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Huw Bennett

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The Mau Mau Emergency as Part of the British Army’s Post-War Counter-Insurgency Experience

Huw Bennett
Department of International Politics, University of Wales, Penglais, Aberystwyth, Ceredigion
SY23 3FE, UK

INTRODUCTION

This article aims to re-evaluate the orthodox understanding of the British Army’s post-war counter-insurgency experience. This will be achieved by analysing the four key components to the Army’s counter-insurgency (COIN) doctrine in this period found in the secondary literature and then investigating the extent to which these concepts applied in the specific example of the Kenya Emergency, 1952–60. The article is presented in two main sections: the first section outlines the main elements of the doctrine as represented in the secondary literature, namely: the legal underpinnings of all operations, the related concept of minimum force, command and control dimensions, and the winning of popular support, commonly known as “hearts and minds”. These factors operated holistically to produce British Army’s enviable reputation for restrained and civilized conduct.

The second section questions the validity of these assertions. On a general level, it is argued that the orthodox understanding is based on a number of methodological flaws, relating to both sources and interpretation. Furthermore, the specifics of the orthodoxy require revisiting. On the legal dimension of British COIN, the framework commonly adopted actually created a permissive environment for atrocities, replicating faults in international law. The significance of the minimum force concept has been vastly overstated, and did not apply in insurrections or in the colonies. Civil oversight proved ineffective in practice, and the much-vaunted regimental system could present as many problems as solutions in ensuring a disciplined soldiery. Finally, the article argues that the hearts and minds efforts pursued by the British Army have been seen in a far too rosy perspective, and that measures such as villagization were usually unpleasant. In fact, civilian support was gained as often through applying exemplary force, in the form of collective punishment, atrocity and torture, as it was through social reforms. Newsinger observed in 1992 that atrocities in Kenya were marginalized and excused by the government as isolated and unofficial. This article argues that atrocities in Kenya...
stemmed from policy, not individual disciplinary failings, policies with a long history and similar to those pursued in other COIN campaigns in the same period and since.

THE ORTHODOX VIEW OF BRITISH COUNTER-INSURGENCY

The legal context

Most studies (though Townshend’s 1986 book above all) discuss the ways in which the government introduced legal measures to deal with insurgencies. However, the general impression from these studies is that a government-legislated policy is automatically legitimate. Consequently, little attention is paid to the experiences of those at the receiving end of government policies, whether violence or the supposedly benign “hearts and minds” policies. The assumption remains in large part that laws were created for the good of the people and that they served this function, with limited detailed empirical analysis of what happened in practice. Clearly, the idea about a legal framework was well in place before the post-war period, though Thompson’s 1966 formulation in his second of five principles, that “the government must function in accordance with law”, is noticeably influential in the secondary literature, for example in Bulloch, Jeffery, Kitson, Mockaitis, Nagl and Pimlott.

The legalist framework originated in the English common law tradition which allowed the executive the right to restore the peace with no more force than absolutely necessary. According to Mockaitis, the concept, at first limited to civil unrest in Britain, evolved to incorporate all forms of unrest, from riots to full-scale revolution. The common law obliged every citizen, including soldiers who were technically nothing less than citizens in uniform, to assist the civil power in enforcing law and order when required. During civil disturbances, it was a commander’s duty to open fire if he could not otherwise stop the violence before him. In doing nothing the commander would find that he “...certainly will be wrong”, and, by extension, he legally had to use enough force to be effective. During insurrections, the duty to stop violence with violence applied most strongly, which meant troops had to “...be prepared to live and fight hard”.

Thornton moves beyond Townshend 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”. These values were translated “via a quartet of socializing media: the ideal of empire, the class and public school systems, and popular culture”. Furthermore, the British national character emphasizes free will and individuality, leading to pragmatism within organizations. Rather than developing a complicated counter-insurgency doctrine, the Army extolled individual decision-making with minimum force as a simple guideline to be followed in all situations. Therefore, when countering revolt, the aim was always to contain rather than extirpate resistance through minimal rather than exemplary force. From long experience, the Army learnt that exemplary, excessive force provoked the population and was thus counter-productive to the main objective of restoring the peace.
Minimum force

Virtually all writers on the Army since 1945 identify minimum force as a key characteristic of British counter-insurgency. Indeed, McInnes thinks the principle lies “. . . at the heart of the British style in counter-insurgency warfare”. The principle was clearly understood and taught throughout the Army, which stressed the practical imperatives for fighting with restraint. For example, although reprisals were sometimes effective in the short term, in the long run they were unsound, producing hate, fear and mistrust. The Staff College course declared reprisals “. . . patently unjust and uncivilised”. Instead of employing maximum firepower in a bid to kill as many people as possible, taking prisoners provided a large pool from which to gather intelligence, helpful for defeating elusive opponents. When suspects were interrogated, the need for trustworthy intelligence ruled out torture, which was thought to provide unreliable information. “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”. The Staff College course recognized 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.”

This position is also reflected in a 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.” At the Staff College the principle was often repeated; for example, in 1947: “To enforce law and order no one is allowed to use more force than is necessary.” Of course, this should be no problem for the British soldier, whose “friendly attitude” made inevitable his “instinctive kindness and decency.” 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. Another article a year later emphasized the importance of restraint in low-intensity operations.

