

KEEP CALM AND CONCEAL:
BRITISH PUBLIC RECORD-KEEPING PRACTICES AND POLICIES, 1800 – 2018

by

Jack Michael Stuart Humphrey

A Thesis Submitted in Partial Fulfillment
of the Requirements for the Degree of
Master of Arts in History

Middle Tennessee State University
August 2018

Thesis Committee:

Dr. Kelly Kolar, Chair

Dr. Mark Doyle

ACKNOWLEDGMENTS

First and foremost, I would like to thank the members of my thesis committee, Dr. Kolar and Dr. Doyle. I am incredibly thankful for the countless hours they have spent reviewing drafts, offering advice, and helping me navigate my way through this tricky process. Without their tireless support over the past year this thesis would have not have come to fruition. It is difficult to put into words just how much I appreciate everything that you both have done for me. Second, I would like to thank my wife, Madison Humphrey, for her constant love, patience, and understanding. She has missed out on countless weeknights and weekends while I have strived to complete this thesis and for that I am immensely grateful. Finally, I would like to thank my parents back in England who have been inquisitive about this subject and each stage of the writing process.

ABSTRACT

This thesis examines how a prolonged legal battle involving the British law firm Leigh Day, representing the Kenyan Human Rights Commission, and the Foreign and Commonwealth Office, exposed a culture of government secrecy, which has been ingrained within British governmental departments and institutions for centuries. In particular, it explores how vast swathes of records from forty-one former British colonial administrations were covertly transported back to the metropole during the period of decolonization. Once in Britain, these records, known as the “migrated archives,” were deliberately concealed within various government repositories for decades. British government employees did not process the “migrated archives” under the terms of the Public Records Act 1958, consult them for the purpose of Freedom of Information requests, and consistently misled foreign governments about the material they held. The case of the “migrated archives” is emblematic of Britain’s corrosive culture of government secrecy and illustrates a troubling history of archival mismanagement.

TABLE OF CONTENTS

	Page
List of Abbreviations.....	vii
INTRODUCTION.....	1
Historiography.....	4
Scope and Approach.....	9
Structure.....	11
CHAPTER I: BRITISH PUBLIC RECORD-KEEPING PRACTICES AND POLICIES, 1800-1945.....	13
Public Records and the Public Record Office Act, 1800-1838.....	14
Public Records and the Public Record Office, 1838-1898.....	17
The Growing Culture of Government Secrecy.....	20
Public Records and the Public Record Office, 1912-1919.....	23
Public Records and the Public Record Office, 1919-1945.....	27
Colonial Record-Keeping Practices and Policies.....	31
Conclusion.....	34

CHAPTER II: BRITISH PUBLIC RECORD-KEEPING PRACTICES AND POLICIES, 1945-2005.....	36
International Archival Developments 1945-1965.....	37
Professional Archival Organizations and Public Records Reform, 1945-1958....	39
Colonial Record-Keeping Practices and Policies, 1945-1963.....	47
The “Migrated Archives”.....	54
The Culture of Government Secrecy, 1970-2005.....	58
The “Migrated Archives,” 1995-2005.....	63
Conclusion.....	65
CHAPTER III: MAU MAU, THE “MIGRATED ARCHIVES,” AND THE HIGH COURT.....	67
The East African Protectorate, The Colony and Protectorate of Kenya, and Mau Mau, 1895-1963.....	68
The Kenyan Human Rights Commission, Leigh Day, and the High Court.....	73
Conclusion.....	85
CHAPTER IV: CONSEQUENCES OF CONCEALMENT, 2011-2018.....	86
The Cary Report.....	87
Sensitivity Review and Transfer.....	92

Settlement of the Mau Mau High Court Case.....	99
The FCO and the “non-standard” files.....	102
Professional Archival Organizations and the “Migrated Archives”.....	108
CONCLUSION.....	112
BIBLIOGRAPHY.....	118

LIST OF ABBREVIATIONS

ACARM	Association of Commonwealth Archivists and Records Managers
ARA	Archives and Records Association
BAC	Business Archives Council
BRA	British Records Association
CPBA	Council for the Preservation of Business Archives
FCO	Foreign and Commonwealth Office
FOI	Freedom of Information
GCHQ	Government Communication Headquarters
HMG	Her Majesty's Government
ICA	International Congress on Archives
KHRC	Kenyan Human Rights Commission
MoD	Ministry of Defence
PRA	Public Records Act 1958
PRO	Public Record Office
TNA	The National Archives
SAA	Society of American Archivists
SoA	Society of Archivists
UNESCO	United Nations Educational, Scientific and Cultural Organization

INTRODUCTION

In April 2011, after a prolonged legal battle involving the British law firm Leigh Day, representing the Kenyan Human Rights Commission (KHRC), and the Foreign Commonwealth Office (FCO), Lord Howell of Guildford publicly acknowledged that the FCO was in possession of thousands of records from thirty-seven former British colonial administrations;¹ a figure that would later climb to forty-one.² These records, known as the “migrated archives,” had been covertly removed during the period of decolonization and deliberately concealed within various government repositories ever since.³ For decades, members of the staff at the FCO failed process the “migrated archives” under the terms of the Public Records Act 1958 (PRA), consistently misled former colonies about the colonial materials they held, and more recently, did not consult the “migrated archives” for the purpose of Freedom of Information requests. As a whole, the FCO

¹ Written Ministerial Statements, HL [House of Lords] Deb., 5 April 2011, vol. 726, c WS144, <https://publications.parliament.uk/pa/ld201011/ldhansrd/text/110405-wms0001.htm>.

² According to TNA, the “migrated archives” actually contain records from forty-one former British colonial administrations, which include: Aden; Anguilla; Bahamas; Basutoland; British Guiana; British Indian Ocean Territories; Brunei; Camerouns; Ceylon; Cyprus; Fiji; Gambia; Gilbert and Ellice Islands; Gold Coast; Jamaica; Kenya; Malaya; Malta; Mauritius; New Hebrides; Nigeria; North Borneo; Northern Rhodesia; Nyasaland; Palestine; Sarawak; Seychelles; Singapore; Solomons (BSIP); Southern Rhodesia; Swaziland; Tanganyika; Trinidad and Tobago; Turks and Caicos; Tuvalu; Uganda; West Indies; Western Pacific; and Zanzibar. It is important to note that Anguilla, British Indian Ocean Territories, and, Turks and Caicos are still British Overseas Territories. “Foreign and Commonwealth Office and predecessors: Records of Former Colonial Administrations: Migrated Archives,” The National Archives, accessed April 24, 2018, <http://discovery.nationalarchives.gov.uk/details/r/C12269323>.

³ Lord Howell of Guildford commented that the records were “mainly from the 1950s and 1960s, which were created by former British Administrations overseas.” HL Deb., 5 April 2011, vol. 726, c WS144.

violated core archival principals by suppressing open-access and denying individuals the opportunity to hold the government to account, which has served to undermine faith in public institutions designed to safeguard the interests of a democratic society. Records that should have either been returned to their place of origin or deposited in The National Archives (TNA) were instead deliberately hidden from view. Without the sustained efforts of academics, lawyers, and international human rights organizations it is entirely possible that the “migrated archives” would have never seen the light of day.

This thesis examines how the case of the “migrated archives” exposed a pervasive culture of government secrecy, which has been ingrained within British governmental departments and institutions for centuries.⁴ Archival mismanagement, inefficient public record-keeping practices and policies, weak public records legislation, and successive British governments uncommitted or ambivalent towards enhancing transparency, among other factors, have allowed this culture to flourish. Moreover, the “migrated archives” scandal only scratched the surface of public records violations in Britain. For instance, in 2014, William Hague, the then Foreign Secretary, publicly confirmed that the FCO was in possession of some 600,000 files, known as the “non-standard” files, which had also not been processed under the PRA.⁵ Despite professing to adhere to liberal principles,

⁴ Throughout this thesis, I use the term British government to refer to the UK central government. In addition, I use the term British public record-keeping practices and policies to refer to the public record-keeping practices and policies of the UK central government. It is important to recognize that “Scotland and Northern Ireland have their own public record offices and the National Assembly for Wales has the power to establish one for Wales.” Philip Coppel, *Information Rights: Law and Practice*, 4th ed. (Oregon: Hart Publishing, 2014), 255.

⁵ The existence of the “non-standard” files was known before this date; however, the exact figure was not publicly confirmed until February 2014 after a thorough review had

this thesis illustrates how Britain is a nation “where a culture of secrecy runs wide and deep.”⁶

This thesis analyzes an array of archival themes including: appraisal, records-management, destruction, open-access, accountability, transparency, and ethics. In addition, it answers a variety of questions including: How did public record-keeping practices and policies develop and evolve in Britain? How did public record-keeping practices and policies facilitate a culture of government secrecy? How were the records of colonial administrations managed during empire? What were the procedures in place for either destroying or covertly removing records during decolonization? How were the “migrated archives” deliberately concealed for decades bypassing the PRA? How has weak parliamentary legislation and successive British governments allowed a culture of government secrecy to flourish? How was the case of “migrated archives” brought to light? How did the British government, as well as government departments and institutions, respond to the scandal? And, how have professional archival organizations in Britain reacted to the case of the “migrated archives”? Answering these questions provides the necessary framework for understanding how the case of the “migrated archives” is emblematic of a pervasive and corrosive culture of government secrecy.

been conducted.

Written Ministerial Statements, HC [House of Commons] Deb., 27 Feb 2014, vol. 576 cc 25-26WS,
<https://publications.parliament.uk/pa/cm201314/cmhansrd/cm140227/wmstext/140227m0001.htm#14022774000003>.

⁶ Ian Cobain, *The History of Thieves: Secrets, Lies and the Shaping of a Modern Nation* (London: Portobello Books, 2016), xii.

Historiography

A variety of works have examined the secretive nature of the British state, the “migrated archives,” and the structure and legacies of colonial archives. However, few studies have placed the “migrated archives” in a much broader British archival context, which is the purpose of this thesis.

Within the past several decades numerous historians, political scientists, and journalists have contributed to the body of literature “that attempts to identify what makes the British state, in many ways unique among Western democracies, so secretive.”⁷ David Vincent’s *The Culture of Secrecy: Britain, 1832-1998* is a foundational work on the subject illustrating that a culture of government secrecy can be traced back to the early nineteenth-century. During this period, political elites abided by a code of “honourable secrecy,” which masked the inner workings of government.⁸ However, as the size and scope of government grew, this code became more difficult to maintain and legislation eventually replaced this unwritten code of conduct. Christopher Moran builds off the views advanced by Vincent in his 2013 work *Classified: Secrecy and the State in Modern Britain*. Focused more on events in Britain after the Second World War, Moran illustrates that the question of how to keep sensitive records out of the public domain, which had been a concern for centuries, became an “obsession” for

⁷ Christopher Moran, *Classified: Secrecy and the State in Modern Britain* (Cambridge: Cambridge University Press, 2013), 7.

⁸ David Vincent, *The Culture of Secrecy: Britain, 1832-1998* (Oxford: Oxford University Press, 1998), 26-77.

successive governments.⁹ However, Morgan notes that during the 1960s, the British state had “concluded that maintaining absolute secrecy with respect to some of its work was not only impossible but counterproductive.”¹⁰ This realization caused the state to move into the realm of “offensive information management” whereby it put various secrets into the public domain on its own terms in an attempt to appease critics by appearing transparent.¹¹ Moran is also more generous in his treatment of the British press with regards to their opposition “to the strictures of official secrecy” arguing that Fleet Street was far more “challenging to the secret state than has been acknowledged.”¹² Finally, Ian Cobain’s *The History of Thieves: Secrets, Lies, and the Shaping of the Modern Nation*, is one of the most recent works published on Britain’s culture of secrecy. Cobain, a senior reporter for *The Guardian* who was heavily involved in covering the “migrated archives” and “non-standard” files, complements the arguments presented by both Vincent and Moran. He asserts that Britain is a nation “where a culture of secrecy runs wide and deep.” He continues that “the application of official secrecy in Britain, has, for the past couple of centuries at least, gone far beyond that which is required for the safe and secure business of government.”¹³ The strength of his work lies in his more recent analysis of British state secretiveness, in particular, the concealment of sensitive records within the FCO and Ministry of Defence (MoD), the activities of the Government Communications Headquarters (GCHQ), and the Freedom of Information Act 2000. These works provide the basis for understanding Britain’s culture of government secrecy.

⁹ Moran, *Classified*, 3.

¹⁰ *Ibid.*, 5.

¹¹ *Ibid.*, 5.

¹² *Ibid.*, 6.

¹³ Cobain, *The History of Thieves*, xii.

The recent “discovery” of the “migrated archives” has intensified scholarly inquiry on the subject of British secrecy, decolonization, and, public record-keeping practices and policies. The term “migrated archives” simply refers to “the archives of a country that have moved from the country where they were originally accumulated.”¹⁴ David Anderson, whose witness statement was of pivotal importance in forcing the government to acknowledge that it irregularly held thousands of colonial-era records, was one of the first academics to comment broadly on the origins of the 2011 trial and the history of the “migrated archives.”¹⁵ Mandy Banton provides an excellent account of the destruction and removal of colonial-era records, their concealment once in Britain, and discussion over their legal status. In addition, she touches upon the attempts of international organizations to return migrated colonial records and the findings of the Cary report.¹⁶ Moreover, Edward Hampshire uses records from the “migrated archives” to analyze “the process of assessment, destruction and removal of local administration records in Malaya prior to independence in 1957, and north Borneo and Sarawak prior to their incorporation into Malaysia in 1963.”¹⁷ He draws attention to the levels of

¹⁴ Richard Peace-Moses, *A Glossary of Archival and Records Terminology* (Chicago: The Society of American Archivists, 2005), 252, <http://files.archivists.org/pubs/free/SAA-Glossary-2005.pdf>.

¹⁵ David M. Anderson, “Mau Mau in the High Court and the ‘Lost’ British Empire Archives: Colonial Conspiracy or Bureaucratic Bungle?” *The Journal of Imperial and Commonwealth History* 39, no. 5 (2011): 699-716, <https://doi.org/10.1080/03086534.2011.629082>.

¹⁶ Mandy Banton, “Destroy? ‘Migrate’? Conceal? British Strategies for the Disposal of Sensitive Records of Colonial Administrations at Independence,” *The Journal of Imperial and Commonwealth History* 40, no. 2 (2012): 321-335, <https://doi.org/10.1080/03086534.2012.697622>.

¹⁷ Edward Hampshire, “‘Apply the Flame more Searingly’: The Destruction and Migration of the Archives of British Colonial Administration: A Southeast Asia Case

involvement from the metropole and tries to answer “what survived and why.”¹⁸ More recently, Caroline Elkins, who was also involved in the High Court case against the FCO, details how the case of the “migrated archives” enhances scholarly understanding of decolonization and considers the consequences of culling records within an archival context. Her work is particularly effective for understanding the “dilution technique,” which she explains “was the logic and process of document destruction, and the relationship between the two.”¹⁹ Finally, Shohei Sato’s article has provided an informative and thorough account of how the destruction of records occurred across the British Empire. Using records from the “migrated archives” she demonstrates how ad-hoc policies and procedures that originated in Ceylon, were codified in the Gold Coast, before becoming more formalized in Uganda and Kenya.²⁰ This thesis builds upon, and expands,

Study,” *The Journal of Imperial and Commonwealth History* 41, no. 2 (2013): 334, <https://doi.org/10.1080/03086534.2013.799349>.

¹⁸ Ibid., 334.

¹⁹ Caroline Elkins, “Looking beyond Mau Mau: Archiving Violence in the Era of Decolonization,” *The American Historical Review* 120, no. 3 (June 2015): 858-859, <https://doi.org/10.1093/ahr/120.3.852>.

²⁰ Shohei Sato, “‘Operation Legacy’: Britain’s Destruction and Concealment of Colonial Records Worldwide,” *The Journal of Imperial and Commonwealth History* 45, no. 4 (2017): 712, <https://doi.org/10.1080/03086534.2017.1294256>.

For more on the “migrated archives” and the destruction and/or removal of records during decolonization see: David M. Anderson, “Guilty Secrets: Deceit, Denial, and the Discovery of Kenya’s Migrated Archive,” *History Workshop Journal* 80, no. 1 (2015): 142-160, <https://doi.org/10.1093/hwj/dbv027>; Anthony Badger, “Historians, a Legacy of Suspicion and the ‘Migrated Archives,’” *Small Wars and Insurgencies* 23, nos.4-5 (2012):799-807, <https://doi.org/10.1080/09592318.2012.709761>; Jordanna Bailkin, “Where did the Empire Go? Archives and Decolonization in Britain,” *The American Historical Review* 120, no. 3 (2015): 884-899, <https://doi.org/10.1093/ahr/120.3.884>; and David Phillips, “The Migrated Archives and a Forgotten Corner of Empire: The British Borneo Territories,” *The Journal of Imperial and Commonwealth History* 44, no. 6 (2016):1001-1019, <https://doi.org/10.1080/03086534.2016.1251557>.

the views advanced by these scholars by placing the “migrated archives” in a much wider British archival context.

To appreciate the significance of the “migrated archives” it is also important to understand more about colonial archives, and archives, in general. The destruction and/or removal of colonial-era records was not unique to Britain. Other former imperial powers took steps to ensure that sensitive material was not left for the incoming independent government. Ann Stoler comments that “Colonial archives were both sites of the imaginary *and* institutions that fashioned histories as they concealed, revealed, and reproduced power of the state.”²¹ Moreover, within the past several decades archivists are increasingly coming to terms with the fact that archives are not neutral repositories of truth. Terry Cook and Joan Schwartz argue that “Postmodern archival thinking requires the profession to accept that it cannot escape the subjectivity of performance by claiming the objectivity of systems and standards.”²² They continue that “records emerging from the creation process are anything but natural, organic, innocent residues of disinterested administrative transactions. Rather they are value-laden instruments of power.”²³ Furthermore, Eric Ketelaar illustrates how archives are sites of knowledge and power,

²¹ Ann Laura Stoler, “Colonial Archives and the Arts of Governance,” *Archival Science* 2 (2002): 97, <https://www.nyu.edu/classes/bkg/methods/stoler.pdf>.

²² Terry Cook and Joan Schwartz, “Archives, Records, and Power” From (Postmodern) Theory to (Archival) Performance,” *Archival Science* 2, nos 3-4 (2002): 176, <http://www.nyu.edu/pages/classes/bkg/methods/cook.pdf>.

²³ *Ibid.*, 178.

which can be used for both nefarious and noble purposes.²⁴ It is therefore imperative to appreciate how the “migrated archives” were shaped by colonial administrators, how the destruction and/or removal of colonial records impacted native populations after independence, and, how British archivists at the FCO worked within a system that protected and perpetuated the power of the state. In addition, the case of the “migrated archives” illustrates how core archival principles open-access and accountability have been violated. Kathryn Hammond Baker explains that “Government archives support the government’s needs to understand itself, its goals, policies, and actions, as well as the peoples’ need to hold the government accountable for its actions.”²⁵ Depriving open-access to public records, like the case in Britain, denies individuals the chance to hold the government to account, address past grievances, and allows the state to operate behind a “veil of secrecy.”²⁶

Scope and Approach

The primary geographical focus of this thesis is the United Kingdom. It is concerned with the growth and development of British public record-keeping practices and policies, the British government, the actions of various government departments and institutions, British press coverage, the British judicial system, and, legislation governing

²⁴ Eric Ketelaar, “The Panoptical Archive,” in *Archives, Documentation, and Institutions of Social Memory. Essays from the Sawyer Seminar*, ed. Francis X. Blouin and William G. Rosenberg (Ann Arbor: The University of Michigan Press, 2006), 144-150.

²⁵ Kathryn Hammond Baker, “The Business of Government and the Future of Government Archives,” *American Archivist* 60, no. 2 (1997): 235, <https://doi.org/10.17723/aarc.60.2.p728118660482531>.

²⁶ Banton, “Destroy?” 322. Banton uses this phrase when referring to the “migrated archives” held by the FCO.

public records and official secrecy, from 1800, when a Select Committee was established to examine the state of public records, to 2018, when the Archives and Record Association (UK & Ireland) revised their code of ethics. Moreover, this thesis examines the record-keeping policies and practices of various colonial administrations including Ceylon, the Gold Coast, Uganda, Kenya, and Malaya, among others.

This thesis consults an array of primary source material including Royal Commission reports, parliamentary legislation, written ministerial statements, independent reports, witness statements, newspaper articles, personal correspondence, and the outcome of proceedings from various FCO Record Days. The Royal Commission reports were published from 1912 to 1919 and detail the state of public records in England and Wales. They provide an excellent account of the origins and administration of the Public Record Office (PRO), and, critique inefficient public record-keeping practices and policies. Moreover, while numerous pieces of parliamentary legislation are discussed, the Public Records Act of 1958 is of particular importance, as it clearly defines what constitutes a public record and how they are to be processed. The written ministerial statements date from 2011 to 2014 and discuss the various developments regarding the “migrated archives” and “non-standard” files. The independent report is Sir. Anthony Cary’s inquiry into the “migrated archives,” which is imperative for understanding the official government explanation into the “migrated archives.” Furthermore, the witness statement of David Anderson submitted to the High Court in December 2010 was crucial in the FCO being forced to admit the existence of the “migrated archives.” The newspaper articles come primarily from the left-leaning broadsheet *The Guardian*, which

covered the case of the “migrated archives” and “non-standard” files in great depth. In addition, the personal correspondence was between myself and Dr. Mandy Banton, a former TNA Principal Records Specialist, and David Anderson, a well-renowned scholar on British counter-insurgency who played a crucial role in exposing the “migrated archives.” In 2017, the author of this paper reached out to both academics via email to ask a series of questions about British public record-keeping practices and policies, and, the “migrated archives.” Finally, the outcome of proceedings from various FCO Record Days provides an insight into an annual event where specialist academics could hear from multiple senior FCO officials, as well as the Senior Independent Reviewer, about the “migrated archives” and “non-standard” files. Representatives of TNA and the Lord Chancellor’s Advisory Council also had the opportunity to speak and answer questions about British public record-keeping practices and policies.

Structure

In order to demonstrate how the case of the “migrated archives” is emblematic of Britain’s culture of government secrecy this thesis is split into four chapters. Chapter one examines the growth and development of British public record-keeping practices and policies from 1800, when a Select Committee investigated the state of public records, to the Second World War. It discusses the passage of the Public Record Office Act of 1838, which created the Public Record Office (PRO), archival mismanagement, the foundations of the culture of government secrecy, the government’s reluctance to implement reform, and, inefficient colonial record-keeping practices and policies. Chapter two explores British public record-keeping practices and policies throughout the post-war decades until

the implementation of the Freedom of Information Act in 2005. In particular, it looks at the growth of professional archival organizations in Britain, inefficient public record-keeping practices and policies, the Public Records Act of 1958, the destruction and/or removal of vast swathes of records across the British Empire during the period of decolonization, the deliberate concealment of the “migrated archives” once back in Britain, and the pervasive culture of government secrecy. Chapter three explores the prolonged legal battle between the British law firm Leigh Day, representing the KHRC, and the FCO, which resulted in the British government publicly acknowledging the existence of the “migrated archives” in April 2011. It discusses how the case came before the High Court, and, how lawyers and academics worked together to expose one of the largest archival scandals in modern British history. The final chapter examines the independent report into the “migrated archives,” the transfer process of the “migrated archives” from the FCO’s Hanslope Park archive to TNA, the settlement of the High Court case, the reaction of the British press, the response of professional archival organizations to the “migrated archives” scandal, and the “non-standard” files.

CHAPTER I:

BRITISH PUBLIC RECORD-KEEPING PRACTICES AND POLICIES, 1800-1945

From 1086, when one of Britain's earliest public records, the Domesday Book, was completed, until the close of the eighteenth-century, public record-keeping practices and policies were inefficient, inconsistent, and informal. Centuries worth of valuable evidence and information about the nation's administrative history was inadequately preserved. At the turn of the nineteenth-century, the British government, influenced by archival developments across the English Channel sparked by the French Revolution, seriously considered the state of public records. As a result, Parliament passed legislation in 1838 that created the Public Record Office (PRO), one of the world's first national repositories, which was charged with preserving public records and controlling their access. However, this legislation, as well as subsequent iterations, was severely limited and reflected a culture of government secrecy. Ultimately, a framework was established that served to inhibit the flow of information rather than facilitate access. For nearly one hundred and fifty years, various individuals and committees exposed the flaws of British record-keeping practices and policies and proposed a plethora of practical solutions to reform how public records were selected for preservation, the procedures in place for destroying public records, and the administration of the PRO, to name but a few examples. However, successive British governments remained unconvinced that change was needed and refused to act. The inefficiency of domestic record-keeping practices and policies was mirrored throughout Britain's colonies. A lack of clear directives from the metropole, hostile natural elements, inadequate funding, and poorly trained staff ensured

that colonial records, by and large, were mismanaged. In order to appreciate how tens of thousands of colonial records across the empire were either destroyed during the period of decolonization or covertly removed prior to independence and deliberately concealed within various government repositories, it is imperative to understand how British public record-keeping practices and policies developed. Analyzing the administrative and legislative framework in place that governed domestic and colonial record-keeping practices and policies from the dawn of the nineteenth-century until the close of the Second World War will help expose the foundations that allowed a culture of archival secrecy and mismanagement to flourish.

Public Records and the Public Record Office Act, 1800-1838

At the beginning of the nineteenth-century, British public record-keeping practices and policies were undisciplined, uncoordinated, and ad-hoc. There was no parliamentary legislation that governed the state of public records, no government department responsible for their care, and no national repository for them to be stored and made accessible to the general public. Instead, according to Elizabeth Shepherd, public records were “scattered between sixty buildings in London and Westminster including the Tower of London, Somerset House, Carlton Ride, and the Chapter House of Westminster Abbey.”¹ Neville Williams, former Secretary of the British Academy, lambasts this “higgledy-piggledy” arrangement. He argues that “With scant regard for dangers from fire, water, vermin and falling masonry, any building and any vacant room

¹ Elizabeth Shepherd, *Archives and Archivists in 20th Century England* (Abingdon-on-Thames: Routledge, 2016), 22.

in the possession of the crown which was suitable for any other purpose became used as repository space.” Williams continues that “Never had so grand a heritage been in danger of dissolution.”² In 1800, Parliament appointed a Select Committee to examine the state of public records and propose recommendations to address the situation.³ The Select Committee “surveyed hundreds of repositories in England, Wales and Scotland and identified deficiencies in the storage of records, many of which were held in damp, unsuitable places.”⁴ Shepherd argues that the findings of the Select Committee impressed the need for a “single national repository, based on the model of the General Register House, Edinburgh, the appointment of salaried keepers and authority to destroy records not worth preserving.”⁵ Over the course of the next three decades a total of six Royal Commissions,⁶ collectively known as the Records Commission, continued the work of the Select Committee by further analyzing the issue of public records in Britain. The Records Commission produced three general reports in 1812, 1819, and 1837, which,

² Neville Williams, *The British Public Record Office: History, Description, Records Groups, Finding Aids, and Materials for American History with Special Reference to Virginia. Special Reports 25, 26, 27, and 28 of the Virginia Colonial Records Project* (Virginia: The Virginia State Library, 1960), 17, <https://archive.org/details/britishpublicrec00will>.

