

Liberia: Firing back at Firestone

Summary

By the early 2000s, Harbel, Liberia, a town founded by giant American tyre manufacture Firestone, had become synonymous with child labour. A legal case brought against Firestone by 23 workers garnered massive media attention and led to significant changes at the 220 square mile rubber plantation which thousands of labourers called home.

Background

Daniel Flomo was seven years old when he started working at the Firestone rubber plantation in Harbel, Liberia.

His first job was to create new pathways to the rubber trees by slashing away at overgrown grass with a machete. Three years later he was tasked with applying chemicals to the trees and transporting buckets of latex, all without protective clothing.

With work commitments mounting, school work soon became impossible. "On a typical day I work from 4am to 4pm," said Daniel, in an affidavit in 2005, when aged 16.

"I was injured twice while working. I have a scar on my left foot from slashing grass with a machete... I got private treatment by a health worker who is a friend of my father. I had to go to the health worker because I got this injury outside of the regular days allotted to workers for treatment at any health post run by the plantation."

Daniel was one of many child labourers working at the Firestone rubber plantation during the early 2000s.

Home to around 80,000 people, the plantation is, at 220 square miles, roughly the size of Chicago and produces 60 per cent of the world's rubber.

It is a state within a state. The public highway running through it is patrolled by Firestone's own guards. Harbel itself is named after the tyre manufacturer's founder, Harvey Firestone.

For much of the time since the farm was hacked out of the Liberian forest in 1926, the plantation's owner would spend his days held up in House 53, a two-storey Georgian-style mansion complete with Grecian columns, tennis courts and a private driveway.

Perched on a hill, House 53 gave its occupant the opportunity to admire the simple brick structures that housed the 8,000 strong workforce who made a living tapping the millions of rubber trees on the plantation.

Getting the case to court

Noted human rights lawyer Terry Collingsworth, managing partner at law firm Conrad & Scherer in Washington DC, was first made aware of child labourers at Firestone in 2004 by an environmental activist working in the region.

"The shocking thing was what the workers' residences looked like," remembers Collingsworth.

"They were hovels in the most literal sense. Little brick structures with tin roofs and no windows and open sewers, so everything smelled. It was overwhelming."

According to affidavits given by plaintiffs in the legal case brought against Firestone, plantation workers would start their day before the sun rose at 4am.

Wearing tattered work clothes and lacking protective gear, grown men would be tasked with, according to company statements, tapping 650 trees a day to earn their daily income of US\$3.19, spending what Dan Admonitis, president of a Firestone subsidiary, told CNN was a couple of minutes on each tree.

Spending two minutes on 650 trees amounted to 1,300 minutes, or 21 hours. Tappers would not be paid unless they met their quota, but were only expected to work a regular eight hour day.

Collingsworth argued that this meant that the children of workers would have to join the family members in the farm in order for their families to earn enough to survive. In effect, Firestone was using child labour because the adult employees were not able to complete their work on their own.

Collingsworth and his Washington-based team set to work collecting testimony from members of the local community.

Standing out as a tall white guy in rural Liberia, he remembers that it was hard for him to be discreet. Having been surrounded by children and families desperate to tell their story on arriving in Harbel, Collingsworth and his team made their way to the

outskirts of the plantation where they met the individuals willing to take on the giant American company. In total, 23 Firestone workers aged six to 16 came forward.

“We needed a handful of brave people to stand up,” he explains.

“We got them through their fathers, because they were the ones who were going to take the heat. A lot of the kids were very clever and anxious to help. The Flomo brothers were two kids who were amazingly sharp and they became the leaders. Then there were those on the other end of the spectrum who were so malnourished and beaten down that their intelligence had been stunted by the conditions they were forced to work in.”

With each of the plaintiffs seeking damages in the case, all of the plaintiffs’ testimonies had to stand up on their own. This meant lengthy interviews had to be conducted with each of the children.

Boimah Flomo, Daniel’s younger brother, was one of those who brought the case.

"I started working on the Firestone plantation when I was six years of age... I currently have a deep cut on the bottoms of my feet from having stepped on broken bottles while helping on the plantation. A year ago, I fell and rolled down a hill into a valley with a bucket of latex. I suffered bruises and I only received private treatment at a clinic," he said in his affidavit.

"I never consented to working on the Firestone plantation. I was never offered the choice. Sometimes the Firestone supervisor would thank me for helping my father and give me money for candy. They told me to continue to help my father, but to hide at the sound of approaching cars or strangers. I understood that my family would starve if I did not go to work to complete our family's quota each day. I never received any pay for working on the plantation and my father did not receive any extra money for the work I did. I felt forced to work on the plantation.”

