

Mau Mau Claims (Settlement)

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🕒 11.59 am

The Secretary of State for Foreign and Commonwealth Affairs (Mr William Hague)

With permission, I would like to make a statement on a legal settlement that the Government have reached concerning the claims of Kenyan citizens who lived through the emergency period and the Mau Mau insurgency from October 1952 to December 1963.

During the emergency period, widespread violence was committed by both sides, and most of the victims were Kenyan. Many thousands of Mau Mau members were killed, while the Mau Mau themselves were responsible for the deaths of over 2,000 people, including 200 casualties among the British regiments and police.

Emergency regulations were introduced; political organisations were banned; prohibited areas were created; and provisions for detention without trial were enacted. The colonial authorities made unprecedented use of capital punishment and sanctioned harsh prison, so-called “rehabilitation”, regimes. Many of those detained were never tried, and the links

of many with the Mau Mau were never proven. There was recognition at the time of the brutality of these repressive measures and the shocking level of violence, including an important debate in this House on the infamous events at Hola camp in 1959.

We recognise that British personnel were called upon to serve in difficult and dangerous circumstances. Many members of the colonial service contributed to establishing the institutions that underpin Kenya today, and we acknowledge their contribution. However, I would like to make it clear now and for the first time on behalf of Her Majesty's Government that we understand the pain and grievance felt by those who were involved in the events of the emergency in Kenya. The British Government recognise that Kenyans were subject to torture and other forms of ill treatment at the hands of the colonial administration. The British Government sincerely regret that these abuses took place and that they marred Kenya's progress towards independence. Torture and ill treatment are abhorrent violations of human dignity, which we unreservedly condemn.

In October 2009, claims were first brought to the High Court by five individuals, who were detained during the emergency period, regarding their treatment in detention. In 2011, the High Court rejected the claimants' arguments that the liabilities of the colonial administration transferred to the British Government on independence, but allowed the claims to proceed on the basis of other arguments.

In 2012, a further hearing took place to determine whether the cases should be allowed to proceed. The High Court ruled that three of the five cases could do so. The Court of Appeal was due to hear our appeal against that decision last month. However, I can announce today that the Government have now reached an agreement with Leigh Day, the solicitors acting on behalf of the claimants, in full and final settlement of their clients' claims.

The agreement includes payment of a settlement sum in respect of 5,228 claimants, as well as a gross costs sum to the total value of £19.9 million. The Government will also support the construction of a memorial in Nairobi to the victims of torture and ill-treatment during the colonial era. The memorial will stand alongside others that are already being established in Kenya as the country continues to heal the wounds of the

past. The British high commissioner in Nairobi is today making a public statement to members of the Mau Mau War Veterans Association in Kenya, explaining the settlement and expressing our regret for the events of the emergency period.

This settlement provides recognition of the suffering and injustice that took place in Kenya. The Government of Kenya, the Kenya Human Rights Commission and the Mau Mau War Veterans Association have long been in favour of a settlement, and it is my hope that the agreement now reached will receive wide support, will help draw a line under these events and will support reconciliation.

We continue to deny liability on behalf of the Government and British taxpayers today for the actions of the colonial administration in respect of the claims, and indeed the courts have made no finding of liability against the Government in this case. We do not believe that claims relating to events that occurred overseas outside direct British jurisdiction more than 50 years ago can be resolved satisfactorily through the courts without the testimony of key witnesses, which is no longer available. It is therefore right that the Government have defended the case to this point since 2009.

It is, of course, right that those who feel they have a case are free to bring it to the courts. However, we will also continue to exercise our own right to defend claims brought against the Government, and we do not believe that this settlement establishes a precedent in relation to any other former British colonial administration.

