

KENYA

From September 14 to 22, 2003, EAAF member Luis Fondebrider traveled to Kenya at the invitation of the local organization Independent Medico Legal Unit, IMLU. The purpose of the trip was to evaluate cases from 1957 and 1984 to determine whether a forensic investigation might be helpful. EAAF also gave presentations to the academic, forensic and law enforcement communities about forensic anthropology and its applications into human rights investigations.

HISTORICAL BACKGROUND

During the 1950s, a decade before independence, Kenya was dominated by the Mau Mau uprising against British rule. Particularly serious confrontations between the Mau Mau guerillas and colonial British troops occurred between 1952 and 1957. Mainly comprised of Kikuyu people, but also including some Embu and Meru, one of the key goals of the rebellion was to reclaim land taken by white settlers and expel them from the country. The Mau Mau rebellion is thought to have been one of the main issues that opened the way to the independence of Kenya.¹ The Mau Mau movement sprung from Central Kenya, home of the populous Kikuyu community. The movement, even though heavily Kikuyu, enjoyed

nationwide support as it forced the colonialists to pay attention to Kenyan demands. The Mau Mau were outlawed in 1952, amid rising tensions in the Kenya political scene.²

The Kikuyu Central Association was active in the 1930's under Jomo Kenyatta, who campaigned energetically for the Kikuyu in Europe. In 1953, Kenyatta was arrested and imprisoned by the British for his leadership of the Mau Mau movement. However, his detention reportedly only increased the popularity of the movement.³

At the end of 1956, the Mau Mau resistance was defeated, with a total of 13,000 dead among the guerillas. Approximately 80,000 Mau Maus were kept in detention



(Left) Counting ballots at the elections bureau, 2002. (Right) A meeting between opposition leader Odinga, Motiba and Kibaki, 2002. Photos courtesy of Joel Stettenheim/REA/Redux.



**Nairobi during the electoral campaign. Youth with placards "Vote for Maina Kamanda."
Photo courtesy of Enrico Bossan/Contrasto/Redux**

camps during the rebellion. Reportedly, 32 Europeans died in the course of the emergency.⁴ However, the end of the movement meant the beginning of the transition that culminated in the independence of the country.⁵

Kenya became independent from colonial British rule on December 12, 1963. In 1964, it became a republic and Jomo Kenyatta was elected President. During the first decade of the country's existence, there were many disputes among ethnic groups, especially between the Kikuyu and Luo. Many Europeans and Asians voluntarily left the country.⁶ The Kenyatta regime reportedly became increasingly autocratic, and political freedoms were hindered by legal changes during his regime, such as the passage of a preventive detention law in 1966.⁷ In addition, during the early 1970s, more than 70% of the country was affected by a sub-Saharan drought. Relations with neighboring countries also deteriorated. Kenya had

a territorial dispute with Uganda, and Tanzania closed its border with Kenya, claiming that Kenya was harboring Idi Amin's supporters after the fall of his regime which Tanzania had helped overthrow.⁸

After his death in 1978, Kenyatta's Vice President, Daniel Arap Moi, became president. Moi's 24-year authoritarian presidency was characterized by widespread human rights violations and "endemic corruption."⁹ Economic conditions in Kenya worsened during his regime, and human rights groups report that abuses were widespread, including arrest and torture of those suspected of being part of the opposition, a lack of independence of the judiciary, restrictions on the freedom of assembly, and extra-judicial executions, among others.¹⁰ Following years of pressure to return to a multi-party system, in 2002 President Moi stepped down and was replaced by President Kibaki, from one of the opposition parties, the

Rainbow Coalition, in what was generally regarded as a well-run and largely peaceful election.¹¹

In 2003, the new government brought “high expectations for improved human rights in Kenya,” as many former civil society and human rights leaders were appointed to government posts, independent radio and television stations opened, dialogue began about the existence of torture chambers and other human rights abuses of the past, and efforts were made to reform the police and curb corruption. The country began to explore whether to organize a truth commission to address past abuses.¹²

However, in 2003 the legislature passed a terrorism law that according to Human Rights Watch is similar to the United States Patriot Act which affords the police the ability to make arbitrary arrests, searches and detention. HRW also continued to be concerned about attacks against journalists, violence against women and freedom of assembly.¹³

EAAF WORK

At the request of IMLU, the EAAF visit had two objectives: a) to provide an assessment on two human rights cases; b) to give presentations on forensic anthropology to the academic, and law enforcement community.

EVALUATION OF CASES

Kenya did not experience the same scale of serious human rights violations as many of its neighboring countries, such as Rwanda, Uganda, Somalia and Ethiopia. The largest number of violations of human rights occurred during the Moi presidency.

