

Health and Safety Compliance in Tanzania: Regulatory Impediments in the Construction Sector

ALOYCE GERVAS, NINA TORM and GODBERTHA KINYONDO

Abstract: In Tanzania, poor enforcement of occupational health and safety (OHS) regulations has been associated with weak regulatory systems as well as lack of proper procedures on construction sites. However, the role of health and safety actors including organisational structures as enabling or disabling factors are under researched. This study employed qualitative research approach to discern the role of health and safety actors together with reasons for poor OHS enforcement on construction sites. Semi-structured interviews collected data from several health and safety actors within the sector. The salient findings from the study indicate that while legislation for enforcement of OHS exists, there is demonstrated lack of coordination including focus on formality, insufficient resources and overlapping roles regarding management of OHS. Power relations exercised by elected officials over regulators exacerbate these to influence public policy and purposeful violation of rules as a form of informal welfare policy for largely informal workers. This study recommends a need for promotion of safety leadership and behavioral change together with adequate supply of health and safety resources to the whole organisational system. Planning, tendering, designing and implementation stages of construction projects should embrace safety culture.

Keywords: construction sector; occupational health and safety; safety actors; regulatory frameworks; Tanzania

Introduction

The UN declared Tanzania a lower-middle-income country in July 2020.¹ Numerous economic sectors contributed to this development, including transport, mining, and agriculture. Among the leading sectors, they include the construction sector. According to the Bank of Tanzania, in the quarter ending March 2021, the construction sector contributed 15 percent to gross domestic product (GDP), followed by transport and storage (15 percent) and agriculture (13 percent).² Therefore, the construction sector is the leading contributor to national GDP. Besides, the sector

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is a critical employment creator for skilled and unskilled jobs. Statistics indicate that it employs 9–11 percent of the national workforce.³ Despite its importance in nation building, the construction sector is among major contributors to accidents and fatalities nationwide.⁴ Statistics from the National Audit Office of Tanzania indicate that the construction sector is responsible for the most occupational injuries at 24 percent, followed by transport and mining (both 21 percent).⁵

Tanzania has not ratified the International Labour Organization's (ILO) Standards for OHS, including: Safety and Health in Construction Convention 167 of 1988; Occupational Health Services Convention 161 of 1985; Occupational Safety and Health Convention 155 of 1981; Promotional Framework for Occupational Safety and Health Convention 187 of 2006; and protocol of 2002 to Occupational Safety and Health Convention of 1981.⁶ Despite this, various legislations for administration of OHS in workplaces in Tanzania—including sector specific legislations in construction—do exist.⁷ They include Occupational Safety and Health Act of 2003, National OHS Policy of 2010, and OHS (Building and Construction Industry) rules of 2015. The legislations provide a framework for operations and guide national administration of OHS. OHS matters in Tanzania fall under Occupational Safety and Health Agency (OSHA), established under the Executive Agency Act of 1997 and charged with responsibility to enforce OHS regulations, standards, and promotion of OHS practices in all workplaces in Tanzania. Nevertheless, enforcement of compliance with health and safety on construction sites remains a challenge.⁸

Few studies examine the role of OHS actors in enforcing compliance with OHS on construction sites in Tanzania. This article addresses the key question—why do OHS actors not effectively enforce compliance with OHS rules on construction sites? Specifically, the study seeks to identify reasons that mandated government actors—labour inspectors, occupational safety and health inspectors, Construction Registration Board and contractors—do not effectively enforce OHS rules and regulations on construction sites. We also include workers' voices regarding health and safety. Accordingly, the article provides recommendations for improving OHS management on Tanzanian construction sites.

Enforcement of OHS Rules and Regulations

Management of OHS in the construction sector shares similar characteristics across developing countries.⁹ These include construction methods, technology level, cultural environment, and regulations.¹⁰ All make management of OHS in construction projects in developing countries challenging.¹¹ Literatures ascertain that poor institutional frameworks to govern operations of health and safety actors contribute to non-compliances of OHS and its ineffective enforcement.¹² Other studies indicate that there is lack of motivation and commitment by safety actors in management of health and safety, including enforcing compliance, exacerbated by poor government commitment to overall oversight of management of OHS in workplaces.¹³ Moreover, several advocates argue that skilled labour supply of health and safety professionals is inadequate in most developing countries.¹⁴ Since most construction activities are labour intensive, required professionals to oversee enforcement are insufficient to meet needs for construction projects. This invites 'business as usual' tendencies in managing safety for workers.¹⁵