The settlement I am announcing today is part of a process of reconciliation. In December this year, Kenya will mark its 50th anniversary of independence and the country's future belongs to a post-independence generation. We do not want our current and future relations with Kenya to be overshadowed by the past. Today, we are bound together by commercial, security and personal links that benefit both our countries. We are working together closely to build a more stable region. Bilateral trade between the UK and Kenya amounts to £1 billion each year, and around 200,000 Britons visit Kenya annually.

Although we should never forget history and, indeed, must always seek to learn from it, we should also look to the future, strengthening a relationship that will promote the security and prosperity of both our nations. I trust that this settlement will support that process. The ability to recognise error in the past but to build the strongest possible foundation for co-operation and friendship in the future are both hallmarks of our democracy.

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🕒 12.05 pm

Mr Douglas Alexander (Paisley and Renfrewshire South) (Lab)

May I thank the Foreign Secretary for his statement and for advance sight of it? However, may I begin my remarks by asking him about a procedural point: why, given a Minister's obligation to the House and the importance of this announcement, were the details, including the wording of the statement of regret, the scale of the quantum agreed and details of the legal background to the settlement, all provided to the newspapers yesterday before they were to the House of Commons today? A full report appeared on *The Guardian* website at 6.42 yesterday evening and on *The Times* website at 7.30 yesterday evening. I hope that in his response the Foreign Secretary will offer the House a candid explanation as to why that occurred.

Let me turn to the substance of the matter in the Foreign Secretary's statement. First, may I place on record the cross-party consensus that exists on this issue and offer my support for the Foreign Secretary's efforts in seeing a legal settlement being agreed? Much has already been said of the suffering on all sides that lies at the heart of today's announcements. On 20 October 1952, Governor Baring signed an order declaring a state of emergency in Kenya. The violence that followed, carried out by both sides in the conflict, has been well documented, not least thanks to the brave and tragic testimony of many survivors who lived through it. As the Foreign Secretary said, there were hundreds of casualties among the British soldiers, police and officials, but during the period of emergency in Kenya most of the victims and casualties were Kenyan, with many thousands

of Mau Mau members killed, and thousands more imprisoned and displaced. It is therefore right that the Foreign Secretary recognised the challenges and dangers that British personnel in Kenya faced at that time, but the mass detention camps, the forced resettlement and the levels of brutality that characterised that period in Kenyan history must also be recognised. The numbers of dead and those not accounted for is, of course, still debated, but I think there is broad consensus in all parts of this House that the scale of the suffering was profound and deeply regrettable.

That is why I welcome today's statement by the Foreign Secretary and want to echo his words acknowledging that Kenyans were tortured and mistreated by the colonial administration. I also want to support further today's expression of deep regret and unreserved condemnation of those actions. The British Government are right to reflect on our country's colonial past, not simply because the legacy of our past is still being felt today, but because we must look to history, learn its lessons and use them to help chart a course going forward. All parts of this House share an interest in seeing this issue resolved, which is why today I wish to put on record my support for the right hon. Gentleman's work over recent months to press for a fair resolution as Foreign Secretary.

So we support the announcements made today in the Foreign Secretary's statement, but I seek his clarification on a number of issues that arise as a result. First, could he confirm to the House which departmental budget is funding the £19.9 million of which he spoke, which makes up the full and final settlement announced today? Will he also set out what meetings his Department has had with representatives of the Mau Mau claimants, and could he update the House as to their collective view of and response to today's announcement? Indeed, will he further explain what he anticipates will be the response of the Kenyan Government, in particular, to today's announcement?

The British Government must continue, of course, to be categorical in their condemnation of torture and ill treatment, which are abhorrent violations of human dignity. It is right that current and future relations with Kenya are not overshadowed by the past. So, along

with the Foreign Secretary, I hope that today's announcement will encourage even stronger ties between our two nations going forward, despite, but not ignoring, our shared and, at times, troubled past.

