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Corruption Vulnerabilities to Realising the Right to a Clean, Healthy and Sustainable Environment: A Case of Tanzania

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ABSTRACT

In Tanzania, the right to a clean, healthy and sustainable environment (CHSE) is protected as an aspect of the constitutional right to life and is given statutory expression in the Environmental Management Act, Cap 191 R.E. 2023. Its realisation matters existentially. Most Tanzanians draw their food, water and livelihoods from climate-sensitive sectors, and the country ranks among those most vulnerable to climate change. This article examined how corruption vulnerabilities such as weaknesses in laws, institutions and procedures that create opportunities for corrupt conduct weaken the legal protection of this right. The study employed a doctrinal methodology, analysing the constitution, environmental and anti-corruption legislation, subsidiary regulations, case law and oversight reports through thematic content analysis structured by Klitgaard's corruption formula and a human rights-based approach. The study found that legal ambiguities, such as statutory provisions whose undefined terms leave officials free to determine the limits of their own powers, together with a constricted public participation environment, a manipulable impact assessment regime, a dormant Environmental Appeals Tribunal, retaliation against environmental human rights defenders and unchecked discretion over indigenous lands, confer wide discretion on public officials while weakening accountability. These conditions create rent-seeking opportunities that erode enforcement of the right to CHSE. The article concludes that Tanzania should close these vulnerabilities and proposes rights-based legislative and institutional reforms whose analytical approach is transferable beyond Tanzania.

Keywords: *Corruption vulnerabilities; right to a clean, healthy and sustainable environment; environmental corruption; human rights; Tanzania*

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1. INTRODUCTION

The right to a clean, healthy and sustainable environment (CHSE) has long been the subject of scholarly debate.[1] In 2021, the United Nations Human Rights Council (UNHRC) formally recognised it as a human right, and in 2022 the United Nations General Assembly endorsed that recognition by an overwhelming majority.[2] The right is positioned as a precondition to the enjoyment of other rights, including the rights to life, health, food, water and an adequate standard of living.[3] In Tanzania, this right has both judicial and statutory foundations. Two decades before the United Nations resolutions, the High Court of Tanzania held in *Festo Balegele v Dar es Salaam City Council*[4] that the constitutional right to life under Article 14 of the Constitution of the United Republic of Tanzania, 1977 entitles every person to a healthy environment. Section 4(1) of the Environmental Management Act, Cap 191 R.E. 2023 (EMA) now expressly guarantees every person living in Tanzania a right to a clean, safe and healthy environment. Tanzania is also bound by Article 24 of the African Charter on Human and Peoples' Rights, which guarantees all peoples a general satisfactory environment favourable to their development.[5] The right matters acutely in Tanzania. Agriculture, fisheries, livestock, forestry, wildlife and energy sustain most of its people, whereas in 2022 the country was ranked the 47th most vulnerable to climate change impacts.[6]

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1 UNHRC (2017) *Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to The Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Biodiversity Report* A/HRC/34/49;Weston BH & Bollier D (2013) "Toward a Recalibrated Human Right to a Clean and Healthy Environment: Making the Conceptual Transition" 4(2) *Journal of Human Rights and the Environment* 116 – 142; Orji UJ (2012) "Right to a Clean Environment - Some Reflections" 42(4/5) *Environmental Policy & Law* 285 – 293; Nickel JW (1993) "The Human Right to a Safe Environment: Philosophical Perspectives on Its Scope and Justification" 18 *Yale Journal of International Law* 282 – 295.

2 UNHRC (8 October 2021) *The Human Right to a Clean, Healthy and Sustainable Environment* A/HRC/RES/48/13; United Nations General Assembly (28 July 2022) *The Human Right to a Clean, Healthy and Sustainable Environment* A/RES/76/300.

3 Tang K & Spijkers O (2022) "The Human Right to a Clean, Healthy and Sustainable Environment" 6(1) *Chinese Journal of Environmental Law* 87 – 107.

4 *Festo Balegele v Dar es Salaam City Council* (Miscellaneous Civil Case No 90 of 1991) (HCT Dar es Salaam Registry).

5 Article 24 of the *African Charter on Human and Peoples' Rights* (1981).

6 World Bank (2024) *United Republic of Tanzania: Country Climate and Development Report*, available at

On paper, Tanzania possesses an elaborate legal machinery for protecting this right. The EMA establishes the National Environment Management Council (NEMC), mandates environmental and social impact assessments (ESIA), and confers rights of information, participation and action. On the anti-corruption side, the Prevention and Combating of Corruption Act, Cap 329 R.E. 2023 (PCCA) criminalises a broad range of corrupt conduct and establishes the Prevention and Combating of Corruption Bureau (PCCB).[7] Also, Tanzania has ratified both the United Nations Convention against Corruption (UNCAC) and the African Union Convention on Preventing and Combating Corruption.[8] Yet environmental crimes connected to corruption frequently go unpunished. Investigative reports have documented how criminal syndicates exploited corruption and weak governance to devastate Tanzania's elephant population,[9] and parliamentary oversight reports have linked corrupt practices among land officers to land conflicts and dispossession.[10] The sectors most exposed, including extractive industries, forestry, wildlife and land allocation, are precisely those on which the right to CHSE depends, and the resulting harms extend beyond environmental degradation to deepened poverty and loss of public trust in state institutions.[11]

The relationship between corruption and human rights is now well documented as a two-way street: corruption undermines the enjoyment of human rights, while guaranteeing human rights, particularly rights of information, participation and remedy, helps to prevent corruption.[12] Peters has argued that corrupt acts or omissions can, under certain conditions,

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https://www.worldbank.org/en/country/tanzania/publication/ccdr (visited 11 May 2025); United Republic of Tanzania (2021) *National Climate Change Response Strategy 2021 – 2026* Dodoma: Vice President's Office.

7 Prevention and Combating of Corruption Act, Cap 329 R.E. 2023.

8 *United Nations Convention against Corruption* (2003) 2349 UNTS 41, ratified by Tanzania on 25 May 2005;*African Union Convention on Preventing and Combating Corruption* (2003), ratified by Tanzania on 22 February 2005.

Environmental Investigation Agency (2014) *Vanishing Point: Criminality, Corruption and the Devastation of Tanzania's Elephants* London: EIA.

10 Bunge la Tanzania (2025) *Taarifa ya Kamati ya Kudumu ya Bunge ya Ardhi, Maliasili na Utalii kuhusu Shughuli za Kamati kwa Kipindi cha Februari 2024 hadi Januari 2025* Dodoma: Bunge la Tanzania at 52.

11 UNEP & INTERPOL (2016) *The Rise of Environmental Crime: A Growing Threat to Natural Resources, Peace, Development and Security* Nairobi: UNEP; Barkhouse A, Hoyland H & Limon M (2018) *Corruption: A Human Rights Impact Assessment* Geneva: Universal Rights Group & Kroll.

12 International Council on Human Rights Policy (ICHRP) (2010) *Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities*, available at https://assets.publishing.service.gov.uk/media/57a08b34e5274a27b2000a0f/integrating-humrights_.pdf (visited 15 June 2025); Gebeye BA (2012) "Corruption and Human Rights: Exploring

technically qualify as violations of international human rights, although establishing causality remains the most significant doctrinal obstacle.[13] The United Nations Human Rights Council Advisory Committee has likewise detailed how corruption impedes the realisation of virtually every human right, with disproportionate effects on vulnerable groups.[14] However, how this nexus operates in relation to the newly recognised right to CHSE has not been systematically addressed in the literature. This article contributes to filling that gap.

