



Session Report

Please know you may design the structure of this report to better suit the session. It's important to capture the key outcomes and solutions proposed for the future.

Session Title: Environmental Crime, Corruption and Climate Crisis: Strengthening Anti-Corruption Frameworks and Enforcement Measures to Protect the Environment, the Climate and the Rights of Indigenous Peoples and Communities

Date & Time: Thursday, 08.12.2022, 3:30 pm -5:00 pm GMT -5

Report prepared by: Corinna Gilfillan, Senior Analyst - The UNCAC Coalition

Moderated by: Brice Böhmer, Climate and Environment Lead, Transparency International

Panellists:

- Olivia Swaak-Goldman - Executive Director, Wildlife Justice Commission
- Professor Dr. Edgardo Buscaglia - Senior Scholar in Law and Economics, Columbia University
- Juhani Grossmann - Team Leader Green Corruption Programme, Basel Institute for Governance
- Joachim Stassart - Lead Researcher on Environmental Crime, Transparency International (TI) Brazil

Share the thematic focus of the session, it's purpose and corruption risks?

This workshop emphasized how environmental crime and corruption fuel environmental degradation and the climate crisis and undermine the rights of indigenous peoples and communities. The panellists identified the gaps in anti-corruption frameworks and weak enforcement that harm the environment, climate

and human rights, including the need to tackle the financial aspects of transnational environmental crimes and corruption. Additionally, recommendations for strengthening and effectively enforcing legal frameworks and promoting strong and coordinated actions at the international level to address this problem were discussed.

What is the corruption risk?

Environmental crime covers a range of crimes that breach environmental legislation and cause significant harm to the environment, including wildlife trafficking, Illegal Unreported and Unregulated Fishing (IUU fishing), illegal logging, illegal mining, waste trafficking and climate and pollution crimes. Corruption enables and facilitates environmental crimes, undermining the implementation and enforcement of legal frameworks to protect the environment and the climate. For example, corruption makes 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).

Financial crimes, including money laundering and tax evasion, often go hand-in-hand with environmental crime, causing serious long-term economic loss and severely impacting local communities in which natural resources are stolen and the environment is damaged. These crimes are often undertaken by organised criminal networks that are typically transnational in nature and rely on corruption across the supply chain. **It is safe to state that without corruption, there would not be environmental crime as we currently know it.**

Summary of panellists' contributions & discussion points (please be as detailed as possible)

Olivia Swaak-Goldman - Executive Director, Wildlife Justice Commission

- Environmental crimes cover: trafficking in wildlife, timber, wastes, and precious metals, as well as, inter alia, poaching. The impact of environmental crime is huge and, e.g., contributes to damaging ecosystems and the global climate crisis. 1 million species are at risk of extinction in the coming decade. The **economic cost** of environmental crimes is estimated at **\$1-2 trillion per year**.
- Environmental crimes are **serious organised crimes** that generate between \$91-\$258 billion a year (source: UNEP and Interpol, 2016). They are committed by transnational criminal networks profiting from a low risk, high reward environment.
- **Corruption** is a principal driver of environmental crime and manifests itself at different levels in the supply chain. For example, WJC's [recent report on illegal rhino horn trade](#) over the past ten years, finds that 1/3 of rhino horn is smuggled unconcealed, showing the strong indication of corruption. Sea ports and airports are identified as the most vulnerable sectors and actors in the transnational rhino horn trade and 50 countries and territories were implicated in trafficking routes over the last decade, with 6 dominating the supply chain, highlighting the **global nature** of the problem.
- **International cooperation** and more focus on **law enforcement** is required to tackle environmental crime and the corruption that enables it. The legal framework is already in place to address environmental crime and corruption is

the UN Convention Against Corruption (UNCAC), of which Article 49 (Joint Investigations between States) and Article 50 (Special Investigative techniques) are particularly important.