³ Select Committees operate in both the House of Lords and House of Commons. They “check and report on areas ranging from the work of government departments to economic affairs. The results of these inquiries are public and many require a response from the government.” “Select Committees,” UK Parliament, accessed May 13, 2018, <https://www.parliament.uk/about/how/committees/select/>.

⁴ Shepherd, *Archives and Archivists*, 22.

⁵ *Ibid.*, 22.

⁶ Royal Commissions are “advisory committees established by the government to investigate a matter of public concern on an ad-hoc basis.” The “government may set up a royal commission if it wishes to be seen as addressing the investigation in a non-party political way . . . the size of a royal commission, its chairperson, membership and remit are set by the government.” The government is not bound by law to act on the advice of any royal commission. “Royal Commissions,” *BBC News*, last modified October 27, 2008, https://news.bbc.co.uk/2/hi/uk_news/politics/258957.stm.

among other things, advocated for the improved care and handling of public records, and reinforced the need for a single national repository.⁷ In July of 1838, after years of government inquiries and failed proposals, Parliament passed the Public Record Office Act, which created the PRO, a non-ministerial government department headed by the Master of the Rolls, to “keep safely the public records.”⁸ During this period public records were identified as the “records of the Exchequer, Chancery, and other ancient courts of law”⁹ rather than records of government departments.¹⁰ The Master of the Rolls, the “clerk responsible for maintaining all rolls and records of the Chancery Court,”¹¹ supported by a Deputy Keeper and other specially trained staff, was “empowered to regulate public access to records and fix fees for their inspection, where appropriate.”¹²

Initially public access to public records was subjective and tightly regulated. Philippa

⁷ Shepherd, *Archives and Archivists*, 22.

⁸ “History of the Public Records Acts,” The National Archives, accessed January 27, 2018, <http://www.nationalarchives.gov.uk/information-management/legislation/public-records-act/history-of-pra/>. Non-ministerial government departments are not overseen by a government minister and “their status is usually set out in legislation rather than as an administrative decision.” The chief “rationale for departments with this status is the desirability of a degree of independence from direct ministerial control for the function.” The majority of non-ministerial departments “are directly funded by the Treasury, but they are accountable to Parliament.” Derek Birrell and Ann Marie Gray, *Delivering Social Welfare: Governance & Service Position in the UK* (Bristol: Policy Press, 2017), 70.

⁹ Philip Coppel, *Information Rights: Law and Practice*, 4th ed. (Oregon: Hart Publishing, 2014), 245.

¹⁰ Shepherd, *Archives and Archivists*, 23.

¹¹ The Master of the Rolls, “along with the President of the Supreme Court, ranks joint second to the Lord Chief Justice in precedence and is traditionally the head of the Court of Appeal (Civil Division).” The “‘Rolls’ in his title reflects the fact that historically the Master of the Rolls was the clerk responsible for maintaining the rolls and records of the Chancery Court. This responsibility was later transferred to the Public Record Office under ministerial responsibility but the ancient title remains.” Alisdair A. Gillespie, and Siobhan Weare, *The English Legal System*, 6th ed. (Oxford: Oxford University Press, 2017), 247.

¹² The National Archives, “History of the Public Records Acts.”

Levine states that “Both legal and literary applicants had to satisfy the authorities that there were ‘sufficiently qualified by age, knowledge and discretion’ before being granted access.” She continues that “Access thus quickly became limited in an institutional sense to those already in possession of what was, after all, an arcane branch of knowledge.”¹³ Therefore, the PRO had considerable sway over who could access the records in their care. Nevertheless, the Public Record Office Act 1838 paved the way for one of the first national archives anywhere in the world, which was located at Rolls House on the Rolls Estate in Chancery Lane, London.¹⁴

Public Records and the Public Record Office, 1838-1898

During the construction of the new PRO building, the Master of the Rolls, Lord Langdale, began to accept a broader range of records, which expanded the notion of what constituted a public record. For instance, during the 1840s the Admiralty and Treasury began “placing in the charge of the Master of the Rolls a considerable number of public documents for which there was no room in their own offices.”¹⁵ A Royal Commission report published in 1912 commenting on the state of public records in England and Wales

¹³ Philippa Levine, *The Amateur and the Professional: Antiquarians, Historians and Archaeologists in Victorian England, 1838-1886* (Cambridge: Cambridge University Press, 1986), 105.

¹⁴ United Kingdom. Royal Commission on Public Records Appointed to Inquire into and Report on the State of Public Records and Local Records of a Public Nature in England and Wales. *First Report of the Royal Commission on Public Records Appointed to Inquire into and Report on the State of the Public Records and Local Records of a Public Nature of England and Wales. Volume I, Part I* (London: His Majesty’s Stationary Office, 1912), 3, <https://babel.hathitrust.org/cgi/pt?id=uc1.c2741669;view=1up;seq=11>.

¹⁵ *Ibid.*, 4.

noted that “In 1845-6 this practice was put on a regular footing by an exchange of letters between Lord Langdale and the Treasury.” The report commented that:

Lord Langdale undertook to hold any documents deposited in the Record Office by Government offices for the use of those offices, and subject to the control of their heads, and to return them to their offices of origin if required for use there, and this understanding was accepted by the Secretary to the Treasury.¹⁶

Shepherd stresses that the Deputy Keeper, troubled about the informality and practicality of these arrangements, sought an Order in Council to clarify matters.¹⁷ In 1852, an Order in Council was issued to “make a comprehensive provision for bringing all classes of public documents under the administrative powers of the Master of the Rolls.”¹⁸ This meant that all “records belonging to the Crown deposited in any other office or custody than those specified in the Principal Act were put under the charge and superintendence of the Master of the Rolls, subject to the provisions of the Principal Act.” Therefore, both “Departmental and State (i.e., any Secretary of State’s) papers were . . . brought under the Master of the Roll’s superintendence, but not into his custody or control.” Public records now applied to documents created by government departments and bodies as well as legal and judicial institutions. However, “Access to all such papers and regulation of their use remained under the direction of the office from which they came.”¹⁹ This impractical, and

¹⁶ Ibid., 4.

¹⁷ Shepherd, *Archives and Archivists*, 23. Parliament states that Orders in Council “are used when an ordinary statutory instrument would be inappropriate, such as for transferring responsibilities between government departments. They are issued by and with the advice of HM Privy Council and are approved in person by the monarch.” In addition, Orders in Council were used to transfer the powers from ministers of the UK government to the devolved governments.” “Orders in Council,” UK Parliament, accessed May 13, 2018, <https://www.parliament.uk/site-information/glossary/orders-in-council/>.

¹⁸ United Kingdom. Royal Commission on Public Records. *First Report*, 4-5.

¹⁹ Ibid., 5.

often confusing, arrangement of “dual control” extended well into the twentieth-century and served to weaken the authority of the PRO as other government departments and bodies had significant authority over what public records could be made accessible to the public.²⁰

As the nineteenth-century progressed, the PRO and Parliament analyzed the procedures in place to destroy public records. Prior to 1877, there was little guidance regarding the destruction of legal records.²¹ Moreover, government departments had the “power to enter the Repository [PRO] and destroy any of their records deposited therein.”²² This “arbitrary practice of destruction without adequate consideration” existed “by the virtue of which the Departmental records remained subject to the control and disposal of the Departments even when they had been transferred to the Public Record Office.”²³ Therefore, during this period the destruction of public records was unregulated, uncoordinated, and decided on an ad-hoc basis. This illustrates that the foundations of Britain’s culture of government secrecy resided more with government departments than the PRO itself. In 1877 and 1898, Parliament attempted to reform this inefficient system of destruction. Legislation was passed that created a Destruction Committee within the

²⁰ Ibid., 5.

²¹ Ibid., 15. The Royal Commission report of 1912 stated that “In the year 1868 the first precedent occurs for the destruction of legal records in the case of the documents of the late Chancery Masters.” It appears that these legal records were copy orders and other related material.

²² Ibid., 15. This passage comes from the Deputy Keeper while giving evidence to the House of Lords in 1877. Moreover, in 1858, a small official committee was established, which marked the “first systematic examination of records of doubtful value.” From 1861 to 1865, under an Assistant Record Keeper, “nearly 400 tons of War Office and Admiralty records” were destroyed.

²³ Ibid., 15.

PRO, made up of legal experts and Record Officers, who would decide “what documents might be safely destroyed without detriment, inter alia, to ‘historical investigations.’”²⁴ If a public record was deemed to be worthy of destruction then the Destruction Committee had the authority to proceed as long as the “greatest caution and discretion” was observed.²⁵ Furthermore, the legislation established a more regular “system for the transfer of records from government departments to the PRO”²⁶ as well as providing the PRO authority to transfer public records of “insufficient” value to the “authorities of any library in Great Britain or Ireland.”²⁷ While this new system for the destruction of public records seemed promising its implementation was inconsistent and heavily subjective. The old arrangement of ad-hoc and careless destruction of public records by the PRO and heads of government departments continued for many decades.

The Growing Culture of Government Secrecy

As Britain entered the twentieth-century, public record-keeping was inefficient. Public access to records was limited, the PRO did not have absolute control over public records in their care, and the destruction of public records was often carried out in an ad-hoc and inconsistent manner. Parliament had failed to sufficiently address these issues and were content with the current arrangement that cast a shadow over the inner-

²⁴ Ibid., 16.

²⁵ Ibid., 16. According to Philip Coppel, the “Public Record Office Act 1877 authorized the destruction of such documents provided that they did not predate 1715.” In addition, the “1898 Act enabled worthless documents created between 1660 and 1715 to be destroyed. Coppel, *Information Rights*, 245.

²⁶ Elizabeth Shepherd, “Towards Professionalism? Archives and Archivists in England in the 20th Century” (PhD Dissertation., University College London, 2004), 28, <http://discovery.ucl.ac.uk/1462315/1/Shepherd%20E%20phd%20thesis.pdf>.

²⁷ United Kingdom. Royal Commission on Public Records. *First Report*, 19.

workings of government. The inadequate state of public record-keeping practices and policies was part of a wider culture of government secrecy. David Vincent illustrates that political elites had long abided by a code of “honourable secrecy” that masked government decision-making and how the government functioned. They considered themselves to be part of an honorable community whereby increased regulation, oversight, and scrutiny was “both insulting and unnecessary.”²⁸ Public records legislation reflected this attitude. Vincent argues that during this period, “Whilst the absolute flow of material increased dramatically, the practical control of its dissemination was held by the officials who had produced it.”²⁹ He continues that “The only consistency was the maintenance of the capacity of departmental civil servants and their political superiors to determine what was to be hidden from the gaze of the public and subsequent generations of historians.”³⁰ Political elites thought that “Communication was to be at the discretion of the bureaucrat rather than at the demand of the elector, the journalist, or the historian.”³¹ Vincent comments that “British secrecy was not to be confused with continental despotism, because in the end it was in the hands of men of honor.”³² Ian Cobain agrees with the notion that the British political elite vigorously attempted to protect their unwritten code of secrecy. After the decision to ease the taxation of newspapers, which encouraged the growth of the free press,³³ the government

²⁸ David Vincent, *The Culture of Secrecy: Britain, 1832-1998* (Oxford: Oxford University Press, 1998), 28.

²⁹ *Ibid.*, 48-49

³⁰ *Ibid.*, 49.

³¹ *Ibid.*, 49.

³² *Ibid.*, 50.

³³ Ian Cobain, *The History Thieves: Secrets, Lies and the Shaping of a Modern Nation* (London: Portobello Books, 2016), 1.

aggressively tried to control the public's access to information about how it functioned. A series of high profile court cases and government leaks to newspapers, including the Mazzini Affair in the 1840s, the failed prosecution of William Guernsey in the 1850s, and Charles Marvin in the 1870s, demonstrated to political elites that common law was insufficient and comprehensive reform was needed to regulate the flow of information.³⁴

Therefore, in 1889 Parliament passed the Official Secrets Act, which was revised in 1911. Christopher Moran states that the Official Secrets Act of 1911 was “one of the most illiberal pieces of legislation ever placed on the statute book.” Moran illustrates that Section one “made it a criminal offence for anyone, ‘for a purpose that could be prejudicial to the safety or the interests of the state,’ to collect, communicate or publish any plan, drawing or other item of official information to an enemy.” In addition, the “accused had ‘no right of silence’ and a trial could be held in camera.” Section two, which was “targeted at civil servants, politicians, and journalists, made a felony of both the unauthorized communication and the receipt of official information.” Moran argues that this was a “radical departure from English law, where generally speaking, the onus of proof is on the prosecution, the Act made the accused responsible for positive proof of innocent.” He continues that “the wording of the Act dictated that there was no need to prove that any harm had resulted from the disclosure; guilt could be inferred simply from the circumstances of a person's actions or character.”³⁵ Cobain notes that that “In codifying the official obsession with official secrecy, and criminalizing the dissemination

³⁴ Ibid., 2-16.

³⁵ Christopher Moran, *Classified: Secrecy and the State in Modern Britain* (Cambridge: Cambridge University Press, 2013), 23-24.

and possession of information about the government, section 2 fundamentally altered the relationship between citizen and state.”³⁶ He continues that “As a direct consequence of the new law, the British state would become a more private affair, and the actions of successive British governments more mysterious.” Moreover, he stresses that “A culture of secrecy would become deeply embedded within the official mind, and across wider society.”³⁷ It is therefore important to recognize that the development of British public record-keeping practices and policies occurred at a time when the government was more concerned with suppressing information rather than making it available to the public. The foundations of the culture of government secrecy lay with government departments more broadly rather than the PRO itself.

Public Records and the Public Record Office, 1912-1919

In 1912, seventy-four years after Parliament passed the Public Record Office Act, the size of non-ministerial government department had grown considerably. The national repository on Chancery Lane possessed 2,247 classes of collections, which represented somewhere in the region of 3,000,000 public records from thirty-one courts and thirty-one public departments.³⁸ These public records were stored in 113 small rooms across four floors.³⁹ Moreover, the number of staff employed by the PRO had increased. The Master of the Rolls and Deputy Keeper were supported by six assistant keepers, twenty clerks, ten supplementary clerks, twelve first class attendants, twenty-six second class

³⁶ Cobain, *The History Thieves*, 27.

³⁷ *Ibid.*, 30.

³⁸ United Kingdom. Royal Commission on Public Records. *First Report*, 12.

³⁹ *Ibid.*, 12.

attendants, twelve messengers, and ten porters.⁴⁰ The superior staff were “recruited by means of the general Civil Service Examination (Class I.) held annually to fully vacancies in the Home, Indian, and Colonial Civil Services.”⁴¹ The PRO was now a very large government department with growing influence in the political and public sphere.

Over the course of the next decade, Parliament established a Royal Commission to report on the state of public and local records in England and Wales. The Royal Commission examined a host of written evidence and consulted with learned societies, academics, colonial governments, and PRO officials among others.⁴² They were largely critical of the non-ministerial department and impressed the need to reform the state of public records and administration of the PRO. The department’s incompetency and inefficiency had helped facilitate a growing culture of government secrecy. The issue of custody was particularly prominent with the Royal Commission who insisted that the current arrangement of “dual control” between government departments and the Master of the Rolls “cannot be justified on any rational ground.”⁴³ They could not comprehend why the access and regulation of public records belonging to government departments “remained under the direction of the office from which they came” and considered it imperative that both state and department papers were brought into the custody and control of the Master of the Rolls. Moreover, the Royal Commission was concerned with the system in place of the destruction of public records. They argued that the legislation passed in 1877 and 1898 had not been carried out as intended and lamented the fact that

⁴⁰ *Ibid.*, 31.

⁴¹ *Ibid.*, 31.

⁴² *Ibid.*, 1.

⁴³ *Ibid.*, 5.

the Destruction Committee had not fulfilled its basic obligations.⁴⁴ The Royal Commission was unable to “obtain any exact information as to the method of examining suspected records, which has been generally adopted” and commented that “the actual selection of the classes of documents to be considered [for destruction] does not appear to have been made in accordance with any definitive plan.”⁴⁵ It was determined that negligent PRO staff had improperly destroyed vast swathes of public records of important historical value.⁴⁶ The PRO was further condemned for not keeping adequate destruction lists. Ultimately, the Royal Commission were “at least certain that the original intention of the promoters of the Act of 1877 that every document should be examined and that a description and specimens of those destroyed should be preserved has not been carried out.”⁴⁷ This damning assessment reinforces the position that during the latter decades of the nineteenth-century and early twentieth-century the destruction of public records was inefficient and ad-hoc. Archival incompetence and mismanagement gave political elites tremendous control over what information could be accessed by the public, what information could be suppressed, and what information could be destroyed. Rather than facilitating access the PRO was complicit in inhibiting it.

The Royal Commission recommended a host of practical reforms to be implemented. These included offering more specialist archival training to PRO staff, improving the salaries of staff, introducing new lighting and heating arrangements, reducing the fees charged to inspect public records, extending the storage capabilities of

⁴⁴ *Ibid.*, 17.

⁴⁵ *Ibid.*, 17.

⁴⁶ *Ibid.*, 18.

⁴⁷ *Ibid.*, 17.

the repository, and increasing the operating budget of the PRO for conservation and preservation. The Royal Commission also strongly suggested that:

Papers which are still really confidential should be retained by their proper departments until they cease to be so, and papers in the Public Record Office which were never confidential, or have ceased to be so, should not be treated as if there were any mystery about them.⁴⁸

They continued that “no useful purpose can be served by the suppression of historical facts or concealment of documentary evidence except in the case of matters so recent as to still be confidential.”⁴⁹ In addition, the Royal Commission asserted that “Recent Master of the Rolls, while retaining all their statutory responsibilities, have in point of fact ceased to control the Public Record Office” as the authority of the Deputy Keeper “has become in practice absolute.”⁵⁰ Therefore, they recommended that the Master of the Rolls be replaced with a permanent nine-person commission “called Commissioners of Public Records, who should be appointed by the Crown and should also be unpaid.” Under this arrangement, the Deputy Keeper would be the “executive officer and advisor of the commission” and assume the title Director of the Public Record Office.⁵¹ The Royal Commission did not call for the immediate implementation of these reforms and proposed that changes only be made when the current Master of the Rolls had retired. Parliament, not legally bound to act upon the findings of the Royal Commission, refused the opportunity to comprehensively reform the PRO and the legal mechanisms in place that granted government departments so much control over their records. The reluctance to address the unsatisfactory arrangement of “dual control,” ad-hoc destruction, and the

⁴⁸ Ibid., 38.

⁴⁹ Ibid., 38.

⁵⁰ Ibid., 45.

⁵¹ Ibid., 45-46.

poor storage conditions of public records, among other things, clearly demonstrates that British political elites were content with existing practices and policies that upheld the code of “honorable secrecy.”

Public Records and the Public Record Office, 1919-1945

During the interwar years, the British government remained steadfast in their refusal to reform the PRO and state of public records. This was concerning as an ever-expanding government bureaucracy, ignited by the demands of the First World War and the introduction of new technologies like the typewriter, dramatically increased the amount of public records generated by the state. One PRO member of staff particularly resistant to implementing comprehensive change was Sir Hilary Jenkinson. The internationally renowned British archivist began his career at Chancery Lane in 1905 and primarily worked “on medieval records reducing their chaos to order.”⁵² From 1916 to 1920, Jenkinson served as an Artillery Officer and on the General Staff before returning to the PRO where he acted in various capacities, including Deputy Keeper. In 1922, Jenkinson published his influential *A Manual on Archive Administration* where he articulated his views on record-keeping practices and policies. Paul Saint-Amour argues that this work laid the foundations “for the professionalization of archivists . . . becoming a cornerstone and then a classic of English language archive theory.”⁵³ Jenkinson was of the firm opinion that archivists should not in any way interfere with selecting records for

⁵² Roger Ellis, “Jenkinson, Sir Hilary,” in *World Encyclopedia of Library and Information Sciences* 3rd ed., ed. Robert Wedgeworth (Chicago: American Library Association, 1993), 413.

⁵³ Paul Saint-Amour, *Tense Future: Modernism, Total War, Encyclopedia Form* (Oxford: Oxford University Press, 2015), 158.

preservation or scrutinizing the decisions of government departments. He considered that records “were the natural byproducts of administration, the untainted evidence of acts and transactions;” therefore, any “post-creation interference” by an archivist was wholly inappropriate as subjective appraisal decisions would “tarnish the impartiality as archives as evidence.”⁵⁴ Hans Rasmussen stresses that Jenkinson’s antiquated views on archival management, especially the position that “archivists should leave appraisal decisions to the creators of the records rather than risk imparting their own judgments and biases into a body of records by removing selected items,” served to hinder the professional and administrative development of the PRO.⁵⁵ During a period when the British state was expanding, producing more public records than ever before, the “opinionated, vociferous, and sometimes quite caustic”⁵⁶ Jenkinson insisted that familiar record-keeping practices and policies of the past would suffice. He proclaimed that ““For an administrative body to destroy what it no longer needs is a matter entirely within its competence and an action which future ages cannot possibly criticize as illegitimate or as affecting the status of the remaining archives.””⁵⁷ Jenkinson, a leading figure at the PRO, helped a culture of government secrecy to flourish as departments had considerable sway over destroying and controlling access to their own records.

⁵⁴ Terry Cook, “What is Past is Prologue: A History of Archival Ideas Since 1898, and the Future Paradigm Shift,” *Archivaria* 43 (Spring 1997): 23, <https://archivaria.ca/index.php/archivaria/article/view/12175/13184>.

⁵⁵ Hans C. Rasmussen, “Records Management and the Decline of the English Archival Establishment, 1949-1956,” *Libraries & the Cultural Record* 45, no. 4 (2010): 445, <http://www.jstor.org/stable/25750365>.

⁵⁶ *Ibid.*, 445.

⁵⁷ *Ibid.*, 445.

Archival inefficiency at the PRO, as well as the government's reluctance to implement meaningful administrative and legislative reform, did not go unchallenged. In August of 1924, retired PRO official Hubert Hall condemned Jenkinson's position on appraisal, charging that the "government did and always had done an incompetent job of managing its records and should defer to the guidance of archivists and historians for the proper stewardship of government archives."⁵⁸ According to Rasmussen, Hall "angrily chronicled a long history of official mismanagement of documents through neglectful storage, careless destruction, wrongheaded policies on openness, and paltry support for the Public Record Office." Rasmussen continues that Hall "condemned both the reckless destruction conducted by civil servants and Jenkinson's reluctance to discard anything."⁵⁹ Again, it is important to stress that the culture of government secrecy resided more with government departments and Parliament than the PRO itself. However, this does absolve the PRO from responsibility for allowing this culture to grow and permeate throughout government as senior members of staff preferred antiquated arrangements that served to inhibit rather than facilitate access. While Hall's concerns were shared by others, no major changes or reforms were implemented at the PRO until after the Second World War. Rasmussen notes that the "conflicting trends of the Public Record Office Inspecting Officers, independent disposal by [government] departments, and Jenkinson's own conflicted mind suggested that the English had come to no clear decision over how modern records should be selected and managed."⁶⁰ While numerous committees,

⁵⁸ Ibid., 446.

⁵⁹ Ibid., 446. Rasmussen notes that while Hall never directly criticized Jenkinson it was obvious that he was referring to him.

⁶⁰ Ibid., 447.

inquiries, and commissions “investigated the condition of records and archives and made recommendations” little concrete action was ever taken.⁶¹ Shepherd argues that:

Government policy and legislation to 1950 showed that records and archives were not perceived as sufficiently important to the mechanism of government and the judicial system, to economic growth, to national or international relations or other key government concerns, to require legislative time or government funds.⁶²

Moreover, the limited number and undeveloped nature of professional archival organizations during this period contributed to the poor state of British public record-keeping. Aside from the British Records Association (BRA), founded in 1932, and the Council for the Preservation of Business Archives (CPBA), founded in 1934,⁶³ there was no unified national body to champion archival reform or speak on behalf of the professional community.⁶⁴ That is not to say that these organizations were not significant as they laid the groundwork for the development of the profession in the subsequent decades.⁶⁵ In addition, prior to the 1950s “government engagement with archives and archivists was weak and archivists had failed to convince government of the value of

⁶¹ Shepherd, *Archives and Archivists*, 41.

⁶² *Ibid.*, 41.

⁶³ Shepherd, “Towards Professionalism?” 153-154. Shepherd notes that Jenkinson was prominent in the foundation of the BRA, which grew out of the British Record Society founded in the late nineteenth-century.

⁶⁴ Shepherd argues that with the creation of the BRA, “An association with archival objectives now existed: ‘to promote the preservation and accessibility under the best possible conditions of public, semi-public, and private archives,’ to recuse records at risk, to publicize ‘record questions,’ to promote co-operation between interested parties and to enable the ‘interchange [of] views upon matters of technical interest relating to the custody, preservation, accessibility, and use of documents.’” The text in brackets is Shepherd’s and not the author of this paper. Moreover, the “early years of the BRA were devoted to practical records preservation, to generating committee reports on wide range archival policy issues and to establishing a sound financial and organizational structure.” Shepherd also notes how Jenkinson was instrumental in the formation of the BRA, which grew out of the British Record Society founded in the late nineteenth-century. Shepherd, “Towards Professionalism?” 157.