The study sought to identify the sectors and legal processes in Tanzania most at risk of environmental corruption as well as the legal gaps and ambiguities that create opportunities for corrupt conduct. Further, it examined the effects of those vulnerabilities on communities, including indigenous peoples and other vulnerable groups, and proposed strategic, rights-based responses. The article's original contribution is twofold. Analytically, it mapped an established corruption-risk framework onto the normative content of the right to CHSE, producing a matrix for diagnosing where environmental legal frameworks are exposed to corruption. This moves beyond the familiar observation that legal ambiguity breeds discretion and corruption[15] by specifying *which* elements of a particular human right are exposed, *through which* statutory provisions, and *with what* consequences for state obligations. Normatively, it reframed environmental corruption in Tanzania as a question of human rights accountability rather than merely one of governance, and derived recommendations from that framing. Although the evidence is Tanzanian, the diagnostic approach is transferable to other jurisdictions implementing the right to CHSE.

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the Relationships" 12(1) *Human Rights & Human Welfare* 10 – 43; Lis E (2022) "Corruption and Human Rights in the Case Law of Inter-American Human Rights Treaty Bodies" 51(4) *Review of European and Comparative Law* 149 – 180; Organisation for Economic Co-operation and Development (2020) *Connecting the Anti-Corruption and Human Rights Agendas: A Guide for Business and Employers' Organisations*, available at https://www.ioe-emp.org/index.php?eID=dumpFile&t=f&f=147731&token=c0fecaf2120d7faf7e4214377a1754ab8170fd88 (visited 15 June 2025).

13 Peters A (2018) "Corruption as a Violation of International Human Rights" 29(4) *European Journal of International Law* 1251 – 1287.

14 United Nations Human Rights Council Advisory Committee (2015) *Final Report on the Issue of the Negative Impact of Corruption on the Enjoyment of Human Rights* A/HRC/28/73.

15 Rose-Ackerman S & Palifka BJ (2016) *Corruption and Government: Causes, Consequences, and Reform* 2 ed New York: Cambridge University Press at 682-687; Kolstad I & Wiig A (2009) "Is Transparency the Key to Reducing Corruption in Resource-Rich Countries?" 37(3) *World Development* 521 – 532 at 522-523.

The article proceeds as follows. Section 2 sets out the methodology. Section 3 develops the conceptual and analytical framework, defining the study's key concepts and combining Klitgaard's corruption formula with a human rights-based approach. Section 4 outlines the normative content of the right to CHSE and the corresponding state obligations. Section 5 presents and discusses the findings on Tanzania's corruption vulnerabilities. Section 6 concludes and offers prioritised recommendations.

2. METHODOLOGY

The study adopted a doctrinal legal research design. Doctrinal research locates, analyses and synthesises the content of the law, namely legislation, subsidiary instruments and case law, in order to establish what the law is, expose its gaps and inconsistencies, and evaluate it against normative benchmarks.[16] The design suited the research question, which asked where Tanzania's environmental legal framework creates opportunities for corrupt conduct that undermines a legally defined right to CHSE.

Data were collected from primary and secondary sources. The primary sources comprised the Constitution of the United Republic of Tanzania, 1977; the EMA and its subsidiary regulations; the PCCA; the Public Leadership Code of Ethics Act, Cap 398 R.E. 2023; Government Notices; and decisions of Tanzanian, regional and foreign courts and human rights bodies. The secondary sources comprised reports of United Nations Special Rapporteurs and treaty bodies, governance indices, parliamentary committee reports, investigative and non-governmental organisation reports, and peer-reviewed literature.

The data were analysed through thematic content analysis. Statutory provisions and institutional arrangements were coded against the two axes of the analytical framework set out in section 3, namely the elements of Klitgaard's corruption formula (monopoly, discretion and accountability) and the substantive and procedural elements of the right to CHSE. A provision or practice was recorded as a corruption vulnerability where it conferred wide or undefined discretion, weakened an accountability mechanism, or disabled a procedural

16 Hutchinson T & Duncan N (2012) "Defining and Describing What We Do: Doctrinal Legal Research" 17(1) *Deakin Law Review* 83 – 119.

safeguard attached to the right. Findings were triangulated across multiple independent indices and reports to reduce reliance on any single source.

Tanzania was selected as the case study for four reasons. First, it presents persistent corruption challenges: it scored 40 out of 100 in the Corruption Perceptions Index (CPI) 2025, ranking 84th of 180 countries,[17] and scored 4.01 out of 10 in the Index of Public Integrity, ranking 105th of 119 countries.[18] Second, it is highly exposed to climate change and environmental degradation, which magnifies the human cost of governance failures.[19] Third, it recognised environmental rights judicially well before the aforementioned United Nations resolutions, yet has no express constitutional environmental right, making the statutory framework, and its vulnerabilities, decisive. Fourth, recent high-profile controversies, including the Julius Nyerere Hydro-Power Project and the Loliondo evictions, offer documented instances through which legal vulnerabilities can be examined.

The study had limitations. Doctrinal and documentary analysis can identify legal weaknesses that create opportunities for corruption, but it cannot establish causal relationships between corruption levels and environmental outcomes. Perception-based indices measure perceived rather than actual corruption. Accordingly, observed associations were treated as indicative and are flagged as such, and alternative explanations are considered in section 5.8.

3. CONCEPTUAL AND ANALYTICAL FRAMEWORK

3.1 Key concepts

Five concepts structure this study. The first is *corruption vulnerabilities*, which connote legal, institutional or procedural weaknesses that create opportunities for corrupt conduct.[20] A

17 Transparency International (2026) *Corruption Perceptions Index 2025*, available at https://www.transparency.org/en/cpi/2025 (visited 6 July 2026).

18 ERCAS (2025) *Index of Public Integrity: Tanzania*, available at https://corruptionrisk.org/country?country=TZA (visited 6 July 2026).

19 World Bank (2024); United Republic of Tanzania (2021).

20 Janardhanan V & Nambudiri R (2019) "Developing a Corruption-Vulnerability Index for Organizations: A Study of Indian State-Owned Enterprises" 43(3) *Public Administration Quarterly* 401 – 453 at 406-413.

vulnerability is an *ex-ante* condition of risk. It can be identified from the face of the law and the design of institutions, whether or not corrupt transactions are ultimately proven. A recurrent species of vulnerability examined in this article is *legal ambiguity*, referring to a statutory provision whose operative terms, such as "public interest", "unreasonableness" or "vagueness", are left undefined, so that the official applying the provision effectively determines the limits of his or her own power. Ambiguity of this kind converts a rule into discretion, and unstructured discretion is a well-established enabler of rent-seeking.[21]

The second concept is *environmental corruption*, understood as corrupt practices affecting the protection or non-protection of the environment.[22] It is associated with breaches of legal, regulatory, licensing and operating standards through collusion between public officials and private companies, criminals or other actors profiting from environmentally harmful activities,[23] and manifests in forms such as regulatory capture, revolving doors, preferential lobbying, greenwashing, bribery and fraud.[24] As Djupesland and Little observed, these practices facilitate environmental crimes or make them more lucrative.[25] The scale is substantial. A joint assessment by the United Nations Environment Programme (UNEP) and INTERPOL valued environmental crime at US$91 258 billion annually, identifying corruption as a key enabler.[26] Empirical studies show how environmental corruption operates on the ground: bribery of inspectors renders conservation regulations nearly useless and erodes resource users' own willingness to comply.[27] Corruption also

21 Rose-Ackerman & Palifka (2016) at 134-137; Klitgaard R (1988) *Controlling Corruption* Berkeley: University of California Press at 75.

