THE AFRICAN REVIEW 46 (2019) 383–398

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New Horizons in Protecting Zanzibar's Environment: an Examination of the Environmental Management Act, 2015

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Abstract

The promulgation of the Environmental Management Act, 2015 of Zanzibar is a relatively new development. It has ushered optimism in the environmental management and protection realm in Zanzibar. The Act repeals and replaces the framework Environmental Management and Sustainable Development Act of 1996. Ostensibly this development seeks to reflect the Revolutionary Government of Zanzibar's (RGZ) concerted effort to address the rampant environmental degradation on the Isles by taking into account a number of developments at the international and local levels. The article provides a critical analysis of the new Act by, inter alia, making some comparisons with the repealed framework law. Its main thesis posits that although the intention of the RGZ is plausible, the new law is not an inviolable recipe for addressing the major challenges of environmental degradation facing the Archipelago.

Keywords

Environmental management and protection law and policy – Zanzibar

1 Introduction

The increasing trends in environmental degradation in different countries have caused a global concern, due to human related activities that have had profound negative impacts on the environment. Effects of environmental degradation have been witnessed through climate change, loss of habitat, radiation hazards, exploitation of natural resources and pollution. The combined

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effects of these have threated the existence of humankind at the global level.[1] Since its inception, the United Nations has put in place various mechanisms to address environmental degradation and urged States to heed to this call by putting in place policy and legislative frameworks to address the vice. Most governments have complied with this clarion call.[2] Despite the enactment of framework laws on environmental protection by most governments in the world including those in developing countries, there has been lack of enforcement of these. One of the main factors for lack of enforcement has been attributed to, among other things, lack of Regulations to enforce principal laws, challenges in drafting laws, lack of serious political will and government commitment, lack of inclusiveness and language barriers. The lack of enforcement of environmental law in Zanzibar can to some extent be attributed to some of these factors as portrayed below.

1.1 *Zanzibar's Environmental Profile*

The Island of Zanzibar (which also includes the sister Island of Pemba and other comparatively small Islets such as Chapwani, Chumbe and Misali) is part of the Union forming the United Republic of Tanzania (Muhando et al., 1999). Zanzibar was an independent country. Although it retained its Constitution, it ceased part of its autonomy in 1964 when it merged with Tanganyika to form a Union – the United Republic of Tanzania. It is now a part of the United Republic of Tanzania with limited mandate under the framework of the Constitution of the United Republic of Tanzania of 1977. One of the mandates that it did not give up when the two countries merged in 1964 was matters related to the management and protection of the environment. Zanzibar retained autonomy on this and therefore it has its own regulatory regime for environmental law and policy.[3] Tanzania Mainland also retained its mandates on the same matter and similarly has its own policy and legal regime.[4]

Zanzibar is renowned for its numerous and rare natural resources some of which are only found on the Isles. These resources have over time been over utilized and are increasingly becoming endangered. It is in this regard that

1 See: https://www.theguardian.com/environment/2019/may/06/human-society-under-urgent-threat-loss-earth-natural-life-un-report, accessed on 24th October 2019.

2 See: https://www.unenvironment.org/news-and-stories/press-release/dramatic-growth-laws-protect-environment-widespread-failure-enforce and https://www.un.org/press/en/2019/ga12131.doc.htm, accessed 25th October 2019.

3 For a comprehensive understanding of environmental law matters under the framework of the Union between Tanzania Mainland and Zanzibar, see Majamba (2005).

4 The Environmental Management Act, Cap. 191, [R.E. 2002] and the Environmental Policy, 1997.

Revolutionary Government of Zanzibar (RGZ) has consistently made concerted efforts to put in place policy and legislative frameworks to protect the resources.

The earliest efforts to conserve the environmental resources of Zanzibar can be traced to the pre-colonial era where local inhabitants had put in place traditions, ritual and norms to ensure they lived in a harmonious relationship with the surrounding environment. The traditions focused on sustainable utilization of marine and terrestrial resources covering fishing, hunting and the use of flora resources for, *inter alia*, medicine and construction purposes. These practices were more pronounced during the early days of the rule by the Arab sultanate and their remnants existed until the early days of colonial rule (Myers, 2002; Mkumbukwa, 2014).

