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Making the Loyalist Bargain: Surrender, Amnesty and Impunity in Kenya's Decolonization, 1952–63

David M. Anderson

ABSTRACT

In fighting Mau Mau rebels in Kenya between 1952 and 1956, the British armed and deployed an African militia, known as the Kikuyu Home Guard. This article considers the role played by these allies in the counter-insurgency war, looking specifically at amnesty and surrenders. The British held secret talks with Mau Mau leaders in 1954, and again in 1955, to organize rebel surrenders. The politics of surrenders split the Mau Mau movement, and also raised massive opposition amongst white settlers. Amnesty and impunity were inducements to Mau Mau surrenders, but were offered primarily to prevent disaffection and desertion among loyalist Kikuyu African militia allies who feared prosecution for abuses and atrocities carried out during counter-insurgency operations. Loyalist Africans also feared the consequences of rebels returning to their home communities. Amnesty and promises of impunity thus shaped the character of Kenya's counter-insurgency campaign and the decolonization that followed. This was determined by the need for the British to secure the continued support of African allies up to Kenya's independence in 1963, and beyond.

KEYWORDS

Kenya; Mau Mau; counter-insurgency; decolonization; surrenders; amnesty; impunity

Introduction

In all the wars of decolonization fought across Africa and Asia from the 1940s until the 1970s, European colonial powers deployed local forces to battle against armed nationalist groups. These local allied combatants, variously known as auxiliaries, militias or loyalists when drawn together in irregular forces, or sometimes more formally recruited to swell the ranks of police or military reserves, often became a critically important component of colonial counter-insurgencies.¹ Whether providing local knowledge, adding greatly to the intelligence capacity of the military campaign, infiltrating the enemy in support of 'black operations', or driving a wedge through the supposed solidarities of nationalist movements, allied forces of this kind had many uses. But while their utility in the war is clear enough, their status in the making of a peace that would allow the strategic European withdrawal that decolonization demanded presented numerous political hurdles. How should such imperial allies be treated as empire came to its end? Loyal militias were heroes of the colonial state, while nationalists usually saw such people as collaborators, compradors or simple traitors. What future did such groups have after colonialism?

Argument

This article considers the role of one such group, the Kikuyu Home Guard, a so-called 'loyalist' militia, who fought alongside the British against Mau Mau rebels in colonial Kenya in the 1950s. At Kenya's independence in 1963, following the suppression of the rebellion, it was the loyalists who claimed the political victory and filled the ranks of the new African government.² In a critical move that was intended first to ensure victory in the counter-insurgency war, the British made a bargain with their African loyalist allies that involved agreement over the safe surrender of Mau Mau fighters, and that gave amnesty and impunity from prosecution for *both* rebels and loyalist militia. It was the pushing through of this loyalist bargain that allowed Kenya to achieve its independence much earlier than the British had intended after their military defeat of the Mau Mau forces at the end of 1956.

The argument put forward here is that surrenders, amnesty, and impunity were the key elements of the political settlement in Kenya, although they have been controversial topics for all of those writing histories of the Mau Mau rebellion and the British counter-insurgency that suppressed it. The question of surrenders has long perplexed Kenya's nationalist historians, some of whom have been inclined only to present surrenders' as acts of betrayal against the movement.³ But as other nationalist historians acknowledge, this ignores the evidence to be found in the writings of the forest fighters themselves,⁴ and the documentary evidence to be found in the colonial archives,⁵ both of which indicate that senior Mau Mau leaders, including Dedan Kimathi,⁶ opened negotiations with the British to discuss surrender terms. For Kenya's nationalist historians, there are uncomfortable truths to be wrestled with in this history, while for other historians the surrenders are viewed simply as a logical element in colonial strategy.⁷ Huw Bennett, writing of the role of the British army in the Kenya counter-insurgency, has emphasized the importance of surrenders as part of the military campaign devised by General Erskine on taking over command in June 1953.⁸ Erskine saw the offer of surrenders both as a means to undermine Mau Mau solidarity by 'peeling off' reluctant recruits or those who had lost the enthusiasm to endure the hardships of the forests, and as a propaganda tool in which the British military might present themselves as magnanimous and fair to their African enemies⁹ and so counter-act the highly racial presentation of the conflict by Kenya's white settlers.¹⁰ But the surrender offers also had a strong political aspect that reflected far more than the military conduct of the counter-insurgency campaign. Daniel Branch, writing about the role of African 'loyalists' amongst the Kikuyu of central Kenya, has recognized the delicate political predicament faced by loyalist leaders as the rebellion drew to a close, highlighting their need both to protect self-interest and to secure community solidarity in order to sustain a fragile peace.¹¹ His point will be developed, to argue that it was calculations about loyalty, and about the need to build a sustainable peace that secured loyalist domination, that finally shaped the character of surrenders, amnesty, and the granting of impunity.

This article goes further, then, beyond the military strategies of Bennett or the social and economic imperatives highlighted by Branch, to consider the sharp politics of the loyalist bargain, looking at the critical moments in which compromise was forced. The opening section describes the militarization of the countryside that emerged as a consequence of the arming and enlargement of the Kikuyu Home

Guard. This generated antagonisms in the villages of Central Province, with a rising tide of vengeance, retribution and atrocity that by the end of 1954 threatened to overwhelm the rule of law as the Kikuyu Home Guard exploited their position of authority to intimidate, coerce and punish rebel sympathizers. The second part of this article then recounts the history of the three surrender offers made to the Mau Mau rebels between August 1953 and July 1955, demonstrating how these negotiations worked to threaten loyalist security just as they sought to undermine rebel solidarity. While amnesty and impunity could be presented as a significant compromise to entice rebel surrenders, they ultimately became mechanisms elaborated and extended to protect loyalists from prosecutions, thus allowing them to maintain their political and economic status into the future. This loyalist bargain, giving amnesty and impunity to those who fought under the British flag, was forged to ensure that the war could be won but it also set the terms upon which the peace would be made.

Militarizing the countryside

Mau Mau's emergence after 1945 as a radical, and ultimately violent anti-colonial rising, has now been well documented.¹² Like all other revolutionary movements, its first effect was to divide, and not unite, the communities amongst whom it principally sought to recruit. Opposition to Mau Mau was apparent amongst the Kikuyu communities of Kenya's Central Province long before the British declaration of a State of Emergency on 20 October 1952.¹³ Over the increasingly bloody months of 1951 and 1952, the 'stumps'¹⁴ who put themselves in Mau Mau's way were ground down and eliminated by the movement's enforcers and assassins – the victims of this violence were the Tribal Policemen, headmen, locational councillors, prominent church leaders, and indeed anyone else who threatened to expose the movement's oath-taking of adherents and its collections of money across the ridges and valleys of central Kenya. While Mau Mau's agenda was quietly debated and contested everywhere, public opposition to the movement was being hardened in the kiln of violence.

The first public manifestation of Kikuyu 'loyalism' in the face of the 1950s insurrection came in August 1952, with a large meeting called in Kiambu of the self-styled 'Army of God'. By this time, prominent church elders, and also the teachers at church schools, had been targeted by Mau Mau oath administrators, and many among the strongest Kikuyu Christian communities were already feeling threatened by the movement. Leading African Protestant clergy, assisted by some Catholics, organized the Kiambu meeting to show public solidarity against this rising tide of Mau Mau intimidation and violence. Over the following months, church-based groups began to organize local vigilantes to protect their property and their leading personnel from attack. The state moved in to support this development once colonial officers came to realize that a locally-recruited militia, now styled as the 'Home Guard', might have practical utility.¹⁵ By the end of January 1953, only 7,600 Kikuyu men had been recruited into the Kikuyu Home Guard,¹⁶ and there still remained considerable doubt as to how this force should be armed, directed, and controlled. This uncertainty was removed in March 1953, in the wake of the Lari massacre.¹⁷ The attack by Mau Mau upon loyalist homesteads in the Kiambu settlement of Lari was by no means the first to target loyalists, but its scale and brutally chilling character sent a

shiver of fear through those communities who had sought to avoid the growing contestation of Mau Mau's presence. Before Lari, many communities had resisted 'taking sides': after Lari, the dangers of remaining without clear affiliation were obvious, and people flooded into the loyalist fold.

