

7 Decolonization and the Struggle for Kenya's "Migrated Archives"

On November 28, 1973, during a meeting of Kenya's National Assembly, Member of Parliament Jean-Marie Seroney asked William Odongo Omamo, the Minister for Natural Resources, if he would approach the British Government to return records related to the Nandi War of Resistance (1897–1905) to the Kenya Government Archives.¹ Seroney advocated the return of all records relating to the war and singled out those pertaining to the assassination of the Nandi *Laibon*, Koitalel Samoei, the accounts of Nandi casualties and losses in livestock, and the truce that resulted in Nandi settlement in the former reserves of Tinderet, Seroney's constituency.² The truce had promised Nandi control of the reserve; however, the British colonial government violated it repeatedly with further expropriations to accommodate White settlers.³ Upon independence, Seroney advocated Nandi land rights by drawing upon historical discourse, and his 1973 request was part of his ongoing commitment to communal land claims. Omamo responded that there were "very many other records" that were "as valuable" as those to do with the Nandi Resistance. He continued that rather than single out one historical episode or linguistic community, the newly formed Inter-Ministerial Committee on Retrieval of Kenya

¹ In 1973, the Kenya National Archives was part of the Ministry of Natural Resources, Omamo was thus its ministerial head. Kenya National Assembly Official Record (Hansard), Question No. 885, "Records of Nandi War of Resistance," November 28, 1973, p. 632.

² Samoei was the supreme chief of the Nandi peoples at the end of the nineteenth century. He was assassinated by intelligence officer Richard Meinertzhagen on October 19, 1905, in a setup. His murder brought the Nandi Resistance to an end. See Brian Garfield, *The Meinertzhagen Mystery: The Life and Legend of a Colossal Fraud* (Washington, DC: Potomac Books, 2010); and David Anderson, talk with African Studies Seminar, University of Oxford, "The Dead Speak: Identity, Autochthony and the Occult in Kenya's Western Highlands," March 11, 2021.

³ Kara Moskowitiz, *Seeing Like a Citizen: Decolonization, Development, and the Making of Kenya, 1945–1980* (Athens: Ohio University Press, 2019), p. 73.

Archives from Overseas Countries would “try to co-ordinate the whole exercise of obtaining historical records from the British Government.”⁴ Omamo’s response was an example of how nationalism, as articulated by political elites, disempowered specific demands of those still seeking redistribution in the aftermath of political independence. The process of recovering records from the UK provided the Kenyan Government a framework in which to invoke a sovereign and unified Kenyan polity as the rightful home for the “migrated archives,” while dissent over Kenyatta’s centralized authority grew within the country.

From the mid-1960s onward, staff at the Kenya National Archives actively pursued the identification and retrieval of various documents and audiovisual materials located outside the country—either originating in Kenya and later removed, or created abroad but nonetheless deemed relevant as cultural heritage or records of political precedent.⁵ KNA looked not only to England as a place for relevant collections but to the India National Archives, archives in Koblenz, Germany, across the United States, institutions in Japan, and elsewhere, in what was referred to at the time by other African archivists in similar situations as a “diaspora of documents.”⁶ KNA considered more than textual documents and in 1977 pursued the identification of films made in Kenya and stored outside the country to form an audiovisual collection of “migrated archives.”⁷ By maintaining a wide view of what constituted the “migrated archives,” KNA could claim some success in their pursuits, for example by obtaining photocopies of materials held in public view at England’s Public Record Office and appeal for further

⁴ Kenya National Assembly Official Record (Hansard), Question No. 885, “Records of Nandi War of Resistance,” November 28, 1973, p. 632.

⁵ According to an FCO memo on the history of Kenya’s claims for the “migrated archives,” the first request came in 1966 when the Kenya Government wrote to Harold Wilson, the UK’s Prime Minister, and asked for “copies of all items relating to Kenya held by the Oxford University Colonial Records Project.” Wilson responded that he would not intervene as it was a university concern. The next request came from Mr. Kibinge and Mr. J. S. Arthur of the British High Commission the following year. TNA, FCO 141/19934, FCO Library and Records Department, Memo, Kenya: Migrated Records, item 4.1, “Requests by Kenya Government for the Return of Migrated Records,” July 7, 1982.

⁶ KNA, B25/60/8A Vol. I, Steve S. Mwiyeriwa, “7th General Conference of ECARBICA, Migrated Archives: The Position of Malawi,” n.d.

⁷ Specifically, Kagombe cooperated with Peggy and David Giltrow to identify and preserve films, audio, and images related to Kenya found in Kenya and abroad. See KNA, KNA 34/87.

funding on the basis of this success. In some ways, the identification and retrieval of selected documents is a usual activity of any archival institution, which generally cooperate with external offices, individuals, or companies to select and maintain documents for permanent preservation that were created elsewhere.⁸ However, behind the general project of retrieving the "migrated archives" lay the delicate and, to quote an oft-used term by their British gatekeepers, "thorny" issue of restoring the political papers of Kenya's British colonial government to the independent government.

While evading repercussions for the sanctioned use of indiscriminate violence provided the UK government impetus for record removal and ongoing suppression, the Kenyan government pursued the retrieval of records from the UK for other reasons. In fact, as the previous chapter argued, the Kenyan government favorably viewed the absence of Mau Mau-related documents that corresponded with broader efforts to "bury the past."⁹ When Jomo Kenyatta assumed office first as Prime Minister and then as President, he maintained the colonial laws banning Mau Mau, in large part to repress the ongoing demands for land redistribution.¹⁰ The early efforts by KNA, in cooperation with the Kenyan government, to recover documents were not part of the colonial reckoning that the UK government feared. In fact, in the mid-1970s, Kenyatta's administration was actively staving off criticism of his own government by independent historical and political thinkers and activists.¹¹ Rather, the Kenya National Archives and Kenya's

⁸ As Eric Ketelaar summarizes, "Archives are always displaced, that is (in day-to-day language), removed from place A to place B. [...] a government agency's records are transferred from its offices to an archival repository," Ketelaar, "Foreward," in *Displaced Archives*, p. iii.

⁹ Upon the lifting of the Mau Mau ban in 2003, Historian David Anderson summarized that, "when [Kenyatta] came to power in 1963, [he] tried very hard to bury the past, to put Mau Mau behind him," Martin Plaut, "Kenya Lifts Ban on Mau Mau," *BBC News*, August 31, 2003.

¹⁰ Anaïs Angelo, "Jomo Kenyatta and the Repression of the 'Last' Mau Mau Leaders, 1961–1965," *Journal of Eastern African Studies* 11, no. 3 (2017): 2.

¹¹ In 1975, J. M. Kariuki was assassinated, joining "the lineage of murdered and assassinated Kenyan leaders." Kariuki's popularity and socialist appeal threatened Kenyatta's already dropping popularity. William Cohen and E. S. Atieno Odhiambo argue that "with Kariuki's elimination, Kenya had moved from an era of international politics – balancing various orientations such as decolonization, Africanization, African nationalism and liberation and Cold War realities – into an age of ethnic chauvinism." David William Cohen, *The Risks of Knowledge: Investigations into the Death of the Hon. Minister John*

Ministry for Foreign Affairs promoted the retrieval of "migrated archives" as a matter of prestige. The underwriting political support for the retrieval process was the significance of personality, namely, Kenyatta's, and the interest in recuperating his personal library that was confiscated at the time of his arrest in 1952. Lastly and less overtly, the Kenyan government pursued the return of colonial political papers in order to address problems of the nation that were unresolved from the colonial era, such as boundary disputes in the Northern Frontier District. Following a discussion of the context in which KNA originally pursued retrieving the "migrated archives," this chapter will then examine the process of archival retrieval in the frame of decolonization at the international, bilateral, and national levels.

KNA's Pursuit of the "Migrated Archives"

Pursuing the "Migrated Archives" as a Matter of Prestige

If Kenyatta's approach to Mau Mau and the recent Emergency was to "bury the past," why did his government authorize the KNA's ongoing quest for the "migrated archives"? The following argues that prestige, personality, and politics drove the search. Kenya played an important and internationally visible role in a global process of determining archival custody for colonial documents that involved not only other former British colonies but also other imperial contexts.¹² International organizations such as UNESCO and the ICA were involved in creating wider awareness of the problem of colonial archives, including their location and custody, after independence. These organizations offered a platform, access to financial resource, technical training, and a moral-political sphere wherein issues surrounding post-independence sovereignty could be addressed (Chapter 5).

Robert Ouko in Kenya, 1990 (Athens: Ohio University Press, 2004), p. 5. In addition to Kariuki's assassination, dissident MPs and public intellectuals such as Seroney were jailed and bullied in order to, as Angelo argues, reinforce Kenyatta's authority.

¹² From the mid-1960s until the 1983 Convention, the Kenyan pursuit for the "migrated archives" corresponded with other colonial archival disputes from different imperial contexts, such as the Algeria–France dispute and conflicts surrounding Indonesian National Revolution Records in the National Archives of the Netherlands.

In 1969, the ICA founded the East and Central African branch (ECARBICA) with Nathan Fedha, chief archivist of the Kenya National Archives, as its first chairman, and held its inaugural conference the same year in Nairobi.¹³ At the first conference, the regional branch resolved to “seek through the [ICA] the moral support of the United Nations [...] in persuading governments and national bodies presently possessing [‘migrated archives’] to secure their return.”¹⁴ In August 1970, the ECARBICA’s executive committee held their first meeting, also in Nairobi. Among their eight agenda items was “Measures to ensure that historical records in African States are not plundered and or destroyed. Ways and Means of Reclaiming Records Taken to other Countries.”¹⁵ It was at this meeting that the executive committee resolved to approach UNESCO and the ICA “to help in this matter by persuading the metropolitan countries of Europe to return the historical records to the former colonies.”¹⁶ Nairobi was once again host to ECARBICA’s second conference held in 1972, further cementing Kenya’s status as the region’s premier archival power. Guests, who traveled from Tanzania, Uganda, Malawi, Rwanda, Burundi, and Zambia, gathered at the Cultural Centre on May 8 for a cocktail party at the invitation of Odongo Omamo, Minister for Natural Resources. Omamo greeted his guests, “Ladies and gentlemen in declaring this conference open, let me wish you all a real sense of unity of purpose, a successful outcome to your deliberations and above all the chance to make lasting friendships.”¹⁷ One of the products of these “friendships” was a growing consensus across the African continent that “it was not fair that [the ‘migrated archives’] should be kept

¹³ In 1984, the name was changed to ESARBICA to refer to East and Southern Africa after a new branch for Central African countries was founded. N. M. Mnjama, “A Review of ESARBICA Resolutions 1969–2005,” *African Journal of Libraries, Archives and Information Science* 17, no. 1 (2007): 23; KNA, 2/67, Letter, N. W. Fedha to B. Cahusac, “Executive Committee – ECARBICA,” August 22, 1970.

¹⁴ Nathan Mnjama, “Migrated Archives: The African Perspectives,” table 1. ESARBICA Resolutions on Migrated Archives (1969–2011), *Journal of the South African Society of Archivists* 48 (2015): 47.

¹⁵ KNA 2/67, Minutes of the First Meeting of the Executive Committee of ECARBICA, Held in Nairobi on Tuesday, August 25, 1970.

¹⁶ Ibid.

