the cuts started from a very high level of production.⁹¹ At least in the 1950s Britain could hardly have devoted any more resources to the military without ruining the country's finances. The Empire demanded manpower, and the government used several techniques to stretch resources. These included adopting the latest high-technology equipment as a force multiplier, pursuing burden-sharing with allies, seeking arms limitation agreements, appeasing potential enemies and adopting

⁸³ B. A. Valentino, *Final Solutions: Mass Killing and Genocide in the Twentieth Century* (London: Cornell University Press, 2004), 89–90.

⁸⁴ F. Furedi, *Colonial Wars and the Politics of Third World Nationalism* (London: I. B. Tauris, 1994), 9.

⁸⁵ Reynolds, *Britannia Overruled*, 189.

⁸⁶ J. Baylis, *British Defence Policy: Striking the Right Balance* (Basingstoke: Macmillan, 1989), xi.

⁸⁷ R. N. Rosecrance, *Defense of the Realm: British Strategy in the Nuclear Epoch* (London: Columbia University Press, 1968), 156; J. Baylis and A. Macmillan, 'The British Global Strategy Paper of 1952', *Journal of Strategic Studies*, 16 (1993), 200.

⁸⁸ D. French, 'Have the Options Really Changed? British Defence Policy in the Twentieth Century', *Journal of Strategic Studies*, 15 (1992), 54. For a rigorous reassessment of British military policy after the Second World War, see D. French, *Army, Empire, and Cold War: The British Army and Military Policy, 1945–1971* (Oxford University Press, 2012).

⁸⁹ M. Dockrill, *British Defence since 1945* (Oxford: Basil Blackwell, 1988), 11.

⁹⁰ Rosecrance, *Defense of the Realm*, 152.

⁹¹ C. J. Bartlett, 'The Military Instrument in British Foreign Policy', in J. Baylis (ed.), *British Defence Policy in a Changing World* (London: Croom Helm, 1977), 30–6.

deterrence strategies.⁹² Employing local security forces also proved cheaper than sending British soldiers abroad. In colonial counter-insurgencies the machine gun ‘offered the most economical solution to the problem of keeping down the whole population of a continent with small bodies of police and soldiers’.⁹³ In this sense, exemplary force resulted from the perennial British refusal to match commitments to resources.

Exemplary force in practice – the Boer War

The twentieth century opened with the British Army accused of practising scorched earth policies, rape, looting, summary execution and operating deadly concentration camps in South Africa.⁹⁴ Selecting the Boer War as a case supporting the importance of minimum force is quite odd. Huge forces were sent on large-scale operations, deploying superior firepower and waging war against non-combatants. Liberal leader Sir Henry Campbell-Bannerman’s urge to denounce the ‘methods of barbarism’ had virtually no impact upon the war’s conduct.⁹⁵ These methods prompted introspection amongst some army officers, who doubted their morality, without being moved to resistance.⁹⁶ While some claims against the army, such as raping Boer women during the guerrilla phase, cannot be fully substantiated, there is little question that there were such incidents.⁹⁷ Similarly, the precise cost in lives exacted by the official policy of summarily executing irregulars in British uniforms is unknown.⁹⁸ The military police experienced trouble in restraining the troops from looting and drunkenness.⁹⁹ These problems may have arisen partly from weak discipline, but were hardly out of place when policy demanded war against civilians on the veldt. The farm-burning policy,

⁹² French, ‘Have the Options Really Changed?’, 51.

⁹³ Ellis, *Social History of the Machine Gun*, 92.

⁹⁴ K. Surridge, ‘Rebellion, Martial Law and British Civil-Military Relations: The War in Cape Colony 1899–1902’, *Small Wars and Insurgencies*, 8 (1997), 35–60. Helpful works on the Boer War include M. M. Evans, *Encyclopedia of the Boer War, 1899–1902* (Oxford: ABC-Clio, 2000); D. Lowry (ed.) *The South African War Reappraised* (Manchester University Press, 2000); B. Nasson, ‘Waging Total War in South Africa: Some Centenary Writings on the Anglo-Boer War’, *Journal of Military History*, 66 (2002), 813–28.

⁹⁵ D. Judd and K. Surridge, *The Boer War* (London: John Murray, 2003), 4.

⁹⁶ K. Surridge, ‘“All you soldiers are what we call pro-Boer”: The Military Critique of the South African War, 1899–1902’, *History*, 82 (1997), 591–3.

⁹⁷ Judd and Surridge, *The Boer War*, 11.

⁹⁸ B. Vandervort, *Wars of Imperial Conquest in Africa, 1830–1914* (London: UCL Press, 1998), 188. It should be noted that combatants wearing enemy uniforms in battle are not normally protected by international law.