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Mr Hague

I am grateful to the right hon. Gentleman. I agree that the cross-party approach is important. These claims were first made in 2009, under the last Government, and the last Government decided to contest them in the courts. That was the right decision, because all of us together contest the liability of British taxpayers in the 21st century for what happened under colonial administrations. However, we are also right to support this settlement together, because it is the best outcome all round for both the British taxpayer and the claimants. Many of the claimants are of course very old, and further protracted legal proceedings would not necessarily be in their interests.

The right hon. Gentleman asked, quite rightly, about reports in the press. As I think he and the House recognise, I am an enthusiast for announcing things to Parliament. While I am not in a position to point a finger of accusation at anyone, I note that, in view of the nature of the settlement, information about it had been circulated beyond the Government before today. I also note that some of the figures given in newspaper reports are different from the figures that I have given today, and have clearly not come from the Foreign Office. However, the right hon. Gentleman was absolutely right to make the point that such announcements are best made to Parliament in the first instance. He was also right to join in the sincere regret that the Government have expressed: it will mean a great deal in Kenya that regret has been expressed by the Opposition as well as by the Government.

Let me turn to the specific questions that the right hon. Gentleman asked. The claim will not be met by any departmental budget; it is a claim on the Treasury reserve. That is what the reserve is for—to provide lump sums that cannot be anticipated or budgeted for.

The right hon. Gentleman asked what meetings the Government had had. This matter has been a subject of legal proceedings for four years, and the meetings that have been held with the aim of reaching a settlement have taken place with the lawyers of the claimants. From that it can be deduced that the claimants are happy with the settlement. Certainly the lawyers have expressed satisfaction on their behalf.

The Kenyan Government called for a settlement, and it is now for them to react to this settlement in whatever way they wish, but I hope that they will welcome it. The British high commissioner in Nairobi has met the Kenyan human rights commission and representatives of the Mau Mau in recent weeks, and, as I said in my statement, he will be speaking to Mau Mau veterans today, in particular about our plans for a memorial. However, all the contact in London has been with the lawyers.

Let me say again that, like the right hon. Gentleman, I believe that stronger ties between our countries are very important. Kenya is an important partner of this country in trade and tourism, and also—this is particularly important—in countering terrorism and seeking stability in east Africa. We work with Kenya closely in trying to bring stability to Somalia, for instance. I hope that the settlement will make it easier for us to do all those things in the future.

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Bob Stewart (Beckenham) (Con)

I support what we have done. However, when I was a little boy my father was a soldier operating in Aden, and I remember being absolutely petrified by the stories of British-origin settlers and farmers being chopped to bits by the Mau Mau. I note that we are going to subsidise and help to build a memorial to the Mau Mau, but may I make a suggestion? Given that not only were 200 British soldiers and policemen killed, but 1,800 civilians perished as a result of Mau Mau activities, I think that it would be very appropriate for a memorial to be erected to them—both Kenyans and those of British origin.

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Mr Hague

My hon. Friend is right to remind the House that terrible acts were committed on both sides over a long period, between 1952 and 1963. Thirty-two European settlers were murdered in horrific circumstances, and many actions that can only be categorised as terrorist actions were undertaken by people who were part of the Mau Mau insurgency.

Equally, however, it is important for us to recognise—as we do, across the House—that torture and inhuman and degrading treatment can never, and should never, be part of our response to any outrage, however terrible. That is because we uphold our own high standards of human rights, and also because it is not an effective way in which to respond to any such outrages. It is very important that we express our own regret and acknowledge mistakes that were made, even though terrible acts were carried out on both sides.

As my hon. Friend will have noted, I recognised in my statement the service done by those employed by the colonial administration, who did so much work to build the institutions that underpin Kenya today. My statement was about the recognition of people engaged in the Mau Mau insurgency or accused of being so engaged, and I think that questions about other memorials and recognition of other people are for a different occasion, but I take full account of the point that my hon. Friend has made.

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Several hon. Members

rose—

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Mr Speaker

Order. I appreciate that these are extremely sensitive matters, but we have a heavy schedule, so we need to speed things up somewhat.