¹⁷ KNA 2/67, “Speech by the Minister for Natural Resources the Hon. W. Omamo M.P. on the Occasion of the Second Conference of the East and Central Africa Regional Branch of the International Council on Archives,” n.d.

in far away countries in Europe.”¹⁸ As Steve S. Mwiyeriwa, Malawi's government archivist, later recalled, “since its inception [...ECARBICA] has taken an unequivocal stand on migrated archives.”¹⁹ Through their participation in these organizations, KNA staff at once helped to establish the problem of the “migrated archives” as a relevant question of international concern as well as to play a leading role in addressing it. More than once, KNA staff and outsiders commented that “Kenya would be the first country in the developing world” to pursue and retrieve “migrated archives” at such a scale, an attractive and convincing promise that helped KNA attain financial support from international organizations and establish itself as a formidable institution within its own government.²⁰

Reference to its pursuit for the “migrated archives” became a successful way that the Kenya National Archives appealed for funding and support. For example, by asserting that in order to properly house the “migrated archives” after their retrieval, KNA staff reasoned that a new, modern archival building was needed. Specifically, David Maina Kagombe, Fedha's replacement as chief archivist, was a skilled lobbyist who made strategic reference to the “migrated archives” in his appeals for resource. Kagombe returned to Kenya after completing his doctorate at New York University in political science and public administration and brought this expertise to his new role as chief archivist from 1974.²¹ Upon his arrival to KNA, the government archives were still stored in the basement of Jogoo House A, where they had been

¹⁸ KNA 2/67, Minutes of the First Meeting of the Executive Committee of ECARBICA, Held in Nairobi on Tuesday, August 25, 1970.

¹⁹ KNA, B25/60/8A, Steve. S. Mwiyeriwa, “7th General Conference of ECARBICA, Migrated Archives: The Position of Malawi,” n.d.

²⁰ KNA 34/87, Interview with Mr. J. H. McIlwaine, September 13, 1978.

²¹ While Kagombe was not trained as an archivist, his research for his dissertation, “Bureaucracy and Social Change: A Study of Transforming the British Colonial Bureaucracy in Kenya into an Indigenous National Service” (PhD Dissertation, New York University, 1972), provided him with substantial research experience in Kenya, largely through interviews with ministerial heads and members of government who he credits as having provided him with key documents. However, he later recalled that he nonetheless “had to get records in the US and UK for [his] PhD dissertation which were non existence [*sic*] in our beloved country.” Kagombe drew upon this experience in his discussion of the “migrated archives.” KNA 2/79, Transcript of speech delivered by D. M. Kagombe, “Structural-Functional Analysis of the Institution of Archives in National Development,” to the Rotary Club of Nairobi, Inter-Continental Hotel, December 10, 1975.

since before the end of colonial rule. Kagombe took on the project of Kenya's first archival building with great ambition. In 1975, he wrote to UNESCO to request the provision of consultants and architects for the premier and purpose-built Kenya National Archives Building. He explained, "The building will be designed to deal with the total need for our Republic [...] The migrated archives we are planning to retrieve from Britain, Continental Europe, USA, Middle East and elsewhere will be kept in this building."²² Kagombe's appeal bore fruit. UNESCO sent Mr. L. Bell of England's Public Record Office and Mr. B. Faye of the French National Archives to Kenya in 1976 in order to discuss the future KNA building. Moreover, UNESCO supported Kagombe to tour various archival buildings in England, Germany, Spain, France, Ghana, and the Ivory Coast in 1975.²³ Kagombe in turn used these experiences in order to advocate public investment in a national archival building, framing it as the future home for records restored to Kenya from abroad.

Upon his return to Kenya after the tour, Kagombe delivered a speech before Nairobi's Rotary Club wherein he impressed upon his audience the importance of an archival building for their nation. He said, "It is true as Dr. Kwame Nkrumah once said 'a man without culture is like a man without soul' and so is a nation without a well-established and properly equipped archives. In other words, culture and soul are synonymous and so is a nation and archives."²⁴ He proceeded to chronicle the recent construction of archival buildings by the French, German, UK, and Ghanaian governments, claiming that because of these buildings, "the knowledge and wisdom of all kinds will be transmitted centuries to come to the future generations." After establishing an archival institution as the "soul of the nation," Kagombe described how in addition to its impressive archival buildings, the Ghanaian government "started a mission of collecting all the migrated

²² KNA, KNA 2/79, Letter, Kagombe to Director General UNESCO, November 13, 1975.

²³ KNA, B25/60/8A, Vol. I, Report, Kagombe to Permanent Secretary Ministry of Housing and Social Services, "Report on Various Archival Buildings Visited Overseas for Proposed Archival Building for Kenya and the Final Recommendation," February 11, 1976.

²⁴ KNA, KNA 2/79, Transcript of speech delivered by D. M. Kagombe, "Structural-Functional Analysis of the Institution of Archives in National Development," to the Rotary Club of Nairobi, Inter-Continental Hotel, December 10, 1975.

archives taken by the Dutch [...] and Britain before independence."²⁵ Thereby Kagombe explained an order of operations: in order to recover records from the former colonizer and return them to Kenya where they could then "be transmitted centuries to come," Kenya needed a dedicated archival building.²⁶ Thus, Kagombe framed the retrieval of the "migrated archives" not only as an object of KNA's concern and a core part of its activities but also a rationale onto itself that both afforded prestige through international leadership on the matter and required financial investment in order to showcase Kenya's recovered soul.²⁷

Kenyatta's Personality and Recovering His Personal Library

Record retrieval also provided a way for Jomo Kenyatta to delegate the search for his own confiscated library to the members of the Inter-ministerial Committee on the "migrated archives" and thereby retain his own centrality as "father of the nation" in the reconstruction of Kenya's archival record. The pursuit for Kenyatta's personal library can be understood as an extension of colonial sovereignty struggles, articulated through the mastery of bureaucracy, into postcolonial Kenya-UK bilateral relations.²⁸ In the early morning hours of October 21, 1952, the British colonial government launched

²⁵ Full quote reads, "Ghana started a mission of collecting all the migrated Archives taken by the Dutch, the Netherlands and Britain before independence which took them ten years." Ibid.

²⁶ Kagombe repeated this logic when trying to obtain buildings for use as Provincial Records Centres. In the late 1970s, Kagombe wrote requesting the use of the Mombasa Post Office as such a center. He wrote, "Time is overdue to act now or else our children will have to continue going to Europe and America to read and write about our history and heritage. Most of the records are overseas and are still being bought and it will cost us a fortune to buy them if we delay." KNA, B 25/60/8A Vol. I, Letter, n.d.

²⁷ While the purpose-built archival building that Kagombe dreamed of never materialized, KNA followed up on the recommendations of Faye and Bell, who in August 1976 suggested that KNA take over the Kenya Commercial Bank until funds were available for new construction. Since 1980, the KNA has been housed there.

²⁸ See Peterson, "Writing in Revolution: Independent Schooling & Mau Mau in Nyeri," in *Mau Mau and Nationhood: Arms, Authority and Narration*, pp. 76–76; MacArthur, "Introduction," in MacArthur and Mutunga (ed.), *Dedan Kimathi on Trial: Colonial Justice and Popular Memory in Kenya's Mau Mau Rebellion* (Athens: Ohio University Press, 2017).

Operation Jock Scott, thereby officially beginning the Emergency. Hoping to decapitate the anticolonial movement, the operation targeted over 180 people believed by the government to be the political leadership of Mau Mau. Among those arrested was Jomo Kenyatta, whose house was raided upon his apprehension. As a consequence, his library, personal papers, and collected African artifacts and artworks were confiscated and brought to the Athi River Road Police Station.²⁹ While Kenyatta's suspected role as a Mau Mau leader has been debunked, the ambiguity of his own political thought is buttressed by the absence of his personal library.

In 1970, the Kenyan Government began an official investigation into the whereabouts of Kenyatta's records. On June 27, 1974, Kenya's High Commissioner met with the Permanent Under-Secretary, likely of the British Foreign and Commonwealth Office, although it is not specified in the internal documentation, in London and inquired about "some personal papers either referring to or belonging to President Kenyatta which the President was interested in obtaining."³⁰ The Permanent Under-Secretary deflected answering, instead suggesting that the commissioner needed to be still more specific in their requests. Intent on developing a more precise understanding of what records were missing from Kenya, the Inter-ministerial Committee embarked on an extensive survey of collections held across the UK related to Kenya, as will be elaborated in the following section. As a result, the search committee returned to the Foreign and Commonwealth Office regarding "some 1 ½ tons of books from the late President's library which the Kenyan police seized when they arrested him in 1952."³¹ This request prompted a more thorough consideration by C. T. Hart of the FCO's African Section, Research Department. Through cooperation with Richard Cashmore, who by the early 1970s was head of the Foreign and Commonwealth Office's African Section, Hart put the "migrated archive" surveyors in touch with Mr. Chubb, the colonial

²⁹ KNA 14/5, Memo "Records Taken from Kenya Prior to Independence – 2. Records Belonging to the Late President Jomo Kenyatta at the Time of his Detention by the Colonial Government," n.d. (likely 1980).

³⁰ TNA, FCO 141/19934, FCO Library and Records Department, Memo, Kenya: Migrated Records, item 4.9, "Requests by Kenya government for the return of Migrated Records," July 7, 1982.

³¹ TNA, FCO 141/19913, C. T. Hart to Mr. Longrigg, "Kenyan Request for Archives in UK," October 25, 1978.

officer who returned Kenyatta's "personal possessions to him on his release."³² According to Hart, Chubb claimed that "the library of books was likely to be in Kenya if it had survived."³³ By 1980, two years after Kenyatta's death, Kagombe reported that "the whereabouts of these materials is still officially unknown."³⁴

The absence of Kenyatta's own political records from his time as president (1964–78), in addition to presenting a stumbling block for biographers, indicates a lesson learned from his colonial predecessors: The existence of documentary evidence provides a potential weakness.³⁵ The scarcity of personal papers created by Kenyatta can be seen as the result of his own awareness of the political dangers of documents. These dangers were evidenced not only by "Operation Legacy," wherein colonial officials were desperate to clean up heaps of incriminating records but also by the illusory problem of archival control. In other words, that neither political sovereignty nor his own role as the nation's figurehead guaranteed the recovery of Kenyatta's records. To a similar end, during the mid-and-late 1970s, KNA had difficulties obtaining documents from the Kenya African National Union's (KANU) headquarters. In a 1976 letter to KANU's treasurer, KNA member of staff complained, "we have found it difficult to assess

³² Ibid. See also Robert A. Longmire and Kenneth C. Walker, for the Foreign and Commonwealth Office, "Herald of a Noisy World – Interpreting the News of All Nations," *Foreign Policy Document (Special Issue)* no. 263 (1995).

³³ TNA, FCO 141/19913, C. T. Hart to Mr. Longrigg, "Kenyan Request for Archives in UK," October 25, 1978. Full quote:

Through the good offices of Dr Cashmore I was able to put Dr Thurston in touch with Mr. Chubb, the Colonial Officer who returned Kenyatta's personal possessions to him on his release and who explained what was then handed back. There was a stick and a ring but no fly whisk and pictures of Kenyatta prior to his detention suggest that an ornamental stick was usually his device in those days. Mr. Chubb was also able to advise that the library of books was likely to be in Kenya if it had survived and that the records of the Ministry of Justice or of the police might give a clue to its fate. I confirmed to Dr Thurston that there was no reason why the books should have left Kenya and suggested that a search be made of the Kenya Gazettes published during the Emergency for a confiscation order together with a search of court records.

³⁴ KNA 14/5, Memo "Records Taken from Kenya Prior to Independence – 2. Records Belonging to the Late President Jomo Kenyatta at the Time of his Detention by the Colonial Government," n.d. (likely 1980).

