



Organizational Development and Change in Tanzania: Re-examining the State capacity in enforcing environmental standards

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ABSTRACT

This paper aims at examining the state capacity in enforcement of environmental standards in the context of organizational development, central to which is the need for continuous effectiveness. The neo-liberal proponents presuppose that with a limited scope of functions, the state becomes more effective and efficient in discharging its core functions. From the mid 1980s Tanzania has been implementing neo-liberal reforms. A new environmental policy was formulated in 1997 then followed by the enactment of the new environmental management legislation in 2004. The question is, to what extent have these changes improved the Tanzanian state capacity in effectively managing the environment? The central argument of the paper is that in spite of the changes in the policy and legal framework in order to improve its mandate, the state, through the National Environmental Management Council (NEMC), is still institutionally impaired to the extent it cannot effectively ensure and monitor compliance with environmental standards. This then suggests that the assumption that the state's capacity would be enhanced if the state had concentrated on its 'core' functions requires re-examination.

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Introduction

There is a burgeoning literature on organizational development and change (OD&C), mostly, appearing in research journals with bias in the general management and organization theory. By 1995 one study, for example, had recorded a total of one million journal articles on organizational change (Van de Ven and Poole, 1995). Conversely, little is appearing in the public administration journals with particular focus on organizational development and change in the public sector despite a myriad of initiatives aimed at reforming the sector over the last three decades (Fernandez and Rainey, 2006).

Building on the concepts of organizational development and change, the author employs documentary reviews and an interview with the Director General of the National Environmental Management Council of Tanzania (NEMC) as the main sources of data. Using a historical approach, the paper examines the extent to which the institutional changes in Tanzania have corresponded to capacity building initiatives for effective environmental management. The paper uses the NEMC to assess the government's institutional capacity in ensuring effective enforcement and compliance monitoring of environmental standards for sustainable environmental management with in the changing socio-economic and political circumstances.

The organizational change from the state-led economy to the market-led economy was guided by the assumption that, by limiting the scope of its functions, the state through the government and its institutions would become more effective in discharging its core functions, including the regulatory ones. Amidst complaints from the public about the nominal benefits that Tanzania receives from private investments there are growing concerns about the capacity of the state in ensuring effective enforcement and compliance monitoring of

environmental standards in the country. This paper argues that the organizational change that started in the mid 1980s, has not led to effectiveness of the state in performing its regulatory functions related to the management of the environment. Such ineffectiveness can partly be attributed to the piecemeal and opportunistic fashion under which the institutional environment has been reformed leading to conflicting and obfuscatory mandates between the NEMC and other institutions of the state.

Effective regulation to ensure that the different actors including companies conduct their businesses in a responsible and accountable manner is essential if the country is to reap the benefits of globalization. But that could only be possible if a strategic approach to change management was adopted. The paper is structured around the following sections: background to the reform process constitutes the second part of this paper preceded by the introduction. The third section presents a conceptual framework, which provides the conceptual meaning of key terms. We also provide the variables against which the state capacity is analyzed. In particular we use two variables: the institutional environment and resources and organizational characteristics such as structure and mandate, all of which can influence NEMC's performance. The fourth section provides a detailed examination of the government institutional capacity within the context of organizational development and the environmental regulatory regime in Tanzania. Some concluding remarks are provided in the last part observing that the shift from state-led economy to market-based economy has not necessarily corresponded to improved effectiveness in environmental management.

Background

Before mid 1980s Tanzania was organized around a central planning economy in which the state was the dominant actor in the production and distribution of goods and services.

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With the economic crisis of the 1970s the state literally lost its capacity to finance the production and distribution of goods and services hence the need for redefining its role became inevitable. The Tanzanian state, just like many other developing countries, reorganized its approach to economic management from central planning to a market-based economy. In 1986 Tanzania liberalized her economy as part of the structural adjustment programmes (SAPs), a shift from central planning to an increased role of the market forces in the allocation of resources (Bagachwa, et al., 1993) and private sector-led development (Wangwe, 2000). This redefinition of the state's role was to a large extent in response to donors' pressure and conditionalities for aid (Reed, 2002).

The argument advanced in favour of the market-led economy was that the state was inherently least competent and efficient in managing the economy (ibid, p.228). This notion - mainly owing much of its origin to the neo-liberal ideas of such scholars as Friedrich von Hayek, Karl Popper and Milton Friedman, among others - holds that if the neo-liberal reforms were implemented prudently they would yield positive results in less developed economies (Williamson, 1990; Bartley, 2007). To the neo-liberalists, to use Margaret Thatcher's buzz phrase, 'there is no alternative (TINA)' to the policy choices underlying the Washington consensus in which ideas of free markets, free trade and capitalist globalization are embedded. Put it differently, the neo-liberal argument is that free markets, free trade and capitalist globalization are the only appropriate development strategies through which modern society can achieve sustainable progress and prosperity (Cooney, 2006).

