

Tackling Corruption Linked to Environmental Crimes to Achieve the UN Sustainable Development Goals

Submission by the
UNCAC Coalition's Environmental Crime and Corruption Working Group to the
UN Special Rapporteur on Human Rights and the Environment

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Introduction

The UNCAC Coalition's Environmental Crime and Corruption Working Group is pleased to make a submission to the United Nations Special Rapporteur outlining transformative actions needed to achieve the Sustainable Development Goals (SDGs) related to the environment.¹ In this submission, we focus on how corruption and environmental crimes are harmfully impacting the environment and the climate and undermining the rights of communities and indigenous peoples across the globe. We lay out concrete recommendations and good practices to combat corruption linked to climate and environmental crimes that will help bring about the transformative change needed to achieve the SDGs.

The links between corruption and environment and climate crimes

Environmental crime is the umbrella concept that covers a wide range of crimes that breach environmental legislation and cause significant harm to the environment, the climate and people. It includes wildlife trafficking, Illegal Unreported and Unregulated fishing (IUU fishing), illegal logging, illegal mining, waste trafficking, climate and pollution crimes.

As the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) warns of the loss of one million species in the coming decade,² crimes affecting the environment, the climate and ecosystems need to be urgently addressed. Yet, the impact of environmental crimes on society goes beyond environmental destruction and biodiversity loss. They impact global health as they inherently reduce the already diminished space between wildlife and society, thus increasing the risks of zoonotic outbreaks. The COVID-19 pandemic acts as a stark reminder of the fragile relationship

¹ The Environmental Crime and Corruption Working Group, established in partnership with the Wildlife Justice Commission, advocates for strong and coordinated measures to break the links between corruption and the environment as an integral part of global efforts to curb corruption, protect human rights and solve the climate and environmental crises. For more information, see: <https://uncaccoalition.org/get-involved/working-groups/environmental-crime-and-corruption/>.

² Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) (2019), "The Global Assessment Report on Biodiversity and Ecosystem Services", available at: https://ipbes.net/sites/default/files/inline/files/ipbes_global_assessment_report_summary_for_policymakers.pdf.

between humankind, the environment and wildlife, and its impact on global health.³ Furthermore, environmental crimes significantly contribute to the global climate crisis – which is exacerbated by harmful activities of global industries and of big polluters who are not held accountable.⁴

Corruption is an enabling factor that facilitates environmental crimes, making it easier to evade regulations to obtain and grant permits and concessions in the extractive industries and the renewable natural resource sectors (fisheries, forests and wildlife). These crimes are often undertaken by organised criminal networks and are typically transnational in nature. The networks involved rely on corruption at every step of the supply chain, to the extent that the cost of corrupt acts facilitating illegality are included in the price of the illicit commodities.

Corruption taints all the actors involved in safeguarding the environment, from indigenous peoples and local communities, park rangers, custom officers and permit-issuing officials, to those presiding in the very courtrooms responsible for prosecuting environmental crimes. Money laundering and fiscal evasion practices go hand-in-hand with environmental crime, entailing serious long-term economic and social development loss. They also severely impact local communities in which natural resources are stolen and the environment is damaged.⁵

Corruption and organized crime are major facilitators of deforestation across the globe, a key contributor to climate change. For example, unregulated clearing of land by criminals and armed groups for ranching, illicit mining and other purposes has resulted in widespread deforestation, fuelling conflict and terrorizing local populations.⁶ The oil, gas and mining sector is highly vulnerable to abuse by corrupt government leaders and predatory companies. Such corruption adversely affects

³ Christine K. Johnson , Peta L. Hitchens , Pranav S. Pandit,, Julie Rushmore , Tierra Smiley Evans , Cristin C. W. Young and Megan M. Doyle (2020), “Global shifts in mammalian population trends reveal key predictors of virus spillover risk”, Royal Society Publishing available at: <https://royalsocietypublishing.org/doi/10.1098/rspb.2019.2736>.