³⁵ In her recent biography of Kenya's first president, Anais Angelo has written not only about the disappearance of Kenyatta's private papers but also about the conspicuous gaps within the KNA's "Office of the President" files. Angelo, *Power and the Presidency*, pp. 33–35.

and evaluate the Party's records because of the reluctant attitude displayed by your staff. [...] You of course appreciate what sort of records they are and the country can't afford losing them."³⁶ KANU ruling elite were in no hurry to deposit their papers where they would be available to a potentially critical public. While KNA pursued the matter of restoring Kenyatta's library through negotiations with the UK well beyond his death in 1978, the suspicion of preserving political papers persisted within Kenya. Thus, Kenyatta's approach to retrieving the "migrated archives" can be seen as a personal settling of the score between himself and those who misjudged him decades before rather than as a broader commitment to transparency in government.

Archival Retrieval as Political Continuity

While the search for Kenyatta's library was embroiled in past personal politics, the retrieval of colonial administrative records from the 1940s to the 1960s was of current political concern to the Kenyan government. It is worth noting that the majority of records that the British colonial government took from Kenya were not *archival* at the point of their removal, but *current*. By 1955, following the acceptance of the 1952 Grigg Report, the UK government held that records selected for permanent preservation should be "transferred to the [Public Record Office] when they were 30 years old" and be opened to the public when they were 50 years old.³⁷ The 30-year period prior to transfer was in place in order not to prematurely relocate files that had ongoing relevancy for carrying out activities. In Kenya's case, the British colonial government removed files that had materials from right up to and, in some cases, following independence. These files originated from the War (later Security) Council, the Council of Ministers, Kenya Intelligence Committee, the Cabinet, Ministry of Defence, Governor's Office, Chief Secretary, and Chief Commissioner's Office, and covered dates as late as 1964. While "Operation Legacy" attempted to fix empire and its many issues in the past tense, the peoples of newly independent Kenya were still grappling with the problems inscribed

³⁶ KNA, KNA 2/80, Letter, Mulanda to J. K. Ole Tipis (KANU Treasurer), April 21, 1976.

³⁷ The National Archives (UK), "History of the Public Records Act," www.nationalarchives.gov.uk/information-management/legislation/public-records-act/history-of-pra/ [accessed September 2021].

into the removed records, such as boundary disputes and land claims.³⁸ At the first meeting of the Inter-ministerial Committee in August 1973, Mr. Karanga of the Ministry of Natural Resources stated that as a result of "the mammoth shipment of Kenyan records to Britain [...] many of [Kenya's] development projects are either being delayed or a lot of money is being spent on research in priority areas on which information is either in documents transferred to U.K. or destroyed."³⁹

Restoring them to Kenya was thus a matter of sovereignty: both between former colonized and colonizing states as well as within a land still rife with competing visions of independence.

To illustrate the level of political importance with which the Kenyan government regarded the retrieval of political records, the following briefly reconstructs a timeline of official requests. The purpose of this reconstruction is to highlight the efforts by the Kenya National Archives, the Kenyan Ministry for Foreign Affairs, and the Inter-ministerial Committee to credibly pursue archival retrieval as a "proper Anglo-Kenyan" bilateral negotiation process, often within the rhetorical framework of restoring cultural heritage, for political ends.⁴⁰ This pursuit had the presidential support of first Jomo Kenyatta and following his death in 1978 of Kenya's second president Daniel arap Moi until the mid-1980s, when the mission came to an end.⁴¹ The first correspondence from the Kenyan to the UK

³⁸ In 1978, D. Gregory of the FCO's Records Branch explained the UK position: "Generally the Central Government records of a colony become 'historical' immediately on independence as a new Government has little need of records relating to a dependent past." This position not only disregarded the legal framework laid out by the Public Records Act (1967) and the recommendations of the Grigg Report, it either ignored or was misguided in its insistence that "new Governments" have little need for such records. The extent of international activity on the "migrated archives" by former colonial states, as will be elaborated in this chapter, shows otherwise. TNA, FCO 141/19913, Letter, D. Gregory to E. C. Blayney, November 24, 1978.

³⁹ KNA, CONF 29/A Vol. II, Minutes of the Interministerial Committee on Retrieval of Kenya Archives from Overseas Countries, Held in Room No. 918 Jogoo House "B" on the 8th August 1973.

⁴⁰ Ibid.

⁴¹ Chief Archivist, David Maina Kagombe, attributes the following quote to Moi on October 10, 1978: "The Government will do all in its power to retrieve archives in foreign countries so that they are available for the country's future generations." KNA 14/5, Migrated Archives: A Preliminary Survey of Kenya Records in Britain, July 1979.

government regarding the restoration of removed records came in 1966 regarding the Oxford University Colonial Records Project. The year after, Kenya's Permanent Secretary of the Ministry of Foreign Affairs, Mr. Kibinge, wrote to Mr. Arthur of the British High Commission in Nairobi wishing to "open preliminary discussions on ways of returning to Kenya all the documents removed [. . .] during the pre-independence period."⁴² After corresponding with the UK government, Arthur responded that the removed records were considered the property of HMG and would not be returned. This claim was based on nothing other than a calculation of UK interests.

Not deterred by this response, the Kenyan government persisted. In March 1973, the Kenyan Minister for Foreign Affairs, Dr. Mungai, raised the issue of pre-independence records with Alec Douglas-Home, Secretary of State. Douglas-Home informed Mungai that his government was welcome to pay for photocopies of any records held at the Public Record Office (PRO). Dissatisfied with this prospect and aware that the PRO did not hold the full run of records that they were interested in, the Kenyan government formed the Inter-ministerial Committee on Retrieval of Kenya Archives from Overseas Countries in 1973. It originally comprised representatives from the Ministry of Natural Resources (KNA's parent ministry at the time), the Office of the President, the Attorney-General's Chambers, and the Office of Foreign Affairs. While the committee noted the "likelihood [that] there are Kenya records and archives in" Austria, Germany, Hungary, India, Italy, Portugal, Somalia, the United States, and the Vatican City, it concentrated its efforts in England.⁴³ Nathan Fedha, who was still Chief Archivist at the time of the committee's founding, prepared a memo on the "migrated archives," and in it included a list of twenty-six document types believed to be among those held in the UK. They included all records dealing with the Executive and Legislative Councils, papers from the Governor's office, those used by Corfield in his "historical survey of the origin and growth of Mau Mau," and Internal Security, among others. Fedha put the list together by inferring what was missing from the Governor's office based on surviving

⁴² TNA, FCO 141/19934, Internal Note, "Kenya: Migrated Records," Smyth to Blayney, July 7, 1982.

⁴³ KNA, CONF 29/A Vol. II, Minutes of the Interministerial Committee on Retrieval of Kenya Archives from Overseas Countries, Held in Room No. 918 Jogoo House "B" on the 8th August 1973.

records. However, he explained that KNA has "no details of the various classes of records that were transferred to London."⁴⁴ Equipped with this information in June 1974, the Kenyan High Commissioner met with the Permanent Under-Secretary to discuss returning some of Kenya's records. He was told to return when "the Kenyans were in a position to state their specific requirements."⁴⁵ The Foreign and Commonwealth Office and UK government repeated this tactic of diversion throughout Kenya's engagement with them on the issue, all the while aware of the impossibility of the task to list unrecorded missing records.

In order to place more specific requests and create a bilateral agreement concerning the "migrated archives," the Inter-ministerial Committee spent the mid-1970s strategizing how best to approach the UK government. At their fourth meeting at the end of August 1975, the committee resolved to send a diplomatic letter from the Kenya Government, via the Ministry of Foreign Affairs, clearly stating that the "Kenya Government wants to retrieve her archives abroad."⁴⁶ Additionally, the committee agreed to publicize archival retrieval in British press in an appeal for readers to donate their relevant archives to the Kenyan Government. Lastly, the committee agreed that a team should be posted to the High Commission in London in order to survey England-based archival collections for relevant material. In order to request the release of funds for the survey team, the Permanent Secretary of Housing and Social Services, then the parent ministry for the Kenya National Archives, wrote to the Directorate of Personnel Management and to the Treasury to emphasize "the urgency of the matter."⁴⁷ He attached an eight-page document explaining the background to "records removed from Kenya to the United Kingdom before Independence."⁴⁸ In the document,

⁴⁴ Ibid.

⁴⁵ TNA, FCO 141/19934, LRD summary of "Kenya: Migrated Records," n.d. (likely 1980–1982).

⁴⁶ KNA, KNA 34/87, Meeting Minutes, "Migrated Archives," August 29, 1975.

⁴⁷ KNA, KNA 34/87, Letter, Permanent Secretary of Housing and Social Services to Permanent Secretary Directorate of Personnel Management, October 23, 1975.

⁴⁸ KNA, KNA 34/87, "Records Removed from Kenya to the United Kingdom before Independence," supplement to Letter, Permanent Secretary of Housing and Social Services to Permanent Secretary Directorate of Personnel Management, October 23, 1975.

Kagombe enumerated forty-seven types of records to retrieve, which included documents related to Kenya/Uganda borders, Maasai land treaties, the Emergency, Kenyatta's confiscated books, records pertaining to African participation in the First and Second World Wars, and all record classes previously identified by Fedha. This list demonstrates how retrieving records was of great relevance for nation-building, especially with regard to boundary making and land disputes. Scholars Derek Peterson and Giacomo Macola have well summarized that "colonial governments were documentary regimes" that used paper-based bureaucracy as a tool of domination.⁴⁹ Recuperating these records can thus be understood as part of the decolonization process, as the following will examine at the international, bilateral, and national levels.

The "Migrated Archives" and Decolonization

When reflecting on KNA's pursuit of the "migrated archives," Musila Musembi, the institution's third Chief Archivist, explained, "when you get someone from the outside to strengthen your ideas, then it is easier to sell."⁵⁰ This point sheds light on the role of UNESCO, the ICA, and other international organizations in generating an international framework within which to resolve the custodial and locational issues of colonial archives. International activity on the "migrated archives" established terms of reference and credibility for KNA's search that resulted in the Kenyan government's financial investment in the project, despite limited resources. For example, at its 19th General Conference held in Nairobi in 1976, UNESCO resolved to promote the development of archives both as a tool for "administrative efficiency" and "as a factor in the preservation and presentation of the cultural heritage and of national identity."⁵¹ By referring to this resolution, Kagombe was able to advocate the political importance of KNA to the government in order to release funds to pay for a survey team in the UK, after the Directorate of Personnel Management made it quite

⁴⁹ Peterson and Macola, "Homespun Historiography," in *Recasting the Past*, p. 8.

⁵⁰ Interview with Musila Musembi at the Kenya National Archives, Nairobi, May 13, 2018.