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Jeremy Corbyn (Islington North) (Lab)

I thank the Foreign Secretary for his statement, but I was a bit surprised when, towards the end of it, he said that the British Government “continue to deny liability” for what happened. It is very strange that the Government should arrive at a settlement with Leigh Day and offer compensation, and at the same time deny liability.

Liability was well known in the 1950s. Fenner Brockway, Barbara Castle, Leslie Hale, Tony Benn and many other MPs raised the issue in Parliament during the 1950s. It is only the steadfastness of people in Kenya who stood for justice and against the use of concentration camps, torture, castration, and all the vile things that were done to Kenyan prisoners by the British forces that has finally brought about this settlement. I met many of those victims last year when they came here to go to court, and I pay tribute to them, and to Dan Thea and others who have organised the campaign that has finally brought this day about.

There are serious lessons to be learnt. When we deny rights and justice, when we deny democracy, when we use concentration camps, our actions reduce our ability to criticise anyone else for that fundamental denial of human rights. That lesson needs to be learnt not just from Kenya, but from other colonial wars in which equal brutality was employed by British forces.

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Mr Hague

I fully accept the hon. Gentleman’s extensive knowledge. He is right to speak about the terrible nature of some of the things that happened, and also right to speak—as I did a few moments ago—about the importance of upholding our own highest standards, expressing that very clearly to the world, and ensuring that we do it now.

The hon. Gentleman asked, in particular, about the consistency between recognition of those things and the Government’s continuing to deny liability. What we are making clear—as the last Government did when contesting these claims in the courts in 2009—is that we do not agree with the principle that generations later, 50 or 60 years on in the 21st

century, the British taxpayer can be held liable for what happened under colonial administrations in the middle of the 20th century. However, while we cannot accept that as a principle, we have reached a settlement in this case, and I am pleased that it has been welcomed in the House.

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Daniel Kawczynski (Shrewsbury and Atcham) (Con)

Governments of various political colours have contested these claims through the courts over a period. May I first ask the Foreign Secretary what, specifically, has happened recently to cause the Government to change their position and acquiesce in this? Secondly —

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Mr Speaker

Order. I think that one question will do. I have just made a point about brevity, which should not be flagrantly defied.

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Mr Hague

I will try also to give brief answers. I described in my statement how the legal cases were proceeding. There had been a series of hearings in 2011 and 2012. The Government had contested all of the cases, but the High Court had decided that three out of five of them could proceed, on grounds that were quite specific to this particular case and to the Mau Mau insurgency. It does not therefore set a precedent for other cases. Given that it had decided that, the Government came to the view that it was in the interests of the British taxpayer, and also of the claimants, to come to a settlement on this particular matter.

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Mr David Winnick (Walsall North) (Lab)

Terrible things were undoubtedly done on both sides, but may I tell the Foreign Secretary that many of us opposed from the start what we considered to be a totally unnecessary colonial war, as, indeed, we opposed what happened in Cyprus at around 1960? Although I would not normally quote Enoch Powell, because of the outburst in 1968 and other matters, in the debate on 27 July 1959 on the murder of 11 African detainees, he said:

“We cannot say, ‘We will have African standards in Africa, Asian standards in Asia and perhaps British standards here at home’...We cannot, we dare not, in Africa of all places, fall below our own highest standards in the acceptance of responsibility.”—[*Official Report*, 27 July 1959; Vol. 610, c. 237.]

For once, Enoch Powell was right.

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Mr Speaker

I think the Foreign Secretary will remember that Denis Healey described the speech in his autobiography as the greatest parliamentary speech he ever heard, carrying all the moral force of Demosthenes.