The colonial era witnessed the enactment of a number of legislation that had a bearing on the conservation and protection of the Islands resources. These laws (with attendant Regulations and by-laws in some cases) were also based along sector lines. Legislation to regulate fisheries, use of water and marine resources, for example, had features of environmental protection. There was no framework environmental legislation to regulate the Isle's environmental resources until 1996[5] when the Environmental and Sustainable Management Act was enacted (Majamba, 2005).

Sector laws that had a direct bearing on the protection of environmental resources became more pronounced after the promulgation of the Environmental Policy in 1992, which was largely influenced by developments at the international plane.[6] This Policy, despite its shortfalls alluded to later below, identified environmental challenges that plagued the Isles and put in place strategies to address them. The enactment of the Environmental and Sustainable Management Act, four years later, signified a very important step in implementing the Environmental Policy.

1.2 *Rationale for Change*

Thirteen years after the promulgation of the Policy and nine after the enactment of the Environmental and Sustainable Management Act, the RGZ found it necessary to take stock of the extent to which environmental challenges envisaged in the policy and legal framework it had put in place had been addressed. The RGZ has clearly stated that it realized that the policy and enabling

5 A soft copy of the repealed Act is available at: http://www.lead-journal.org/content/05099.pdf, accessed on 24th July 2019.

6 A soft copy of this Policy, file:///C:/Users/Prof%20I.H%20MAJAMBA/Downloads/Zanzibar ENVIRONMENTAL-POLICY-2013%20(2).pdf, accessed on 24th July 2019.

legislative framework had been overtaken by events and needed review. This is the main reason that led to the formulation of a new Policy, the Environmental Policy, in 2013 and subsequently a new framework environmental law, the Environmental Management Act, two years later.[7] Indeed the main reasons advanced by the RGZ for maintaining that the 1992 Environmental Policy and subsequently its implementing legislation had outlived their purposes are outlined in the 2013 Environmental Policy. It is important to note that the 2013 Policy also acknowledges major achievements made in the course of implementing the 1992 Policy[8] and ostensibly it's implementing framework law, the environmental and Sustainable Management Act of 1996.

1.3 *Significant Policy Strides*

Some of the noteworthy achievements of the 1992 Policy, outlined in the 2013 Policy include establishing and managing marine and forest protected areas, enacting Regulations under the Environmental Management Act and putting in place guidelines and procedures for Environmental Impact Assessment. The main developments that led to challenges in implementing the 1992 Policy are also outlined in the 2013 Policy. Accordingly these include climate change challenges that have come along with different scenarios, the requirement to comply with regional and international instruments to guide in achieving sustainable development goals and strategies set out in new environmental and natural resources related policies at the local level. One inconspicuous development that does not prominently feature but has certainly influenced the new Policy and the attendant law is the government's push for investing in prospecting for oil and gas on the Island.[9]

Another success under the old law that is alluded to in the New Environmental Policy is the enactment of three Regulations. These are the Regulations for EIA of 2002, Plastic Bags of 2011 and for Utilization of Non-Renewable Resources of 2011. The re-packaging and transporting 360 tons of obsolete hazardous substances to the UK for proper disposal in 1996 have also been identified as a major success.[10] However, by 2003 the toxic chemicals were back on the Island (Ally et al., 2014). Developments in other cross cutting sector policies on the Island have also been noted to be one of the factors that led to the need

7 The Policy and the Act are available at: https://www.researchgate.net/profile/Hamudi_Majamba/publications and www.zanzibarassembly.go.tz/acts-2015.php, respectively, accessed on 24th July 2019.

8 A soft copy of this (1992) Policy, is available at: http://www.tzonline.org/pdf/nationalenvironmentalpolicyforzanzibar.pdf, accessed on 24th July 2019.

9 See Paragraph 2.1.3 of the new Policy.

10 See Paragraph 2.1.1 of the new Policy.

for change of Policy according to the 2013 Policy. Accordingly, at the sector level, the Agriculture Policy, 2000; Water Policy, 2004; Investment Policy, 2004; Forest Policy, 1996; Land Use Policy, 1995; Disaster Management Policy, 2011; Information Policy, 2005 and Health Policy, 2011 provided the basis for reform of the framework Environmental Policy and subsequently, the framework Environmental law.