In many developing countries, only around ten percent of working people have access to OHS services.¹⁶ However, in Tanzania, only five percent of people have access to such OHS services.¹⁷ Regulations cover the formal national workforce but omit informal workers who constitute the majority in the construction sector.¹⁸ According to ILO standards, employers retain responsibility for protecting employees from all hazards that may pose threat to their safety and health at the workplace.¹⁹ In Tanzania, a fundamental principle provided in the OHS Act Number 5 of 2003 stipulates that an employer must provide and maintain a working environment that is safe without risk to health. It states that an employee must take reasonable care for his or her own health and safety, and for the health and safety of others.²⁰ The OSH Building and Construction Rules of 2015 specify further for the industry. The rules stipulate various responsibilities and duties of designers, contractors, sub-contractors, construction sites management—including site managers, health officers and representatives of safety committees—plus workers' obligations in management of health and safety. The rules identify risks related to environment, machinery and human activity, and provide for various mechanisms on how to address each risk. However, some assert that the legislation presents challenges to implementation as it fails to address psychosocial hazards, stress, and burnout.²¹ Besides, it lacks flexibility and does not account fully for rapid technological changes in the workplace. It also does not respond to changing social expectations for acceptable risk levels.²²

Another study conducted in Tanzanian construction industry revealed that the regulatory role of stakeholders—OSHA inspectors, labour offices and ministries—to health and safety management was very low.²³ Site manager or contractor performance and compliance with OHS was poor, primarily due to high costs of implementing health and safety organisational systems. Most construction workers did not comply with safety practices and although some sites provided safety gear, workers did not necessarily use them sufficiently.²⁴ Inspections on construction sites were rare and safety inspectors were more reactive to occupational accidents than proactive towards OHS.²⁵

Theoretical Foundation

Various studies from developing countries acknowledge lack of enforcement of OHS rules—including not having adequate and enforceable safety policies, lack of top management support for OHS, and lack of awareness—as important factors hindering effective enforcement of OHS on construction sites.²⁶ In order to understand why, this study employed the theory of forbearance, which suggests that weak enforcement, or its absence, does not necessarily mean the state is weak and unable to regulate behaviors of operational institutions or citizens.²⁷ Instead, forbearance connotes even in a healthy electoral democracy elected officials respond to poor voters and choose not to enforce laws and regulations that are not in favour of local preferences. Accordingly, forbearance can be an informal welfare policy, a kind of social protection in the name of public good.²⁸

Forbearance theory originally found application in the study of land allocation and informal housing in Latin America. It is applicable in the construction industry in Tanzania due to general characteristics in the sector including nature of activities, governance structure, and institutional arrangement of OHS management.²⁹ The government is the main purchaser of construction projects and acts as the main employer in the construction sector.³⁰ Also, its main

responsibilities include to regulate, enforce and ensure compliance with rules, regulations and standards to optimum standards. Figure 1 shows that the central government is key in distributing all resources to other agencies and institutions. Simultaneously, central government and its other arms are clients to construction projects. The government has direct mandates to control OSHA (thick lines), contractors (thin lines) and other enforcement institutions (dotted lines) [Figure 1].

On the other hand, OSHA is the regulator and OHS provider with direct inspectorate role of contractors and construction site management.³¹ According to forbearance theory, enforcement of rules and regulations can lag due to expectations shouldered onto elected officials struggling to deliver services to a majority poor voters to maintain trust and hence their political power.³² The government as client, financier, regulator, and operator influences contractor conduct and operations via the Minister for Works and the Contractors' Registration Board. The government can revoke or suspend the contractor's license of operations.³³ In the Contractors Registration Act 16 of 1997 and its amendments of 2009 under part VI section 31, the "Minister may, by writing under his hand, give the Board directions of a general or specific nature and the Board shall comply with every such direction." This limits the Board of Contractors to act impartially in this regulatory setup. Accordingly, contractors bid and submit their tenders to their potential private or government clients through its different institutions [Figure 1]. Additionally, the Ministry of Labour oversees OSHA and provides seed resources for their optimal operations.³⁴ According to forbearance theory, enforcing authorities may choose to minimize their responsibilities because of uncertainty with respect to government behavior.³⁵ There is deliberate non-enforcement, but it can be a relation to forbearance in that government authorities permit poor people to earn a living and they procure cheap labour services from citizens.