⁶⁵ *Ibid.*, 161.

their work to social values, justice, and services to citizens, especially at the local level.”⁶⁶

Colonial Record-Keeping Practices and Policies

The inefficient state of domestic record keeping practices and policies during the nineteenth and early twentieth-century was mirrored throughout the British Empire. Phillip Alexander and Elizabeth Pessek argue that the beginning of the twentieth-century the “condition of official records in the British colonies was at best indifferent; more often than not, it was appalling.”⁶⁷ They continue that that “Despite some good intentions, the officials responsible for records administration – governors, colonial secretaries, department heads . . . by and large failed dismally to live up to their responsibilities.”⁶⁸ A variety of factors can help account for the poor state of colonial record-keeping.⁶⁹ First, “Hostile natural elements made it difficult to implement adequate storage and preservation programs.”⁷⁰ For instance, during the nineteenth-century there were frequent reports from colonial officials in the Caribbean who experienced widespread devastation due to hurricanes and wildfires, which certainly damaged and destroyed vast swathes of records.⁷¹ Second, “from time to time there was a degree of

⁶⁶ Shepherd, *Archives and Archivists*, 41.

⁶⁷ Phillip Alexander and Elizabeth Pessek, “Archives in Emerging Nations: The Anglophone Experience” *The American Archivist* 51, no. 1/2 (Winter-Spring 1988): 121, <http://www.jstor.org/stable/40293205>.

⁶⁸ *Ibid.*, 121.

⁶⁹ *Ibid.*, 121.

⁷⁰ *Ibid.*, 121.

⁷¹ Mandy Banton, “Record-keeping for Good Governance and Accountability in the Colonial Office: An Historical Sketch,” in *Integrity in Government through Records*

apathy or inertia among colonial civil servants, many of whom were posted to remote territories where they would rather not have been.”⁷² This could result in poorly stored records and inadequate indexing.⁷³ Third, the “Lack of constitutional continuity, resulting from the frequent transferal of territories between the colonial powers, caused the dispersion or loss of records.”⁷⁴ Fourth, the colonies did not have the necessary financial support from the metropole.⁷⁵ This ensured that inefficient and ad-hoc record-keeping practices and policies continued to be implemented across the Empire. Finally, there was a lack of definitive guidance about how to properly maintain official colonial records.⁷⁶ G. S. Georghallides argues that “During the first half of the twentieth century, colonial office instructions to British dependencies on the subject of archives were infrequent and limited to a few subjects.” These subjects included access to the “colonial archives” at the PRO, how to protect colonial records from pests, and “very occasionally, specific instructions about the minimum periods of preservation of court records and certain classes of colonial treasury records.”⁷⁷ Georghallides continues that:

Management: Essays in Honour of Anne Thurston, ed. James Lowry and Justus Wamukoya (Abington-on-Thames: Routledge, 2016), 75-76.

⁷² Alexander and Pessek, “Archives in Emerging Nations,” 121.

⁷³ Banton, “Record-keeping for Good Governance,” 78.

⁷⁴ Alexander and Pessek, “Archives in Emerging Nations,” 121. This means that when Britain either lost colonial possessions to, or acquired them from, rival imperial powers records were frequently lost or destroyed during this process.

⁷⁵ *Ibid.*, 121.

⁷⁶ The issue of whether colonial records, specifically the “migrated archives,” were in fact public records will be discussed in depth in chapter two. This is due to the fact that this discussion was prevalent during the post-war period when FCO members of staff deliberated what to do with the “migrated archives.” To be clear, records created by the Colonial Office were considered public records.

⁷⁷ G. S. Georghallides, “The Management of Public Records Under the British Colonial Administration in Cyprus,” *The International History Review* 7, no. 4 (November 1985):

Beyond such limited guidance, colonial governments had to ensure that they kept enough records to comply with *Colonial Regulations*, to meet the requirements of financial accountability and audit, and to serve their own need for reference to past official decisions.⁷⁸

It is important to note that colonial administrations frequently sent documents back to the metropole.⁷⁹ According to The National Archives (TNA) some of these documents included correspondence, sessional papers, and statistical blue books.⁸⁰ However, it does not appear that internal administrative records were considered public records.⁸¹ In sum, a lack of guidance, professional training, and funds to adequately preserve and store records meant that record-keeping practices and policies throughout Britain's colonies were generally unsatisfactory.

The reports published by the Royal Commission during the early part of the twentieth-century did attempt to address the poor state of colonial record-keeping. In 1914, they stated that “measures should be taken for the better preservation of the records

623, <http://www.jstor.org/stable/40105537>. For more information about the Colonial Office records housed at the PRO see: United Kingdom. Royal Commission on Public Records. *First Report*, 18-19.

⁷⁸ *Ibid.*, 623.

⁷⁹ Banton, “Record-keeping for Good Governance,” 79.

⁸⁰ For more information on the types of documents sent to the metropole from the colonies see: “Colonies and Dependencies from 1782,” The National Archives, accessed July 3, 2018, <http://www.nationalarchives.gov.uk/help-with-your-research/research-guides/colonies-dependencies-further-research/>.

⁸¹ The National Archives state that “with few exceptions, including the collection known as the ‘Migrated Archive,’ we do not hold the internal administrative records of governments of former colonies, which generally remained in place at independence – this is as opposed to documents publicly issued or published by colonial governments, some of which we do hold.” The National Archives, “Colonies and Dependencies from 1782.” Therefore, it would appear that internal administrative records were not considered public records, which needed to be transferred to the metropole. Nevertheless, the issue of whether colonial records, specifically the “migrated archives,” were public records caused debate among members of staff at the FCO and PRO, which will be discussed in chapter two.

located in the various crown colonies.”⁸² However, it appears that little meaningful reform was implemented.⁸³ In addition, several ministerial circulars on archives were issued during the interwar years in a bid to improve colonial record-keeping practices and policies. For instance, Leo Amery’s ministerial circular in January of 1929 “warned colonial authorities not to neglect ‘official records of historical value’” and W. Ormsby-Gore’s ministerial circular in October of 1936 discussed “the important subject of the selective destruction of out-of-date documents” as this was “occasionally done in practically every dependency yet without uniform procedures or guidelines.”⁸⁴ Ultimately, every Colonial Administration had their own system for managing their records, which meant that practices and policies were inconsistently applied across the British Empire. The British government did not consider it a pressing issue to draft and implement uniform rules for the preservation, storage, and destruction of official records in the colonies. Nor did they consider it necessary to provide colonial administrations with adequate funding to properly manage their records.

Conclusion

At the close of the Second World War in 1945, just over a century since the passage of the Public Record Office Act, domestic and colonial record-keeping practices

⁸² United Kingdom. Royal Commission on Public Records Appointed to Inquire into and Report on the State of Public Records and Local Records of a Public Nature in England and Wales. *Second Report of the Royal Commission on Public Records Appointed to Inquire into and Report on the State of the Public Records and Local Records of a Public Nature of England and Wales. Volume II, Part I* (London: His Majesty’s Stationary Office, 1914), 19,
<https://babel.hathitrust.org/cgi/pt?id=umn.31951d02050270g;view=1up;seq=9>.

⁸³ Alexander and Pessek, “Archives in Emerging Nations,” 121.

⁸⁴ Georghallides, “The Management of Public Records,” 624-625.

and policies were still inadequate. Successive British governments had consistently refused to implement much-needed reform that would dismantle a corrosive culture of government secrecy. Instead, they preferred existing arrangements that stifled the flow of information and masked how the British state was administered. This failure to act ensured that professionals from the United States, Australia, and Canada were at the forefront of modernizing archival techniques and theories leaving British archivists in their wake. Limited parliamentary legislation, a lack of government interest in reform, and archival mismanagement at the PRO, to name but a few examples, help provide the necessary framework to understand how a trove of colonial records were mishandled during the post-war decades.

CHAPTER II:

BRITISH PUBLIC RECORD KEEPING PRACTICES AND POLICIES, 1945-2005

From 1945 until the dawn of the twenty-first century, despite the growth of professional archival organizations and the introduction of new public records, freedom of information, and official secrecy legislation, the culture of government secrecy in Britain remained alive and well. The case of the “migrated archives” is emblematic of this culture. During the period of decolonization, tens of thousands of potentially incriminating and sensitive colonial records were either destroyed or covertly transported back to the metropole and deliberately concealed in various government repositories for decades. The Foreign and Commonwealth Office (FCO), who held the “migrated archives,” as well as the Public Record Office (PRO), who refused to accept them, went back and forth over whether they were public records and therefore subject to British law. However, no decision was made. Archival mismanagement as well as a culture of government secrecy ensured that archivists at some of Britain’s most important national repositories failed to comprehensively address the issue. The British deceived foreign delegations who inquired about the status of colonial records, refused to cooperate with international efforts to return colonial-era archives, and did not process the records. The FCO and PRO, two crucially important government departments, preferred to operate clandestinely rather than in a transparent and forthright manner.

International Archival Developments, 1945-1965

During the immediate post-war years, a combination of archival inefficiency, weak legislation on public records, and a failure to implement substantive reform left the PRO unprepared to respond to “the rushing, drowning tide of records from the war, the welfare state, and the nationalization of key industries”¹ Archivists from the United States, who had based some of their archival practices and policies on Jenkinson’s theories, also struggled to cope with the volume of public records generated by an expanding government bureaucracy and recognized that fundamental reform was necessary.² For instance, Margaret Norton Cross, an archivist for the state of Illinois, commented that “it is obviously no longer possible for any agency to preserve all records which result from its activities.” She continued that the focus of archival work “has shifted from preservation of records to the selection of records for preservation.”³ Terry Cook argues that this position stood in stark contrast to that of Jenkinson who vigorously believed that “no post-creation interference could be allowed . . . or their [the records] character as impartial evidence would be undermined.”⁴ Theodore Schellenberg, who served as the Director of Archival Management at the U.S. National Archives from 1950 until 1956, agreed with Cross that it was imperative for archivists to be actively involved

¹ Hans C. Rasmussen, “Records Management and the Decline of the English Archival Establishment, 1949-1956,” *Libraries and the Cultural Record* 45, no. 4 (2010): 443, <http://www.jstor.org/stable/25750365>.

² A combination of the New Deal, the demands of the Second World War, and new technologies like Xerox, were instrumental in increasing the amount of public records generated by the government of the United States.

³ Terry Cook, “What is Past is Prologue: A History of Archival Ideas Since 1898, and the Future Paradigm Shift,” *Archivaria* 43 (Spring 1997): 26, <https://archivaria.ca/index.php/archivaria/article/view/12175/13184>.

⁴ *Ibid*, 23.

in the selection of records for archival preservation and proposed that records had primary and secondary values.⁵ Primary value “reflected the importance of records to their original creator” whereas secondary value, sub-divided into informational and evidential value, reflected “their use to subsequent researchers.”⁶ Cook comments that these values were to be “determined, after appropriate research and analysis, by Schellenberg’s archivist, not by Jenkinson’s administrator.” He continues that:

Deciding which informational content was important, and which was not – deciding, that is, who gets invited into the archival ‘houses of memory’ and who does not – was again to be determined by the archivist, drawing on his or her training as an historian and consulting with the ‘subject matter specialists’ in order to reflect as many research interests as possible.⁷

Cook also notes how Schellenberg modernized destruction procedures and “invented the record group concept as a tool to cope with the huge volumes of records” produced by an ever-growing government.⁸ While advancing new theories about archival management, Schellenberg did not shy away from directly criticizing Jenkinson once remarking that he

⁵ Marcus C. Robyns, *Using Functional Analysis in Archival Appraisal: A Practical and Effective Alternative to Traditional Appraisal Methodologies* (Maryland: Roman & Littlefield, 2014), 8.

⁶ Cook, “What is Past is Prologue,” 27. According to the Society of American Archivists, a “record group is a hierarchical division that is sometimes equivalent to provenance, representing all the records of an agency and its subordinate divisions. However, the records of a large agency may be broken into several record groups, treating the records of different divisions as separate collections rather than as a series.”

Richard Peace-Moses, *A Glossary of Archival and Records Terminology* (Chicago: The Society of American Archivists, 2005), 330, <http://files.archivists.org/pubs/free/SAA-Glossary-2005.pdf>.

⁷ Cook, “What is Past is Prologue,” 27.

⁸ *Ibid*, 28.

was ““tired of having an old fossil [Jenkinson] cited to me as an authority in archival matters.””⁹

Hans Rasmussen argues that “there was no time for genteel, deferential Jenkinsonian orthodoxy here [the United States], as Congress repeatedly and gladly authorized the archivist of the United States to make the tough decisions about which records to keep and which to toss.”¹⁰ He continues that during the immediate post-war years, “English archivists, fatally unappreciative of more perceptive developments in America, simply lost their edge.”¹¹ Richard Cox stresses that individuals like Cross and Schellenberg had a profound influence on “worldwide archival theory and practice,” shaping how other countries founded their national archives and professional associations.¹²

Professional Archival Organizations and Public Records Reform, 1945-1958

After the Second World War, professional archival organizations in Britain grew in size, became more organized, and provided more meaningful services to their members.¹³ In 1947, the Society of Local Archivists, later renamed the Society of

⁹ Ibid, 28.

¹⁰ Rasmussen, “Records Management,” 448.

¹¹ Ibid., 443.

¹² Richard J. Cox, “Archives,” in *Encyclopedia of Library History*, ed. Wayne A. Wiegand, and Donald G. Davis Jr. (New York: Garland Publishing, 1994), 42.

¹³ For more information about the growth and development of professional archival associations in Britain see: Elizabeth Shepherd, “Towards Professionalism? Archives and Archivists in England in the 20th Century” (PhD Dissertation., University College London, 2004): 152-209, <http://discovery.ucl.ac.uk/1462315/1/Shepherd%20E%20phd%20thesis.pdf>.

Archivists (SoA), was established¹⁴ joining the British Records Association (BRA) and the Council for the Preservation of Business Archives (CPBA), renamed the Business Archives Council (BAC) in 1952,¹⁵ in their commitment to representing and championing the interests of British archivists. These professional organizations “all contributed to three important professional development issues: education and training . . . research and publication and fostering relationships between professional bodies in the UK and abroad.”¹⁶ The British archival profession was beginning to take shape. Elizabeth Shepherd argues that by 1945, the BRA had made significant progress in “two main areas: practical records preservation and more theoretical work in establishing archival principles and standards.”¹⁷ However, it is important to note that during the immediate post-war years these organizations failed to adopt a code of ethics, which would guide professional conduct.¹⁸ Nevertheless, the BRA, SoA, and CPBA/BAC “supported the development of a professional group of archivists to varying degrees.”¹⁹

In 1952, the British government, alarmed by the growing volume of public records, created the Committee on Department Records. Shepherd illustrates how this committee was charged “to review the arrangements for the preservation of the records of government departments in the light of the rate at which they are accumulating.”²⁰ During this period it was estimated that “some 120 miles of records lay in departments

¹⁴ Shepherd, “Towards Professionalism?” 171.

¹⁵ *Ibid.*, 178.

¹⁶ *Ibid.*, 180.

¹⁷ *Ibid.*, 170.

¹⁸ *Ibid.*, 12.

¹⁹ *Ibid.*, 180.

²⁰ Elizabeth Shepherd. *Archives and Archivists in 20th Century England* (Abingdon-on-Thames: Routledge, 2016), 43-44.

awaiting transfer to the PRO” illustrating that existing practices and policies were no longer tenable.²¹ The Committee on Departmental Records, commonly referred to as the Grigg Committee, was formed by the Chancellor of the Exchequer and the Master of the Rolls, and chaired by Sir James Grigg, a former Permanent Under-Secretary of the War Office.²² The Grigg Committee met periodically throughout 1952 and 1953 before publishing its report in 1954. The findings of the Grigg Committee, in comparison to the three Royal Commissions during the 1910s, offered a scathing critique of British public record-keeping practices and policies “condemning every misguided act, rule, and agreement from 1838 onward” and offered a variety of concrete suggestions, some of which were based on American models, to improve the situation.²³ These suggestions included making the Lord Chancellor responsible for the PRO, creating an Advisory Council on public records to assist the Lord Chancellor, appointing Records Officers in each government department, enhancing the authority of the PRO in its dealing with other government departments, and implementing a system of first and second reviews in order to determine what public records should be preserved.²⁴

The “first review” would be “conducted soon after the ‘active life’ of each record ceased, ideally within five years.” The department’s own reviewing officer would

²¹ Ibid., 43.

²² “History of the Public Records Acts,” The National Archives, accessed January 27, 2018, <http://www.nationalarchives.gov.uk/information-management/legislation/public-records-act/history-of-pra/>.

²³ Rasmussen, “Records Management,” 457.

²⁴ Nicolaas Rupke, preface to *Science, Politics, and the Public Good: Essays in Honor of Margaret Gowing*, ed. Nicolaas Rupke (Hampshire: Palgrave Macmillan, 1988), x.

systematically review the record, “applying administrative criteria,” to determine whether the department “would require the record for its own use, for example as a precedent or as a guide to possible departmental action in the future.”²⁵ The system of “first review” fitted neatly with Jenkinson’s views on appraisal, especially that “the historical record should reflect the tendencies and spirit of the administration of the day and not those of the academic researchers of the time.”²⁶ Lawrence Butler and Anthony Gorst argue that the Grigg Committee anticipated “between 50 per cent and 90 per cent of the records would be destroyed as a result of this first review.”²⁷ Public records that passed this initial review would undergo a “second review” after the passage of twenty-five years by the department’s own records officer who was to be assisted “by an inspecting officer from the PRO.”²⁸ The Grigg Committee determined that during the second review it would be appropriate to apply historical criteria to the records under consideration for preservation. If a decision was unable to be reached, the “inspecting officer could consult with archivists within the PRO and, if necessary, seek help from the academics and other experts who constitute the Advisory Council on Public Records.”²⁹ Butler and Gorst state that “after this second review, records were either transferred to the PRO to await release to public inspection, or destroyed.”³⁰ In most cases, records that had been transferred to the PRO were scheduled to be made accessible to the general public after a period of fifty

²⁵ L. J. Butler and Anthony Gorst, “Public Records,” in *Modern British History: A Guide to Study and Research*, ed. L. J. Butler and Anthony Gorst (London: I. B. Tauris Publishers, 1997), 35.

²⁶ *Ibid.*, 36.

²⁷ *Ibid.*, 35.

²⁸ *Ibid.*, 36.

²⁹ *Ibid.*, 36.

³⁰ *Ibid.*, 36.

years.³¹ In addition, the Grigg Committee asserted that “cinematographic films, photographs, and sounds recordings should be treated as public records.”³²

On the whole, Parliament met the findings of the Grigg Committee with enthusiasm.³³ For instance, in December of 1957, during the second reading of the bill in the House of Lords, Viscount Lord Alexander of Hillsborough noted that “the Grigg Committee did an exceedingly good job of work . . . I found myself full of admiration for the work they had done.” During the same reading, Lord Evershed, then Master of the Rolls, commented that he would like to “pay my tribute to the wisdom, the patience and the care which that Committee devoted a subject which, as the noble Viscount. Lord Alexander of Hillsborough, pointed out, is both difficult and complex.”³⁴ Analyzing the reading of the bill in the House of Lords reveals that the growing volume of records was the driving force behind reforming British public record-keeping practices and policies rather than a commitment to increasing public access or government transparency. Lord Chancellor David Maxwell Fyfe highlighted this point explaining that:

Much has happened since the last century; the field of government business has extended in many directions and, with the introduction of the typewriter and other modern office equipment, the quantity of records created has increased to an extent which was never contemplated by our predecessors.³⁵

³¹ John F. Naylor, *A Man and an Institution: Sir Maurice Hankey, the Cabinet Secretariat and the Custody of Cabinet Secrecy* (Cambridge: Cambridge University Press, 1984), 291.

³² The National Archives, “History of the Public Records Acts.”

³³ I have been unable to find specific evidence about how politicians in the House of Commons reacted to, and debated, the findings of the Grigg Committee. Therefore, I have decided to focus my attention on the House of Lords.

³⁴ House of Lords Debate, HL Deb., 16 December 1957, vol. 206, cc 1147-81, <https://api.parliament.uk/historic-hansard/lords/1957/dec/16/public-records-bill-hl>.

³⁵ *Ibid.*

Moreover, the Earl of Harrowby explicitly resisted the notion that the PRO should be subject to greater parliamentary or public oversight commenting that the government department “certainly does not need close watching . . . there is no question of a ‘watchdog’ being needed.” He continued that “The whole Bill is not only sound and every way desirable but long overdue.” A significant proportion of Lords offered their gratitude to the Grigg Committee and offered only very minor critiques or suggestions.³⁶

While Parliament met the finding of the Grigg Committee with enthusiasm, the international archival community was less exuberant. Rasmussen argues that “Despite this ambitious reformation, the English did not regain their lost prestige.”³⁷ For instance, at the Third International Congress of Archivists in Florence, in 1956, just two years after the report’s publication, archivists from around the world “were not impressed by the English willingness to give departments so much freedom in disposing of their records” and firmly “lined up behind the position that national archivists should always be involved in any decision to destroy records.”³⁸ Nevertheless, despite the criticism leveled at the Grigg Committee its recommendations were accepted by the Conservative government in 1955 and enshrined in law in 1958 with the passage of the Public Records Act.

The Public Records Act of 1958 (PRA) was a defining piece of parliamentary legislation that finally provided a legal framework for the governance of public records in

³⁶ Ibid. The report was the basis for new legislation, a bill, which was introduced and debated in both houses of Parliament.

³⁷ Rasmussen, “Records Management,” 460.

³⁸ Ibid., 460.

Britain. For the first time in British history, there was a uniform “preservation policy for state documents, mandating their transfer to the public domain within fifty years,” which was amended to thirty years in 1967.³⁹ The leadership of the PRO was officially transferred “from the Master of the Rolls to the Lord Chancellor” who assumed responsibility for executing the act and supervising the “care and preservation of public records.”⁴⁰ Moreover, the act defined what constituted a public record stating that “administrative and departmental records belonging to Her Majesty, whether in the United Kingdom or elsewhere,” would be public records.⁴¹ Records of courts and tribunals, the Chancery of England, the Public Record Office, as well as the records from a host of other administrative bodies and departments, regardless of whether they belonged to Her Majesty, were also defined as public records.⁴² The records of government departments “wholly or mainly concerned with Scottish affairs, or which carries on its activities wholly or mainly in Scotland,” the records of the Duchy of Lancaster, the Office of the Public Trustee, and registration information relating to births,

³⁹ Jordanna Bailkin, “Where did the Empire Go? Archives and Decolonization in Britain,” *The American Historical Review* 120, no. 3 (2015): 895, <https://doi.org/10.1093/ahr/120.3.884>.

⁴⁰ Philip Coppel, *Information Rights: Law and Practice*, 4th ed. (Portland: Hart Publishing, 2014), 1173. The Lord Chancellor “is one of the most ancient offices of state, dating back many centuries. The Lord Chancellor is appointed by the Monarch on the advice of the Prime Minister and is a senior member of the cabinet. They head the Ministry of Justice as the Secretary of State for Justice.” “Lord Chancellor,” UK Parliament, accessed May 22, 2018, <https://www.parliament.uk/site-information/glossary/lord-chancellor/>.

⁴¹ Coppel, *Information Rights*, 1180. Public records “are not simply the records of central government but cover a wide remit to include records of bodies and establishments under government departments and other establishments and organizations. Peter Burnham, Karin Gilland Lutz, Wyn Grant, and Zig Layton-Henry, *Research Methods in Politics* (New York: Palgrave Macmillan, 2008), 196.

⁴² The *Public Records Act 1958* (6 & 7 Eliz. 2, Ch 51, First schedule, 2.2), http://www.legislation.gov.uk/ukpga/1958/51/pdfs/ukpga_19580051_en.pdf.

deaths, marriages, and adoptions, were not considered to be public records.⁴³ In addition, provisions were made for public records pertaining “exclusively or mainly to Northern Ireland.”⁴⁴ However, the act did not explicitly address colonial records, in particular internal administrative records of Colonial Administrations, and it could be argued that failure to clarify this crucial point helps explain some of the confusion surrounding the legal status of the “migrated archives.” Furthermore, in keeping with the culture of government secrecy the Lord Chancellor, who had assumed responsibility for the PRO, and his Advisory Council, a small non-departmental body chaired by the Master of the Rolls and comprised of historians, archivists, information management professionals, former civil servants, and journalists, could hold back numerous types of public records from release if they met certain criteria.⁴⁵ Colin Holmes states that under the PRA the Lord Chancellor had the authority, under sections 3 (4) and 5 (1), to retain any records that were still in use for administrative purposes, posed a threat to national security, compromised the collection of intelligence, were exceptionally sensitive in nature, contrary to public interest, and potentially distressing to living persons, to name but a few examples.⁴⁶ The legislation also allowed for the Lord Chancellor to re-classify records from an open to a closed category for an indefinite period of time.⁴⁷ David Vincent

⁴³ Ibid.

⁴⁴ The *Public Records Act 1958* (6 & 7 Eliz. 2, Ch 51, Section 12. 1), http://www.legislation.gov.uk/ukpga/1958/51/pdfs/ukpga_19580051_en.pdf.

⁴⁵ “Advisory Council,” The National Archives, accessed January 27, 2018, <http://www.nationalarchives.gov.uk/about/our-role/advisory-council/>.

⁴⁶ Colin Holmes, “Government Files and Privileged Access,” *Social History* 6, no. 3 (1981): 336-337, <http://www.jstor.org/stable/4285106>. This passage was taken from a paper submitted for Dr. Kolar’s essentials of archival management class in the spring of 2017.

⁴⁷ Ibid., 334.

argues that “Bureaucratic convenience rather than political philosophy lay behind the legislation, which left the state with the latitude to refuse access” to a vast swathe of material. There was no appeals process and the Lord Chancellor and Advisory Council did not have to offer any comprehensive explanation as to why material had been retained.⁴⁸ Therefore, rather than shatter the culture of secrecy, the PRA served to preserve it, if not strengthen it.

Colonial Record-Keeping Practices and Policies, 1945-1963

After the Second World War, the sun started to set over the British empire. Economic decline, a shrinking military,⁴⁹ and a lesser position on the world stage contributed to the process of decolonization, which was neither “steady nor regular.”⁵⁰ An empire that had taken hundreds of years to create dramatically crumbled within the space of a few decades.⁵¹ For some colonies the transition to independence was relatively smooth and met with little resistance from the metropole. However, for other colonies and protectorates, notably Aden, Cyprus, Kenya, and Malaya, the British fought bitterly to preserve their imperial project. The hasty demise of such a vast empire had significant implications for colonial record-keeping practices and policies. With limited resources

⁴⁸ David Vincent, *The Culture of Secrecy: Britain, 1832-1998* (Oxford: Oxford University Press, 1998), 217.