⁵¹ UNESCO. General Conference; 19th; Records of the General Conference, 19th session, Nairobi, 26 October to 30 November 1976, v. 1: Resolutions; 1977 (hustoj.com), p. 56 [accessed October 15, 2021].

clear that that his office was “extremely reluctant to establish any additional posts in the Archives Department.”⁵² However, Kagombe’s appeal was successful, and in 1978, KNA organized a small team to survey England-based archival collections. This survey was meant to generate an overview of what they held and what was likely kept out of public view by the Colonial Office and its successors. The team, which comprised Mr. Sarone Ole Sena, Mr. Edward Waiguru Muya, and Dr. Anne Thurston, worked under the Kenya High Commission in London. Kagombe explained that the team would “not be attempting to make an exhaustive study of migrated archives,” but rather to identify “relevant sources and to prepare the ground for the officers who will be occupying posts eventually in London.”⁵³

In addition to facilitating support for the KNA from the Kenyan government, international activity on the “migrated archives” pressured European governments to address the issue. However, through its emphasis on nations, national identity, and sovereignty, the logical rhetoric and membership criteria employed by international organizations created a framework that acknowledged not only the position of new states independent from former colonial rule but also the *imperial* sovereignty of former colonizing countries. The limitations and consequences of this approach are most visible in the 1983 Vienna Convention on Succession of States in Respect of State Property, Archives and Debts, which addressed decolonization as a form of state succession, thereby accommodating the interests of former colonial powers as states with legal claims and protections, even though there had been *no legal framework* during the period of colonial administration in Kenya that established an archives, just general rules.⁵⁴

⁵² KNA, KNA 34/87, Letter, Directorate of Personnel Management to the Permanent Secretary, Ministry of Housing and Social Services, November 14, 1975.

⁵³ KNA, KNA 34/87, Letter, Kagombe to Njoroge, August 19, 1978.

⁵⁴ In his dissertation on the subject, Andrzej Jakubowski makes this point in his summary of the legal debate within the ILC “on the postcolonial notion of state succession” between Mohammed Bedjaoui, an Algerian legal expert, and David P. O’Connell, a British scholar of state succession. Jakubowski argues that O’Connell conceived of decolonization as a type of classical state succession, wherein “the continuity of legal relations, including property rights, could not be lapsed by the mere fact of state succession,” therefore advocating the ongoing legitimacy of proprietary claims by the imperial power after independence. Conversely, Bedjaoui argued that decolonization was a unique phenomenon wherein newly independent states, through their sovereignty, reserved the right

Furthermore, by discussing state archives as cultural objects, the convention failed to adequately address their unique, multi-scalar political relevance, which accentuated the neglect of decolonization as a particular political process of redistribution and preserved the legitimacy of imperial property. In fact, by historicizing the "migrated archives," not only the different imaginations and aspirations pinned on to them clarify but also the different understandings of what decolonization was and should be. The following will discuss activity on the "migrated archives" at the international, bilateral, and national levels within the context of decolonization with a focus on Kenya, the UK, and the 1983 Vienna Convention.

The "Migrated Archives" and Decolonization at the International Level

Though the global problem of the "migrated archives" has had unique features for different claimants in different contexts, some common issues run through these cases. For example, postcolonial states shared the interest in raising the issue of the "migrated archives" and developing a program for the return of either original documents or duplicates. In contrast, the UK and French governments, for example, have shared an interest in skirting the issue all together and in refraining from repatriating records. This difference, characterized by struggles to reveal and struggles to conceal, has favored postcolonial states in their abilities to set and shape the discourse in international organizations and has favored former colonizing countries in their abilities to withdraw from or to refuse to engage in bilateral negotiations. This oppositional difference in interests and the absence of any enforcement mechanism has resulted in the phrase "migrated archives" proliferating from the mid-1970s as a term to describe the custodial and locational issues of colonial archives after independence but without

to either maintain or reject "property relations established prior to decolonization." Jakubowski, "The Effects of State Succession on Cultural Property: Ownership, Control, Protection." PhD Diss., European University Institute, 2011, pp. 208–10. Nathan Mnjama attended the 1983 Convention and criticized the text for having acknowledged the archives of the predecessor state, in this case the British colonial government, where in fact there was no legal framework for Kenyan archives until 1965. KNA AR/15/5, N. M. Mnjama, "Report on the Vienna Convention on Succession of States in Respect of State Property, Archives, and Debts," April 22, 1983.

any cooperation to resolve disputes. In other words, international organizations have facilitated the *naming* of the problem of the “migrated archives” but have also stalled *solving* it. This dilemma has been further compounded by the ambiguity of what documents exactly constituted the “migrated archives.” In his discussion of the “migrated archives,” Kagombe distinguished “African archives” from “African-related Archives,” wherein the former were specifically the administrative documents “removed from the country prior to Independence [...]” and the latter were more broadly understood.⁵⁵ While international organizations such as the ICA also made several distinctions in their “migrated archives” typology, the approach was not differentiated accordingly.

After its founding in Nairobi in 1969, the East and Central African Regional Branch of the ICA (ECARBICA) established a network for African archivists to discuss common issues, among which the “migrated archives” was dominant. As a result of its fourth general conference, held in Malawi in April 1976, the branch passed several “migrated archives” recommendations. Firstly, the members established the categorical position that it was “important for these records to be recovered.”⁵⁶ They then proposed a protocol for doing so: African archival institutions should first create a list of the documents they wished to be returned and that ECARBICA would then arrange a program, funded by UNESCO, for the retrieval or copying of these records.⁵⁷ This is exactly what KNA set out to do. After Kagombe’s successful funding bid for a small survey team, Mr. Sarone Ole Sena, Mr. Edward Waiguru Muya, and Dr. Anne Thurston started work in southeast England at the end of August 1978.⁵⁸ Within a few months,

⁵⁵ James Lowry, “Mnjama and the Migrated Archives,” in M. Ngoepe, S. Keakopa, T. Segatsho, S. Bayane, and J. Moloi (eds.), *Memoirs of an archivist: festschrift in honour of Prof Mnjama*, (Pretoria: ESARBICA, 2019), p. 56.

⁵⁶ Ronald J. Plavchan, “The International Scene: News and Abstracts,” *The American Archivist* 40, no. 3 (1977): 251.

⁵⁷ Ibid. The conference also resolved that its members encourage their respective governments to invest in the Regional Training Centre for Archivists in Ghana in order that it could replace UNESCO as the financial and technical support source for African archivists.

⁵⁸ Edward Waiguru Muya was at the time a student at the University of Loughborough studying Archives and Information Science, Sarone Ole Sena was to begin studies in Social Anthropology at Cambridge University, and Anne Thurston, who had been working for Joseph Murumbi, was on leave in Britain.

the team visited over eighteen institutions in London and Oxford, interviewed "a number of individuals as sources of information," and attended the UK African Studies Association conference.⁵⁹ The team visited research institutions, museums, and universities in order to identify *Kenya-related* material in Britain. The search, therefore, was much broader than identifying the records that were known to have been removed by the colonial administration before independence. Rather, the survey was an attempt "to trace the sources of documents relating to Kenya's history and development," all of which were considered "migrated archives" by the surveyors.⁶⁰ Due to their generalized search and visits to public-facing institutions, the team noted "the overwhelming interest in the survey and the willingness to assist expressed by archivists, historians, and officials."⁶¹ Encouraged by the trip, the three recommended a follow-up survey of six weeks to select records for duplication and to visit additional institutions, such as the Public Record Office. To do so, the surveyors argued, "would establish Kenya as a leader in the developing world in archival retrieval."⁶² In fact, it would fulfill the 1976 ECARBICA resolution on the "migrated archives."

The ICA adopted ECARBICA's position on what might constitute a successful retrieval program for the "migrated archives." In 1977, at the ICA's seventeenth conference in Cagliari, it was agreed that UNESCO should control a fund to assist microfilming in order to

KNA, KNA 34/87, Letter, Kagombe to the Controller of Exchange, September 4, 1978.

⁵⁹ KNA, KNA 34/87, Waiguru Muya, Sarone Ole Sena, Anne Thurston, "Interim Report: Migrated Archives Initial Survey: Great Britain," n.d. Among the interviewees were Mr. J. H. McIlwaine, lecturer in archival and library studies at University College London; Dr. John Lonsdale, lecturer in history at Trinity College, Cambridge; Dr. Bill Beaver, the director of the Oxford University Records Project; Dame Margery Perham, former director of the Oxford University Colonial Records Project; and Mr. M. D. McKee, of the School of Oriental and African Studies. Among the institutions visited were the British Museum, British Museum of Natural History, the Royal Commonwealth Society, the Royal African Society, the Church Missionary Society, and nine colleges/institutes at Oxford University.

⁶⁰ As specified in a notice published in the African Studies Association-Standing Conference on Library Materials on Africa Journal, *African Research and Documentation*, 24 PDF.

⁶¹ KNA, KNA 34/87, Waiguru Muya, Sarone Ole Sena, Anne Thurston, "Interim Report: Migrated Archives Initial Survey: Great Britain," n.d.

⁶² Ibid.

conclude “bilateral agreements” for archival transfers in the context of decolonization.⁶³ The practical problem was therefore understood as financial: how to secure payment for duplication within existing frameworks of public record institutions.⁶⁴ This approach implied that governments receiving requests would release the records in question to public record offices, where they could then be duplicated. Furthermore, it was expected that countries seeking their “migrated archives” compile their own lists of documents relevant to their nation’s history but located in “foreign archives.”⁶⁵ By placing the surveying burden on national governments seeking “migrated archives,” the archival transfer model described by the ICA and practiced by KNA relied on the willingness of institutions and governments that had no incentive to reveal records they did not wish to share, as in the case of the records removed from British colonies before independence. In fact, the ICA stated that the process of negotiating archival retrieval could “contribute towards creating a climate of goodwill between peoples formerly in opposition to each other.”⁶⁶ Thus, the ICA proposed that archival retrieval could strengthen international cooperation between former colonized and colonizing countries instead of looking at how archival custody both maintained and represented the endurances of colonial asymmetries.

While the KNA and its Inter-ministerial Committee continued with their work on retrieving the “migrated archives,” international organizations attempted to systematically resolve custodial issues surrounding colonial archives leading to the 1983 Vienna Convention on Succession of States in Respect of State Property, Archives and

⁶³ KNA, KNA 34/87, Morris Rieger, “Memorandum to Participants in the UNESCO Consultation on Disputed Archival Claims, 29–31 March 1978,” March 14, 1978.

⁶⁴ The 1978 KNA survey team noted the microfilm policies and costs at each of the visited institutions, clearly indicating the intention to pay for copies of documents as a solution to the “migrated archives” problem.

⁶⁵ International Council on Archives, “Reference Dossier on Archival Claims,” collated by Herve Bastien, 1995, p. 38. www.dcofiles.com/icadossier.pdf [accessed October 2021].

⁶⁶ Charles Kecskeméti and Evert van Laar, “Model Bilateral and Multilateral Agreements and Conventions Concerning the Transfer of Archives.” PGL81/WS/3. Paris: UNESCO, 1981. <https://unesdoc.unesco.org/ark:/48223/pf0000046909> [accessed August 2020]; See also Linebaugh, “‘Joint Heritage’: Provincializing an Archival Ideal,” in James Lowry (ed.), *Disputed Archival Heritage* (Milton Park: Routledge, 2022).

Debts.⁶⁷ Among these organizations were the ICA, UNESCO, and the International Law Commission (ILC). In 1977, UNESCO commissioned a survey from the ICA chronicling archival disputes resulting in the publication of "Archival Claims: Preliminary Study on the Principles and Criteria to be Applied in Negotiations."⁶⁸ The following year, this study formed the basis of recommendations presented at UNESCO's twentieth General Conference in relation "to the broader question of restitution of other types of cultural property," which became a term of reference for the report of the ILC on the work of archival transfer.⁶⁹ The incorporation of colonial archives into the framework of cultural heritage abstracted their unique legal and political attributes. While these features were acknowledged, the state-succession paradigm maintained focus on "the continuing administration of all activities within the jurisdiction of the State. [...] Archives thus constitute irreplaceable legal titles and evidence which is essential to guarantee continuity in the exercise of the functions incumbent on public authorities."⁷⁰ The emphasis on *continuity* precluded perspectives on the injustices of colonial administrations and imperial governance, including the manner in which records functioned during colonial rule and the ways their suppression preserved imperial interests. In fact, the text for the 1983 Convention legitimized the retrospective claims of former colonizing countries to records removed

⁶⁷ For an overview of the ILC's work on succession of states in respect of State property, archives and debt, see Anthony Aust, "Introductory Note: Vienna Convention on Succession of States in Respect of State Property, Archives and Debts, Vienna, 8 August 1983," *Audiovisual Library of International Law*, August 2009. <https://legal.un.org/avl/ha/vcssrspad/vcssrspad.html> [accessed October 2021].