22 Barrington R, David-Barrett E, Phillips RD & Garrod G (2024) *Dictionary of Corruption* Newcastle: Agenda Publishing Limited at 120.

23 Barrington et al (2024) at 121.

24 Becker-Olsen K & Potucek S (2013) "Greenwashing" in Idowu SO et al (eds) *Encyclopaedia of Corporate Social Responsibility* Berlin: Springer 1318 – 1323 at 1318.

25 Djupesland M & Little NN (2021) *Green Corruption* Basel: Basel Institute on Governance, available at https://baselgovernance.org/sites/default/files/2021-12/Milj%C3%B8krim_02.2021%20-%20Green%20corruption_small.pdf (visited 5 July 2025).

26 UNEP & INTERPOL (2016) at 7-10.

27 Sundström A (2012) "Corruption and Regulatory Compliance: Experimental Findings from South African Small-Scale Fisheries" 36(6) *Marine Policy* 1255 – 1264.

weakens the enactment and enforcement of environmental protection regulation,[28] diverts climate finance,[29] and exacerbates deforestation by weakening conservation institutions.[30]

The third concept is the *right to CHSE* itself. The right embodies three adjectives: "clean" connotes an environment free from pollutants and harmful substances;[31] "healthy" implies support for the well-being of humans and other organisms; and "sustainable" refers to responsible and balanced resource use for present and future generations. Its content, elaborated in section 4, comprises six substantive elements and three procedural elements.[32]

The fourth concept is *human rights*, engaged here through the corruption-human rights nexus. Corruption diverts resources from rights fulfilment, distorts decision-making, obstructs access to justice and disproportionately harms the poor and marginalised.[33] Conversely, human rights guarantees, particularly information, participation, expression, and remedy, constitute anti-corruption safeguards.[34] This study operationalised the nexus by treating the procedural elements of the right to CHSE as simultaneously rights and anti-corruption controls, so that their weakening is both a rights problem and a corruption risk.

The fifth concept is *Tanzania* as the jurisdictional case, whose selection was justified in section 2. Each of these concepts is addressed in the findings. The study identified corruption vulnerabilities in the legal framework protecting the right to CHSE,

28 Tawiah V et al (2024) "Effect of Corruption on Green Growth" 26(4) *Environment, Development and Sustainability* 10429 – 10459.

29 Nest M et al (2020) *Corruption and Climate Finance: Implications for Climate Change Interventions* U4 Brief, Bergen: U4 Anti-Corruption Resource Centre at 14; Transparency International (2011) *Global Corruption Report: Climate Change* London: Earthscan; Lyeonov S et al (2023) "The Impact of Corruption in Climate Finance on Achieving Net Zero Emissions" 16(1) *Journal of International Studies* 142 – 159.

30 Moreira-Dantas IR & Söder M (2022) "Global Deforestation Revisited: The Role of Weak Institutions" 122 *Land Use Policy* 106383.

31 Ubushieva B & Golay C (2024) *The Human Right to a Clean, Healthy and Sustainable Environment: Understanding Its Scope, States' Obligations and Links with Other Human Rights* Geneva: Geneva Academy, available at https://geneva-academy.ch/joomlatools-files/docman-files/The%20Human%20Right%20to%20a%20Clean,%20Healthy%20and%20Sustainable%20Environment.pdf (visited 17 June 2025).

32 United Nations Office of the High Commissioner for Human Rights (OHCHR), UNEP & United Nations Development Programme (UNDP) (2023) *What is the Right to a Healthy Environment?* available at https://www.undp.org/sites/g/files/zskgke326/files/2023-01/UNDP-UNEP-UNHCHR-What-is-the-Right-to-a-Healthy-Environment.pdf (visited 17 June 2025).

33 United Nations Human Rights Council Advisory Committee (2015); Barkhouse, Hoyland & Limon (2018).

34 ICHRP (2010); Peters (2018).

characterised them as environmental corruption risks, assessed them against Tanzania's human rights obligations, and situated them in Tanzania's legal and institutional context.

3.2 Analytical framework

The analysis combined two complementary lenses. The first is Klitgaard's corruption formula, which holds that corruption tends to arise where an actor enjoys monopoly power over a good or service, exercises discretion in its allocation, and faces weak accountability, expressed as corruption = monopoly + discretion − accountability.[35] The formula is a heuristic rather than a causal law, and it has been criticised for underplaying social and political context.[36] It was used here strictly as a diagnostic device since it directs attention to provisions that concentrate decision-making power, leave its exercise unstructured, and insulate it from review.

The second lens is the human rights-based approach (HRBA). Under international human rights law, states bear obligations to respect, protect and fulfil rights. In the environmental context, these obligations have been elaborated in the Framework Principles on Human Rights and the Environment, which require states, among other things, to provide environmental information, facilitate public participation, protect environmental human rights defenders, and provide effective remedies.[37] The African Commission on Human and Peoples' Rights gave binding regional content to these duties in *Social and Economic Rights Action Centre (SERAC) v Nigeria*, holding that compliance with Articles 16 and 24 of the African Charter requires independent scientific monitoring, prior environmental and social impact studies, publication of information, and meaningful opportunities for affected communities to be heard.[38] The HRBA supplies the normative benchmark that Klitgaard's formula lacks. It identifies whose entitlements are at stake, what the state owes, and who must be able to hold whom accountable.

35 Klitgaard (1988) at 75.

36 See the discussion in Rose-Ackerman & Palifka (2016) at 252.

37 UNHRC (2018) *Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Framework Principles on Human Rights and the Environment* A/HRC/37/59.

38 *Social and Economic Rights Action Centre (SERAC) & Centre for Economic and Social Rights v Nigeria* (2001) Communication 155/96 (African Commission on Human and Peoples' Rights) at para 53.

Combining the two lenses yields the diagnostic matrix applied in section 5. For each element of the right to CHSE, the analysis asked where Tanzanian law concentrates monopoly power, where it confers undefined discretion, and where it weakens the accountability mechanisms, namely information, participation, oversight and remedy, through which rights-holders discipline power.

4. THE RIGHT TO CHSE: NORMATIVE CONTENT AND STATE OBLIGATIONS

4.1 Recognition and normative status

United Nations Human Rights Council resolution 48/13 of 8 October 2021 recognised the right to CHSE for the first time at the global level, and United Nations General Assembly resolution 76/300 of 28 July 2022 affirmed it by 161 votes to none, with eight abstentions. Although these resolutions are not formally binding, they consolidate a norm already entrenched elsewhere. More than 80% of United Nations member states already recognise the right in some form through constitutions, legislation, jurisprudence or regional treaties,[39] and Article 24 of the African Charter binds Tanzania as a matter of treaty law. Resolution 76/300 expressly recognised that the exercise of the rights to information, participation and effective remedy is vital to the protection of the environment, a language that anticipates this article's argument that procedural rights operate as anti-corruption controls.[40] In Tanzania, the right rests on the judicial interpretation of Article 14 of the Constitution in *Festo Balegele* and on Section 4(1) of the EMA.