⁹⁹ E. M. Spiers, *The Late Victorian Army 1868–1902* (Manchester University Press, 1992), 323.

started in June 1900, produced over 600 burnt homesteads by November in the Orange Free State region alone. The policy came directly from the punitive mentality, aimed at punishing the families of rebels.¹⁰⁰ Eventually around 30,000 farms were partly or completely destroyed, along with about forty towns.¹⁰¹

In early March 1900 the troops began systematic drives through the countryside, trying to catch guerrillas while simultaneously taking everything that might support them, from horses, cattle and sheep to women and children. Whether the scorched earth and population movement policies worked will long stay open to dispute; nevertheless they were officially sanctioned.¹⁰² Women and children picked up from the veldt, the families of prisoners of war or those made homeless by the burning campaign found themselves in concentration camps. Established in the summer of 1900 they contained around 160,000 people at their peak.¹⁰³ These camps came under the army chain of command. From the outset they were deliberately constructed and run on the cheap. Lord Kitchener, the Commander-in-Chief in South Africa, hoped that the tough living conditions endured by the inmates would encourage guerrillas to surrender. Accordingly, the families of those who surrendered received improved rations.¹⁰⁴ For many, however, these improvements came too late. Overcrowding, insanitary conditions, a poor diet and bad planning left the women and children highly susceptible to numerous lethal diseases. Measles, typhoid, jaundice, bronchitis, malaria and pneumonia swept the camps. In the month of October 1901, 3,156 people died as a result.¹⁰⁵ Despite the efforts of campaigners such as Emily Hobhouse and Millicent Fawcett, the military failed to act quickly enough. Approximately 28,000 Boers and at least 17,000 black Africans died in the camps.¹⁰⁶ Kitchener did not halt incoming inmates until mid-December 1901, and although apologists argue that he never aimed at genocide, his actions were grossly negligent.¹⁰⁷ Stephen Miller's research on the army in South Africa reveals that soldiers regularly refused Boer irregulars quarter, shooting those attempting to surrender.¹⁰⁸

¹⁰⁰ Judd and Surridge, *The Boer War*, 191.

¹⁰¹ A. Wessels, 'Afrikaners at War', in J. Gooch (ed.), *The Boer War: Direction, Experience and Image* (London: Frank Cass, 2000), 101.

¹⁰² T. Pakenham, *The Boer War* (London: Abacus, 2003), 493, xvii.

¹⁰³ Judd and Surridge, *The Boer War*, 194. ¹⁰⁴ Pakenham, *The Boer War*, 494–5.

¹⁰⁵ Judd and Surridge, *The Boer War*, 194. ¹⁰⁶ Wessels, 'Afrikaners at War', 102.

¹⁰⁷ Pakenham, *The Boer War*, 494–5, 548.

¹⁰⁸ S. M. Miller, 'Duty or Crime? Defining Acceptable Behaviour in the British Army in South Africa, 1899–1902', *Journal of British Studies*, 49 (2010), 311–31.

Exemplary force in practice – British India

The second case mentioned by Mockaitis concerning minimum force is the 1919 massacre at the Jallianwallah Bagh in Amritsar, considered here alongside operations in India in general.¹⁰⁹ Since the massive repression seen in the 1857 Indian Mutiny, the British had regularly responded with severity, such as in the punitive operations against the Kuki tribes on the North-East Frontier from November 1917 to March 1919.¹¹⁰ Dominant attitudes among the British ruling class in India regarded the country as outside European laws of morality, and by 1919 restraint was viewed as an obstacle to the enforcement of military power.¹¹¹ The Mutiny's shadow loomed large, and exemplary force warned the population against wide-scale rebellion.¹¹² The massacre at the Jallianwallah Bagh in 1919, when 379 peaceful protesters were killed and hundreds of wounded were left untended, was not a singular event but part of a longer tradition of repression.¹¹³ Even in the immediate circumstances this one act did not stand alone. In the following days and weeks systematic repression was applied in large areas of the Punjab. Collective punishments, public floggings without trial and the notorious 'crawling order' prevailed.¹¹⁴ These and other measures served to facilitate punishment and set an example rather than control disorder, which had already largely stopped.¹¹⁵

Minimum force advocates have seen Amritsar as an aberration, but also as a major catalyst in solidifying the concept's dominance within British doctrine and practice.¹¹⁶ Mockaitis attributes this change to the public reaction against the massacre. However, this perspective is flawed. Although martial law was subsequently declared less often, the emergency powers system that took its place allowed the military equal, if not greater, freedom of action.¹¹⁷ Even assuming that the army learnt lessons from the massacre, the impact may have been localised and remained with the

¹⁰⁹ Mockaitis, *British Counterinsurgency*, 21–5.

