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Memory and the making of victims : Historical controversies and judiciary mobilizations around British colonial violence

This paper examines how history and justice are used to be part of the collective and contested construction of the memory of a violent past in Kenya, that is the repression of the Mau Mau insurrection by the British forces and its African allies in the fifties. This singular episode of Kenyan history has often been used in postcolonial times either to legitimate the rulers or to stigmatize them : its memory has always been discussed in the new nation. Recent books and mobilizations have revived this contested memory by involving the former colony in a new debate about the British crimes against Mau Mau and Kikuyus in general. The involvement of the former colony and the reparations suit against the British state focuses the debate on who were the true victims of the colonial violence, and, consequently, the true heroes of the insurrection. The debate is all the more complicated that the conflict opposed colonizers and colonized but did also oppose Kenyan groups.

The Mau Mau were armed groups acting in Nairobi and in the Central province, where a majority of Kikuyus lived. They attacked settlers and local chiefs who collaborated with the colonial administration from 1952. The repression by the colonial administration and the establishment of a loyalist African militia (known as the home guards) exacerbated the tensions among Kikuyus. Attacks and repression lasted till 1960. To know who are the true victims of the conflict has always been a difficult problem as the uprising against the colonial administration soon transformed itself in a conflict among Kikuyus. The nature and the qualification of this internal and anti-colonial conflict has been the subject of political and scientific controversies since Independence. Indeed, the consequences of the conflict were still going on after the British administration left the country in 1963. Moderate Nationalists took over power, among them Jomo Kenyatta, some loyalists got land and were beneficiaries of the first postcolonial regime. If the first two presidents did sometimes refer themselves to the Mau Mau insurrection to legitimize their power, they preferred to forget this conflict; opponents were the self proclaimed inheritors of Mau Mau and used the symbols and heroes of the “freedom fighters” to stigmatize the postcolonial authoritarianism².

The objective of this article is thus to understand the recent mobilizations around this violent past by observing how the status of victims and heroes of this insurrection are built through history and justice. It will also discuss the particular political context in which these mobilizations are occurring and describe the actors of this mobilization which are using, in different ways, the Mau Mau as strategic mean to assert their own legitimacy. Indeed the mobilizations did really emerge after the change over which took place in 2002³. Hervé Maupeu sees this return of the past as a post –change

¹ This paper is a translation, slightly modified and updated, of Pommerolle, M-E., “Une mémoire vive : débats historiques et judiciaires sur la violence coloniale au Kenya”, *Politique africaine*, N°102, juin 2006.

² See M. Clough, « Mau Mau and the Contest for Memory », in J. Lonsdale et A. E. S. Odhiambo (eds), *Mau Mau and Nationhood: Arms, Authority and Narration*, Londres, James Currey, 2003, p. 251-267 et *Mau Mau Memoirs : History, Memory and Politics*, London, Lynne Rienner publishers, 1998 ; G. Sabar-Friedman, « The Mau Mau Myth », *Cahier d'études africaines*, n°137, 1995, p. 101-131.

³ A coalition of opposition parties, the National Rainbow Coalition (Narc), won the presidential and general elections in December 2002 against the former one-party, the Kenya African National Union (Kanu). The Narc candidate, Mwai Kibaki, a Kikuyu, became President and replaced Daniel Arap Moi, a Kalenjin who was ruling since 1978. See, H. Maupeu et D. Anderson, « Kenya : la succession de Moi », *Politique africaine*, n° 90, juin 2003, p 5-16 ; S. N. Ndegwa, « Kenya : third time lucky ? », *Journal of Democracy*, vol. 14, n° 3, 2003,

over « catharsis » : denouncing colonial crimes would be a way of denouncing postcolonial crimes as the two periods are intimately linked⁴. Beyond this psychosocial interpretation, it seems that some actors took a new opportunity to renew old claims in a context where the enemy can not be the same, the one-party regime being defeated. Finally, it will be important to underline how the memory of the Mau Mau, contested as it is, serves as a shared political language in Kenya..