⁴⁹ John Darwin, *Britain and Decolonisation: The Retreat from Empire in the Post-War World* (Hampshire: MacMillan Press, 1988), 6.

⁵⁰ Christopher Bayly, ed., *Atlas of the British Empire: The Rise and Fall of the Greatest Empire the World Has Known* (New York: Facts on File Inc, 1989), 218.

For more information on the process of decolonization and the collapse of the British Empire see: Lawrence James, *The Rise and Fall of the British Empire* (New York: St. Martin's Press, 1994); and Piers Brendon, *The Decline and Fall of the British Empire, 1781-1997* (New York: Alfred A. Knopf, 2007).

⁵¹ *Ibid.*, 218.

and no unified response to decolonization tens of thousands of important documents throughout the British empire were either destroyed or transported back to Britain and deliberately concealed during the post-war decades.⁵²

On September 4, 1947, less than one month after India, the crown jewel in the British empire had achieved independence, the Governor of Ceylon (now Sri Lanka), which was just about to achieve its own independence, dispatched a telegram to London “asking for instructions regarding the ‘custody’ of the records under his control.”⁵³ Shohei Sato argues that in the end, a decision was taken by the Deputy Under-Secretary of the Colonial Office that the “secret and personal documents ‘should not be on record in Ceylon’ and therefore ‘should be either destroyed or sent home.’”⁵⁴ Sato continues that this directive from the metropole can be interpreted as the beginning of a process that would lead to the removal and destruction of an unknown quantity of colonial records.⁵⁵

During the 1950s, as more colonies and protectorates petitioned for independence, the issue of what to do with colonial records came to the fore. The Colonial Office began

⁵² David Anderson states that “The Public Records Act (1958) established the terms under which government archives were created and maintained in the United Kingdom.” Moreover, “With the exception of very specific categories of security records, nothing can be legally destroyed under the Public Records Act (1958) without listing and registration.” He continues that “No such constraints applied in Britain’s colonies – processes of secret destruction and the ‘retention’ of files from Kenya and elsewhere were designed and carried through by the Colonial Office without any reference to British legislation.” David M. Anderson, “Guilty Secrets: Deceit, Denial, and the Discovery of Kenya’s Migrated Archive,” *History Workshop Journal* 80, no. 1 (2015): 155, <https://doi.org/10.1093/hwj/dbv027>.

⁵³ Shohei Sato, “Operation Legacy: Britain’s Destruction and Concealment of Colonial Records Worldwide,” *The Journal of Imperial and Commonwealth History* 45, no. 4 (April 2017): 700, <https://doi.org/10.1080/03086534.2017.1294256>.

⁵⁴ *Ibid.*, 701.

⁵⁵ *Ibid.*, 701.

requesting reports detailing the top-secret documents that Colonial Administrations had in their possession as well as the material they had destroyed.⁵⁶ Edward Hampshire argues that “The majority of such documents originated from the British government, such as the minutes of Cabinet, the Overseas Defence Committee and the Chiefs of Staff Committee, copies or extracts of which were often sent to colonial administrations for information.”⁵⁷ He continues that the British government would have been acutely aware of the sensitive material held overseas and that “any destruction of top secret material in this context would therefore have been notified to London.”⁵⁸ Hampshire furthers that “The planned and recorded destruction of government material was well ingrained in British central government practice, and it could be argued that it was just beginning to become so in the colonial government practice as well.”⁵⁹ The practice of destroying and/or removing colonial records became more formalized and less ad-hoc during the Gold Coast’s transition to independence. On May 29, 1956, the “Governor’s Office of the Gold Coast informed the Colonial Office that they were forming a committee in order to ‘start the scrutiny of records.’”⁶⁰ The committee determined that colonial records which were of no use to the new independent government, might compromise intelligence, be used unethically by new Gold Coast politicians, “embarrass a member of Her Majesty’s government,” or embarrass colonial subjects who had cooperated with the Colonial

⁵⁶ Edward Hampshire, “‘Apply the Flame more Searingly’: The Destruction and Migration of the Archives of British Colonial Administration: A Southeast Asia Case Study,’ *The Journal of Imperial and Commonwealth History* 41, no. 2 (2013): 336, <https://doi.org/10.1080/03086534.2013.799349>.

⁵⁷ *Ibid.*, 336.

⁵⁸ *Ibid.*, 336.

⁵⁹ *Ibid.*, 336.

⁶⁰ Sato, ‘Operation Legacy,’ 701.

Administration should to be separated from material left for the incoming administration.⁶¹ Under these broad categories the Gold Coast Colonial Administration were able to destroy and/or remove thousands of compromising colonial records. Sato continues that “from these early stages onwards, the aim was to protect the reputation, or more precisely to avoid the embarrassment, not just of Britain but also of its collaborators.”⁶²

In many instances, successor governments were kept in the dark about the destruction and/or removal of colonial records. For instance, in Uganda, the British marked records to be destroyed or removed with the symbol “DG,” which they claimed stood for Deputy Governor, to distinguish them from “documents that could be passed on to the new state,” which were referred to as legacy papers.⁶³ Sato argues that “whereas ‘DG’ was used for correspondence within Uganda, exchanges outside the protectorate that were to be kept away from the eyes of ‘unauthorized’ persons were marked as ‘personal.’” She continues that “the general idea was that the operation should only be known to, and carried out by, ‘a civil service officer who is a British subject of *European descent*.’”⁶⁴ Therefore, it is important to recognize that “neither ‘DG’ nor ‘Personal’ was ‘a security grading,’ but more of a racial indication.”⁶⁵ This practice was followed in Kenya, however, the Colonial Administration marked records to be destroyed or removed with the letter “W” or the word “Watch.” Sato states that while “the reason behind this

⁶¹ Sato argues that “what eventually became called Operation Legacy was codified.” Ibid., 702.

⁶² Ibid., 702.

⁶³ Ibid., 706.

⁶⁴ Ibid., 706.

⁶⁵ Ibid., 706.

technical change is unclear . . . certain practicalities that developed in Uganda seem to have been emulated in Kenya.”⁶⁶ A similar process occurred in North Borneo, which enabled “British officials to ensure that certain files were not seen by the new members, [of the successor government] even if they ostensibly had the relevant clearance, due to their supposedly personal nature.”⁶⁷ Caroline Elkins argues that this “document purging process was by no means a haphazard one,” rather it reflected the bureaucratic efficiency and effective coordination between London and the Colonial Administrations.⁶⁸

Approximately five years before decolonization in Kenya the British had been preparing colonial records for removal, retention, or destruction. Elkins states that this process “included the creation of a secret mail office to receive materials, lockboxes, and safe rooms as well as a matrix outlining all the files to be destroyed. In total, it was estimated that some 3.5 tons of documents were slated for the incinerator.”⁶⁹ While the process of destruction and/or removal differed from colony to colony, it was very much under the “purview of the Colonial Office.” Material uncovered after the Hanslope Park disclosure in 2011 reveals “the minutiae in which the Colonial Secretary and his office were involved including checklists of which papers were being burned, who precisely was hand-carrying documents back to the UK and on which flight, and which Royal Air Force planes contained which material.”⁷⁰

⁶⁶ Ibid., 708.

⁶⁷ Hampshire, “Apply the Flame more Searingly,” 342.

⁶⁸ Caroline Elkins, “Looking beyond Mau Mau: Archiving Violence in the Era of Decolonization,” *The American Historical Review* 120, no. 3 (June 2015): 861, <https://doi.org/10.1093/ahr/120.3.852>.

⁶⁹ Ibid., 860.

⁷⁰ Ibid., 860.

The criteria for deciding what colonial records should be transferred back to the metropole was made clear by the British government in 1961. A Colonial Office guidance telegram sent to Kenya on May 3, 1961, instructed the Kenyan Colonial Administration that documents to be migrated would be those that:

(a) might embarrass HMG [Her Majesty's Government]; (b) might embarrass members of the police, military forces, public servants or others, e.g. police informers; (c) might compromise sources of intelligence information; or (d) might be used unethically by ministers of a successive Government.⁷¹

This guidance was issued to other colonies and protectorates. Hampshire argues that “For both North Borneo and Sarawak, the Colonial Office sent a guidance note on the destruction and migration process in October 1962.” He continues that it “was similar to, but expanded upon, a note sent to governments in east Africa in 1961, which itself had been based on criteria devised in Entebbe, Uganda, a few months before.”⁷² Moreover, David Anderson argues that these “broad and generalized categories still gave local officials considerable latitude in making their selections.”⁷³ For instance, in North Borneo the British High Commissioner's Office in Kuala Lumpur told the Colonial Administration that “working out the definition of embarrassing could be done only by the local officials making up their mind ‘on the spot’” and that they would have used their own judgment as best they could.⁷⁴ Furthermore, no concrete directive was ever issued for how to destroy records. This continued to be ad-hoc. For instance, in Kenya

⁷¹ Anderson, “Guilty Secrets,” 147.

⁷² Hampshire, “Apply the Flame more Searingly,” 342.

⁷³ Anderson, “Guilty Secrets,” 147.

⁷⁴ Hampshire, “Apply the Flame more Searingly,” 343.

thousands of sensitive records were burned in a giant bonfire on the Governor's lawn,⁷⁵ whereas in Uganda, Land Rovers full of colonial records were loaded up and dumped into Lake Victoria.⁷⁶ In North Borneo, F. Mills, a member of staff at the British High Commissioners Office in Kuala Lumpur, directly commended the official in charge of destroying colonial records, Terrence O'Brien, writing to him that "you are so obviously enjoying the processes of destruction we feel we can leave it you to rid the world of all unnecessary encumbrances of this kind."⁷⁷ Finally, in Malaya during the first eight months of 1957 the British government "discretely" sorted out the colonial records unsuitable for handing over to the new government either destroying them by "fire in the offices concerned" or withdrawing them to "the office of the then High Commissioner together with supporting indices."⁷⁸ Colonial records that could not be destroyed by fire in the offices concerned or had been subject to further review were taken by lorry to the naval base in Singapore, between August 19 and August 23, and "destroyed in the Navy's splendid incinerator there."⁷⁹

Ultimately, while procedures varied from colony to colony, it is clear that there was a deliberate and coordinated effort to destroy and remove vast quantities of colonial records. The British government was aware of this process, were sent detailed lists, and offered directives about how the process should be carried out. The culture of

⁷⁵ Anderson, "Guilty Secrets," 142.

⁷⁶ Bailkin, "Where did the Empire Go? Archives and Decolonization in Britain," *The American Historical Review* 120, no. 3 (2015): 888, <https://doi.org/10.1093/ahr/120.3.884>.

⁷⁷ Hampshire, "Apply the Flame more Searingly," 344.

⁷⁸ *Ibid.*, 340.

⁷⁹ This quote is from F. Mills who was the member of staff in the British High Commissioners Office. *Ibid.*, 340.

government secrecy did not just apply to the metropole rather it extended to nearly every corner of the globe. Britain was committed to ensuring that its secrets were not uncovered by the newly independent governments and that its reputation was not tarnished.

The “Migrated Archives”

Colonial records that were not destroyed and instead covertly transported to Britain were initially stored at a government repository in Hayes, London,⁸⁰ which was used by both the Foreign and Commonwealth Office (FCO) and Ministry of Defense. The records were held at Hayes until 1994 before being moved to the FCO Hanslope Park Archive, near Milton Keynes, where they remained unprocessed until the beginning of the twentieth-century.⁸¹ It is important to note that both of these government archives are legally bound to abide by the PRA. Former colonies did inquire whether the British had removed records during the period of decolonization and requested their return. For instance, the Kenyan government formally requested the return of colonial records in 1967, 1974, and again in the early 1980s.⁸² In fact, a delegation of Kenyan archivists from the Kenyan National Archive in Nairobi met with British archival officials in London to directly petition for the return of colonial records. Anderson argues that this particular delegation was “systematically and deliberately misled in its meetings with

⁸⁰ Anthony Badger, “Historians, a Legacy of Suspicion and the ‘Migrated Archives,’” *Small Wars & Insurgencies* 23, nos.4-5 (2012): 800, <https://doi.org/10.1080/09592318.2012.709761>.

⁸¹ Anthony Cary, “The Migrated Archives: What Went Wrong and What Lessons Should We Draw?” (London: Foreign and Commonwealth Office, 2011), 22, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/625667/cary-report-release-colonial-administration-files.pdf.

⁸² *Ibid.*, 2.

British diplomats and archivists.”⁸³ Anthony Badger states that the “response from London was categorical: they were the property of Her Majesty’s Government and would not be returned.”⁸⁴ However, at least internally, this position gradually changed.⁸⁵ For instance, in 1982, at a meeting between the PRO and the FCO’s Library and Records Department, a PRO member of staff explained, in relation to the migrated archive from Aden, that “*“these were not UK public records within the meaning of the Public Records Act. They were records of the former colonial government administration most of which, but for concern over their safety, would have been handed over to the incoming government on independence.”*”⁸⁶ The member of staff continued that “*“the general question of the return of colonial records should be examined 50 years after the date when the first colony, Ceylon, became independent,”*” which would have been 1998.⁸⁷ However, no firm action was taken during that year. The FCO and PRO thought it would be easier to delay a decision than to seriously address an issue that could potentially violate British law and was taking on greater international significance.

During the 1970s and 1980s, as more countries gained their independence, the issue of “migrated archives” came to the fore: the call for returning colonial records to newly independent states grew louder. The term “migrated archives” was coined by Dr. Shitla Prasad, the former Director of the Indian National Archives, at the 1972

⁸³ Anderson, “Guilty Secrets,” 149.

⁸⁴ Badger, “Historians, a Legacy of Suspicion,” 800.

⁸⁵ It would appear that this change in attitude occurred sometime between the late 1960s and early 1980s. I am unable to provide a more accurate date.

⁸⁶ Cary, “The Migrated Archives,” 2.

⁸⁷ Ibid., 2. When citing material from the Cary report I include any italics or underlining’s that Cary used.

International Congress on Archives (ICA). According to Mandy Banton, Prasad told the audience that:

An important part of the archives of most developing countries presently lies in various repositories in developed countries. The former colonial powers have either taken them or else they were created in the colonial powers by the branch of the government concerned with the administration of the colony . . . Morally these records belong to the developing countries concerned, they are vitally necessary for reconstructing its history . . . The developing countries feel strongly and unanimously that these migrated archives must be restored to them.⁸⁸

This powerful speech came on the heels of a 1970 convention passed by The United Nations Educational, Scientific, and Cultural Organization (UNESCO) on the ““means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property,”” which included archives in its definition of cultural property.⁸⁹ Moreover, Banton explains that “in 1976 UNESCO examined ‘the possibility of transferring documents from constituted within the territory of other countries.’” Banton continues that UNESCO noted:

Archives are an essential part of the heritage of any national community. They not only document the historical, cultural and economic development of a country and provide a basis for national identity they are also a basic source of evidence needed to assert the rights of individual citizens . . . it is important to all nations and to mankind generally that the problem of providing access to archives, and their restitution in cases where such action is required, should be dealt with urgently.⁹⁰

The ICA and UNESCO worked in close collaboration in a bid to try and find a suitable resolution to the issue of “migrated archives.” However, the British government were

⁸⁸ Mandy Banton, “Destroy? ‘Migrate’? Conceal? British Strategies for the Disposal of Sensitive Records of Colonial Administrations at Independence,” *The Journal of Imperial and Commonwealth History* 40, no. 2 (2012): 322, <https://doi.org/10.1080/03086534.2012.697622>.

⁸⁹ *Ibid.*, 330.

⁹⁰ *Ibid.*, 330.

resistant to virtually every international attempt to inquire about the status of colonial records. For instance, in 1976 when the ICA tried to ““carry out a survey of those countries whose documentary heritage should be reconstituted by means of archival transfers”” then Keeper of Public Records, Jeffery Ede, stated that ““so far as public records in my custody are concerned no claims have been made””⁹¹ Baton argues that ““Although Ede was presumably correct in his assertion that no claims had been made for records already in the PRO, neither he nor the FCO mentioned the approach made nine years earlier by the government of Kenya for records not as yet transferred there”” or another claim made by the east African nation in 1974.⁹²

The international endeavor to repatriate ““migrated archives”” continued with the Vienna Convention on Succession of States in respect of State, Property, Archives and Debts in 1983.⁹³ Despite the promise of the convention, it never came into force. In order to preserve the culture of government secrecy, and conceal the legacy of empire, Britain refused to ratify it. In fact, Baton notes that ““Only seven member states of the United Nations ratified within the prescribed time frame; unsurprisingly none of these were former metropolitan states.””⁹⁴ International efforts to return ““migrated archives”” lost momentum after this devastating blow.

⁹¹ Ibid., 331. Baton notes that Ede did refer to the ““1947 claim by the government of India and Pakistan for the library and archives of the former Indian Office in London, which was still unresolved.””

⁹² Ibid., 331.

⁹³ Ibid., 332.

⁹⁴ Ibid., 332.

The Culture of Government Secrecy, 1970-2005

During the latter decades of the twentieth-century, as the British government concealed the “migrated archives,” they were facing general calls to be more open and transparent. One event which proved a catalyst for reform among the general public and politicians revolved around the government’s involvement with a secessionist conflict in Nigeria. Ian Cobain illustrates that in 1970 *The Daily Telegraph* published a report, which showed the “government had covertly been helping the Nigerian federal government to crush the secessionist state of Biafra by supplying arms over and above what had been disclosed in parliament.”⁹⁵ In response to this damning disclosure the government ordered the Attorney General to prosecute the newspaper for violating the Official Secrets Act. The domestic and international condemnation was fierce and exposed the British culture of government secrecy to a global audience. A reporter for *The Washington Post* commented that the Official Secrets Act ““was a legal monstrosity, a burlesque of the excellence and fairness of law and judicial procedure on which Britain prides itself.””⁹⁶ Moreover, former Cabinet Minister Richard Crossman noted during the aftermath of the allegations that ““secretiveness is the real English disease and in particular the chronic ailment of the British government.””⁹⁷ The domestic and international response to the prosecution proved so intense that the trial resulted in an acquittal and a subsequent inquiry chaired by Lord Franks to “review the operation of

⁹⁵ Ian Cobain, *The History Thieves: Secrets, Lies and the Shaping of a Modern Nation* (London: Portobello Books, 2016), 45.

⁹⁶ *Ibid.*, 45.

⁹⁷ *Ibid.*, xii.

section 2 of the Official Secrets Act of 1911 and to make recommendations.”⁹⁸ The legislative framework that helped maintain and enforce the culture of government secrecy was in the dock.

After an extensive investigation, the Franks Committee found that section 2 of the Official Secrets Act of 1911 was a “mess.”⁹⁹ They charged that the scope of the law was excessive and that “any law which impinges on the freedom of information in a democracy should be much more tightly drawn.”¹⁰⁰ The committee’s report published in 1972 concluded that “the drafting and interpretation are obscure. people are not sure what it means or how it operates in practice or what kinds of action involve real risk of prosecution under it.”¹⁰¹ Numerous recommendations were made, including “the replacement of section 2 by an Official Information Act,” which would classify information unauthorized for disclosure and make the receipt of information no longer a criminal offense.¹⁰² While the committee’s report contained some promising suggestions, it proved too divisive to be acted upon. The Conservative government considered it too radical while journalists and academics “thought it was too timid.”¹⁰³ Cobain argues that this was largely due to the fact that “it failed to recommend a new legal right of access to official information and because the attorney general would still have the power to decide

⁹⁸ Lucinda Maer and Oonagh Gay, *Official Secrecy*, House of Commons Library Standard Note 02023, 30 December 2008, 5, <https://fas.org/irp/world/uk/secrecy.pdf>.

⁹⁹ *Ibid.*, 5.

¹⁰⁰ *Ibid.*, 5.

¹⁰¹ *Ibid.*, 5.

¹⁰² *Ibid.*, 5.

¹⁰³ *Ibid.*, 5.

who to prosecute.”¹⁰⁴ The legal framework that supported the culture of government secrecy was kept firmly in place.

This situation changed during the late 1980s when Margaret Thatcher’s government finally caved to public and political demands to implement reform. The Official Secrets Act of 1989 repealed section 2 of the Official Secrets Act of 1911 and clearly “defined those categories of information that would trigger prosecution if disclosed – such as defense, international relations, and information obtained in confidence from other states.” In addition, the act “removed the right to conduct a public interest defense” and introduced measures that “would ensure the disclosure of intelligence information would be an absolute offense: the prosecution would not need to demonstrate that the leak had caused any harm.”¹⁰⁵ Therefore, according to David Burnet, while publicly championing openness, Thatcher and the Conservative government were able to preserve a “climate of sterile secrecy, uncertainty, and ideological ferment.”¹⁰⁶ Ted Galen Carpenter agrees with this position and notes that the result of Conservative ‘reform’ served to “tighten rather than ease the whole system of restrictions.”¹⁰⁷ He continues that that prior to, and after, the passage of the act the Thatcher government “treated the British press and the public as children who were incapable of evaluating”

¹⁰⁴ Cobain, *The History Thieves*, ” 49.

¹⁰⁵ Ibid., 56.

¹⁰⁶ David Burnet, “Freedom of Speech, the Media and the Law,” in *Ethical Issues in Journalism and the Media*, ed. Andrew Besley, and Ruth Chadwich (Abingdon-on-Thames: Routledge, 1992), 50.

¹⁰⁷ Ted Galen Carpenter, *The Captive Press: Foreign Policy Crises and the First Amendment* (Washington D.C: Cato Institute, 1995), 124.

information on their own terms.¹⁰⁸ Cobain complements these views adding that “the application of our [Britain’s] official secrecy has, for the past couple of centuries, gone far beyond that is required for the safe and secure business of government.” He stresses that “Britain is not a nation where official information is merely kept closed on occasion and handled with care: it is a nation where a culture of secrecy runs wide and deep.”¹⁰⁹ Therefore, it is evident that from the beginning of the nineteenth-century up until the close of the twentieth-century the mechanisms that inhibited open-access and transparency remained firmly in place.

The Official Secrets Act of 1989 drew so much criticism, and attracted so much debate, that just a decade after its passage the new Labour government passed the first Freedom of Information Act in Britain. Labour had consistently vowed to implement Freedom of Information legislation once in power, promising it in all of their manifestos since the late 1970s, and were compelled to act when they came to power in 1997. Just the year before, at an awards ceremony of the Campaign for Freedom of Information, an influential organization that lobbies government, Tony Blair stated that “*It is not some isolated constitutional reform that we are proposing with a Freedom of Information Act. It is a change that is absolutely fundamental to how we see politics developing in this country.*”¹¹⁰ Blair continued that a “culture of secrecy permeates almost every single

¹⁰⁸ Ibid., 124.

¹⁰⁹ Cobain, *The History Thieves*, xii.

¹¹⁰ Frankel Maurice, “The Blair Memoirs and FOI,” Campaign for Freedom of Information, last modified October 6, 2010, <https://www.cfoi.org.uk/2010/10/the-blair-memoirs-and-foi-2/>.

aspect of government activity,” which needed to be addressed and reversed.¹¹¹ Moreover, the Labour white paper on Freedom of Information declared that “unnecessary secrecy in government leads to arrogance in governance and defective decision making . . . the traditional culture of secrecy will only be broken down by giving people in the UK the legal right to know.”¹¹² After several revisions, the Freedom of Information Act (FOI) was passed in November of 2000. Lâle Özdemir argues that “With the advent of the act, the previously applied 30-year standard closure period no longer determined access to records; instead, information is now assumed to be ‘open’ right from the start unless one of the exemptions set out” applies.¹¹³ However, the closure period still applied for depositing public records in the national repository. FOI was a groundbreaking piece of legislation which gave the public the right to inquire about, and access, material from a host of departmental and administrative bodies. It was slated to become law twelve to eighteen months after it navigated through Parliament; however, Blair delayed its implementation by nearly five years. The Campaign for Freedom of Information notes that “Instead of taking pride in its creation,” the Blair administration tried desperately to “smother its infant law.”¹¹⁴ Blair explained in his memoir that his reaction to the passage of FOI was one of horror. He wrote “*you idiot. You naïve, foolish, irresponsible, nincompoop. There is really no description of stupidity, no matter how vivid that is*

¹¹¹ Cobain, “*The History Thieves*,” 155.

¹¹² *Ibid.*, 159.

¹¹³ Lâle Özdemir, “The National Archives and the Lord Chancellor’s Advisory Council on National Records and Archives in the Freedom of Information Era,” *Journal of the Society of Archivists* 30, no. 2 (2009): 137, <https://doi.org/10.1080/00379810903444961>.

¹¹⁴ Maurice, “The Blair Memoirs and FOI.”

accurate. I quake at the imbecility of it.”¹¹⁵ Blair elaborated that he had failed to appreciate how FOI would be weaponized by the press and undermine “the government’s ability to discuss issues ‘with a reasonable level of confidentiality.’”¹¹⁶ Therefore, despite publicly committing to openness and transparency, the Labour government was of the opinion that the legislative framework previously in place, which preserved a culture of government secrecy, was more satisfactory.

The “Migrated Archives,” 1995-2005

During the latter decades of the twentieth-century, while debates surrounding the application of official secrecy were in full swing, the “migrated archives” remained a tightly kept secret. In February 1995, an FCO member of staff confirmed that the “migrated archives” had been successfully transferred from Hayes to Hanslope Park.¹¹⁷ While members of staff at the government repository near Milton Keynes were still unsure as to whether these colonial records were public records or not, no concrete action was taken to resolve the issue. They discussed various options including destroying the records, transferring them to the PRO, reviewing them and returning them to their successor governments, and admitting, when asked by successor governments about colonial records “*that certain records were destroyed or returned to the UK but [stressing] these are the property of HMG [Her Majesty’s Government] and we do not*

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Cary, “The Migrated Archives,” 3. It is important to mention that Sir Anthony Cary redacted the names of many former and current FCO, PRO, and TNA employees implicated in his 2011 report. Therefore, it is difficult to say who knew what and when.

intend parting with them.”¹¹⁸ The best course of action, again, seemed to be to do and say nothing. The FCO also proposed compiling a complete schedule of all of the colonial records in their care; however, no such program was carried out.¹¹⁹

It is important to stress that in 1994, the SoA, which had grown in size and influence, finally adopted a code of professional conduct. Shepherd argues that the code “was ‘to set out the standards of professional behavior expected of archivists, archive conservators, records managers and those occupied in related activities, who are members of the Society’ and it was enforced by a Disciplinary Panel.” She continues:

The code had limitations: it only applied to members not to the whole profession, it was a code of conduct not a broader code of ethics and it was quite limited in scope. However, it was the first attempt in the UK to codify professional behavior and was subsequently used to discipline offending members.¹²⁰

It is significant that at a time when parts of the British archival community were attempting to act more professionally, government archivists at some of Britain’s most important national repositories were covertly discussing what to do with a trove of secret colonial records, which had not been listed under the PRA, processed and deposited in the PRO, or returned to their country of origin. Confusion about the status of colonial records, however, is not an excuse for indecision. The PRO, which became The National Archives (TNA) in 2003, the leading authority on British archival issues, did not consider

¹¹⁸ Ibid., 3.