¹¹⁰ Moreman, "Small Wars" and "Imperial Policing", 120.

¹¹¹ S. Narain, *The Historiography of the Jallianwalla Bagh Massacre* (South Godstone: Spantech and Lancer, 1998), 51; Collett, *The Butcher of Amritsar*, 435.

¹¹² Narain, *Historiography*, 22; D. Sayer, 'British Reaction to the Amritsar Massacre 1919–1920', *Past and Present*, 131 (1991), 131.

¹¹³ Sayer, 'British Reaction to the Amritsar Massacre', 132, 134. ¹¹⁴ *Ibid.*, 141.

¹¹⁵ *Ibid.*, 143. For a reinterpretation which views the use of force as reasonable in the circumstances, see N. Lloyd, *The Amritsar Massacre: The Untold Story of One Fateful Day* (London: I. B. Tauris, 2011).

¹¹⁶ Thornton, 'Understanding the Cultural Bias of a Military', 120–1. Here he draws on McInnes, *Hot War, Cold War*; Strachan, *The Politics of the British Army* and Mockaitis, *British Counterinsurgency*.

¹¹⁷ Simpson, *Human Rights*, 70.

army in India.¹¹⁸ Research by Simeon Shoul indicates that after Amritsar the approach to riot control remained ‘inadequate, lacking in necessary self-analysis, over-rigid in its methodology, inconsistently trained for, and tragically resistant to change’.¹¹⁹ The caution following the massacre was real but very short-lived.¹²⁰ The killing of forty-seven people during the 1935 Karachi riots shows that the impact of Amritsar faded with time.¹²¹ As the Indian government pursued its own imperial policy, so the army existed as an almost entirely separate organisation.¹²² Training and doctrine in India followed a distinctive pattern, and lessons adopted there were not systematically circulated throughout the rest of the empire.¹²³

The Hunter Committee, which investigated Brigadier-General Dyer’s actions, censured him for using excessive force in a riot situation. Doctrine still permitted ‘any degree of force necessary’ for dealing with insurrections. Although the Hunter Committee and the Indian government reprimanded Dyer, their views were in the minority. Dyer argued that his actions were intended to act as a deterrent because he thought that the entire Punjab was in a state of open rebellion.¹²⁴ While the Cabinet called for his resignation, neither Dyer nor the Governor of the Punjab, O’Dwyer, faced any punishment.¹²⁵ The CIGS, along with many other officers, supported Dyer, as did most Europeans in India and large portions of the British public. The *Morning Post* raised a substantial sum from its readers for Dyer’s benefit. Indeed, the public and parliamentary outrage in Britain after the massacre concerned the perceived injustices done to Dyer.¹²⁶ This continued for some time; in 1924 O’Dwyer won a libel action which concluded that Dyer had acted properly under the circumstances.¹²⁷ The punitive and exemplary nature of the massacre could be seen in later events. Punitive operations were conducted in Waziristan during the winter of 1919–20.¹²⁸

¹¹⁸ Raghavan, ‘Protecting the Raj’, 253.

¹¹⁹ S. Shoul, ‘In Aid of the Civil Power: The British Army’s Riot Control Operations in India, Egypt, and Palestine, 1919–1939’, paper presented at the ‘Britons at War: New Perspectives’ conference, University of Northampton, 21 April 2006. See also S. Shoul, ‘Soldiers, Riots, and Aid to the Civil Power, in India, Egypt and Palestine, 1919–1939’ (doctoral thesis, University College London, 2006).

¹²⁰ Omissi, *Sepoy and the Raj*, 219. ¹²¹ Shoul, ‘In Aid of the Civil Power’.

¹²² P. Darby, *British Defence Policy East of Suez 1947–1968* (Oxford University Press, 1973), 2; Moreman, *Army in India*, xx. For further on defence policy in the Middle East, see D. R. Devereux, *The Formulation of British Defence Policy towards the Middle East, 1948–56* (London: Macmillan, 1990).

¹²³ Moreman, “‘Small Wars’ and ‘Imperial Policing’”, 112, 125, 127.

¹²⁴ Raghavan, ‘Protecting the Raj’, 257–8. ¹²⁵ Collett, *The Butcher of Amritsar*, ix.

¹²⁶ Sayer, ‘British Reaction to the Amritsar Massacre’, 150–1, 157, 159.

¹²⁷ Narain, *Historiography*, 50.

¹²⁸ Moreman, “‘Small Wars’ and ‘Imperial Policing’”, 113.

