Transparency International submission in response to Special Rapporteur on the implications for human rights of environmentally sound management and disposal of hazardous substances and wastes.

**“Call for inputs – The toxic impacts of some climate change solutions.”**

March 2023

According to research from Transparency International, responses to climate change can create corruption opportunities that can lead to violations of human rights.

1. **Examples of climate corruption**

[*Climate & Corruption Case Atlas*](https://www.transparency.org/en/projects/climate-governance-integrity-programme/climate-corruption-atlas)

Corruption undermines mitigation efforts to reduce emissions and decreases the quality of adaptation infrastructure. In both cases, the people who should benefit suffer, while donors and other funders lose out on the loss or misuse of funds. At best, communities on the ground often do not see results, or at worst, suffer rights violations, for example, if their land is grabbed or polluted.

Like climate change, corruption is a threat multiplier, exacerbating social conflicts and inequity. Its negative effects impact the two categories of climate change interventions in different ways. Corruption can mean mitigation measures do not reduce carbon emissions, or can even cause an increase in emissions, affecting everyone. It can also dramatically reduce the impact of adaptation measures, such as adaptive infrastructure, water supply, soil conservation or developing resistant crops, affecting targeted communities, often in desperate need. Millions of lives worldwide depend directly on the response to climate change – from the Maldives, where people have been forcibly relocated in response to storm surges, to Peru, where indigenous communities are fighting destruction of their ancestral rainforest.

To optimise climate change interventions, all stakeholders must better understand and manage the risks of corruption in climate finance. Global organisations and national governments must strengthen the transparency and oversight of climate finance, providing increased up-front investment to develop accountable policies, systems and personnel, to safeguard funds in the future.

To maximise the impact of climate finance, stakeholders must go beyond good technical design for projects that reduce emissions or optimise adaptations. They must also ensure funds are well governed and not lost to corruption. This means enabling the high levels of transparency and accountability necessary to prevent corruption in climate policy formulation, decision-making and spending. These governance mechanisms include:

* the legal, regulatory and oversight frameworks to deliver transparency and accountability
* participatory decision-making that involves affected communities and civil society complaints regulation of lobbying
* controls around fraud, bribery and procurement
* financial and impact monitoring channels
* complaints mechanisms and whistleblower protection.
1. **The risks around mining for transition minerals**

[*Corruption in Critical Minerals Puts the Energy Transition at Risk*](https://transparency.org.au/corruption-minerals-energy-transition-risk/)

Published on 15 February 2022

Corrupt mining deals can result in a loss of revenue for producer countries as corrupt politicians and businesspeople siphon off money and award contracts to benefit themselves – robbing citizens of funds that should be there to benefit everyone.

And not only that – corruption is not a victimless crime. Companies that secure their rights to mine through corruption are very unlikely to be responsible mining companies that respect human rights and operate with high levels of integrity.

Corruption in the licensing process can result in women and men in communities being displaced from their land, potentially losing access to key sources of livelihood and sites of cultural heritage. And we know from our research that women will often [suffer disproportionately](https://transparency.org.au/gender-and-mining-governance/).

So, if we don’t take steps to deal with the weaknesses in the licensing process and make it more transparent, accountable and resilient to corruption, then we are putting people and the planet and the whole prospect of a [just and people-cantered energy transition](https://www.pwyp.org/pwyp-news/cop26-pwyp-members-statement/).

**The energy transition is likely to exacerbate corruption risks.**

There are three reasons why we are likely to see an increase in corruption risks in relation to critical minerals.

Firstly, the energy transition is a significant opportunity for industry to make money.

And with the prospect of lucrative projects comes a greater willingness to take on higher risks – including integrity and corruption risks. The reports about the [flurry of deal-making in the lobbies of luxury hotels](https://www.nytimes.com/2021/12/07/world/congo-cobalt-investor-fleuve-hotel.html)in countries with reserves of critical minerals are perhaps a taste of what is to come.

We’re seeing **more mining companies willing to operate in jurisdictions that were previously ‘too risky’**. With exploration to scout out promising new projects being key, we will also be seeing more junior miners – smaller and usually less risk-averse companies – move into critical mineral producer countries. And we are also seeing consumer companies like electric vehicle manufacturers moving into mining because of pressure to ensure that their minerals are responsibly sourced.

**Secondly, the critical minerals boom is seeing greater state participation.**

The energy transition is an opportunity for governments to increase investment and raise important revenue that could be incredibly beneficial for the citizens of that country. However, the increased flows of investment also mean higher corruption risks.