The state was, thus, compelled to confine itself to its traditional functions of rule adjudication and maintenance of law and order, regulation to ensure compliance to contracts, defense and security, just to name a few. The underlying assumption was that by limiting the scope of its functions, the state through the government and its institutions would become more effective and efficient in discharging its core functions. Tanzania adopted a number of reforms that, among other things, implied a withdrawal from the direct running of the economy, retaining its regulatory function. The central question guiding this paper is: to what extent have these changes improved the Tanzanian state capacity in effectively playing its redefined roles? This paper, therefore, aims at examining the state capacity in enforcing environmental standards within the context of organizational development, central to which is the need for continuous effectiveness. To this end the following section begins with conceptualization of key terms: capacity and organizational development. Since capacity is a wide concept, definition of the key variables in measuring state capacity in the context of this paper becomes indispensable.

Conceptual Framework

Capacity: Defined

Capacity is a popular term among development scholars. Various analysts have defined it differently to generally mean the ability to achieve one's objectives in the most effective and efficient manner (Lopes and Theisohn, 2003; Matachi, 2006; Baser and Morgan, 2008; Ortiz and Taylor, 2008; Grauwe, 2009). Matachi's definition of capacity is rather comprehensive with more elaborate variables. He defines capacity as the organizational and technical abilities, relationships and values that enable countries, organizations, groups, and individuals at any level of society to carry out functions and achieve their development objectives over time (Matachi, 2006). From this

definition, as the United Nations Development Programme (UNDP) asserts, it is clear that capacity entails not only the skills and knowledge but also the relationships, values and attitudes (UNDP, 1998). There are variations among scholars regarding how capacity can be classified. Grauwe (2009:42), for example, identifies two levels of capacity, namely: organizational capacity and the institutional environment.

Organizational capacity according to Grauwe implies resources (human, financial, physical, infrastructural) and other organizational characteristics including, among others, the structure, mandate, management, and leadership that are necessary for an organization's effective performance over time. The other level concerns with the institutional environment meaning the environment and conditions that shape capacity at the individual and organizational levels. The environment comprises of the entire framework and all conditions necessary for organizations and individuals to demonstrate their capacity, including formal institutions (laws, policies, membership rules and so on), informal institutions (eg. customs, norms, etc) and social capital and infrastructure.

Matachi (2006) on the other hand proposes three levels: individual, organization and the environment. Accordingly, he argues that capacity at the individual level is the most critical element of capacity upon which organizational effectiveness largely depends. Individual level capacity includes such attributes as knowledge, skills, value, attitude, health, awareness, just to name a few. Capacity at this level is often developed through formal and informal education, training (both on-the-job and off-the-job trainings), all of which constitute in the OD context what is called human resource development (ibid, p.5).

At the second level, that is the organizational level capacity, consideration is made on such factors as human resources, physical resources, intellectual resources, inter-institutional linkages, organizational culture, reward systems, technology, etc. All these aspects in one way or the other influence the performance of an organization. According to Machati these factors determine how individual capacities are utilized and strengthened. Machati's third level of capacity is the environment whose elements are the same as those pointed out in Grauwe's characterization of the institutional environment.

State capacity therefore is construed to mean the ability of, to use Max Weber's conception, a political community that monopolizes sovereignty over a territory and the legitimate use of force within its boundaries, with authority over all the people in it to pursue and achieve its objectives (Weber, 1947, cited in Bartley, 2007:11, original in italics). In the context of environmental management this paper thus defines state capacity as the ability of the state through the government and its institutions to effectively manage the environment for sustainable use over time. In the same vein state capacity building is seen therefore as any activity, which aims explicitly at strengthening both the institutional and organizational attributes of a country so that it can effectively manage the environment by having a positive and sustainable impact on any of the following: (a) individual officers with the necessary capacities and incentives; (b) organizations that have a clear mandate and are run effectively; (c) a supportive public service; and (d) a motivating, stable and structured context without having negative effects on any of these levels (Grauwe, 2009).

Basing on the above conceptualization of capacity it is clear that there are several variables against which capacity can be measured. Attempting to cover all the variables is tantamount to

obfuscation. For manageability purposes our analysis of state capacity in environmental management will focus on the institutional environment (with particular attention to the national environmental policy and environmental management Act), resources (human and financial) and other organizational characteristics (structure and mandate).