⁴ The Intergovernmental Panel on Climate Change (IPCC) has extensively documented how rising global temperatures from human-induced climate change will have significant environmental, social and economic consequences. See the IPCC’s report on how climate change is occurring in a rapid, widespread and intensifying manner, IPCC (2021), “IPCC’s Sixth Assessment Report (AR6), Working Group I Report”, available at: <https://www.ipcc.ch/assessment-report/ar6/> and see press release: <https://www.ipcc.ch/2021/08/09/ar6-wg1-20210809-pr/>. See also IPCC (2022), “Climate Change 2022: Mitigation of Climate Change”, available at: https://report.ipcc.ch/ar6wg3/pdf/IPCC_AR6_WGIII_FinalDraft_FullReport.pdf. This report cites evidence that carbon dioxide emissions rise with corruption and that corruption negatively affects law enforcement, including in the forestry sector.

⁵ The World Bank estimates that the annual economic loss from wildlife trafficking, illegal fishing, and illegal logging tallies to USD 1-2 trillion. This number does not include the damages to the environment caused by illegal mining and pollution crimes. World Bank (2019), “Illegal logging, fishing and wildlife trade: the costs and how to combat it”, available at: <https://pubdocs.worldbank.org/en/482771571323560234/WBGReport1017Digital.pdf>, also see economic analysis from Swiss Re (2021), one of the world’s largest reinsurance providers, on economic costs of climate change, available at: <https://www.swissre.com/media/press-release/nr-20210422-economics-of-climate-change-risks.html>.

⁶ International Crisis Group (2021), “A Broken Canopy: Deforestation and Conflict in Colombia”, available at: <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/091-broken-canopy-deforestation-and-conflict-colombia>.

the billion people who live in poverty in resource-rich countries, undermining efforts to reduce poverty, achieve good governance and tackle the climate crisis.⁷

How environmental crime and corruption impacts human rights

Environmental crime and corruption pose a direct threat to human rights, including the right to clean water, to food, and fundamentally to life, as well as the right to a healthy environment,⁸ upon which other human rights depend.⁹ The realisation of SDG 16 on strong and corrupt-free institutions, is key to achieving all other SDGs concerned with a healthy environment, particularly SDG 13 (action on climate), 14 (life below water) and 15 (life on land). Without strong and stable institutions that are free of corruption, the funds allocated for climate action and environmental protection will not have the lasting impact they ought to have. Additionally, corruption enables environmental crimes which further undermines efforts to protect human rights and the environment and contributes to human rights and environmental rights violations against indigenous peoples and local communities.

Environmental human rights defenders and indigenous peoples across the globe face significant risks as they fight to protect their land, their (renewable) natural resources, communities and livelihoods from environmental degradation and theft.¹⁰ Powerful corporate interests in the mining, logging and agribusiness sectors, as well as other commercial interests, commit human and environmental abuses with impunity. Governments are often part of the problem, either being party to corruption or failing to stop it. Corruption often results in impunity, preventing government enforcement agencies from carrying out meaningful investigations to hold corporate interests to account for killings of environmental human rights defenders and other harms committed.¹¹

⁷ Natural Resource Governance Institute (2021), “2021 Resource Governance Index”, available at: https://resourcegovernance.org/sites/default/files/documents/2021_resource_governance_index.pdf.

⁸ See Resolution adopted by the Human Rights Council on 8 October 2021: The human right to a clean, healthy and sustainable environment. HRC Resolution A/HRC/RES/48/13, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/289/50/PDF/G2128950.pdf?OpenElement>.

⁹ Targeting Natural Resource Corruption (June 2021), “Natural resources, human rights, and corruption. What are the connections?”, available at: <https://www.worldwildlife.org/pages/tnrc-topic-brief-natural-resources-human-rights-and-corruption-what-are-the-connections>.

¹⁰ Global Witness (2021), “Last Line of Defence: The industries causing the climate crisis and attacks against land and environmental defenders”, available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/>. Global Witness reports that 227 environmental and land defenders were killed in 2020 (more than four per week), making it the most dangerous year on record for those defending their forests and rivers, coastal areas and the oceans from deforestation and industrial development. The majority of defenders were killed in countries with limited civic space. See also: Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor (2021), “At the heart of the struggle: human rights defenders working against corruption”, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/396/47/PDF/G2139647.pdf?OpenElement>.