During another campaign in Waziristan, in 1936–7, villages suspected of supporting insurgents were destroyed.¹²⁹ The authorities thought that the Indian people would interpret hesitation as a sign of weakness; force was the only language the masses could understand. Coercion remained at the heart of British rule in India, including after the fateful events of 1919.¹³⁰

Exemplary force in practice – the Irish War of Independence

The army's practices deviated from minimum force in the Irish War of Independence, from 1919–1921, coming only three years after the 'savage repression' applied during the 1916 Easter Rising.¹³¹ As ever, the army complained about having insufficient troops. Police numbers dropped to dangerously low levels, leading to the evacuation of police stations in troubled areas, with negative consequences for intelligence-gathering. In Ireland the British government adopted a coercive approach and escalated the conflict through pursuing a 'police war' where the division of responsibility between police and army, and the legal framework, remained confused throughout.¹³² Abuses were commonplace, including torture to gain information on the rebels.¹³³ Criticisms concerning the campaign normally focus upon two areas: the conduct of paramilitary forces and the reprisal measures taken.¹³⁴

There were two types of auxiliary forces operating in Ireland. The first were called the 'Black and Tans' because of the unusual uniforms they wore, and fell under the Royal Irish Constabulary (RIC) chain of command. These troops were raised quickly, had little training and no disciplinary code imposed upon them. Their size increased rapidly in 1920 and dramatically changed the war's nature. The second unit, the Auxiliary Division, though technically also part of the RIC, fell under direct War Office command.¹³⁵ Paramilitary excesses were widespread; a

¹²⁹ Moreman, *Army in India*, 160. See also Clayton, *British Empire as a Superpower*, 386–415; G. Kudaisya, "In Aid of Civil Power": The Colonial Army in Northern India, c.1919–42', *Journal of Imperial and Commonwealth History*, 32 (2004), 41–68.

¹³⁰ Omissi, *Sepoy and the Raj*, xviii, 194, 218.

¹³¹ D. Fitzpatrick, 'Militarism in Ireland, 1900–1922', in T. Bartlett and K. Jeffery (eds.), *A Military History of Ireland* (Cambridge University Press, 1996), 396.

¹³² M. Hopkinson, *The Irish War of Independence* (Dublin: Gill and Macmillan, 2002), 51, 49, xix, 53.

¹³³ Clayton, *British Empire as a Superpower*, 87.

¹³⁴ For an important reappraisal, which stresses British military success at the local level, see W. Sheehan, *A Hard Local War: The British Army and the Guerrilla War in Cork, 1919–1921* (Stroud: History Press, 2011).

¹³⁵ Clayton, *British Empire as a Superpower*, 28, 49. For a detailed study, see D. M. Leeson, *The Black and Tans: British Police and Auxiliaries in the Irish War of Independence* (Oxford University Press, 2011).

few examples illustrate their nature. On 20 September 1920 the RIC burned four public houses, forty-nine houses and a factory in Balbriggan, and killed two suspects. The next day in Clare they killed four people and burned twenty-six buildings in Ennistymon, Lahinch and Milltown Malbay. On 11 December 1920 the Auxiliaries set fire to a section of Cork City in reprisal for an attack on their barracks earlier in the day. On 9 February 1921 the Auxiliaries looted and burned property in Trim, County Meath. The same night in Dublin two prisoners were summarily shot in a field in the suburb of Drumcondra. Major-General Hugh Tudor, the police commander in Ireland, refused to impose effective discipline on his men, fearing the impact this might have on morale.¹³⁶ A similar concern would later arise in Kenya. Eventually Brigadier-General Frank Crozier, the Auxiliary commander, and Lieutenant-Colonel J. H. M. Kirkwood, one of his senior officers, resigned in disgust at the protection and encouragement given by their superiors to security force personnel who terrorised the population.¹³⁷ As would happen in Kenya, reluctance to restrain excesses amounted to official endorsement.

Reprisals in Ireland started out as unauthorised occurrences but soon became official policy. The military blamed the police for these actions, with General Sir Nevil Macready asserting that the army only carried out four reprisals during the whole conflict – certainly an understatement.¹³⁸ Reprisals were normally against the whole community and were perceived to be effective, at least in the short term.¹³⁹ High-level discussions about making reprisals official began in September 1920. In early October the Cabinet ordered that burnings stop, but Prime Minister David Lloyd George made clear to Macready that he still favoured the shooting of suspects.¹⁴⁰ The failure to take serious steps to discipline offenders further heightened suspicions that the Cabinet unofficially endorsed the emerging reprisal policy.¹⁴¹ In other words, British forces carried out a counter-murder campaign against Sinn Féin suspects from 1920–1.¹⁴² The army also conducted reprisal tactics, as Bond argues:

In November 1920 the military authorities made the remarkable admission, in an attempt to gain official approval for reprisals, that ‘the troops are getting out of

¹³⁶ C. Townshend, *The British Campaign in Ireland 1919–1921: The Development of Political and Military Policies* (Oxford University Press, 1975), 115, 138, 163–6, 95.