Organizational Development

The concept of Organizational development (OD) draws its origins to the classical works of such scholars as Kurt Lewin, Leland Bradford, Kenneth Benne and later Richard Beckhard, among others. According to Bennis (1984) OD is “a response to change, a complex educational strategy intended to change the beliefs, attitudes, values, and structure of organizations so that they can better adapt to new technologies, markets, and challenges, and dizzying rate of change itself.” Griffin and Moorhead, on the other hand, have defined OD as “the process of planned change and improvement of organizations through the application of knowledge and the behavioural sciences” (Griffin and Moorhead, 2007). These definitions draw a great deal of input from Richard Beckhard’s classic definition of OD. In his influential *Organizational Development: Strategies and Models*, Beckhard (1969) defines OD as “an effort planned, organization-wide, managed from the top, to increase effectiveness and health through planned interventions in the organization’s ‘processes’ using behavioural science knowledge.” Leland P. Bradford, one of the pioneers of OD, had long advocated for introduction of staff training, as part of the intervention strategy, on the understanding that organizational effectiveness could not be achieved through efforts to develop an organization to the disregard of its members (McGill, 1974). Bradford’s view advocated for an effort balanced to achieving both the organizational capacity and individual capacity.

Building on Bradford’s conception of OD and Griffin and Moorhead’s definition Balzac (2011) includes the well being of employees. He thus defines OD as “a set of planned-change techniques or interventions designed to improve organizational effectiveness and employee well being.” These definitions apparently suggest at least four important aspects, namely; (i) a systematic approach to planned change, (ii) the application of behavioural science theory and research not only to organizational functioning but also to change management, (iii) that OD values human and organizational growth, and thus (iv) it seeks to improve both individual and organizational well being and effectiveness (Lunenburg, 2010). Central to OD therefore is the organization’s “self-renewing capacity” for continuous effectiveness and efficiency in meeting its goals (Sukserm and Takahashi, 2010). Today many agree with the Greek philosopher Heraclitus who once observed: “there is nothing permanent but change.” Thus for an organization to survive and meet its goals in today’s turbulent and rapidly changing world, it is imperative that it continuously strives to remain effective. In so doing, it undergoes changes by way of adaptation sometimes manifested through changes in the organization’s structure, technology, people, tasks and, in some cases, its goals (Appelbaum, et.al 1998). Managing this ‘project’ of change, however, is the most daunting but important task challenging many organizations (Dunphy et.al, 2003; Cao and McHugh, 2005).

The question is how does change happen and when change is recipe, how do organizations implement and manage change? From the UNDP’s perspective, change is about two main processes, namely; managing the environment of change and

executing the change itself (UNDP, 2006). Accordingly, managing the environment entails creating the momentum for change and analysis of the change context. This involves data collection and analysis of the situation. The fact that the change from state centric approach towards a market-led economy was a response to external pressure suggests that the Tanzanian state had little time and choice to collect data and analyze the change context. On the other hand, executing the change itself has to do with the facilitation of change through, inter alia, capacity building, consensus building and effective communication about the change. This perspective to change management contains elements proposed by R. Chin and K.D. Benne almost three decades ago. In their framework, Chin and Benne (1984) offered the following “three general strategies” to change management:

- Rational-Empirical Strategy
- Normative-Reeducative strategy
- Power-Coercive strategy

Rational-Empirical Strategy

Derived from the rational choice theory, this approach primarily assumes that people are rational beings who are driven by self-interest. Thus, when they are presented with information demonstrating that a particular change will create benefits for them, they will accept the proposed change as a means of realizing their interest. In this regard therefore information gathering, as suggested by the UNDP, becomes a critical component in the process. Such information is used to influence public opinion and to initiate change programmes with no or minimal resistance. This approach can be used to analyze change induced from both within and outside the organization. This approach can partially explain change in the Tanzanian context on two accounts. First, the approach assumes change is imposed in a top-down fashion either from within or without the organization. In any case information is manipulatively used to solicit support and compliance from recipients and implementers of change. Secondly, considering its economic crisis Tanzania had little option except heeding to the advice and/or requirement of the IFIs to ‘downsizing’ the public sector and liberalizing her economy so as to reduce the budgetary ‘burden’ of the government. The IFIs used data and economic analyses of other countries to make their case for the reforms in Tanzania.

Normative-Re educative Strategy

This strategy approaches change from the assumption that individuals and human systems are necessarily active in their search for need satisfaction and self-fulfillment. Thus change is largely values-based as opposed to rational in nature. Change, according to this approach, originates from individuals’ dissatisfaction with the status quo when they seek to balance the values of the system and its members and those of the organizational environment. In order to win commitment normative-re educative strategy emphasizes broadly participatory-based approaches not only in the implementation of desired change but also in the definition of organizational values and norms.