In one view, reprisals against a community for acts committed by its inhabitants who could not be identified were sometimes justified, given the proviso of proportionality combined with an absolute prohibition on killing people. Rather, incarceration, fines and the seizure or destruction of property were options at the commander’s disposal. Nonetheless, they remained measures only to be resorted to in extreme circumstances, expert legal opinion deeming them generally illegal. In riots the use of firepower was the last resort, for example, in self-defense. When used, a specified number of single shots were directed at individual ringleaders and intended to wound instead of kill. The Staff Course enjoined “rigid discipline” when conducting searches, with “civility”.

There is solid evidence that the concept was clearly laid down, taught at the Staff College and discussed in the professional journals. Furthermore, an added incentive came from the official position not only recommending minimum force, but actively criminalizing 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.30

In his prominent study, Mockaitis is keen to confirm the expanding role of minimum force in British counter-insurgency doctrine. Initially, the Manual of Military Law distinguished between riots, where the concept applied, and insurrections, where it did not, but the distinction became increasingly blurred.31 Moreman concurs by pointing out how “colonial warfare” transformed into “imperial policing” after the First World War.32 Raghaven places the change in the revised 1929 Manual.33 However, in Mockaitis’s view a more substantial change arose in the 1934 publication Notes on Imperial Policing.

At this point, the War Office 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 not clearly separable from the guilty, minimum force applied.34 Arguably complete consolidation between riots and insurrections occurred in 1949 with the publication of Imperial Policing and Duties in Aid of the Civil Power.35 The impetus for this 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.36 As a result, the Army on the whole avoided retaliatory measures and the indiscriminate use of force.37

Command and control

The Army, according to most accounts, conducted itself in a restrained manner because its major operational concept in counter-insurgencies, minimum force, derived from a civilian source. In connection with this is the close working relationship seen between the military and civilian organizations during operations. McInnes, Jeffery and Kitson accord civilian control a prime position in their analyses, and consider it highly effective.38 Pimlott and Joes concur in asserting political, and therefore police, primacy.39 Command by committee was the normal system; the opposite approach, where Templer reigned as “Supremo” in Malaya, was an exception. The command system was normally imperfect when a campaign started and required modification. For example, in Kenya there was a lack of central direction until General Erskine took over.40 Townshend not only agrees that police primacy occurred, but further implicitly assumes that the separation of powers, based on pluralism, is a safeguard in COIN as it is in peaceful domestic politics.41 This argument is lent credibility considering CIGS-elect Montgomery’s support in 1946 for hard-line repression in Palestine, which was opposed by the Cabinet.42 Mockaitis argues that British civil–military co-operation arose from the basic appreciation that insurgencies were fundamentally political in nature, and could not be solved by military means alone.43

The fact that police reform has been a priority in all British counter-insurgency shows it is not always perfect.44 Even when things went wrong with minimum force, the civil–military relationship ensured that justice would be done. Enforcement came
through the ordinary courts, which could scrutinize the legality of the use of force after
the event. This legal situation was taught at the Staff College, where it was also
stressed that self-discipline and the soldier’s “high code” safeguarded him from prose-
cution. Raghaven argues that mechanisms such as supervision by the civil power and
fear of punishment ensured that the abstract concept became a practical reality.

The other much-vaunted command and control system in British COIN was the
Army’s ability to conduct decentralized operations thanks to the regimental system.
The system is variously credited with independence, creativity and flexibility. The
organizational structure is connected to a military culture notoriously averse to theory
and models. The orthodox view holds that, in contrast with armies restricted by com-
plicated doctrinal formulations, British soldiers freely reacted to circumstances with
improvised solutions. In these so-called “Subalterns wars” the low-level commander
really did exercise a great deal of autonomy, and could invent tactics in a flexible and
innovative manner.

Hearts and minds

The final component in orthodox accounts of British counter-insurgency was the
attempt to take the population’s support away from the enemy. Responsibility for
carrying out the so-called “winning hearts and minds” approach, coined by General
Templer, largely fell upon the civil administration. There is therefore a limited discussion
of it in the British COIN literature. This is especially true where propaganda is
concerned, where only the excellent survey by Carruthers covers the entire period. Nev-
evertheless, the original theorists agreed with Templer. Thompson stressed the importance
of countering subversion by information policies, while Kitson argued “... it is in men’s
minds that wars of subversion have to be fought and decided”. In the next generation,
Charters argues that the concept of winning hearts and minds underlay all post-Malaya
operations, and was most significant in providing intelligence.

