

# Environmental governance as a framework for combating green corruption



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## Introduction

In recent years, the urgency of addressing environmental challenges, driven by climate change, loss of biodiversity and degradation of natural resources, has increased. While the states are combatting these pressing issues, the concept of "environmental governance" has emerged as a critical framework for ensuring the effective and equitable implementation of environmental policies. This study seeks to deepen the concept of environmental governance as a strategy to combat green corruption, an important aspect of environmental governance that is often ignored.

Green corruption refers to unethical practices that undermine environmental governance, including bribery, fraud and misallocation of resources to exploit natural resources for personal gain. These practices not only hinder sustainable development, but also exacerbate existing environmental crises, disproportionately affecting vulnerable communities and future generations, thus addressing green corruption is essential for establishing resilient environmental systems and achieving the SDGs. In addition, the core of green governance lies in its commitment to transparency, accountability and participatory decision-making. Through promoting a holistic approach, stakeholders, including government entities, civil society and local communities, can collaborate to set powerful environmental policies. This cooperation ensures that policies reflect society's diverse needs and aspirations while protecting natural resources.

**This study, published by Partners for Transparency,** addresses key components of environmental governance, emphasizing the need for strong institutional frameworks, legal measures and public participation. Effective institutional frameworks are necessary to clearly define responsibilities and reduce chances of corruption. Through the implementation of strict regulations and oversight mechanisms, Governments can deter corrupt practices and enhance the integrity of environmental programmes. Furthermore, legal measures must be strengthened to address not only the perpetrators of environmental corruption but also systemic issues that allow such practices to flourish, this includes the development of comprehensive anti-corruption laws specifically targeting environmental crimes and the implementation of strict enforcement mechanisms.

**Overall, the study comes from Partners for Transparency's understanding that** fighting green corruption is not just a regulatory challenge, but a moral imperative that requires a transformative approach to environmental governance. By embracing the principles of green governance, we can create a resilient and sustainable future that honors people and the planet. This study serves as a guide for policymakers, practitioners and advocates committed to integrating green governance into their environmental strategies, and ensuring that the pursuit of sustainability is ethical and effective. In cooperation, we can forge a path towards a corruption-free environment and preserve our common natural heritage for future generations.

**The study has been divided along the following lines:**

## First: a theoretical vision of environmental governance and green corruption

The concept of environmental governance is among the newly established concepts that are closely linked to increasing community awareness and growing interest in governance concepts, however, it has emerged as a separate field since environmental issues became on the international agenda in the early 1970s. Environmental governance generally refers to laws, practices, policies, principles and standards that shape individuals' interaction with the environment and seek to regulate the work of institutions and organizations dealing with environmental issues.

### 1. Environmental governance

Environmental governance includes a multi-tiered framework that encompasses local, national and international actors and integrates different sectors and disciplines to manage environmental resources sustainably. According to the United Nations Environment Programme (UNEP), effective environmental governance is critical to achieving SDGs, and its importance is reflected through several factors:

1. **Sustainability:** Ensures the sustainable use of resources for current and future generations.
2. **Equality:** Promotes social justice by considering the needs of marginalized communities.
3. **Resilience:** Enhances the ability of communities to adapt to environmental changes and disasters.
4. **Compliance:** Helps states comply with international environmental agreements and obligations.<sup>1</sup>

Environmental governance perceptions are closely linked to the perceptions put forward relating to the rule of environmental law, which is defined as “the principles of the rule of law applicable in the environmental context”. The rule of law describes a system of government in which all persons, including individuals and public and private institutions, are accountable to public laws, applied on an equal footing, separately adjudicated and compatible with human rights.<sup>2</sup>

**The UNEP has identified seven key elements for the rule of environmental law, while at the same time representing key elements to regulate environmental governance:**

#### 1. Fair, clear and applicable environmental laws

The rule of environmental law is based on just and non-discriminatory laws in their development, application and impact; easy to understand and unequivocal; and enforceable to achieve their objectives effectively in the country's own institutional, cultural and economic context.