On 17 November 2005, 23 child labourers filed a class action lawsuit against Firestone Natural Rubber Company, LLC in a US federal court in California.

The plaintiffs alleged violations of international human rights, including forced labour and the worst forms of child labour, in violation of the Alien Tort Statute (ATS). ATS derives from little known 18th century legislation. Since the 1980s it has been interpreted by judges as a way for foreign citizens to bring claims against companies in the United States for alleged human rights abuses committed abroad.

Soon after the claim was filed, Firestone hired Jones Day, one of the biggest law firms in the United States.

The case was filed with pseudonyms, initially. John Doe I, John Doe II etc. But the court ordered that the plaintiffs’ identities be revealed so that they could have their depositions taken. Collingsworth and his team “made a big deal out of that”.

“We told the judge that if anything happened to these people, we were going to put Jones Day on criminal notice,” he recalls.

“I’ve worked on a lot of cases, particularly in Colombia, where the danger is not that they would be fired, it is that they would be killed, so we did have some experience in anticipating these problems and trying to deal with them.

“The only other thing we could do was to tell the workers that if someone got fired because they participated in the lawsuit, we would do all we could to get them reinstated and we would find some way to offer support to them.”

Lawyers from Jones Day then flew to Liberia to conduct what Collingsworth describes as “criminal style interrogation” of the children. Throughout the process the majority of the people of Harbel were on the side of the plaintiffs.

Collingsworth argued that Firestone's business model at the plantation not only permitted the use of child labour, but actively encouraged it by giving workers impossible quotas.

“The whole system was based on child labour,” he argues to this day.

Outcome

Five years after the initial claim was filed and following intense media coverage of the plantation by the BBC, CNN and countless other international news organisations, the lawsuit alleging that Firestone had illegally used child labour was thrown out by a US appeals court in July 2011.

A three judge panel of the 7th Circuit Court of Appeals in Chicago consisting of conservatives Richard Posner, William J. Bauer and Daniel Manion rejected the claim, but did state that it was possible for a claim under the ATS to be brought against a US company for human rights abuses perpetrated abroad.

Judge Posner stated there were inadequate grounds to show that Firestone had violated international human rights law.

Judge Posner said it was unclear how many children worked in the same conditions as the plaintiffs. He suggested that the children were better off than other Liberian children because their parents were well paid by Liberian standards. He later further annoyed the prosecution when he said that while harvesting rubber could be hazardous to children, it was “the most potential for decent work for rural children.”

“Conceivably, because the fathers of the children on the plantation are well paid by Liberian standards, even the children who help their fathers with the work are, on balance, better off than the average Liberian child, and would be worse off if their fathers, unable to fill their daily quotas, lost their jobs or had to pay adult helpers,” he wrote.

"It is a huge win for the effort to use the Alien Tort Statute to hold corporations accountable for human rights violations in the global economy," was how Collingsworth summed up his reaction at the time.

Today, he sounds less conciliatory.

"Judge Posner never set foot in Liberia," he complains.

"The legal argument could have gone either way, depending on whether you have a conservative judge, or whether you had a judge that is sympathetic to these children's case."

Aftermath

Despite the case falling at the last hurdle in court, the legal action did bring significant change for the workers at the Firestone plantation.

Shortly after the case was filed in 2005, Firestone took steps to curb child labour at the farm.

Later, perhaps embarrassed by the sheer volume of negative press coverage the company was receiving because of its operation in Liberia, the tyre giant took action to improve schools in Harbel.

Workers formed an independent trade union to negotiate a new contract with company bosses, with the support of Collingsworth and his team.

Nearly four years after the panel of judges made their decision in Chicago, the position of Firestone workers is better than it once was.

"Today, conditions are a whole lot better on the plantation and that's largely because they were embarrassed by the attention they were getting on the back of these claims," says Collingsworth, triumphantly.

Further information

- Read CRIN's full case summary of [Flomo v. Firestone Natural Rubber Co LLC](#).
 - Work by PBS and investigative organisation ProPublica exposed links between Firestone and Charles Taylor's brutal regime. [Read 'Firestone and the warlord'](#).
 - In November 2014 Firestone attracted media attention for its handling of the [Ebola outbreak in Liberia](#).
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[CRIN's collection of case studies](#) illustrates how strategic litigation works in practice by asking the people involved about their experiences. By sharing these stories we hope to encourage advocates around the world to consider [strategic litigation](#) to challenge children's rights violations. For more information, please visit: www.crin.org/en/home/law/strategic-litigation/strategic-litigation-case-studies