2 Salient Features of the Environmental Policy, 2013

As pointed out above, the Environmental Policy for Zanzibar of 2013 (new Policy) clearly provides for the main factors that necessitated a total overhaul of the framework environmental policy and legislative framework. Indeed, the emerging trends at the local, regional and international level certainly called for reflecting upon the policy and legislative framework. It is also evident that this time around, the promulgation of the new environmental policy and resultant law was consultative and not rushed as was the case with its predecessor (Majamba, 2005). A strikingly noticeable deficiency in the new policy is its factual error where it states in Paragraph 4.5.6 (ii) that is seeks to implement the repealed law. Surely, the new Policy cannot implement the repealed law. It certainly came to provide room for the repeal of the law rather than implement it.

Also, there are issues that the new policy does not clearly bring to the fore but these indicate important milestones in laying a solid foundation for ensuring sustainable protection of environmental resources on the Isles. First and foremost it is evident at the outset that the new Policy seeks to do away with political affiliation that featured prominently in the old Policy and its implementing framework law.

The old Policy contained only 12 pages and 22 paragraphs with a relatively disjointed flow making it difficult to discern the introduction or rationale. It did not contain any strategies or statements known in policy-making parlance generally and in environmental management in particular. The principles of environmental conservation were provided for in the statement of the Minister that preceded the Policy.

The old Policy's opening statement called for the need to improve coordination between the ruling Party, Government and Private Institutions in the protection of natural resources of the Island.[11] It is not surprising therefore that the Bill for enacting the law reflecting the Policy, passed through the House of

11 See Paragraph 1 of the Policy.

Representatives without any debate from members and contained provisions that placed the ruling Party above all organs in decision-making processes relating to environmental protection in Zanzibar. Paragraph 9 (1) vested in the Revolutionary Council of Zanzibar [part of the semi-autonomous "RGZ" which advises the President] the overall decision-making power in matters related to the environment in the Isles.[12]

Despite these flaws, the old Policy addressed some very important issues that have been adequately taken on board by the new policy. These are the need to conserve the indigenous plants and animals of the Isles and the need to establish links with institutions on the Mainland. It also calls for putting legal mechanisms for addressing climate change due to the Isles fragile forest and coastal ecosystems.[13]

The New Policy contains a total of 87 pages and, except for the notable areas pointed out above, to a great extent addresses emerging pertinent issues in environmental protection taking into account the needs of Zanzibar. It has a clear vision and mission and the objectives and principles are clearly articulated. It identifies specific issues and provides for policy implementing instruments and lays out strategies for evaluating and monitoring the policy directives.[14] Unlike the old policy, which made remote mention of women in decision-making processes,[15] the new Policy has a whole Part that addresses gender and vulnerable groups. Sectoral policy linkages are also clearly articulated in the new Policy. The need to engage the media in reaching out to the public to deliver environmental information, increase participation and raise awareness is also a good innovation of the new policy.[16]

Legislation is, without an iota of doubt, the main tool for implementing policies. It is in this regard that the RGZ found it prudent to enact a new law to put into effect the new Policy. A review of some provisions of the Environmental Management Act of 2015, with a view to bringing to the fore some of the striking features of the Act, would now be in order.

12 See paragraphs 11 and 20, respectively.

13 See Paragraphs 2.10 and 4.6.10 of the New Policy, which clearly makes reference to Climate Change and calls for legal backing to support the institutions that have been put in place to address climate change concerns in the Isles.

14 See Chapter 6.

15 See paragraph 9 (a) of the old Policy.

16 See paragraph 5.3.15 of the Policy.

3 A Digest of the Environmental Management Act, 2015

3.1 *Language*

The Environmental Management Act (the Act) repeals and replaces the Environmental Management for Sustainable Development Act, No. 2 of 1996.[17] It contains 24 Parts and 87 sections. It does not have any Schedules. Unlike its predecessor, the Act has been officially translated into Kiswahili, which is spoken, by more than 99% of the local population on the Isles (Maalim, 2015). This is a good development considering that virtually all the local population of Zanzibar, which the law targets, understand the language. Few understand the English Language, and especially legal language and the environmental legal doctrines embedded in it. It is hoped that this effort will be reciprocated by putting in place Regulations that would also hopefully be in Kiswahili, in the course of implementing the Act.