Collaboration between management and the members of the system in the development of the change strategy is key to winning commitment of members to successfully implement change. Change managed through this strategy tends to become easily institutionalized as supported by some empirical evidence. Emery’s (1999) study of North America, Europe and Australia found that where members of a system feel that they have a direct impact on the way the system operates, broad indicators of organizational effectiveness, including output and employee

morale, tend to be positively affected. This implies that change is spontaneous in the sense that it emanates from within the organization often involving stakeholders not only in the implementation but also in its definition. This kind of change management is regarded by many as sustainable and yields positive results (Nattrass and Altomare, 1999; Doppelt, 2003).

Power-Coercive Strategy

It must be noted, here that, in all the strategies or approaches to change there are elements of power. Typical of this is the information or knowledge base of power found in the rational-empirical strategy. Since information is power, the effective use of information constitutes a clear application of power based on knowledge to bring change into systems. The power-coercive strategy focuses on different elements of the power process. It stresses the use of political and economic sanctions as the principal strategy in introducing change. The political dimension of power involves the ability to formulate policies, enact laws, issue directives that carry with them legitimate sanctions for non-compliance. The economic power, on the other hand, is used as a change strategy through rewards and sanctions focusing on the provision or withholding of financial incentives, which can be used as ploys to reinforce compliance.

Each of the above strategies is guided by certain assumptions, which still hold for analysis of change in the public sector (Popovich, 1998; Pozner and Rothstein, 1994). The three approaches to change imply that there are different sources of power by which change can be introduced irrespective of the level at which change is implemented. The changes towards a free market economy introduced in Tanzania from the 1980s, for example, were instigated by external pressure especially from the IMF and World Bank. Although these changes were said to be beneficial to Tanzania, the use of rational-empirical was often supplemented by deployment of power-coercive strategy to secure compliance to change. Financial incentives in the form of reward and sanctions were common in order to enforce compliance. When change implementation appeared to meet resistance from the people who would be affected by such change at the local (country) level, the government of Tanzania played more a role of a change agent with little reference to normative-reeducative strategies.

Organizational Development & Change in the context of Environmental Management in Tanzania

It was not until 1981 when the Tanzanian government decided that all environmental management would be centrally coordinated by the then Ministry of Lands, Housing and Urban Development. Prior to 1981 environmental management was done in a fragmented and uncoordinated manner whereas each sector had its own approach (Mtaki, 1999). In 1983 the National Environmental Management Council (NEMC) was established by Act No.19 of Parliament to oversee environmental matters in the country. Its general mandate was to monitor environmental management issues and give advice to the government in line with the resolutions of the United Nations Conference on the Human Environment held in Stockholm, Sweden in 1972. The Stockholm conference called upon all nations to establish and strengthen national environmental Councils to advise governments and the international community on environmental issues. Section 4 of the National Environmental Management Act (the NEMA) of 1983 specifically charged the Council with, inter alia, the following functions:

- To formulate policy on environmental management and recommend its implementation by the government;
- Co-ordinate the activities of all bodies concerned with environmental matters; and
- Evaluate existing and proposed policies and activities of the government with respect to environmental management and control of pollution.

From the above functions two issues are noteworthy in respect of the 1983 Act. First, under normal circumstances it is the government that formulates policies and gets them implemented by its agencies. But when a law requires an agency of the government to formulate policy and recommend it to the government for implementation, as was provided under the Environmental Management Act of 1983, it becomes incongruent with normal practice. The anomaly was rectified by a new legislation in 2004.

Secondly, and most importantly, apart from the perfunctory reference to the policy recommendation and evaluative role that the NEMA of 1983 made in relation to the NEMC, it did not provide any enforcement and explicit monitoring powers to the Council. Furthermore the Act had no provision for an EIA process, institutional requirements for its administration and enforcement (UNEP/UNDP, 1999). Within this context, the NEMC appeared to be powerless and ineffective to the extent that some analysts described it as 'a toothless puppy' whose advice to the government was not even taken seriously (Kulindwa, et.al 2001). Thus, calls were made for a reformed institutional framework to strengthen the environmental regulatory regime.

In the early 1990's the NEMC was relocated from the Ministry of Lands to the, then, Ministry of Tourism and Natural Resources and the Environment (MTNRE). In order to demonstrate its political commitment to environmental issues the government of Tanzania relocated the NEMC and all matters related to the environment from the then MTNRE to the Vice President's Office (VPO) in 1995. The shift was made under Presidential Instrument of Powers Government Notice No. 720 published on 15th December 1995. The underlying assumption was that by placing environmental management under the VPO, it would provide the environmental management regime with a political leverage for effective regulation (UNEP/UNDP, 1999).