There’s concern about a **potential ‘race to the bottom’ in regulatory standards to attract investment** – by fast-tracking the licensing process, giving decision-makers sweeping approval powers, or making it easier for companies to be granted a licence by limiting opportunities for public participation and scrutiny. All of this has negative implications for accountability and increases corruption risks.

Risks related to **local content requirements**is another area to keep an eye on. Governments are increasingly starting to require foreign mining companies to partner with local suppliers, or domestic processors/refineries, or even for part local ownership of the mine. On the one hand, this could be a fantastic opportunity for broader economic development in the country. However, it can be a problem when decision-makers have a conflict of interest and put pressure on mining companies to partner with a favoured local company that has political connections or family ties in exchange for the mining licence.

* Greater**involvement of state-owned enterprises** also increases the [~~well-documented risks~~](https://fcpablog.com/2022/02/08/state-owned-enterprises-pose-challenges-to-standard-compliance-measures/) related to SOE officials including misappropriation of funds, bribery, and deal-making that favours individuals with political connections.

**Finally, increased demand puts pressure on already stretched institutions.**

* Increased workload for under-resourced government departments means **increased risks of bribery**as companies seek to speed up or overcome delays in the licensing process, ‘outbid’ their competitors for priority access, or get away with fraudulent statements about their qualifications or misleading impact assessments.Also, energy transition minerals and metals are often located in socially and environmentally sensitive areas. Corruption in decisions about these projects means **greater impacts on communities and the environment**, as well as increased corruption risks in company engagement and negotiations with communities about land access and acquisition and free, prior and informed consent (FPIC).​

**Key recommendations on taking the pressing issues of corruption in transition mineral supply chains:**

Source: [**Preventing Corruption in Energy Transition Mineral Supply Chains**](https://resourcegovernance.org/sites/default/files/documents/preventing_corruption_in_energy_transition_mineral_supply_chains.pdf)

Published by: Natural Resource Governance Institute

1. Act urgently—in months, not years—to implement stronger anticorruption measures, including in legislation and regulations, bilateral and multilateral partnerships, and trade agreements
2. Explicitly identify corruption risks and develop mitigation plans in any energy transition mineral strategies, activities and operations.
3. Prevent corruption from weakening the protection of community rights and enforcement of environmental and social safeguards.
4. Adopt and champion project-level contract, payment, commodity trading and beneficial ownership transparency in line with global standards to make it easier to detect corruption, particularly regarding high-risk entities such as state-owned enterprises (SOEs).
5. Prevent political elites from unfairly capturing opportunities.
6. Reduce the use of agents and intermediaries as much as possible and adopt extensive controls for those that remain.
7. Avoid enabling kleptocracy and state capture through mitigating corruption risks and discontinuing business relationships where needed.
8. Support downstream supply chain actors to integrate checks of the above practices into responsible sourcing and due diligence systems.
9. Support the rights and activities of civil society, journalists, whistle-blowers and other anticorruption actors.

Ensure consequences for corrupt actors through effective enforcement and accountability measures, with a focus on the victims of corruption throughout

1. **The risks around geoengineering technologies**

[*Climate Geoengineering Technologies: Corruption and Integrity Gaps*](https://www.transparency.org/en/publications/climate-geoengineering-technologies-corruption-integrity-gaps#_edn1)

The Intergovernmental Panel on Climate Change (IPCC) has noted that global efforts to lower human-caused greenhouse gas emissions are falling short of achieving the objective of the UN Framework Convention on Climate Change (UNFCCC) and the goals of its Paris Agreement, in particular the temperature increase limits of 1.5 to 2 degrees celsius. This is prompting a renewed search for new climate-related technologies.

To have a measurable impact on climate change, geoengineering proponents generally suggest that these technologies should be deployed on a large scale.

**Can geoengineering technologies address climate change effectively?**

If depolyed at large-scale, CDR and SRM technologies are likely to come with “far-reaching and profound social, political, and environmental risks and impacts. The effects would – by nature of the intervention – be transboundary as well as potentially large-scale, unpredictable and irreversible.”[[14]](https://www.transparency.org/en/publications/climate-geoengineering-technologies-corruption-integrity-gaps#_edn14) For example, according to the IPCC, “[m]ost current and potential CDR measures could have significant impacts on land, energy, water or nutrients if deployed at large scale …. Afforestation and bioenergy may compete with other land uses and may have significant impacts on agricultural and food systems, biodiversity, and other ecosystem functions and services.”