¹¹ Global Witness (2021), “Last Line of Defence: The industries causing the climate crisis and attacks against land and environmental defenders”, <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/>, p. 17. See also how government corruption and environmental crimes have harmed Amazonian indigenous communities whose ancestral lands were given away by the government for illegal activities, including drug trafficking and illegal logging: Transparency International (2020), “Defending indigenous communities from the deadly effects of corruption”, <https://www.transparency.org/en/blog/defending-indigenous-communities-from-the-deadly-effects-of-corruption>.

Steps towards tackling corruption linked to environmental crimes to achieve the SDGs

The international community is increasingly recognizing the strong links between corruption, environmental crimes and their impact on the environment and human rights.¹² Moreover, the UN Human Rights Council in October 2021 adopted a resolution recognizing the human right to a safe, clean, healthy and sustainable environment.¹³ The Financial Action Task Force has also recognized the linkages between money laundering and environmental crimes.¹⁴ Despite this attention, corruption cases related to the environment and the climate still go unnoticed and unpunished while legal frameworks are poorly enforced, resulting in greater environmental damage and harm to communities and livelihoods across the globe.¹⁵

The UNCAC Coalition's Environmental Crime and Corruption Working Group calls for **strong actions by States** to address this issue by **complying with international obligations**, including the UN General Assembly Resolutions,¹⁶ the Political Declaration adopted at the UN General Assembly Special Session against Corruption in June 2021, the UN Convention against Corruption (UNCAC), the Basel Convention, the UN Framework Convention on Climate Change, the Montreal Protocol, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). States must also **establish robust legal frameworks to effectively prevent, investigate and prosecute corruption related to the environment and climate, including cases of exploitation and destruction of renewable natural resources.**

¹² See the following actions taken at the international and regional levels: UN General Assembly Resolutions concerning Tackling Illicit Trafficking in Wildlife on the need to address corruption in wildlife and forest crimes, Cites Resolution Conf 17.6 which addresses corruption in wildlife and forest crimes:

https://cites.org/sites/default/files/document/E-Res-17-06_0.pdf, UNCAC CoSP Resolution 8/12 Preventing and combating corruption as it relates to crimes that have an impact on the environment: <https://www.unodc.org/unodc/en/corruption/COSP/session8-resolutions.html>, UNGASS Political Declaration at the Special Session against Corruption which includes commitment to disrupting the links between corruption and other forms of crime: <https://undocs.org/A/S-32/2/ADD.1>, the EU's Action Plan against Wildlife Trafficking which includes tackling corruption as inherent part of strategy: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0087&from=EN>, and the Escazú Agreement which requires signatory states in Latin America and the Caribbean to recognize, promote and protect the rights of environmental defenders and to ensure the participation of the public in decision-making processes that have or may have a significant impact on the environment, see, Articles 7 and 9:

https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf

¹³ Human Rights Council: A/HRC/48/L.23/Rev.1

https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/48/L.23/Rev.1.

¹⁴ See FATF reports on Environmental Crime: <https://www.fatf-gafi.org/publications/environmentalcrime/environmental-crime.html>.

¹⁵ UN Environment Programme (2019), "Dramatic growth in laws to protect environment, but widespread failure to enforce, finds report", Press release available at: <https://www.unep.org/news-and-stories/press-release/dramatic-growth-laws-protect-environment-widespread-failure-enforce>; See also: IUCN World Conservation Congress 2020 Resolution 38: Treating organized crime having an impact on the environment as a serious crime, https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2020_RES_038_EN.pdf. See also: Climate and Land Use Alliance (2021), "Understanding and Tackling a Key Threat to the Climate and Land Use Agenda", available at:

https://www.climateandforests2030.org/app/uploads/2021/10/CRIME_Understanding-and-Tackling-a-Key-Threat_BarberWinfieldPetersen.pdf.

¹⁶ See the UN General Assembly Resolutions on tackling illicit trafficking in wildlife adopted in 2021: <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N21/194/13/PDF/N2119413.pdf?OpenElement>

We propose the following targeted actions to tackle corruption related to climate and environmental crimes, which we believe will help bring about the transformative changes needed to achieve the SDGs related to the environment:

Effectively implement and enforce legal frameworks

States should **strengthen laws and mechanisms** to tackle corruption linked to the environment and climate through the following:

- Identify **weaknesses and gaps in anti-corruption frameworks** that link to climate and environmental crimes and develop recommendations for improvement to include in:
 - UNCAC country review reports, which should be made publicly available
 - the Universal Periodic Review reports, under the auspices of the Human Rights Council, which also should be publicly available;
- Increase the **capacity of law enforcement to fully investigate and prosecute those who commit climate and environmental crimes**, including promoting international cooperation to investigate these crimes across borders and the financial flows linked to them, including through trade-based money laundering;
- Target **corruption risks** that enable environmental crimes, for example by **empowering internal control units** in port and customs authorities and in bodies that award and oversee contracts, concessions and licences;
- Ensure that anti-corruption bodies (including those established in line with UNCAC Articles 6 and 36) have **adequate mandates, independence, capacity and resources to rigorously tackle corruption linked to climate and environmental crimes**;
- Support interaction and **collaborative approaches between national human rights institutions and anti-corruption agencies**;
- Legally recognize **forest-destruction as a climate crime and take measures** to sanction those companies and individuals who engage in it or who are enablers.¹⁷

Strengthen mechanisms to prevent and detect money laundering

States should strengthen laws to **prevent and detect money laundering linked to climate and environmental crimes** by taking the following actions:

- **Effectively prosecute** those who commit crimes of corruption as they relate to climate and environment (UNCAC Articles 23 and 60),¹⁸ include environmental crimes as predicate offences for money laundering and make environmental crimes an essential part of national risk assessments;
- Increase **capacity of relevant law-enforcement agencies to investigate transnational environmental crimes and the financial flows** linked to the proceeds of those crimes. In doing

¹⁷ Keith Slack, Earthrights International (2021) "To save the forests, fight climate crimes and corruption", <https://earthrights.org/blog/to-save-the-forests-fight-climate-crimes-and-corruption/>. This policy proposal takes a similar approach to how the US government sanctions foreign officials for corruption and human rights abuses.

¹⁸ Transparency International (2015), "Addressing Corruption in an Era of Climate Change", Submission to the 6th UNCAC CoSP, available at: <https://uncaccoalition.org/files/TI-Climate-change.pdf>.

so, law enforcement efforts should target the higher-level actors and facilitators in criminal syndicates, tackling corruption across supply chains;¹⁹

- Designate law enforcement authorities to conduct **parallel financial investigations** “alongside, or in the context of, a (traditional) criminal investigation into money laundering, terrorist financing and/or predicate offence(s).”, in line with FATF Recommendation 30,²⁰ and ensure they are provided with sufficient staff with requisite technical skills and resources; Engage with and strengthen the capacity of financial institutions to more effectively tackle the financial aspects of environmental crimes, including to detect risks in payments and supply chains and act upon those red flags.²¹

Ensure full transparency in the award of governments contracts

States should adopt and enforce legal frameworks that require **full transparency in the award of government contracts** by taking the following actions:

- Require by law that the following be made **publicly accessible, wherever possible through timely publication online of all contracts and supporting documentation**: public procurement and other government contracts, permits and concessions, most importantly those related to major infrastructure projects, extraction of natural resources, management and movement of waste, award and trading of carbon emission credits, and climate project funds along with information on all legal entities involved, as well as their direct and ultimate owners, and payments to or from the public sector;
- Promote **good governance in the management of funding** that States and regional organizations are mobilizing²² to respond to the climate and environmental crises to ensure they are not exploited by corrupt interests;²³
- Require that all legal entities report on their beneficial owners and that central **company and beneficial ownership registries are freely searchable and accessible online** to enable national and international stakeholders such as law enforcement, NGOs as well as the general public, to have access to information on both direct and ultimate owners of domestic companies and foreign companies participating in these agreements.

¹⁹ Specifically, we encourage the Human Rights Council and the United Nations Office on Drugs and Crime (UNODC) to engage closely and actively with each other to tackle environmental crimes, corruption and illicit financial flows.

²⁰ Financial Action Task Force (FATF), Recommendation 30, available at: <https://cfatf-gafic.org/index.php/documents/fatf-40r/396-fatf-recommendation-30-responsibilities-of-law-enforcement-and-investigative-authorities>.

²¹ See for example: IUCN Marseilles World Conservation Congress Resolution 108 on deforestation and agricultural commodity supply chains, https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2020_RES_108_EN.pdf.

²² See: European Commission (2021), “A European Green Deal”, available at: https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en.

