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Kenyan farm workers launch Scottish legal bid against tea giant

By David Cowan

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Seven farm workers from Kenya are suing one of the world's biggest tea producers for damages in a personal injury court in Scotland.

The tea pickers allege they have suffered severe health problems because of working conditions on farms run by James Finlay Kenya Ltd.

It is part of a multi-national company which can trace its roots back to

Glasgow in the 18th Century.

The firm is opposing the action and has defended its health and safety record.

Finlays began as a cotton trader in Scotland in 1750 and now has operations on five continents, with Starbucks among its customers.



Kenyan lawyer Isaac Okero says some of his clients have suffered spinal damage

The scale of the business is such that it makes enough tea to fuel the annual demand from the whole of the UK.

The company moved its headquarters from Glasgow to London 15 years ago but its registered office address is in Aberdeen, leaving it open to legal action in Scotland's courts.

The seven men and women are suing for damages of £15,000 each in the All Scotland Sheriff Personal Injury Court in Edinburgh.

'Long-term injuries'

Their advocate in Kenya, Isaac Okero, says they have suffered injuries including spinal damage.

He told BBC Scotland: "The tea workers are saying that on account of the years of service that they have provided to James Finlays Kenya Ltd, and the circumstances and conditions under which they were compelled to work, they have suffered severe degenerative injuries which have severely impacted on their lives

"These injuries are both physical and mental."

Mr Okero said a number were still working when the legal action was launched in a city 4,000 miles away but only one is now still in employment.

The others have either been forced into retirement or unable to continue working.

He believes the case will have wider significance.

He said: "It will hopefully compel the company to radically change the conditions under which the workers are working, so these proceedings should result in substantial improvements in the terms and conditions of the employees still picking tea and hopefully bring to an end the prospect of more Kenyan workers suffering severe and long-term injuries in the way that these seven workers have."

Edinburgh-based personal injury lawyer David Short is acting for the workers

Personal injury specialist David Short, from Edinburgh firm Balfour and Manson, is representing the tea pickers.

He said: "In any court action one of the first things you have to look at is, where do we have jurisdiction, which court will allow you to raise an action.

"Here, we have a Scottish-registered company and therefore the appropriate place for action is a Scottish court.

"We're suing for what would be appropriate for an award in Kenya. It reflects their conditions and their economy."

'Dreadful conditions'

Two years after the case began in 2017, a sheriff ordered Finlays to give the tea pickers' legal team access to the farms in Kenya, allowing them to inspect their working conditions.

Finlays mounted a challenge in the courts in Nairobi, arguing successfully that the Scottish order could not be implemented unless it had been endorsed by a Kenyan court.

The tea pickers appealed against that decision and a judgement is expected in May.

Mr Short said: "They're arguing that it's unconstitutional.

"But even if it is, why won't they let us go in? I suspect it's because they don't want us to see the dreadful conditions that these people work in."

Gwen Morgan-Evans, from law firm Hugh James, said it is hoped the case would bring about a wider improvement for tea workers in Kenya

Last February, the tea pickers staged a demonstration of how they work at another tea farm in Kenya, watched by members of their UK legal team.

Gwen Morgan-Evans, from law firm Hugh James, said: "We've travelled to Kenya with two leading UK experts so they can observe the process of tea picking and advise the Scottish court on how these working practices are detrimental to health.

"There's a wider context to these cases. If the case is successful, the claimants are hoping that this will bring about a wider improvement for tea workers in Kenya."

The latest issue of Finlays' company magazine 1750 focused on its Kenya operations.

~~Group managing director Guy Chambers told the publication. "We accept we~~

are not perfect and there are always areas where we need to improve.

"But our critics often overlook the scale of the efforts that we take to contribute to the community."

In a statement, a spokesman said: "James Finlay (Kenya) Ltd intends to fully defend all related claims brought in either the Nairobi High Court or the All Scotland Sheriff Personal Injury Court."

The firm said its tea growing and processing business in the Kericho and Bomet counties employed about 8,000 people directly and further workers indirectly, delivering "significant economic benefit to the region".

The company was the focus of demonstrations in Glasgow in the 1980s

The statement continues: "We aim to achieve the highest standards of health and safety and welfare for everybody connected with our business.

"We have a well-established health and safety programme for all of our global business units, including our Kenyan business."

It concludes by noting that its Kenyan business is certified by the Rainforest Alliance, which requires regular standards audits, and has adopted the ETI (Ethical Trading Initiative) Base Code.

In the 1980s, demonstrations were held outside Finlays' annual general meetings in Glasgow over working conditions on its tea farms in India.

'Risky business'

One of the protestors in 1984 was Roger Jeffery, now a professor at Edinburgh University's School of Social and Political Science.

He said: "The chairman at the time said we're merchant adventurers, we go wherever we can to raise a profit for our shareholders and they claimed without any justification that they were good employers and people benefited from their activities."

Reflecting on the current case, Prof Jeffery said: "If you're looking at this in the round, you have to accept that growing tea is a bit of a risky business and they can't just start paying European salaries to their workforce, but I think they can still do more than they are."

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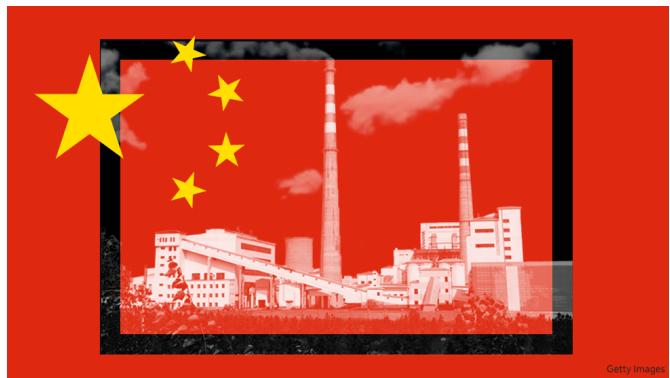
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