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<sup>1</sup> Environmental governance and its impact on climate change, International Policy Journal, November 10, 2022, Link: <https://2h.ae/XvHD>

<sup>2</sup> Environmental Rule of Law: Tracking Progress and Charting Future Directions, United Nations Environment Programme, 2023, Link: <https://2h.ae/rkxE>

## **2. Access to information, public participation and access to justice**

Access to environmental information allows citizens to identify violations and determine how to deal with them. Public participation in environmental decision-making also serves to develop fair and enforceable laws and improve public support and compliance. Access to justice also helps protect access to information, participation and enforcement by ensuring citizens' access to mechanisms to protect their rights and resolve conflicts.

## **3. Accountability and integrity of institutions and decision makers**

Environmental institutions must demonstrate accountability, transparency and integrity to ensure public support, compliance and effective environmental protection.

## **4. Clear and coordinated powers and roles across and within institutions**

Environmental management involves multiple normative systems (legislative, customary, religious, etc.), levels (local, national and international) and sectors (forestry, agriculture, waste management, water, etc.), leading to overlap and institutional gaps, so clear mandates and cross-sectoral coordination are essential for effective implementation.<sup>3</sup>

## **5. Prompt justice in dealing with environmental issues**

Fair, impartial and responsive dispute resolution and enforcement mechanisms increase compliance with environmental regulations, support environmental initiatives and public confidence in the judicial process.

## **6. Recognize the relationship between the rule of environmental law and the promotion of constitutional, human and other rights.**

A healthy environment is essential for the realization of rights to life, property and health, as well as cultural, economic and political rights. Constitutional, human and other rights, including substantive and procedural rights, provide tools for the promotion and enforcement of environmental protection.

## **7. Specific criteria for the interpretation of environmental law**

Clear and detailed guidance on environmental laws enables implementing agencies to adopt consistent enforcement regulations and practices and facilitate compliance by regulated communities and citizens.<sup>4</sup>

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<sup>3</sup> Environmental Rule of Law: Tracking Progress and Charting Future Directions, P 17.

<sup>4</sup> Ibid.

## 2. Green Corruption

In attempting to control policies that undermine illegal practices that can lead to environmental harm, the concept of green corruption has emerged, which refers to corruption and financial crimes leading to environmental degradation, where environmental crimes are facilitated by financial crimes and weak governance. In a nutshell, environmental criminals exploit governance gaps and use corruption to facilitate illegal activities related to illegal wildlife trafficking, unreported and unregulated illegal fishing, illegal logging, illegal mining and waste trafficking, and then launder the profits of their illegal trade using the legitimate financial industry.<sup>5</sup>

In this context, the Conference of the States Parties to UN Convention against Corruption, "UNCAC", adopted, for the first time in December 2019, a resolution recognizing the correlation between corruption and environmental crime and the impact of corruption and illicit practices on undermining endeavors to improve States' response to climate change, particularly developing countries. Resolution 8/12, on preventing and combating corruption in relation to crimes that have an impact on the environment, through its 23 paragraphs, emphasizes the importance of addressing corruption linked to crimes that have an impact on the environment, and urges States parties to prevent, investigate and prosecute corruption crimes where they may be linked to crimes that have an impact on the environment.<sup>6</sup>

In a remarkable development related to attention to green corruption, the Council of Europe's Group of States against Corruption "GRECO" issued a statement in December 2023, noting that environmental crimes, usually driven by the enormous illicit financial benefits that perpetrators can receive, often depend on corrupt practices, including bribery and the unjustified impact on senior public officials, politicians and law enforcement officials.<sup>7</sup>

Private sector corruption in this area is also a source of concern in dealing with crimes of illegal logging, illegal fishing, illegal wildlife trafficking, illegal mining, illegal waste disposal and illegal transportation of hazardous wastes. Among other illicit activities, they cause irreparable damage to natural resources, citizens' right to a healthy environment and the rights of future generations.

This means that States must enhance the transparency of decision-making and law-making processes in areas such as the use of environmental resources, licensing and concession processes, certification and enforcement, and environmental inspections, and pollution and trafficking rights must be strictly regulated. Authorities should be alert to possible violations of these rights, and preventing corruption measures are also necessary as part of a green transition in which large sums of money are invested.