39 OHCHR, UNEP & UNDP (2023); Boyd DR (2012) *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* Vancouver: UBC Press; see also Section 24 of the Constitution of the Republic of South Africa, 1996; Article 42 of the Constitution of Kenya, 2010; Articles 14 & 414 of the Constitution of the Republic of Ecuador, 2008.

40 A/RES/76/300, preamble.

4.2 Substantive elements

The right to CHSE encompasses six substantive elements: a safe climate, clean air, healthy ecosystems and biodiversity, safe and sufficient water, healthy and sustainable food, and a non-toxic environment.[41]

The right to a safe climate entails state obligations to reduce greenhouse gas emissions and protect present and future generations from climate harm, consistent with the United Nations Framework Convention on Climate Change and the Paris Agreement.[42] Courts have begun enforcing these obligations. In *State of the Netherlands v Urgenda Foundation*, the Supreme Court of the Netherlands held that climate change constitutes a real and immediate risk to the lives and welfare of citizens, obliging the state to reduce emissions.[43] In *Held v Montana*, the Montana Supreme Court held that the state constitutional right to a clean and healthful environment encompasses a stable climate system.[44]

The right to clean air responds to a leading cause of premature death. The World Health Organization attributed 6.7 million deaths in 2019 to ambient and household air pollution.[45] In the "Deadly Air" case, the North Gauteng High Court in South Africa declared that persistent poor air quality in the Highveld Priority Area violated the constitutional right to an environment not harmful to health or well-being.[46] The United Nations Special Rapporteur has specified corresponding state duties, including monitoring air quality, informing the public, and enacting and enforcing air quality standards.[47]

The right to healthy ecosystems and biodiversity rests on the recognition that a healthy biosphere is intrinsic to all human rights. Without functioning ecosystems there is no

41 OHCHR, UNEP & UNDP (2023); Preston BJ (2024) "The Nature, Content and Realisation of the Right to a Clean, Healthy and Sustainable Environment" 36(2) *Journal of Environmental Law* 159 – 186.

42 Ubushieva & Golay (2024) at 10.

43 *State of the Netherlands v Urgenda Foundation* ECLI:NL:HR:2019:2007 (Supreme Court of the Netherlands).

44 *Held v Montana* DA 23-0575 (Supreme Court of Montana).

45 WHO (2025) *Air Pollution Data Portal*, available at https://www.who.int/data/gho/data/themes/air-pollution (visited 18 June 2025).

46 *Trustees for the Time Being of Groundwork Trust v Minister of Environmental Affairs* Case No 39724/19 (North Gauteng High Court).

47 UNHRC (2019) *Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Clean Air* A/HRC/40/55 at paras 61-62.

clean air, safe water or nutritious food. States are therefore obliged to protect biodiversity to support the full enjoyment of the rights that depend on it.[48]

The right to safe and sufficient water requires water that is free from harmful contaminants and available in adequate amounts, with access measured by distance, time, continuity, reliability and affordability.[49] It reinforces the "clean" element by requiring protection of water sources from pollution and the "sustainable" element by requiring water resource management for future generations.[50]

The right to healthy and sustainable food builds on the definition of adequate food by the Committee on Economic, Social and Cultural Rights,[51] and is linked to the right to CHSE in two directions: environmentally destructive agricultural practices such as excessive pesticides, synthetic fertilisers and deforestation undermine the environment, while food security itself depends on environmental and climate stability.[52]

Finally, the right to a non-toxic environment addresses the production, use and disposal of hazardous substances. Exposure to toxic substances raises risks of premature death, cancer, and damage to immune, endocrine, reproductive and neurological systems.[53] The corresponding obligation is to eliminate or strictly regulate hazardous substances so that their concentrations, and their impacts on health and ecosystems, are

48 UNHRC (2017) at para 33; UNHRC (2020a) *Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Healthy Ecosystems Report* A/75/161 at paras 3 & 70.

49 WHO (2020) *Domestic Water Quantity, Service Level and Health* 2 ed, available at https://www.who.int/publications/i/item/9789240015241 (visited 19 June 2025) at 4; Oliveira CDM (2017) "Sustainable Access to Safe Drinking Water: Fundamental Human Right in the International and National Scene" 12(6) *Revista Ambiente & Água* 985 – 1000 at 987.

50 Curry E (2010) "Water Scarcity and the Recognition of the Human Right to Safe Freshwater" 9(1) *Northwestern Journal of International Human Rights* 103 – 121 at 106-107; Committee on Economic, Social and Cultural Rights (2003) *General Comment No 15: The Right to Water* E/C.12/2002/11 at paras 8, 11 & 28.

51 Committee on Economic, Social and Cultural Rights (1999) *General Comment No 12: The Right to Adequate Food (Article 11)* E/C.12/1999/5.

52 UNHRC (2021) *Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Healthy and Sustainable Food* A/76/179 at paras 7 & 23; Reddy BS & Ramya R (2022) "The Right to Food as a Human Right: An Overview of Public Understanding of the Right to Safe and Nutritious Food" 4(1) *CMR University Journal for Contemporary Legal Affairs* 245 – 255 at 246-248.

53 UNHRC (2022) *Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Non-Toxic Environment* A/HRC/49/53 at paras 8 & 12.

negligible.[54]

4.3 Procedural elements

The procedural elements of the right are access to information, public participation and access to justice. Access to environmental information enables the public to understand state operations and hold officials accountable.[55] In *Claude-Reyes v Chile*, where authorities refused information about a major forestry contract, the Inter-American Court of Human Rights held that access to state-held information is essential to democracy and that state action must be governed by the principle of maximum disclosure, subject only to restrictions established by law in the public interest.[56] In the environmental context, states must provide affordable access to environmental information, publish reports on the state of the environment, and keep individuals and communities informed of risks and decisions affecting them.[57]

Public participation extends beyond involvement in impact assessments to a wider obligation to engage the public in environmental decision-making.[58] Denial of participation endangers substantive rights and increases the likelihood of irreversible environmental damage.[59] Participation is recognised both as a human right[60] and as a cardinal principle of

54 Swedish Environmental Protection Agency (2025) *The Environmental Objective: A Non-Toxic Environment*, available at https://www.ri.se/en/centre-for-chemical-substitution/about-chemical-substitution/the-environmental-objective-a-non (visited 20 June 2025); Johansson N, Velis C & Corvellec H (2020) "Towards Clean Material Cycles: Is There a Policy Conflict Between Circular Economy and Non-Toxic Environment?" 38(7) *Waste Management & Research* 705 – 707.

55 Noveck BS (2017) "Rights-Based and Tech-Driven: Open Data, Freedom of Information, and the Future of Government Transparency" 19 *Yale Human Rights and Development Law Journal* 1 – 44 at 4.

56 *Claude-Reyes v Chile* (Inter-American Court of Human Rights, Judgment of 19 September 2006).

57 UNHRC (2020b) *Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Good Practices* A/HRC/43/53 at paras 14–20; Ubushieva & Golay (2024) at 10.

58 Fitzmaurice M (2002) "Some Reflections on Public Participation in Environmental Matters as a Human Right in International Law" 2 *Non-State Actors & International Law* 1 – 22 at 11.