⁶⁸ Charles Kecskeméti, "Archival Claims: Preliminary Study on the Principles and Criteria to Be Applied in Negotiations." PGL-77/WS/1. Paris: UNESCO, 1977. <https://unesdoc.unesco.org/ark:/48223/pf0000029879> [accessed August 2020]. Scholar Mandy Banton has shown how the UK government, through the Public Records Office, did not acknowledge open claims in the late 1970s for colonial records in their survey response in order to avoid the consequences of doing so. Mandy Banton, "Destroy? Migrate? Conceal?" pp. 321–35.

⁶⁹ International Council on Archives, "Reference Dossier on Archival Claims," collated by Herve Bastien, 1995, p. 31. www.dcofiles.com/icadossier.pdf [accessed October 2021].

⁷⁰ International Council on Archives, "Reference Dossier on Archival Claims," collated by Herve Bastien, 1995, p. 31. www.dcofiles.com/icadossier.pdf [accessed October 2021].

“before the independence of [a] territory,” by establishing a notion of *imperium* relevancy.⁷¹

The International Law Commission acknowledged the “imperium” as a legitimate state entity with valid custodial claims to documents related to “its colonial policy generally in the territory concerned,” and thereby created an opportunity for the UK government to justify its claim to the “migrated archives.”⁷² The ILC took the position that it was not possible to codify a “simple rule of passing or non-passing” in the case of *imperium* state archives and instead recommended “the States concerned to settle the matter by an agreement based on the principle of mutual benefit and equity.”⁷³ Instead, the Foreign and Commonwealth Office seized the ILC’s *imperium* category as a way to protect the secrecy and custody of the “migrated archives.” A team of UK government legal advisers, representatives from the UK’s UN Department, and the FCO’s Library and Records Department met in January 1983 to discuss their preparations for the upcoming Convention. During their meeting, Mr. J. H. Smyth of the LRD clarified how the UK could make use of the *imperium* category in order to preserve the records removed for their potential to incriminate the UK Government. He explained,

Prior to a Colony becoming independent Governors are sent instructions regarding the disposal of certain material. A Colonial Governor has two hats – one the representative of the Crown, the other the administrator of the Colony. The line taken (as with Kenya) is that only the Crown papers i.e. those which belong to HMG are sent to the UK. What actually happens is that sensitive material, handled only by expatriate Colonial Service officers, is removed to the UK prior to independence. There is no reference to this material in the archives series handed over on independence. [...] Mr Edwards [UK governmental legal adviser] thought it important to get the principle of excluding from the Convention papers not concerned with Colonial administration and therefore not belonging to a successor Government. This would have the effect of excluding such sensitive material.⁷⁴

⁷¹ United Nations, *Draft Articles on Succession of States in Respect of State Property, Archives and Debts with Commentaries* (1981), p. 63.

⁷² Ibid. ⁷³ Ibid., p. 64.

⁷⁴ TNA, FCO 141/19913, Meeting Notes, Library and Records Department, January 27, 1983.

Mr. Smyth explained that by justifying record removal on proprietary grounds (colonial officials only took records which belonged to HMG), the UK government therefore conformed to the normative rights of an *imperium* power recognized by the ILC while in effect keeping secret *sensitive* materials. Mr. Smyth therefore proposed a justification of insistence. His phrasing, namely, "the line taken" and "what actually happens," illustrates the work of deception behind the FCO's claim, a feature general to their interactions with the Kenyan government on the matter.⁷⁵ The meeting illustrates how widely these matters of the UK's secret colonial archives were discussed and, relatedly, the awareness of and participation in the deception to keep them secret. Smyth went on to reassure his colleagues that not only the removal of sensitive records and destruction of copies was thorough, but that no documentation of the process itself survived the exercise, disabling the Kenyan government from supporting archival claims with evidence.

However, Mr. Smyth's confidence in the Kenyan government's ignorance was misguided. By 1980, the Kenyan government was aware of documents in England that were

held separately from the other colonial documents generated in or received in Britain through normal procedures. They have not been and will not be transferred to the Public Record Office [...] the fate of the Kenyan documents is thus dependent on a reconsideration of British policy at a high level.⁷⁶

Ongoing activity by the Inter-ministerial Committee and a second survey by Kenya's "National Archives Programme of Reinstitution of

⁷⁵ For example, in 1978 LRD employee M. A. Cousins reported on their visit with representatives of the Kenya National Archives. Cousins stated, "After looking at our catalogues and at the collection of photographs on Kenya, in which she was particularly interested, Dr. Thurston mentioned briefly the subject of migrated Kenyan archives, in response to which I affected an air of not entirely assumed ignorance." TNA FCO 141/19913, Note, Cousins to Blayney and Gregory, November 28, 1978. Two years later, the head of the LRD met again with KNA representatives. She reported that "I professed when questioned to know little about the material returned to the UK (they clearly knew that we held some material)." TNA, FCO 141/19913, Note, Blayney, October 29, 1980.

⁷⁶ KNA 14/5, "Records Taken from Kenya Prior to Independence," Kenya National Archives, n.d. estimated February 1980 based on the composition of the archival file. File was closed at March 26, 1981, so it is likely dated no later than 1981.

Archival Claims” had generated this awareness. Following the completion of the first survey in 1978, Kagombe wrote to the Kenya High Commission in London to announce the second phase. This phase, according to Kagombe, would lead to a complete survey of remaining institutional visits, the purchase of microfilms, and the establishment of a permanent mission to Britain for the “Retrieval of Migrated Archives.”⁷⁷ Kagombe recruited three students from the University of Ghana’s Department of Library and Archival Studies to join Anne Thurston in England: Wilson Muruku, Ichagichu Mwangi, and Nathan Mnjama.⁷⁸ The project was announced to the UK’s Foreign Office by Kenya’s Ministry of Foreign Affairs, who described its aim as “the compilation of a catalogue of Kenya-related documents and the retrieval in a form acceptable to both governments of such materials.”⁷⁹ Muruku and Mnjama arrived and started work in London at the end of September 1979; Mwangi joined them one month later. Prior to their installment, Kenya’s Permanent Secretary clarified the seriousness of the project to the UK Foreign Office. He explained, “it is necessary at this stage to communicate at a diplomatic level” in order to enable “the possibility of an Anglo-Kenyan Bilateral agreement on Archival Claims.”⁸⁰ Kenya’s protocol during these surveys followed very closely the suggestions laid out by ECARBICA and the ICA as to how to resolve colonial archival disputes. This diplomatic approach and the focus on less controversial materials accessible in public-facing institutions cushioned the more discreet and delicate pursuit for the concealed records. However, it did not yield immediate results. The team returned to Kenya in December 1979 without any promise of a bilateral agreement.

⁷⁷ KNA, KNA 14/5, Letter, Kagombe to S. K. Kimalel, August 9, 1979; Letter (draft), Ministry of Foreign Affairs to Kenya High Commission, August 9, 1979.

⁷⁸ In 1961, the Ghana Library Board established the Ghana Library School, which moved to the University of Ghana in 1965. By 1976, it “became the Centre for archival education in English-speaking Africa” in partnership with the International Council on Archives and the United Nations Development Programme. University of Ghana, Department of Information Studies, “Brief History.” www.ug.edu.gh/infostudies/about/brief_history [accessed October 2021].

⁷⁹ KNA, KNA 14/5, Letter (draft), Permanent Secretary, Ministry of Foreign Affairs, to the Foreign Office, August 9, 1979.

⁸⁰ Ibid.

Kenya's activity on the "migrated archives," bolstered by international attention and most notably the 1983 Vienna Convention, prompted an internal discussion within the Foreign and Commonwealth Office on the files' fate. In an internal memo, the head of the Library and Records Department wrote in July 1982,

The question of migrated archives i.e. records removed from former colonial territories, has exercised both former colonial powers and former colonies for some time. [...] So far as the United Kingdom is concerned the archives in dispute include those of a former UK Government department, the India Office, the Political Agencies in the Gulf of the former Government of India and certain records created by colonial administrations transferred to the UK on independence. The status of such records under the Public Records Act has not been determined nor has HMG ever acknowledged that successor government have any rights in this respect.⁸¹

The note demonstrates the contrast between the crystal-clear disregard by the UK Government of claims by former colonies to their records on the one hand and the lack of clarity within the FCO about the legal status of the "migrated archives" on the other.⁸² This contrast is crucial to understand the UK's approach to the "migrated archives": establish geopolitical interests first, maneuver legal frameworks second.

The UK was not alone in this calculus. The 1983 Convention ended with too few ascensions to come into force.⁸³ As Kenyan delegate, S. K. Muchui, summarized,

⁸¹ TNA, FCO 141/19913, Blayney to Mr. Streeton, "Return of Colonial Records: Kenya," July 28, 1982.

⁸² The LRD often discussed the ambiguous legal status of the colonial archival limbos during 1982. In a file note, J. H. Smyth addressed the question whether they were public records and recalled that the Public Record Office had refused the "migrated archives" as public records in 1972 on the grounds that they "had only been sent to the UK for safe keeping until such time as their sensitivity would have diminished to a point where they could be returned." TNA, FCO 141/19913, "Kenya: Migrated Archives," J. H. Smyth to Miss Blayney, July 7, 1982.

⁸³ The following countries cast a negative vote: Belgium, France, Israel, Luxembourg, Switzerland, the United States, Canada, the Federal Republic of Germany, Italy, the Netherlands, and the United Kingdom. Those who abstained included Australia, Denmark, Greece, Japan, Portugal, Austria, Finland, Ireland, Norway, and Spain. Intra-imperial networks thus voted as a bloc, identifying with the "successor state" interests and creating a Western European position on the question of colonial archival custody. As recorded in

There cannot be any doubt that the Convention represents an important step in the progressive development and codification of international law particularly the provisions dealing with/succession/state [*sic*] in the case of newly independent states. It is precisely because of this that [Western European countries are] unhappy with it. They are understandably bound to resist this type of development particularly in view of the fact that many of them have at one time or another have had dependent territories and some are in fact having such territories at present.⁸⁴

Muchui’s observation that many of the countries that cast a negative vote had enduring imperial interests is key. In this case, the UK government’s interests quite clearly aligned with other European states, further facilitating its geopolitical turn toward Europe. The consistency of European voting patterns was not incidental, but was in fact a matter discussed between European governments, informally, before the Convention.

The “Migrated Archives” and Decolonization at the Bilateral Level

On December 4, 1981, M. Tremeau, a Counsellor at the French Embassy in London, called on the UK Foreign and Commonwealth Office’s Library and Records Department to discuss the “migrated archives” issue. The French government had designed a legal rationale in the mid-1950s for the removal of sensitive records from across its empire upon independence that distinguished between “sovereign archives” and “administrative archives.”⁸⁵ The former consisted of records and files related to “military operations or political figures that had played a major role during decolonisation” that the French government feared could be used by independent governments against France’s geopolitical interests, similar to the UK’s approach to “Operation Legacy.”⁸⁶ However, the application of this removal

KNA, AR/15/5, Report on the United Nations Conference on Succession of States in Respect of State Property, Archives and Debts, S. K. Muchui, estimated date June 21, 1983.