¹³⁷ A. D. Harvey, ‘Who were the Auxiliaries?’, *The Historical Journal*, 35 (1992), 667.

¹³⁸ Townshend, *British Campaign in Ireland*, 96.

¹³⁹ Hopkinson, *Irish War of Independence*, 84.

¹⁴⁰ Townshend, *British Campaign in Ireland*, 119–21.

¹⁴¹ Clayton, *British Empire as a Superpower*, 88.

¹⁴² K. Jeffery, *The British Army and the Crisis of Empire 1918–22* (Manchester University Press, 1984), 85.

control, taking the law into their own hands, and that besides clumsy and indiscriminate destruction, actual thieving and looting as well as drunkenness and gross disorder are occurring'.¹⁴³

To what extent these practices were condoned at a high level naturally remains disputed.¹⁴⁴ In December the government finally authorised the practice which had been taking place with tacit approval for months.¹⁴⁵ The reprisal policy stayed in place for six months and during this time about 150 official reprisals were enacted, according to conservative estimates.¹⁴⁶ Others arrive at a larger figure, with 6 Division alone destroying 191 houses; the total number was probably much higher.¹⁴⁷ The army killed suspects in retaliation as well as destroying buildings, with four separate shootings in Limerick, Fermoy, Tuam and Tipperary in the first half of 1920.¹⁴⁸ Another reprisal was carried out by the 17 Lancers on 29 September 1920 after the IRA attacked their barracks at Mallow in County Cork.¹⁴⁹ On 20 February 1921 a combined Hampshire Regiment and Black and Tans force executed twelve IRA suspects.¹⁵⁰ Certain regiments, such as the East Lancashires, adopted a shoot-to-kill policy. One soldier recalled how when an intelligence officer led them to target a specific person, if he could not be located, the soldiers would take anyone, let him escape and then shoot him running away.¹⁵¹ The Manchester Regiment also shot suspects 'escaping'.¹⁵² The army's penchant for shooting people running away resurfaced in Kenya.

As with all Britain's counter-insurgencies, such tactics operated within a wider repressive legal framework, primarily under martial law and the Restoration of Order in Ireland Act. In December 1920 the government introduced new provisions subjecting anyone carrying arms or ammunition to the death penalty. Separate proclamations sanctioned the use of civilian hostages in military convoys to deter ambushes.¹⁵³ By January 1921 reprisals against property were authorised, again after several months of unofficial practice. As Hart succinctly puts it: 'Sometimes

¹⁴³ B. Bond, *British Military Policy between the Two World Wars* (Oxford: Clarendon Press, 1980), 19. On questions of policy, see also J. R. Ferris, *The Evolution of British Strategic Policy, 1919–26* (London: Macmillan, 1989).

¹⁴⁴ For a forensic examination of reprisals in Cork, see Sheehan, *A Hard Local War*, 24–47.

¹⁴⁵ Hopkinson, *Irish War of Independence*, 82.

¹⁴⁶ Townshend, *British Campaign in Ireland*, 149.

¹⁴⁷ Hopkinson, *Irish War of Independence*, 93.

¹⁴⁸ Townshend, *British Campaign in Ireland*, 96. ¹⁴⁹ *Ibid.*, 117.

¹⁵⁰ P. Hart, *The I.R.A. and Its Enemies: Violence and Community in Cork, 1916–1923* (Oxford: Clarendon Press, 1999), 98. See also P. Hart, *The I.R.A. at War 1916–1923* (Oxford University Press, 2003).

¹⁵¹ Hart, *I.R.A. and Its Enemies*, 95. ¹⁵² *Ibid.*, 96.

¹⁵³ Hopkinson, *Irish War of Independence*, 93.

the houses and shops destroyed belonged to republican families. More often they did not.¹⁵⁴ The army played a central role in suppressing rebellion by punishing the general population for IRA activities.¹⁵⁵

Exemplary force in the wider British Empire

The presence of exemplary force in the British military strategy towards rebellions in South Africa, India and Ireland is therefore evident. The approach extended more widely throughout the Empire. In Asia, the British participated in the combined colonial response to the 1900 Boxer Rebellion in China with punitive raids and the execution of all prisoners.¹⁵⁶ In 1904, during a punitive expedition in Tibet, the 1 Norfolk Regiment suffered only a handful of casualties while inflicting between six and seven hundred deaths on the Tibetans.¹⁵⁷ When the Moplahs rebelled in India in 1919, the state inflicted at least four thousand casualties, and the army was accused of 'extraordinarily cruel' methods, such as shutting prisoners up in railway vans, where they died of suffocation.¹⁵⁸