The making of victims through history

Kenyan and foreigner historians have proposed several interpretations of the Mau Mau insurrection. Marxist historians compared the uprising to a class struggle; other historians considered it as a nationalist struggle; others, who were designated as “conservatives” by the latter, demonstrated that the insurrections came from an internecine conflict among Kikuyus and that the insurrection was not a national affair⁵. More recent historical books attempts to reconcile these approaches and to make them communicate⁶. Two books released in 2005 have revived the scientific debates on the Mau Mau war by disclosing research on an under-studied theme : the repression of the insurrection. *Britain's Gulag* written by Caroline Elkins, historian and *assistant professor* at Harvard university⁷, and *Histories of the Hanged*, written by David Anderson, historian, *research fellow* at St Anthony's college of Oxford University⁸, both contest the interpretation widely diffused in the fifties considering the settlers as the main victims of the insurrection. They both insist on the responsibility of the settlers and the colonial administration in the violence while British did consider the uprising as a sign of a psychosocial disease of the Kikuyus confronted too brutally to modernity. The two books agree in pointing out the British responsibility and admitting that the victims were Africans.

But the two authors build then different hypothesis concerning the precise definition of the victims of this violence. Anderson warns in the prologue that he is telling a story “with the testimonies of those who fought on both sides” and that “ it is a story of atrocity and excess on both sides, a dirty war from which no one emerged with much pride, and certainly no glory. It is an uncomfortable story, but it is a history that needs to be told” (p. 2). Elkins wants to unveil the hidden past of the British brutality in Kenya, that is their willingness to annihilate the Kikuyus through the detention camps and the emergency villages. She argues that Kikuyus, Mau Mau and their families, were the targets of a repression masked behind a discourse of « rehabilitation ». She shows that the settlers did see the Kikuyus as a group to eliminate (p.49) and that the colonial administration, if first not subscribing to this project, eventually endorsed it in practice. She actually uses the category defined by the British executioners : all the people who have been killed or imprisoned, or who have suffered from moral or physical assaults by the British and their Kenyan allies are victims and should be recognized as such. Moreover, she leaves the issue of violence perpetrated by the Mau Mau (p. xiv) : she assumes that Mau Mau were innocents, which makes them ideal victims⁹. Anderson questions these categories through an historical and social reading of some sentences pronounced against presumed Mau Mau during the insurrection. In his book, the status of victims is never established but always questioned. He shows for instance that those who were victims of the British colonial judiciary system could also be victims of Mau Mau or that those who betrayed the Mau Mau could also be victims of the British

p. 145-158 ; S. Brown, « Theorising Kenya's Protracted Transition to democracy », *Journal of Contemporary African Studies*, vol. 22, n 3, 2004, p. 325-342.

⁴ H. Maupeu, « Le régime Kibaki – An I », *Annuaire de l'Afrique orientale* 2003, Paris, L'Harmattan ; Pau, CREPAO ; Nairobi, IFRA, 2004, p. 161-188.

⁵ E. A. S. Odhiambo, « The Production of History in Kenya : the Mau Mau Debate », *Canadian Journal of African Studies*, vol. 25, n° 2, 1991, p. 300-307 ; G. Prunier, « Mythe et histoire : les interprétations du mouvement Mau Mau de 1952 à 1986 », *Revue française d'histoire d'outre-mer*, vol. 74, n° 277, 1987, p. 401-429.

⁶ J.Lonsdale, E.A.S. Odhiambo(eds), *Mau Mau and Nationhood...*, *op.cit.*

⁷ C. Elkins, *Britain's Gulag: The Brutal End of Empire in Kenya*, London, Jonathan Cape, 2005.

⁸ D. Anderson, *Histories of the Hanged. The Dirty War in Kenya and the End of Empire*, New York, Londres, W.W. Norton & Company, 2005.

⁹ See P. Braud, *Violences politiques*, Paris, Seuil, 2004, p. 208.

forces. He asserts finally that the entire Kenyan African population were victims of the colonial situation, which was a violent situation.