¹¹⁹ Ibid., 3.

¹²⁰ Shepherd, “Towards Professionalism?” 176.

the matter a priority.¹²¹ The concealment of tens of thousands of colonial records was a more satisfactory arrangement than openness and transparency. Anthony Cary found that:

Unless it catalogued the files and conducted a full sensitivity review, the FCO could neither release the files (whether to successor Governments or to private repositories) nor consult them in any systematic way for the purposes of FoI and other search requests, nor even apply a Lord Chancellor's instrument to authorize retention of them.¹²²

As Britain entered the twenty-first century the “migrated archives” were in a state of “limbo: neither accepted by TNA for the public record, nor formally acknowledged by the FCO.”¹²³ Keep calm and conceal was the British modus operandi.

Conclusion

The case of the “migrated archives” is emblematic of Britain’s culture of government secrecy. A combination of archival mismanagement, inefficient public records legislation, government unwillingness to cooperate with international organizations devoted to returning colonial records, and senior politicians on both sides of the political spectrum uncommitted to enhancing transparency and openness created the conditions that allowed the case of the “migrated archives” to occur. As Britain entered the twenty-first century, the records from an array of former colonies and protectorates languished in the FCO Hanslope Park Archive. However, over the next

¹²¹ The National Archives state that “between 2003 and 2006, four government bodies – each specialising in particular aspects of managing information – joined together to form a single organisation in The National Archives.” These four government bodies included: The Public Record Office, the Royal Commission on Historical Manuscripts, Her Majesty’s Stationary Office, and the Office of Public Section Information. “Our History,” The National Archives, accessed June 12, 2018, <http://www.nationalarchives.gov.uk/about/our-role/what-we-do/our-history/>.

¹²² Cary, “The Migrated Archives,” 5.

¹²³ Ibid., 5.

decade, legislation that Blair regretted, FOI, would be utilized by lawyers and historians to expose one of the largest archival scandals in Britain, if not the world. British record-keeping practices and policies were about to go on trial.

CHAPTER III:
MAU MAU, THE “MIGRATED ARCHIVES,” AND THE HIGH COURT

In April 2011, the British government publicly acknowledged that the Foreign and Commonwealth Office (FCO) irregularly held thousands of records from thirty-seven former colonies and protectorates, which had been removed during the period of decolonization and transported back to the metropole. The existence of these records, known as the “migrated archives,” was brought to light after a prolonged legal battle involving the British law firm Leigh Day, representing the Kenyan Human Rights Commission (KHRC), and the FCO. Leigh Day charged that the government were liable for a series of colonial atrocities committed by the Kenyan Colonial Administration during a state of emergency in the east African colony from 1952 to 1960. However, crucial documentary evidence that confirmed this was absent from The National Archives (TNA). Leigh Day convinced the High Court in London that the FCO was not being forthright with regards to the colonial material in their Hanslope Park archive. The High Court, one of the most senior and powerful courts in the English judicial system, ordered the FCO to be compliant otherwise it would be found in contempt of court and lose the case. Decades of archival mismanagement and government secrecy had finally caught up with the FCO who confirmed, over a period of several months, that it was in possession of tens of thousands colonial-era records, which had not been released to TNA or consulted for the purpose of Freedom of Information requests. With the “discovery” of the “migrated archives,” arguably the largest archival scandal in modern British history,

the High Court ruled that the British government had a case to answer and could be liable for the past sins of empire.

The East African Protectorate, The Colony and Protectorate of Kenya, and Mau Mau, 1895-1963

In 1895, the British officially proclaimed imperial rule over vast swathes of territory in east Africa, which was referred to as the East Africa Protectorate (EAP). From 1895 to 1920, the British commercially exploited the EAP and subjugated the indigenous peoples. In particular, the British sought to construct a large railway through the territory, which, it was thought, “would help foster British trade in the interior as well as provide the means for maintaining British control over the source of the Nile.”¹ During this period, the indigenous population, which was made up of various ethnic groups, forcibly resisted the British occupation.² For instance, in 1905, the Nandi tribe revolted over high taxes and the loss of land, which “prompted a military sortie by the British that left over 1,000 people dead.”³ Philippa Levine argues that while “not all of this protest was explicitly anti-colonial, the widespread unhappiness with imperial rule spurred the growth of nationalism.”⁴ In 1920, the British annexed the EAP as a crown colony. This was largely because “more favorable terms would be obtained for loans if the territory was a colony rather than a protectorate.” Robert Maxon and Thomas Ofcansky state that

¹ Robert M. Maxon, “Kenya: East African Protectorate and the Uganda Railway,” in *Encyclopedia of African History, Volumes 1-3*, ed. Kevin Shillington (New York: Fitzroy Dearborn, 2005), 745.

² Geoff Sayer, *Kenya: Promised Land?* (Oxford: Oxfam, 1998), 17.

³ Philippa Levine, *The British Empire: Sunrise to Sunset*, 2nd ed. (Abington-on-Thames: Routledge, 2013), 196.

⁴ *Ibid.*, 196.

Because France refused to agree to Great Britain's annexation of the 10-mile coastal strip . . . as part of the colony, the latter was made the Kenya protectorate." Therefore, "until independence [1963], the name of the territory would be the Colony and Protectorate of Kenya."⁵

In the aftermath of the Second World War, decades of indigenous frustrations with British imperial rule resulted in a violent colonial uprising known as the Mau Mau revolt. Abiodun Alao, a historian specializing in African Studies, has commented that while "the meaning and origin of the word Mau Mau is uncertain, the aims and objectives" of the colonial rebellion were not.⁶ He explained that "it was a revolt organized mainly by the Kikuyus, the dominant ethnic group in colonial Kenya, with some support from other smaller ethnic groups, particularly the Merus and the Embus, to challenge British colonial control."⁷ While these ethnic groups had suffered in myriad ways under British imperial rule, their primary grievance was land deprivation. Alao contends that by 1948, somewhere in the region of 1,250,000 "Kikuyus were restricted to about 5,200 kilometers [of land], while 30,000 [white] settlers occupied 31,000 square kilometers."⁸ This situation forced a significant proportion of Kenya's ethnic groups to "become 'tenants' on European land, offering their labor in exchange for being allowed to occupy a patch of land."⁹ Many of those unable or unwilling to become tenants on

⁵ Robert M. Maxon and Thomas P. Ofcansky, *Historical Dictionary of Kenya*, 3rd ed. (Maryland: Rowan & Littlefield, 2014), 57-58.

⁶ Abiodun Alao, *Mau Mau Warrior* (Oxford: Osprey Publishing, 2006), 5.

⁷ *Ibid.*, 5.

⁸ *Ibid.*, 6.

⁹ *Ibid.*, 6.

European land were forced to move into Kenya's urban areas where conditions were poor. Caroline Elkins has noted that African residential areas in Kenya's cities "quickly became overcrowded, unemployment escalated, and inflation skyrocketed."¹⁰ She continued that "It was hardly surprising that the Kikuyu poor, already disaffected by their loss of land and condemned to an alien urban existence, sought to redress their grievances against both the European and African agents of colonialism."¹¹ In 1952, tensions finally boiled over when Mau Mau fighters initiated a violent campaign against European settlers and government sympathizers.¹² Seth Jones comments that from the beginning of August until the middle of October "Mau Mau insurgents assassinated thirty-four people and caused an uproar among Kenya's apoplectic settler community, who demanded an expeditious and decisive government response."¹³ On October 20, 1952, the Governor of Kenya, Sir. Evelyn Baring, declared a state of emergency, which granted him "powers to detain suspects under special emergency legislation and use the military against Mau Mau insurgents."¹⁴

¹⁰ Caroline Elkins, *Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya* (New York: Henry Holt and Company, 2005), 24.

¹¹ *Ibid.*, 24.

¹² Seth G. Jones, *Waging Insurgent Warfare: Lessons from the Vietcong to the Islamic State* (Oxford: Oxford University Press, 2016), 16. While Mau Mau fighters were primarily members of the Kikuyu ethnic tribe membership was open to any ethnic tribe willing to join the resistance against British imperial rule. Recruits were typically initiated into Mau Mau through oath-taking.

¹³ *Ibid.*, 17.

¹⁴ *Ibid.*, 17. It is important to stress that during the 1950s, Britain conducted counterinsurgency operations in Malaya, Cyprus, and Kenya.

For more information on British counterinsurgency see: Gregory Fremont-Barnes, ed., *A History of Counterinsurgency: Volume 1, From South Africa to Algeria, 1900 to 1954*

The British counterinsurgency response to the Mau Mau revolt was extremely repressive and exposed the gulf between Britain's professed liberal principles and the reality of British imperialism. David Anderson argues that during the colonial uprising a wealth of "draconian anti-terrorist laws were introduced," which allowed the Kenyan Colonial Administration to suspend the human rights of detainees, facilitate detention without a trial, impose collective punishments, seize the property of convicts, and extend "the death penalty to wide range of offenses."¹⁵ He continues that the British "sought to strip the rebels and their sympathizers of every possible human right, while at the same time maintaining the appearance of accountability, transparency, and justice."¹⁶

Historians have estimated that up to 150,000 Kikuyu were detained without due process during the Mau Mau revolt.¹⁷ Moreover, the British detention camps were so appalling that Kenya's Attorney General remarked in 1953 that they were "distressingly reminiscent of conditions in Nazi Germany or Communist Russia."¹⁸ Tens of thousands of Kenyans, primarily from the Kikuyu ethnic group, died at these camps, while tens of thousands more were physically abused and tortured. Jane Muthoni Mara, who was detained at the "notorious Gatithi screening camp" and later served as a witness in the Leigh Day prosecution, recalled how she was once pinned to the ground by a guard who

(California: ABC-CLIO, 2015), 185; and Brian Drohan, *Brutality in an Age of Human Rights: Activism and Counterinsurgency at the End of the British Empire* (New York: Cornell University Press, 2018).

¹⁵ David M. Anderson, *Histories of the Hanged: The Dirty War in Kenya and the End of Empire* (New York: W. W. Norton and Company, 2005), 5.

¹⁶ *Ibid.*, 6.

¹⁷ Katie Engelhart, "Rule Britannia: Empire on Trial," *World Policy Journal* 29, no. 4 (winter 2012-2013): 97, <http://www.jstor.org/stable/i23326701>.

¹⁸ *Ibid.*, 99.

“pried her thighs apart and held them down ‘with his spiky army boots’” before another guard “kicked a glass soda bottle filled with hot water up her vagina.”¹⁹ Other women suffered similar ordeals while many Kenyan men were mutilated and castrated.

While the Mau Mau revolt was effectively quashed by 1956 the state of emergency remained in effect until early 1960.²⁰ John Newsinger argues that the British government, aware that maintaining imperial rule was no longer economically or politically viable, “proceeded to negotiate an agreement with the moderate nationalist leaders.” This agreement “effectively abandoned the white settlers but secured the position of foreign capital, which was the overriding concern of the British government.”²¹ In the years before Kenya formally declared independence from Britain, which occurred in December 1963, the Colonial Administration destroyed a wide array of incriminating and sensitive records and transported thousands more back to the metropole. For decades, vital aspects of the Mau Mau revolt were unclear to historians. For instance, academics had a limited understanding of how the British administered detention camps or how detainees were treated as crucial documentary evidence was missing from the archives.²² Furthermore, the newly independent Kenyan government

¹⁹ Ibid., 97.

²⁰ John Newsinger, “Revolt and Repression in Kenya: The “Mau Mau” Rebellion, 1952-1960,” *Science & Society* 45, no. 2 (Summer, 1981):177, <http://www.jstor.org/stable/40402312>.

²¹ Ibid., 184.

²² Marshall S. Clough has argued that “before 1963 the story of Mau Mau had been controlled by its enemies. The British government line – that the revolt was an atavistic eruption of ‘African savagery’ rather than a legitimate response to real grievances – had dominated discussions of Kenya in the 1950s. Western journalists and writers of fiction had generally accepted this official version and translated it into sensationalistic images of terror, lurid descriptions of ‘oath rituals’ and massacres in the press and popular

gradually made membership of, or any affiliation with, Mau Mau a criminal offense. Mwangi Wa-Githumo argues that that when “Jomo Kenyatta became President of Kenya, one of his first political undertakings was the elimination and crushing of political opposition as well as the progressive elements in the country, thus stultifying the creative revolutionary energies of the Mau Mau movement.” She continues that “By 1966, not only had Kenyatta succeeded in building for himself a semi-authoritarian pinnacle of power, but he had also become the favoured grand old custodian and guarantor of the white settlers’ economic interests in the independent Kenya.”²³ In order to curry favor with the international community, maintain good relations with Britain, and crush internal dissent, Kenyatta relegated Mau Mau to the shadows. Therefore, it could be reasonably argued that the British move to destroy and/or remove colonial records documenting the Mau Mau revolt aligned with Kenyatta’s political interests. The culture of government secrecy thus extended to Britain’s former colonies.

The Kenyan Human Rights Commission, Leigh Day, and the High Court

In 2002, thirty-nine years after Kenya achieved independence from Britain, Mau Mau organizations were decriminalized in the east African nation.²⁴ As a result thousands

books.” While this narrative was challenged after independence vital aspects of the Mau Mau revolt remained unclear, which ensured that certain myths prevailed. Marshall S. Clough, *Mau Mau Memoirs: History, Memory and Politics* (Colorado: Lynne Rienner, 1998), 2.

²³ Mwangi Wa-Githumo, “The Truth about the Mau Mau Movement: The Most Popular Uprising in Kenya,” *Transafrican Journal of History* 20 (1991): 11, <http://www.jstor.org/stable/24520300>.

²⁴ David M. Anderson, “Guilty Secrets: Deceit, Denial, and the Discovery of Kenya’s ‘Migrated Archive,’” *History Workshop Journal* 80, no. 1 (2015): 153, <https://doi.org/10.1093/hwj/dbv027>.

of Kenyans were able to legally form veterans' associations and "operate openly."²⁵ The decision to decriminalize Mau Mau organizations allowed the KHRC, a non-governmental organization established in the 1990s, to address the issue of colonial injustice. In co-ordination with the British law firm Leigh Day, who agreed to represent the KHRC in court, oral testimonies were collected from those who had suffered during the colonial revolt, and, a process for reviewing and assessing the material was initiated.²⁶ While the KHRC and Leigh Day examined thousands of oral testimonies they determined that only five claimants were suitable to pursue in court. Anderson explains that the "justification for their selection was that there seemed to be a reasonable chance in each case that archival documents might be located to corroborate the stories they told."²⁷ In order to identify and locate relevant documentary evidence Leigh Day and the KHRC consulted recent scholarly works on the Mau Mau revolt, including Anderson's *Histories of the Hanged* and Elkin's *The Untold Story of Britain's Gulag in Kenya*. While these works included "many valuable references to archival sources from both London and Nairobi," crucial evidence was absent.²⁸ For instance, in the Kenyan National Archive records pertaining to the British detention camps were "almost entirely missing from the archival deposit."²⁹

²⁵ Ibid., 153.

²⁶ Ibid., 154.

²⁷ Ibid., 154.

²⁸ Ibid., 153.

²⁹ David M. Anderson, "Mau Mau in the High Court and the 'Lost' British Empire Archives: Colonial Conspiracy or Bureaucratic Bungle?" *The Journal of Imperial and Commonwealth History*, Vol. 39, No. 5 (2011): 707, <https://doi.org/10.1080/03086534.2011.629082>.

Both Anderson and Elkins, who agreed to lend their expertise to the prosecution, were convinced that the British government was in possession of colonial-era records, which had not been made public and transferred to TNA. Suspicions were heightened during the spring of 2005 when historian Colin Murray and “former colonial official” Peter Sanders published their work *Medicine Murder in Colonial Lesotho: The Anatomy of a Moral Crisis*.³⁰ This book was significant as Sanders had found that numerous records pertaining to killings he was investigating ““had been removed from Basutoland by the Government Secretary in 1956, shortly before internal self-government, in order to protect them from scrutiny by the incoming government of Lesotho.””³¹ Anderson notes that “Through his contacts with retired diplomats and others formerly in the colonial service, Sanders tracked the documents down” to the FCO’s Hanslope Park archive, where he was sure that thousands of other records from other colonies were being irregularly held.³² With this information in hand Leigh Day petitioned the British government for all relevant records that may have been publicly withheld about the Mau Mau revolt.

In 2006, Leigh Day submitted a Freedom of Information request for ““a final tranche of documents relating to the suppression of the Mau Mau held by the Public Record Office that the government was ‘refusing to release.’””³³ In response to the

³⁰ Anderson, “Guilty Secrets,” 153.

³¹ Ibid., 153.

³² Anderson notes that in May 2003, he received a letter from Colin Murray who explained what he had seen at the FCO Hanslope Park archive. Ibid., 153.

³³ Anthony Cary, “The Migrated Archives: What Went Wrong and What Lessons Should We Draw?” (London: Foreign and Commonwealth Office, 2011), 9,

request, the FCO stringently denied that it held any such information. The FCO stated that “*our records indicate that all information we held . . . has already been transferred to TNA.*”³⁴ Moreover, the Treasury’s Solicitor subsequently stressed to Leigh Day that “*. . . all information held by the FCO relating to the emergency period has been transferred to TNA and so it is in the public domain.*”³⁵ These statements were categorically false as FCO members of staff had internally deliberated what to do with the “migrated archives” for decades. In August 2007, an FCO member of staff asked TNA again whether they would take the colonial records at Hanslope Park.³⁶ TNA refused the request, with a member of staff stating that “*any significant material should be duplicates of the selected Colonial Office London HQ files. We are content for FCO to dispose of these records by destruction without further reference to TNA.*”³⁷ Later that year a TNA member of staff communicated to the FCO that if it was:

*Considering transferring the papers anywhere else to be open to researchers, they can, but then my strong view would be that they should **not** go to another UK*

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/625667/cary-report-release-colonial-administration-files.pdf.

Two Freedom of Information requests were submitted in 2005 for records relating to the Mau Mau revolt. The first was for “*files from 1959 and after which might contain the personal report by Sir Evelyn Baring, then Governor of Kenya, to the Secretary of State about his discover that they had both been duped by the Administration in Kenya over the extent of organised violence against detainees in the Mau Mau emergency, and the subsequent discussion and decisions taken over what should be done now.*” The second was from a researcher who “had found files in TNA that he thought were probably relevant to his research into the Mau Mau, but which did not have descriptions on the catalogue.” In both of these cases the “migrated archives” were not consulted. Cary, “The Migrated Archives,” 9.

³⁴ Ibid., 10.

³⁵ Ibid., 10.

³⁶ Sir. Anthony Cary redacted the names of the vast majority of former and current FCO and TNA members of staff in his 2011 report.

³⁷ Ibid., 6. Cary reiterated that he underlined this passage.

*repository. The reason for them not being left in the territory was that they were deemed too sensitive for whatever reason. If they are now releasable, and the FCO sees merit in preservation rather than destruction, the proper course of action would be to arrange their return to the successor administration's national archives. This would of course require the Lord Chancellor's permission, but no doubt this would be forthcoming if the FCO asked for it.*³⁸

However, the FCO did not pursue the matter with the Lord Chancellor and no further action was taken. The “migrated archives” remained concealed within the walls of Hanslope Park. It is important to recognize that while some members of staff did try and address the issue of the “migrated archives” the FCO, as a whole, failed arrive at a conclusion about what should be done. The FCO did not review or process the “migrated archives” or disclose to the High Court that they held potentially relevant information. Decades of archival mismanagement had left the FCO wholly unprepared to adequately resolve the issue of the “migrated archives.” They continued to deny their existence rather than take appropriate steps to determine their fate. In addition, in 2009, an FCO member of staff concerned about storage space at Hanslope Park inquired about the status of the “migrated archives.” An informal approach was again made to TNA, which was refused.³⁹ A member of staff at the TNA suggested that the records should be returned unless “it emerged that *part of the records was in fact . . . some other category of*

³⁸ Ibid., 7.

³⁹ Ibid., 8. The government inquiry into the “migrated archives,” the Cary report, will be fully analyzed in the subsequent chapter. The Cary report offers an official explanation as to why the “migrated archives” were concealed and not made available to the public. Moreover, it is unclear as to who was having these internal conversations at the FCO and TNA as the names of most members of staff have been redacted in the Cary report. Finally, aside from the Cary report, there is very little information regarding the status of the “migrated archives” during this period.

material that now constitutes UK public records worthy of permanent preservation.”⁴⁰

Therefore, the notion that the government was being transparent and forthright in their responses to Leigh Day is palpably incorrect. In fact, one FCO member of staff discussing the “migrated archives” commented that “*people tried to ignore the fact that we had them.*” They continued that “*we weren’t really supposed to have them [as they were over 30-years old, yet neither transferred to the TNA nor covered by a Lord Chancellor’s instrument] so it was thought best to ignore them for the purposes of requests.*”⁴¹ Leigh Day made several more inquiries after their failed 2006 Freedom of Information request, convinced that the FCO were not being honest with regards to what colonial records they did or did not hold. In 2009, Justice Seymour ruled that it was imperative the FCO “should make a full disclosure of all of the documents in their possession relating to the case.”⁴² The government resisted this request maintaining their position that they held no such relevant material. Under increasing pressure from Leigh Day and the judiciary to be compliant with the request Edward Inglett, a Kenyan Desk Officer with the FCO, began a systematic search for any material that may be of relevance to the case.⁴³ Anderson notes that “In November 2010, Inglett filed a witness statement to the court detailing the extent of his searches and explaining that no further materials had been found.”⁴⁴ In response, in December 2010, Anderson submitted a witness statement to the Court of Justice Queen’s Bench Division in order to force the

⁴⁰ Ibid., 8.

⁴¹ Ibid., 12. The text in brackets is Sir. Anthony Cary’s and not the author of this paper.

⁴² Anderson, “Mau Mau in the High Court,” 707.

⁴³ Ibid., 707.

⁴⁴ Ibid., 707.

government to publicly acknowledge that it was irregularly holding colonial records, which were of paramount importance to the prosecution.⁴⁵

The beginning of Anderson's witness statement laid out the existing archival material "with regard to alleged abuses in detention camps" during the Mau Mau revolt.⁴⁶ He argued that official inquiries, prosecutions of guards and warders, liberal complainants, records from the Special Emergency Assize Courts, and detention orders all complemented the academic position that British violence during the colonial uprising was brutal and systematic.⁴⁷ These records, he explained, could be found in British and Kenyan repositories. Anderson then made the bold claim that "The British administration took systematic steps before December 1963 to remove records relating to the administration of the Mau Mau emergency, so that these would not be among the records handed over to the incoming independent Kenyan Government."⁴⁸ He continued that "this was established and admitted by HMG in 1967, in correspondence between the FCO

⁴⁵ High Court of Justice, Queen's Bench Division, Claim No: HQ09X02666: Witness Statement of David Anderson, 21 December 2010.

<https://www.leighday.co.uk/LeighDay/media/LeighDay/documents/Mau%20Mau/Historian%20witness%20statements/David-Anderson-Statement--Final-.pdf?ext=.pdf>.

⁴⁶ The existing archival materials in British and Kenyan archives. Anderson was familiar with material as he consulted many documents for his work *Histories of the Hanged*. Ibid., 2.

⁴⁷ Ibid., 2-4. Anderson explained that there "were a number of European liberals in Kenya during the 1950s who visited the Detention Camps and made complaints to government about the treatment of detainees. Local clergymen were prominent among them, including the Rev. David Steel of the Church of Scotland . . . and the Anglican Canon Bewes." Anderson argued that these individuals "complained vociferously about the appalling treatment of many 'good African Christians' who were herded into detention after Operation Anvil." Ibid., 3.

⁴⁸ Ibid., 6.

and the Office of the President in Nairobi, following a request from Nairobi that any papers taken should be returned to Kenya.”⁴⁹ Anderson also identified a record from M. Scott to J. S. Arthur of the High Commission in Kenya, dated November 7, 1967, which confirmed that “the removal of ‘sensitive’ documents from Kenya had been an exercise carried out in ‘meticulous fashion.’”⁵⁰ In all, he speculated that the migrated records from Kenya comprised “over 1500 files, in three hundred boxes taking up some 100 linear feet of shelving.”⁵¹ Anderson concluded that while “the Kenyan National Archive contains a wealth of documentary material on every other aspect of the Mau Mau Emergency, the detailed daily administrative records of the Detention Camps are conspicuous by their absence.”⁵² He implored the Court of Justice Queen’s Bench Division not to take the word of the FCO at face value and to pursue the matter further. According to Anderson, there was a valuable category of colonial records that had “been systematically withheld from the archive.”⁵³

The High Court, after reviewing Anderson’s witness statement, ordered the FCO to conduct further inquiries into the “migrated archives.” The High Court reminded the FCO that failure to disclose relevant material would result in the governmental department being held in contempt of court, which would effectively spell the end of

⁴⁹ *Ibid.*, 6.

⁵⁰ *Ibid.*, 7.

⁵¹ *Ibid.*, 7.

⁵² *Ibid.*, 7.