In the Middle East, the methods for handling the Egyptian uprising in 1919 included flogging, summary execution, house burning and the destruction of crops and livestock.¹⁵⁹ Fifty-seven people were executed by the military.¹⁶⁰ Gwynn argued that these measures were necessary because otherwise the enraged troops would have taken the law into their own hands.¹⁶¹ Whether such drastic measures had official sanction probably mattered very little to those on the receiving end. In 1920 a major revolt erupted in Iraq, requiring fifty-one British infantry battalions, twenty-one artillery batteries, six cavalry regiments and three RAF squadrons for its suppression. British forces put down the rebellion with the punitive use of machine guns, artillery and air strikes. Crops were burnt, fines imposed and at least 63,000 cattle confiscated.¹⁶² The commander during the revolt, General Sir Aylmer Haldane, vigorously implemented Callwell's ideas on punitive columns.¹⁶³

¹⁵⁴ Hart, *I.R.A. and Its Enemies*, 100. ¹⁵⁵ *Ibid.*, 102.

¹⁵⁶ V. G. Kiernan, *Colonial Empires and Armies 1815–1960* (Stroud: Sutton Publishing, 1998), 121.

¹⁵⁷ Ellis, *Social History of the Machine Gun*, 98.

¹⁵⁸ Kiernan, *Colonial Empires and Armies*, 193. ¹⁵⁹ Simpson, *Human Rights*, 67.

¹⁶⁰ Clayton, *British Empire as a Superpower*, 114.

¹⁶¹ Gwynn, *Imperial Policing*, 80. For evidence that troops took the law into their own hands, see Shoul, *Soldiers, Riots, and Aid to the Civil Power*.

¹⁶² Clayton, *British Empire as a Superpower*, 117, 123, 124.

¹⁶³ M. Jacobsen, "Only by the Sword": British Counter-Insurgency in Iraq, 1920', *Small Wars and Insurgencies*, 2 (1991), 358.

Similar methods reappeared in the response to the Arab revolt in Palestine from 1936 to 1939. Policy centred around using violence to intimidate the whole population into submission.¹⁶⁴ Military doctrine permitted collective punishments and reprisals, with property destruction becoming systematic and Arabs being shot at random.¹⁶⁵ Civilians were hauled before military courts, restrictions were placed on movement, collective fines, crop and property destruction and whippings were practised by the army.¹⁶⁶ In Palestine a special joint army–police unit was formed to target Arab rebels. The reputation of these ‘Special Night Squad’ paramilitaries for borderline (and occasionally outright) illegal behaviour, including indiscriminate killings, inflamed resentment of British rule. Security forces placed hostages in trains and in taxis in front of armoured cars to dissuade mine-laying saboteurs.¹⁶⁷ The Palestine police ran several torture centres for six months in 1938–9, one at Allenby barracks.¹⁶⁸ Basing their methods on Ireland and India, the army in Palestine sought ‘to instil the view that resisting British authority would bring swift, harsh retribution’.¹⁶⁹

In Africa indiscriminate force reared its head on many an occasion. Hubert Moyses-Bartlett’s lengthy study of the KAR in the first half of the twentieth century remains the core reference on these operations. Although the author’s personal service in the KAR leads him to largely avoid mentioning enemy casualties and to favour euphemisms such as ‘pacification’, and ‘a sharp lesson’, the notion of ‘British prestige’ being sustained by force is present throughout the work. The familiar policies of stock confiscation, property destruction and ‘severe punishments’ were repeated many times.¹⁷⁰ The century began with a rebellion in the Gold Coast, where military forces conducted punitive operations against villages in the Kumase area for several weeks in September 1900.¹⁷¹ In September of the following year, British-officered forces

¹⁶⁴ Norris, ‘Repression and Rebellion’, 25–45.

¹⁶⁵ Hughes, ‘The Banality of Brutality’, 313–54.

¹⁶⁶ Clayton, *British Empire as a Superpower*, 497, 499. ¹⁶⁷ *Ibid.*, 506.

¹⁶⁸ M. Hughes, ‘A History of Violence: The Shooting in Jerusalem of British Assistant Police Superintendent Alan Sigrist, 12 June 1936’, *Journal of Contemporary History*, 45 (2010), 736.

¹⁶⁹ S. Anglim, ‘Orde Wingate and the Special Night Squads: A Feasible Policy for Counter-terrorism?’, *Contemporary Security Policy*, 28 (2007), 31.