The other method for winning the population’s support consisted of a myriad of
possible social measures, including “villagization”, improved welfare services and food
control. Kitson considers such social measures vital in persuading the population to
support the government, without which the counter-insurgency effort will fail. The
success of these measures is due to the recognition that the uprising may well stem from
legitimate grievances. Pimrott provides a rosy view of hearts and minds, which he also
considers a British priority. Key measures include propaganda, protection of civilians
by resettlement in secure villages, and removing the social causes, again partly through
the wonderful new villages. McInnes similarly takes a benign view, arguing that the
resettled squatters in Malaya benefited from the policy, where he cites improved health
 provision to support his case. Nagl affirms the widely held view that villagization was
intrinsic to success. On Kenya, Kitson thinks that the administration pushed through
many progressive measures. Page argues that the villages had social and agricultural
benefits as well as improving security. Throup views villagization as a success,
although the early decision to detain so many people without evidence was a mistake.
Even the generally critical Maloba sees the villages as beneficial; although they started
as a punitive measure, the villages did help win people over. Villagization can also be
This section has analysed the four central components of British counter-insurgency doctrine in the post-war period as presented in the academic literature. Operations were conducted within a framework originating in the English common law tradition. This resulted in both an operational doctrine requiring the minimum use of force necessary, and the basis for civilian oversight and close co-operation with the Army during counter-insurgencies. The other major characteristic of the command and control structure, decentralized command through the regimental system, produced innovative and flexible decision-making at all levels. Finally, the hearts and minds approach played a significant role, whether in the form of propaganda, improved social welfare conditions, or political reforms. This often resulted in increasingly effective intelligence-gathering capabilities as the population moved to help the government. Ultimately, these factors combined to achieve a successful and restrained way in counter-insurgency.

REVISITING BRITISH COIN: QUESTIONING THE MINIMALIST CONSENSUS

Before analysing the specific problems with the four elements of the orthodox understanding of British COIN, it should be noted that some methodological flaws compromise their overall validity. First, the literature exhibits a triumphalist tendency, based on a perception of national success in comparison with other countries, such as France in Algeria and the United States in Vietnam. This national pride impedes the critical spirit; for example, John Pimlott proudly notes the British Army’s “enviable reputation for success in the notoriously difficult art of counter-insurgency.” A similar trend is the assertion that the British forces were not as bad as the enemy. As Charters puts it, minimum force “… was respected more in the breach than in the observance, particularly by those whom the British were fighting.”

This tendency to blame the other side is also blatant in the Kenya literature, and while the Mau Mau did indeed commit horrific acts, this is used to detract from excesses by the security forces. For example, Majdalany argues that while the security forces may sometimes have been “less disciplined” than strictly desirable, Mau Mau actions were “the usual demented hacking, severing, and mutilation.” These elements in the secondary literature resemble the government’s delegitimizing propaganda during the Emergency, and should thus be treated with caution.

Second, numerous writers glorify the great British victory in Malaya to the point where the characteristics seen in that campaign are over-generalized onto all the others; and ideals, or “principles” as Mockaitis calls them, are mistaken for actual empirical reality. For example, Kitson, Thompson and Mockaitis’s emphatic insistence that the security forces act within the law should be taken as an ideal worth aspiring to rather than something that historically always (or even mostly) took place. Exacerbating the proclivity for theoretical models of counter-insurgency rather than detailed empirical analyses is the general archival paucity of most of the literature, partly resulting from official secrecy.
The dominance of the minimalist school’s interpretation is not surprising given the inept argumentation and flimsy evidential base from which attacks have been launched. This pedigree originated during the Emergency itself, as found in books by Blakeslee and Evans, for example. Dr Virginia Blakeslee, a missionary in Kikuyuland, included in her 1956 book an account of a massacre on Mununga Ridge where the local Home Guard and some King’s African Riflemen killed all the men in the area. Without mentioning the exact date, the unit involved or individual names, the account’s credibility is mortally weakened. Peter Evans, a human rights lawyer in today’s terms, wrote a book on government excesses; but other than open court cases, he limited the information given in order to protect witnesses from reprisals.

Recent critical commentators have performed no better. Although Curtis should be applauded for challenging the assumption that British foreign policy is basically benevolent, his conspiracy theory-style exaggerations and all-round sensationalism undermine his book’s impact. Unfortunately, a major revisionist publication on the Kenya Emergency’s detention system similarly goes down the hyperbolic path, assigning genocidal intent in the government’s policy without producing any evidence for a systematic plan to eliminate the entire Kikuyu tribe. Indeed, evidence is a major defect in most critical analyses.

Newsinger’s work is a case in point, repeatedly making unsupported statements and iterating a view obviously based on an ideological opposition to imperialism itself. The assertion that the Kenya Emergency was “a revolt against oppression and exploitation” is a seriously one-sided view in what was in reality a highly complex civil war involving multiple factions. The ideologically induced myopia leads to other misinterpretations, such as: “The beatings and the torture, the summary executions and the judicial massacre were only possible because the victims were black. This conclusion is inescapable.” It is also mono-causal, completely ignoring not only other equally significant causal mechanisms but the fact that many of the perpetrators were also black. But then again, such people were probably merely “collaborationist” in Newsinger’s questionable logic.

Turning to the empirical weaknesses, a preliminary observation is that his work is based entirely upon the secondary literature. This leads to trouble; for example, when citing Edgerton’s inconsistent and sometimes poorly referenced work. One claim made without evidence is that the “shooting of suspects . . . soon became commonplace”. In another case, the major assertion that beatings, torture, mutilation and murdering prisoners were everyday occurrences relies upon a single memoir published nine years after the Emergency ended. This is all utterly self-defeating for Newsinger, as seen in Mockaitis’s response to his 1992 article on the lack of minimum force in Kenya, where he presents the devastating criticism that there is no detailed, corroborated empirical evidence supporting these sensational claims.