1. Investigation on death of Dedan Kimathi ‘Freedom Fighter’

As mentioned above, the Mau Mau uprising marked a turning point in the struggle for independence. The main military leaders were Dedan Kimathi and Warihu Itote, also known as General China. Kimathi was captured in

1956 and executed on February 18, 1957 by colonial officials at the notorious Kamiti Maximum Prison. His remains are still believed to be buried there in an unmarked grave.¹⁴ General China was eventually released.

A movement called “Kimathi” wants to recuperate his remains for a proper funeral. The group intends to solicit the government to invite EAAF to try to find him. Fondebrider met with Kimathi representatives to discuss the project, but they had not yet obtained authorization to conduct the search inside the prison.

2. The Wallaga Massacre:

Background: The North Eastern Province

Wajir is one of three districts in Kenya’s North Eastern Province and borders Ethiopia and Somalia. It is the second largest and one of the most sparsely populated districts in Kenya, and Wajir town is the most populated town in the underdeveloped district. The population of the North Eastern Province is almost entirely ethnic Somali, dominated by the three major clans of the Ogaden, Ajuran and Degodiya (or Degodia). There are also several smaller clans and a small population of non-Somalis, mostly government workers and security forces.

Wajir District is a very arid region of 56,600 square kilometers, with an average rainfall of less than 200 mm per year. The region is vulnerable to drought, and agriculture is not possible. More than 80 percent of the population is comprised of nomadic pastoralists who live on extensive areas to move their herds of camels, cattle, sheep and goats in search of water. Clan boundaries established by the colonial government that restricted movement, disregarded this need and caused problems over the control and use of resources which continued after colonial rule.¹⁶

During colonial rule, the Northern Frontier District, where Wajir is located was a closed area isolated from the rest of Kenya. According to the authors of *Wajir Community Based Conflict Management*, Ibrahim, Dekha and Jenner, “Little or no attempt was made to integrate the

Somali population from this area with the rest of Kenya, or to provide education, health, or other services to the Somali people. In fact, Somalis were not permitted to cross certain boundaries into down-country Kenya.”¹⁷

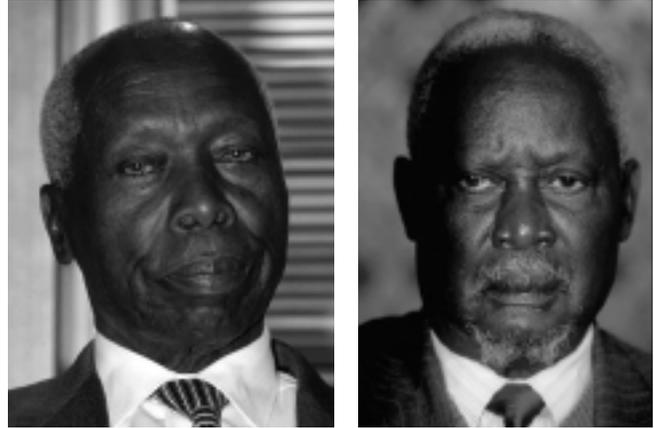
During the First and Second World Wars ethnic Somalis fought on the side of both the British and Italians and enmity remains between clans that fought on opposite sides.¹⁸ Towards the end of the colonial period, ethnic Somalis were told by officials that northeast Kenya would become part of Somalia. This did not happen, however, and it prompted an unsuccessful war of secession, the “Shifita War” of 1963-69, that further isolated the people of the North Eastern Province.¹⁹ The Province remained under a state of emergency from the time of independence until 1992, giving the government wide powers over the population.²⁰

After independence, most of the clan fighting was led by the Degodiya against the Ajuran and Ogaden. “In Wajir West constituency, which coincides with the colonial Ajuran area, violent conflict has flared up each time a Degodiya [Member of Parliament] has been elected (in 1979, 1984, 1992).”²¹

The Ogaden War between Ethiopia and Somalia in 1977-78 led to an influx of refugees and arms into the Wajir District.²²

Early 1980s Massacres: Bulla Karatasi ²³

There were two publicized massacres in the North Eastern Province in the early 1980s. Human Rights Watch (HRW) reports that the first took place in November 1980 when security forces burned down the village of Bulla Karatasi located in the capital of the province, Garissa. This massacre reportedly followed the revenge killing of six government officials by a local Kenyan-Somali nicknamed “Madhobe.” HRW states that “hundreds of people died and many were wounded as they tried to flee. Bodies of those killed [...] were buried early in the morning in a mass grave; other bodies were said to have been thrown in the river.”²⁴



Daniel Arap Moi, President of Kenya, 2000. Photo courtesy of Rainer Unkel/REA/Redux. (Right) Opposition leader Odinga. Photo courtesy of Joel Stettenheim/REA/Redux.