¹⁷⁰ H. Moyses-Bartlett, *The King’s African Rifles: A Study in the Military History of East and Central Africa, 1890–1945* (Aldershot: Gale and Polden, 1956). On policing in Kenya in the first half of the twentieth century, see D. M. Anderson, ‘Policing the Settler State: Colonial Hegemony in Kenya, 1900–1952’, in D. Engels and S. Marks (eds.), *Contesting Colonial Hegemony: State and Society in Africa and India* (London: British Academic Press, 1994), 248–64.

¹⁷¹ Moyses-Bartlett, *King’s African Rifles*, 38.

suppressed a revolt by the Suk and Turkana tribes in Uganda, confiscating hundreds of cattle and around 10,000 sheep and goats.¹⁷² Campaigns were waged against the 'Mad Mullah of Somaliland' until 1904. The British inflicted 'severe punishment' on the Mullah and his supporters, burning villages and taking tens of thousands of sheep and cattle and about a quarter of a million sheep.¹⁷³

In Kenya itself, the KAR crushed the Nandi uprising, lasting from 1895 to 1906, during which period over 100,000 were killed according to one estimate.¹⁷⁴ As Ogot argues, 'colonial rule in Kenya had always been brutal and dirty methods were always used to crush any rebellion'.¹⁷⁵ By 1902 tough measures ruled the day. Meinertzhagen, a KAR officer on the punitive expeditions, vividly described the events on 8 September:

I gave orders that every living thing except children should be killed without mercy ... Every soul was either shot or bayoneted ... We burned all the huts and razed the banana plantations to the ground.¹⁷⁶

Two years later, on 17 March 1904 the population still needed strong measures:

To my mind the people of Embo have not been sufficiently hammered, and I should like to go back at once and have another go at them. During the first phase of the expedition against the Irryeni we killed about 796 niggers, and during the second phase against the Embo we killed about 250. We took from the Irryeni 782 cattle and 2150 sheep and goats, and from the Waembo 498 cattle and 1500 sheep and goats.¹⁷⁷

In the 1905–6 campaign the Nandi lost 1,117 killed, while 16,213 head of cattle were captured besides 36,205 sheep and goats; 4,956 huts and grain stores were burned down.¹⁷⁸ The punitive expedition concerned, one of the largest ever assembled in East Africa, moved the Nandi 'by force' into a new Reserve area, completing the process by August 1906.¹⁷⁹ The KAR pursued punitive expeditions in the Kenya Highlands between 1902 and 1914, such as that against the Kikuyu in 1904, when capturing over 11,000 stock resulted in the 'submission of recalcitrant chiefs'.¹⁸⁰ In 1906 forces in Northern Nigeria shot around

¹⁷² *Ibid.*, 93. ¹⁷³ *Ibid.*, 160–2, 170, 189.

¹⁷⁴ Ogot, 'Review Article: *Britain's Gulag*', 496. See also A. T. Matson, *Nandi Resistance to British Rule 1890–1906* (Nairobi: East African Publishing House, 1972).

¹⁷⁵ *Ibid.*, 495. ¹⁷⁶ Meinertzhagen, *Kenya Diary*, 51. ¹⁷⁷ *Ibid.*, 152.

¹⁷⁸ D. Ellis, 'The Nandi Protest of 1923 in the Context of African Resistance to Colonial Rule in Kenya', *Journal of African History*, 17 (1976), 558.

¹⁷⁹ Moyse-Bartlett, *King's African Rifles*, 201–3. ¹⁸⁰ *Ibid.*, 205, 206–9.

2,000 people, beheading the dead and placing the heads on spikes, and burning villages, as a warning to other tribes.¹⁸¹ Punitive expeditions continued in Nigeria well into the 1920s with similar results.¹⁸² Elsewhere, in East Africa, campaigns intended to 'punish' were waged against the Kisii and Turkana tribes before the First World War, and over 3,000 cattle were confiscated from the Masai at the end of 1918.¹⁸³ The KAR undertook frequent expeditions in Uganda, such as that in October 1904, aimed at teaching 'the troublesome Yobo people a lesson'. In this case the lesson was reinforced by a hundred deaths and around 2,500 stock confiscations.¹⁸⁴ Operations in the north of the country in 1911–12 resulted in hundreds more casualties, over 7,000 cattle taken and numerous huts and fields of crops destroyed.¹⁸⁵ Such activities continued during and, albeit on a smaller scale, after the First World War.¹⁸⁶

Between minimum and exemplary force

A clear pattern of repression standing in direct contradiction to the minimum force concept can be observed in a wide variety of instances in the fifty years prior to the Mau Mau Emergency. Driven by insufficient manpower, the need to rule through fear and sometimes blatant racism, the armed forces employed exemplary force in an indiscriminate manner in order to cow the population into submission. Typical tactics included collective punishment, stock confiscations, summary executions, destruction of property and produce and forced population movement. Although minimum force clearly occupied a central role in British doctrine, the exemplary, punitive use of force received scant mention in official publications. How then can this be squared with its repeated employment in actual operations? A substantial flaw in the optimistic view of minimum force is the reliance upon doctrinal texts. The issue seldom explored in sufficient depth is whether practice conformed with written ideas about what should be done. This chapter has not attempted to totally disprove the existence of minimum force in a pragmatic sense, but instead to show that there was another equally powerful tendency in the British military tradition which co-existed with it.