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<sup>5</sup> Green Corruption, The Basel Institute's Green Corruption programme, Link: <https://2h.ae/CdEq>

<sup>6</sup> Conference of the States Parties to the United Nations Convention against Corruption, the full text of Resolution 8/12, Link: <https://2h.ae/GmEx>

<sup>7</sup> Anti-Corruption Day: Governments must fight environmental corruption, Link: <https://2h.ae/NQWr>

Among the most important recommendations made by these States in their above-mentioned statement are the appropriate organization and effective implementation of pressure, public procurement and permission procedures, as well as the protection of whistleblowers, emphasizing that transparency of the legislative process, including respect for the requirements of public consultation, participation and respect for the right to public information, is also necessary to prevent abuse. States should also take firm action to set combating environmental corruption as a political priority, as corrupt practices in the environmental sector ultimately lead to the degradation of the world's natural resources, a legacy that future generations should not inherit.<sup>8</sup>

## **Second: Key areas within green corruption**

According to the vision presented on green corruption, it is essentially linked to three main areas as follows:

### **1- Governance of Climate Change Response Funding**

Climate finance is a specialized form of financing designed to address climate change challenges and includes local, national and transnational funding, derived from public, private and alternative sources of financing, that supports mitigation and adaptation actions that address climate change and enhance resilience to climate impacts. Overall, climate funds refer to specific financial instruments including bonds, grants or groups of funds allocated to direct climate finance towards specific targets or projects.<sup>9</sup>

Climate funds can be financed by the public or private sector, or a combination of both, each playing a role in driving the transition to a low-carbon, climate-resilient future. Currently, climate finance in developing countries is mainly from public sources. To fill the funding gap and accelerate climate change mitigation and adaptation activities in low-income countries, private financing must be encouraged. However, the perception of corruption risks undermines the private sector's trust in climate finance, preventing money flows to low-capacity and weaker governance countries. Corruption is an obstacle to the collection and effective use of funds to adapt to and mitigate the effects of climate change.<sup>10</sup>

In this context, Malaysia's former Prime Minister was convicted of misappropriating millions from the National Development Fund, including climate change mitigation efforts. The Supreme Court found the former Prime Minister guilty of all charges, such as abuse of power, money-laundering and

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<sup>8</sup> Ibid.

<sup>9</sup> Addressing Corruption Risks to Safeguard the Response to Climate Change DISCUSSION DRAFT II, United Nations Office on Drugs and Crime, Link: <https://2h.ae/brJG>

<sup>10</sup> Ibid.

breach of criminal trust, involving \$10 million in funds deposited in the accounts of former Prime Ministers from a former unit of the Development Fund.<sup>11</sup>

## 2- Renewable Energy Sectors

The risks of corruption in the renewable energy sector vary and take multiple forms. One recent study divides the risks into three categories as follows:

- **Institutional and regulatory gaps:** these include rules and regulatory frameworks, licenses and auctions, support programmes and contract awards.
- **Inadequate community participation:** Land acquisition and consultation processes come in context.
- **Project implementation and operational risks:** political patronage, commercial fraud and preferential treatment by public officials.<sup>12</sup>

During the current period, there is an emerging bunch of evidence that shows that during project development, communities are often not provided with accurate information, or promised benefits that may not be realized later. Recent research has shown many instances of inadequate consultation processes, manipulation through the exchange of misinformation, attempts to irregularly influence community leaders and insufficient mitigation of the project's negative effects. This includes concerns about the disproportionate negative impact on indigenous and traditional communities, where customary and protected land use practices are not adequately protected.<sup>13</sup>

This was a problem that arose in the Lake Turkana Wind Power Project in Kenya - 2019, when indigenous communities obtained an alleged legal "victory" of land allocation that led to forced displacement and insufficient compensation. Another example is what happened in La Guajera, Colombia, where indigenous residents of Wayuu objected to the development of the wind farm on the basis of insufficient consultation and lack of clarity on the benefits to communities. The decision of the Norwegian Supreme Court of 2021 also indicates that the licenses granted for the development of the wind power plant in Fosen violated international human rights.<sup>14</sup>

Licensing and permitting processes are an essential part of any renewable energy project, and these processes are at risk of corruption and irregular impact in most sectors, but the renewable energy sector has characteristics that contribute to increased risk. The deployment of large-scale renewable