59 Brisman A (2013) "The Violence of Silence: Some Reflections on Access to Information, Public Participation in Decision-Making, and Access to Justice in Matters Concerning the Environment" 59(3) *Crime, Law and Social Change* 291 – 303 at 292.

60 Article 19 of the Universal Declaration of Human Rights (1948); Articles 19 & 25 of the International Covenant on Civil and Political Rights (1966); Articles 9 & 13 of the African Charter on Human and Peoples' Rights (1981).

international environmental law.[61] Its realisation requires that authorities enable comment on proposals, take comments into account, and give reasons for final decisions.[62]

Access to justice entails both enforcement of environmental law and the right of the public to challenge decisions, acts and omissions of authorities.[63] It involves standing rules, burden of proof, costs, remedies and, ultimately, independent and impartial courts or tribunals.[64] Through litigation, affected individuals can hold polluters and public authorities accountable and compel compliance with environmental standards.

4.4 State obligations and corruption entry points

Synthesised through the respect–protect–fulfil typology, the right to CHSE obliges states to refrain from environmentally destructive conduct, to protect people from environmental harm by third parties through regulation and enforcement, and to fulfil the right through legislation, institutions, monitoring and resourcing.[65] Each obligation presupposes integrity in the officials who discharge it. The duty to protect depends on licensing, inspection and prosecution which are classic sites of bribery and capture. The duty to fulfil depends on impact assessment, land allocation and budget execution which are classic sites of rent-seeking. The procedural elements: information, participation and justice, are simultaneously the mechanisms through which rights-holders detect and sanction corrupt conduct. It follows that provisions which weaken these elements do double damage: they violate the right's procedural guarantees and dismantle the accountability term in Klitgaard's formula.

Significantly, international anti-corruption law converges on the same guarantees. Article 10 of UNCAC obliges states parties to enhance transparency in public administration, including through procedures allowing the public to obtain information on the organisation,

61 *Rio Declaration on Environment and Development* (1992) UN Doc A/CONF.151/26 (Vol I) principle 10; *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (1998) 2161 UNTS 447.

62 Brisman (2013) at 293.

63 He M (2019) "Sustainable Development Through the Right to Access to Justice in Environmental Matters in China" 11(3) *Sustainability* 1 – 15 at 2.

64 Sindhuri PS & Singh N (2013) "Access to Justice in Environmental Matters" 6(10) *OIDA International Journal of Sustainable Development* 55–62 at 61; Brisman (2013) at 293.

65 UNHRC (2018) at para 12 and annex, framework principles 1–2; UNHRC (2017) at paras 26–36; UNHRC (2021) at para 70.

functioning and decision-making of public bodies, while Article 13 obliges them to promote the active participation of society in preventing and combating corruption, including through effective access to information and respect for the freedoms to seek, receive and publish information.[66] Article 9 of the African Union Convention on Preventing and Combating Corruption similarly obliges states parties to give effect to the right of access to information needed to fight corruption.[67] For a state such as Tanzania, which is party to both instruments and to the African Charter, restrictions on environmental information and participation therefore engage overlapping treaty obligations: the same statutory provision can simultaneously fall short of the procedural elements of the right to CHSE and of binding anti-corruption commitments. This convergence is the analytical bridge to the findings that follow.

5. FINDINGS AND DISCUSSION

5.1 Overview of findings

Applying the framework in section 3 to Tanzania's legal and institutional landscape, the study identified six corruption vulnerabilities bearing on the right to CHSE: (i) statutory grounds for refusing environmental information that are undefined and effectively unreviewable; (ii) an unfavourable public participation environment marked by fear of retaliation and constricted civic space; (iii) an impact assessment framework exposed to superficial consultation and political override; (iv) a dormant specialised environmental tribunal; (v) retaliation against environmental human rights defenders (EHRDs); and (vi) unchecked discretion over indigenous and community lands. The subsections below present each finding and discuss it through the combined Klitgaard–HRBA lens. Section 5.8 then considers alternative explanations and the limits of the evidence. Throughout, the corruption context matters. Beyond the CPI and Index of Public Integrity scores reported in section 2, Tanzania ranked 98th of 143 countries in the World Justice Project Rule of Law Index 2025,[68] and its climate vulnerability means that governance failures translate quickly into harm to the sectors on

66 Articles 10 & 13 of the United Nations Convention against Corruption (2003).
67 Article 9 of the African Union Convention on Preventing and Combating Corruption (2003).
68 World Justice Project (2025) *Rule of Law Index 2025*, available at https://worldjusticeproject.org/rule-of-law-index/country/2025/Tanzania (visited 6 July 2026).

which realisation of the right depends, such as agriculture, fisheries, forestry, wildlife, and energy.[69]

5.2 Restricted access to environmental information

The right to information is constitutionally guaranteed in Tanzania under Article 18(b) and (d) of the Constitution, legislated generally in the Access to Information Act, Cap 149 R.E., 2023 and legislated environmentally in Section 172(1) of the EMA, which grants citizens freedom to access publicly held environmental information.[70] The vulnerability lies in the grounds of refusal. Under Section 172(2) of the EMA, a request may be refused on grounds including national security, public order, protection of trade and industrial secrets, the authority's lack of knowledge of the information's existence, and the "unreasonableness, vagueness, generality and uncertainty" of the request. Regulation 13(2) of the Environmental Management (Right to Compensation) Regulations, 2024 adds further restrictions, including confidentiality of the holding authority, international relations, public interest, personal data and matters *sub judice*.[71] None of these terms is defined; no harm test is prescribed; no independent appeal against refusal is provided. By contrast, it is an offence to refuse information requested by the Director of Environment or the Director-General of the NEMC, not the public.[72]

In Klitgaard's terms, the holding authority enjoys a monopoly over the information, exercises undefined discretion over disclosure, and faces no effective accountability for refusal. The practical trajectory of comparable discretion in Tanzania is instructive. Since no reported instance of the application of regulation 13(2) could be identified, the study examined the analogous regime governing public access to the register of leaders' asset declarations under the Public Leadership Code of Ethics Act, Cap 398 R.E. 2023 and its 1996 Regulations. There, a citizen seeking inspection must first lodge a complaint against a public leader; the Ethics Commissioner must be satisfied that the complaint was made in good faith

69 United Republic of Tanzania (2021).
70 Section 6 of the Access to Information Act, 2016; Section 172(1) of the Environmental Management Act, Cap 191 R.E. 2023 (EMA).
71 Regulation 13(2) of the Environmental Management (Right to Compensation) Regulations, 2024.
72 Section 172(5) of the EMA.

and has a legal basis, and may deny access where he or she considers the complaint baseless.[73] Access to a transparency instrument is thus conditioned on the gatekeeper's own satisfaction and, consistent with that design, current transparency assessments record that no information on Tanzanian officials' financial and conflict-of-interest disclosures is available online.[74] Tanzania's broader openness record points the same way: it scored 0.51 and ranked 62nd of 102 countries in the World Justice Project Open Government Index 2015, and its budget transparency score declined from 7.37 in 2015 to 5.33 in 2025.[75]

The rights consequence is direct. Transparency is the prerequisite for accountability, whether proactive (the state publishes on its own initiative) or demand-driven (the state discloses on request).[76] Provisions that permit legally clothed refusals of environmental information disable the first procedural element of the right to CHSE and, with it, the public's capacity to detect environmentally harmful decisions. Under these conditions, environmental corruption escapes scrutiny.