An historiographic debate largely echoed in the Kenyan and British media was launched by comparing the two books. Very often, Elkin's book was criticized in British newspapers¹⁰ : her methodology is attacked as well as her argumentation against the British state. A brief comparison of the methods of the two books and the debates around them will help to show how victims are identified and built by history. The first methodological debate lies around the sources on which each book is relying. Anderson's lies mainly on British minutes of trials against Mau Mau who were declared guilty and hanged. Very few reviews are questioning the partiality of these colonial sources which are enriched and verified by the author in order to question the sentences. Elkin's book starts exactly from the absence of credible archives on the repression (they would have been erased by the British or they would be partial according to Elkins, p. 372) and is trying to fill this gap by relying on oral testimonies, which constitute the originality of her book. These oral testimonies are crucial to her argumentation : stories of torture, of prison, of the daily life in the camps give a concrete existence to the victims of the colonial violence. This history of the « sense » as described by Hélène Charton, takes part in the building of the status of victims for all those who were imprisoned or affected by the colonial administration¹¹. The second debate deals with the counting of the victims of colonial violence which are questioned by the two authors. While assuming the fact that she has not enough evidence, Caroline Elkins contests previous accounts of victims of colonial violence. While her approximate methods are contested¹², the answer of one of her supporter, John Nottingham, a former district officer in Kenya at the times of the Mau Mau insurrection, is revealing about what is at stake in these struggle about figures. He asserts that whatever the exact account is, Elkins' figures are closer to the figures given by the colonial administration in the Corfield report¹³. Interestingly, the accuracy of historical facts is not central as soon as they serve an argumentation¹⁴. The last debate about Elkins's methodology is conceptual. She sometimes suggests connections between the violence inflicted to Kikuyus and the violence inflicted to the Armenian or the Jews, victims of genocide. This rethoric comparison is meant to underline the willingness of the British to annihilate one population, but it is not considered by most reviewers as scientifically relevant. The latter do mostly criticize Elkin's book on being not "objective". According to most of them, Anderson's would be "balanced" because he takes into account violence from both sides while Elkins would be "unidimensional"¹⁵ because she would be "angry"¹⁶. This revolted discourse on violence, anchored in a scientific process, participates in this building of a status of victims for the Mau Mau and their relatives, while Anderson refuses to give this status to one particular group.

History and Justice : contradictory truths on the past

These contradictory truths on the naming of victims are underlined by their different relation to the law. Anderson criticizes the judicial process of the colonial times while Elkins supports a reparations suit with her research which have been used to file a case against the British government.

David Anderson bases his book on the records of a thousand of trials of Mau Mau who have been hanged. His argumentation contests some of the judgements and gives a social and historical

¹⁰ See the reviews of the two books, mainly published in British newspapers,: « How not to run an empire », *The Economist*, 29 .12. 2004 ; «A very British Gulag», *Times on Line*, 8 .01.2005 ; *The Sunday Times*, 9 .01.2005 ; « Forgotten shame of Empire », *The Independent*, 21 .01. 2005 ; « State of shame », *The Guardian*, 5. 02. 2005 ; *London Review of books*, 26 .02. 2005 ; « The dark side of the Empire », *Daily Telegraph*, 11 janvier 2005 et « They died cursing the British », *Daily Telegraph*, 16 .01. 2005

¹¹ H. Charton, " Les Mau Mau entre histoire et mémoire", to be published

¹² See the articles published by the *New York Review of Books*, 7 .04. 2005 et 23 .06. 2005.

¹³ See the *London Review of Books*, 7.07. 2005.

¹⁴ P. Braud, *op.cit.*, p. 22.

¹⁵ *The Guardian*, 5 .02. 2005

¹⁶ *Daily Nation*, 31 .01. 2005

perspective on the responsibilities and “guiltiness” of each of them¹⁷. The central chapter of his book on a double slaughter in village called Lari, perpetuated by both Mau Mau and loyalists, shows very well what an historian can add to past judiciary truths. The attack of Lari by Mau Mau fighters in March 1953 left about one hundred and twenty casualties, a majority of them were women and children. A deadly revenge from the home guards did kill many villagers who were pointed as responsible of the first attack. The sentences against the alleged Mau Mau fighters have to be replaced in a social and historical context to be qualified or even reversed. Anderson provides some hypothesis on the reasons of this extreme violence : he writes the story of this socially, politically and religiously divided community. He explains the cruelty of Mau Mau’s attacks by the fact that it targeted the chiefs of the clans, the priests and the land owners who were the symbols of the Mau Mau’s own dispossession; he suggests that the murders of women and children were meant to interrupt the chain of inheritance in these loyalist families. This “deeper history” questions the alleged motivations of the accused evoked during the trials. But by examining the minutes of the trials he also questions the guiltiness of the hanged, most of them were accused on evidence provided by people of the village who did know them very well and who were directly affected by the massacres. These villagers would have paid for the armed Mau Mau who left the village as soon as they finished their attack and left the villagers in the hand of their future executioners and of the judiciary system (p.178). During the trial, according to Anderson, “those executed for crimes at Lari did not conform to the received image of the heroic Mau Mau freedom fighters” (p.175) : if some of them were convinced Mau Mau, others were more reluctant and took part in the slaughter sometimes by force. Yet. “ the proceedings of the Lari trials do not allow us to differentiate easily between these categories of people ” (p.175) ; It is only with contradictory testimonies and with the historical and social context that a very thin and blurred line between the status of victims and executioners can be drawn, but no historical nor judicial truths can be definitely established. “ Were the convicted men guilty ?” asks Anderson, before concluding that a lot of secrets will remain, that justice nor history – should I add – have been able or will be able to unveil. (p.176).