A new legislation was enacted in 2004 (the Environmental Management Act No.20 of 2004), which repealed the National Environmental Management Act of 1983. It must, however, be noted that even before the enactment of the EMA of 2004 other frameworks had already been put in place, which together constitute the entire environmental management framework. These include but are not limited to: the National Environment Action Plan (NEAP) of 1994, which laid the foundation for the National Environmental Policy (NEP) formulated in 1997; the National Forest Policy of 1998; the Forest Act No 14 of 2002, the National Conservation Strategy for Sustainable Development. Other pieces of legislation that have a bearing on the environment include the Marine Parks and Reserves Act No 27 of 1994; the Fisheries Sector and Strategy Statement of 1997; the Plant Protection Act No 13 of 1997, the Mining Act No 5 of 1998 and Regulations of 1999; just to mention a few.

The enactment of the EMA of 2004 was meant to create a more effective legal and institutional framework for sustainable environmental management within a changed context. In this regard the Act contains provisions for prevention and control of pollution, waste management, environmental quality standards,

public participation, environmental compliance and enforcement. It further provides the NEMC with such mandates as undertaking enforcement, compliance, review and monitoring of environmental impacts assessments (URT, 2004). The extent to which the NEMC has effectively been exercising these powers in executing its functions is a subject that the following discussion turns to

Evaluating the NEMC's Institutional Environment

At face value one may be tempted to believe that the enactment of the EMA of 2004 improved the NEMC's mandate from simply being an advisory body of the government on environmental issues to becoming an effective organization that ensures safer and sustainable use of the environment. When examined critically using organizational development lens, however, the NEMC, in principle, still operates in the same old way as it did before the EMA of 2004.

The Context of NEMC

Scholars and the general public alike have invariably condemned NEMC as "weak" (Mtaki, 1999); "ineffective" (Mwalosi and Hughes, 1998; Sosovele, 2011); and "toothless puppy" (Kulindwa, et al., 2001) incapable of ensuring sustainable environmental management in the country. The implication of such negative portrait of NEMC is two-fold. First, there is a general concern over how the environment is managed. Accordingly, such concern is associated with the NEMC's inability to deliver to expectations despite having a new legislation. Secondly, it implies also a disapproval of the prevailing institutional arrangement, which was reformed in a piecemeal. While the EMA 2004 is purported to give more powers to NEMC for environmental management, it actually impedes its capacity to act. While the author admits that NEMC seems to be ineffective in discharging its environmental regulatory role, it is imperative, however, to grasp the broader picture beyond NEMC itself. The author, thus, argues, as Kanter (1995) has noted, that "piecemeal programs are not enough, only total transformation will help companies and people master change."

Oblivious of its structural design, some analysts observe that the NEMA of 2004 gives adequate powers to NEMC to act, if it so wishes, as a regulatory agency. Hussein Sosovele, for example, has, thus, argued: "the Environmental Management Act of Tanzania (No. 20 of 2004) contains provisions that provide powers to NEMC to act decisively when need be... but NEMC appears to have no strong will to make unpopular decisions for fear of being seen as anti-development" (Sosovele, 2011:130). This assertion calls for a re-examination for it ignores the structural design under which the NEMC operates. It is imperative to appreciate the context within which the NEMC operates and its impact on the agency's mandates and effectiveness. Apparently, even if the NEMC had the will "to make unpopular decisions" for national interest, the existing institutional environment - policy and legal framework - that recognizes preeminence of political influence over the NEMC's technical decisions would still cramp it. The institutional reforms that were made from 1990's to 2004 were done in a piecemeal and perhaps, to borrow Jreisat's words, in an 'opportunistic' fashion 'rather than a well thought out' change effort meant to ensure capacity renewal for improved effectiveness. To better understand this argument the following examples are illustrative (Jreisat, 2005:237).

Moreover, section 17(1) states that the "purpose for which the NEMC is established is to undertake enforcement,

compliance, review and monitoring of EIAs." It is, however, doubtful how can effective enforcement be possible given the lack of autonomy and the power to command compliance. First, according to the existing policy and legal framework the NEMC is structurally and functionally tightly attached to the Vice President's Office working under the directions of the Minister responsible for environment without whose approval it remains a "toothless dog." In OD terms the structure within which the NEMC operates is still highly centralized. Secondly, it depends entirely on the central government on resource allocation and operational jurisdiction. This subjects the NEMC to political interference on matters of purely technical nature, which ultimately inhibits its capacity to act independently. Both cases point to the need for a decentralized framework that grants more flexibility to the NEMC. One way of achieving that is through the creation of an executive agency. This might not only help to free the NEMC from unnecessary political interference, by the central government, in operational matters but it also increase its financial autonomy.