5.3 Unfavourable public participation environment

Tanzanian law formally embraces participation. Articles 8(1)(d) and 21(2) of the Constitution guarantee participation in public affairs and in decisions affecting one's well-being, and Article 27 imposes on every citizen a duty to protect natural resources and combat waste. Section 174 of the EMA grants the public the right to timely information about proposed environmental decisions and to participate in the design of environmental policies, plans and legislation, and Section 174(5) obliges NEMC and other authorities to establish mechanisms

73 Section 9 of the Public Leadership Code of Ethics Act, Cap 398 R.E. 2023; Regulations 5 & 6 of the Public Leadership Code of Ethics (Declaration of Interests, Assets and Liabilities) Regulations, 1996, GN No 108 of 1996.

74 ERCAS (2025).

75 World Justice Project (2015) *Open Government Index 2015*, available at https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-open-government-index-2015 (visited 6 July 2026); ERCAS (2025).

76 Fox J (2007) "The Uncertain Relationship Between Transparency and Accountability" 17(4-5) *Development in Practice* 663 – 671 at 665; Ruijer HJM (2017) "Proactive Transparency in the United States and the Netherlands: The Role of Government Communication Officials" 47(3) *American Review of Public Administration* 354 – 375 at 356.

to collect and respond to public concerns, including public debates, hearings, and environmental desks.[77]

Effective participation, however, presupposes access to information, an enabling civic environment, independent media, and oversight institutions capable of sanctioning officials.[78] The study found these preconditions weak. An Afrobarometer survey found that seven in 10 Tanzanians fear adverse consequences for reporting corruption to the authorities.[79] Tanzania ranked 95th of 180 countries in the World Press Freedom Index 2025, and the legal environment for media, including the Media Services Act, 2016, provisions of which the East African Court of Justice found inconsistent with freedom of expression guarantees, constrains investigative journalism.[80] Reporters without Borders described the Tanzanian media context as follows:

> Many media outlets are owned by politicians or are influenced by them. This undermines editorial independence and results in biased coverage. The government systematically blocks access to state-held information of public interest when it concerns security or development issues. Criticism of the ruling authorities is poorly received and can lead to the suspension of media outlets.[81]

Read through the analytical framework, a participation regime that exists on paper but is unusable in practice removes a second accountability mechanism. Where citizens fear retaliation for reporting corruption and the media cannot investigate, environmental decisions are made without effective public scrutiny, and officials' discretion over licences, assessments and land goes unmonitored. Participation failures are thus not merely

77 Sections 174(1), (2) & (5) of the EMA.

78 Davenport S & Kallaur E (2020) "Open and Inclusive Government" in World Bank *Enhancing Government Effectiveness and Transparency: The Fight against Corruption* Washington DC: World Bank 181 – 200 at 181; Interpeace (2015) *Public Participation and Citizen Engagement*, available at https://www.interpeace.org/wp-content/uploads/2015/10/2015_10_12_Effective_Advising_How-Public_participation.pdf (visited 8 July 2025).

79 Olan'g L & Msami J (2017) *In Tanzania, Anti-Corruption Efforts Seen as Paying Dividends, Need Citizen Engagement* Dar es Salaam: REPOA & Afrobarometer at 2.

80 Reporters without Borders (2025) *World Press Freedom Index 2025*, available at https://rsf.org/en/index (visited 8 July 2025); Media Services Act 12 of 2016; *Media Council of Tanzania & 2 Others v Attorney General of the United Republic of Tanzania* (Reference No 2 of 2017) (East African Court of Justice, First Instance Division, 28 March 2019).

81 Reporters without Borders (2025).

democratic deficits; they are corruption enablers with direct consequences for the right to CHSE.

5.4 Weak impact assessment framework and unchecked political discretion

Tanzanian law requires an ESIA and a clearance certificate before any project affecting the environment commences.[82] ESIAs are conducted by experts registered with NEMC, and the Environmental Impact Assessment and Audit Regulations, 2005 (as amended in 2018 and 2024) require public consultation through notices, media announcements, and, where deemed necessary, public hearings.[83] NEMC has discretion under regulation 17(3) to invite the public into all stages.

The study identified two vulnerabilities in this framework. The first is superficial consultation. Given constricted access to information, shrinking civic space, and literacy barriers to comprehending technical documents in rural communities, the consultation prescribed by the Regulations risks becoming a formality.[84] Oxfam's human rights impact assessment of the East African Crude Oil Pipeline recorded the result:

> Although community members thought they had enough information in general, a recurrent concern was the lack of detail about key aspects, including the environmental impacts of the projects, delay in compensation, exact timing of relocation, qualifications required for employment opportunities and the laws that would govern their compensation payments.[85]

Consultation that leaves affected communities uninformed about environmental impacts and compensation is consultation that corrupt actors can navigate. Superficial reports can be produced and approved without capturing the full spectrum of environmental, social, cultural and human rights impacts. Notably, the current ESIA framework does not require human rights impact assessment at all.

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82 Section 81 of the EMA.

83 Regulations 17 & 17(3) of the Environmental Impact Assessment and Audit Regulations, 2005.

84 Bogrand A, Brodeur C, Mbenna D, Akoli AJ, Ayebare C, Twesigye B & Sellwood SA (2020) *Empty Promises Down the Line? A Human Rights Impact Assessment of the East African Crude Oil Pipeline* Oxford: Oxfam at 51, available at https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621045/rr-empty-promises-down-line-101020-en.pdf (visited 9 July 2025).

85 Bogrand et al (2020) at 53.

The second vulnerability is political override. Before construction of the Julius Nyerere Hydro-Power Project in the Selous Game Reserve, a UNESCO World Heritage site, the World Heritage Committee warned that the project would likely cause irreversible damage to the site's Outstanding Universal Value, and an independent technical review found the strategic environmental assessment deficient on economic viability, impacts and alternatives.[86] The President at the time publicly dismissed these concerns, and the project proceeded to completion.[87] Whatever the project's developmental merits, the episode showed that assessment safeguards yielded to executive discretion, and the absence of comprehensive post-construction assessments points to weak follow-up and monitoring.[88] Where the highest political authority can override assessment processes without independent review, the accountability term of the corruption formula becomes eroded.

Political discretion also shapes enforcement over time. Studies show that the intensity of Tanzania's anti-corruption effort has historically depended on the stance of the serving president.[89] During the fourth phase presidency (2005–2015), Tanzania's elephant population fell from about 142 000 to about 55 000,[90] while its CPI ranking deteriorated from 88th of 159 countries (2005) to 117th of 180 (2015). The Environmental Investigation Agency found that international criminal syndicates were "ruthlessly exploiting rising corruption and weak governance in Tanzania to plunder the country's unique natural heritage".[91] During the fifth

86 World Heritage Committee (2019) *UNESCO Concerned About Insufficient Strategic Environmental Assessment of the Rufiji Hydropower Project in Selous Game Reserve (Tanzania)*, available at https://whc.unesco.org/en/news/2071 (visited 10 July 2025); International Union for Conservation of Nature (2019) *Independent Technical Review of the "Strategic Environmental Assessment for the Proposed Rufiji Hydropower Project" in Selous Game Reserve World Heritage Site, Tanzania*, available at https://portals.iucn.org/library/sites/library/files/documents/2019-044-En.pdf (visited 10 July 2025).