The publication of Elkins’s book seems to be the academic part of her wider engagement for the recognition of British crimes in Kenya. That is while collecting data for her PhD thesis that the historian decided to also advocate publicly for a recognition of this violence. She took part in the production of a documentary about the British repression on Mau Mau which was broadcasted on the BBC in November 2002. This broadcast led to investigations by Scotland Yard on these crimes which were however discontinued¹⁸. The diffusion of her research in the media, especially since her book obtained the Pulitzer Price in 2006, is an asset for the lawyers who are in the process to register a complaint against the British government partly based on the testimonies collected by Caroline Elkins. Based on evidence of torture inflicted upon the Mau Mau by the British forces in the detention camps during the insurrection, a case is going to be filed legally based on the international law and the common law. The plaintiff will seek damages for the personal injuries they sustained and is based on the tort of negligence as the British state was allegedly aware of the widespread use of torture during the repression. In concordance with what Caroline Elkins suggests, the British state is accused of being a executioner state while the Mau Mau, as plaintiff are considered as the only victims of it. This presentation of the insurrection does not comply with reality according to David Anderson, interviewed by the BBC when the lawyers addressed their letter of claim to the Foreign Office on October 12, 2006. He said : “There was lots of suffering on the other side too. This was a dirty war. It became a civil war. That idea is extremely unpopular in Kenya today. ¹⁹” . The British lawyer answered to that in the same article : "The proportion of atrocities committed by the Mau Mau was a minute fraction compared with the British. They were massively frustrated and did some terrible

¹⁷ See J-C. Martin, « La démarche historique face à la vérité judiciaire. Juges et historiens », *Droit et Société*, 1998, p. 13-20.

¹⁸ This documentary obtained the Red Cross price at the international film festival of Monte-Carlo in 2003.

¹⁹ « Bloody uprising of the Mau Maus », BBC news, 12. 10. 2006.

things. You are talking about tens of people as opposed to tens of thousands." The letter of claims being rejected in April 2007²⁰, the lawyers will file their case in September 2007.

The selection of plaintiffs and witnesses also strengthened this victimization of the Mau Mau who are now the traces of the violence perpetrated on their bodies and their group. The lawyers chose to act on cases on torture which did leave visible marks on the bodies, the only tangible proofs of acts committed fifty years ago. This « selection of victims » is not very well assumed by the initiators of the suit who had to put aside the victims of looting who lost their homes, their land, their animals and of course the people who died during the repression²¹. Only those who were able to expose the visible traces of the crimes were selected to be part of the suit. The choice was also determined by the cases where proofs were enough and irrefutable: the evidence were gathered from Elkins's book as well from long interviews with veterans to be sure of the credibility of the evidence. These Mau Mau veterans are going to testify but above all they embody the struggle against injustice from which they were the victims. Some of them were present during the World Social Forum which was held in Nairobi in January 2007 where they appeared to be the embodiment of a past struggle²². In a panel entitled "Memories of struggles", the audience was listening to the short testimonies of the veterans but did really show its enthusiasm in front of their physical presence and image. Many people in the public took pictures and they took even more pictures when one Mau Mau female fighter removed her scarf and exposed her dreadlocks as the continuing symbol of her belonging to the Mau Mau. In this panel or during the opening ceremony, they were always ready to exhibit the signs of their struggle, singing proudly and praying as they did in the forest. They embodied at the same time heroes of a struggle that contemporary protest movements do admire, and pity due to the victims of injustice as they were not recognized for what they did. It also seems that the veterans, who were brought in the World Social Forum by those who claimed to be the perpetrators of their struggle, are not anymore at the core of the struggle for the recognition of what they did but they are its historical and physical justification. Activists and lawyers took advantage of a new political opportunity, the change over of 2002, to make their claims heard.