Following these events, HRW reports that the local population was “rounded up and interrogated. Thousands of Kenyan-Somalis were beaten by the security forces and accused by the acting District Commissioner of harboring anti-government elements — generally referred to as “shifita”. They were deprived of food, water and sleep for thirty-two hours.”²⁵ Reports of roundups and abuses throughout the North Eastern Province followed.

Early 1980s Massacres: The Wajir Massacre

The second massacre was the Wajir Massacre, which occurred in February 1984. According to HRW, security forces were conducting a major security operation ostensibly to disarm competing local groups, particularly the Degodiya.²⁶ At the beginning of February, the army closed all the water points, excluding Wajir town, to the Degodiya, which in turn caused many of the semi-sedentary herders to travel long distances in search of water and many of their animals died. Many nomadic groups with large camel herds moved into Ethiopia.

According to HRW on February 10, Somali security forces rounded up Degodiya men, who were given an ultimatum to surrender their weapons. While numbers are not firm, it is reported that approximately 5,000 men were interned at the Wagalla airstrip located 9 kilometers outside of Wajir town. According to a local councilor who was present:



(Left) Kikuyu women, who previously were Mau Mau adherents, renouncing their Mau Mau oath during a cleansing ceremony in Nyeri. Two women licking the twigs part of the *Mundo Mugo's* paraphernalia, which had been dipped by him in the blood of a slaughtered goat to imbue them with magical cleansing properties. 1952; See endnote #5. *Photo by Wide World. Courtesy of United States Library of Congress.* **(Center)** Kenya Premier Jomo Kenyatta (left) sharing a laugh with U.S. Federal Judge Thurgood Marshall, in Nairobi, Kenya, 1963. *Photo by UPI. Courtesy of United States Library of Congress.* Henry Kissinger, holding shield and sword, standing with President Jomo Kenyatta, Nairobi, Kenya, 1976. *Photo by Mani Sondagar. Courtesy of United States Library of Congress.*

“Ordinary people [wananchi], businessmen, prominent religious leaders and civil servants were stripped naked and forced to lie on their bellies. Those who resisted to go nude were shot on the spot as the rest were denied water and food by the security personnel who [forced] ... the people to continue laying down on their bellies under severe ... hot sun. They were subjected to torture by the security personnel who continued to beat them. As days continued ... atrocities by the security personnel inflicted on the people included clubbing some of the people to death and some were burnt alive.”²⁷

HRW reports this treatment continued for five days during which security personnel prevented survivors from receiving any medical treatment. According to one witness:

“As we searched for the survivors we also realized that most of the people who died in the camp were being transported and dumped far away, in the countryside, apparently for cover-up. We managed to get some of the survivors and brought them to Wajir township for medical care. The authorities in Wajir have, however, persistently denied relatives [the opportunity] to retrieve their dead from the countryside for burial.”²⁸

An Italian nun doing missionary work in the area, Dr. Annalena Tonelli, upon hearing “what had happened at the Wagalla airstrip ... painted a Red Cross symbol on her Toyota and drove to the field in search of the dead and survivors.” She later gave Barbara Lefkow, a

physiotherapist and wife of an American diplomat, “a list of the dead to smuggle out of Wajir to the international press,”²⁹ after which “the government refused to renew [Dr. Tonelli’s] work permit.”³⁰ In 2003, “a lone gunman entered a 300 bed hospital compound in Borama town, Somaliland, and shot dead [Dr. Tonelli].”³¹

HRW reports that the most commonly accepted estimate of the number of people killed in the massacre is 2,000, though the number reported varies widely among human rights groups. Unfortunately, an accurate compilation of identities from the massacre was prevented because the security forces seized and destroyed all of the men’s identity papers.³² “The names of 363 people have been identified, who are known to have been killed on the airstrip.”³³ It is estimated that an additional 7,000 people including women, children and old persons were left destitute.³⁴

According to HRW, urgent appeals from Wajir to the Ministry of Health asking for large quantities of medical supplies to deal with the injuries after the massacre were refused, and nongovernmental organizations were denied permission to work in the area. The hospital administration was ordered to discharge all patients of Degodiya background and stop admissions, and the townspeople were ordered to eject those taking refuge in their compounds. HRW reports that many of the wounded are suspected to have died in the surrounding bush.