Why did people affiliate with loyalism? As early as 1971, only eight years following Kenya's independence, Bethwell Alan Ogot was the first of Kenya's historians to probe the question of what defined loyalism in these difficult years of insurrection.¹⁸ Ogot identified several types of loyalist, each with differing motivation, but he did not think that any of them were genuine supporters of British colonialism. And only a relatively small portion of those termed Loyalist were thought by Ogot to fit Mau Mau's slur that they were all 'self-seeking scoundrels', taking advantage of the struggle for personal preferment or economic gain. The majority of those who signed up for the loyalist ticket, he argued, were victims of circumstance, drawn into 'loyalty' by the trajectory of pre-Mau Mau patron-client politics, or provoked by simple fear; while others merely responded to the pressures put upon them by the state, and were not, in their hearts, opposed to the aims of nationalism. Finally, Ogot observed that just as Mau Mau itself changed over time, so did the response to it. Not all Mau Mau's deeds had been justified, and some of their excesses – notably the Lari atrocity – had provoked others into opposition. Loyalist vengeance was retaliatory and often severe, and its violence hardened them against the rebels over the bitter months that followed the Lari attack of March 1953. Loyalism, then, was not an ideology, but a predicament, and determined though its adherents might be, they were far from fully committed to the British cause.¹⁹

After Lari, the colonial state moved rapidly to enlarge the loyalist horde, and to strengthen and arm its militia. This became an important element in the security plan for the war against Mau Mau in Central Province. By May 1953, the five battalions of the King's African Rifles deployed in Kenya had been augmented by three battalions of British troops, amounting to a force of 4,500 trained soldiers under General Erskine's command. In addition, the Chief-of-Staff had at his disposal an armoured car squadron and an artillery battery, and a much larger force of reservists and irregulars, of which the Kikuyu Home Guard was the largest element, along with the various branches of the colonial police service.²⁰ From the day of his arrival, Erskine recognized that the reservists, irregulars, and police units of this kind, could not be managed or disciplined in the same manner as fully-trained military units, and so he worked out a plan that would separate military from civilian forces as speedily as possible. At the heart of this plan was the idea that an enlarged military force could confine Mau Mau activity to the forest zones, handing over control of the towns and populated rural countryside to the police and the civil administration and their militias. In essence, Erskine's soldiers would fight Mau Mau in the forests, 'free fire' zones in which the Army could legitimately shoot at any persons they found,²¹ while the colonial administration and police would be left to tackle the so-called Passive Wing in the countryside.

This neat division of responsibility had many attractions from a military perspective, but its unintended consequence would be the militarization of the countryside by armed civilian forces as they struggled to maintain order in circumstances where rebel activities were continuing and could not be easily curtailed. This was a problem Erskine was content to leave to others to resolve.²² It would take him eight months to reach the point where the first areas could be handed over to civilian control: on 12 February 1954, the army handed

over Thika and Fort Hall districts to the civil administration, with the Home Guard and police becoming directly responsible for day-to-day security. Following the success of Operation Anvil in clearing Mau Mau cells out of Nairobi in May 1954, the civil administration and the police rapidly assumed responsibility for security operations in other Kikuyu districts, though it would not be until late in 1956 that the military was able to completely realize Erskine's plan to disengage from civilian areas.²³ Meanwhile, Operation Overdraft, from 11-15 April 1954, saw Kikuyu Home Guard units deployed for the first time in operational roles that had previously been conducted by the military, and from that date forward they increasingly acted in a military fashion, despite their lack of training and their renowned ill-discipline.²⁴ By June 1954, armed Kikuyu loyalists dominated the security arrangements throughout the Central Province.

The scale of armed control of civilian areas that this implied was immense.²⁵ One year after the Lari massacre, in March 1954, the Kikuyu Home Guard reached its peak number of 25,600 recruits, and by then outnumbered the Mau Mau fighters in the forests. Initially armed with spears, machetes, and bows, the vast majority of all Home Guard recruits were issued with rifles by December 1953.²⁶ More than 200 Home Guard posts were constructed in the Central Province by December 1954, these fortified garrisons dominating the rural landscape.²⁷ Home Guard posts were nothing less than military camps, staffed by an armed civilian militia, under the loose supervision of African headmen and European District Officers. Most Home Guard posts were used as interrogation centres and as gaols, where suspects might be held in secure custody. In areas of the countryside where Mau Mau held sway, and where loyalists might fall prey to attack in the dead of night, militiamen and their families crowded into the post as darkness fell. Not surprisingly, therefore, Home Guard posts themselves became primary targets for attack by Mau Mau gangs during 1953 and 1954.

Other security forces augmented the Home Guard militia in the Kikuyu areas. The Kenya Police was greatly expanded during the early phase of the Emergency, contributing further to this militarization of the countryside. Increasing from 7,135 personnel in October 1952 to 11,166 overall by the end of 1953, the number of European officers in the Kenya Police also tripled in this period. Where there had been only four police stations in the Kikuyu Reserves in October 1952, by the start of 1954, there were over 70.²⁸ The Police Reserve also swelled from a pre-Emergency establishment of 2,982 to 8,547 by December 1953, and the Tribal Police, who operated under the authority of the district administration and the African chiefs, almost doubled in size, climbing to 2,195 men. An additional 2,009 African Special Police were recruited for guard duties under the supervision of Police Reservists.²⁹ All of these other arms of state security intermingled with the Home Guard, but only the Home Guard was an exclusively Kikuyu force, the others being dominated by other Africans.

District Officers from the Kenya Regiment held sway over the Kikuyu Home Guard, and had authority over the Chiefs and Headmen who ran the Tribal Police. Recruited from among the colony's European population, the Kenya Regiment had been reconstituted in 1949 to allow white settlers to continue to receive military training without the awkward necessity of conscription.³⁰ In Kenya's Emergency, the Regiment found an entirely new and unanticipated role: officers spoke local languages and so were deployed almost exclusively in intelligence duties and in command of the Kikuyu Home Guard.³¹ These raw and inexperienced young men, mostly in their early 20s,

found themselves by 1953 running a large militarized administration in Central Province, whose primary concern was security and intelligence-gathering. To make this administration work, they relied upon the Kikuyu loyalists: both had strong vested interest in the struggle that confronted them.

From March 1953 until the end of 1954, the Kikuyu Home Guard led the assault upon Mau Mau and their Passive Wing supporters throughout Central Province. Described in this period by one senior official as 'an undisciplined rabble', the Home Guard now gave up the reluctance they had shown in the earlier phase of the war to engage in violence and instead moved against those they felt to be a threat.³² As violence escalated, those who had tried to remain neutral were forced to take sides. This process, termed by Kalyvas as 'the privatisation of politics,' saw the violence become both more intense and more intimate, as Kikuyu Home Guard used the authority of their status to 'settle personal scores.'³³ Much of this violence was local, committed by and against persons who knew one another. And this knowledge, inevitably, fuelled many acts of vengeance. As Branch acknowledges, 'The provincial administration used the Home Guard to sate a widely held European desire for revenge for Mau Mau atrocities.'³⁴ Indiscipline, excess, and abuse became the norm over these months, as the provincial administration allowed the Home Guard to take the fight to the enemy, the very structure of the command of the militia units making allowance for 'local customs' and rejecting too strong a degree of centralized control. Home Guard became responsible for the 'screening' of Kikuyu suspected of Mau Mau sympathy, these interrogations opening the way to considerable abuse. Those suspected of association with the rebels could be committed to periods of detention on the basis of a Home Guard testimony, and without reference to any other kind of evidence. The violence of the screening teams commonly involved the beating of suspects, including the use of a variety of physical tortures. Information on this came to light at the time through a number of legal cases brought against 'screeners,' and further documentary evidence has since been revealed.³⁵ Government directives on the operation of the Kikuyu Home Guard made it clear that their strength lay in their close engagement with the struggle, and that an element of excess was accordingly to be expected.³⁶ Home Guard violence was not 'mistaken', then: rather, it was a functional element of the role they were assigned.