The political and strategic context of mobilisations

The change over in December 2002 has been seen as a window of opportunity for a number of mobilisations. Whereas Kenyatta and Moi regimes were both considered by their opponents as inheritors of colonial authoritarianism, the change over gave the impression, at least at the beginning, that a democratic state was to replace an "executioner state". The victims of past crimes or their spokespersons used this new opportunity to call upon the state to work on the memory of these crimes, which it did through some symbolic gestures but without fully supporting the mobilizations. Indeed, memory of these past crimes also questions the legitimacy of today's rulers.

From December 2002, the new Kenyan government was looking for more legitimacy and did some symbolic gestures to comfort victims of postcolonial and colonial crimes. It opened the gates of torture rooms used during the Moi regime²³ and established an ad hoc commission to question the need for a

²⁰ The British government dismissed the merits of the claims in its answer to the letter dated April 2, 2007 : "These claimants, you say, will be able to adduce medical evidence which is consistent with their cases, but the FCO (Foreign and Commonwealth Office) is unlikely to be in a position to adduce any contradictory evidence from those individuals allegedly responsible for what the claimants say happened to them well over 50 years ago now(...). We cannot accept that the Foreign and Commonwealth Office...or any other department of State, has any legal responsibility in respect of the matters which you allege," The letter further notes that the veterans' claims exceed the statute of limitations laid down by Britain's Limitation Act of 1980. See « Past Not Yet History for Veterans of Independence Struggle », 23.05.2007 », IPS News

²¹ Interview with the officer in charge of the suit at the Kenya Human Rights Commission, Nairobi, 12. 01. 2007.

²² Observations made during the World Social Forum.

²³ « Kenya Torture Cells to Become Monument », *Sunday Times*, 16 février 2003.

Truth and Reconciliation commission. In spite of a positive opinion²⁴, the government however did not consider it necessary to follow these recommendations. The heterogeneity of the victorious coalition made up of former opponents and members of the previous regimes seemed to lessen the willingness of the new rulers to investigate postcolonial crimes²⁵. The transformation of a democratic state to an “executioner” state was not done as expected. Concerning colonial crimes, the President made some symbolic gestures to recognize freedom fighters publicly and with honours: he supported the initiative to find the missing the corpse of Dedan Kimathi, a Mau Mau leader hung by the British forces; he changed the “Kenyatta day” into a « *Majusha* (Heroes) Day », and veterans associations have been legalized. When Caroline Elkins launched her book in Nairobi in March 2005, the Ministry of Justice and the vice-president both called upon the British government to apologize for the crimes against Mau Mau²⁶. Some internecine governmental divisions could be softened by this kind of anti-colonial gestures, especially in a tense climate between the government and the British High Commissioner. In July 2004 and February 2005, the latter had accused members of the Kenyan government to be corrupted, which was perceived as a rude attack in Kenya²⁷. The resignation of John Gitongo, leader of the anti-corruption policy in the government and his voluntary exile to the United Kingdom underlined the tensions between the two countries about corruption. These tensions were also visible when a spokesman of the Foreign Office reacted to the vehement discourses of Kenyan officials about British colonial violence. Recognizing the suffering of victims of the violence, he added: “ But this took place 50 years ago. Kenya needs to look to future challenges like fighting corruption, fighting injustice and building a strong democracy²⁸”. Very soon British officials did not assume their responsibility and the Kenyan government was not ready to break diplomatic relationships with the UK as their diplomatic and financial support do matter for the Kenyan government. Nevertheless, behind this official distance towards the judiciary initiative against the UK, some members of the government did support informally the initiative by giving money during a fundraiser organized by the Kenya Human Rights Commission who is the main logistical support to the initiative²⁹.

This discreet support is disappointing to the spokespersons of the judicial mobilization, and especially to Human rights groups who have always advocated for the recognition of Mau Mau struggle and who did support the change over in 2002. Since the mid-nineties several human rights groups have asked the British government to tell Kenyans where the corpse of Dedan Kimathi had been buried. Human rights groups claim indeed to be inheritors of the Mau Mau struggle³⁰. For the KHRC, for instance, talking about Dedan Kimathi is a way to talk at the same time of the death penalty and land grabbing which started with colonial times and had been going on since³¹. Of course referring to these particular heroes is a way to make a selection in history, as we will see. But this historical link gave Human rights group a popular audience needed, as they were perceived as defending an imported cause. For the KHRC reviving Mau Mau memory through this legal action is a logic perpetuation of their action about Mau Mau as well as a way of lobbying on the issue of refusing impunity. As the change over was coming, the KHRC started to work on a campaign against the impunity of crimes committed during the Moi regime. Its campaign for the eradication of a culture of impunity as well as its research work on the establishment of a Truth, Justice and Reconciliation commission are strengthened by its reflections on impunity for colonial crimes. Indeed, the victorious presidential candidate, Mwai Kibaki, did defend, during his campaign a « forgive and forget » slogan. This was directed to crimes committed by the Moi regime but it revived the very same formula used by Jomo Kenyatta after

²⁴ Republic of Kenya, *Report of the Task Force on the establishment of a Truth, Justice and Reconciliation commission*, Nairobi, 2003.

