

Kenyan herdsman take court action against British Army

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The Labour government has called on the High Court in London to block a £4 million compensation claim brought against the Ministry of Defence (MoD) and the British Army by nomadic herdsman in Kenya.

Up to 200 members of the Masai and Samburu communities are seeking compensation for the deaths of as many as 50 people killed by unexploded munitions. The British Army has regularly left munitions after conducting military training exercises in the Archers Post and Dol Dol areas of Northern Kenya, about five hours drive north of the capital Nairobi. The herdsman are also seeking damages for those injured and maimed and for the loss of livestock.

The law firm Leigh Day and Company representing the Kenyans has accused the British government and MoD of deliberately seeking to pervert the cause of justice in attempting to have the case thrown out of the High Court and moved to Kenya. Solicitor Martyn Day told reporters that the MoD hope that “by moving the case to Kenya it will never be heard. It would in fact be sending the case into oblivion. There is no legal aid funding for a case such as this in Kenya”. Day explained that Kenyan lawyers are inexperienced in handling compensation cases and that even if the case were heard the level of damages awarded would be considerably less than in Britain.

The British government denies any liability for the deaths and injuries caused by unexploded munitions, claiming that responsibility for clearing the military training areas lies with the Kenyan government. For their part, the Kenyan military have denied responsibility, stating that they have not used the areas for training since the early 90s.

In fact, a report commissioned by Martyn Day points to the MoD and British Army being directly responsible for the deaths and injuries, and indicates

they have displayed gross negligence and callous indifference as far as the herdsman are concerned.

The report was one of two that appeared in the *Observer* newspaper last July. The first was by *Observer* journalist Kamal Ahmed, who travelled to the Archers Post and Dol Dol military training and testing areas, which have been used by the British Army continuously since the Second World War.

His report provided harrowing details of those killed and injured by unexploded munitions. It went on to explain the difficulties that the nomadic farmers face in trying to feed themselves and their herds in this drought-stricken region, which has not seen significant rain fall for four years. The herdsman and their families have to be constantly on the move in search of areas for grazing.

This has meant that they have unwittingly moved into open areas that the British Army use for military exercises. The British military blame the herdsman, who they argue “should not be walking their animals in training areas” and claim that there are clear warning signs. But the article explains that the majority of the nomadic people do not read and are unaware that they have crossed into a military area.

The majority of those killed are children attracted to the shining metal of the unexploded weapons. A nurse at a hospital showed the reporter a comatose 10-year old boy, blinded with multiple injuries from British munitions. His leg had been amputated.

“It is sad, so sad” she said. “Sometimes they can’t even collect the bodies, they are in pieces. His friends died in the same explosion. It is mainly the children that are harmed. They are so curious. We don’t see any warnings. How can you give people warnings who can’t read?”

The second report was by David Taylor, an

unexploded ordnance (UXO) specialist and ex-Royal Engineer who has advised former British Prime Minister John Major on weapons' disposal. Taylor had been hired by Martyn Day to provide technical input and research to establish whether the British Army was responsible for the unexploded ordnance.

His report was compiled on visits to the Archers Post and Dol Dol training areas in April, May and June 2001 and runs contrary to British military claims that they did not fire the unexploded weapons located in the area. Taylor states that this claim is “not plausible in view of the evidence encountered” by him in the area.

Taylor identified a number of military items that had specific markings, including lot numbers, which identified precisely that the weapons were those supplied exclusive to the British Army. He went on to state that some, possibly all, UXO encountered by him was of British origin, and concluded from this that these munitions were responsible for a “significant proportion, and possibly all, deaths and injuries caused by UXO in the Archers Post And Dol Dol areas”.

He noted that there were tens and possibly hundreds of unexploded ordnance in the area. British Army efforts to clear the area had been “ineffective” and undertaken mainly in response to the legal action, in an attempt to eliminate “incriminating evidence”. In areas that had supposedly been cleared by the army Taylor found several UXO in close proximity.

He points out that the British Army attempted to block his access to the areas citing safety grounds and that military clearance operations were suspended after he left.

Both reports are a damning indictment of the criminal negligence of the British military.

The MoD's latest action continues its efforts to suppress the facts about its culpability in the deaths of innocent civilians. It is an example of the extreme arrogance with which Britain treats its former colonial territories in Africa. In attempting to force the case to be tried in the Kenyan courts, London knows that it can rely on President Moi to suppress all complaints about the actions of the British military.



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