Several studies indicate that OHS institutional frameworks in developing countries are fragmented, lacking capacity to fully implement management of occupational safety and health in workplaces.³⁶ Issues regarding OHS in Tanzania are multisectoral with many players [Figure 1]. Although OSHA is the mandated institution overseeing OHS, resources, power, and authority flow from different players, including councillors, mayors, members of parliament, and government ministers. Accordingly, contractors may resort to quoting lower budgets for health and safety equipment or never quote at all. Doing so benefits public administrators vested by government with the responsibility of ensuring projects complete on time and use minimum resources. It benefits citizens because they acquire jobs as informal workers to sustain their families.³⁷ Enforcement becomes possible only when the government can provide alternatives to unemployment for the poor. If such an alternative is impossible, they resort to forbearance by tolerating violation of laws and regulations as standard practice. Nonetheless, the challenge of forbearance is not a permanent solution nor applies everywhere.

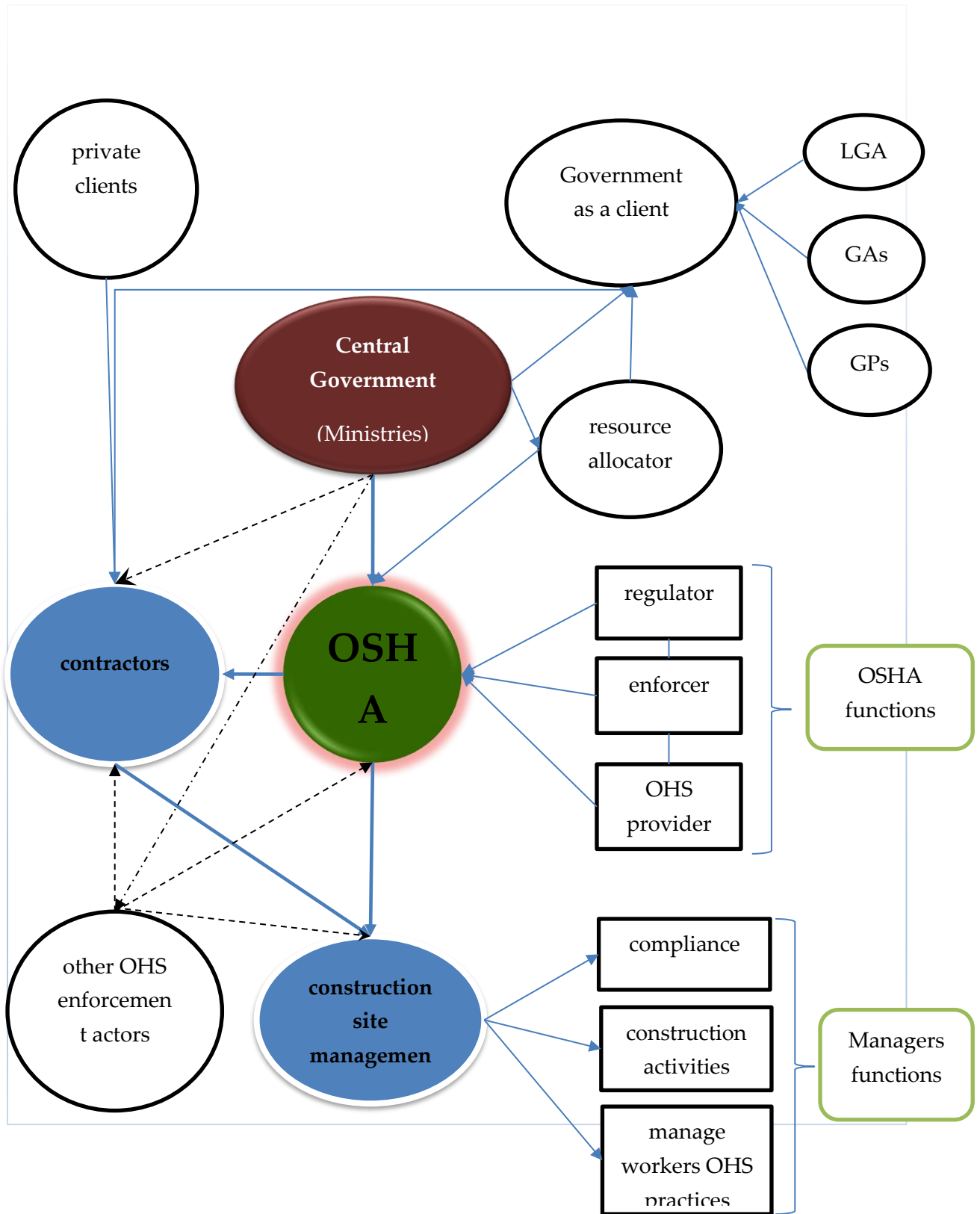


Figure 1: Conceptualization of administration of OHS in construction sector in Tanzania.

Note: LGAs – Local Government Authorities; GAs – Government Agencies; GPs – Government Parastatals

Number	Health and Safety Actors	Role Description	Number of Respondents
•	Regulatory Entities		
1	Ministry of Works (Labour Commissioner)	Enforcing labour standards and laws and compensating victims of OHS accidents and diseases	1
2	National Construction Council (NCC)	Promotion and monitoring of labour standards and construction operations	1
3	Senior Inspectors (CRB)	Inspection of contractors' compliance to HS legislations on construction projects	6
•	OSHA Agency		
1	OSHA Inspectors	Inspection of enforcement of HS on construction sites	9
•	Construction Sites Management		
1	Contractors	In charge of construction projects	1
2	Construction Site Managers/Engineers	Management of all operations on construction sites	6
3	Health and Safety Officers	Supervising HS on construction site	5
	Total		29

Table 1 - Outline of research interviews

Data and Methods

Qualitative research occurred through Key Informant Interviews (KIIs) composed of semi-structured questions for data collection. KIIs encompassed OHS inspectors, construction site managers, the Senior Labour Commissioner, national audit construction and building engineer, national construction council senior officer, senior inspectors of Contractors' Registration Board (CRB), OHS officers and workers in construction sites [Table 1]. Application of selected