In the best cases, as in many parts of southern Kiambu, the loyalist militia held the ring over an uneasy peace with local rebel sympathizers: in the worst cases, as at Ruthagathi in Nyeri, Kikuyu Home Guard posts by 1954 became centres of extortion and terror over the local population.³⁷ Efforts to build a 'hearts and minds' campaign in the Kikuyu areas fell foul of the tit-for-tat character of the struggle between the rebels and Home Guard that had become entrenched by 1954. Having created a militia to divide the Kikuyu, the British could not then control it. Yet, despite the growing concerns that had already surfaced about violence and abuses in the conduct of the Home Guard, the visit of Lyttleton's parliamentary delegation to Nairobi in January 1954 resulted in the recommendation that the Kikuyu Home Guard be expanded and their role further enlarged.³⁸ As 1954 wore on, the loyalists took a steely grip on the Kikuyu countryside of Central Province, increasingly left by their British paymasters to do whatever was necessary to maintain order and suppress Mau Mau's Passive Wing.

Surrenders and amnesty

Between June 1953 and July 1956, the British operated three different surrender schemes for Mau Mau forest fighters. While the military aspects of these schemes are well understood,³⁹ the political ramifications of surrenders have been largely ignored.⁴⁰ Terrorist surrenders were deeply controversial amongst both Kenya's white settler population, and amongst the Kikuyu loyalist community. The former wanted no concessions to be offered to the rebels, and saw anything short of complete military victory as an admission of British capitulation. The latter had more prosaic fears, anxious lest surrendered rebels might find their way back to their home districts and villages, where their return might fuel further confrontation and violence. Because of this vexed politics, British officials did their best to keep information about the surrender deals away from public scrutiny – a task in which they consummately failed, as we shall see, but that only served to heighten public anxiety and increase rumours about the surrenders and their possible consequences. These concerns built up over the course of the Emergency, as the brief summary that follows of each of the three schemes illustrates.

Surrender offer 1: Green branch, July to December 1953

The use of surrenders as a tactic to destabilize the Mau Mau forest gangs was first advocated with the arrival of General George Erskine as commander-in-chief of the British forces in June 1953, some nine months into the Emergency. Erskine was aware of the need to view the rebellion in political terms, and not to treat it simply as a military problem. 'Unless we deal with the fundamental causes that allowed Mau Mau to grow up and prosper,' Erskine wrote in August 1953, 'we shall get further trouble in a different form.'⁴¹ Surrenders were discussed during the first meeting of the Kenya Intelligence Committee held following Erskine's arrival in Nairobi. Two points were advanced: first, that surrenders had been a useful tactic in the Malayan counter-insurgency; and, that the lack of a strong ideological element among the forest gangs in Kenya might lead to a larger number of surrenders than had occurred amongst Malaya's communists.⁴² Only 29 incidents of voluntary surrender had been recorded by August 1953,⁴³ but the lack of clear operational directive regarding how non-combat surrenders should be handled,⁴⁴ and the mayhem of the campaign in the first five months of 1953 when there were widespread rumours of the mistreatment of captives and even of prisoners being summarily shot,⁴⁵ would obviously have discouraged Mau Mau fighters from giving themselves up. Erskine recognized that greater discipline from the security forces, and clearer regulations governing surrenders would be necessary. But there were other political sensitivities to be guarded against: neither African loyalist militias nor the white settlers were likely to be sympathetic to rebel surrenders. The Intelligence Committee therefore declared that surrenders were to 'be treated as secret', and 'discussed with the utmost discretion and aired as little as possible in Committee minutes.'⁴⁶

This was the first step to what would become known as the Green Branch surrender offer⁴⁷ - so named because rebels were instructed to declare their surrender by carrying a green branch. Instructions issued to military commanders and administrative officers in July 1953 stressed that surrender terms should be made known to the Mau Mau gangs,

but not widely publicized otherwise. 'It will obviously be necessary to brief your Kikuyu Guard Units ... to a certain extent,' instructed Hinde, Erskine's deputy, 'But,' he continued:

it is surrenders to Government Officers, of the Army, Police or Administration, that should be encourage whenever possible. ... Kikuyu Guards should be told to hand on surrendered terrorists and not deal with them themselves, and they should not be told more than is necessary about the surrender policy, in order that they should not become discouraged or disaffected by gaining the impression that surrendered terrorists are being treated too leniently.⁴⁸

British anxiety about the adverse reaction of the Kikuyu Home Guard to the surrenders was thus apparent from the outset, and was just as significant as their concerns about white settler opposition. Incentives would be needed to encourage the rebels to give up, so it was decided that voluntary surrenders would not be prosecuted for Emergency capital offences other than murder, while those who had committed no offence at all would not face any prosecution.⁴⁹ The risks involved in this were clear enough, and Baring, in particular, was especially nervous of white settler opinion. The governor's reluctance initially forced Erskine to stay his hand on full implementation of the offer, but, having worked hard to gain the support of London, Erskine seized upon the opportunity provided by two letters that came to the government in July 1953 from rebel leader Dedan Kimathi. These communications were judged by Special Branch to be authentic, and in a hand they thought they recognized as his own (although it was that of his secretary, Karari Njama). In the letters, Kimathi offered the government a truce, commencing on 1 August 1953. While it was unclear how the rebel leader thought negotiations might develop, the British assumed that he was seeking an amnesty of some kind.⁵⁰

Erskine urged Baring to grasp the nettle by issuing the surrender offer. The decision to initiate the full surrender campaign was reached on 20 August 1953 in the Intelligence Committee. Despite the steps taken to ensure secrecy, within hours rumours were swirling around Nairobi about Kimathi's letters and government 'capitulation.' Settler opinion was rapidly stoked up against what was seen as 'weakness',⁵¹ and Baring was forced to write a hasty note to London to explain why things had been so badly handled.⁵² By the time that Kikuyu Home Guard units throughout Central Province were briefed, on the morning of Sunday 23 August, the colony was already awash with talk of the surrender terms.⁵³

Few rebels took up the surrender offer in the first three weeks, but a further communication arrived from Kimathi, requesting face-to-face negotiations. The government made no response to this suggestion. The reason for this is not entirely clear, but it seems likely that Baring was reluctant to authorize negotiations for fear of further political difficulties with the settlers.⁵⁴ In the weeks that followed, surrenders continued to trickle in, as criticism of the scheme mounted. White settlers and African loyalists made their opposition known, and even senior administrative officers in Central Province were openly critical, suggesting that it implied weakness on the government's part and that a firmer military line should be taken instead.⁵⁵ These officers worried about the reaction of Kikuyu loyalists, who would expect prosecutions and might fear the return of any terrorist to the community. Reassurances were given about prosecutions, but there was a clear apprehension that administrative opposition to the surrender plan might adversely affect its implementation. Strict instructions were therefore given to keep surrendered terrorists separately at police interrogation centres, and not to hand them into the custody of Kikuyu loyalists or

European administration officers, neither of whom could be completely trusted.⁵⁶ In a further step, taken in October 1953, Baring instructed that all surrendered terrorists would be automatically placed under formal Detention Orders – removing the possibility that any might be released into the community.⁵⁷ In the months that followed, Baring continued to reassure settler leaders that no concessions would be granted to anyone known to have committed Emergency offences.⁵⁸

Despite these difficult politics, the intelligence gain to be made from surrendered terrorists was put forward as the key justification for the policy. It was agreed that interrogations of surrendered prisoners should initially be undertaken in forward positions by the army and police units who captured them. These officers classified the surrendered terrorists as 'hard core' or 'soft core.' With these labels attached, surrendered rebels were forwarded to the detention camps, where they would be kept separately from other prisoners – partly to protect their intelligence value, but also with their personal safety in mind: it was always understood that harm might come to surrenders.⁵⁹ Hard-core surrenders were first sent to Kajjado camp, while a new facility was planned at Athi River to house up to 250.⁶⁰ However, intelligence gathered from surrendered rebels revealed that the majority were 'soft core', the preponderance of cases in which the surrenders claimed to have been abducted or coerced into service in the forests being especially striking⁶¹ – this reinforcing Erskine's conviction that the gangs might be easily disrupted and possibly decimated by an effective surrender campaign, but also indicating that surrender held no appeal to Mau Mau's 'hard-core.'

