

# Court Case, Settlement and Memorial



**Memorial to the Victims  
of Torture and Ill-Treatment During the Colonial Era (1952–1960)**



## COURT CASE

In 2003, Kenya Human Rights Commission (KHRC) began working with the members of the Mau Mau War Veterans Association. In 2006 a letter of claim was drafted and served upon the British Government by Leigh Day, a UK law firm that had worked on these issues since Oct 2002. In April 2007 the British Government responded denying liability.

In October 2009 claims were first brought to the High Court in London by five Mau Mau war veterans who were detained during the Emergency period regarding torture and ill treatment.

In 2011 the High Court rejected the claimants' arguments that the liabilities of the colonial administration transferred to the British Government on independence, but allowed the claims to proceed on the basis of other arguments.

In 2012 a further hearing took place to determine whether the cases should be allowed to proceed. The High Court ruled that three of the five cases, *Ndiku Mutua and four others versus Commonwealth Office (HQ09X02666)*, could do so. The British Government was granted leave to appeal this decision, and a hearing was set for May 2013.

## SETTLEMENT

After that, on 6 June 2013, the British Government announced that they were settling the case and:

- Made a statement to Parliament in London and to the victims in person in Nairobi, acknowledging for the first time that Kenyans had been subjected to torture and other forms of ill-treatment at the hands of the colonial administration and expressing 'sincere regret' that these abuses had taken place.
- Agreed to pay a settlement sum in respect of 5,228 claimants, as well as a gross costs sum, to the total value of £19.9 million, equivalent to KShs. 2, 624,810,000.
- Agreed to support the establishment of a memorial in Kenya to the victims of torture and ill-treatment during the colonial era (1952-1960), as a symbol of reconciliation between the British Government, the Mau Mau and all those who suffered during the Emergency.

# MEMORIAL

## Memorial Steering Committee

A steering committee was set up for the establishment of the memorial, composed of Mau Mau War Veterans Association, Kenya Human Rights Commission, British High Commission, National Museums of Kenya and Nairobi City County, which allocated the memorial site at Freedom Corner, Uhuru Park. The steering committee invited Kenyan designers and artists to enter the memorial design competition. It was supervised by the Board of Registration of Architects and Quantity Surveyors (BORAQS). Several entries were submitted. The memorial design by Dr. Diana Lee-Smith and DavinderLamba was selected as the winner.

Those who served on the steering committee on behalf of their institutions included: Gitu wa Kahengeri and BuruguMarete, Mau Mau War Veterans Association.

Thomas Howe and Nancy Muigei, British High Commission.

Davis Malombe, Andrew Songa, Faith Alubbe and Martin Mavunjina, Kenya Human Rights Commission. Also, Atsango Chesoni and George Morara, formerly Kenya Human Rights Commission.

Simon Gatheru, National Museums of Kenya.

FestoFadamula, Nairobi City County.

Diana Lee-Smith and Davinder Lamba, the designers, served *ex officio*.

The National Museums of Kenya will work closely with the proposed National Heroes Council and Nairobi City County to ensure the integrity of the memorial is preserved for future generations.

## Design of the Memorial

The memorial attracts attention through its gateway, ramp and sculpture. It provides education through its easily readable plaques and relaxation through its inviting atmosphere and casual seating. The educational and entertaining sculpture and the sense people will get of having a pleasant experience will ensure its memorability, along with the deep lessons conveyed by the narrative. Designed and executed by Kevin Oduor, the sculpture shows a Mau Mau fighter being brought food by a woman fighter during the freedom struggle in the forest.

The memorial is designed for the visitor, not only through the public education

and messages contained in the narrative plaques, but also through casual use of the space as members of the public go about their daily work and recreation in the city. As well as the benches near the plaques and sculpture, visitors can sit on the wide ledge or low parapet that surrounds the podium. Visitors to the park can also sit on benches outside the podium.

Freedom Corner is a fitting place for such a memorial, being in the centre of the city which needs places for public gathering for moments of relaxation and public education. It is also a place that is symbolically linked in peoples' minds to the meaning of the Mau Mau freedom struggle, being the site of the later struggles for freedom and democracy in the second liberation of the 1980s and 1990s. The public now and in the future will be able to read the truth and enjoy the freedoms Kenya enjoys by convening and relaxing in a welcoming and informative public space in the city centre.

As the visitor approaches the podium by means of the larger ramp, the opening plaque is easily visible. To one side of the entrance arch is the Kiswahili and the other side the English version. Each is accompanied by a Braille version at a lower level, facilitating touch. This orients the visitor to the purpose of the memorial. Going through the arch onto the podium one reaches the plaque in Kiswahili and English recognizing the parties to the memorial. Attention is also attracted to the sculpture with its depiction of the men and women Mau Mau fighters, and then on to read the story of the settlement.

The three plaques, on the State of Emergency, the Mau Mau Movement and Reconciliation, are arranged in order, on one side in Kiswahili and the other in English. The narrative memorializes an important period of Kenyan history, making it accessible to the public. It will be particularly important for the surviving victims of torture who brought the legal case against the British government, and their relatives and descendants in future. Exiting the smaller ramp to the park, the visitor sees the commemoration tree, planted by Mau Mau veterans and the Governor of Nairobi. There are more benches around the tree.

In 2014 the building contract was awarded to Interpid Contractors through competitive bidding. Kenya Human Rights Commission (KHRC) acted as the client on behalf of the Memorial Steering Committee. Davinder Lamba acted as Project Manager and supervised the construction of the memorial.