While a cursory mention of the enforcement and compliance monitoring functions of the NEMC is made in sections 17(1) and 18(2) (f) of the EMA of 2004, the National Environmental Policy of 1997 clearly stipulates: "NEMC shall retain its advisory role." The paradox is that while the EMA of 2004 was enacted to give effect to the NEP of 1997 as well as assign more powers to NEMC, the same vests more powers in the Minister responsible for environment.

In matters related to EIA administration and approval section 83(1), (2), (3); sections 91 and 94 (a-c) of the EMA, 2004 are very illustrative. Sections 83 (1) and 94 (a-c), for example, not only empower the Minister to set regulations and standards on how EIAs have to be conducted and the qualifications of persons to carry out such EIAs but also to approve or disapprove the environmental impact statements and issue EIA certificates. In the event of non-compliance with EIA, NEMC has no powers to revoke an EIA certificate issued to a proponent. According to section 100(2) such powers are vested in the Minister responsible for the environment.

Moreover, the way the EMA, 2004 assigns functions to the National Environmental Advisory Committee (NEAC), Environment Division in the Ministry responsible for the environment and the NEMC, which leads to conflicting mandates among the three organs. This partly inhibits the capacity of the respective organizational units to perform their functions effectively due to the obfuscated lines of responsibility.

Evidently, from the foregoing discussion, it can hardly be claimed that the Tanzanian state's capacity to manage the environment has been "renewed" for continuous effectiveness. Some studies suggest that the NEMC is ineffective in enforcing the law due to, inter alia, inadequate accountability, lack of autonomy, inadequate resources: financial, human and technological resources (Sosovele, 2011; URT, 2007). In his examination of the effectiveness of the Environmental Impact Assessment (EIA) enforcing institutions, Sosovele, concludes that "inadequate or lack of accountability in enforcing EMA is a governance failure that renders the EIA process ineffective." His findings reveal a high degree of non-compliance in adherence to EIA as required by the law. Most interesting, however, is to note that the government of Tanzania itself is among the violators of its own laws. This, partly, implies a normative behavioural gap on the part of government officials. That, the behaviour of

decision makers has not changed much to reflect a culture in which the rule of law is given due respect. This casts doubts on the strategic nature of the change process. Item 14 (i) and (ii) of the First Schedule of the EIA Regulations requires, *inter alia*, that the EIA must be undertaken prior to the construction of multi-storey buildings. However, as Sosovele's study reveals, a number of government buildings have been built without prior undertaking of the EIA. These include, the 'Machinga' Complex, which was built by the government of Tanzania for purposes of accommodating street hawkers, the construction of the National Tourism College premises, the construction of the headquarters of the Ministry of Natural Resources and Tourism, the headquarters of the State Ministry, President's Office Public Service Management (PO-PSM), the headquarters of the Prisons department, and so on (*ibid.*, p.128-9).

Self-evaluation by project proponent's and the EIA process: Re-examined

There is a presumption of honesty in the administration of the EIA process. The undertaking of the EIA is, according to EMA, 2004, a responsibility of the investor. Sect.86 (1) is clear for it states: "The Council (referring to NEMC) shall, upon examination of a project brief, require the proponent of a project or undertaking to carry out an EIA study and prepare an environmental impact statement (EIS)" and "the EIS prepared under subsection (1) shall be submitted to the Council for review" (subsection 2). Section 83(5) further states that it is the responsibility of the project proponent to select experts among those authorized and registered with NEMC, in accordance with the law, to conduct the EIA. Although the NEMC specifies the technical terms of reference for the EIA, at least, as per the AMA, it is still questionable as to how transparent and credible the process will be, given the obvious conflict of interest in the process. The conflict of interest clearly arises due to the following: First, it is the project proponent who pays the cost of carrying out the EIA for his/her project. From the rational choice point of view, human beings - businessmen and women are no exceptions - are inherently self-interested beings seeking to achieve greater profit at the least cost. What this means, is that it may unrealistic to assume that profit motivated proponents of multimillion-dollar projects would be comfortable to see their projects backfiring and not attempting to bend the rules thereby cushioning any environmental threats in their projects' EIS. It is likely, therefore, that for the sake of keeping the project cost as least as possible, proponents would always strive to circumvent the rules.

Secondly, as already remarked, according to section 83(5), it is the proponent (investor) who decides which experts would do the EIA. What this means is that the investor is, indeed, the one who actually calls the shots. Since the expert is engaged and paid by the investor to conduct the EIA, his/her "boss" (whoever pays him/her) can easily influence the nature and manner of his/her reporting. The controversial outcome of two separate studies on the African Fishing Company's (AFC) proposed Rufiji Prawns Project in Coastal area in 1998 is illustrative. While the AFC-hired group of experts released an EIS supporting the project, an independent assessment by the NEMC indicated that the proposed project would cause adverse environmental consequences if it were to proceed (UNEP/UNDP, 1999).