By early February 1954, the Green Branch campaign was floundering. Consideration was given to offering substantial rewards for those bringing in a surrendering rebel, and pleas were made to focus military campaigning on areas where surrender offers and publicity might then be concentrated.⁶² But while there was only 159 surrenders in the six months between August 1953 and February 1954,⁶³ by January 1955 a total of 815 surrenders had been recorded.⁶⁴

Surrender offer 2: Operation Wedgwood, February to April 1954

The capture of General China (Waruhiu Itote), on 15 January 1954,⁶⁵ presented an opportunity to revive the Green Branch surrender. This China scheme is better known than the others, largely because the government failed to maintain secrecy at the time and its ultimate failure was widely reported.⁶⁶ The first senior Mau Mau commander to fall into British hands, the wounded General China had his injuries treated before being interrogated by Kikuyu-speaking Special Branch officer Ian Henderson. This interrogation has become one of the most controversial incidents of the Emergency, marking a significant intelligence break-through for the British, who were able to compile for the first time a clear and detailed understanding of the Mau Mau forest forces and their deployment, but being viewed as an act of betrayal by many Mau Mau supporters who branded China as a traitor.⁶⁷ This accusation took on even greater potency in the weeks following the interrogation, when, after a suggestion from Henderson, China agreed to act as the intermediary in negotiating a mass surrender of Mau Mau fighters.⁶⁸ From the beginning of this process, Governor Baring hesitated, anxious about the possible adverse reaction from Kenya's settlers. He sought approval from London, warning that to pardon China would be likely to raise an outcry from the settlers. But Churchill and the British Cabinet saw the China

capture as opening the door to negotiation and possible surrenders, and urged Baring to seize the initiative.⁶⁹

Reportedly concerned by the high losses the rebel forces were suffering by early 1954,⁷⁰ but almost certainly encouraged by the likelihood of escaping the hangman's noose through his cooperation, on 13 February China was taken to Nyeri, with Henderson, and Operation Wedgwood – the name given the China surrender scheme – was launched.⁷¹ At Nyeri, China composed 26 letters, each addressed to named Mau Mau leaders, urging them to surrender. But amongst Kikuyu there was deep suspicion that China was acting under duress. To thwart the rumours, Henderson paraded China around the locations in which Mau Mau support was strongest, allowing him to walk around and talk to local people. The move helped to build local confidence in the surrender scheme, but it infuriated many district administrators, who reported a devastatingly negative impact on the morale of local Home Guard.⁷²

The responses received in March to China's letters were encouraging, and efforts were made by Special Branch to set up meetings. As the negotiations moved ahead, rumours swirled around Nairobi. Fearing further settler criticism, Baring panicked and on 4 March made a public statement confirming China's role in surrender talks.⁷³ Blundell, settler leader and member of the four-man War Cabinet, had been deliberately excluded from consultation on the surrenders, and now exploded in anger.⁷⁴ So high were feelings running, that Erskine became concerned lest members of the district administration or the security forces, especially Kenya Regiment staff working as District Officers with Home Guard units, might sabotage the operation. On 8 March, the Commander-in-Chief issued a directive, reminding all staff that the intelligence gathered in the surrender operation had already brought considerable gains and that the surrenders, if achieved, would bring a quicker end to the conflict. But the most telling aspect of this intervention was that Erskine felt the need to reassure African Loyalists that surrendered Mau Mau would not be allowed to return to the Reserves, but would be put into detention.⁷⁵ Erskine's anxieties affected the operational arrangements made to handle the surrenders, with explicit instructions being given that no Home Guard units were to be involved in the surrenders in any capacity, with soldiers initially handling rebels who gave themselves up.⁷⁶

With the surrender proposals in place,⁷⁷ on 9 March 1954, China, Henderson and another Special Branch officer met with two prominent representatives of the rebels deep in the forest above Nyeri.⁷⁸ A subsequent meeting was fixed for Nyeri on 20 March, but the rebels failed to attend.⁷⁹ Another Mau Mau leader, General Kaleba, then voluntarily came into Nyeri and asked to see China. This led to formal talks, held in the Provincial Commissioner's office in Nyeri, attended by Kaleba, General Tanganyika, and five other Mau Mau fighters. Windley and Heyman represented the administration and army, respectively, along with Gribble and Henderson from Special Branch. General China acted as the intermediary. The discussion was conducted in Kikuyu, and Henderson translated.⁸⁰ The rebels were told that if they surrendered they would not be prosecuted for crimes, but that they would be detained indefinitely. After the meeting, Kaleba, Tanganyika, and their comrades returned to the forest⁸¹ to consult with others.

Amongst the forest fighters, the surrender offer was hotly debated, with Dedan Kimathi strongly opposing the scheme, while other leaders were inclined to accept.⁸² With no consensus, it was agreed to let individual fighters do as they saw fit. A mass surrender was accordingly organized for 7 April 1954, and a rendezvous point agreed on the forest fringe

at Konyu, in Nyeri. On the day before the planned surrender around 1000 rebels had already gathered at Konyu, with another 600 reportedly on their way there under the command of Kaleba. The next day, a section of the Mau Mau forces assembling for the surrender strayed across the forest boundary at Githuini, and were immediately attacked by a King's African Rifles (KAR) reconnaissance patrol. As gun-fire sprayed the rebels, others in the forest heard the commotion and fled. The surrender scheme was wrecked. The commander of the KAR patrol denied accusations that he had purposefully sabotaged the surrender, and Erskine never publicly criticized him, but the white settlers celebrated.⁸³ On the rebel side, Njama records that 'China's negotiations were Government lies and a great attempt to capture the best leaders,'⁸⁴ while even China himself conceded the 'even the Loyalist Home Guard was convinced that [he] had betrayed his own people.'⁸⁵

As Operation Wedgwood came to an end, General China was returned to jail, now an enemy of both the British and his former Mau Mau comrades.⁸⁶ Capitalizing upon the intelligence he had provided, between 11 and 15 April 1954, the Kikuyu Home Guard rounded-up 1,200 members of Mau Mau's Passive Wing, including oath administrators, recruiters, treasurers, and food suppliers. All had been identified from General China's interrogation. Throughout the entire Emergency, only Operation Anvil, mounted against the Mau Mau organization in Nairobi, would have a greater impact in destroying rebel capacity,⁸⁷ and at no other time would the loyalists enjoy such wholesale success against their enemies.

Surrender offer 3: The double amnesty, January to June 1955

The third surrender offer, issued in January 1955, stemmed directly from the 'militarization of the countryside' and the violent conduct of loyalist Home Guard units in Central Province. Concerns about Home Guard violence had grown throughout 1953 and became acute in the early part of 1954. In April 1954, only three months after Lyttleton had authorized the further expansion of the Home Guard and an extension of their military duties in civilian areas, Kenya's Commissioner of Police, Arthur Young, set up a special investigation unit within the Criminal Investigation Department (CID) to look into abuses by those in government employment. Coming out to Kenya in September 1953, with experience from Malaya, Young was a policeman who knew what a counter-insurgency campaign looked like, and he was keenly aware of the need to protect the civil capacity of the police from excessive militarization.⁸⁸ Like Erskine, who had arrived three months earlier, he was horrified by what he found in Kenya. The rapid expansion of the police force to cope with the Emergency had seen a lowering of standards and a dearth of training. The Kenya Police had become alienated from local communities and were viewed as but one element in a regime of surveillance and control, in which they worked alongside the Kikuyu Home Guard. Brutality and excess had become norms in the daily practice of administration in the militarized countryside of central Kenya, and the worst offenders appeared to be the Kikuyu militia and their European district officers. Pointing out that the police should be the guardians of the rule of law, what Young observed in the Kikuyu districts of Kenya in 1954 he described as 'the rule of fear.'⁸⁹

Focusing initially only upon the district of Nyeri, the investigations initiated by Young revealed some seventeen cases, from April to November 1954, in which there was evidence of murders having been committed by Kikuyu Home Guard, their European district

officers also being directly implicated in nearly all these incidents. Young wanted the cases to be fully investigated and prosecuted. The provincial administration in Central Province wanted no such thing, arguing that any attempt to prosecute 'loyal Kikuyu' would lower morale and might fatally damage the fight against Mau Mau in the countryside. As the investigations got underway, the CID officers found that the European staff of the provincial and district administrations obstructed their enquiries, refusing to give interviews, concealing or removing evidence, falsifying statements, and even colluding with others to protect the accused.⁹⁰ When two cases did finally come to court, the first the prosecution of prominent loyalist Chief Mundia for the shooting of an apparently innocent man, the second the prosecution of a Kikuyu Home Guard Headman at Ruthagathi for the murder of two local farmers who were falsely accused of Mau Mau affiliation, it was apparent that European administrative officers gave false evidence in order to provide the accused with fabricated alibis. While the accused man in the Ruthagathi trial made a dramatic confession from the dock and was convicted, despite the perjury of European officers in an effort to protect him,⁹¹ Chief Mundia was acquitted.⁹² However, the determination of the police to pursue the case further was made clear in early December 1954, raising the possibility of a re-trial of Mundia and the subsequent prosecutions of the officials who had given false evidence in the first trial. This was pushed hard by Young. Outraged by the interference of the administration in his investigations, the Commissioner of Police was now determined to bring a dozen more cases to court over the weeks ahead.⁹³

This was to prove the critical moment in the British counter-insurgency in Kenya. The prosecutions had caused immense anxiety amongst the loyalist community, and there were fears of mutiny by Home Guard units and widespread desertions.⁹⁴ District and Provincial administrators, who had anyway opposed the prosecutions, now warned of dire consequences as dissent mounted and loyalists threatened defection from the government's cause. Having come to rely upon the loyalist Home Guard, the British counter-insurgency in Kenya could not now be sustained without their support.