Furthermore, geoengineering could have significant levels of uncertainty and risk with respect to its impact on the global climate system, natural ecosystems, weather patterns, biodiversity, economic sustainability and other considerations such as human rights. These possible risks and impacts carry significant uncertainties and have governance and ethical implications. Regulatory or governance regimes would be needed to assess such impacts and risks, identify uncertainties, and put in place the required regulations to ensure transparency and address possible corruption risk avenues.

For these reasons, geoengineering should not be seen as a substitute for action to rapidly reduce greenhouse gas emissions and adaptation to the adverse effects of climate change.

**Corruption opportunities**

The possible profits that may be obtained from patented carbon dioxide removal (CDR) and solar radiation management (SRM) technologies may push individuals and corporations supporting such technologies to try to manipulate governmental and intergovernmental decision-making and norm-setting in order to, for example, obtain funding or policy endorsements for the technologies they support. This is a cause for concern given that potential large-scale research, development and deployment of CDR and SRM technologies could be pursued by governments through “a monopsony (or oligopsony) procurement structure” like in the national defence sector in which “the government and other public bodies make major operative decisions while commercial actors provide goods and services according to governmental specifications.”

The potential of getting millions or billions of dollars’ worth of government-funded research, development and deployment contracts for CDR or SRM could create an almost irresistible temptation on the part of patent owners and manufacturers to lobby and seek to influence, including through corrupt means, governmental CDR/SRM regulation and policymaking and governmental procurement decisions.

Profit maximisation could come in the form of engaging in political and economic corruption and lobbying to win governmental contracts as well as in participation in regulatory norm-making in a manner that constitutes a conflict of interest.

Ensuring public accountability and oversight over geoengineering research, development, patenting and deployment is a key policy challenge at both the national and international levels.

Furthermore, the potential profits to be gained from having technology, knowledge and innovation control in addition to the information asymmetry that arises between governments, the public and geoengineering technology owners also create the following national-level corruption risks:

+ The concentration of knowledge/power in a few individuals or corporations with respect to geoengineering technologies, creating potential conditions for corruptive lobbying or influence buying practices.

Internationally, corruption risks may arise in terms of lobbying and engagement by geoengineering proponents in multilateral rule development with respect to geoengineering in a manner that may constitute a conflict of interest.

However, a single set of internationally binding treaty rules to specifically govern or regulate geoengineering and the corruption risks that it poses currently does not exist.

**Recommendations**

In this context, Transparency International recommends the following:

**At the international level**

+ Clear and explicit conflict of interest rules should be put in place at the UNFCCC to prevent geoengineering proponents from influencing and lobbying UNFCCC decision-makers.

+ Geoengineering activities with potential transboundary impacts should be first discussed and agreed to at the relevant intergovernmental forum, with the involvement of non-government and community stakeholders and subject to clear conflict of interest, lobbying and anti-corruption rules.

+ The reporting requirements under the Paris Agreement for Parties with respect to private sector involvement in the implementation of Nationally Determined Contribution (NDCs) through geoengineering activities should be more robust. This would include reporting on private sector activities such as financing and technology development and transfer as well as activities under Article 6 of the Paris Agreement. More information could be required on the sources and objectives of private sector financing or technology development and transfer; activities engaged in by the private sector with governments; policies or regulations being proposed or influenced; professional, financial, institutional or other interests linking the private sector with government policymakers; and private sector lobbying and influencing efforts relating to geoengineering at both national and international levels.

+ There should be public accountability remedies with respect to geoengineering activities. This could include the establishment of an independent grievance redress mechanism, with full and effective stakeholder participation, for all processes concerning activities (including CCS) under Article 6 of the Paris Agreement. Accountability options under international human rights instruments could also be explored, such as the use of the UN Human Rights Council’s special procedures.

**At the national level**

+ Patent revocation, compulsory licensing, governmental march-in rights or other policy conditionalities should be imposed on geoengineering patent grants to remove the market dominance and profit incentive and protect the public interest.

+ Governments should require that proposals for the inclusion of geoengineering technologies or activities in their NDC be subject to compliance with explicit public access to information and public participation rules. These would include adherence to international environmental law principles that may be relevant and applicable to geoengineering, such as decisions adopted by the Parties to the Convention on Biological Diversity and the London Convention/London Protocol, as well as under international human rights law, other multilateral environmental agreements and other treaties that may be relevant to the rights to information, participation and access to justice.

+ Free and prior informed consent by potentially affected communities is crucial as the basis for public acceptance. The consent should be a condition for official authorisation to proceed.

+ Public accountability remedies with respect to geoengineering are needed, including ensuring access to appropriate administrative and judicial remedies and full and effective stakeholder participation in its oversight.