The effort by the RGZ to put in place a Kiswahili version of the new Act is not only commendable but it also provides a good lesson for the Mainland Government. Over a decade and a half since coming into force, the Mainland environmental framework law, the Environmental Management Act, Cap. 191, has not been translated into Kiswahili. This is despite it having a specific provision providing for such translation, ostensibly to enable majority of the citizens to understand it.[18] The Regulations, which are more complex than the principal law, have also not been translated into Kiswahili. Incidentally, the Environmental Management Act of Tanzania Mainland does not direct that the Regulations to be made under the Act should also be translated into Kiswahili.

3.2 *Political Inspiration*

Unlike its predecessor, the Act makes a clear attempt to evade political intrusion, which usually does not guarantee professionalism in the administration and decision-making processes. This is indeed a laudable achievement. Its predecessor had placed the overall administration of environmental management in a Committee of the Revolutionary Council, headed by the Chief Minister. The composition of the Committee was not provided for in the repealed law. It was left to the discretion of the President. This was in line with the then Policy directive, which required coordination of the political Party to avoid conflicts in the use of the Island's natural resources.[19]

17 See the Long Title and section 87.

18 See Section 233 of the Environmental Management Act, Cap. 191.

19 See Section 9 (1) and (2) of the Repealed Act and Item 1 of the Environmental Policy, 1993, respectively.

3.3 *Delineation and Fragility of Zanzibar's Environment*

The new law provides a much broader definition of the word 'environment.' Unlike its predecessor the definition "now includes" the physical surroundings, laying emphasis on the co-existence of living organisms on the planet. The biocentrism approach in addressing environmental challenges in the Isles found in the new law is also laudable as the definition in the old law did not capture the essence of co-existence between living organisms and the built environment. This is the approach applied in environmental laws that seek to ensure sustainable development in most jurisdictions (Emmenegger and Tschentscher, 1994). The need to ensure sustainable development is also reflected in the principles of environmental management that have been introduced in the Act. These are the precautionary and polluter pays principles, principles of public participation and international cooperation in management of the environment and the principle of common but differentiated responsibilities.[20] However, these are not defined in the Act.

Natural hazards have had devastating impacts in many Island developing States making them vulnerable to disasters especially with impacts of climate change (Giardino et al., 2018). In this regard, the establishment of a Coastal Setback Buffer Zone by section 28 (1) of the new law is a welcome development for the "people of Zanzibar." Setback Zones are an important tool for the management of coastal zones. Among other things, such zones provide public access and ensure an ecologically sound landscape of the coast, especially in the light of mushrooming beach hotels and resorts in Zanzibar, which have caused serious threats to the coastal environment.

A Coastal Setback is a buffer zone, which is defined by a specific distance from the shoreline's highest mark, within which permanent constructions or settlements are not permitted (Sanò et al., 2010). In the context of Zanzibar, the Act defines it as: *"... the coastal line between thirty meters to one hundred meters towards the land* (*measured*) *from the coastal point of the high water mark the distance of thirty meters to one hundred meters* (*depending*) *on nature of the respective coastline"*.[21]

The repealed law did not have specific provision for this important tool, as it only made reference to Integrated Coastal Management Plan, which falls short of addressing the purposes of Coastal Setback Buffer Zones.[22]

The initiative of establishing a coastal setback with a view to addressing environmental disasters in Zanzibar in the new law is further amplified with the RGZ's environmental disaster preparedness reflected in the Zanzibar Risk

20 See section 6 of the New Act.

21 Section 2 of the Act.

22 See Sections 36 and 37 of the repealed law.

Management Act, enacted in the same year with the new Environmental law.[23] The Risk Management Act defines 'disaster' to include environmental loss and impact and 'natural disaster' to include tsunamis, strong winds, hurricanes and floods.[24]

In all respects the concerns for establishing Coastal Setback Buffer Zones and enacting a law on managing risks reflects the RGZ's concern for putting in place a legal framework for mitigating climate change in Zanzibar. The concern as indicated above is also re-echoed in the new environmental policy. Indeed, the new environmental law has dedicated a Part to climate change issues and put in place an institutional framework to oversee these.[25] The Minister responsible for environment has power to make Regulations for regulating climate change issues under the new law.[26] Kenya and Uganda have opted for principal laws to address climate change issues.[27] They have not left this to the discretion of the Minister under Regulations. Like its counterpart on Tanzania Mainland, the omission of the definition of climate change in the Zanzibar's new environmental law is also glaringly evident.