⁸⁴ KNA, AR/15/5, Report on the United Nations Conference on Succession of States in Respect of State Property, Archives and Debts, S. K. Muchui, estimated date June 21, 1983.

⁸⁵ See Shepard, “Making Sovereignty and Affirming Modernity.”

⁸⁶ Vincent Hiribarren, “Hiding the Colonial Past? A Comparison of European Archival Policies,” in *Displaced Archives*, p. 75

policy was uneven across different French colonies. In 1962, when France left Algeria, officials removed nearly all their documents, regardless of whatever "sovereign" or "administrative" distinction that might have applied, preferring instead to remove everything that might be politically injurious to France.⁸⁷ The independent Algerian Republic pursued archival restitution early on. In 1967, the International Law Commission appointed Algerian diplomat and jurist Mohammed Bedjaoui as the Special Rapporteur on public property in cases of state succession. It was thanks in large part to Bedjaoui's advocacy that the issue of the "migrated archives" made it to agenda of the 1983 Convention. In 1981, the French Government, like the British, was concerned with maintaining its control over its "migrated archives." And so Tremeau, nervous about the "difficulties to arise" on the matter, reached out to the LRD for advice.⁸⁸

Tremeau met with Elizabeth (Eily) Carmel Blayney, head of the Foreign and Commonwealth Office's Library and Records Department. Blayney had directed the LRD since 1977 as Bernard Cheeseman's replacement, and had an active role in maintaining the archival limbos in Hayes and Curtis Green, including fielding requests from the Kenyan Government. Before becoming a librarian, Blayney had worked during the Second World War with the First Aid Nursing Yeomanry (FANY) in the UK, India, and Ceylon. She was hired in June 1944 as a wireless telegraphy operator and was stationed in India in Force 136 from March 1945 until January 1946.⁸⁹ Force 136, or "the India Mission," had a variety of different aims during the war from its founding in 1941 onward. Scholar Calder Walton summarizes Force 136's key aims as to develop a plan for the Allied "reinvansion and recapture of Malaya and Singapore," to establish contact with guerrilla fighters and "to create an intelligence system within Malaya."⁹⁰ As a telegraphy operator, Blayney's work would have

⁸⁷ Historian Todd Shepard summarizes that from early 1961 until after the Algerian Republic's declaration of independence on July 5, 1962, "French authorities destroyed 'certain documents that,' [...] 'could be deleterious to the interests of France.' At the same time, they packed and shipped to France thousands of cartons of archives, containing tons of documents." Shepard, "Making Sovereignty and Affirming Modernity," p. 25.

⁸⁸ As reported by J. H. Smyth in his summary of the meeting, TNA, FCO 12/290, "Record – Migrated Records," J. H. Smyth, December 7, 1981.

⁸⁹ TNA, HS9/163/8, Personnel File: Miss E.C. Blayney, n.d.

⁹⁰ Walton, *Empire of Secrets*, pp. 53–57.

contributed to the latter. Force 136 disbanded in 1946, and many of its members went on to staff the "Ferret Force," a secret organization and special force operation that the British colonial government mobilized during the Malayan Emergency.⁹¹ Blayney was not among them; instead, she went on to serve the UK's imperial intelligence interests in bigger, more global ways as a librarian.

Blayney explained to Tremeau how her department was attempting to avoid any consequential engagement with the "migrated archives" issue and reinforced the same, only-partly true explanation of record removal upon independence that she used with the Kenyan Government. She insisted that it was British practice "to leave virtually all archives for the use of the new administration when a colony became independent. Only sensitive British documents e.g., on defence, or other records which could be used unethically by the new Government were withdrawn to London."⁹² The statement contradicted the truth in places where most documents pertained to matters of defense, such as in colonies where the British facilitated small wars as "emergencies," or counter-insurgencies, as in Kenya, leading to the massive culling of all archives. Moreover, it implied that it would be "unethical" for independent governments to raise issues of colonial violence, as documented by defense records. In this way, Blayney's position was consistent with the French rationale for its record removal practices, that they were intended to avoid legal, political, and social consequences for the systematic use of violence in former colonies. Blayney mentioned the pursuit by the Kenyan government for its "migrated archives," and stated that it was "not our practice to microfilm colonial archives nor to provide former colonies with microfilms of Colonial Office records."⁹³ Instead, the Kenyan government was allowed, as any other visitor, to pay for duplication at the Public Record Office, where the relevant Colonial Office records (the "migrated archives") were not stored.⁹⁴ The notice of the exchange between Blayney and Tremeau indicates how former European imperial states conferred with one another to preserve their interests amid decolonization, thereby self-consciously co-creating an imperial bloc of colonial archival control and a practice of European cooperation.

⁹¹ Ibid.

⁹² As reported by J. H. Smyth in his summary of the meeting, TNA, FCO 12/290, "Record – Migrated Records," J. H. Smyth, December 7, 1981.

⁹³ Ibid. ⁹⁴ Ibid.

Where the UK and France consolidated an imperial position to safeguard the "migrated archives" from public scrutiny, Kenya persisted in its pursuit of these and other Kenya-related documents as a matter of decolonization. Writing after his participation in the 1983 Vienna Convention as a Kenyan delegate, S. K. Muchui summarized, "Although decolonization is nearing completion there are still many outstanding issues connected with it for which no satisfactory solution has been found. This is particularly so in the case of archives."⁹⁵ Nathan Mnjama, who also attended the Convention, elaborated, "for effective administrative purposes, Kenya needs all documentation relating to its boundaries, political and social development i.e. all documentation relating to Boundary Commissions should be made available to Kenya forthwith."⁹⁶ In other words, Mnjama held that archival restitution constituted decolonization through the ability to articulate sovereign boundaries. This was a longer-standing issue. In June 1980, the Office of the President, under Moi, had ordered KNA to request documents from the UK Public Record Office (PRO) related to the 1962 report on the Northern Frontier District in series CO 896.⁹⁷ In February 1982, Mnjama had written to the Keeper at the PRO to request "a microfilm copy of the Kenya Northern Frontier Commission 1962."⁹⁸ The Public Record Office forwarded the request to the Foreign and Commonwealth Office and solicited advice from none other than Richard Cashmore, the same person who twenty years prior had organized the removal of the very same documents to London. In 1982, as head of the FCO's African Section, Cashmore was once again in a decisive and privileged position regarding the Northern Frontier District, its borderlands, and the peoples in decades-long dispute. Cashmore advised not to permit access to the

⁹⁵ KNA AR/15/5, S. K. Muchui, "Report on the United Nations Conference on Succession of States in Respect of State Property, Archives and Debts," n.d.

⁹⁶ KNA, AR/15/5, N. M. Mnjama, "Report on the Vienna Convention on Succession of States in Respect of State Property, Archives, and Debts," p. 2, June 1983.

⁹⁷ KNA, KNA 14/5, Telegram, Kenya National Archives to Kenya High Commissioner, London, January 14, 1980. The message reads, "Office of the President very urgently requires report Kenya Northern Frontier District 1962 for official use. Not avail. In Kenya National Archives. Obtainable P.R.O., London, Ref. No. C. O. 896. Urgently obtain copy and send to President's Office through Archives. A. W. Mabbs, Keeper of Public Records already informed."

⁹⁸ TNA, FCO 12/366, Letter, Mnjama to Public Record Office, February 8, 1982.

series, not because of any particularly incendiary documents, but because to do so might give cause for further requests by the Kenyan government for the “migrated archives.” The issue of the archival limbos at Hayes and Curtis Green thus strengthened the tendency to conceal, even beyond the records held within their steel cages.

CO 896 was not a part of what the UK government considered as “migrated archives.”⁹⁹ In other words, they were not colonial files stored in either limbo at Hayes or Curtis Green repository. They had, however, been removed by colonial officers from Kenya shortly before independence while the borderlands between Kenya and Somalia were very much contested. Regardless of the reports’ ongoing relevancy to unresolved issues, the UK Government had removed the documents and placed them under the thirty-year closure period, which had not yet expired in 1982. In his request, Mnjama acknowledged this. He wrote, “I do realise that these records are still closed for public inspection, but due to the recurrent problems in our Northern Frontier border, the Kenya Government would like to have as much documentation in its custody as possible.”¹⁰⁰ Since the early 1960s, Somali secessionists were active in the Northern Frontier District. As historian Daniel Branch summarizes, the “experience of colonial rule had provided Somalis in the north with little reason to trust government officials or to feel affection towards the entity of Kenya.”¹⁰¹ However, the British and then Kenyatta forcefully resisted secessionists.¹⁰² Kenyatta expressed his political vision of unity in the Northern Frontier District by declaring a State of Emergency in the North Eastern Province (NEP), suspending controls on authorized use of force, policing, and detention. This conflict, known as the Shifta war, formally came to an end in 1967 during a meeting of the

⁹⁹ In the discussion on what to do with the boundary reports, Smyth of the FCO clarified that many different kinds of records were removed from colonies and their fates depended on whether or not they were classified. He wrote, “[a]t the time in the mid 60s it was Colonial office practice to transfer all unclassified material to be opened to public inspection when 50 years old. There was no such thing as a sensitivity review at that time: this was introduced, for classified papers only, in about 1967.” TNA, FCO 12/366, File note, Smyth to Miss Vertil, April 15, 1982.

¹⁰⁰ TNA, FCO 12/366, Letter, Mnjama to Public Record Office, February 8, 1982.

¹⁰¹ Branch, *Kenya: Between Hope and Despair*, 1963–2011 (New Haven: Yale University Press, 2011), p. 29.

¹⁰² Derek Peterson, “Colonial Rule and the Rise of African Politics,” in *Oxford Handbook of Kenyan Politics*, pp. 28–42.

Organization of African Unity wherein the Kenya and Somali Republic representatives issued a declaration committing to maintain peace and security in the NFD and acknowledging Kenyan sovereignty.¹⁰³ However, violence and conflict in the NEP persisted and Somalia, with Soviet, Cuban, and East German support, developed its military such that by 1976 it was the fourth largest on the continent.¹⁰⁴ When Daniel arap Moi succeeded Kenyatta as president in 1978, his office inherited the North Eastern Province conflict and, in this context, requested access to boundary reports.¹⁰⁵

In April 1982, the Foreign and Commonwealth Office rejected Nathan Mnjama's request for the records of the Kenya Northern Frontier Commission. The answer came after several months of deliberation among FCO staff within the Library and Records and East African Departments. Discussants tended to agree that the records in question were "relatively harmless."¹⁰⁶ For example, many of the documents contained evidence given at public meetings. Cashmore doubted that CO 896 "would cause much trouble today."¹⁰⁷ However, he cautioned that granting access might incentivize further requests for border commissions reports and on those grounds the UK government should reject Mnjama's appeal. Cashmore's colleague J. D. Edgerton reinforced this position. He warned that if access were granted, "a dangerous precedent would be set and [...] if the Kenyans have access to these papers will they make similar requests later? On balance, I think the Kenyan request should be resisted."¹⁰⁸ The rejection thus tightened the UK position on prohibiting access to relevant political documents to

¹⁰³ See Branch, *Between Hope and Despair*, pp. 28–35; Whittaker, *Insurgency and Counterinsurgency in Kenya*.