⁵³ *Ibid.*, 8.

their defense and secure a victory for the prosecution.⁵⁴ Inglett communicated this information to members of staff at the FCO pointing out “that the reputation of the government was at stake in this matter” and that non-compliance “might be viewed as obstructionist and therefore construed to imply culpability.”⁵⁵ Frustrated with the conduct of the FCO, Inglett informed them that he planned to personally visit the Hanslope Park archive in order to search the repository for himself. Anderson explains that just “a few days prior to Inglett’s proposed visit, the staff at Hanslope Park at last announced they had located the missing Kenya documents.”⁵⁶ In January 2011, after decades of archival mismanagement and government secrecy, the FCO informed the High Court that they did in fact hold valuable documentary material pertaining to the Mau Mau revolt, which had not been transferred to TNA.⁵⁷ This was an incredible result for the prosecution who subsequently enlisted a “team of Oxford graduate historians” and academics to help examine the files.⁵⁸ It is important to note that at this stage in the case the FCO’s admission does not appear to have been made public.⁵⁹ Anderson, who helped coordinate the review process, comments that the way the government released the files to

⁵⁴ Jab Abumrad and Robert Krulwich, “Mau Mau,” July 2, 2015, in *Radiolab*, produced by WNYC, podcast, MP3 Audio, 35:10, accessed June 19, 2018, <http://www.radiolab.org/story/mau-mau/>.

⁵⁵ Anderson, “Mau Mau in the High Court,” 708.

⁵⁶ *Ibid.*, 708.

⁵⁷ “Foreign Office Publishes Review on Release of Colonial Documents,” UK Government, last modified May 5, 2011, <https://www.gov.uk/government/news/foreign-office-publishes-review-on-release-of-colonial-documents>.

⁵⁸ Anderson, “Mau Mau in the High Court,” 709.

⁵⁹ No British newspaper or media outlet appears to have reported on the matter until April 2011 when the British government made a formal announcement in the House of Lords.

the prosecution “was highly unsatisfactory.”⁶⁰ He continues that records were released at random and only after a thorough review by FCO members of staff, which made a “coherent analysis of the files exceedingly difficult.”⁶¹

In response to this damning admission, the British government commissioned Sir. Anthony Cary, the former High British Commissioner to Canada, to conduct an independent inquiry to “look into the circumstances surrounding the holdings of colonial administration files at Hanslope Park” and “to explain why relevant files from these holdings were not identified for the purposes of particular requests.”⁶² The Cary report, which will be analyzed in the subsequent chapter, ordered the FCO, among other things, to conduct a “full inventory” of their records specifying exactly what they held, where it was held, and who had access and responsibility.⁶³ In March 2011, Martin Tucker, Head of Corporate Records in the FCO, informed the High Court that the “stacks of Hanslope Park contained much more than just the Kenya files.”⁶⁴ Anderson argues that “No doubt realising that the release” of this information to the court “would eventually put these listings in the public domain, the British government took the decision to act on the matter.”⁶⁵

⁶⁰ Ibid., 709.

⁶¹ Ibid., 709.

⁶² Cary, “The Migrated Archives,” 1.

⁶³ Ibid., 15. It is important to the state that Cary’s report, completed in February 2011, although not made public until May 2011, made it abundantly clear that the “migrated archives” contained more than just records from colonial Kenya.

⁶⁴ Anderson, “Mau Mau in the High Court,” 712

⁶⁵ Ibid., 712.

On April 5, 2011, a day before the case at the High Court was slated to begin, Lord Howell of Guildford made a statement to the House of Lords, which publicly acknowledged that the British government held colonial records that it had not been transferred to TNA.⁶⁶ Lord Howell proclaimed that he wished to:

Inform the House that, as a result of searches in connection with a legal case brought by the Kenyan Mau Mau veterans against the Foreign and Commonwealth Office, the FCO has decided to regularize the position of some 2,000 boxes of files it currently holds, mainly from the 1950s and 1960s, which was created by former British Administrations overseas.⁶⁷

He continued that “the intention is to make as much of this material as possible available to the wider public.” He also asserted that the files “are the property of the UK government and have been classed as public records for the purposes of the Public Records Act 1958,” which would mean that they would eventually be transferred to TNA after a thorough review.⁶⁸ In all, Lord Howell of Guildford acknowledged that the FCO held “around 8,800 files from 37 former British Administrations.”⁶⁹ The British government, after decades of deceit and deception, finally admitted that it was in possession of a migrated colonial archive.

Richard Drayton, Rhodes Professor of Imperial History at Kings College London, argues that the only reason the British government admitted that it had a secret archive was because “it was forced by a judge in the High Court.” He continues that “this was

⁶⁶ Ibid., 712.

⁶⁷ Written Ministerial Statements, HL [House of Lords] Deb., 5 April 2011 vol, 726, c WS144, <https://publications.parliament.uk/pa/ld201011/ldhansrd/text/110405-wms0001.htm>.

⁶⁸ Ibid.

⁶⁹ Ibid.

having chosen previously to ‘ignore’ their existence” following several Freedom of Information requests in 2005 and 2006.”⁷⁰ The British press widely reported on the humiliating public admission. For instance, Ian Cobain and Peter Walker commented in *The Guardian* that:

A cache of government documents that shows the extent of the brutality employed by British authorities in an attempt to suppress the Mau Mau insurgency in Kenya has finally been made public almost half a century after it was spirited out of the country on the eve of independence. The papers disclose the depths to which the British authorities sank during the 1950s rebellion, and prove that ministers in London were briefed fully about the abuses that were being inflicted upon prisoners at the camps across the colony.⁷¹

The scandal was front page news for *The Times*, which led with the headline: “50 years later: Britain’s Kenya cover-up revealed.” The article referred “to a vast cache of documents relating to the allegations of systematic torture by British Colonial officials in the run up to independence . . . having been kept in secret government archives for decades.” The article continued that “the response to the Mau Mau uprising that began in 1952 was by any objective standards a side in this nation’s history . . . the cover up of those events could not last and needs now to be faced.”⁷² Finally, Dominic Casciani, BBC News Home Affairs correspondent, noted that the “migrated archives” only came to light after “years of investigations by academics . . . [And] were never made public in the

⁷⁰ Richard Drayton, “Britain’s Secret Archive of Decolonisation,” *History Workshop*, April 19, 2012,

<http://www.historyworkshop.org.uk/britains-secret-archive-of-decolonisation/>.

⁷¹ Ian Cobain and Peter Walker, “Secret memo gave guidelines on abuse of Mau Mau in 1950s,” *The Guardian*, April 12, 2011, <https://www.theguardian.com/world/2011/apr/11/mau-mau-high-court-foreign-office-documents>.

⁷² “Mau Mau claims case covered by Times,” Leigh Day, last modified April 6, 2011, <https://www.leighday.co.uk/News/2011/April-2011/Mau-Mau-claims-case-covered-by-Times>.

National Archives. Until weeks ago, they were in boxes at the Hanslope Park archive near Milton Keynes.”⁷³

Conclusion

After Lord Howell of Guildford’s speech to the House of Lords, the former Foreign Secretary, William Hague, told Parliament that “it is the right thing to do for the information in these files now to be properly examined and recorded and made available to the public through the national archives.”⁷⁴ He explained that this process would be overseen by a “senior and independent figure” and that an internal review would be forthcoming detailing “why the files had not already been dealt with in accordance with the Public Records Act 1958.”⁷⁵ The culture of government secrecy had been fully exposed to the public. The following chapter will examine the aftermath of the April 2011 High Court verdict, analyzing how the Mau Mau claimants eventually received an admission of responsibility and financial compensation from the government, how the existence of the “migrated archives” was interpreted by the academic community and general public, the results of the government inquiry into the “migrated archives,” the steps being taken to review the colonial records and transfer them to TNA, and finally, the “discovery” of even more irregularly held documents.

⁷³ Dominic Casciani, “British Mau Mau abuse papers revealed,” *BBC News*, April 12, 2011, <http://www.bbc.com/news/uk-13044974>.

The full response of the British pressed will be analyzed in the subsequent chapter. However, it is fair to say that left-leaning periodicals, in particular *The Guardian*, covered the case of the “migrated archives” with the greatest interest and detail.

⁷⁴ UK Government, “Foreign Office publishes review on release of colonial documents.”

⁷⁵ *Ibid.*

CHAPTER IV:
CONSEQUENCES OF CONCEALMENT, 2011-2018

Soon after the British government publicly acknowledged the existence of the “migrated archives,” they published the Cary report, an independent inquiry into the scandal, and announced that the colonial-era files would be deposited, subject to a sensitivity review, in the National Archives (TNA). Archival mismanagement was cited as the primary reason why the “migrated archives” were concealed and the Senior Independent reviewer, Anthony Badger, hailed the overall transfer process, which was completed at the end of 2013. Journalists and academics were less enthusiastic and viewed the procedure with caution. Their concerns regarding transparency and openness were heightened when it was revealed that the Foreign and Commonwealth Office (FCO) had hoarded hundreds of thousands of additional records. These records, known as the “non-standard” files, are still being reviewed and released and date back centuries. They contain information on a host of topics from the Atlantic slave trade to Cold War espionage. The case of the “migrated archives” and “non-standard” files illustrates the serious failings of British governmental departments and archival institutions, which are meant to safeguard the interests of a democratic society by making sure that public records are open and accessible in order to hold those in power to account. These archival scandals are emblematic of the culture of government secrecy, which has been pervasive in Britain for centuries. Moreover, rather than endure a prolonged legal battle in the High Court, the government announced that it would settle with Leigh Day and pay millions of pounds in compensation to victims who suffered abuse during the Mau Mau revolt in

colonial Kenya. The government, albeit reluctantly, took steps to address the sins of empire. Despite the transfer of the “migrated archives” from Hanslope Park to TNA, a legacy of distrust and suspicion continues to linger over the FCO.

The Cary Report

In May 2011, the Sir. Anthony Cary’s report was made public offering an explanation “into the circumstances surrounding the Colonial Administration files based at Hanslope Park.”¹ Cary was directed to ascertain why the Kenyan files had not been searched in accordance with Freedom of Information requests, assess “why the content of the Kenyan files (and the migrated archives as a whole) appear to have been unfamiliar to staff,” determine why uncertainty surrounding the ownership of the “migrated archives” had gone unresolved, and propose various recommendations to ensure that “similar failings do not reoccur in the future.”² First and foremost, the Cary report made it abundantly clear that members of staff at Hanslope Park were aware of the existence of the “migrated archives.” For instance, the report details how internal discussions took place in the 1980s, 1990s, and early 2000s about whether the “migrated archives” should be classified as public records under the terms of the Public Records Act 1958 (PRA) and who should assume responsibility for them. However, no firm action was ever taken and a decision about what to do was continuously delayed. For instance, one member of staff

¹ Anthony Cary, “The Migrated Archives: What Went Wrong and What Lessons Should We Draw?” (London: Foreign and Commonwealth Office, 2011), 22, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/625667/cary-report-release-colonial-administration-files.pdf.

² Ibid., 22.

noted an internal minute that “*We continue to have 2000 boxes of files gathering dust, some of the contents are of great interest, but which cannot be seen by researchers etc in case the cat is let out of the bag.*”³ Cary explains that he took this to mean “not that any particular dark secret would be exposed, but that it would emerge that the status of the archives had never been determined.”⁴ Regardless, this statement illustrates that FCO members of staff clearly knew that they were in possession of historically significant material, which should have either been processed or returned. In addition, another FCO member of staff commented that “*people tried to ignore the fact that we had them [the migrated archives] . . . we weren’t really supposed to have them . . . so it was best to ignore them for the purpose of requests.*”⁵ Archivist Glenn Dingwall stresses that “Neither ignorance or nor incompetence is a valid defense of one’s actions, or lack thereof.”⁶ He continues that archivists have an ethical and professional obligation to ensure that documentation is made readily available to the public so that government can be held to account. However, Dingwall acknowledges that a “lack of autonomy in exercising ethical decisions” can hamstring the pursuit of open-access.⁷ In the case of the

³ Ibid., 3. Cary uses the term “minute” rather than “memo.” In addition, no date is provided for this “minute.”

⁴ Ibid., 3.

⁵ Ibid., 12. One member of staff referred to the “migrated archives” as their “pet,” which is yet more evidence of the institutional attitude towards these sensitive documents. Cary commented that this member of staff saw the archives “like an esoteric hobby that others did not fully appreciate.”

Ibid., 11.

⁶ Glenn Dingwall, “Trusting Archivists: The Role of Archival Ethics Codes in Establishing Public Faith,” *The American Archivist* 67, no. 1 (spring-summer 2004): 30, <https://doi.org/10.17723/aarc.67.1.mw0914r2p52xx2t4>.

⁷ Ibid., 12.

“migrated archives” it is evident that staff did not vigorously assert, or exercise, their ethical and professional obligations.

Moreover, professor Anthony Badger, who served as the Senior Independent Reviewer to oversee the transfer of the “migrated archives” from the FCO to TNA expresses that there was a clear intention to conceal. At an FCO Records Day in 2014, an event for members of the academic community to learn more about FCO record-keeping practices and policies, he stated that:

The Migrated Archive had been deliberately created. The people who created and administered it knew what they had, they knew for a long time, and were determined that others should not know what they had. They went out of their way to ensure it stayed that way.⁸

There can be no doubt that FCO members of staff were acutely aware that they were in possession of sensitive colonial-era files, which had not been processed or consulted for Freedom of Information requests.

However, Cary did not charge FCO members of staff with actively conspiring to violate UK law or acting with malice to deceive the public. Rather, he cited archival mismanagement as the primary reason why the existence of the “migrated archives” was not revealed until 2011. Cary commented that “failure came about despite the best intentions of dedicated and professional staff at Hanslope Park.” He continued that “In the end, I judge that the fault was more with weak management and confusion over the

⁸ Foreign and Commonwealth Office, *FCO Records Day Outcome of Proceedings*, (2014), 13, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/477680/FCO_Records_Day_9_May_2014_Proceedings.pdf.

status and handling of the migrated archives over many years.”⁹ Senior officials appear to have been either absent from, or completely uninterested in, conversations surrounding the ownership of the “migrated archives” or their legal status. Cary argued that this “reflected a failure by successive senior managers to grip what should be seen to be an unresolved and potentially explosive problem.”¹⁰ Rather than devote adequate time and resources to confront the issue, the FCO hierarchy abided by the long-established code of secrecy ingrained within British governmental institutions.

The Cary report also criticized the lack of process documentation within Hanslope Park, which had hampered retrieval and allowed “a gradual degradation of collective memory” regarding the “migrated archives.”¹¹ Cary lamented the fact that there was so little information surrounding the provenance of the “migrated archives,” how the FCO had acquired it, what it contained, and who had conducted work on it. He continued that “there had been efforts over the years to overcome the general problem by preparing ‘desk notes’ on best retrieval practice and ‘finding aids’ for particular types of request, but they did not capture all of the knowledge that was possessed by individuals.”¹² However, Cary acknowledged that the lack of relevant documentation could only partially explain the failure to process the “migrated archives.” He commented that:

It was perhaps convenient to accept the assurances of predecessors that the migrated archives were administrative and/or ephemeral, and did not need to be consulted for the purposes of FoI requests, while also being conscious of the files as a sort of guilty secret, of uncertain status and in the ‘too difficult’ tray.¹³

⁹ Cary, “The Migrated Archives,” 14.

¹⁰ *Ibid.*, 5.

¹¹ *Ibid.*, 11.

¹² *Ibid.*, 11. Cary does not elaborate what he means by “particular types of request.”

¹³ *Ibid.*, 12.

While the Cary report adopted a relatively sympathetic stance towards the FCO, and was reluctant to apportion blame to any specific individuals, it did offer an array of recommendations that would help prevent a similar scandal from occurring in the future. The first recommendation was to “conduct a full inventory of what the FCO holds.”¹⁴ Cary continued that this review “should cover all buildings and all holdings, including loose papers and any remaining archives held at post. The migrated archives saga reminds us that we cannot turn a blind eye to any of our holdings.” It was imperative that this inventory was viewed as ““living document,’ kept up to date, so that we do not again lose track of the status or contents of our holdings.”¹⁵ The second recommendation directed the FCO, in coordination with TNA, to implement a “management plan establishing a tight review schedule” in order to determine the fate of the “migrated archives.”¹⁶ The review was to begin by conducting a “full selection review on the basis of which TNA will decide what papers it wants for the public record.” Cary continued that where “TNA does require papers (which now applies, it would seem, to the entire migrated archive) the files need to be reviewed for sensitivity, reacted/closed as necessary, prepared and listed for transfer to TNA.” In addition, where TNA “does not require papers, the FCO should either *continue to hold them . . . destroy* them, or – where it judges papers to be of historical interest – *sensitivity review* them before disposing of them elsewhere.”¹⁷ Cary also recommended that the FCO hire more staff to help carry out

¹⁴ Ibid., 15.

¹⁵ Ibid., 15.

¹⁶ Ibid., 15.

¹⁷ Ibid., 16.

the sensitivity review, invest in modern search technologies, incorporate the “migrated archives” into the main FCO archives, and formally train current members of staff “in the conduct of ‘reference interviews’ through which a customer’s information requirements can be elicited.”¹⁸ This last recommendation was aimed at ensuring Freedom of Information requests were adequately dealt with in the future. Archivists Wendy Duff and Allyson Fox argue that reference archivists “provide the sole link between users and records, and, therefore, perform a crucial role within archival institutions.”¹⁹

Sensitivity Review and Transfer

Due to the high-profile nature of the “migrated archives” the government declared that it would act upon most of the recommendations put forth by Sir. Anthony Cary in his report. In May 2011, William Hague, the then Foreign Secretary, addressing MPs in the House of Commons, stated that “I believe it is the right thing to do for the information in these files now to be properly examined and recorded and made available to the public through the National Archives.” He continued, “This will be taken forward rapidly . . . it is my intention to release every part of every paper of interest subject only to legal exemptions.”²⁰ In the interests of transparency and impartiality Hague appointed Anthony Badger, a Paul Mellon Professor of American History and Master of Clare College at the

¹⁸ Ibid., 16-19.

¹⁹ Wendy Duff and Allyson Fox, “‘You’re a Guide Rather than an Expert’: Archival Reference from an Archivist’s Point of View,” *The Journal of the Society of Archivists*, Vol. 27, No. 2 (October 2006): 130, <https://doi.org/10.1080/00379810601075943>.

²⁰ Written Ministerial Statements, HC [House of Commons] Deb., 5 May 2011, Vol. 527, c 24 WS, <https://publications.parliament.uk/pa/cm201011/cmhansrd/cm110505/wmstext/110505m0001.htm#11050548000007>.

University of Cambridge, to the role of Senior Independent Reviewer in order to oversee this process.²¹ It was anticipated that the review and transfer of the “migrated archives” would be completed by the end of 2012. Badger comments that the ambitious decision “to release all papers rather than appraise them for their interest was designed to allay suspicions of deliberate suppression of embarrassing material.”²² In order to adhere to the timeline for review and transfer, the FCO’s Information Management Group hired - and trained - six additional sensitivity reviewers. Moreover, the review of the “migrated archives” was given a higher priority over “the usual process of annual transfer of papers under the 30-year rule.”²³ Badger explains that “Given the scale of the task it was decided to prioritize the release of the papers from the four colonies which were likely to provoke most controversy: those from Malaya, The British Indian Ocean Territory (Diego Garcia), Cyprus, and Kenya.” After this material had been reviewed and transferred, which occurred on April 18th 2012, the “migrated archives” were worked through alphabetically by colony.²⁴

²¹ Written Ministerial Statements, HC [House of Commons] Deb., 27 Feb 2014 vol. 576, cc 25-26WS, <https://publications.parliament.uk/pa/cm201314/cmhansrd/cm140227/wmstext/140227m0001.htm#14022774000003>.

²² Anthony Badger, “Historians, a legacy of suspicion and the ‘migrated archives,’” *Small Wars & Insurgencies* 23, nos.4-5 (2012): 802, <https://doi.org/10.1080/09592318.2012.709761.9>

²³ *Ibid.*, 802. It is important to note that “In 2013 the government began its move towards releasing record when they are 20 years old, instead of 30.” “20-year rule,” The National Archives, accessed June 26, 2018, <http://www.nationalarchives.gov.uk/about/our-role/plans-policies-performance-and-projects/our-projects/20-year-rule/>.

²⁴ *Ibid.*, 802.

Conducting a review of sensitive documents is a complex task for any archivist who has to balance the interests of privacy and open-access. In the case of the “migrated archives” sensitivity reviewers were instructed to redact as little information as possible. Badger argues that “The bulk of the redactions came under Data Protection – medical records or appraisal records, for example, of civil servants – or the names of informers where they or their families might be at risk.” He continues that very “little [was] redacted under the exemptions for national security or international relations.”²⁵ In all it was estimated that “far less than 1%” of the material transferred to TNA would be redacted.²⁶ Once redactions had been made by the team of sensitivity reviewers the material was sent to the Lord Chancellor’s Advisory Council on National Records and Archives, under the chairmanship of the Master of the Rolls, to be further reviewed. This council is comprised of seventeen members, which include historians, former government servants, former diplomats, archival experts, genealogical experts, former governors of colonies, and digital information experts.²⁷ Dr. Jeevan Deol, a member of the council, stated that their primary role “deals with strategic issues in government and within TNA, including the structure and policies of records transfers.” In addition, the council “has sight of what government departments propose to do and of their plans for retention and release.”²⁸ In 2014, at an FCO Records Day, Deol explained the redaction process in greater detail to members of the academic community. He stressed that “Redaction is

²⁵ Ibid., 803. Badger was referencing the Cyprus files when making this claim.

²⁶ Ibid., 803.

²⁷ Foreign and Commonwealth Office, *FCO Records Day Outcome of Proceedings* (2014), 12, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/477680/FCO_Records_Day_9_May_2014_Proceedings.pdf.

²⁸ Ibid., 12.

done by balancing various elements of public interest with the overriding presumption of openness . . . but that does not mean that everything must or will be open all the time.” He continued that “There are others factors at play in public life, including privacy under British and European law. The privacy exemption is absolute: some information, for example, which might cause mental distress, should not be released.” Furthermore, Deol highlighted the importance of retaining material under structured public interest tests like the international relations exemption. He argued that this was “not about removing embarrassing information but about other important issues, say information received in confidence from another country or international body: to release this would prevent other bodies sharing information with the UK.”²⁹ Therefore, it is apparent that any material deemed appropriate for release and transfer by Anthony Badger and his team of sensitivity reviewers could be overruled, without appeal, by an unelected government body that claims to have the nation’s best interests in mind. Moreover, the council is not required to publicly disclose why material is being withheld from the public domain. While this is not unusual, it helps explain why so many academics and journalists have been skeptical of the FCO and the release process considering the British government’s poor track record on being forthright and transparent.

While numerous media outlets reported on the first transfer of colonial-era records from Hanslope Park to TNA *The Guardian*, a left-leaning broadsheet, covered it in the greatest detail. On April 17, 2012, a day before the first tranche of documents were made public, Caroline Elkins commented that “for certain we will learn much from these

²⁹ Ibid., 12.

new documents. However, to celebrate their release as a historic moment is to miss the underside of the story. Recent events, placed in their historical context, suggest that the FCO is hardly forthcoming.” She continued that “a full and candid release of the documents ‘found’ at Hanslope Park would require a complete turnaround in government practice.”³⁰ Moreover, Elkins argued that “overall release process itself has been startling, and reminiscent of the FCO’s behaviour of the Mau Mau case.” For instance, the FCO “initially asserted that the Hanslope Park records contained no ‘migrated archives’ from British Guiana, a colony where there had been intense British and American military and security intervention from 1953 to 1964.” Elkins continued that “this was and is frankly impossible, given that there were well-established procedures for handling archives at decolonization by the 1960s . . . warning bells should be going off.” Elkins concluded that:

The FCO continues to deny the existence of documents, slowly releases some, and culls others . . . a healthy dose of scepticism is crucial. If not – much like the benign decolonisation myth of yesteryear – we run the risk of overly applauding today’s document release and reinforcing the FCO’s myth of new-found transparency.³¹

On April 18, 2012, Ian Cobain and Richard Norton-Taylor wrote in *The Guardian*, that “many historians remain suspicious of the FCO and believe it may seek to retain some of its secret files.” They continued that:

Among the first papers transferred to Kew are a handful of files that show many of the British empire’s most sensitive and incriminating documentation was not hidden at Hanslope Park but simply destroyed – sometimes shredded,

³⁰ Caroline Elkins, “The colonial papers: FCO transparency is a carefully cultivated myth,” *The Guardian*, April 17, 2012, <https://www.theguardian.com/politics/2012/apr/18/colonial-papers-fco-transparency-myth>.

³¹ *Ibid.*

occasionally dumped at sea, but usually incinerated – as the British withdrew from one colony after another.³²

On the whole, journalists and contributors for *The Guardian* were extremely cautious about the release process and widely reported on the damning information contained within the records. For instance, Michael White commented that “the mistreatment of the 1,500 citizens of Diego Garcia, exiled in the 1960s . . . cannot be but a poignant story, heartlessly cruel and probably avoidable.” He continued that “again, the initial injustice and expediency has been compounded by secrecy and obstruction.”³³

Furthermore, during the review process the FCO announced that rather than 8,800 colonial files, as Lord Howell of Guildford had stated in April of 2011, they were actually in possession of just shy of 20,000 colonial files from thirty-seven former colonies and protectorates; a figure that would later increase to forty-one. Martin Tucker, Head of the FCO Archive Management Team, explained that this troubling increase was down to an inaccurate initial assessment. He argued that “The initial assessment of the ‘migrated archives’ files was based on an average number of five files in each box, which gave an estimated total of 8,800. In reality, some boxes contained up to thirty files.” He continued that “Some Malta and Singapore files held only one sheet of paper, so many files could be held in one box. On the other hand, some boxes might contain two volumes

³² Ian Cobain and Richard Norton-Jones, “Sins of colonialists lay concealed for decades in secret archive,” *The Guardian*, April 18, 2012, <https://www.theguardian.com/uk/2012/apr/18/sins-colonialists-concealed-secret-archive>.