3.4 *Gender Dimensions*

Women in Zanzibar comprise of 672, 892 compared to males who were pegged at 630,677 in the National Population Census that was conducted in 2012. In Zanzibar, women and men have traditionally interacted separately in public space mainly due to the culture and it is common to find all women facilities on the Isles. Like in most African rural communities, women in Zanzibar have long held traditional productive roles confined to household chores and caring for family members.

In terms of use, management and access to natural resources, women have been placed at the periphery in decision-making organs. This has also partly been attributed to religious beliefs, which have often been applied to limit their participation. In some quarters, there is a belief that women are owned by men (Mutembei, 2012). The diminished role of women on the basis of cultural and religious practices on the Isles is not only unique to environmental management. It has also been noted in the conventional extractive sector as well (Ladlow, 2015). Despite these traits, the Constitution of Zanzibar, other legislation and policies treat all people in Zanzibar equally, without discrimination.

23 Act No. 1 of 2015.

24 *Ibid.*, section 2.

25 See Parts XIII of the new Act.

26 See section 69 (3) of the Act.

27 See Climate Change Act, (Kenya) Act No. 11 of 2016. The government of the Republic of Uganda was, until June 2019, in the process of enacting a Climate Change Act, https://allafrica.com/stories/201906270421.html, accessed on 24th July 2019.

Despite the clarion call of the Environmental Policy and the Constitution, among others, the new Act does not adequately take into account gender and vulnerable groups to ensure inclusion and access to environmental resources of this group.[28]This shortfall is conspicuous despite the attempts made in isolated incidents to include women in critical decision-making organs.

The new Act establishes an Environmental Advisory Committee (EAC) as the apex organ to advice the Minister on implementation of the Act, the Policy and act as a dispute resolution and mediation body relating to environmental management in Zanzibar. The composition of the EAC is clearly provided with members drawn from a wide array of professionals in the field of environment and stakeholders.[29] One of the main setbacks of this composition, as discussed in depth below, is the lack of ensuring gender equity.

It is glaringly obvious in the composition of the EAC that there is no guarantee of representation of women in this very important organ. In comparison to the old law, the 1996 Act, this is a retrogressive step. Although the 1992 Policy did not lay emphasis on gender issues, the 1996 Act made some attempt to address this gap. It is in this context that the 3rd Schedule to the 1996 Act made provision for ensuring that women were represented in the National Protected Areas Board. See item 3 (2) of the Schedule.

In comparison, representation of women in environmental law decision making organs under the new law is not guaranteed. The attempt made by section 15 2 (d) to provide for the representation by having at least two women in the Board of the Zanzibar Environmental Management Authority is watered down by section 15 (3) which provides that such women should have at least a degree and five years' experience in environment, law, administration or social development issues. This is a tall order for rural women who bear the brunt of environmental degradation.

The Policy initiative to address gender issues in the new law is not reciprocated in the Environmental Advisory Committee established under section 8 or in the Joint Management Committees for non-renewable natural resources management established in Districts under section 29 of the new law. The Climate Change Steering and Technical Committees established under section 67 of the new law also do not have provision that guarantees the representation of women. These Committees are responsible for, among other things, the management of Integrated Coastal Zone Management, a very critical component of environmental management of Zanzibar.

It should be noted that the new Policy states that *"... in general ... women are more vulnerable to the effects and impacts of climate change, environmental*

28 See Item 2.1.2 of the Policy.

29 See Sections 7 and 8 of the New Act.

pollution and degradation ...".[30] Further, the Policy states clearly that the RGZ seeks to implement the Gender Policy of Zanzibar of 2012, which recognizes the important role of women in matters related to environmental conservation.[31] Indeed, this is in line with the United Nations has recognized the very important role that women play in environmental conservation and called for the need to promote gender equality and mainstreaming gender in activities of Partner States.[32] Tanzania has ratified the Convention on Biological Diversity (CBD), under which the Gender Plan of Action was adopted.[33]

The CBD, being a Multilateral Environmental Agreement (MEA), falls under Union matters and in this regard, ratification of the MEA by the United Republic implies Zanzibar is also brought into the picture.[34] Further, some of the rationales of the new Policy are clearly gauged in a manner that commits the RGZ to reflect directives of MEAs to which the United Republic is a Party.[35] In other jurisdictions, such as Kenya,[36] Uganda,[37] Namibia[38] and South Africa,[39] the framework legislation for environmental protection has taken into consideration the UN call.