87 AFP (9 July 2019) "Tanzania's Magufuli Dismisses Concerns Over Dam in Nature Park" *RFI*, available at https://www.rfi.fr/en/contenu/20190709-tanzanias-magufuli-dismisses-concerns-over-dam-nature-park (visited 11 July 2025).

88 Makulu L & Souza A (2023) *Julius Nyerere Hydropower Station and Its Environmental Impact*, available at https://zenodo.org/records/17202424 (visited 18 April 2026).

89 Lukiko L, Kilonzo C & Kimela H (2020) "Tanzania's Post-Independence Anti-Corruption Efforts: Examining the Prevention and Combating of Corruption Bureau's (PCCB) Role during Magufuli's Regime" 4(1) *Journal of Anti-Corruption Law* 32 – 52 at 32; Lukiko L (2024) "Fighting Corruption in Tanzania's Energy Sector: Lessons from Richmond and IPTL/Escrow Scandals" 8 *Journal of Anti-Corruption Law* 12 – 40 at 18.

90 Environmental Investigation Agency (2014).

91 Environmental Investigation Agency (2014).

phase presidency, the CPI ranking improved to 87th of 180 (2021), and the elephant population recovered to about 60 000 by 2019.[92] The study treated this as an association, not proof of causation; section 5.8 considers rival explanations. What the doctrinal analysis does establish here is the vulnerability itself that an enforcement system whose vigour fluctuates with presidential attitude lacks the institutionalised accountability that the right to CHSE requires.

5.5 Deficient access to environmental justice

Tanzanian law confers wide environmental standing. Articles 26(2) and 30(3) of the Constitution allow any person to take legal action to protect the Constitution and to seek redress in the High Court for rights violations, and Section 5(1) of the EMA entitles any person whose right to a clean, safe and healthy environment is threatened to sue for preventive, compulsive, restorative or compensatory orders.[93]

The vulnerability lies in the forum. Section 204 of the EMA establishes an Environmental Appeals Tribunal, yet since the statute's enactment in 2004, the Tribunal has never been operationalised. Specialised environmental tribunals have proven crucial in promoting environmental justice because their technical expertise and structured procedures narrow the room for arbitrary discretion which is the very space where corrupt influence thrives.[94] In the Tribunal's absence, administrative decisions of environmental organs such as NEMC remain largely unchecked, and environmental proceedings default to ordinary courts that often lack environmental expertise. A two-decade failure to operationalise a statutorily established accountability institution is itself a finding. It leaves the review function, which is the principal legal check on licensing and assessment discretion, vacant to the benefit of whoever that discretion favours.

92 Kanyabwoya D & Nachilongo H (2024) "Elephant Poaching Curbed Through Joint Efforts, Says Wildlife Authority" *The Citizen*, available at https://www.thecitizen.co.tz/tanzania/news/national/elephant-poaching-curbed-through-joint-efforts-says-wildlife-authority-4556770 (visited 19 April 2026).

93 Sections 5(1) & 5(2)(a)-(f) of the EMA.

94 United Nations Environment Programme (2019) *Environmental Rule of Law: First Global Report* Nairobi: UNEP at 203.

5.6 Retaliation against environmental human rights defenders

EHRDs, being individuals, community groups, and organisations undertaking peaceful environmental advocacy, scrutinise policies, initiate strategic litigation and demand accountability. This role places them on the front line against illegal logging, land-grabbing, pollution and wildlife trafficking, activities that may involve collusion between officials, investors and regulators.[95] The Framework Principles on Human Rights and the Environment oblige states to provide a safe and enabling environment for defenders and to protect them from threats, harassment and violence.[96]

Tanzania has no law specifically protecting EHRDs. They rely on general constitutional protections.[97] In practice, DefendDefenders reported that EHRDs in Tanzania face harassment, surveillance and repeated arrests, and that critics of the government risk deregistration or enforced disappearance.[98] Such repression silences the very actors most likely to expose environmental corruption, disarming the public of information and encouraging violators to continue unchecked. The vulnerability is therefore double-edged: it violates the state's protective obligations under the right to CHSE while simultaneously removing a societal constraint on corruption.

5.7 Corruption and the environmental rights of indigenous peoples and local communities

The study found that indigenous peoples' enjoyment of the right to CHSE is exposed to corruption in three ways. First, corrupt inducement operates at the community gate. Multinational companies have bribed indigenous leaders to obtain a social licence to operate, as alleged against Newmont's subsidiary in Ghana's Akyem forest reserve,[99] and local actors

95 Avocats Sans Frontières (2015) *Protecting Human Rights Defenders in the East African Community: Briefing Paper* Brussels: ASF, available at https://www.asf.be/wp-content/uploads/2015/06/HRDs_Briefing-Paper.pdf (visited 12 July 2025).

96 UNHRC (2018) principle 4.

97 Ndagire J (2023) *The State of Environmental Human Rights Defenders in Tanzania, Uganda and the Democratic Republic of Congo* Kampala: DefendDefenders at 16, available at http://www.defenddefenders.org/reports (visited 12 July 2025); Articles 14, 15 & 16 of the Constitution of the United Republic of Tanzania, 1977.

98 Ndagire (2023) at 16.

99 George KF (2015) "Combating Bribery of Indigenous Leaders in International Business" 54 *Columbia*

have been corruptly enlisted into environmental crime. The Environmental Investigation Agency found that elephant poaching in Tanzania involved local poachers hired by fixers, "including government officers".[100]

Second, corruption distorts land and resource allocation. In February 2025, the Parliamentary Standing Committee on Land, Natural Resources and Tourism reported that 40% of land allocated to investors was undeveloped, that allocations had caused severe land shortages among local communities, sometimes resulting in deadly confrontations, and that corrupt practices among land officers were a main cause of land conflicts.[101]

Third, opaque state-investor collusion has accompanied dispossession. The Wildlife Conservation (Pololeti Game Controlled Area) Order, 2022 demarcated 1 500 km² of Loliondo land as a game-controlled area, requiring relocation of Maasai residents, reportedly without their free, prior and informed consent which is the standard reflected in the United Nations Declaration on the Rights of Indigenous Peoples.[102] Earlier, in August 2017, government forces evicted Maasai communities by burning homes and destroying property.[103] In *Ololosokwan Village Council v Attorney General of the United Republic of Tanzania*, the appellants contended that these actions severed them from ancestral lands on which their livelihood, religion and culture depend.[104] Behind the evictions stood Otterlo Business Company (OBC), a hunting concessionaire serving a foreign royal family, registered in tax-haven jurisdictions, which had restricted Maasai access to land and water and collaborated with state forces in evictions.[105] Although the government announced the termination of

Journal of Transnational Law 59 – 95 at 74.

100 Environmental Investigation Agency (2014) at 16.

101 Bunge la Tanzania (2025) at 52 & 65.

102 The Wildlife Conservation (Pololeti Game Controlled Area) Order, GN No 421 of 2022; Article 32(2) of the United Nations Declaration on the Rights of Indigenous Peoples A/RES/61/295 (2007) art 32(2); Amnesty International (2023) *We Have Lost Everything: Forced Evictions of the Maasai in Loliondo, Tanzania* London: Amnesty International, available at https://www.amnesty.org/en/wp-content/uploads/2023/06/AFR5668412023ENGLISH.pdf (visited 16 July 2025).