³³ Michael White, “Colonial papers and the ugly legacy of empire,” *Politics* (blog), *The Guardian*, April 18, 2012, <https://www.theguardian.com/uk/blog/2012/apr/18/colonial-papers-ugly-legacy-empire>.

or files. Once we catalogued the files, the exact number became clear.”³⁴ This error is somewhat understandable; however, the British government’s failure to be transparent with how their initial assessment was conducted contributes to skepticism surrounding the “migrated archives.” Regardless, Badger maintains that the “FCO had done well . . . in the release of its records, but that in itself does not eliminate the legacy of mistrust.”³⁵ He also states that “I am satisfied in my own mind that the release of the migrated archives is a very conscientious and transparent process.”³⁶ However, a number of academics and journalists disagree. For instance, Mandy Banton argues that while FCO Record Day events indicate “that the FCO does take the matter seriously . . . I am not convinced that these have been very successful – it seems to me that they have been received with a good deal of cynicism.”³⁷ While this is anecdotal evidence it is nonetheless significant that the former Principal Records Specialist (Diplomatic and Colonial) at TNA and current Senior Research Fellow at the School of Advanced Study, University of London, holds such a dim view of the FCO’s attempt to appear transparent.³⁸ Nevertheless, as 2013 drew to a close the British government, in conjunction with TNA, confirmed that the bulk of the “migrated archives” had been transferred to Kew and were available for public inspection. The collection is titled “Foreign and Commonwealth Office and

³⁴ Foreign and Commonwealth Office, *FCO Records Day Outcome of Proceedings* (2014), 15, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/477680/FCO_Records_Day_9_May_2014_Proceedings.pdf.

³⁵ *Ibid.*, 14.

³⁶ Badger, “Historians,” 806.

³⁷ Mandy Banton, email message to author, June 5, 2017.

³⁸ “Dr. Mandy Banton,” Directory of Research and Expertise, Institute of Commonwealth Studies, School of Advanced Study, University of London, accessed June 13, 2018, <https://research.sas.ac.uk/institute-icws/fellow/169/dr-mandy-banton/>.

Predecessors: Records of Former Colonial Administration: Migrated Archives.” The records date from 1835 to 2012 and are arranged “alphabetically by the name of the territory whilst under British administration.” Finally, TNA states that the collection is comprised of 19,956 files and volumes.³⁹ After decades of deceit and concealment the “migrated archive” were now public records.

Settlement of the Mau Mau High Court Case

In the months prior to the completion of the review and release of the “migrated archives” to TNA, the government announced that they had agreed to settle the case brought before the High Court by Leigh Day. In June of 2013, *The Guardian* reported that Britain was to pay out £19.9 million “in costs and compensation to more than 5,000 elderly Kenyans who suffered torture and abuse during the Mau Mau uprising in the 1950s.”⁴⁰ In the House of Commons, Hague stated that ““We [Britain] understand the pain and the grief felt by those who were involved in the events of the emergency in Kenya. The British government recognizes that Kenyans were subjected to torture and other forms of ill-treatment at the hands of the colonial administration.”” He continued that ““The British government sincerely regrets that these abuses took place and that they marred Kenya’s progress to independence. Torture and ill-treatment are abhorrent

³⁹ “Foreign and Commonwealth Office and predecessors: Records of Former Colonial Administrations: Migrated Archives,” The National Archives, accessed April 24, 2018. <http://discovery.nationalarchives.gov.uk/details/r/C12269323>.

⁴⁰ Press Association, “UK to compensate Kenya’s Mau Mau Torture Victims,” *The Guardian*, June 6, 2013, <https://www.theguardian.com/world/2013/jun/06/uk-compensate-kenya-mau-mau-torture>.

violations of human dignity, which we unreservedly condemn.”⁴¹ It is important to stress that Hague was not offering an official apology for British imperialism; rather, he expressed regret over one specific aspect of it. Historian Tom Bentley has argued that this a common tactic employed by former imperial powers when accounting for past transgressions. Moreover, Bentley suggests that the action of disavowing colonial misdeeds provides the current government a chance to articulate its “liberal credentials,” and emphasize the need to move on.⁴² To underscore this point, Hague stressed that the compensation package was “full and final” and that Britain “would defend claims” brought from other former colonies.⁴³ Nevertheless, Ian Cobain argued that the settlement was a “historically significant moment, representing the first major compensation payment arising from official crimes as Britain withdrew from its empire.” He continued that it was also “the first government acknowledgment that such serious crimes were committed at that time.”⁴⁴ While the British government would not go so far as to admit guilt, they were willing to concede that their counter-insurgency response was flawed and heavy-handed, which was regrettable.

⁴¹ Ibid.

⁴² Tom Bentley, *Empires of Remorse: Narrative, Post-colonialism, and Apologies for Colonial Atrocities* (Abington-on-Thames: Routledge, 2015), 179-181.

⁴³ Alex Wessely, a “solicitor working with Martyn Day in the international department,” notes that “in June 2016 a trial commenced at the Royal Courts of Justice in the Strand before Mr Justice Stewart of some 27 test cases representing of some 40,000 Kenyans who allege they were mistreated during the Mau Mau insurgency period.” Wessely continues that “the case is being brought by Tandem Law and other firms. The trial continues and is listed to last well into 2018.” Alex Wessely, “The Mau Mau case – five years on,” *Leigh Day* (blog), October 6, 2017, <https://www.leighday.co.uk/Blog/October-2017/Kenyan-colonial-abuses-apology-five-years-on>.

⁴⁴ Ian Cobain, “Kenya: UK expresses regret over abuse as Mau Mau promised payout,” *The Guardian*, June 6, 2013, <https://www.theguardian.com/world/2013/jun/05/kenyan-mau-mau-payout-uk-regret-abuse>.

Furthermore, as part of the settlement the British government also committed to supporting “the construction of a memorial in the Kenyan capital, Nairobi, to the victims of torture and abuse during the colonial era.”⁴⁵ The United States Institute of Peace Working Group reports that memorialization is a “process that satisfies the desire to honor those who suffered or died during conflict and as a means to examine the past and address contemporary issues,” which can facilitate social reconstruction.⁴⁶ The non-partisan group is critical of past tribunals and truth commissions who have largely failed to recognize how memorialization is “an important tool of transitional justice initiatives.”⁴⁷ In September 2015, the memorial in Uhuru Park in Nairobi, Kenya, was unveiled to the public, which features a “statue of a fighter – complete with trademark dreadlocks and homemade rifle – being handed food by a woman supporter.”⁴⁸ According to Kenya’s *Daily Nation* the inscription repeats the 2013 statement from William Hague that “the British Government understands the pain and grievance felt . . . (and) recognises that Kenyans were subjected to torture and other forms of ill-treatment at the hands of the colonial administration.” The inscription continues that “the British government sincerely regrets that those abuses took place. Torture and ill-treatment are

⁴⁵ “Press Association, “UK to Compensate.”

⁴⁶ Judy Barsalou, and Victoria Baxter, *The Urge to Remember: The Role of Memorials in Social Reconstruction and Transitional Justice* (Washington D.C: United States Institute of Peace, 2007), 1-2, <https://www.usip.org/sites/default/files/srs5.pdf>.

⁴⁷ *Ibid.*, 2.

It is important to note that the process of memorialization is far more complex than this as it also depends heavily on the political context for each individual country and the power relations between those who carried out abuses and those who suffered them.

⁴⁸ Agence France-Presse, “British-backed Mau Mau Memorial Set to Open in Rare Colonial Apology,” *Gulf News*, September 11, 2015, <https://gulfnews.com/news/africa/kenya/british-backed-mau-mau-memorial-set-to-open-in-rare-colonial-apology-1.1582306>.

abhorrent violations of human dignity, which we unreservedly condemn.”⁴⁹ In addition, the *Gulf News* reported that although the project was a joint venture between the British Government, the Mau Mau Veterans Association, and the Kenyan Human Rights Commission the entire £90,000 “bill was paid by London.”⁵⁰

The FCO and the “non-standard” files

While the review and transfer of the “migrated archives” to TNA, as well as the settlement of the High Court, case marked the end of one high profile archival scandal another was waiting in the wings. In November 2012, the then Minister for Europe, Mr. David Lidington, informed the House of Commons that during the process of cataloging the “migrated archives” a “large accumulation of other material outside the FCO departmental file series” had been uncovered, much of which was “over 30-years-old and therefore due for review.” Lidington continued that “In keeping with this government’s commitment to transparency, we will be publishing a copy of the high-level inventory of these ‘special collections.’”⁵¹

⁴⁹ “Mau Mau memorial set to open in Nairobi’s Uhuru Park in rare colonial apology,” *Daily Nation*, September 11, 2015, <https://www.nation.co.ke/news/British-funded-Mau-Mau-memorial-set-to-open-Uhuru-Park/1056-2866564-ba2v9tz/index.html>.

⁵⁰ Agence France-Presse, “British-backed Mau Mau Memorial.”

⁵¹ Written Ministerial Statements, HC [House of Commons] Deb., 30 November 2012, vol. 554, c 36WS, <https://publications.parliament.uk/pa/cm201213/cmhansrd/cm121130/wmstext/121130m0001.htm#12113057000005>.

In May 2013, at an FCO Records Day, Martin Tucker, the Head of Archives, acknowledged that the FCO held around 250,000 files, in what was then called the “special collections,” which had not been processed.⁵² He stated that:

We use the term ‘special collections’ for those files which sit outside the FCO corporate file plan. That’s not to say, these files are not organized into the FCO’s standard filing structure. These are not standard files produced by FCO departments or by FCO posts, they tend to be more specialist in nature and come in a wider range of formats.⁵³

Tucker explained to the academic audience that the reason the FCO had such a large holding of “legacy” material was down to its inability to “review and release its records in line with the timescales required by the [British] legislation.”⁵⁴ The Head of Archives highlighted that the FCO had employed a specialist information management company to compile a thorough inventory, which would be published later in the year. Once the contents of the “special collection were known” the FCO would review and either release the files to TNA or retain them.⁵⁵ While these records were over thirty years old, and therefore should have been processed, Tucker explained that they were “in compliance with the Public Records Act under a legal instrument granted by the Lord Chancellor.”⁵⁶

The specialist information management company provided the FCO with “a total figure for the non-standard material of 1.2 million files.” This figure, which would later be reduced to 600,000, was reported to TNA, the Lord Chancellor’s Advisory Council,

⁵² Foreign and Commonwealth Office, *FCO Records: Policy & Practice* (July 2013), 12, https://issuu.com/fcohistorians/docs/fco_records_policy_and_practice.

⁵³ *Ibid.*, 19.

⁵⁴ *Ibid.*, 19.

⁵⁵ *Ibid.*, 19.

⁵⁶ *Ibid.*, 12.

and the government's website.⁵⁷ In response to the inventory, journalist Ian Cobain published an article in *The Guardian*, revealing that the FCO had “unlawfully hoarded more than a million files of historic documents that should have been declassified and handed over to the National Archives.”⁵⁸ Cobain explained that these records dated back centuries and detailed “British foreign relations throughout two world wars, the cold war, withdrawal from empire, and entry into the common market.”⁵⁹ Like the “migrated archives,” these records had not been treated as public records under the terms of the PRA. Drayton argued that this was not just a historical question but a matter of civic importance. In an opinion piece for *The Guardian*, he stressed that “Public archives are

⁵⁷ “FCO non-standard files,” UK Government, last modified August 2, 2017, <https://www.gov.uk/guidance/fco-non-standard-files>.

⁵⁸ Ian Cobain, “Foreign Office hoarding 1m historical files in secret archive,” *The Guardian*, October 18, 2013, <https://www.theguardian.com/politics/2013/oct/18/foreign-office-historic-files-secret-archive>. It appears that this figure was based on the inventory completed by the company commissioned by the FCO. Moreover, On October 6, 2013, Ian Cobain also reported that the Ministry of Defense (MoD) was also guilty of retaining material that should have been processed. He reported that the MoD “is unlawfully holding thousands of files that should have been declassified and transferred to the National Archive under the 30-year rule, including large numbers of documents about the conflict in Northern Ireland.” He continued that “66,000 separate files are being stored at an enormous warehouse operated by TNT Archive Services at Swadlincote . . . despite the department’s legal obligation to assess them for declassification once they are three decades old and either hand them to the archives at Kew . . . or publicly give a reason for keeping them classified.” One MoD archivist noted that the collection of records looked like “the final scene from *Raiders of the Lost Ark*.” Cobain stated that “the disclosure of the existence of the MoD stockpile echoes the admission by the Foreign Office in 2011 that a vast archive of its colonial-era documents had been concealed for decades at Hanslope Park.” In addition, while Cobain noted that “the MoD’s hidden archive dwarfs that of the Foreign Office . . . there is no evidence that the MoD – unlike the Foreign Office – has been deliberately holding back files that may contain politically embarrassing or legally hazardous material, or documents that could trigger litigation.” Ian Cobain, “Ministry of Defence holds 66,000 files in breach of 30-year rule,” *The Guardian*, October 6, 2013, <https://www.theguardian.com/uk-news/2013/oct/06/ministry-of-defence-files-archive>.

⁵⁹ Cobain, “Foreign Office hoarding.”

instruments through which democracies recognize their citizens' ownership of, and responsibility for, government." He continued that while all governments needed some degree of official secrecy "The archival practices of the British government seem partly animated by a desire to protect the reputations of the dead. More accurately, though, what is being protected are the sensitivities of the living." Drayton concluded that "the root of these practices of secrecy appears to be a perverse kind of historical narcissism, a desire for a Whiggish gaze to an unblemished national past that leads to our time."⁶⁰ In December of 2013, David Lidington told Parliament that "Plans to review and release this legacy material are under development and our aim is to prioritize material that is likely to be of greatest public interest and to release this over a six-year period, starting in 2014."⁶¹ Badger agreed to continue serving in his capacity as Senior Independent Reviewer in order to provide "rigorous and independent oversight" of the release program.⁶² In February of 2014, after a thorough internal review had been conducted, Hague proclaimed that the actual number of files within the "special collections" was about 600,000. The then Foreign Secretary explained that "the special collection files are

⁶⁰ Richard Drayton, "The Foreign Office secretly hoarded 1.2m files. It's historical narcissism," *The Guardian*, October 27, 2013, <https://www.theguardian.com/commentisfree/2013/oct/27/uk-foreign-office-secret-files>.

⁶¹ Written Ministerial Statements, HC [House of Commons] Deb., 12 December 2013 vol. 572, cc 55- 56WS, <https://publications.parliament.uk/pa/cm201314/cmhansrd/cm131212/wmstext/131212m0001.htm#13121259000008>.

⁶² *Ibid.*

outside the normal FCO filing sequence and many – but by no means all – contain records of historical value.”⁶³

On May 9, 2014, the FCO held their second Records Day event, which primarily focused on the review and release of the “special collections.” Appraisal and selection decisions would be aligned with the TNA collection policy, which had been revised in 2012. The four main criteria included: the “*principal policies and actions of the UK central and Welsh government; The structures and decision-making processed in government; The state’s interaction with the lives of its citizens; [and] The state’s interaction with the physical environment.*”⁶⁴ Records that fell into one of these categories would be given a high priority for release. They would then be sensitivity reviewed, page-by-page, submitted to the Lord Chancellor’s Advisory Council for approval, and then either released to TNA or retained. The FCO hoped that the all high priority files would be released by the end of 2019.⁶⁵ Examples of high priority records included colonial reports, Nazi persecution claim files, and records containing information on Burgess and Maclean.⁶⁶

⁶³ Written Ministerial Statements, HC [House of Commons] Deb., 27 Feb 2014, vol. 576, cc 25-26WS, <https://publications.parliament.uk/pa/cm201314/cmhansrd/cm140227/wmstext/140227m0001.htm#14022774000003>.

⁶⁴ Foreign and Commonwealth Office, *FCO Records Day Outcome of Proceedings* (London, May 2014), 10, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/477680/FCO_Records_Day_9_May_2014_Proceedings.pdf.

⁶⁵ *Ibid.*, 9.

⁶⁶ *Ibid.*, 10. Guy Burgess and Donald MacLean were “KGB spies who operated inside the Foreign Office and MI6.” Cobain, “Foreign Office hoarding.”

In May 2015, the FCO announced that they were dropping the term “special collections” as it was misleading. Tucker explained that “it is not an accurate description of the files” as the term is usually employed by academic libraries to “describe their collection of rare books and manuscripts.”⁶⁷ Henceforth, the FCO would use “non-standard” to refer to the accumulation of records that had not been released under the terms of the PRA. On this occasion, Tucker acknowledged it was “unavoidable that academics and the wider public would be suspicious of any assurances from the FCO about transparency and complete disclosure.”⁶⁸ For the first time, it seemed that a senior figure in the British governmental archival establishment accepted that there was a perceived culture of secrecy, which had wounded the reputation of FCO and government in general. Moreover, the FCO state that “following further audits of material managed by the FCO’s Archive Management Team, in 2015 we incorporated a further 18,778 files into the non-standard release programme.”⁶⁹ As of now, the FCO are still in the process of reviewing and releasing “non-standard” files. It remains to be seen how much is redacted and retained and whether they are in fact committed to transparency.

⁶⁷ Foreign and Commonwealth Office, *FCO Records Day Outcome of Proceedings* (2015), 6, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/479319/FCO_Records_Day_outcome_of_proceedings_final.pdf.

⁶⁸ *Ibid.*, 15.

⁶⁹ The FCO also announced that “our estimate of 600,000 ‘non-standard files does not include any non-standard files amongst the estimated 170,000 files in legacy record series held outside the main FCO archive. These additional records were identified during a records audit carried out in Autumn 2014.” “FCO non-standard files,” UK Government, last modified August 2, 2017, <https://www.gov.uk/guidance/fco-non-standard-files>.

Professional Archival Organizations and the “Migrated Archives”

The response of domestic professional archival organizations to the “migrated archives” scandal has been underwhelming. Thus far, it appears that only public statement from any professional archival organization with a British presence comes from the Association of Commonwealth Archivists and Records Managers (ACARM). In November 2017, at their annual general meeting in Mexico City, Mexico, ACARM adopted the position that “the migrated archives are the property of the countries from which they were removed . . . repatriation of the records is the legally and ethically correct course.” The organization implored its members to adhere to the ICA’s *Code of Ethics* (1996), which “states that ‘Archivists should cooperate in the repatriation of displaced archives.’” In addition, ACARM encouraged the British government to make more of the legal material relating to the Mau Mau High Court case available, which provided the basis for classifying the “migrated archives” as public records, and “demonstrate good will to the governments and peoples with which its history is intertwined by providing free digital copies of the records to the countries from which the records were removed.”⁷⁰ This last point is something that the FCO has refused to entertain. In 2016, at the fourth FCO Records Day it was explained to the audience that digitizing the contents of the “migrated archives” would be too expensive. According to Mandy Banton, despite the fact that a member of the audience “pointed out that countries

⁷⁰ Association of Commonwealth Archivists and Records Managers, ‘The ‘Migrated Archives,’ (November 2017), 1-4, <https://iaartsaa.files.wordpress.com/2017/12/acarm-position-paper-migrated-archives-adopted-20171125.pdf>.

in the developing world do not have resources. Robert Deane [FCO member of staff] was unmoved.”⁷¹

In 2017, the author of this paper asked both Anderson and Banton about the professional organizations that existed in Britain that enabled archivists and academics to raise concerns about public records violations and ensure that the government was held to account. Anderson noted that “TNA has a committee, but this has not provided an effective means to raise such concerns.” He continued that the “Royal Historical Society and the British Academy have both been reluctant to raise the issue with government. There is a serious lack of a body that can be active in this area.” This prominent historian, whose witness statement was crucial in the Mau Mau High Court case, was thoroughly disillusioned with the organizations and mechanisms in place to enhance transparency and ensure accountability. Moreover, Anderson stated that “historians are naïve to think that archivists are necessarily their friends . . . senior archivists have become nothing more than ‘records managers.’ There is no one to protect the system from manipulation and abuse.”⁷² Furthermore, Banton commented that “I am not aware that either the Royal Historical Society, the Historical Association or the Archives and Records Association (UK and Ireland) have shown much interest.”⁷³

⁷¹ This information comes from notes taken by Mandy Banton at the 2016 FCO Records Day. These notes were taken on May 13, 2016. Banton provided these notes to the author on June 5, 2017.

⁷² David M. Anderson, email message to author, May 26, 2017.

⁷³ Mandy Banton, email message to author, June 5, 2017.

Banton did acknowledge that the British Academy did express concerns over the “non-standard” files in 2014, however, she “did not know if that interest had been maintained.”

The lackluster response to the case of the “migrated archives” illustrates the need for professional archival organizations in Britain to adopt a more proactive role in condemning archival mismanagement, and, championing efforts to reform inefficient public record-keeping practices and policies. It is imperative that organizations explicitly denounce archival scandals like the “migrated archives” and provide the necessary support to archivists who have concerns about potential public records violations. Without directly referring to the “migrated archives,” the Archives and Records Association’s (UK and Ireland) revised code of ethics states, among other things, that “members should work towards finding mutually satisfactory solutions to questions concerning shared archival heritage and displaced archives, recognizing legal and ethical considerations.”⁷⁴ While this is an important start, the largest professional archival organization in the nation needs to do more to prevent future archival scandals. Randall Jimerson argues that “Having been entrusted with responsibly for keeping records, archivists have not only an interest in but also an obligation to ensure open access for the wider public good.”⁷⁵ In the United States, professional archival organizations seem to have been more willing to take public stances in pursuit of greater transparency and accountability. According to Jimerson, the Society of American Archivists (SAA) “has taken public positions opposing government secrecy, and it entered several lawsuits seeking to ensure open access to public records.” For instance, in 2005, “SAA joined numerous other organizations as a member of OpenTheGovernment.org, a watchdog for

⁷⁴ Archives and Records Association (UK and Ireland), “Code of Ethics,” (May 2018), 3, http://www.archives.org.uk/images/ARA_Documents/ARA_Code_Of_Ethics.pdf.

⁷⁵ Randall C. Jimerson, “Archives for All: Professional Responsibility and Social Justice,” *The American Archivist* 70, no. 2 (Fall-Winter 2007): 261, <https://doi.org/10.17723/aarc.70.2.5n20760751v643m7>.

unjustified secrecy and limited access to information about public officials and their actions.”⁷⁶ British archivists should follow the lead of their American counterparts and vigorously protest the culture of government secrecy. In addition, professional archival organizations in Britain should lobby Parliament to pass comprehensive public records reform, which would fundamentally alter how public records are managed by government departments, transferred to TNA, retained, and destroyed. The current arrangement is unsatisfactory and there needs to be more rigorous independent oversight to scrutinize internal public record-keeping practices and policies. Finally, professional archival organizations need to better educate the public about the important role archives play in democratic societies. In particular, how archives are essential institutions for ensuring those in positions of power are held accountable for their actions, securing justice, and increasing transparency. Greater public support would increase the chances of securing of meaningful reform. Archival mismanagement and the culture of government secrecy in Britain are issues that should concern all of society rather than just professional archivists.

⁷⁶ *Ibid.*, 261.

CONCLUSION

In sum, the case of the “migrated archives” is emblematic of Britain’s culture of government secrecy. The foundations of the archival scandal can be traced back to the early nineteenth-century with the creation of the Public Record Office (PRO). The non-ministerial government department lacked authority, implemented inefficient and inconsistent record-keeping practices and policies, and, ensured that those in position of power had considerable discretion over what public records were destroyed or deposited in the national repository. While these concerns were highlighted, most notably by an early twentieth-century Royal Commission on the state of public records, the British government resisted reform. They refused the opportunity to pass robust public records legislation and change the administrative structure of the PRO. The government’s lack of commitment to openness, transparency, and accountability can be further seen in the passage of the Official Secrets Act 1911. Moreover, a combination of factors, including a lack of financial and administrative support from the metropole, meant that colonial record-keeping practices and policies were ad-hoc, localized, and inefficient. As Britain entered the Second World War, British public record-keeping practices and policies, which had been widely adopted around the world, started to lose their prestige.

During the period of decolonization, in line with the culture of government secrecy, the British destroyed and/or covertly removed tens of thousands of records from across the Empire. Informal and ad-hoc policies that developed in Ceylon were codified

in the Gold Coast before becoming more formalized in Uganda and Kenya.¹ While the method of destruction and/or removal differed from colony to colony, the metropole was involved in the process. It was made clear that records with the potential to embarrass Her Majesty's government or damage the reputation of empire were not to be left for the independent government. Moreover, it is important to recognize that the widespread destruction and/or removal of colonial records occurred at a time when the British government was reforming the state of public records. The Public Records Act 1958 (PRA), amended in 1967, defined what constituted a public record, and, the procedures for review and release. However, while the British government was publicly championing openness, behind closed doors they were hoarding tens of thousands of colonial-era records in government repositories. For decades, these records, known as the "migrated archives," went unprocessed and were unavailable to the general public. While internal debates raged about what to do with the "migrated archives," and, whether they were in fact public records, the British government consistently misled foreign governments and archivists inquiring about material housed in the UK and refused to cooperate with international organizations committed to returning colonial records to their country of origin. The FCO knew that a firm decision about what to do with the "migrated archives" needed to be made yet they failed to act. Archival mismanagement and inefficiency masked the legacy of Empire and contributed to the culture of government secrecy. At the dawn of the millennium, the British government heralded in a new age of openness and transparency with the Freedom of Information Act. However, in

¹ Shohei Sato, "'Operation Legacy': Britain's Destruction and Concealment of Colonial Records Worldwide," *The Journal of Imperial and Commonwealth History* 45, no. 4 (2017): 712, <https://doi.org/10.1080/03086534.2017.1294256>.

private, they continued to conceal a trove of colonial-era records. They were deliberately inhibiting open-access and depriving the public of the opportunity to hold the government to account.

However, this situation changed dramatically during the first decade of the twentieth-century. The Kenyan Human Rights Commission (KHRC), the British law firm Leigh Day, and several prominent academics, worked tirelessly to force the government to admit they were hoarding valuable records, which would prove their liability for colonial atrocities committed during the Mau Mau revolt. Alarmed by the archival silences in London and Nairobi, this coalition pursued a lengthy legal battle, which ultimately resulted in the High Court forcing the government to acknowledge the existence of the “migrated archives.” This damning admission sparked further inquiry into British public-record keeping practices and policies, and it was later revealed that the FCO held another collection of some 600,000 records, known as the “non-standard” files, which had not processed under the PRA. These scandals clearly demonstrate that archival secrecy, mismanagement, and incompetency, was not an isolated event. Rather, it is an endemic problem within British government departments and institutions that needs to be addressed.

The case of the “migrated archives” illustrates how crucial records are in order to hold those in positions of power to account. Richard Cox and David Wallace argue that “records are not only artifacts for use by historians and genealogists but that they are also essential sources of evidence and information providing the glue that holds together, and sometimes the agent that unravels, organizations, governments, communities, and

societies.”² They continue that “It is records’ power as sources of accountability that is for us their most salient feature, a feature that often bring them into daily headlines or into the courtroom.”³ The importance of efficient public record-keeping cannot be overstated. If the culture of government secrecy is not proactively dismantled in Britain then those in power will continue to deny the subjugated and oppressed the opportunity to redress their grievances.