Despite Zanzibar's new Policy's clarion call, it is in only one institution, among the multitude, where the new law makes a rather frail attempt to ensure women are involved in decision making process. In all respects, therefore, it would not be too far-fetched to conclude that the Policy directive on gender has not been implemented in the new law.

3.5 *Environmental Planning*

Environmental planning seeks to ensure that developments, especially in the urban areas are undertaken by taking into account environmental considerations. Although a relatively new concept, environmental planning has been emphasized by courts of law (Kihato, 2012).

30 See Paragraph 2.12 of the New Policy.

31 See Paragraph 3.11 of the New Policy.

32 See Convention on Biological Diversity 2015–2020 Gender Plan of Action adopted in 2014, https://www.cbd.int/doc/decisions/cop-12/cop-12-dec-07-en.pdf, accessed on 24th July 2019.

33 See https//www.cbd.int/information/parties.shtml, accessed on 24th July 2019.

34 The United Republic of Tanzania signed the CBD in 1992 and ratified it in 1996, See *Ibid.* and Item 2 of the 1st Schedule of the Constitution of the United Republic of Tanzania, 1977, Cap. 2 [R.E. 2002).

35 See Paragraphs 1.2 and 4.5.6 (i) and (ii) of the New Policy.

36 See Section 29 (3) (e) of the Environmental Management and Coordination Act, No. 8/1999 (Kenya) relating to composition of District Environmental Committees.

37 See section 7 and 1st Schedule of the National Environmental Act, Cap. 153 (Uganda).

38 Sections 6 and 8 (5) of the Environmental Management Act, (Namibia).

39 See Section 4 (q) and (2) of the National Environmental Management Act (South Africa).

Environmental management plans, from the national to the grassroots level play a vital role in, among other things, ensuring transparency and inclusion in environmental management. The New Act does not have provision for such plans and puts in jeopardy the decentralization initiative in environmental planning which seeks to reach those at the grassroots. This is a marked departure from the repealed law, which had concrete provisions addressing Environmental Plans at each level of governance. This approach sought to ensure a meaningful and effective involvement of all stakeholders, especially local communities who live in proximity to environmental resources.

3.6 *Dispute Resolution*

Recent developments in the approach of resolving environmental disputes have laid emphasis on seeking to engage the parties by way of dispute resolution mechanisms to ensure compliance rather than using the traditional fines and imprisonment approach (van der Bank and van der Bank, 2017). Also, the Alternative Dispute Resolution mechanisms have been adopted to address environmental management disputes. These approaches provide a forum for engaging communities before litigation, save the time of the parties in dispute and ensure a harmonious co-existence in the conservation of environmental resources. The process of promulgation of the new law did not take the opportunity to engage parties in resolving environmental disputes that are likely to occur at the Island. This shortfall is reflected in the absence of dispute resolution provisions in it.

3.7 *Cross-Referencing*

The reference of Parts or sections which ought to be read together within a statute or reference to other sections of another statute (usually referred to as cross referencing) makes it easier for a reader to have a holistic grasp of the import of the provisions of a statute. Cross-referencing also enables a reader to know what other laws to look at in relation to the issue being addressed by the provision of a law. The commonly used cross-referencing method in drafting law is the use of marginal notes. These are often used to identify provisions within a statute which are to be read together in the course of ascertaining the meaning of the provision. Although they do not form part of the law, they are a useful guide in interpreting the law.[40]

40 See: Emmanuel Marangakis as AG vs. the Administrator General, Civil Case No. 1 of 2011, High Court of Tanzania at Dar-es-Salaam, (Unreported) and Section 26 (2) of the Interpretation of Law Act, Cap. 1 [R.E. 2002] This Act also applies to Zanzibar [See Section 2 (1)] But also see Section 11 of the Interpretation Act No. 7 of 1984 which also clearly

In an environmental law statute which addresses many cross-cutting sectors in the natural resources field, it is critical for the draftsman to cite, in the marginal notes, other related laws to guide the reader. Such cross references also shows that there was in-depth research in the course of drafting the law, to avoid conflicts among institutions charged with implementing the law.