Deeply alarmed by the situation, for once Governor Baring acted decisively, urged on by an anxious Erskine. Over the next month Baring intervened directly to first pardon the loyalists convicted in the Ruthagathi case, allowing them to escape the gallows, and then to announce a new surrender offer for Mau Mau forest fighters that would be linked to an amnesty from prosecution for those who laid down their arms. But the most critical decision was that the same amnesty would apply also to government employees who stood charged of offences committed up to 18 January 1955, the date of the surrender offer. This meant that nine murder cases in which arrests had already been made, would now be dropped. These cases all involved Kikuyu chiefs, headmen and Home Guard. Another 20 cases which were under investigation, but in which arrests had not yet been made, would also be closed as a result of the amnesty. All involved Kikuyu Home Guard. Seventeen of these were murder cases, European district officers being implicated in three of the enquiries.⁹⁵

Erskine supported these steps. He had intended to launch a new surrender programme in March 1955, but he now recognized the urgency of the situation provoked by the violence of the Home Guard. He emphasized the need to maintain Home Guard morale, and avoid the risk of defections. The double amnesty seemed a reasonable solution for a difficult situation. Rebels would still face detention, but they would not be prosecuted for

murder as had happened under previous surrender deals. The double amnesty 'wiped the slate clean,' cancelling the plans Young had made for further prosecutions and effectively allowing those Kikuyu Home Guard and the settler officers of the Kenya Regiment who stood accused of murder, torture, beatings and other abuses to escape without punishment.⁹⁶

Following the amnesty announcement, at the end of the month Baring also moved to pardon Chief Mundia, on the grounds that his offence was now covered by the amnesty and so he would no longer be required to stand for another trial. The European officials who had committed perjury in these trials were also exempted from further judicial action.⁹⁷ Despite their relief at the removal of the threat of prosecutions, loyalists worried about what might happen if surrendered rebels returned to their homes? Kiambu's District Commissioner insisted that surrendered rebels be closely monitored by Special Branch, 'since it is liable to have dangerous repercussions on the local populace who wonder why such leading criminals are still at liberty,' and others echoed the same concerns.⁹⁸ In Nanyuki, loyalists saw the double amnesty as 'a weak act of expediency,' and thought it likely that, somehow, the government would trick them by allowing the surrendered terrorists to return. These fears hardened loyalist resolve to resist the reintegration of the rebels back into their communities, a view expressed most trenchantly by loyalist Chief Makimei at Lari.⁹⁹

Where African loyalist reaction was relieved but guarded, the response of the white settlers was intensely hostile. This came as a surprise to the government, Baring and Erskine thinking that Blundell's support for this surrender deal would carry the majority. Where Blundell had sternly opposed the China negotiations, he now 'unhesitatingly supported' the double amnesty. As the settler representative on the War Council, he announced the surrender and amnesty terms in the Kenya Legislative Council. The amnesty for the Kikuyu Home Guard passed without significant comment, but the news that surrendered Mau Mau would not be prosecuted caused what Blundell would later describe as 'a political explosion of the greatest magnitude.'¹⁰⁰ His actions in supporting the amnesty for rebels was condemned as 'cowardly and weak': 'We were accused of abandoning all moral principles and undertaking parleys with murderers and rebels guilty of the unspeakable horrors of the Mau Mau oaths and practices,' he would later recall.¹⁰¹ Lawyer and Legislative Council member for the Aberdares Constituency, Humphrey Slade, led these attacks, and so savage were they that Blundell would never again recover his political position in the white settler community.

The white settlers organized a campaign aimed at disrupting the surrender proposal, and if possible having the decision reversed. Leaflets denouncing the surrenders, and threatening any Mau Mau who tried to come forward, were privately printed and widely distributed. It was asserted that settlers in the Kenya Regiment and in the Kenya Police Reserve would do their utmost to disrupt the surrender plan. To combat this hostility, Kenya's Office of Information mounted a huge propaganda campaign to promote the surrender offer, while also carefully monitoring settler opposition. In Nanyuki, settlers believed that all cases against the security forces 'should have been abandoned,' while it was widely assumed that the amnesty for terrorists had been imposed upon the Nairobi government by London and so might yet be overturned.¹⁰²

Having attacked Blundell and rallied the opposition, leading settler politicians tried every political trick they knew to overturn the double amnesty surrender offer. Exploiting

his position as a minister and his seat in the Legislative Council, Havelock put a paper up to the War Council requesting an urgent discussion of the terms of the surrender offer to terrorists, though making no mention of the amnesty for security forces. He got his debate on 15 February 1954, when he asked for the surrender campaign to be immediately terminated.¹⁰³ In reply, Erskine acknowledged that things were 'pretty rocky' and that relatively few rebels had yet come in, but insisted that the surrender scheme needed a period of at least three months if it was to work at all. He reassured the settlers that the surrender offer was linked to a fierce military campaign that would bring far greater pressure to bear upon those still in the forests, and that it would be made plain to them that if they did not surrender now then things would be made much worse in the future.¹⁰⁴ To assuage settler anger, and to nurture further support from the loyalists, the government offered to look again at seizures of rebel property – and land forfeiture was indeed introduced in July, as a measure against the families of those still in the forest when the surrender offer had ended.¹⁰⁵

Settlers also took the political fight to the metropole. Feeding information to his powerful friends in London, Humphrey Slade hoped to embarrass Kenya's beleaguered Governor Baring with questions to be asked in parliament, where Lord Milverton was primed.¹⁰⁶ Under pressure to justify the actions of the Kenya administration, Crawford, Baring's sombrely bureaucratic deputy, composed a ten-page report for the Secretary of State on 5 February 1955. Somewhat implausibly, he defended the timing of the surrender offer as being determined by military, and not political considerations. There was 'evidence of a desire to surrender among some of the gangs,' he claimed, and because of the position of military strength enjoyed by the British forces, there was no danger of the surrender offer being viewed as a sign of 'weakness.' He continued with greater candour:

The information collected since 18 January has also confirmed our fears that, because of criminal investigations and the prosecution of certain loyalist leaders, the morale of the Kikuyu Guard and the Chiefs was seriously falling at a time when it was indispensable to the success of Operation Hammer [a military offensive] to be able to rely on the Kikuyu Guard to stop terrorists bolting at the forest edge. The amnesty has undoubtedly restored loyalist morale. The most important case pending against loyalists was the charge of murder against Chief Munda. He and his co-accused were acquitted on 31 January, but this would have been too late for the restoration of loyalist morale. ... Loyalist African opinion in the reserves was at first more concerned with the amnesty than with the surrender offer.¹⁰⁷

Crawford next addressed the awkward question of the amnesty for government security staff. Our decision 'was not motivated by a wish to free responsible members of the Security Forces, such as District Officers, Police or Army from responsibility for alleged (but much exaggerated) charges of misconduct,' he asserted: but the government was not prepared to see terrorists escape the lawful penalty for murder under the surrender offer, 'while loyalists and supporters of the government, who had erred, continue to face the full rigour of the law.' Defending the Kikuyu Guard and chiefs who stood accused of murders, Crawford noted 'they faced almost intolerable danger and barbarities from their enemies.' In fact, a state of civil war had developed in parts of the Kikuyu Reserve, he acknowledged, 'and the rule of law is a harsh master when the writ of law has ceased to run.'¹⁰⁸