103 Mittal A & Fraser E (2018) *Losing the Serengeti: The Maasai Land that was to Run Forever* Oakland: The Oakland Institute at 9, available at https://www.oaklandinstitute.org/sites/default/files/files-archive/losing-the-serengeti.pdf (visited 16 July 2025).

104 *Ololosokwan Village Council & Three Others v The Attorney General of the United Republic of Tanzania* (Appeal No 13 of 2022) [2023] EACJ 12 (EACJ Appellate Division); Mittal & Fraser (2018).

105 Mittal & Fraser (2018) at 7; Amnesty International (2024) *Business as Usual in Bloodied Land? Role of Businesses in Forced Evictions in Loliondo, Tanzania* London: Amnesty International, available at https://www.amnesty.org/en/documents/afr56/8320/2024/en/ (visited 16 July 2025).

OBC's concession in 2017 and ordered a PCCB investigation of its executive director, OBC was reported to be actively involved in the 2022 evictions.[106] The study could not establish what became of the investigation, itself indicating the opacity documented in section 5.2. What the record does show is a concession regime in which access to indigenous lands is allocated and re-allocated through processes invisible to those affected. This shows that where monopoly and discretion are widespread, accountability approaches zero.

5.8 Discussion and synthesis

Two points emerge from these findings. First, the six vulnerabilities are not discrete defects but a mutually reinforcing system, and each map onto the analytical matrix. Information restrictions and participation failures disable the procedural elements of the right to CHSE and hollow out the accountability term of the corruption formula. Assessment weaknesses and political override and the dormant Tribunal concentrate discretion in executive and regulatory hands and remove independent review. Retaliation against defenders and the position of indigenous communities show the distributional consequences, that those with the greatest stake in the environment have the least power to defend it. In HRBA terms, Tanzania's framework is strongest on the duty to fulfil in form (legislation and institutions exist) and weakest on the duties to protect and to provide remedies in substance.

The HRBA also identifies accountability avenues that remain underused. Domestically, the Commission for Human Rights and Good Governance (CHRAGG), established under Article 129 of the Constitution with a dual human rights and good governance mandate, is institutionally well placed to receive complaints linking environmental harm to maladministration and corruption, yet it featured in none of the environmental controversies examined here. Regionally, *Ololosokwan* demonstrates that affected communities can and do litigate before the East African Court of Justice, and the African Commission's jurisprudence under Article 24, notably the *SERAC* obligations of monitoring, impact assessment, disclosure and participation provide a ready benchmark against which Tanzania's framework can be

106 Kabendera E (28 October 2017) "Tanzania Ends Hunting Deal with Dubai Royal Family" *The East African*, available at https://www.theeastafrican.co.ke/news/Tanzania-ends-hunting-deal-with-Dubai-royal-family/2558-4182470-dv6hysz/index.html (visited 16 July 2025); Amnesty International (2024) at 16.

measured in state reporting and communications. A rights-based response to environmental corruption does not require new international machinery. It requires connecting existing anti-corruption enforcement to these human rights forums so that corrupt interference with environmental protection is framed, pleaded and remedied as a rights violation, not merely as an administrative lapse.

Second, causal claims must be handled with care. The parallel movement of Tanzania's CPI ranking and its elephant population between 2005 and 2019 is consistent with the proposition that political tolerance of corruption enables environmental crime, but it does not prove it. Rival explanations exist: enforcement capacity and donor-funded anti-poaching operations expanded in the same period; global ivory demand and prices declined amid international market closures and trade suppression;[107] and economic pressures and investment flows independently shape resource exploitation. Peters' caution that causality is the central doctrinal obstacle in linking corruption to rights violations applies with full force.[108] This is precisely why the study framed its object as corruption *vulnerabilities*. The undefined refusal grounds in Section 172(2) of the EMA, the never-operationalised Tribunal, and the unreviewable concession discretion are observable legal facts, demonstrable by doctrinal method, whatever the true causal contribution of corruption to any environmental outcome. The strategic responses to these vulnerabilities follow in section 6.

6. CONCLUSION AND RECOMMENDATIONS

This article examined how corruption vulnerabilities undermine the realisation of the right to CHSE in Tanzania. Conceptually, it demonstrated that the procedural elements of the right: information, participation and justice, function simultaneously as human rights guarantees and as anti-corruption controls, so that legal provisions weakening them inflict a double injury. Applying a diagnostic matrix that combined Klitgaard's corruption formula with the HRBA, the study found that Tanzania's framework, though formally elaborate, contains

107 United Nations Office on Drugs and Crime (2020) *World Wildlife Crime Report 2020: Trafficking in Protected Species* Vienna: United Nations.

108 Peters (2018) at 1267-1270.

systematic vulnerabilities: undefined grounds for refusing environmental information; a participation environment constricted by fear and shrinking civic space; an impact assessment regime exposed to superficial consultation and political override; a specialised environmental tribunal that has never sat; unprotected EHRDs; and unreviewable discretion over indigenous lands. In each case, the law itself supplies the discretion, and the missing institutions supply the impunity.

These findings ground the following prioritised recommendations. First, and most urgently, parliament should amend Section 172(2) of the EMA and regulation 13(2) of the Right to Compensation Regulations to define the grounds of refusal exhaustively, impose a harm test and a public-interest override modelled on the principle of maximum disclosure in *Claude-Reyes*, require written reasons for refusal, and provide an independent appeal. Second, the government should operationalise the Environmental Appeals Tribunal by appointing and resourcing its members. Pending that, the judiciary should designate and train environmental specialists within the existing court structure. Third, the ESIA framework should be strengthened by making public hearings mandatory rather than discretionary for major projects, extending assessments to cultural and human rights impacts, requiring disclosure of the beneficial ownership of project proponents and concessionaires, and instituting mandatory post-approval audits. These measures would narrow the space for both superficial assessment and political override. Fourth, parliament should enact specific protections for EHRDs, including sanctions for retaliation, consistent with the state's protective obligations under the Framework Principles and Article 24 of the African Charter. Fifth, land and concession allocation affecting indigenous and local communities should be conditioned on documented free, prior and informed consent, with allocation registers published proactively. Sixth, the PCCB and NEMC should establish a joint mechanism for corruption-risk screening of environmental licensing, and CHRAGG's complaints mandate should be deployed and resourced to treat corrupt interference with environmental protection as a human rights matter attracting both prosecution and victim compensation under Section 5 of the EMA.

Implementation should be sequenced by cost and dependency. The first and second recommendations require only a discrete legislative amendment and executive appointments

respectively, and should precede the rest, since information access and independent review are preconditions for the effectiveness of every other reform. The third to fifth recommendations require regulatory amendment and new budget lines and can proceed over the medium term. Progress should be monitored through published indicators, such as the proportion of information requests refused and overturned on appeal, Tribunal case disposal, ESIA hearings held, and documented consent processes. Performance should be reported annually to parliament and reflected in Tanzania's state reporting under the African Charter and its UNCAC implementation reviews.

The diagnostic approach developed here, namely mapping corruption-risk analysis onto the normative elements of the right to CHSE is transferable to other jurisdictions implementing resolutions 48/13 and 76/300. Its limits are those of doctrinal method: it identifies where the law leaves the door open, not how often the door is walked through. Future research should therefore test these vulnerabilities empirically, including through case-file analysis of PCCB environmental prosecutions and field studies of ESIA consultation practice.