

Leigh Day's involvement

Leigh Day has been working on bringing claims on behalf of Kenyan victims of British colonial era torture for over 10 years. The firm represents over 5,200 clients who were subjected to torture and abuse in detention by the British authorities during the Kenyan Emergency between 1952 and 1960.

The lawyers involved were Martyn Day, Senior Partner at Leigh Day and Daniel Leader, Partner at Leigh Day.

1. Will this open the floodgates for other colonial era claims?

This case primarily concerns surviving victims of torture; it is far more difficult to apply it to the deceased.

In reality there are relatively few victims who are still alive, who may have suffered similar torture by the British in other countries, who could bring similar claims.

If there are other victims, from other parts of the world, seeking redress for grave breaches of human rights from the UK Government, then we would urge the Foreign Secretary to deal with their claims speedily, and with dignity as opposed to trying to block their claims with the use of legal technicality.

2. Why reopen old wounds?

The victims who have lived with the trauma and injustice of these events they wanted recognition and justice.

Having also represented British POWs who suffered at the hands of the Japanese and who sought justice decades after the Second World War, we know that the desire for recognition and resolution does not diminish if it is left unaddressed.

3. Could the victims have received larger awards?

The case had gone on for 4 years and the claimants were elderly. The case could have taken many more years to come to a conclusion with continuing litigation risks.

We gave the option to all of our clients to reject the offer. Not a single one has taken that option. It is clear from their responses that our clients wanted closure and above all they wanted the formal recognition that the apology and compensation brings.

Overwhelmingly the clients have been delighted with the outcome.

4. Were the Mau Mau not also responsible for atrocities?

Many of those detained and tortured by the British during the Emergency had little or nothing to do with the Mau Mau, including 4 out of the 5 original test claimants who brought their claims. Most were rounded up and tortured on the basis of mere suspicion and never brought before a court of law.

Nothing justifies state sponsored torture of detainees by Britain or any other country. Britain now stands up against torture and for the rule of law throughout the world and it must apply the same standards to its own conduct.

5. Are there other victims in Kenya who have not been compensated?

We have worked with the Kenya Human Rights Commission and the Mau Mau War Veterans Association for the last 9 months to identify and interview all those who were tortured or seriously abused during the Emergency Period.

We have had a team of over 20 lawyers working in Kenya for that period and they have interviewed 15,000 people, and this process narrowed the number of people with a strong claim to a little over 5,200.

We think we have identified most of the victims who have a viable claim. However, there may well be others out there who have a credible case. It will be for them to take that case to the British Government.

6. What about families of dead victims?

In light of the Court's ruling to the one case where the claimant died during the court process, we have taken the view that cases where the affected person has died are highly unlikely to be successful.

That was a difficult decision and we fully appreciate it is one that a number of people will feel aggrieved about. However, a line has to be drawn as to which cases are likely to succeed and from experience of other similar claims and taking on board the decision of the Court here, we are clear that any such claims face very much of an uphill struggle to succeed.