The dissembling and deceit of this communication was indicated in other actions already taken by Baring. While it was decided that any further offences committed after

the date of the amnesty must be subject to judicial action, the Kikuyu Home Guard had clearly become too great a liability. At the end of December 1954, Baring issued a directive on the disbandment of the Kikuyu Home Guard.¹⁰⁹ This would occur gradually over 1955, militia members who wished to continue in government service being offered transfers to the Tribal Police, or to the 'Watch-and-Ward' groups that would take over the civilian duties of the Home Guard.¹¹⁰ These new arrangements broke up the Home Guard, but as Branch wryly notes, the same loyalists remained responsible for security throughout Central Province by the end of 1955 as had been in charge in 1954.¹¹¹ There would be little change in behaviour, though the District Officers of the Kenya Regiment would no longer be directly implicated. The speed with which this decision was taken, following a frank assessment of the true extent of Home Guard abuses in a grim meeting at Government House on 23 December 1954,¹¹² not only vindicated Young in his efforts to re-establish the rule of law, but also indicates the manner in which Baring and Erskine were rapidly cobbling together a political strategy that would lift them out of the crisis into which the violence of the loyalist militia had plunged them.

This astonishing set of actions had immediate short-term political consequences. Police Commissioner Young tendered his resignation in December, as soon as Baring made clear his intention to pardon convicted loyalists.¹¹³ Attorney General John Whyatt, a supporter of Young and a long-time advocate for the rule of law in Kenya's increasingly dirty counter-insurgency campaign, let it be known that he, too, would depart, accepting a senior legal position in Malaya early in 1955.¹¹⁴ Further down the chain of command, the CID officers involved in the investigations against Home Guard and District Officers also departed, most notably the able, scholarly, but deeply disliked Donald MacPherson – who had led the Nyeri enquiries.¹¹⁵ With these doves in flight, the hawks, headed by the Provincial Commissioner of Central Province, C.M. Johnston, who had actively encouraged his staff to disrupt Young's enquiries and had himself refused to cooperate, now made haste to reassure the Kikuyu Home Guard that their interests would be protected and their loyalty rewarded. The 'rule of fear' had trumped the rule of law, and the surrender offer was the mechanism that had been used to enable this to happen.

As ever determined not to be distracted by the political fury raging around him, and with the full backing of Lennox-Boyd, who had reassured the British Cabinet that the double amnesty was 'an imaginative move,'¹¹⁶ Erskine pushed ahead with the surrender scheme. Bennett has provided a detailed account of the negotiations that were initiated with Mau Mau forest fighters from February onwards.¹¹⁷ Special Branch utilized a captured rebel, Major Chui, to set up talks. Chui was sent back into the forest on 10 February 1955,¹¹⁸ to make contact with Kimathi and Mathenge. Although there was great suspicion amongst the rebels – who disbelieved that they would really be guaranteed immunity from prosecution – talks were eventually arranged with a lower ranking group of fighters, including Kahinga. Under conditions of strict secrecy, a group of four rebels, led by Kahinga, were brought to Nairobi on 17 March to meet with Windley and Heyman – the same officials who had taken part in the negotiations in Operation Wedgwood. A second Nairobi meeting took place on 28 March, at which it became clear that progress could not be made unless the rebels based in the Aberdare forest were able to meet with those on Mt Kenya. To facilitate this, Erskine agreed to a temporary halt to military operations over a period of ten days in the area between the two rebel strongholds. Squabbling between Kimathi, Mathenge, Kahinga and other Mau Mau leaders

now disrupted things, but the rebels in the Aberdares then asked for a meeting in the forest with African politicians. On 16 April 1955, Legislative Council member Eliud Mathu and two other African political leaders entered the forest, but little progress was made in their talks.

These protracted discussions had to be conducted in secrecy for fear of the reaction of settler politicians, but there were inevitably rumours in Nairobi that the government was preparing to make a 'settlement' with the terrorists. At this point, on 2 May 1955, Lathbury arrived in Nairobi to replace Erskine.¹¹⁹ At first reluctant to ditch the surrender plans which were in full flow, Lathbury put his support behind the scheme, but he was clearly less convinced of the importance of the initiative than had been his predecessor. Just two days after his arrival, a further delegation of 11 Mau Mau, led by Kahiu Itina, believed by Special Branch to be fourth in the rebel hierarchy, reached Nairobi.¹²⁰ This meeting appeared to make real progress, and a token surrender of the first 50 rebels was arranged, prior to a mass surrender. But in the next week a further rebel delegation turned up, bearing a letter they said was from Mathenge that rejected all plans for surrenders until the Emergency was brought to an end.

By now, Lathbury was exasperated: 'I considered this token surrender as an essential demonstration of good faith on the part of the terrorists and I was not prepared to allow too much latitude in its execution.'¹²¹ Under Lathbury's direction, the War Council demanded that the surrenders take place by 18 May. Heyman then attended a further meeting in the forest on 17 May, at which Mathenge's representatives adopted a more conciliatory tone and the deadline was extended to 20 May. But when no surrenders took place on that day, Lathbury finally broke off the negotiations and Operation Gimlet began almost immediately.¹²² Gimlet, initially planned by Erskine, was intended to hit hard at the rebels remaining in the Aberdares, splitting the gangs. It would mark the beginning of the end for the rebels remaining in the forests.¹²³

The end of the double amnesty surrender offer was declared on 10 July, when the terms of the initial Green Branch surrender were reinstated.¹²⁴ Two million surrender leaflets were distributed in Central Province and dropped over the forests warning that those who did not take up the amnesty offer would face losing their land.¹²⁵ Over the next few months, more rebels gave themselves up, until by the end of the forest war in December 1956 there had been 2,714 rebel surrenders in all, 979 of them during the third surrender offer between January and May 1955.¹²⁶ After the double amnesty, the end of the military conflict came swiftly. The military handed over Embu and Meru to the civilian authorities in June, and Kiambu, Nairobi, South Nyeri, Laikipia and Naivasha followed in July. By the time that Nanyuki returned to civil administration in August, Britain's military commitment in Kenya was being wound-down, and the loyalists had firmly established their hegemony over all the Kikuyu areas of Central Province.¹²⁷

Conclusion: impunity and the state

The double amnesty of January 1955 achieved what was intended: it swept aside the prosecutions of loyalists and brought an amnesty for the security forces that thwarted desertion and disaffection. Lathbury then swiftly asserted his military strategy. July 1955 saw Operation Dante in the Aberdares, and Operation Beatrice on Mt Kenya. This would break the back of the last remnants of Mau Mau's fighting force, leaving the way open for the

final phase in which small, specialized operational groups, the pseudo-gangs, mopped up the remaining rebel forces.¹²⁸

Four key points can be drawn from the loyalist bargain made by the British in Kenya in 1955. First, as Bennett has shown, in military terms the surrender deals offered to Kenya's rebels were a success. It can be estimated that approximately 10 to 12 per cent of those fighters who went to the forests ultimately surrendered,¹²⁹ and both Erskine and Lathbury acknowledge the importance of surrenders in undermining Mau Mau solidarity and opening the way to their final defeat.¹³⁰ This undoubtedly helped to win the war. But this success would not have been possible without the amnesty offered to the security forces in January 1955, and especially the impunity this gave to loyalist Kikuyu militiamen. The maintenance of this alliance was the crucial factor in British success in the counter-insurgency, a fact recognized at the time by Baring and Erskine in the speed with which they moved in December 1954 to take the necessary steps that would prevent loyalist defections. In doing so, the political actions implemented by the British rode roughshod over the rule of law, giving impunity to criminal racketeers, torturers, and murderers.