²⁵ See G. R. Murunga et S. W. Nasong’o, « Bent on Self-Destruction... », art. cit.

²⁶ « Kenya Wants UK “Atrocity” Apology », BBC News, 4.03. 2005

²⁷ see for instance *The East African*, 28 février 2005.

²⁸ « Kenya wants UK “atrocity” apology », BBC News, 4.03. 2005.

²⁹ The total cost of the suit would be around 17 millions Ksh (180 000 euros).

³⁰ See Pommerolle, M-E., “Universal Claims and Selective memory : a comparative perspective on the culture of opposition in Kenya”, *Africa Today*, vol. 53, N°2, 2006

³¹ W. Mutunga and A. Mazrui, « Rights Integration in an Institutional Context », not published, 1999.

Independence³². British violence and internal conflicts in the Central region were put aside immediately after Independence and the new President wanted to do the same again in order to make the transition easier. Human rights activists who supported this candidate did not however defend this impunity claim. The chairman of the KHRC was nominated as the chair of an ad hoc commission on the establishment of a truth Commission. The involvement of the KHRC in this Mau Mau legal action can thus be seen as an historical version of their refusal of impunity. It can also be considered as a new position of this group who needed to redefine its objectives and activities after its « best » enemy, President Moi, disappeared from the political scene. This new legal activity can thus be seen as a way to install coherence in its activities as well as a strategic move of the Human rights groups.

This new legal activity is facilitated by the fact that HR groups have always been dominated by lawyers or have been working closely with them³³. Human rights groups were for instance the leaders of the constitutional review campaign from its start in the mid-nineties. The “brains” of this legal action are again lawyers: Willy Mutunga and Maina Kiai who are both former executive directors of the KHRC, Makau wa Matua, chair of the KHRC, Paul Muite and Gibson Kamau Kuria, who are lawyers working in their own firms, and Mbugua Mureithi a Human rights lawyer working with Human Rights groups. In the UK, the plaintiffs are represented by Martyn Day, from the Londonian law firm Day, Leigh & Co that is specialized into reparations suits. Martyn Day got compensations for British former prisoners in Japan and Germany during World War 2, and for Kenyan groups. In 2002 and 2003 he represented Samburu pastoralists who were hurt by landmines left by the British army in Kenya. He also represented Massai and Samburu women who claimed to have been victims of rapes by British soldiers in Kenya. This judicial activism is a way, for Kenyan and British lawyers, to combine a repute in Human rights work and a profitable and prestigious professional activity. John Nottingham³⁴, a crucial person in this mobilisation facilitated the connection between the lawyers and the Mau Mau veterans. John Nottingham is a British former colonial district officer in Kenya; he was present during the Mau Mau insurrection and has been condemning, since the 1960s, British violence during the insurrection. He wrote the first academic book questioning the British version of the insurrection³⁵. Living in Kenya since, he is now director of a publishing house. He made Martyn Day, Caroline Elkins getting in touch and suggested to the KHRC to work on it; he also helped the Mau veterans to get organized to get compensations.

Indeed, the organisations and lawyers are working in the name of Mau Mau veterans who obtained the right of association in 2003. The lift of the ban on their right of association was an important precondition of the legal action. The issue of unifying veterans in one association was indeed a problem. Before 2003, veterans did compete to be recognized as the most representative, as the most active during the Mau Mau insurrection or as the most politically independent from previous regimes³⁶. These internecine fights were coming from the internal divisions of Mau Mau themselves and especially from territorial divides. Some parts of the central region were more involved in the armed struggle when some others did succeed in benefiting politically from the struggle after Independence. These internal conflicts were however exacerbated by the Presidents Kenyatta and Moi who did play on these competitions to have a tight grip on these potential political forces. This weakened the veterans who lost their credibility in these manipulations. For instance, President Moi wanted to win some Kikuyu groups over by boasting of the veterans support. By doing that he was also countering his opponents who claimed to be the true inheritors of the Mau Mau. In the 1990s, veterans associations flourished in face of the « ethnic » conflicts which evicted Kikuyus from the Rift Valley. The change over gave them a chance to exist legally and to re-unify them around this legal action. This unification was boosted by the fact that some veterans were victims of a crook who pretended to be able to get compensations for them. While John Nottingham was trying to build a

³² « Why a Truth Commission will help break with the past », *Daily Nation*, 2 .12.2002.