With the release of important new information through the Freedom of Information Act, covering events such as the Chuka massacre and the McLean Inquiry into Army misconduct, this empirical shortfall can be somewhat rectified. The remainder of this article will therefore reinterpret the four main components of British counter-insurgency in Kenya.
The legal framework as an enabler of atrocities

On the legal dimension, although most studies mention that a framework existed, they do not systematically investigate how it worked in practice. This is partly because of the dominance of the rationalist–instrumentalist approach within strategic studies which assumes that law and ethics are irrelevant when explaining the behavior of armed forces. At the highest level, asserting that the British operated within the law is in itself rather meaningless. After all, the Nazis persecuted the Jews within a complex legal structure based on the 1934 Nuremberg laws. The British Emergency Regulations were passed without democratic approval and were in several instances undoubtedly draconian and contrary to international legal requirements then in place. For example, the Governor’s Detention Orders, essentially giving the Governor the right to detain persons without trial, for an unlimited period and without the right to appeal, hardly constitutes an admirable law. The regulations generally suspended any incompatible laws, including basic liberties such as habeas corpus, so the impression that minimum force worked within a cosy liberal framework is certainly disingenuous.

Carruthers has even described the rule of law under Emergency legislation in Kenya as “sham legalism”, and in this respect Kenya was no different from the many other emergencies that Britain engaged in. In common with some other governments after the Second World War, the British deliberately adopted an interpretation of international law aimed at preserving sovereignty to the maximum extent possible. Changes such as the duty to refuse illegal orders established by the Nuremberg Tribunal, and the attempted extension of the laws of war to internal conflicts through Geneva Convention Common Article 3, were purposefully marginalized. As a result, the government could introduce extremely draconian measures to combat insurgencies and still claim they were legal and, therefore, just.

The limits of minimum force

Entirely rejecting the centrality of law in determining how soldiers behaved towards non-combatants is impossible if historical accuracy is a paramount concern. However, it is imperative to argue for a more nuanced and qualified understanding, especially with reference to minimum force. In the Kenya context, the Prohibited Areas policy raises some problems. Mockaitis incorrectly argues that here “the rules of conventional engagement” applied. If the conventional rules, i.e. the laws of war, applied, then the security forces would have taken prisoners in the Prohibited Areas. Although there are instances where this happened, the official policy was not to do so – and to kill anyone in them on sight; clearly against the laws of war.

In the Special Areas, troops were authorized to shoot and kill anyone who refused an order to halt. Arguably, a truly minimum force policy would have instructed troops to try and capture those fleeing first, and to fire only as a last resort. These two examples illustrate the more general point that just because a policy avoids advocating genocide does not automatically make it a minimum force policy. Indeed, those on the receiving end might well question how minimum an impact the conflict had on their lives.

A related question – perhaps an unanswerable one – is how many exceptions must
one gather before jettisoning McInnes’ argument that minimum force prevailed most of the time? Even if it did, apart from Thornton’s study into the philosophical origins and Townshend’s into the legal dimension, there is little sense in the literature of how this principle came to operate in practice, largely because it is understood in doctrinal rather than cultural terms. The focus on minimum force as a long-term principle has somewhat distracted attention from how soldiers viewed the use of force against certain enemies in particular conflicts. Ideologically, official propaganda imaginings de-humanized the Mau Mau enemy in a way inconsistent with minimum force, leading soldiers to consider the population as a whole “a brutal race anyway”.85

The case made by Mockaitis for the ubiquity of the concept, further supported here by the Staff College syllabi, cannot be entirely refuted. However, he does exaggerate the extent to which minimum force applied in all situations. Official thinking still supported much greater latitude in the use of force in dealing with insurrections than riots, and this matters because insurgencies were insurrections and not riots. For example, even by 1958 the Manual of Military Law 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.”86 Both official doctrine and actual practice allowed a far greater degree of force to be used in the colonies than in the United Kingdom. For example, 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.”87 As Mockaitis himself admits, in contradiction of his own argument, 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.88

In addition, the Colonial Office admitted that the concept clashed with British practices in the colonies:

. . . 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.89

This last remark proved prescient, as the destruction of traditional dwellings accompanied by the forced movement of the population into villages was a major government policy in Kenya. The 1949 pamphlet recognized that collective punishment contravened minimum force and also the Hague Convention, but regarded the consequent hardships as “inevitable” and “a necessity”.90 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 upon the degree of force to be used.91 In this sense, what minimum force meant
was uncertain, and therefore arbitrary. This was partially inevitable as the circumstances of each particular case obviously varied. But this qualification has not previously been sufficiently acknowledged.

As a result, deviations from minimum force patently happened, as several authors acknowledge, but their frequency and significance is diminished in several ways. First, atrocities are mentioned briefly in passing without explanation or elaboration. This is related to the tactic of downplaying the frequency of atrocities. For example, in 1960 Kitson asserted that security force personnel only very rarely took the law into their own hands, further softening this concessionary statement with vague, euphemistic references, such as “these practices”, rather than using words such as torture, beatings or murder. Mockaitis states that “Examination of the campaigns between 1919 and 1960 reveals that relatively few cases of documented abuse occurred.” The precise wording here is telling. What exactly is the alleged British restraint relative to? Also, Mockaitis undermines his own argument later on with the admission that many “sensitive” government files were still closed when he conducted his research, so the lack of evidence in 1990 does not automatically equate with a lack of atrocities 40 years earlier. Mockaitis and Newsinger reach a rare agreement, however, in delineating the Kenya Emergency’s exceptional brutality compared with other post-war counter-insurgencies.