¹⁰⁴ Branch, "Violence, Decolonisation and the Cold War in Kenya's North-Eastern Province, 1963–1978," *Journal of Eastern African Studies* 8, no. 4 (2014): 650.

¹⁰⁵ It is possible, even likely, that a run of the commission papers existed at KNA at the time. The confusion over which records exactly the British colonial government had either destroyed or removed had several consequences in how people regarded the gaps, real or imagined, in KNA's holdings. Without an index of missing documents, it was possible to think that everything, or at least things of controversy, were gone. Moreover, at times it was perhaps more satisfying to point to the sinister and unjust removal of records pertaining to politically complex problems of the present.

¹⁰⁶ TNA, FCO 12/366, File Note, "The NFD Commission Papers," Cashmore to Heckle, March 22, 1982.

¹⁰⁷ Ibid.

¹⁰⁸ TNA, FCO 12/366, File Note, "The NFD Commission Papers," Edgerton to Huckle, March 24, 1982.

the governments of former colonies in an attempt to foreclose further requests. Archival patronage thus preserved British officials as political gatekeepers in East Africa, limiting the processes of decolonization, as observed by Muchui in 1983, and ruling out the possibility for bilateral cultural agreements between the UK and Kenya.

Cashmore and Edgerton were not alone in their concern about the possible ramifications of filling Kenya’s record requests. Blayney elaborated,

The Kenya request raises the wider issue of the future of this large collection of material. The system of removal of sensitive material prior to independence is still in effect and we would not wish the present colonial territories to become aware of the fact. Kenya and the governments of the other former British colonial territories are not fully aware of the quantity and sensitivity of the material in HMG’s possession.¹⁰⁹

Blayney’s candor, expressed in a “secret” note, explains further the UK’s unwillingness to discuss the “migrated archives” openly: Firstly, the UK government was still strategically removing records from across its empire; and secondly, despite the persistence of their requests, the Kenyan government remained unaware of the extent and content of the records. Blayney’s comments came just over a month after the conclusion of the Falklands War, which reinforced the political conservatism of the UK and reinstalled the myth of Britain’s global power.¹¹⁰ Under Thatcher, the Foreign and Commonwealth Office’s commitment to secrecy hardened. Consequently, no bilateral agreement between Kenya and the UK formed. Instead, after much time and resource spent on copying Kenya-related records held at the UK Public Record Office and other repositories, Kenya’s mission for the “Retrieval of Migrated Archives” came to an end in 1990 without the UK acknowledging the existence of their secret colonial repositories.

The “Migrated Archives” and Decolonization at the National Level

While the imperial continuities afforded by control over colonial records are plain to recognize, the complexities beneath the surface of

¹⁰⁹ TNA, FCO 141/19913, Letter, Blayney to Streeton, July 28, 1982.

¹¹⁰ The UK’s 1983 general election resulted in the most decisive electoral victory for the Conservative party since Labour’s victory in 1945.

Kenya's and others' requests for the "migrated archives" deserve further attention. In 1977, the Archives-Libraries Committee of the African Studies Association passed a resolution on the "migrated archives." The resolution contended that

Archives are recognized as an essential part of any nation's heritage providing documentation not only of the historical, cultural, and economic development of a country thereby providing a basis for a national identity, but also serving as a basic source of evidence needed to assert the rights of individual citizens.¹¹¹

The "migrated archives" highlight the fraught space between forming "national identity" and the "rights of individual citizens." Before a lengthier examination of this tension in Kenya's case, it is important to acknowledge that decolonization triggered nation-building processes and politics of belonging through citizenship in England as well, which had effects on claims to the "migrated archives." Through this acknowledgment, it becomes clear that the Foreign and Commonwealth Office's concealment of the "migrated archives" affected not only governments and peoples in former colonies but also peoples resident in the former metropole.

In 1970, *Kenya Digest* published an "Appeal for the Return of Historical Records" in which Nathan Fedha was quoted explaining that "a number of African countries lost their historical records just before the achievement of independence."¹¹² Among the *Kenya Digest* readership was UK Member of Parliament, Andrew Faulds. In 1966, Faulds defeated Peter Griffiths (Conservative) and became Labour MP to the Smethwick constituency in the West Midlands. Since the post-war period, Smethwick had become home to a number of people who immigrated from the Commonwealth, and by 1964, it had gained a reputation as Britain's "most racist town."¹¹³ Griffiths had previously won the 1964 election by running an anti-immigrant campaign.¹¹⁴

¹¹¹ "Archives-Libraries Committee Resolution on Migrated Archives," *African Studies Newsletter* 10, no. 6 (1977): 2–3.

¹¹² LSE, Faulds/4/3/1, "Appeal for the Return of Historical Records," *Kenya Digest*, October 1970.

¹¹³ Rachel Yemm, "Immigration, Race and Local Media: Smethwick and the 1964 General Election," *Contemporary British History* 33, no. 1 (2019): 98–122.

¹¹⁴ Alan Travis, "After 44 years Secret Papers Reveal Truth about Five Nights of Violence in Notting Hill," *The Guardian*, August 24, 2002, www.theguardian.com

Faulds’s victory two years later represented at least a local refusal of this form of racism. Indeed, Faulds became a vocal, and at times lonely, opponent of British racism within parliament. His base, those who ousted Griffiths, included Asians affected by the UK’s 1968 Commonwealth Immigrants Act, which Faulds critiqued as “the ultimate appeasement of racist hysteria.”¹¹⁵ In 1968, a resident wrote to inquire, “if some steps are being taken by [Faulds] or by the British Government to claim compensation from the Kenyan Government, for the Asians who have left Kenya and are forced to leave [the United Kingdom].” Faulds responded that though “the question of compensation [...] has been raised in private discussions [...] it is pretty unlikely to be pursued publicly.”¹¹⁶ Despite his doubts, Faulds kept himself informed regarding Kenyan-British politics, in part out of an obligation to his constituency and in part out of an ongoing interest in anti-imperial activism.¹¹⁷ As such, he closely read newspapers and other media from the Commonwealth. In his copy of *Kenya Digest*, Faulds noted, “What was done with the government records [...] of the Colony of Kenya and where are their present whereabouts?”¹¹⁸

Between 1970 and 1971, Andrew Faulds posed four questions in Parliament to the Secretary of State for Foreign and Commonwealth Affairs pertaining to Kenya’s colonial records. Faulds asked about the whereabouts of the pre-independence governmental records of the legislative council and executive council of Kenya. He was told that copies of both were retained by the UK government. In response, he

[.com/uk/2002/aug/24/artsandhumanities.nottinghillcarnival2002](https://www.nottinghillsquare.com/uk/2002/aug/24/artsandhumanities.nottinghillcarnival2002) [accessed November 2020].

¹¹⁵ The act amended a previous one by the same name, 1962, and reduced the rights of citizens from the Commonwealth to migrate to the UK. The act especially affected hundreds of thousands of Kenyan Asians who had left Kenya following a restrictive citizenship framework that would have required Kenyan Asians to surrender other forms of citizenship in order to remain Kenyan. See Robert M. Maxon, “Social & Cultural Changes,” in *Decolonization & Independence*, pp. 110–50.

¹¹⁶ LSE, Faulds/4/1/9, Letter, March 8, 1968.

¹¹⁷ Faulds’s politics were global. Son of a British teacher at The Old Mission, Karonga, Malawi, Faulds took an active interest in African Affairs. For example, he was a founding member of the British Anti-Apartheid group and was succeeded by Barbara Castle as Honorary President. He corresponded with African leaders on issues related to the Trade Union Movement, and participated in antiwar activism regarding the US war in Vietnam. See LSE, FAULDS/4/1/3, File 1/3.

¹¹⁸ LSE, Faulds/4/3/1, *Kenya Digest*, October 1970.

asked why they were “in the possession of the Foreign and Commonwealth Office, where the Kenya Government Archivist is denied access to them.” The Secretary of State dishonestly answered that the Executive Council records were brought back because they “relate to a United Kingdom Government interest as distinct from a Kenya colony interest” and that the government had “received no communication from the Government of Kenya about these records.” Lastly, Faulds inquired, “why all Governmental records in the Central Province of the Kenya Colony, including those connected with the state of emergency, are no longer in existence.” The Secretary of State suggested Faulds redirect the question to the Government of Kenya.¹¹⁹ The Foreign and Commonwealth Office kept detailed internal notes, confidential of course, of Faulds’s questions. The exchange illustrates how the UK government was actively concealing evidence not only from peoples in former colonies, who were the target of British racialized anti-immigration policies, but also from the peoples resident in the UK. The deceit and misdirection that characterized the Secretary of State’s answers to Faulds shows how the UK Government handled the tension between “national identity” and the “rights of citizens” through the habituation of secrecy. For all of its insistence that the “migrated archives” were the property of the British government, the British government made no effort to treat them as their own public records. They were as concealed to the peoples living in former colonies as they were to those within the metropole.

While hiding evidence of colonial violence during the Emergency successfully delayed legal repercussions for the UK government, it did little to quiet demands that echoed the calls of Kenya’s Land and Freedom Army. Kenyatta’s approach to nation-building through unity, which he asserted “every young country needs as the fundamental of its progress,” did not satisfy the majority of peoples in Kenya.¹²⁰ The battle cries leading up to independence, which emphasized the return of lands to the dispossessed, did not result in equitable redistribution. In fact, not only members of Kenya’s Land and Freedom Army who

¹¹⁹ LSE, FAULDS/4/3/1, Questions from Faulds on the “Migrated Archives” to the Secretary of State for Foreign and Commonwealth Affairs on December 1, 1970 (no. 118 W), January 19, 1971 (no. 80 W), and March 26, 1971 (no. 67 W).

¹²⁰ Jomo Kenyatta, “An Address to the International Press Institute Conference in Nairobi in 1968,” *Africa Today* 16, no. 3 (1969): 5.

were still detained upon independence, but also their families were prohibited from benefiting from the transit settlement schemes which were meant to assist landless, unemployed Kikuyu-speaking peoples.¹²¹ Much has been written on Kenyatta’s approach to land allocation, which strategically favored individuals selected for their political cooperation. This favoritism met ongoing resistance. Kenya’s peoples actively practiced their citizenship through petitioning, insisting upon, and claiming what they thought as fair and just recompense for their exploitation and suffering under empire. It was eventually this form of active citizenship that yielded what the Inter-ministerial Committee had failed to do: the acknowledgment by the UK government of the “migrated archives.”

As early as January 1964, former forest fighters regrouped to pressure Kenyatta’s administration to “persuade the Government to give them land.”¹²² The Office of the President received thousands of related complaints. For example, one such petitioner, Gakere Mukuo, wrote to Kenyatta in 1967 to request a meeting. His letter, translated into English by someone working for the president, recalled that Kenyatta “had stated that anybody who had land and yet does not own it now, had the right to see [...] His Excellency the President.” Landless, Mukuo thus wrote. He explained, “before demarcation [*sic*] of land, there was no troubles like the present trouble of land” and that he and his fellow fighters had been detained “because of land” and now they had none.¹²³ Like Seroney, the MP whose requests for the “migrated archives” opened this chapter, many claims for land were articulated through historical narrative and at times were accompanied by supporting documents, such as hand-drawn maps. The absence of certain archival records related to the Emergency did not prevent Kenya’s peoples from insisting on the historical continuity of land hunger between the colonial and independent eras. As historian Derek Peterson has observed, Kenyan peoples with a minority share in politics, land, and wealth developed “defense[s] against the

¹²¹ KNA, BB/11/145, “African Land Consolidation and Resettlement,” R. E. Wainwright, Chief Commissioner Land Resettlement. Confidential Memo “Transit Settlement Schemes,” December 19, 1962.

