



Impunity is not what it used to be: 17 communities stand up to logging companies

Gabonese NGO Brainforest has used the rigorous data collected through its independent forest monitoring activities to support community litigation – and to win.

On one of the rare occasions that local communities took legal action to defend themselves against the harmful actions of logging companies, Brainforest was there to support them. Together, as part of the [Citizen's Voice for Change \(CV4C\) project](#) supported by the EU and FCDO, they chalked up a victory for the communities affected.

The facts:

Communities near forest concessions endure the presence of timber companies and logging activities, which reduce their access to communal lands and disrupt their lives. Community members must therefore receive compensation from the companies and share in the benefits, according to the specifications of a contractual agreement (*cahier des charges*). In the Republic of Gabon, Order 105/2014 of 6 May 2014 provides that 800 FCFA/ m³ (USD 1.43), calculated on the volume of the annual exploitation, is to be paid into a Local Development Fund (LDF) for projects of collective interest, overseen by a project management committee (CGSP).

What actually happens is quite different.



During independent monitoring missions to assess the legality of logging operations, members of Brainforest, an environmental and community and Indigenous Peoples rights organization, had been hearing about how logging companies were shirking their benefit-sharing obligations toward communities.

Grace Ntsame-Ollomo, a legal officer at Brainforest, explains: "We take a broad view of our independent monitoring mandate; for Brainforest, it includes not only forestry aspects but also everything related to social obligations. We therefore went to Ogooué-Ivindo province to check out the rumours, to see for ourselves whether the contracts were being implemented."

They discovered widespread non-compliance with social obligations. LDFs were either empty, or almost empty. Typically community projects, duly validated by the CGSP, still received no funding; the few projects that had been funded, and commenced, were routinely abandoned along the way. Sometimes schools were left without benches or tables, or fell into disrepair before ever being used; snakes had taken over areas where the hostel was to have been, where a teacher should have been housed. Sometimes the timber volume assessment had not been carried out for years.

In the vast majority of cases, the population had benefitted from nothing.

Ntsame-Ollomo adds, "Current law does not provide for a sanction attached to this obligation – there's no incentive for compliance, so usually operators log and when they're finished, they pack up and leave."

The result was a deplorable situation for communities that inspired indifference among forestry authorities. Having exhausted all amicable remedies to no avail, the communities had hit a wall.

The *cahier des charges* is not a meaningless promise, however; it constitutes a civil law contract. Companies were simply counting on the fact that communities would not have the tools to navigate the corridors of justice.

But Brainforest does.

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Legal action:

With a lawyer's advice and CV4C support, Brainforest assisted the communities; it gathered the evidence, drafted the complaints and filed a single civil action before the Makokou Court of First Instance on August 30, 2019 that united 17 communities against nine logging companies.

Being the first time that communities had dared thus to defend themselves, the case caused a stir locally. In the context of the dispute, even the regional administrator was questioned by the court in his capacity as president of the CGSP; he did not hesitate to phone Brainforest to voice his displeasure in a threatening tone.

Ntsame-Ollomo sets things straight. "We quickly brought him back in line by indicating that it was a good faith legal action, that the facts were not incorrect, and we pointed out that he, as president of the fund management committee, had done nothing to resolve the situation."

The case must have sparked the judge's ire: his decision in favour of the communities was issued only a month later, on September 30, 2019. The companies were ordered to pay everything owed to the communities from 2014 to 2018 – a total of 120,966,787 FCFA (USD 215,970) – into the LDF.

Then what?

It would be a thing of beauty if the tale could end with the proper payment of arrears, but reality is more complex. "We're now locked in a big showdown," Ntsame-Ollomo sighs.

Indeed, of the nine condemned companies, some cannot be found – either they have left the area, or they have changed their name to better hide their deceit – others are being obstructive, one is probably bankrupt.

"We're keeping up the pressure," says Ntsame-Ollomo. Brainforest has initiated two further proceedings, this time in its own capacity and with the continued support of CV4C. A civil action intends to compel payment from the companies. Criminal proceedings are being brought against three sub-contractors that were supposed to carry out the local-interest projects, and which received the totality of payment but did not complete the work.



Brainforest has further learned that, behind the scenes, a political hand is trying to grab some of these funds. "This is a lot of money, and many eyes are on it."

More encouragingly, one of the nine companies contacted Brainforest to say that it had set up a payment program, that the amounts owed would be paid beginning in October 2020, and that the long-awaited projects would be completed by April 2021.

Not in vain

This court case is far from an exercise in futility. Among the positive outcomes for forest communities is the rise in Brainforest's credibility: their expertise is now sought by the private sector to help them fulfil social obligations before problems occur. Perhaps companies have seen the writing on the wall: To put an end to "mafia-like practices" in the timber sector, Gabon has issued a call to order, requiring logging companies to certify their operations by 2022. The fulfilment of social obligations is a condition of certification.

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The battle has not yet been won, but a much bigger fight has begun. This immediate case concerns only the province of Ogooué-Ivindo, but noncompliance with social obligations is rampant and its repercussions touch almost all the communities affected by logging across the whole of Gabon.

Brainforest continues to provide communities with the tools they need to better defend their rights against unscrupulous forest companies. Communities are starting to realize that they can take action, and this example shows that success in the courtroom is possible. Communities are regaining hope.

The NGO credits Independent forest monitoring – as broadly interpreted – with the success.

Ntsame-Ollomo says, "We wanted to go beyond the tasks of analysing and making recommendations; we wanted to see things through to the end. We wanted to make sure citizens' voices were heard loudly. We've made concrete gains: We've heard no negative feedback, no counter-arguments. Local populations see that we're committed, and we're delighted to see that many of them trust us, and turn to us so that we can accompany them in their activities – that's our greatest achievement."

Interview with Grace Ntsame-Ollomo, September 17, 2020; Nicole Gérard



AT A GLANCE

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- 1** Order 105 of Order 105/2014 of 6 May 2014 that fixes the model of contractual agreement foreseen in Article 251 of Law 16-01 of 31 December 2001 (Forest Code of the Republic of Gabon)
- 1** Call to order by the Government of Gabon, requiring logging companies to certify their operations
- 1** Proposed amendment of current rules intended to attach sanctions to delinquency with regard to the *cahier de charges* – currently stuck in the national parliament.



Led by the University of Wolverhampton's Centre for International Development and Training (CIDT), the 'Citizen Voices for Change (CV4C)' project was designed to establish a strong, sustainable partnership of forest monitoring non-state actors (NSAs) or Civil Society actors in Cameroon, Central African Republic, Democratic Republic of Congo, Gabon and Republic of Congo. The project sought to address this challenge by strengthening the capacity, influence and long-term viability of IM organisations to perform essential watchdog functions. Find out more at <https://cidt.org.uk/cv4c>.