A new UNCAC resolution on preventing and combating corruption as it relates to crimes that impact the environment and climate will help recognize environmental crime as a serious organised crime globally and gauge the political will to address the corruption that enables it. **Dr. Edgardo Buscaglia - Senior Scholar in Law and Economics, Columbia University:**

- Dr Buscaglia has conducted empirical work since 1991 on gathering jurimetric hard data on serious organised crime directly from judicial case files and from cases reported by Financial Intelligence Units and similar state agencies across the globe. His work is not based on perceptual surveyed data, but hard data generated by intelligence and judicial sources. Samples of cases of organised crime coming from 119 countries show that:
 - 72% of organized crime or illicit association cases show public and private sector involvement in corruption
 - 62% of countries comply with UNCAC in the books
 - 19% comply with UNCAC in its actual practical implementation
 - 17% of the cases show actual international cooperation at the judicial level
 - 93% of the cases that involve politically corrupt activities based on financial intelligence reports are never investigated

➤ This data demonstrates that **big gaps between the laws on the books and the laws in action need to be addressed on compliance and implementation of the UNCAC (and UNTOC)**, e.g. in relation to international cooperation, as well as the real processing of investigations of political corruption cases. The establishment of a specialized **International Anti- Corruption Court** would help provide international pressure in this regard.
- Dr Buscaglia's work also demonstrates increased **crime convergence with private sector and public sector corruption**. Case files from 2008 show that the average case concerning transnational organized crime involved criminal networks operating on average in 7 countries and each criminal network was on average involved in 8 types of crime. This increased in 2020 to criminal networks where each on average operate in 15 countries per case and are involved in 22 types of crimes. Although 22% of the cases involve wildlife crime (which is high), **wildlife crime is not being prioritised and addressed as a 4th rate concern**.
- The institutional shortfalls impeding the joint application of the UNCAC and UNTOC to environmental crimes can be remedied through:
 1. Judicial efforts & related institutional cooperation
 2. Preventative anti-corruption measures in the private sector
 3. The establishment of an International Anti-Corruption Court
 4. Political system reform

Juhani Grossman - Team Leader Green Corruption Programme, Basel Institute for Governance

- **The Basel Institute's Green Corruption** programme addresses the intersection of corruption and environmental crime.
- This issue can be tackled through a **mixture of enforcement and prevention** assistance:
 - Enforcement efforts should focus more on tackling **financial crime and asset recovery**; right now the penalties for corruption and environmental crime are too infrequently applied and not severe enough to act as a deterrent.
 - **Following the money** is crucial to address corruption from an enforcement perspective. Financial investigations are a pre-requisite to trace the lifeblood of crime – money.
 - It is important to work with government and state-owned enterprises to reduce their corruption risks through **risk assessments and follow-on assistance** in implementing mitigation measures.
 - **Asset recovery** is the tool to cut that lifeblood off; financial crime legislation often allows for far greater deterrence – in detention and restitution – than environmental crime sanctions.

Joachim Stassart - Lead Researcher on Environmental Crime, Transparency International (TI) Brazil

- One of biggest challenges is violence against land and environmental defenders and related impunity. According to the Comissão Pastoral da Terra, a grassroots organization that records the acts of violence against land and environmental defenders, over the past decade, more than 300 environmental defenders were killed in Brazil but only 14 cases of killings have been investigated, prosecuted and led to an effective trial.
- There are significant **challenges in empowering and protecting whistleblowers, environmental defenders and civil society in the context of environmental crimes**, which include obstacles for the access to information, participation and justice.
- Corruption within law enforcement agencies and state capture fosters impunity and shows **the need for strong environmental governance** and independent institutions.
- Anti-corruption and anti-money laundering institutions are well-equipped to tackle the corrupt practices that foster environmental crimes. However, they are often not proactive on this agenda. Transparency International Brazil has successfully worked over the past few years to mobilize them.
- **The UNCAC, the UNODC and the FATF have a strong legitimacy.** Their recommendations and position on environmental corruption/crimes can be easily mobilized by civil society for advocacy with national authorities.
- The **UNCAC and the FATF review process** can be mobilized to apply anti-corruption and anti-money laundering frameworks to environmental issues and assess the fight against environmental corruption including mechanism to protect and empower whistleblowers and environmental defenders.