The notion that atrocities were infrequent needs modification for two reasons: the first reason relates to how military discipline is interpreted. As Major Clemas, with the 23rd King’s African Rifles noted, there was: “... a distinction between the formal and the real... it was necessary to ignore three out of four infringements of discipline and then jump on the fourth”. Most analyses base their conclusions on the number of court martials held, but if Clemas’ observation were to apply to the whole Army, the frequency of atrocities has been underestimated. The second reason relates to evidence. There is now evidence of official recognition that in the first eight months at least, and probably for some time afterwards, widespread shootings, torture and beatings took place.

After this time, General Erskine took command and instigated a disciplinary clamp-down. Clayton’s influential argument that the troops obeyed and atrocities stopped immediately is not supported by any evidence, but merely an assumption that orders would be followed. Another aspect here is whether or not there was any atrocity policy. Although Elkins almost certainly overstates the case for a genocide having taken place, the Army participated in the early indiscriminate shootings, when the Lancashire Fusiliers were in-theater in addition to several KAR battalions and the locally raised forces. Army co-operation with ruthless vigilante groups, the Home Guard, Kenya Police Reserve – not to mention the Kenya Regiment – shows how complacent it was about protecting non-combatants. Furthermore, the at least 430 persons “shot whilst trying to escape” up to 24th April 1953 surely constitutes a pattern incompatible with the “no policy” assertion. Simply because the archives do not contain a policy statement saying “Shoot all civilians” hardly means that government forces did not systematically target them.

What seems increasingly likely is that at the beginning, indiscriminate shootings were perpetrated deliberately in a manner directly denied by Townshend – as
exemplary violence, aimed at intimidating the Kikuyu population from which the Mau Mau insurgency arose. Murder, torture and beatings were deployed not only to generally dissuade Kikuyu civilians from joining or passively supporting the Mau Mau, but also to encourage population movement into the Reserves (today called ethnic cleansing). For example, one estimation puts the number of people forcibly evicted or leaving voluntarily from November 1952 to April 1953 at between 70,000 to 100,000 from the Rift Valley and Central Provinces. The policy was reversed in mid-1953 when it became clear that the brutality with which the movements were achieved and the resultant horrific over-crowding in the Reserves actually aided Mau Mau recruitment.

In the disciplinary sphere, the Army’s complacency over prosecuting rape cases shows how thin is the line between actively encouraging mistreatment by policy, and allowing mistreatment to happen unofficially by doing nothing to prevent it. The Army’s McLean Court of Inquiry into allegations of misconduct, held in December 1953, considered rape “...not the sort of thing we are concerned with”. The officer responsible for Army prosecutions considered rape a crime in the same category as theft. Furthermore, in a letter to the Secretary of State for War in December 1953, General Erskine hoped that an independent inquiry investigating everything from the beginning of the Emergency would not happen as “...the revelation would be shattering”. The letter continued: “There is no doubt that in the early days, i.e. from Oct 1952 until last June there was a great deal of indiscriminate shooting by Army and Police. I am quite certain prisoners were beaten to extract information.” This constitutes the first official admission that the security forces, including the Army, participated in widespread murder and torture for an eight-month period during the Kenya Emergency. As there were plans in place beforehand and the military conducted operations during this period, it cannot be argued that any crimes committed by the Army were one-offs. There is not enough direct evidence to prove a policy of war crimes, but given the clear awareness of how certain settlers were evicting people – namely by intimidation and murder – it is probable that the Army were involved as an informal policy.

**Command and control as a problem as well as a solution**

The orthodox conception of command and control also requires some modification. In relation to civil–military relations, the assumption here is that civil supremacy acts to restrain the use of force and make for a benevolent policy. In Kenya, the police were far from innocent of atrocities and more centralized control may have prevented them committing more. Indeed, in several other cases, such as Palestine and Malaya, the police dominated the security apparatus during the conflicts’ early stages – also the period when most atrocities seem to have taken place. In Kenya, where the settler population exercised considerable influence over the civil administration and police (especially through joining the Kenya Police Reserve), the Army struggled to control those elements who should in theory have been restraining the Army. As a matter of counterfactual speculation, General Erskine may well have found his disciplinary wrestling match far easier if he had enjoyed the same dictatorial powers as those vested in Templer in Malaya. In addition, although advocates have stressed how soldiers
remained answerable to the civil courts, in practice commanders and soldiers were never called to account after putting down insurrections.\textsuperscript{107}

The 1947 Staff College course taught its students that so long as commanders believed their action to be right, they should not fear an enquiry into their conduct.\textsuperscript{108} In order to protect soldiers who had used force, it was usual for the government to pass an Act of Indemnity. 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”.\textsuperscript{109} Therefore the idea that the military were subject to rigorous civilian oversight and dreaded prosecution is quite misleading.