Second, it must be realized that loyalist fears were about more than prosecutions. The British secured loyalist commitment to their cause by exiling rebels from their communities – more than 70,000 Kikuyu were removed to detention camps on suspicion of Mau Mau sympathies¹³¹ – and giving guarantees that those defined as 'hard-core' would never return. The terms offered to surrendered forest fighters alerted loyalists to the reality that this promise would inevitably be broken. While only a small minority worried about facing criminal charges, the vast majority were deeply anxious at the prospect of their enemies being return into their midst. After 1955, as the British began to release 'hard core' detainees from the camps, this anxiety deepened amid a growing clamour for institutional protections against the claims that the returning exiles might make. Right up to the eve of independence, the British worried that this confrontation of loyalist and rebel might spill over into a fresh outburst of armed violence in Central Province.¹³²

Thirdly, British commitment to their loyalist allies was such that they could not conceive of how to govern Kenya without them. Despite the noise made by European settlers over the precipitous British decision to 'scuttle and run' from Kenya after 1959, it was the Kikuyu loyalists, and not the white highlanders, whose interests the departing colonialists would work hard to secure: white settlers were expendable, Kikuyu loyalist allies were not.¹³³ When the fighting war came to an end, loyalist leaders were therefore consolidated as a ruling elite in Central Province, given control of administrative positions as local government was restored from 1956, and then shepherded into government as Kenya's decolonization got underway from 1959. Their monopoly of local politics was secured by laws that prevented known rebels from participating in elections, and once in positions of authority they were able to exclude former Mau Mau from many areas of public life, while also blocking any attempt they made to restore their lost property or to recover their forfeited land.¹³⁴ Kikuyu loyalists were the building blocks with which Kenya's post-colonial state was constructed in Central Province, and in the 1960s they even came to dominate the political economy of the entire country.¹³⁵

Fourthly, amnesty, and the impunity it invoked, would reverberate through the political life of independent Kenya under the government of Jomo Kenyatta. Mau Mau remained banned until 2003. Public silence about Mau Mau was a means to avoid discussion of the unfinished business of the Emergency, and a way to prevent claims being made against

loyalists. The loyalist bargain therefore consolidated the authority of the independent Kenyan state, first shaping the settlement that was made in the process of decolonization, and then securing the position of the political elite who governed the country. And impunity was not an idea confined to colonial Kenya. In 1970, Kenyatta's loyalist Attorney General, Charles Njonjo, would pass into law the Indemnity Act, to 'protect the activities of government officials and security officers.' This was specifically aimed at thwarting the prosecution of soldiers and police for acts of atrocity committed in northern Kenya, between 1962 and 1967, during the Shifta War against Somali insurgents.¹³⁶ Until its annulment in 2010, this act came to represent 'the institutionalisation of impunity in Kenya.'¹³⁷

We began by asking what future loyalist militias might have - as allies of empire and collaborators of the colonial state - after colonialism? In the Kenyan case, the answer is that they inherited political power and took over the state for themselves. Kenya's loyalist story is therefore highly unusual: Kikuyu loyalists won both the counter-insurgency war, and they won the peace that decolonization brought. Ultimately, the loyalist bargain of 1955 made the state that Kenya has become.

Notes

1. For comparative studies, see Robert Holland (ed), *Emergencies and Disorder in the European Empires after 1945* (London, 1994); Martin Thomas, Ben Moore and Larry Butler (eds), *Crisis of Empire: Decolonization and Europe's Imperial States, 1918–1975* (London, 2008); David French, *The British Way in Counter-Insurgency 1945–1967* (Oxford, 2011); and Frank Furedi, *Colonial Wars and the Politics of Third World Nationalism* (London, 1998).
2. David M. Anderson, 'Exit from empire: counter-insurgency and decolonization in Kenya, 1952–1963,' in Timothy Clack and Rob Johnson (eds), *At the End of Military Intervention: Historical, Theoretical and Applied Solutions to Transition, Handover and Withdrawal* (Oxford, 2014), 107–36; Keith Kyle, *The Politics of the Independence of Kenya* (Basingstoke, 1999), 179–96.
3. For example, Maina wa Kinyatti, *History of Resistance in Kenya 1884–2002* (Nairobi, 2008), esp. 232–69. Karari Njama's memoir, Donald L. Barnett and Karari Njama, *Mau Mau From Within: Analysis of Kenya's Peasant Revolt* (Letchworth and London, 1966), 349–60, contains the only first hand account of the surrender negotiations conducted amongst the forest fighters, and has been relied upon by other authors since. The first nationalist history, Carl G. Rosberg and John Nottingham, *The Myth of Mau Mau: Nationalism in Colonial Kenya* (Stanford, 1966), 301, deals with the surrenders in two crisply dismissive sentences, while the first African-authored history of the war, Wunyabari O. Maloba, *Mau Mau and Kenya: An Analysis of a Peasant Revolt* (Bloomington, 1993), 94, offers one paragraph on surrenders, and a brief discussion (129, derived from Barnett and Njama, above, 349–53) of communications between Kimathi and General China. Caroline Elkins, *Britain's Gulag: The Brutal End of Empire in Kenya* (London, 2005), 182–3, 185, 201, 315 and 320, uses the term 'surrenders' only in the context of the detention camps, where detainees who capitulated were sometimes known as 'surrenders.'
4. Barnett and Njama, *Mau Mau from Within*, 349–60; Joseph E. Karimi, *Dedan Kimathi – The Whole Story* (Nairobi, 2013), 149–210; Myles Osborne (ed), *The Life and Times of General China: Mau Mau and the End of Empire in Kenya* (Princeton, 2015), 25–39. Marshall Clough, *Mau Mau Memoirs: History, Memory & Politics* (Boulder, 1998), 163–5.
5. Archival sources on aspects of the surrender offers have been available since the early 1990s: see David M. Anderson, *Histories of the Hanged: Britain's Dirty War in Kenya and the End of Empire* (New York & London, 2005), 273–9. But a new batch of files, released to The National Archive, Kew, as part of the Hanslope Disclosure in 2012, has added significantly to our knowledge of the negotiations. For the background, see David M. Anderson, 'Mau Mau in the High