Despite joint appeals by OXFAM, AMREF, and the

Kenya Red Cross, non-governmental organizations were not allowed into the area until May 9, 1984, according to HRW. The government officially claimed that they had taken “necessary action” against “inter tribal fighting” and had killed 57 people.³⁵ In October 2000 the government raised that number to 381.³⁶

HRW reports that information indicates the massacre was carefully planned “with the intention of punishing the community for supposedly harboring anti-government elements,”³⁷ and that while operations were focused on Wajir they were “designed to alert the populations of Garissa and Mandera as well.”³⁸ The plan involved planting weapons in the village and issuing an ultimatum to surrender all weapons. The activities were reportedly carried out by the paramilitary General Services Unit (GSU) with the help of 36 criminals dressed in GSU uniforms whose sentences for murder and robbery were curtailed in exchange for their participation.³⁹

EAAF work in relation to the Wallaga massacre on this trip included meeting with three representatives from the community who had created pressure for an investigation. According to these representatives, the community hopes to identify the remains, discover how the victims died and seek justice and reparations.

PRESENTATIONS

From September 16 to 18, Fondebrider gave lectures at the university in Eldoret, capital of the Rift Valley Province, and in Nairobi. Dr. Alex Olumbe, the former Chief of State Forensic Pathology who now works in Australia as a pathologist, lectured with Fondebrider on the characteristics of the forensic system in Kenya.

Law and medical students, lawyers, doctors, crime scene officers from the Criminal Investigation Department of the Kenyan Police, judges from Nairobi, members of human rights organizations and commissioners of the governmental National Human Rights Commission attended the conferences.

MEETING WITH ICRC REPRESENTATIVE

In support of the Missing Project from the International Committee of the Red Cross (ICRC), Fondebrider met with the head of the ICRC in Kenya to discuss the project and the possibility of organizing a regional meeting on Forensic Science and Human Rights Investigations.

ENDNOTES

1. Ogot, B.A. & Ochieng, W.R. (ed.), “Decolonization and Independence in Kenya”, East African Education Publisher, Nairobi, 1995.
2. AfricanTribute.com, Inc. (<http://kenya740.tripod.com/africantribute.html>).
3. *Ibid.*
4. Ogot.
5. In October 1952, the British declared a State of Emergency, which continued until 1960. The State of Emergency was in response to an increase in attacks on the property and persons of white settlers, as well as African chiefs who were seen as collaborators. There was also an increase in oath taking. This was a ceremony affirming loyalty to the Mau Mau cause and war against the Europeans. About 2,000 Kikuyu were killed by Mau Mau fighters for refusing to take the oath. The other main party to emerge in the run up to independence was the Kenyan African Democratic Union KADU. In the event, KANU gained a majority in the Legislative Assembly and Jomo Kenyatta led Kenya to independence in December 1963. See photo page 114.
6. The Columbia Encyclopedia, Sixth Edition, *Kenya*. 2001
7. University of Pennsylvania African Studies Center, East Africa Living Encyclopedia, “Kenya: Human Rights,” <http://www.africa.upenn.edu/NEH/khumanrights.htm>.
8. The Columbia Encyclopedia
9. Human Rights Watch, 2004 World Report: Kenya.
10. Amnesty International, “Kenya: The Quest for Justice,” 1 September 1997.
11. Carter Center, “Observing the 2002 Kenya Elections: Final Report,” June 26, 2003.
12. Human Rights Watch, 2004 World Report: Kenya.
13. See Human Rights Watch, 2004 World Report: Kenya, and Amnesty International 2004 World Report: Kenya.
14. AfricanTribute.com, Inc., 2002 (<http://kenya740.tripod.com/africantribute.html>).
15. Ibrahim, Dekha and Janice Jenner, *Wajir Community Based Conflict Management*. December 7, 1996.
16. *Ibid.*
17. *Ibid.*
18. *Ibid.*
19. *Ibid.*
20. *Ibid.*
21. *Ibid.*
22. *Ibid.*
23. Much more information on Bulla Karatasi and the Wajir Massacre can be found in the full text of Africa Watch’s 1991 report *Kenya: Taking Liberties*.
24. Africa Watch, *Kenya: Taking Liberties*. July 1991, p. 272.
25. *Ibid.*, p. 273.
26. *Ibid.*, p. 273.
27. *Ibid.*, p. 274.
28. *Ibid.* p. 274.
29. Kamau, John. “Nun Who Saw It All And Died With The Story,” *The Somaliland Times*. February 16, 2004.
30. Africa Watch, *Kenya: Taking Liberties*. July 1991, p. 275.
31. Kamau, John. “Nun Who Saw It All And Died With The Story,” *The Somaliland Times*. February 16, 2004.
32. Africa Watch, *Kenya: Taking Liberties*. July 1991, p.274.
33. *Ibid.*, p. 274.
34. *Ibid.*, p. 274.
35. *Ibid.*, p. 275.
36. Omar, Abdi, Press Release: “At Last the Kenya Government Admits the Wajir Massacre Occurred”. Kenya Somali Community of Canada, October 2000.
37. Africa Watch, *Kenya: Taking Liberties*. July 1991, p. 276
38. *Ibid.* p. 276
39. *Ibid.*, p. 276