The emphasis placed upon the regimental system in explaining success and restraint is in contradiction with the existence of other elements in the orthodoxy. If the Army were so informal in its \textit{modus operandi} then legalism, civil–military co-operation and pursuing political measures would never have emerged as distinctive patterns. While the argument that the Army disavowed an exhaustive codified doctrine in this period is generally valid, long-established traditions within the organizational culture replaced doctrine functionally. Doctrine is a system of principles that sets parameters for acceptable action; and as for the Army, the traditions taught formally through various institutions and through informal transmission from one generation to the next, soldiers possessed a coherent view of how to respond to insurgency. In this sense, then, the significance of the regimental system is exaggerated in the literature, because knowledge could still be passed on informally.

A related question is whether the system was necessarily a good thing, as is ordinarily assumed. There is reason to think not; for example, it proved detrimental to all-arms co-operation.\textsuperscript{110} In Kenya the perils inherent in decentralized command made themselves abundantly obvious as General Erskine gradually discovered how his orders, for example banning soldiers from chopping hands off corpses, were often ignored.\textsuperscript{111} As already mentioned, both Malaya and Kenya saw a period of trial and error at the beginning of each insurgency, including atrocities which were widespread in Kenya and possibly elsewhere – although the other conflicts require extensive research into these aspects. Nagl and Mockaitis blame these on failures in command and control.\textsuperscript{112} This would logically include the very regimental system that they and others later credit with such success.

By far the most convincing damage-limitation approach in the secondary literature shifts the blame away from the Army by pointing the finger at other elements in the command system. It is plausible because denying that atrocities took place – or marginalizing them as exceptions less malign than the enemy’s misdemeanors – simply cannot resist empirical scrutiny, especially regarding Kenya. In this school the argument goes that atrocities were committed – but seldom by the Army. The secondary literature on Kenya is littered with references to atrocities carried out by the African militia Home Guard,\textsuperscript{113} the rapidly-expanded Police (especially the Kenya Police Reserve),\textsuperscript{114} and the territorial Kenya Regiment.\textsuperscript{115} Mockaitis succinctly sums up this popular view that “most of the excesses seem to have been committed by units hastily recruited from the local population, white and African, or by inadequately trained police recruits thrown into a difficult situation”.\textsuperscript{116}
In common with distinctions between official and unofficial policies, attempts to place the blame on other security forces have gone too far. There is certainly value in differentiating between the divergent social origins, cultural attributes, organizational structures and role taskings embodied in the various units. However, an obsession with narrow typologies only distorts the way in which the security forces, and the conflict itself, should be holistically understood. The orthodoxy as it stands adequately explains uniqueness, difference and discontinuity. In the interests of a balanced perspective, this article addresses the spheres of connections, similarities and continuities between the Army and the local forces shouldered with the blame for most atrocities during the Emergency. Fortunately the logical reasoning for adopting such a stance is strongly supported by the empirical evidence.

Without even considering the moral situation, under British law the soldiers in Kenya were simultaneously citizens obliged to prevent felonies if they noticed any taking place. Indeed, some soldiers did intervene and halt atrocities in the offing. In his order issued on 23 June 1953 and repeated on 30 November, General Erskine declared this duty. Furthermore, we know that British Army units committed atrocities: especially various platoons in the King’s African Rifles. There is an unspoken categorization at work placing these units into the local forces box, which is inappropriate. Although African Askaris formed the vast majority of the KAR, they were not all raised in Kenya; for example, the 4th KAR came from Uganda, and the 6th KAR and 26th KAR from Tanganyika. Even in the Kenyan battalions, many would have come from areas not affected by the Emergency. Modelled on the British Army battalion, the training staff, permanent senior NCOs and officers were all seconded from the Army. For disciplinary, logistical and operational purposes they fell directly within the British Army chain of command throughout the entire Emergency period. Thus, concluding that atrocities committed by its members were the work of “local forces” is disingenuous.

Despite their obviously closer affiliation with Kenya than the British and KAR battalions, the genuinely local units also bore some similarities. The Kenya Regiment, despite being a territorial unit composed of settlers, was constructed in the Army’s image, trained by NCOs from the Brigade of Guards, and headed by seconded officers. Though depending upon the Kenya Government for logistical support, it still came under the regular chain of command for discipline and operations. In addition, the Regiment’s men were increasingly seconded to work with British and KAR battalions as guides and trackers, and platoon commanders with the KAR. While deplored the unit’s reputation for brutality, the Army relied upon its unparalleled local knowledge and thus perhaps gave its members more leeway than would have otherwise been the case. The notorious Home Guard were deployed in many joint operations with the Army, a number of Kenya Regiment men commanded them, and some British regiments trained them. The last apparently locally raised force, the Kenya Police Reserve, included many former policemen from Palestine, Malaya and even Britain. As with the Home Guard, the Army went on numerous joint operations with the KPR and liaised with them closely in the intelligence field.