The provisions of the New Act, like the repealed law, do not make cross reference to other environmental law related statutes or their provisions. For example, the reference to the management of environmental aspects of oil and gas provided for in sections 59 and 60 of the Act makes no cross reference to the Oil and Gas Act of Zanzibar. Similarly, there is no cross reference to the Risk Management Act, 2015 on matters related to climate change in the new environmental law. Both Acts require representation of personnel in the environmental sector established to oversee their implementation. Granted, this could be a preferred style of legislative drafting but it clearly leaves the reader of the law in a dilemma and creates room for conflict among sectors in the course of enforcing law and in implementing institutional mandates.

4 Conclusion

The foregoing analysis reveals that although the RGZ has made some effort to promulgate Regulations to put into effect the repealed law, the effort was a little too late. It is also noted the failure to effectively implement the repealed law was the absence of Regulations. The position in Tanzania Mainland is similar as some of the critical Regulations for implementing the Environmental Management Act, enacted in 2004 are still in the pipeline, over a decade since it was enacted. It is in this regard that concerted efforts must be made to put in place Regulations as soon as possible. If this is not given priority, the envisaged strategies that the new law puts in place, for example the establishment of Coastal Setbacks, will not be achieved.

The important role of women in the management of environmental resources cannot be overemphasized. It has been noted that the new law does not adequately reflect the new Environmental Policy of Zanzibar and international legal instruments in terms of gender equity. Amendments to the law should ensure the inclusion of women in key decision-making organs and institutions put in place by the law.

provides that marginal notes do not form part of the statute but is used for convenience as a reference.

For purposes of sustainability and more effective implementation, there will be a need to change other natural resources sector policies and legislation to reflect the paradigms that the new law has put in place. The making of Regulations, in some cases may address some of the paradigms in the sector laws and policies. However, in certain cases, there may be a need to overhaul the policy and legislative frameworks to effectively take on board some of the recommendations.

Environmental litigation in Zanzibar has relatively been on the low. This is partly attributed to lack of education, awareness and sensitization of citizens on their rights, including instituting legal proceedings to protect the environmental resources on the Isles. Government and stakeholders in Zanzibar should assist Non-Governmental Organizations, Civil Society Organizations and Community Based Organizations to enable them place checks on environmental damage by individuals and institutions, by inter alia, providing them with skills to bring actions against environmental abuse. Capacity building initiatives should also focus on the implementers of the law in institutions charged with management and enforcement of the provisions of the new law. In jurisdictions where environmental litigation is vibrant, courts of law have been moved to pronounce important rulings that have developed the jurisprudence of environmental law (Rajamani, 2007).The initiatives in these jurisdictions should act as a catalyst and be a wake-up call for the legal fraternity in Zanzibar.

Most of the proposed amendments to the new law would not have significant financial implications as they could be brought into play by way of miscellaneous amendments. This is a common approach in commonwealth jurisdictions and is envisaged by the law of Zanzibar.[41]

The effort to enact the new framework environmental law in Kiswahili is very commendable. This effort should also be reciprocated for in the Policy and Regulations that are to be enacted to implement the new law. Also, in order to make the law easily comprehensible by the majority of *Zanzibaris*, there is a need to provide a user-friendlier version of the Kiswahili enactment. This is because as it is, the Kiswahili version of the new law, despite the good attempt to break down the language, remains by and large technical. This is predominately due to the difficulty in simplifying the legalese nature inherent in the language of the law, without risking losing the intention of the drafters (Tiersma, 2006).

41 See Constitution of Zanzibar, 1984 (Part 2) and the Standing Orders of the House of Representatives of Zanzibar, 2012 (Part 8).

There is a need to define the environmental management principles such as precautionary and polluter pays principles, principles of public participation and international cooperation in management of the environment and the principle of common but differentiated responsibilities in the Act. The definitions of these principles provided for in the framework environmental law on Tanzania Mainland provide good guidance.[42] It would also be helpful to include other important principles that should be taken into account in managing the Islands fragile environmental resources, such as the principles of intergeneration and intra-generational equity and ensuring resources are used for the benefit of present and future generations.

The promulgation of the new environmental law in Zanzibar has rekindled a ray of hope in the conservation and management of the Island's unique environmental resources. These efforts should be nurtured and harnessed by ensuring all stakeholders are fully and effectively involved in the promulgation of Regulations to operationalize the new law. It is close to five years since the new law was enacted. The enactment of the Regulations should be given urgent priority to avoid what seems to have befallen similar efforts on Tanzania Mainland where over a decade now, some of the Regulations contemplated by the Environmental Management Act are still in the pipeline.

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