In the constant interplay between minimum and exemplary force, the latter sometimes dominated, but this has not been properly accounted

¹⁸¹ Vandervort, *Wars of Imperial Conquest*, 187.

¹⁸² Killingray, 'The Maintenance of Law and Order in British Colonial Africa', 420.

¹⁸³ Moyse-Bartlett, *King's African Rifles*, 207, 210, 447.

¹⁸⁴ *Ibid.*, 231–2. ¹⁸⁵ *Ibid.*, 237–42, 246. ¹⁸⁶ *Ibid.*, 417, 436.

for in the counter-insurgency literature. While minimum force can be characterised as a doctrine which was often operationalised, punitive, exemplary force should be thought of as a practical tradition without full doctrinal expression. As Gwynn argues, tradition often became 'the only means of broadcasting experience', and produced 'remarkably satisfactory results'.¹⁸⁷ The army has historically been averse to doctrine, fearing that it might constrain decision-making.¹⁸⁸ Consequently, tradition may represent a more satisfactory explanatory device. Proving a precise causal connection from one conflict to another is problematic, given that creating an 'institutional memory' across the entire army was difficult as a result of the regimental system's counter-centralising influence.¹⁸⁹

Possibly the best way to deal with this methodological issue would be to conduct a series of detailed cohort studies, following the careers of important officers and asking whether previous military experience influenced their behaviour in Kenya. Battalion and company commanders would form the appropriate group in the counter-insurgency context, given the low level at which operations were carried out. Until the relevant personnel data become available at the National Archives, such an endeavour is impossible. Investigations along these lines using information about the careers of battalion commanders from regimental museums produced only three results. Lieutenant-Colonel Robert Glanville commanded 6 KAR in Kenya from April 1953; he had previously served in East Africa in the 1930s.¹⁹⁰ Lieutenant-Colonel David Rose commanded 1 Black Watch in Kenya, having seen action in Palestine from 1937 to 1939.¹⁹¹ Lieutenant-Colonel Basil J. Donlea commanded 7 KAR in Kenya during 1953 and 1954, having earlier fought in Waziristan and on the Indian North-West Frontier from 1938 to 1939.¹⁹² These examples suggest that officers may have been influenced by experience in campaigns of a similar type earlier in their careers.

International law, through inherent flaws and a deliberate government policy, promised few protections to civilians in colonial wars. The British Army's organisational culture, especially as embodied in the concept of

¹⁸⁷ Gwynn, *Imperial Policing*, 6.

¹⁸⁸ H. Strachan, Introduction in H. Strachan (ed.), *Big Wars and Small Wars: The British Army and the Lessons of War in the Twentieth Century* (London: Routledge, 2006), 4.

¹⁸⁹ *Ibid.*, 8; Charters, *The British Army and Jewish Insurgency in Palestine*, 1.

¹⁹⁰ Obituary in the Duke of Cornwall's Light Infantry journal *The Silver Bugle*, summer 2006. Information kindly provided by Major T. W. Stipling, Regimental Secretary and curator of the Light Infantry museum.

¹⁹¹ E-mail to the author from Thomas B. Smyth, Black Watch archivist, 4 October 2006.

¹⁹² E-mail to the author from Captain J. Knox, curator of the Royal Ulster Rifles Museum, 12 October 2006.

minimum force, is supposed to have compensated for the vacuum. This chapter has shown how much thinking about the concept might generally be deemed too optimistic. Emergency laws were extremely permissive of state violence, claims about the ethical origins of the concept were suspect and minimum force did not apply in insurrections or in the colonies. Weak civilian oversight further rendered the concept a poor constraint on military behaviour. Doctrine alone is meaningless, and must be scrutinised by assessing actual practice.

Identifying the exact nature of the causal relationship between the suppression of revolts throughout the Empire in the years preceding the Emergency and activities in Kenya is impossible. But the conflicts analysed here strongly suggest a repeating pattern of behaviour involving stock confiscations, summary justice, collective fines, property destruction and exemplary force. These elements contradict the minimum force doctrine and should probably be considered an equally important countervailing tradition which informed behaviour in Kenya.