Main outcomes of session (include quotes/highlights and interesting questions from the floor)

One main conclusion is the huge gap between existing legal frameworks and the application of these frameworks in practice. Weak implementation and enforcement are fuelling environmental crime and corruption and the climate crisis. **More effective implementation and enforcement of laws** is urgently needed to tackle this problem. This includes the application of anti-corruption and anti-money laundering laws in environmental crime cases.

Greater international cooperation is also crucial to effectively tackling this problem. More focus is needed on **promoting cooperation between all the relevant state institutions**, including the judiciary, prosecutors, police, financial investigations units, customs, tax authorities, environmental protection agencies and other government bodies.

Often environmental crime and corruption is not prioritized and the penalties for committing these crimes are not nearly commensurate with what is needed to be a deterrent. **Using financial crime laws could enable the application of more severe penalties as well as the ultimate deterrent** – taking the profit motive out of the crime.

One question raised was how to promote cooperation with other UN international fora that have an important role to play in tackling this problem. What would the message be to the UN Convention on Biological Diversity COP that is taking place in Montreal? There was discussion on the need to **break out of the silos to look at these issues in a holistic way and to bring all the specialists needed to tackle this problem**, for example to tackle money laundering. There is also an important need to **involve the private sector**, including the transport sector, the financial sector and FIUs.

Questions also brought attention to the **severe risks facing whistle-blowers and environmental defenders** that are coming under attack in their efforts to expose corruption and environmental crime. Special Rapporteur's Mary Lawlor [report](#) on human rights defenders carrying out anti-corruption work, highlights these risks and has important recommendations for protecting whistle-blowers, human rights defenders and other actors. The point was also made that **international awareness and pressure to shield whistle-blowers is also very important** in helping to protect them.

A question was posed on **the links between terrorism and environmental crime and corruption** and whether efforts to combat terrorism were considering this issue. The point was raised that in Latin America, 32% of cases were engaged in illegal mining, illegal logging, are engaged in acts of terrorism. The funding of those criminal networks in Latin America is going up and efforts to tackle wildlife crime may help reduce those acts of terrorism.

Key recommendations for the future and concrete follow-up actions

The presentations and discussion generated concrete recommendations and actions needed by governments to strengthen international efforts to prevent and combat environmental crime and corruption:

- Prioritize environmental crime and corruption: recognize environmental crime as a serious organised crime and make environmental crime a predicate offense for money laundering.
- Implement safe and accessible channels for whistle-blowers to report on corruption and environmental crime and programs to protect those who report and may face retaliation, in line with international best practice.
- Fully investigate and prosecute attacks against land and environmental defenders to hold perpetrators to account.
- Promote the effective implementation of the UNCAC to prevent and combat corruption and environmental crime. Fully utilize Article 49, on joint investigations and Article 50 on special investigative techniques.
- Promote greater international cooperation that is strongly needed to tackle the cross-border nature of environmental crime and corruption; promote close cooperation between
- Promote strong internal and external controls within government institutions to prevent environmental crime and corruption; carry out risk assessments to
- Promote effective enforcement through public audits, financial investigations and asset recovery.

The Environmental Crime and Corruption Working Group will draw upon these recommendations and discussions to strengthen the UN Convention Against Corruption (UNCAC) and its implementation. A concrete follow-up is to promote the development of a new UNCAC resolution at the 10th Conference of State Parties in 2023 to combat environmental crime, corruption and its impacts on the climate. A new resolution will help create more political will for governments to fully meet their UNCAC obligations and to be transparent about their implementation. In addition, the resolution can help further promote cooperation with other UN conventions and fora including the Convention on Biological Diversity and the UN Framework on Climate Change.

Is there a specific call to action to key stakeholders, such as governments, businesses, funders, civil society, young people, journalists or any other stakeholder that should be noted? Please specify if relevant.

See the recommendations above which call for governments to fully implement the UNCAC.

We will draw on the discussions to identify concrete ways in which to strengthen the UN Convention Against Corruption (UNCAC) and its implementation, paving the way for joint advocacy efforts to promote the adoption of a new UNCAC resolution

at the 10th Conference of State Parties in 2023 to address the links between environmental crime, corruption and its impacts on the climate.

Rapporteur's name and date submitted

Corinna Gilfillan, 12.12.2022