- Court and the 'lost' British empire archives: colonial conspiracy, or bureaucratic bungle?' *Journal of Imperial & Commonwealth History*, xxxix (2011), 699–716; and David M. Anderson, 'Guilty secrets: deceit, denial, and the discovery of Kenya's 'Migrated Archives'', *History Workshop Journal*, lxxx (Autumn 2015), 142–60.
6. David M. Anderson, 'Mau Mau on trial: Dedan Kimathi's prosecution and Kenya's colonial justice', in Julie MacArthur (ed), *The Trial of Dedan Kimathi: Kenyan Nationalism and the Mau Mau Rebellion* (Athens OH, 2016), in press.
 7. Fred Majdalany, *State of Emergency: The Full Story of Mau Mau* (London, 1962), 193–202, is the earliest published account, though incomplete.
 8. Huw Bennett, *Fighting the Mau Mau: The British Army and Counter-Insurgency in the Kenya Emergency* (Cambridge, 2012).
 9. Susan Carruthers, *Winning Hearts and Minds: British Governments, the Media and Colonial Counter-Insurgency 1944-1960*. (Leicester, 1995); Myles Osborne, 'The rooting out of Mau Mau from the minds of the Kikuyu is a formidable task: propaganda and the Mau Mau war,' *Journal of African History* lvi (2015), 77–97.
 10. John Lonsdale, 'Mau Mau's of the Mind: Making Mau Mau and the Remaking of Kenya', *Journal of African History*, xxxi (1990), 393–421.
 11. Daniel Branch, *Defeating Mau Mau, Creating Kenya: Counter-Insurgency, Civil War and Decolonization* (Cambridge, 2009); Daniel Branch, 'The enemy within: Loyalists and the war against Mau Mau in Kenya', *Journal of African History*, xlviii (2007), 291–315.
 12. David W. Throup, *Economic and Social Origins of Mau Mau 1945–1953* (London, 1987) is the best study of Mau Mau's origins, but see also Rosberg and Nottingham, *The Myth of Mau Mau*, and Tabitha Kanogo, *Squatters and the Roots of Mau Mau* (London, 1987). John Lonsdale's epic essay, 'The moral economy of Mau Mau: wealth, poverty and civic virtue in Kikuyu political thought,' in Bruce Berman and John Lonsdale, *Unhappy Valley: Conflict in Kenya and Africa – Book 2, Violence and Ethnicity* (London, 1992), 315–504, remains essential.
 13. Osborne, 'The rooting out of Mau Mau,' 80.
 14. The phrase is from Greet Kershaw, *Mau Mau From Below* (Oxford, 1997), and 'Mau Mau from below: fieldwork and experience, 1955–1957 and 1962,' *Canadian Journal of African Studies*, xxv (1992), 274–97.
 15. For the general history, see Bodleian Library, Oxford, Papers of J.A. Rutherford, Mss Afr s 424, 'History of the Kikuyu Guard', and Colony & Protectorate of Kenya [Fazan], *History of the Loyalists* (Nairobi, 1961).
 16. The UK National Archive, Kew [TNA] CO 822/468, Governor (Baring) to Secretary of state for the Colonies (Lyttleton), 10 January 1953.
 17. Anderson, *Histories of the Hanged*, ch.4.
 18. This paragraph from Bethwell Alan Ogot, 'Revolt of the elders: an anatomy of the Loyalist crowd in the Mau Mau uprising 1952–1956,' in Bethwell Alan Ogot (ed), *Hadith 4: Politics and Nationalism in Colonial Kenya* (Nairobi, 1972), 134–48.
 19. Branch, 'The enemy within,' 291–315, goes further to argue that the vast majority remained sympathetic to the rebel cause, despite loyalist affiliation.
 20. Anthony J. Clayton, *Counter-insurgency in Kenya: A Study of Military Operations Against the Mau Mau* (Nairobi, 1976), 23–25.
 21. Bennett, *Fighting the Mau Mau*, 19–24; Clayton, *Counter-insurgency in Kenya*, 13.
 22. Clayton, *Counter-insurgency in Kenya*, 6–7, 37–41.
 23. Randall W. Heather, 'Counter-insurgency and intelligence in Kenya, 1952–1956' (doctoral thesis, Cambridge University, 1993), 241.
 24. Daniel Branch, 'Loyalism during the Mau Mau rebellion in Kenya' (doctoral thesis, University of Oxford, 2005), 131.
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64. TNA FCO 141/6540, Erskine, 'The Kenya Emergency, June 1953 to May 1955,' 25 April 1955, 10.
65. Osborne, *The Life and Times of General China*, 19–25.
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72. For example, Royal Commonwealth Society Collection, University of Cambridge Library, RCMS 318/1/3, Papers of T.L. Edgar, a former District Commissioner. Edgar repeated these claims in vivid terms when interviewed by the author in St Albans in March 1993.
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78. TNA WO 216/967, Erskine to War Office, 'China negotiations,' 9 March 1954.
79. TNA CO 822/774, Erskine to War Office, 22 March 1954; and Crawford (Acting Governor) to Lyttleton, 29 March 1954.
80. Anderson, *Histories of the Hanged*, 274–5. The meeting was bugged, and transcripts reported back to London: TNA CO 822/744, Crawford to Lyttleton, 30 March 1954, and 11 April 1954.
81. TNA WO 216/967, Erskine to War Office, 29 March 1954.
82. Barnett and Njama, *Mau Mau from Within*, 330–32.
83. Edgerton, *Mau Mau*, 90.
84. Barnett and Njama, *Mau Mau from Within*, 357.
85. Waruhiu Itote, *Mau Mau General* (Nairobi, 1967), 190.
86. TNA CO 822/774, Crawford to Lyttleton, 11 April 1954.
87. Heather, 'Counter-insurgency and intelligence,' 157–67.
88. Anderson, *Histories of the Hanged*, 299–300.
89. Bodleian Library, Oxford, Papers of Sir Arthur Edwin Young, GB0162 Mss Brit Emp s 486, Young to Baring, 14 December 1954.
90. For the accusations of obstruction: Bodleian Library, Oxford, Papers of John Whyatt, Mss Afr s 1694, D. MacPherson to Commissioner of Police, 23 December 1954; and Papers of Sir Arthur Edwin Young, GB0162 Mss Brit Emp s 486, Box 5, File 5, K. Hadingham to Commissioner of Police, 22 November 1954. And for evidence supporting the police investigations: TNA FCO 141/5921, 6207, 6209, 6210, 6507, 6510 and 6519, amongst others, all of which deal with murder cases against the Kikuyu Home Guard during 1954.
91. Anderson, *Histories of the Hanged*, 297–306.
92. Branch, *Defeating Mau Mau*, 86.
93. See the details of each case, in TNA FCO 141/6519, 'Kenya: Allegations by D.G. MacPherson'.
94. Heather, 'Counter-insurgency and intelligence,' 229.

95. TNA FCO 141/6450, Crawford to Lennox-Boyd, 'Milverton motion in the House of Lords', 5 February 1955.
96. IWM, Erskine Papers, Report to the Secretary of State for War, 'The Kenya Emergency', 2 May 1955, para.108.
97. Branch, *Defeating Mau Mau*, 85–6.
98. TNA FCO 141/6200, District Commissioner Kiambu to Provincial Commissioner, 17 March 1955; and Provincial Commissioner to Minister for African Affairs, 21 March 1955.
99. TNA FCO 141/6450, Director of Information, 'Report of Progress in Propaganda used in Connection with the new Surrender Offer,' 30 January 1955.
100. Blundell, *So Rough a Wind*, 190.
101. Ibid.
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103. TNA FCO 141/5684, 'War Council, 84th Meeting,' 15 February 1955, Confidential Annex.
104. TNA FCO 141/5684, Note by Chief of Staff (War/C/R.28), 'Surrender offer – future action', 11 February 1955.
105. Ibid.
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107. Ibid.
108. Ibid.
109. Kenya National Archives [KNA], WC/CM/1/1, 'H.E. the Governor's Directive No.4, 1954', 31 December 1954.
110. New roles for African units were defined over the next two months: see KNA DC/NUK/3/1/30, Secretary for African Affairs to Provincial Commissioner, Central Province, 'Role and Tasks of Tribal Police, Tribal Police Reserve, and Ward Units of the K.E.M. Guard,' 10 February 1955.
111. Branch, *Defeating Mau Mau*, 111.
112. KNA DC/NYK/3/1/30, 'Record of meeting at Government House, Thursday 23 December 1954', 24 December 1954, at which the admissions in KNA ARC (MAA) 2/5/372, Provincial Commissioner, Central Province to Minister for African Affairs, 16 December 1954, were discussed.
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114. Whyatt's departure was widely rumoured in press discussion of the double amnesty: Press Officer (Information Office), 'Overseas Press Comment on Kenya – January 1955,' 5 February 1955.
115. TNA FCO 141/6519, 'Kenya: Allegations by D.G. MacPherson'.
116. TNA CAB 195/13, Cabinet Secretary, record of meeting held on 13 January 1955'.
117. The following summary draws mainly upon Bennett, *Fighting the Mau Mau*, 140–45.
118. TNA FCO 141/6540, Lathbury, 'The Kenya Emergency, May 1955 to November 1956,' 5.
119. Ibid., 1.
120. Ibid., 5.
121. Ibid., 4.
122. Ibid., 6.
123. Bennett, *Fighting the Mau Mau*, 28.
124. TNA FCO 141/5683, 'War Council Directive No.4: Withdrawal of Surrender offer', 8 June 1955.
125. TNA FCO 141/5683, 'Surrender Propaganda Campaign', 8 June 1955.
126. Government of the United Kingdom, *Historical Survey of the Origins and Growth of Mau Mau (Corfield Report)*, Cmnd 1030 (London, 1960), 316; Heather, 'Counter-insurgency and intelligence,' 258–60.
127. Bennett, *Fighting the Mau Mau*, 28.
128. TNA FCO 141/6540, Lathbury, 'The Kenya Emergency, May 1955 to November 1956,' 11–12.
129. Based on Corfield's calculation of surrenders, *Historical Survey*, 316, and an estimate of 25,000 as the maximum size of the forest armies. See Anderson, *Histories of the Hanged*, 261–2, 269, for discussion of numbers.

130. TNA FCO 141/6540, Erskine, 'The Kenya Emergency, June 1953 to May 1955,' 25 April 1955; and Lathbury, 'The Kenya Emergency, May 1955 to November 1956,' December 1956.
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132. For example, KNA VP/9/102, 'Handing Over Report – Othaya Division,' 2 December 1963.
133. Gary Wasserman, *Politics of Decolonization: Kenya Europeans and the Land Issue, 1960–1965* (Cambridge, 1976).
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136. Indemnity Act (1970), Cap.44, *Laws of Kenya*, available at <https://www.kenyalaw.org> accessed 16 July 2016.
137. 'The Indemnity (Repeal) Bill,' *Kenya Hansard*, Mohammed Affey, 8 April 2010, 23–27.

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