¹²² TNA, FCO 141/18985, “Land Settlement,” Confidential Memo. January 24, 1964.

¹²³ KNA, GEN 116/011, “Land Complaints, 1967,” Letter, Gakere Mukuo to Jomo Kenyatta. July 11, 1967.

homogenizing power of national governments.”¹²⁴ Among these, was a public mastery of bureaucratic languages, from petitioning to assembling supplemental documentary evidence. By the 1970s, one of KNA's most cited activities in its own daily files was supplying courts with records to assist in land dispute cases. While the Kenya National Archives functioned as a tool of governance, it was also a resource for claim-making by the public for material distribution, in this case for land. This claim-making was pursued not only juridically but also through history-writing.

Intellectuals, including historians and writers, revived Mau Mau as a mobilizing symbol to strengthen political dissent in Kenya and draw attention to the government's failure to realize the goals of liberation. The Kenyan government responded with a familiar toolkit. In January 1978, during Kenyatta's final months as president, Ngũgĩ wa Thiong'o became the first Kenyan intellectual to be detained because of his academic and creative works. Following Kenyatta's death in August 1978, Daniel arap Moi, former vice president, succeeded, unopposed, as Kenya's second president. While the political climate in Kenya, and especially at Kenyatta University, had been tense since the late 1960s, many more intellectual dissidents were arrested, detained, and forced into exile under Moi's administration. Amid growing critiques of the consolidation of presidential authority, the government targeted individual students and lecturers identified as controversial, leading to the deterioration of free expression. On June 3, 1982, historian Maina wa Kinyatti, a senior lecturer of history and Mau Mau scholar at Kenyatta University, was arrested at his home. Police confiscated many of his books and personal papers and eventually charged him with “possession of seditious publications,” leading to six years of imprisonment at the Kamiti Maximum Security Prison.¹²⁵ At the same time, Moi's government reintroduced detention without trial. Repeating colonial techniques of repression, such as detention without charge and the confiscation of personal

¹²⁴ Peterson and Macola, *Recasting the Past*, p. 172.

¹²⁵ George Padmore Institute, PPK/04/04, Newsletter, “Case Sheet and Protocol for Maina Wa Kinyatti of Kenya,” New from PEN American Center, n.d. In the preface to his *History of Resistance in Kenya*, Kinyatti elaborates that the “Moi regime burned the confiscated books, research documents, family photographs, academic certificates, and history manuscript immediately after [his] incarceration.” Kinyatti, *History of Resistance*, p. xiv.

libraries, active, official pursuit of Kenya’s “migrated archives” receded and Kenyan resistance went underground.¹²⁶ In this context, Kenyan information activist Shiraz Durrani has argued that records and documents related to the Emergency were safer in London than they would have been in Kenya.¹²⁷

The survival of Kenya National Archives in a political climate so hostile to history and dedicated to secrecy should not be taken for granted. Musila Musembi replaced Kagombe as chief archivist after his retirement in May 1981. Musembi had been working at KNA for several years and had coordinated much of Nathan Mnjama’s work copying UK-based records work from Nairobi. In contrast to Kagombe’s ambitious and wide-ranging approach to KNA, which had resulted in accusations of mismanagement of funds, Musembi returned focus to what he regarded as the institution’s main remit, namely, working with government to ensure that official documents were preserved and improving archival access by the public.¹²⁸ The significance of these two activities during the early years of Moi’s presidency cannot be overstated. In an interview, Musembi recalled chronic record “loss” in the Office of the President. As historian Daniel Branch observes, “state-level archival records, particularly after 1978, simply do not exist in Kenya or, if they do, are not easily accessible to researchers.”¹²⁹ Fearful of independent historical research and the possible credibility it granted political dissent, it is unsurprising that the official record of Moi’s presidency is out of reach for researchers in

¹²⁶ For example, the Mwakenya Movement was an underground socialist movement that advocated multiparty politics that formed in the mid-1980s. See George Padmore Institute, PPK/02/02, “Mwakenya Documents and Press Releases, 1986–1996.”

¹²⁷ See Shiraz Durrani, *Information and Liberation: Writings on the Politics of Information and Librarianship* (Duluth: Library Juice Press, 2008), p. 60. This quote is not intended to imply Durrani’s approval of “Operation Legacy” or the UK’s colonial archival limbos but rather to draw attention to the danger they may have faced in the custody of Kenya’s political leadership.

¹²⁸ As Musembi explained, “in August 1982, the National Archives underwent a major re-organization exercise with a view to re-focusing its attention and resources to those areas of operation and functions that specifically and clearly within the profession of archive administration and records management,” KNA, no reference, Musembi, “Seminar to Review Progress Since Reorganization, 29–31 May, 1984,” Seminar Papers and Resolutions.”

¹²⁹ Branch, *Hope and Despair*, p. 20.

Kenya.¹³⁰ In a political climate of harsh repression, Musembi directed some of KNA's attention away from pressuring government to comply with record retention policies and instead toward welcoming archival users. Through his published writing in the mid-1980s, Musembi offered KNA as a tool for economic justice and subsistence for citizens. "Any development planning which intends to continue to decolonize our economies will have to rely heavily on archives," he wrote in 1985 as the Kenyan economy worsened, further accentuating stratification.¹³¹ He wrote further that the KNA could better support the "land transfer" to Africans.¹³² As Moi kicked out dissidents decrying the exploitative and unjust conditions of his rule, Musembi invited them in.

In 1985, Musembi published *Archives Management: The Kenyan Experience*, a treatise on the political economy of Kenya's archives. Citing files from the KNA, Musembi chronicled the history of the institution, including the record destruction and removal of the late colonial period and the development of archival practice within the institution. Its professional and technical tone allowed Musembi to convey what were otherwise controversial messages for a governmental employee in the mid-1980s. For example, he wrote,

People in virtually all parts of the world are concerned with their social, economic and political relationship vis-à-vis the national government. Records and archives are fundamental in the protection and preservation of individual rights and privileges. This is even more important in developing countries where, more often than not, governments change hands very often. Without archives, people's rights and privileges could indeed be in danger.¹³³

Musembi thus offered the KNA as a resource to the Kenyan public to protect and assert their rights at a time when Moi's government endangered them.

Musembi's invitation into the archive was apt. In 1981, the Workers' Party of Kenya produced a document meant to incite widespread politicization titled *Cheche Kenya*. It read,

¹³⁰ See Ogot, "The Politics of Populism," in *Decolonization & Independence*, pp. 187–213.

¹³¹ Musembi, *Archives Management*, p. 80. ¹³² *Ibid.*, p. 77.

¹³³ *Ibid.*, p. 82.

We must rediscover for ourselves the language of protest, and the mental and organizational tools with which to clarify our situation. We must regain a proper perception of the direction in which our nation is moving, in order once again to become *active* participants in our own history: to make it, and not merely be made by it.¹³⁴

The polemic called its readers to the history of Mau Mau as a source of political strength to fight against neocolonial repression under Moi. According to scholar Wunyabari Maloba, whose own work answered that call, former guerrillas and detainees met at Nyeri in 1986 for the first time since 1963 in order to “find out ways to gather and publish material on the Mau Mau and to seek how freedom fighters could help in nation-building.”¹³⁵ The memory of Mau Mau had served different political ends since 1963, despite and because of its official prohibition. The contours of its historiography were and remain deep wells of trauma.¹³⁶ Mau Mau veteran associations began to form in the early 2000s, following the ban’s lift. Different groups had different aims, from making peace with the British Army to taking the British Government to court. The groups at large provided a large pool of potential claimants for a class action against the British government for abuse suffered during the Emergency. Eventually, Leigh Day cooperated with the Kenya Human Rights Commission and the Mau Mau War Veterans Association to review 50,000 cases of abuse from which 15,000 people were identified to interview, resulting in 5,228 people deemed eligible as claimants.¹³⁷ Little did they know that the legal case would unravel a story of global record removal and deceit in addition to securing recognition and recompense for some of the Emergency’s survivors.

While KNA’s pursuit for the “migrated archives” had global repercussions, such as the inclusion of colonial archival politics on the agendas of international organizations, it was eventually the work of survivors, activists, lawyers, and historians whose cooperation forced

¹³⁴ As quoted by Kinyatti, *History of Resistance*, p. xvii.

¹³⁵ *Daily Nation* (Nairobi), February 24, 1986, p. 1. As quoted by Maloba, *Mau Mau and Kenya*, p. 176. This regrouping followed a meeting of the Historical Association of Kenya that launched a historiographical Mau Mau debate. See E. S. Atieno-Odhiambo, “The Production of History in Kenya: The Mau Mau Debate,” *Canadian Journal of African Studies* 25 no. 2 (1991): 300–7.

¹³⁶ See Odhiambo and Lonsdale (eds.), *Mau Mau & Nationhood*.

¹³⁷ KHRC, “The Mau Mau Settlement: Setting the Record Straight,” KHRC, June 21, 2013, <https://khrc.or.ke/press-release/the-mau-mau-settlement-setting-the-record-straight/>.

the FCO to admit to the existence of tens of thousands of colonial files. On June 23, 2009, five survivors of abuse suffered during the Emergency in Kenya filed a case in the Royal Courts of Justice in London that resulted in an out-of-court settlement, an apology from William Hague, the British Foreign Secretary, and the admission that the Foreign Office had thousands of files from thirty-seven former British colonies.

The question remains open to what extent the UK National Archives has released all of the files previously concealed in the Foreign and Commonwealth Office's archival limbos, and indeed which other governmental offices have limbos of their own. Certain hints indicate there is still foul play afoot. Between April 2012 and November 2013, the UK National Archives and the FCO cooperated to transfer and release the "migrated archives" in the record series FCO 141. The UK National Archives published on its website that "having all the records in one place aids access and ensures the history of the collection is clear."¹³⁸ Putting to one side that this site has now been archived and no longer forms a regular part of the homepage, this statement suggests that all records related to the "migrated archives" would be released through FCO 141 in order to enhance accessibility. However, file number FCO 31/3198 titled "Kenya: Archives; Migration of Records to the UK in 1963" was transferred on January 9, 2015, three years after its thirty-year closure period, two years after the final "migrated archives" tranche, and without an FCO 141 file reference.¹³⁹ This file contains a summary of Kenyan activity in the archival retrieval project as well as a summary of records held at Hayes. Why it was not included in the regular "migrated archives" transfer raises questions not only of the transfer's completeness but also of the extent of awareness and maintenance of the "migrated archives" problem within the UK Government. An historical view indicates that further clarification on the making and keeping of the UK's colonial secrets requires legal action at the highest level brought on through cooperation between activists, lawyers, archivists, historians, and the survivors of Britain's empire.

¹³⁸ Via the Web Archive, The National Archives (UK), "The 'Migrated Archives' – record series FCO 141," archived on December 2, 2019. <https://webarchive.nationalarchives.gov.uk/ukgwa/20191202221204/https://nationalarchives.gov.uk/about/colonial-administration-records.htm> [accessed October 2021].

¹³⁹ See The National Archives (UK), "Kenya: Archives; Migration of Records to the UK in 1963." <https://discovery.nationalarchives.gov.uk/details/r/C14587083> [accessed October 2021].