Furthermore, the case of the “migrated archives” raises the debate over whether archivists should engage in activism. It could be argued that if FCO members of staff had more rigorously pressed senior management over the issue or voiced their concerns about the unprocessed collection to other government agencies, independent organizations, or the press, then the “migrated archives” might have come to light earlier. Randall Jimerson argues that “archivists and records managers must be willing to become whistleblowers, speaking out against abuses of power or efforts to manipulate records or limit access to information.”⁴ However, speaking out against one of largest and most important departments within the British government is a daunting prospect. Mandy Banton notes that while archivists “may have a personal interest in advocacy/activism . . . such matters will not form part of their job descriptions and (with some exceptions of course) they are unlikely to find time to pursue such matters in the face of a lack of

² Richard J. Cox, and David A. Wallace, introduction to *Archives and the Public Good: Accountability and Records in the Modern Society*, ed. Richard J. Cox and David A. Wallace (Connecticut: Quorum Books, 2002), 1.

³ *Ibid.*, 4.

⁴ Randall C. Jimerson, “Archives for All: Professional Responsibility and Social Justice,” *The American Archivist* 70, no. 2 (Fall-Winter, 2007): 274, <https://doi.org/10.17723/aarc.70.2.5n20760751v643m7>.

encouragement – and maybe downright opposition – from their management.”⁵ The lack of professional archival organizations willing to raise concerns about public records violations and ensure that the government is held to account is troubling and something that needs to be addressed. While Mark Greene has some reservations about Jimerson’s arguments for archival activism, he notes that “to blow a whistle is a decision with which every individual, regardless of profession, must wrestle.”⁶ In a recent article, Greene agreed with an anonymous peer reviewer who commented that the archival profession should “celebrate that courageous behavior when it’s displayed effectively.”⁷ However, he argues that “pursuing ‘social justice,’ as high minded and universal an aspiration as it may sound, risks overly politicizing and ultimately damaging the archival profession.”⁸ While engaging in professional activism is far from straightforward it is something that British archivists should more readily pursue.

In conclusion, professional archival organizations and archivists in Britain need to reflect on these scandals and be more proactive in leading the charge to reform public-record keeping practices and policies. Government departments cannot continue to have so much control over the records in their possession if Britain truly claims to be an open and democratic society. Some form of independent oversight is imperative to prevent future public records abuses. While the culture of government secrecy has existed for centuries, hopefully, these scandals will lay the foundations for a new culture of

⁵ Mandy Banton, email message to author, June 5, 2017.

⁶ Mark A. Greene, “A Critique of Social Justice as an Archival Imperative: What Is It We’re Doing That’s All That Important?” *The American Archivist* 76, no. 2 (Fall-Winter 2013): 322-323, <https://doi.org/10.17723/aarc.76.2.147441214663kw43>.

⁷ *Ibid.*, 324.

⁸ *Ibid.*, 303.

openness, accountability, and transparency. In a nation that gave birth to so many liberal values and ideals the state should not be so mysterious.

BIBLIOGRAPHY

PRIMARY SOURCES

- Abumrad, Jab and Robert Krulwich. "Mau Mau." Produced by WNYC. *Radiolab*. July 2, 2015. Podcast, MP3 audio, 35:10. Accessed June 19, 2018.
<http://www.radiolab.org/story/mau-mau/>.
- Agence France-Presse. "British-backed Mau Mau Memorial Set to Open in Rare Colonial Apology." *Gulf News*. September 11, 2015.
<https://gulfnews.com/news/africa/kenya/british-backed-mau-mau-memorial-set-to-open-in-rare-colonial-apology-1.1582306>.
- Archives and Records Association (UK and Ireland). "Code of Ethics." May 9, 2018.
http://www.archives.org.uk/images/ARA_Documents/ARA_Code_Of_Ethics.pdf.
- Association of Commonwealth Archivists and Records Managers. The 'Migrated Archives.' November 2017.
<https://docs.google.com/viewer?a=v&pid=forums&srcid=MDY2NzI1MzQxMjM5OTQzMzA5NTkBMTEzNjc5ODYzMzgzNzA0NTUxMzEBX05icWpBc3FDQUFKATAuMS4xMQF2Mg&authuser=0>.
- Cary, Anthony. "The Migrated Archives: What Went Wrong and What Lessons Should We Draw?" London: Foreign and Commonwealth Office, 2011. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/625667/cary-report-release-colonial-administration-files.pdf.
- Casciani, Dominic. "British Mau Mau abuse papers revealed." *BBC News*. April 12, 2011. <http://www.bbc.com/news/uk-13044974>.
- Cobain, Ian. "Foreign Office hoarding 1m historical files in secret archive." *The Guardian*. October 18, 2013.
<https://www.theguardian.com/politics/2013/oct/18/foreign-office-historic-files-secret-archive>.
- . "Kenya: UK expresses regret over abuse as Mau Mau promised payout." *The Guardian*. June 6, 2013.
<https://www.theguardian.com/world/2013/jun/05/kenyan-mau-mau-payout-uk-regret-abuse>.

- . "Ministry of Defence holds 66,000 files in breach of 30-year rule." *The Guardian*. October 6, 2013. <https://www.theguardian.com/uk-news/2013/oct/06/ministry-of-defence-files-archive>.
- , and Peter Walker. "Secret memo gave guidelines on abuse of Mau Mau in 1950s." *The Guardian*. April 11, 2011. <https://www.theguardian.com/world/2011/apr/11/mau-mau-high-court-foreign-office-documents>.
- , and Richard Norton-Jones. "Sins of colonialists lay concealed for decades in secret archive." *The Guardian*. April 18, 2012. <https://www.theguardian.com/uk/2012/apr/18/sins-colonialists-concealed-secret-archive>
- Drayton, Richard. "Britain's Secret Archive of Decolonisation." *History Workshop*. April 19, 2012. <http://www.historyworkshop.org.uk/britains-secret-archive-of-decolonisation/>.
- . "The Foreign Office secretly hoarded 1.2 million files. It's historical narcissism." *The Guardian*. October 27, 2013. <https://www.theguardian.com/commentisfree/2013/oct/27/uk-foreign-office-secret-files>.
- Elkins, Caroline. "The colonial papers: FCO transparency is a carefully cultivated myth." *The Guardian*. April 17, 2012. <https://www.theguardian.com/politics/2012/apr/18/colonial-papers-fco-transparency-myth>.
- Foreign and Commonwealth Office. *FCO Records: Policy & Practice*. July 2013. https://issuu.com/fcohistorians/docs/fco_records_policy_and_practice.
- Foreign and Commonwealth Office. *FCO Records Day Outcome of Proceedings*. 2014. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/477680/FCO_Records_Day_9_May_2014_Proceedings.pdf.
- Foreign and Commonwealth Office. *FCO Records Day Outcome of Proceedings*. 2015. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/477680/FCO_Records_Day_9_May_2014_Proceedings.pdf.
- High Court of Justice, Queen's Bench Division, Claim No: HQ09X02666: Witness Statement of David Anderson, 21 December 2010. <https://www.leighday.co.uk/LeighDay/media/LeighDay/documents/Mau%20Mau/Historian%20witness%20statements/David-Anderson-Statement--Final-.pdf?ext=.pdf>.

- House of Lords Debate. HL Deb. 16 December 1957. Vol 206, cc. 1147-81.
<https://api.parliament.uk/historic-hansard/lords/1957/dec/16/public-records-bill-hl>.
- “Mau Mau memorial set to open in Nairobi’s Uhuru Park in rare colonial apology.” *Daily Nation*. September 11, 2015. <https://www.nation.co.ke/news/British-funded-Mau-Mau-memorial-set-to-open-Uhuru-Park/1056-2866564-ba2v9tz/index.html>.
- Press Association. “UK to compensate Kenya’s Mau Mau Torture Victims.” *The Guardian*, June 6, 2013. <https://www.theguardian.com/world/2013/jun/06/uk-compensate-kenya-mau-mau-torture>.
- The National Archives. “Catalogue Description – Foreign and Commonwealth Office and predecessors: Records of Former Colonial Administrations: Migrated Archives. Accessed April 24, 2018.
<http://discovery.nationalarchives.gov.uk/details/r/C12269323>.
- UK Government. “Foreign Office Publishes Review on Release of Colonial Documents.” Last modified May 5, 2011. <https://www.gov.uk/government/news/foreign-office-publishes-review-on-release-of-colonial-documents>.
- UK Government. “FCO non-standard files.” Last modified August 2, 2017.
<https://www.gov.uk/guidance/fco-non-standard-files>.
- UK Legislation. The Public Records Act 1958. 6 & 7 Eliz 2, c. 51.
http://www.legislation.gov.uk/ukpga/1958/51/pdfs/ukpga_19580051_en.pdf.
- United Kingdom. Royal Commission on Public Records Appointed to Inquire into and Report on the State of Public Records and Local Records of a Public Nature in England and Wales. *First Report of the Royal Commission on Public Records Appointed to Inquire into and Report on the State of the Public Records and Local Records of a Public Nature of England and Wales. Volume I, Part I*. London: His Majesty’s Stationary Office, 1912.
<https://babel.hathitrust.org/cgi/pt?id=uc1.c2741669;view=1up;seq=11>.
- United Kingdom. Royal Commission on Public Records Appointed to Inquire into and Report on the State of Public Records and Local Records of a Public Nature in England and Wales. *Second Report of the Royal Commission on Public Records Appointed to Inquire into and Report on the State of the Public Records and Local Records of a Public Nature of England and Wales. Volume II, Part I*. London: His Majesty’s Stationary Office, 1914.
<https://babel.hathitrust.org/cgi/pt?id=umn.31951d02050270g;view=1up;seq=9>.

Wessely, Alex. "The Mau Mau case – five years on." *Leigh Day* (blog). October 6, 2017. <https://www.leighday.co.uk/Blog/October-2017/Kenyan-colonial-abuses-apology-five-years-on>.

White, Michael. "Colonial papers and the ugly legacy of empire." *Politics* (blog). *The Guardian*. April 18, 2018. <https://www.theguardian.com/uk/2012/apr/18/sins-colonialists-concealed-secret-archive>.

Written Ministerial Statements. HL Deb. 5 April 2011. Vol 726, c. WS144. <https://publications.parliament.uk/pa/ld201011/ldhansrd/text/110405-wms0001.htm>.

Written Ministerial Statements. HC Deb. 5 May 2011. Vol 527, c. 24WS. <https://publications.parliament.uk/pa/cm201011/cmhansrd/cm110505/wmstext/110505m0001.htm#11050548000007>.

Written Ministerial Statements. HC Deb. 30 November 2012. Vol 554, c. 36WS. <https://publications.parliament.uk/pa/cm201213/cmhansrd/cm121130/wmstext/121130m0001.htm#12113057000005>.

Written Ministerial Statements. HC Deb. 12 December 2013. Vol 572, cc. 55- 56WS. <https://publications.parliament.uk/pa/cm201314/cmhansrd/cm131212/wmstext/131212m0001.htm#13121259000008>.

Written Ministerial Statements. HC Deb. 27 Feb 2014. Vol 576, cc. 25-26WS. <https://publications.parliament.uk/pa/cm201314/cmhansrd/cm140227/wmstext/140227m0001.htm#14022774000003>.

SECONDARY SOURCES

Alao, Abiodun. *Mau Mau Warrior*. Oxford: Osprey Publishing, 2006.

Alexander, Phillip, and Elizabeth Pessek. "Archives in Emerging Nations: The Anglophone Experience." *The American Archivists* 51, no. 1/2 (Winter-Spring 1998): 120-132. <http://www.jstor.org/stable/40293205>.

Anderson, David M. "Guilty Secrets: Deceit, Denial, and the Discovery of Kenya's Migrated Archive." *History Workshop Journal* 80, no. 1 (2015):142-160. <https://doi.org/10.1093/hwj/dbv027>.

---. *Histories of the Hanged: The Dirty War in Kenya and the End of Empire*. New York: W. W. Norton and Company, 2005.

- . "Mau Mau in the High Court and the 'Lost' British Empire Archives: Colonial Conspiracy or Bureaucratic Bungle?" *The Journal of Imperial and Commonwealth History* 39, no. 5 (2011): 699-716.
<https://doi.org/10.1080/03086534.2011.629082>.
- Badger, Anthony. "Historians, a Legacy of Suspicion and the 'Migrated Archives.'" *Small Wars & Insurgencies* 23, nos.4-5 (2012): 799-807.
<https://doi.org/10.1080/09592318.2012.709761>.
- Bailkin, Jordanna. "Where did the Empire Go? Archives and Decolonization in Britain." *The American Historical Review* 120, no. 3 (2015): 884-899.
<https://doi.org/10.1093/ahr/120.3.884>.
- Baker, Kathryn Hammond. "The Business of Government and the Future of Government Archives." *The American Archivist* 60, no. 2 (Spring 1997): 234-252.
<https://doi.org/10.17723/aarc.60.2.p728118660482531>.
- Banton, Mandy. "Destroy? 'Migrate'? Conceal? British Strategies for the Disposal of Sensitive Records of Colonial Administrations at Independence." *The Journal of Imperial and Commonwealth History* 40, no. 2 (2012): 321-335.
<https://doi.org/10.1080/03086534.2012.697622>.
- . "Record-keeping for Good Governance and Accountability in the Colonial Office: An Historical Sketch." In *Integrity in Government Through Record Management: Essays in Honour of Anne Thurston*, edited by James Lowry and Justus Wamukoya, 73-84. Abington-on-Thames: Routledge, 2016.
- Barsalou, Judy, and Victoria Baxter. *The Urge to Remember: The Role of Memorials in Social Reconstruction and Transitional Justice*. Washington D.C: United States Institute of Peace, 2007. <https://www.usip.org/sites/default/files/srs5.pdf>.
- Bayley, Christopher, ed. *Atlas of the British Empire: The Rise and Fall of the Greatest Empire the World Has Known*. New York: Facts on File Inc, 1989.
- Bentley, Tom. *Empires of Remorse: Narrative, Post-colonialism, and Apologies for Colonial Atrocities*. Abingdon-on-Thames: Routledge, 2015.
- Birrell, Derek, and Ann Marie Gray. *Delivering Social Welfare: Governance and Service Position in the UK*. Bristol: Policy Press, 2017.
- Brendon, Piers. *The Decline and Fall of the British Empire, 1781-1997*. New York: Alfred A. Knopf, 2007.

- Burnet, David. "Freedom of Speech, the Media and the Law." In *Ethical Issues in Journalism and the Media*, edited by Andrew Besley and Ruth Chadwich, 49-61. London: Routledge, 1992.
- Burnham, Peter, Karin Gilland Lutz, Wyn Grant, and Zig Layton-Henry. *Research Methods in Politics*. New York: Palgrave Macmillan, 2008.
- Butler, L. J., and Anthony Gorst. "Public Records." In *Modern British History: A Guide to Study and Research*, edited by Lawrence Butler and Anthony Gorst, 33-47. London: I. B. Tauris Publishers, 1997.
- Carpenter, Ted. *The Captive Press: Foreign Policy Crises and the First Amendment*. Washington D.C: The Cato Institute, 1995.
- Clough, Marshall S. *Mau Mau Memoirs: History, Memory and Politics*. Colorado: Lynne Rienner, 1998.
- Cobain, Ian. *The History of Thieves: Secrets, Lies and the Shaping of a Modern Nation*. London: Portobello Books, 2016.
- Cook, Terry. "What is Past is Prologue: A History of Archival Ideas Since 1898, and the Future Paradigm Shift." *Archivaria* 43 (Spring 1997): 17-63.
<https://archivaria.ca/index.php/archivaria/article/view/12175/13184>.
- , and Joan Schwartz. "Archives, Records, and Power: From (Postmodern) Theory to (Archival) Performance." *Archival Science* 2, nos. 3-4 (2002): 171-185.
<http://www.nyu.edu/pages/classes/bkg/methods/cook.pdf>.
- Coppel, Philip. *Information Rights: Law and Practice*, 4th ed. Oregon: Hart Publishing, 2014.
- Cox, Richard J. "Archives." In *Encyclopedia of Library History*, edited by Wayne A. Wiegand and Donald G. Davis, Jr., 39-43. Abington-on-Thames: Routledge, 2013.
- , and David A. Wallace. Introduction to *Archives and the Public Good: Accountability and Records in the Modern Society*, 1-18, edited by Richard J. Cox and David A. Wallace. Connecticut: Quorum Books, 2002.
- Darwin, John. *Britain and Decolonisation: The Retreat from Empire in the Post-War World*. Hampshire: MacMillan, 1988.
- Dingwall, Glenn. "Trusting Archivists: The Role of Archival Ethics Codes in Establishing Public Faith." *The American Archivist* 67, no. 1 (Spring-Summer 2004): 11-30. <https://doi.org/10.17723/aarc.67.1.mw0914r2p52xx2t4>.

- Directory of Research and Expertise, Institute of Commonwealth Studies, School of Advanced Study, University of London. "Dr. Mandy Banton." Accessed June 13, 2018. <https://research.sas.ac.uk/institute-icws/fellow/169/dr-mandy-banton/>.
- Drohan, Brian. *Brutality in an Age of Human Rights: Activism and Counterinsurgency at the End of the British Empire*. New York: Cornell University Press, 2018.
- Duff, Wendy, and Allyson Fox. "'You're a Guide Rather than an Expert': Archival Reference from an Archivist's Point of View." *Journal of the Society of Archivists* 27, no. 2 (October 2006): 129-153. <https://doi.org/10.1080/00379810601075943>.
- Georgehallides, G. S. "The Management of Public Records under the British Colonial Administration in Cyprus." *The International History Review* 7, no. 4 (1985): 622-629. <http://www.jstor.org/stable/40105537>.
- Gillespie, Alisdair A., and Siobhan Weare. *The English Legal System*, 6th ed. Oxford: Oxford University Press, 2017.
- Greene, Mark A. "A Critique of Social Justice as an Archival Imperative: What Is It We're Doing That's All That Important?" *The American Archivist* 76, no. 2 (Fall-Winter 2013): 302-334. <https://doi.org/10.17723/aarc.76.2.147441214663kw43>.
- Elkins, Caroline. *Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya*. New York: Henry Holt and Company, 2005.
- . "Looking beyond Mau Mau: Archiving Violence in the Era of Decolonization." *The American Historical Review* 120, no. 3 (2015): 852-868. <https://doi.org/10.1093/ahr/120.3.852>.
- Ellis, Roger. "Jenkinson, Sir Hilary." In *World Encyclopedia of Library and Information Sciences*, 3rd ed., edited by Robert Wedgeworth, 412-414. Chicago: American Library Association, 1993.
- Engelhart, Katie. "Rule Britannia: Empire on Trial." *World Policy Journal* 29, no. 4 (Winter 2012-2013): 94-105. <http://www.jstor.org/stable/i23326701>.
- Fremont-Barnes, Gregory, ed. *A History of Counterinsurgency: Volume 1, From South Africa to Algeria, 1900 to 1954*. California: ABC-CLIO, 2015.
- Hampshire, Edward. "'Apply the Flame more Searingly': The Destruction and Migration of the Archives of British Colonial Administration: A Southeast Asia Case Study." *The Journal of Imperial and Commonwealth History* 41, no. 2 (2013): 334-352. <https://doi.org/10.1080/03086534.2013.799349>.

- Holmes, Colin. "Government Files and Privileged Access." *Social History* 6, no. 3 (1981): 333-350. <http://www.jstor.org/stable/4285106>.
- James, Lawrence. *The Rise and Fall of the British Empire*. New York: St. Martin's Press, 1994.
- Jimerson, Randall C. "Archives for All: Professional Responsibility and Social Justice." *The American Archivist* 70, no. 2 (Fall-Winter 2007): 252-281. <https://doi.org/10.17723/aarc.70.2.5n20760751v643m7>.
- Jones, Seth. *Waging Insurgent Warfare: Lessons from the Vietcong to Islamic State*. Oxford: Oxford University Press, 2016.
- Ketelaar, Eric. "The Panoptical Archive." In *Archives, Documentation, and Institutions of Social Memory. Essays from the Sawyer Seminar*, edited by Francis X. Blouin and William G. Rosenberg, 144-150. Ann Arbor: The University of Michigan Press, 2006.
- Levine, Philippa. *The Amateur and the Professional: Antiquarians, Historians and Archaeologists in Victorian England, 1838-1886*. Cambridge: Cambridge University Press, 1986.
- . *The British Empire: Sunrise to Sunset*, 2nd ed. Abingdon-on-Thames: Routledge, 2013.
- Maer, Lucinda, and Oonagh Gay. *Official Secrecy*. House of Commons Library Standard Note 02023. December 30, 2008. <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN02023#fullreport>
- Maurice, Frankel. "The Blair Memoirs and FOI." Campaign for Freedom of Information. October 6, 2010. <https://www.cfoi.org.uk/2010/10/the-blair-memoirs-and-foi-2/>.
- Maxon, Robert M. "Kenya: East African Protectorate and the Uganda Railway." In *Encyclopedia of African History, Volumes 1-3*, edited by Kevin Shillington, 745-746. New York: Fitzroy Dearborn, 2005.
- , Maxon, Robert M, and Thomas P. Ofcansky. *Historical Dictionary of Kenya*, 3rd ed. Maryland: Rowan & Littlefield, 2014.
- Moran, Christopher. *Classified: Secrecy and the State in Modern Britain*. Cambridge: Cambridge University Press, 2013.

- Moses-Peace, Richard. *A Glossary of Archival Records and Terminology*. Chicago: The Society of American Archivists, 2005. <http://files.archivists.org/pubs/free/SAA-Glossary-2005.pdf>.
- Naylor, John F. *A Man and an Institution: Sir Maurice Hankey, the Cabinet Secretariat and the Custody of the Cabinet Secretary*. Cambridge: Cambridge University Press, 1984.
- Newsinger, John. "Revolt and Repression in Kenya: The "Mau Mau" Rebellion, 1952-1960." *Science & Society* 45, no. 2 (Summer 1981): 159-185. <http://www.jstor.org/stable/40402312>.
- Özdemir, Lâle. "The National Archives and the Lord Chancellor's Advisory Council on National Records and Archives in the Freedom of Information Era." *Journal of the Society of Archivists* 30, no. 2 (2009): 137-145. <https://doi.org/10.1080/00379810903444961>.
- Phillips, David. "The Migrated Archives and a Forgotten Corner of Empire: The British Borneo Territories." *The Journal of Imperial and Commonwealth History* 44, no. 6 (2016): 1001-1019. <https://doi.org/10.1080/03086534.2016.1251557>.
- Rasmussen, Hans C. "Records Management and the Decline of the English Archival Establishment, 1949-1956." *Libraries & the Cultural Record* 45, no. 4 (2010): 442-468. <http://www.jstor.org/stable/25750365>.
- "Royal Commissions." *BBC News*. Last modified October, 27 2008. http://news.bbc.co.uk/2/hi/uk_news/politics/258957.stm.
- Rupke, Nicolaas. Preface to *Science, Politics, and the Public Good: Essays in Honor of Margaret Gowing*, edited by Nicolaas Rupke, ix-xii. Hampshire: Palgrave Macmillan, 1988.
- Robyns, Marcus C. *Using Functional Analysis in Archival Appraisal: A Practical and Effective Alternative to Traditional Appraisal Methodologies*. Maryland: Roman & Littlefield, 2014.
- Saint-Amour, Paul. *Tense Future: Modernism, Total War, Encyclopedia Form*. Oxford: Oxford University Press, 2015.
- Sato, Shohei. "'Operation Legacy': Britain's Destruction and Concealment of Colonial Records Worldwide," *The Journal of Imperial and Commonwealth History* 45, no. 4 (2017): 697-719. <https://doi.org/10.1080/03086534.2017.1294256>.

- Sayer, Geoff. *Kenya: Promised Land?* Oxford: Oxfam, 1998.
- Shepherd, Elizabeth. *Archives and Archivists in 20th Century England*. Abington-on-Thames: Routledge, 2016.
- . "Towards Professionalism? Archives and Archivists in England in the 20th Century." PhD diss., University College London, 2004.
<http://discovery.ucl.ac.uk/1462315/1/Shepherd%20E%20phd%20thesis.pdf>.
- Stoler, Ann Laura. "Colonial Archives and the Arts of Governance." *Archival Science* 2 (2002): 87-109. <https://www.nyu.edu/classes/bkg/methods/stoler.pdf>.
- The National Archives. "20-year rule." Accessed June 26, 2018.
<http://www.nationalarchives.gov.uk/about/our-role/plans-policies-performance-and-projects/our-projects/20-year-rule/>.
- The National Archives. "Advisory Council." Accessed January 27, 2018.
<http://www.nationalarchives.gov.uk/about/our-role/advisory-council/>.
- The National Archives. "Colonies and Dependencies from 1782." Accessed July 3, 2018.
<http://www.nationalarchives.gov.uk/help-with-your-research/research-guides/colonies-dependencies-further-research/>.
- The National Archives. "History of the Public Records Acts." Accessed January 27, 2018. <http://www.nationalarchives.gov.uk/information-management/legislation/public-records-act/history-of-pra/>.
- The National Archives. "Our History." Accessed June 12, 2018.
<http://www.nationalarchives.gov.uk/about/our-role/what-we-do/our-history/>.
- UK Parliament. "Lord Chancellor." Accessed May 22, 2018.
<https://www.parliament.uk/site-information/glossary/lord-chancellor/>.
- UK Parliament. "Orders in Council." Accessed May 13, 2018.
<https://www.parliament.uk/site-information/glossary/orders-in-council/>.
- UK Parliament. "Select Committees." Accessed May 13, 2018.
<https://www.parliament.uk/about/how/committees/select/>.
- Vincent, David. *The Culture of Secrecy: Britain, 1832-1998*. Oxford: Oxford University Press, 1998.

Wa-Githumo, Mwangi. "The Truth about the Mau Mau Movement: The Most Popular Uprising in Kenya." *Transafrican Journal of History* 20 (1991): 1-18.
<http://www.jstor.org/stable/24520300>.

Williams, Neville. *The British Public Record Office. History, Description, Records Groups, Finding Aids, and Materials for American History with Special Reference to Virginia. Special Reports 25, 26, 27, and 28 of the Virginia Colonial Records Project*. Virginia: The Virginia State Library, 1960.
<https://archive.org/details/britishpublicrec00will>