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<sup>11</sup> IN THE FEDERAL COURT OF MALAYSIA (APPELLATE JURISDICTION) CRIMINAL APPEAL NO. 05(L)-289-12/2021(W), Link: <https://2h.ae/eVPa>

<sup>12</sup> Good governance and the just transition: Implications for renewable energy companies, Basel Institute on Governance, Link: <https://2h.ae/XSqO>

<sup>13</sup> Penny wise or pound foolish? Compensation schemes and the attainment of community acceptance in renewable energy, November 2021, Link: <https://2h.ae/GwIv>

<sup>14</sup> Good governance and the just transition, Idem.

energy projects usually depends on a complex set of licensing and permitting processes, which take a long time and involve many entities.<sup>15</sup>

The risks of corruption in licensing and permitting processes may also arise in a number of ways, ranging from direct bribes to more camouflaged forms of profit-seeking. Media reports from Mexico have highlighted the problem of politicians and officials seeking bribes from companies to set up wind farms in exchange for approvals and permits for projects. A recent case of Chinese investment in a wind project in Bosnia and Herzegovina also raised questions about questionable land deals involving local authorities.<sup>16</sup>

### 3- Wildlife

In the Global Wildlife Crimes Report 2024, UNODC indicated that crimes against wildlife have a profound global impact and that their consequences are not always clearly understood. The latest data on trafficked and seized species from 2015 to 2021 in 162 countries and regions indicate that illicit trade affects approximately 4,000 species of plants and animals with approximately 3,250 species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora. During the reporting period, law enforcement agencies confiscated 13 million items totaling more than 16,000 tons.<sup>17</sup>

Analysis of more than 140 thousand seizures of wildlife species from 2015 to 2021 also reveals the complex involvement of powerful organized crime groups in exploiting fragile ecosystems around the world, from the Amazon to the Golden Triangle, which extends widely to northeast Myanmar, northwestern Thailand and northern Laos. Transnational criminal networks are involved in different stages of the trade chain, including export, import, brokering, storage, breeding and sale to customers.<sup>18</sup>

Illegal logging and its international trade have a serious economic, social and environmental impact, with international crimes estimated to account for between 15% and 30% of the world's total circulating timber. The illegal timber trade is estimated to be worth between \$51 and \$152 billion annually, representing a significant loss in tax revenues. Illegal logging is also responsible for deforestation, habitat loss and species extinction and contributes to global warming, and illegal profits of forest crime can be used to finance conflicts.<sup>19</sup>

There are several factors affecting the rapid rate of wood consumption, and China, India and many other emerging economies, as well as existing US, European and Japanese markets, are major importers that fuel the demand for wood goods. The availability and utility of timber means that the

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<sup>15</sup> Renewables 2023 Analysis and forecast to 2028, Link: <https://2h.ae/sMoG>

<sup>16</sup> Good governance and the just transition, Idem

<sup>17</sup> 'Untold harm to nature' from wildlife trafficking, warns UNODC, May 2024, Link: <https://2h.ae/YCVu>

<sup>18</sup> Ibid.

<sup>19</sup> Forestry crime, Living forests are vital to human health. We disrupt the networks behind illegal logging, Link: <https://2h.ae/ftwx>



majority of consumers are unaware of the underlying practices of illicit timber goods, as illicit timber trade is driven by the same factor that drives all illicit economies. Since timber does not share characteristics similar to luxury goods, wood goods are generally not perceived as prohibited goods, and in fact, rare species and types tend to dominate illicit luxury markets, although rare wood species account for a small percentage of wood in circulation.<sup>20</sup>

However, it is important to refer that recourse to criminal justice measures in response to forest crime is relatively recent, and the focus has been on economic and regulatory measures, such as trade and certification restrictions, to control and reduce timber exploitation. The shift to thinking about how criminal justice tools can be used and designed to be suitable for the purpose of combating crime in the forest sector has been a natural next step, and as national regulatory efforts are consolidated and forest resources continue to shrink, the obvious requirement is to use State institutions with implementing powers and capacities.<sup>21</sup>

### **Third: UN presentation of environmental governance within the framework of the decisions of the Conference of the States Parties to the UNCAC**