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Mr Hague

Enoch Powell did, indeed, give a remarkable and powerful speech in the debate in 1959, and I read it in preparing for this statement. [*Interruption.*] I was not born at the time, so I did not read it then. There will be many strong views held about the events of that time, although most of us who are Members of the House now did not have a strong view at the time because we were not around then, but there is a strong tradition in this House going all the way back to the 18th century. In the 1780s, Edmund Burke called Governments to account for colonial misdeeds in India and sought to bring Warren Hastings to trial. There is a long and proud history of this House asserting itself on the errors that have been made during our imperial rule of other countries, and our recognition of these errors today is part of that long tradition.

Tessa Munt (Wells) (LD)

I welcome the Foreign Secretary's statement. It serves us well to approach this whole matter with sensitivity and humility. There are some fairly serious disputes about the numbers of people involved. The official figures say 11,000 Mau Mau rebels were killed and only 32 white settlers, but David Anderson, professor of African politics at Oxford, says that probably 25,000 people died at the hands of the colonial organisation. I wonder whether there should be a debate about the past, and whether we ought to make sure that adults, some of whom will remember these events, know about what happened, and also that young people learn from this period of history. Might the Foreign Secretary speak to the Education Secretary and consider whether this part of our colonial past, which did not cover us with glory, might be a topic for discussion in schools?

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Mr Hague

I am grateful to my hon. Friend for her remarks. I do not suppose there will ever be universally agreed figures in respect of what happened and how many people were killed in what was such a confused and terrible situation in such a large country. I will refer her points on to my hon. Friends with responsibility for these matters, and the Deputy Leader of the House is present, hearing another bid for parliamentary time and discussion. It is very important for us always to learn, in whatever form, from mistakes of the past. We are recognising that today. Indeed, the abhorrence of torture and ill treatment, and the strictness of the rules we now have against that for everyone working on behalf of the United Kingdom, are part of our recognition that mistakes were made in the past.

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Keith Vaz (Leicester East) (Lab)

I also welcome this important and historic statement, which was so eloquently delivered by the Foreign Secretary. These were dark days in the history of our country. My wife was born in Kisumu in Kenya, and her family lived through this violence. Many thousands of Kenyan Asians have come to settle in Leicester. They will see this as a line being drawn in the sand. How does the Foreign Secretary intend to take the relationship with Kenya forward in the future?

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Mr Hague

I am grateful to the right hon. Gentleman for his support for the statement. The relationship with Kenya is very important to our country, and I mentioned a few moments ago the many different dimensions of it. It is a relationship that we want to expand, in terms of trade in particular, to the benefit of both nations. It is also very important for stability in east Africa. Given the UK's leading role there, for instance in the work we do on Somalia, our relations with Kenya, Uganda and Ethiopia are of great importance, and we give great attention to them. I hope relations between the UK and Kenya will develop over the coming years and decades in a true sense of partnership, with the new generations moving on fully from everything that happened in the colonial era. A sense of equal partnership with African nations is now how we should approach our relationships with these countries.

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Hugh Bayley (York Central) (Lab)

I welcome the statements, expressing regret, made by both the Foreign Secretary and the shadow Foreign Secretary. The ghastly impact of Mau Mau on African Kenyan citizens as well as European settlers is well documented in the wonderful books by the Kenyan writer Ngugi wa Thiong'o, but we must accept that there were totally unacceptable actions by British colonial authorities, and I am glad that has happened today. We have an important development relationship with Kenya, and important joint security concerns,

such as on piracy off the coast of Africa. To what extent will this statement make it easier for our countries to co-operate, and to do so better than before, on issues of common interest?

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Mr Hague

I hope it will make it easier. It should remove one of the areas of contention between the UK and Kenya—or the people of Kenya. The hon. Gentleman rightly notes the breadth and importance of our co-operation, so I hope it will smooth the path for our effective co-operation in the future. Of course that relies on many other things, however. It relies on the daily commitment of each nation to make our bilateral relations work successfully, but I certainly hope this settlement will be a help, rather than a hindrance, in that very important process.

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Mr Speaker

Order. I am grateful to the Foreign Secretary and colleagues.

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