In order to ensure the independence of the assessor it is of necessity that conflict of interest should be mitigated. One way of doing that, in the short-term, is for NEMC itself to engage

experts to do the job using the EIA fees it charges from the proponents. In the long-term, it may be necessary for NEMC to develop its own pool of experts to do the assessment. This of course requires abrogation of section 29 of EMA, which currently desists the NEMC staff from involvement in EIA studies and reviews on the similar grounds of avoiding conflict of interests.

Section 97 of EMA states that the NEMC "may, at any time after the issuance of an EIA certificate require the holder of such certificate to conduct a fresh EIA study at his own cost and submit an EIS." According to the Act, NEMC can demand a fresh EIA if there is evidence that (a) there is a substantial change or modification in the project or the manner it is being operated; (b) the project poses serious environmental threats that were not anticipated before during the first EIA; and (c) the information or data supplied by the proponent during the previous EIA was false or was meant to mislead the Council.

However, the above section (sect. 97) is in conflict with section 184 of the EMA 2004. Both sections are dealing with an EIA process. While section 97 sets the powers of NEMC to demand a fresh EIA study, section 184 outlines both the conditions, which constitute an offence related to EIA and the penalty for such offense.

Section 184, thus, stipulates: "Any person who (a) fails to submit a project brief contrary to the provisions of section 86(1); (b) fails to prepare an EIA report as required under any provisions of this Act; or (c) fraudulently makes a false statement on an EIA report submitted under this Act, commits an offense." It further states that such person will be "liable on conviction to a fine not less than five hundred thousand shillings but not exceeding ten million shillings or to imprisonment for a term of not less than two years but not exceeding seven years or to both."

Since section 184 defines (a) a failure to submit a project brief, (b) failure to prepare an EIA as required by the law and (c) production of false statement on an EIA report as a breach of the law, the application of section 97 in the EIA process creates room for circumventing the law. Why would NEMC require the holder of an EIA certificate who in first place produced false information and hence committing a crime to conduct a fresh EIA study instead of persecuting such proponent? This provision certainly provides a loophole for obstruction of accountability and abuse of the power.

The Organizational Dimension of the NEMC's Capacity

When NEMC was initially given policy advisory roles under Act No.19 of 1983 it had neither the mandate nor justifications for having a decentralized structure with staff in field units such as regional or zonal offices. But with the broadened mandate, notwithstanding its conflicting character, new responsibilities (without powers?) were given under the EMA 2004 to carry out enforcement and compliance monitoring. This obviously created a demand for a decentralized structure with more resources both human, financial and physical resources to NEMC. Recently NEMC have opened Zonal offices in Arusha, Mbeya and Mwanza.

It must be underscored that NEMA, 2004 was enacted at a time when the philosophy of government was downsizing the public sector. So NEMC was not expected to establish new structures but rather to operate within the existing organizational framework. It is for this reason that NEMA, 2004 establishes positions of environmental officers in the local government structure. Unfortunately there still serious accountability

problems with this arrangement. For instance the environmental officers in the local authorities are not employees of NEMC as such the latter does not have any powers over those officers. Secondly, the technical competences of these environmental officers in local authorities are very weak to be regarded as environmental monitoring points. The law did not anticipate the increased volume of work as a result of which NEMC operates under serious constraints in terms of both human and financial resources. This lack of adequate human and financial resources, at both the NEMC headquarters and in the few decentralized offices, remains a critical challenge. A comparative view of the NEMC's financial trends over the last six years, as presented in Table 1, is illustrative. Evidently, the government's subvention, over the last six years, has on the average been as far below as 41.3% of NEMC's actual budgetary needs.

A cursory examination of the financial trend shown in Table 1 suggests that NEMC has been operating under serious financial constraints over the years. Accordingly, this might partly explain why the performance of the NEMC in managing the environment has not been satisfactory. The NEP of 1997, for example, correctly recognizes that "greater institutional capacity is a prerequisite for the conception, planning and management of appropriate policy proposals, policy analysis and the formulation of strategic policy decisions." It further underscores the fact that the "management of any major component of the environment requires the capacity to analyze data and information, to generate policy options and design management measures based on the best data available, and apply and enforce them." In order to realize these objectives the policy emphasizes that "both adequate facilities and trained personnel must be made available.... More generally human resource development will be a priority at all levels – the general public, NGOs, public officials, technical and scientific staff" (URT, 1997). More than a decade after the policy was formulated in 1997, and over six years since the EMA was enacted in 2004, the situation suggests that little has been achieved in terms of capacity building in the environmental management area.