Even if most atrocities were the work of other security forces, the point stands that in considering the campaign’s functionality, the Army was closely associated with these forces. At the lowest level, not all units performed their legal duty to restrain the local
forces. Up at the high command level, the Army not only failed to control the other security forces but actively benefited from their (mis)behavior. For example, the Home Guard played a major part in Erskine’s campaign plan, and actually continued its expansion in the midst of plausible atrocity allegations being made against it. The whole contention that the Army committed no atrocities is in any case flawed, given the KAR’s position and increasing new evidence coming to light which indicates that the British battalions may simply have been more adept at concealment and denial.\textsuperscript{121}

**Hearts and minds, or the punitive use of force?**

There are some qualifications in the secondary literature to the generally optimistic view of winning hearts and minds. Mockaitis admits that many squatters in Malaya were initially physically forced to relocate, the amenities took years to install and several hundred aborigines died in the process.\textsuperscript{122} Stubbs points out how the initial response was so coercive as to increase popular support for the Malay Communist Party. In other words, there was no attempt to win the population over until Templer took command.\textsuperscript{123} Popplewell also points out the lack of any propaganda campaign in Palestine.\textsuperscript{124} Early villagization in Kenya suffered from similar problems to Malaya, for example, with deaths from starvation and disease in the unsanitary settlements. But Mockaitis considers it nonetheless worthwhile because it defeated Mau Mau, and that is what really matters.\textsuperscript{125}

The hearts and minds elements, however, should always be seen alongside the illiberal collective punishment policy. Mockaitis provides an unconvincing excuse for the policy:

> Suspension of civil liberties is one of the thorniest problems of counterinsurgency, and . . . can only be justified by a successful end to the emergency. In the case of Malaya . . . the Chinese squatters had not enjoyed such liberties in the first place and . . . they were subject to “intimidation and fear” at the hands of the Communists.

This returns us to the logic of blaming the enemy for one’s own atrocity behavior.\textsuperscript{126}

Mockaitis argues that the British applied collective punishment because they thought colonial peoples too uncivilized to understand notions of individual responsibility. Practised in most campaigns, collective punishment consistently failed to produce positive results.\textsuperscript{127} In Kenya, Governor Baring repeatedly used collective punishments such as fines, relocation, or property confiscation, despite opposition in Britain and evidence in Kenya and Malaya that it was counter-productive.\textsuperscript{128} Another element of collective punishment in Kenya, at least in the early stages, were the mass evictions of Kikuyu from areas where an incident had occurred. This soon proved a highly counter-productive course.\textsuperscript{129} On the whole, collective punishment, by its very nature thoroughly indiscriminate, stands in contradiction to the minimum force principle.

Regarding social reforms, Percox argues that the intention was to end the Emergency and then put the development plans into practice afterwards.\textsuperscript{130} As Percox says, “What
mattered most was winning – not ‘hearts and minds’’. The Kikuyu only got the stick, while the carrot went to other tribes to buy their non-involvement. He argues that while villages introduced some social improvements, their primary purpose was to make it easier to implement the law – including collective punishments. But collective punishment was essentially an Administration policy rather than an Army one. Heather argues that hearts and minds was not really implemented in Kenya and did not work. The government decided that the population could not be won over, and adopted instead a punitive approach, with “punitive villages”. It was coercion rather than persuasion that beat Mau Mau. Anderson contributes significantly to the “fear rather than persuasion” thesis by arguing that through collective punishment, detention without trial, seizure of property and vastly extending the death penalty, the Emergency areas effectively became a draconian police state.

Clearly the COIN literature presents an overly benign view of villagization. As Elkins amply demonstrates, around 800 Emergency villages were in reality more akin to prison facilities than the ideal habitations the Administration portrayed them as. Villagization represented a fundamental reconstruction of Kikuyu society, traditionally based in dispersed hamlets rather than enclosed, densely populated villages. Although successful in isolating insurgents from their supply base, the policy was conducted with considerably more brutality than in Malaya. Some people’s huts were burned down to instil urgency into the moving, though on what scale this happened and how deeply the Army was involved remains under-explored.

Arguably, a substantial explanation for the encouragement of negative enemy stereotypes and mistreatment of non-combatants, or at least indifference towards it, were related to the half-hearted attitude within the Army towards its vaunted “winning hearts and minds” strategy. The major political concessions came after military success, not in tandem with military measures during the conflict, as is supposed to happen in British counter-insurgencies. Popplewell similarly argues that rather than hearts and minds, the decisions to grant independence were the real reason for success in UK COIN. Paget recognized in 1967 that the government won the population’s support without offering any political solution. While support for the insurgents is explained by reference to the “intimidation policy”, it is assumed that people automatically reverted to supporting the government when Mau Mau lost the military ascendancy. From the evidence now available, this argument seems implausible and it increasingly appears that as the Mau Mau won support through intimidation, so the government won it back.

The new literature on Kenya presents a strong case for jettisoning the orthodox persuasion thesis and instead emphasizing how government forces employed fear and intimidation through a range of official and pseudo-policies, from mass evictions encouraged by murders to forced incarceration in punitive villages. Townshend’s view mentioned above that the British eschewed exemplary force is now seriously open to question, and more research is needed on Army involvement in assisting with largely administration-run policies.
CONCLUSION

This article has analysed the four central components of British Army counter-insurgency in the context of its operations in Kenya from 1952 to 1960. First, although operations were conducted within a legal framework deriving from the common law tradition, the extent of the powers granted to the government under emergency regulations seriously compromised the law’s integrity. The regulations resulted in a “sham legalism” whereby basic rights and international law were easily sidelined. Second, there is no doubt that the related minimum force concept was important in the British Army and widely understood.