³³ S.D. Ross, « The Rule of Law and Lawyers in Kenya », *Journal of Modern African Studies*, vol. 30, N°3, September 1992, p. 423-442.

³⁴ Interview with John Nottingham, Nairobi, 16. 01. 2007.

³⁵ C. Rosberg, J. Nottingham, *The Myth of Mau Mau : nationalism in Kenya*, New York, Praeger, 1966

³⁶ « Wrangles Undermine the Demand for Payment by Mau Mau Veterans », *Daily Nation*, 22 .09.2003.

veterans association, he met Martyn Day and this crook and managed to persuade veterans to unify in one new association. The leaders of the Mau Mau veterans association are respected ex-freedom fighters. The chairman, Ndungu wa Gicheru, is known for having shot a British plane during the insurrection; another leader, Gitu wa Kahengeri, did a political career, as a MP from 1969 to 1974 and from 1979 to 1984, before becoming, from the beginning of the nineties, a member of an opposition party, the Ford people. This new association gives a new credibility to veterans whose new objective is to represent victims and heroes of this insurrection.

Mau Mau have been so easily manipulated as symbols because they are at the core of the shared political language in Kenya. In an article about the contemporary political leadership, Willy Mutunga makes a distinction between the heroes and heroines on one hand, inheritors of the Mau Mau and the traitors, close to the loyalists³⁷. This binary interpretation of today's political scene is similar to the one of Caroline Elkins who sees Mau Mau as the only victims, and consequently the only heroes, of British colonial violence. This exclusive status of heroes given to Mau Mau does not win unanimous support as David Anderson's book reminds it. Bethwell Ogot, a Kenyan historian, often considered by his detractors as a « conservative », also refuses this exclusivity and proposes a list of other heroes who should not be forgotten in the Kenyan pantheon.³⁸ He mentions lawyers, trade unionists, politicians and people who are not Kikuyu in order to deny to Mau Mau the right to claim the only "freedom fighters" in Kenyan history. He adds that refusing to take into account other important people of makes it difficult to build a unified national memory. In his book, David Anderson proposes a compromise: all the skeletons of the victims of colonial violence (Mau Mau, loyalists, villagers) should be buried in one "Heroes Acre" which would celebrate the memory of all the victims of British colonial violence. He does however not explain the equivalence he makes between victims and heroes, and thus withdraws any meaning to the heroisation by mixing up freedom fighters, loyalists and ordinary villagers. His argumentation cannot be used politically, and is thus far less efficient, in the Kenyan imagination, than Ekin's. Indeed, even if contested, the memory of Mau Mau belongs to the political language of Kenyan political culture and is a vehicle of debate. This last controversy on the Mau mau testifies that the Kenyan public sphere is still full of vitality³⁹

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³⁷ "When it comes of the track records of individuals, we would argue that individuals who were home guards during the Mau Mau war of Independence and other Kenyans who supported the British Forces against the forces of independence are not part of the new alternative political leaders (...) Kenyans yearn for their heroines and heroes to lead them and not the traitors, the opportunists, the wreckers" in Kenya Human Rights Commission, *Human Rights as Politics*, KHRC, Nairobi, 2003.

³⁸ B. A. Ogot, « Mau Mau and nationhood. The untold story », in J. Lonsdale et A. E. S. Odhiambo (eds), *Mau Mau and Nationhood*, *op. cit.*, p. 8-36.

³⁹ On the culture of political debate even under an authoritarian regime, see : F. Grignon, « La démocratisation au risque du débat ? Territoires de la critique et imaginaires politiques au Kenya (1990–1995) », in D-C. Martin (dir.), *Nouveaux langages du politique en Afrique Orientale*, Paris, Karthala ; Nairobi, IFRA et A. Haugerud, *The Culture of Politics in Modern Kenya*, Cambridge, Cambridge University Press, 1995.