For instance, in the Dar es Salaam region alone, awareness of the environmental law, among the key stakeholders, is still low. Sosovele's (2011) study, which covered all the three municipalities of Ilala, Kinondoni and Tembeke, found that about 40% of the interviewed decision makers had no basic knowledge of the EMA of 2004 and its requirements on EIA for various projects. Despite the policy pronouncement, which assigns priority to the human resource development at all levels, the situation in the local authorities leaves a lot to be desired. One wonders, how would strategic policy decisions be made when many of those involved in decision making are still ignorant of the very law that is ought to guide their decisions. This, then, implies lack of organization-wide systematic effort for managing change. Hence ineffective management of the environment at the various levels in environmental management becomes inevitable.

In August 2009 the Barrick North Mara Gold Mine (NMGGM) was accused of discharging poisonous chemicals into the Tigithe River in Tarime district – in Mara region. The Mara region is located in the northeastern part of Tanzania, bordering Kenya. In the same year a team of experts was engaged by the Christian Council of Tanzania (CCT) to carry out a study in the area and find out the extent to which the activities of the mining company pollute the environment. In their report to (CCT), these experts concluded: "NMGGM pollutes the environment in the

villages and water bodies that surround their project" (Bitala, et al., 2009). The NEMC also carried out a separate investigation into the matter and established that there was leakage of the suspected substance into the river, which led to loss of lives and environmental damage. In its report, the NEMC observed that it was a wrong decision, in the first place, to allow establishment of the mine in the vicinity of people's residences. NEMC thus recommended to the government either closure of the mine or relocation of the residents – the advice that seems to have not been heeded to. To date neither of the two options has been honored by the government. Such inaction can be interpreted to mean the state is unwilling to take necessary action for 'fear' of losing the confidence of investors under the development façade to the disregard of both the health of its people and the environment. But it might also suggest that the mining company has very powerful connections with the decision makers in the state such that any actions that are likely to pose any threat to its interests are bound to boomerang. Be that as it may, the fact of the matter is that, the institutional capacity of the state to ensure corporate accountability in environmental management in Tanzania is weak.

What the above analysis implies is, that the change that the state embarked on in the mid 1980s onwards was a piecemeal and opportunistic in nature.

Thus, It has not significantly improved the regulatory capacity of state in managing the environment. But it may also be argued that the organizational changes that the state adopted in the 1980s and 1990s did not correlate with capacity development (So sovele, 2011), which is an important aspect for effective realization of the purpose for which change was carried out. Protecting the public interest, as Sukserm and Takahashi (2010) have correctly observed, is a legitimate function of the state. While the role of the state has been redefined to be a promoter of the private sector in the free market-economy, there remains an unquestionable need for state action through its institutions to ensure the safety of the people and sustainable environmental management.

Conclusion

Motivated by the growing concerns over the ability of the state to enforce accountability among different actors on the market place, this paper set out to examine the state's capacity, with particular focus on the NEMC, in enforcing sustainable environmental management.

Building on the concept of organizational development and change, the paper has argued that the enactment of the EMA of 2004 does not appear to signify positive elements of organizational development. Key to organizational development is the ability of an organization to continuously maintain its effectiveness. With the NEMC, this does not seem to be the case, suggesting that the state has not "renewed" its capacity as was hyped by the proponents of the neo-liberal reforms.

There are a number of gaps in terms of the institutional environment and resources that stand at odds with the ideals of organizational development and change. These include, but are not limited to, the centralization tendencies, the conflicting and obfuscatory mandates originating from the policy and legal frameworks guiding environmental management, and the resource constraints, all of which pose limits to the capacity of the NEMC. Since environmental management is a crosscutting issue that concerns many stakeholders from the family to national and global levels, it may be useful, in future, to explore

the extent to which NEMC has been interacting with these actors in ensuring sustainable management of the environment.

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Table 1: NEMC Financial Trends over the last six years (2005 – 2011)

Government subvention (PE&OC) and Miscellaneous Income				
Year	Actual Needs	Approved Subvention	% (of Actual Needs)	Other income
2005/06	4,800,728,600.00	899,312,308.00	18.7%	72,448,848.00
2006/07	4,891,005,000.00	1,993,518,292.00	40.7%	86,025,023.00
2007/08	5,300,600,000.00	1,687,456,810.00	31.8%	220,144,416.00
2008/09	6,000,000,000.00	3,593,262,815.00	59.8%	528,865,552.00
2009/10	6,452,000,000.00	3,789,079,432.00	58.7%	497,787,499.00
2010/11	8,000,000,000.00	2,701,816,000.00	33.7%	287,949,917.00
TOTAL	35,444,333,600.00	14,664,445,657.00	Aver. 41.3%	1,693,221,255.00

Source: NEMC, June 2011