²³ See resources from Transparency International which outlines cases of corruption in climate finance and ideas for how to build strong governance measures into climate funds and projects: www.transparency.org/en/projects/climate-governance-integrity-programme, for example: Transparency International Bangladesh (2020), “Climate change investments in Bangladesh: leveraging dual-use characteristics as an anti-corruption tool”, SOAS University of London, available at: <https://ace.soas.ac.uk/publication/climate-change-investments-in-bangladesh/>.

Provide a safe and enabling environment for civil society and whistleblowers

States must provide a **safe and enabling environment for those who uncover and report these crimes**, including environmental human rights defenders, members of local communities, whistleblowers, and journalists by taking the following actions:

- Legally require and effectively implement **strong protection and reward mechanisms for whistleblowers from the public and private sector** who report on environmental crimes and corruption linked to environmental crimes, in line with international best practice;²⁴
- Ensure **secure, anonymous reporting channels and measures to protect whistleblowers** from attacks and retaliation (UNCAC Article 13, UNGASS Political Declaration OP 30);²⁵
- Promote and welcome the **active participation of non-governmental organisations (NGOs)** in tackling environmental crimes, for example through their research and investigations that can aid formal agencies in their investigations;
- **Grant independent NGOs legal standing to represent the public interest** in administrative processes and court cases linked to environmental crimes;
- Legally **require private and state-owned companies to proactively consult with and consider the views of indigenous peoples and local communities through Free, Prior and Informed Consent (FPIC)** before initiating projects that will impact the environment they depend on and establish grievance mechanisms for reporting corruption;²⁶
- Incorporate **analysis of gender, race and marginalized groups in anti-corruption research, approaches and initiatives and develop action plans based on the findings;**²⁷

²⁴ See: Targeting Natural Resources Corruption (2021), “Whistleblower Protection: An Essential Tool for Addressing Corruption that Threatens the World’s Forests, Fisheries and Wildlife”, available at: <https://c402277.ssl.cf1.rackcdn.com/publications/1434/files/original/Topic-Brief-Whistleblower-Protection-An-Essential-Tool-for-Addressing-Corruption-that-Threatens-the-Worlds-Forests-Fisheries-and-Wildlife.pdf?16131381779>. See also: National Whistleblower Center (2020), “Exposing a Ticking Time Bomb. How fossil fuel industry fraud is setting us up for a financial implosion – and what whistleblowers can do about it”, available at: <https://www.whistleblowers.org/wp-content/uploads/2020/07/NWC-Climate-Risk-Disclosure-Report.pdf>.

²⁵ See also: IUCN Marseilles World Conservation Congress Resolution 115 on protecting environmental human and peoples’ rights defenders and whistleblowers, https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2020_RES_115_EN.pdf.

²⁶ Encouragingly, there are examples of communities that have successfully fought back against attacks on their environment, human rights and livelihoods. These victories often involve protracted legal battles and community-led campaigning carried out in a sustained manner and include stopping fossil fuel projects, winning land rights and making some headway in holding companies to account for human rights abuses. Examples include securing a ban on coal mining in Zimbabwe’s national parks, stopping a bauxite mining project in the Solomon Islands and Panama’s Supreme Court granting a protected territory for the Naso indigenous group. See: Global Witness (2021), “Last Line of Defence” available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/#:~:text=Defenders%20are%20our%20last%20line,land%20and%20for%20our%20planet>, pp. 21-22.

²⁷ For example, ‘corruption’ is multi-faceted and often affects women in different ways than men. Gender-sensitive action plans should be developed, including implementation of the recommendations of UNODC’s report on addressing the gender dimensions of corruption. See: UNODC (2020), “The Time is Now: addressing the gender dimensions of corruption, available at: https://www.unodc.org/documents/corruption/Publications/2020/THE_TIME_IS_NOW_2020_12_08.pdf. See also: WWF (2021) “Gender and Illegal Wildlife Trade: overlooked and underestimated” which gives insights into why considering gender is important and how to integrate gender into IWT programming, available at: https://wwfint.awsassets.panda.org/downloads/gender_iwt_wwf_report_v9.pdf.

- Promote **partnerships with rural communities and indigenous peoples** to ensure their active participation;
- Ensure that **attacks on officials, communities, civil society organisations, and journalists are fully investigated and prosecuted.**