In Kenya, however, policies such as Prohibited Areas, collective punishment and “nipping trouble in the bud” plainly contradicted the concept. This is because the concept was in fact more arbitrary and subjectively interpreted than normally allowed for. The doctrine allowed for a greater degree of force in the colonies and almost any degree of force during insurrections. Minimum force did not prevail as often as is claimed; intimidation of the population, summary executions, torture and unrestrained violence were prevalent for at least eight months.

Third, the close relationship with the civil power sometimes encouraged indiscriminate violence rather than restraining the military. This was especially the case in Kenya, where an angry settler population agitated for draconian policies, and organized vigilante groups. Even official organizations, such as the Kenya Police Reserve, engaged in widespread abuses of the civilian population. The civil authorities failed to rein in the security forces and the justice system was seriously compromised, as Anderson has recently shown. The regimental system sometimes impeded co-operation and disrupted General Erskine’s efforts to tighten discipline after June 1953. In relation to the other security forces, the orthodox view has not acknowledged the similarities with forces such as the KPR, Kenya Regiment and Home Guard, and the very close co-operation in place during many operations. The atrocities conducted by non-Army forces should be seen as part of the overall campaign which played a critical function in its outcome. For example, the Army often worked from intelligence gathered by the Home Guard using torture.

Finally, in Kenya the population were persuaded to support the government by a combination of increasing military success and violent coercion, rather than by winning hearts and minds. Villagization was largely punitive, painful in practice and a major re-configuration of society against the will of its people. In sum, this article has challenged the COIN orthodoxy on a number of grounds and calls for a similar questioning of conventional understandings in relation to other post-war British counter-insurgencies.

NOTES

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7 Joint Services Command and Staff College Archive (hereafter JSCSC), *Army Staff College syllabus*, 1947.

8 *Ibid.*; this point is also made in Townshend, *op. cit.*, p. 19.

9 JSCSC, *Army Staff College syllabus*, 1945.


20 JSCSC, *Army Staff College syllabus*, 1945.

21 JSCSC, *Army Staff College syllabus*, 1948.


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

24 JSCSC, *Army Staff College syllabus*, 1945.


JSCSC, *Army Staff College syllabus*, 1948.


JSCSC, *Army Staff College syllabus*, 1948.


JSCSC, *Army Staff College syllabus*, 1948.


Kitson, Low Intensity Operations, op. cit., p. 49; Thompson, op. cit., p. 52; Mockaitis, British Counterinsurgency, op. cit., p. 13.


New sing er, Revolt and Repression, op. cit., p. 171.


War Office, Imperial Policing and Duties in Aid of the Civil Power, op. cit., p. 5.


War Office, Imperial Policing and Duties in Aid of the Civil Power, op. cit., p. 35.

JSCSC, Army Staff College syllabus, 1947. “Commander” denotes anyone in command of other soldiers, potentially anyone from a Field Marshal to a Lance-Corporal.
92 JSCSC, Army Staff College syllabus, 1947.
93 Nagl, Counterinsurgency Lessons, op. cit., p 68.
95 Mockaitis, British Counterinsurgency, op. cit., p. 37.
96 Ibid., p. 43.
97 Ibid., p. 44; Newsinger, British Counterinsurgency, op. cit., p. 1; Newsinger, English Atrocities, op. cit., p. 158.
100 According to a statement made by Colonial Secretary Oliver Lyttelton to the Commons. See Edgerton, Mau Mau: An African Crucible, op. cit., p. 159.
103 Furedi, Mau Mau War in Perspective, op. cit., p. 8; Berman, Control and Crisis, op. cit., p. 349.
106 PRO WO 32/15834: Letter from Erskine to Secretary of State for War, 10 December 1953.
107 Simpson, op. cit., p. 61.
108 JSCSC, Army Staff College syllabus, 1947.
109 JSCSC, Army Staff College syllabus, 1949.
111 See Bennett, “British Army and Controlling Barbarisation”, op. cit.
113 For example, Berman, Control and Crisis, op. cit., p. 358; Anderson, Histories of the Hanged, op. cit., p. 255; Heather, Intelligence and Counter-Insurgency, op. cit., p. 79; Elkins, Britain’s Gulag, op. cit., p. 244.
114 For example, Berman, Control and Crisis, op. cit., p. 357; Edgerton, Mau Mau, op. cit., p. 155; Clayton, Counter-Insurgency in Kenya, op. cit., p. 45.
115 For example, Edgerton, Mau Mau, op. cit., pp. 155–156; Elkins, Britain’s Gulag, op. cit., p. 253; Evans, op. cit., p. 205.
121 See Anderson, Bennett and Branch, “Covering up a Colonial Atrocity”, op. cit.
126 Ibid., p. 122.
128 Percox, “British COIN in Kenya”, op. cit., p. 64.
129 Ibid., p. 69.
130 Ibid., p. 64.
131 Ibid., p. 83, emphasis in the original.
132 Ibid., p. 85.
140 Ibid., p. 65.