Decision of the Conference of the States Parties to the United Nations Convention against Corruption was issued in December 2019, to recognize the relationship between corruption and environmental crime and the impact of corruption and illicit practices in undermining endeavors to improve States' response to climate change, particularly developing States. Resolution 8/12, on preventing and combating corruption in relation to crimes that have an impact on the environment, affirms general pathways to environmental governance, based on the second preamble paragraph of the Convention, in which States parties expressed concern about the links between corruption and other forms of crime, particularly organized crime and economic crime, including money-laundering. In addition to the fifth preamble paragraph of the Convention, in which States parties expressed their conviction that a comprehensive and multidisciplinary approach was needed to effectively prevent and combat corruption.

Article 12 of the Convention also referred to the need to prevent private sector involvement in corruption, by preventing abuse of procedures governing private entities, including procedures of licensing and subsidies granted by public authorities for business activities. Highlighting, in this context, the contributions of intergovernmental organizations and the important role played by the media, civil society, academia and private sector entities in preventing and combating corruption in relation to crimes that have an impact on the environment.

**Among the most prominent features of this resolution are the following:**

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<sup>20</sup> Criminal Justice Responses to the Illegal Trade in Timber in Vietnam, United Nations Office on Drugs and Crime, December 2013, Link: <https://2h.ae/cckU>

<sup>21</sup> Ibid.

- Implementing the Convention in accordance with its domestic legislation and ensure respect for its provisions, with a view to making the best use of the Convention to prevent and combat corruption in relation to offences affecting the environment and to recover and return the proceeds of crimes affecting the environment.
- States shall act in accordance with the fundamental principles of their legal systems by strengthening anti-corruption frameworks and promoting ethical practices, integrity and transparency, and shall endeavor to prevent conflicts of interest with a view to preventing corruption in relation to crimes that have an impact on the environment.
- Ensure integrity throughout the entire system of crime prevention and criminal justice, including by strengthening impartiality between customs and border control, without prejudice to the independence of the judiciary and in accordance with international law.
- Consider financial flows of proceeds of crime and money-laundering that may arise from corruption in relation to crimes that have an impact on the environment, through investigations and examinations of such crimes, including through financial investigation techniques, and seek to eliminate incentives that encourage the transfer of proceeds of crime abroad.

## Recommendations

In the light of the above, Partners for Transparency stresses the importance of implementing a number of recommendations to strengthen the role of environmental governance in the fight against green corruption, as follows:

### **1- Strengthening regulatory frameworks**

Strict laws governing the use of natural resources and setting standards for environmental protection, including the protection of water, air and biodiversity, must be put in place. It is also important to have mechanisms in place to monitor compliance with these laws and to apply penalties for offenders, which incentivizes companies to adhere to environmental standards.

### **2- Increase stakeholder participation**

All stakeholders, including communities, the private sector and civil society organizations, must be involved in the decision-making process, so that workshops and public consultations can be organized to gather views and recommendations, leading to more inclusive decisions that reflect society's needs and aspirations.

### **3- Empower local communities**

Projects that encourage local communities to take an active role in preserving the environment should be supported, which may include training in sustainable farming techniques or protecting natural resources, as communities are often the most influential in preserving their environment.

#### **4- Implement transparency measures**

Enhancing transparency means that information on the environmental impact of projects and policies must be made publicly available, and can include periodic reports on emissions and sustainable resources, helping to build trust between citizens and decision makers, and encouraging companies to improve their environmental performance.

#### **5- Adoption of sustainable practices**

Enterprises should be encouraged to implement strategies and techniques that reduce environmental impact, such as the use of renewable energy, recycling and waste reduction, and successful models can be presented as evidence, incentivizing companies to achieve sustainability certificates.

#### **6- Stimulating Green Innovation**

By providing financial incentives, such as tax exemptions or subsidies, to companies adopting environmentally friendly technologies, this incentive can lead to the development of innovative solutions to environmental challenges and enhance the competitiveness of the green economy.

#### **7- Strengthening international cooperation**

Cooperation with other States and international organizations helps to address global environmental issues such as climate change and biodiversity. Successful knowledge and techniques must be shared, as well as the development of common strategies to address environmental challenges.