methods allowed researchers to obtain in-depth responses on poor enforcement of OHS in construction sites. KIIs were audio recorded, transcribed in Kiswahili and translated into English. All transcripts were coded for content analysis through Nvivo version 12 (qualitative data analysis software) to sort codes into categories and subcategories with specific classification of each category of KIIs and observation notes. Identification of variations and similarities from generated themes facilitated interpretation of study results. This study encountered some limitations including gaining access to interviewees and information regarding OHS at construction sites. High profile key informants in government were hesitant to participate and some simply sent their representatives.

How Government Bodies Influence OHS Practices

Bias on Formal Settings

The ministry responsible for monitoring and evaluation of OHS issues is the Ministry of Labour, Youth, and Employment, with commissioners who oversee standards for workers around the country, including construction workers. Interviews with a commissioner revealed how labor standards exist on construction sites to ensure social protection in case of work-related accidents and fatalities:

All workers have equal rights. We examine standard of works—labor standards—and work contracts. We do not call them informal and we say they are workers, depending on their contracts. There are three kinds of contracts: contract for a specific job, contract of a specific time, and contract that is not of a specific time. So, it depends on employers at the construction site. They have employees that work per day and receive specific time contract. Some have contracts for the whole project time. All contracts are under law. Any employer must provide these kinds of contracts and that is what is practiced on construction sites.³⁸

However, a majority of construction site managers contradicted this claim and noted that workers are often casual, temporary with no contracts. According to managers, most workers operate on a piece rate basis under verbal agreement only. The workers agree with the managers regarding piece rate jobs. Workers disclosed that no informal workers had a written contract with the construction company. An interviewee said: “I do not know about any contract. I have never been given one since I started working here or at any other place. I am not their employee. We just agree verbally with the site manager on a specific job and the pay. My role is to get the job done and get paid. Tomorrow is a new day.”³⁹

These findings suggest that the labor inspectorate functions primarily in formal settings and is not set to handle informal arrangements. The commissioner indicated that legal requirements hold up properly in formal institutional settings, implying that standards and enforcement are well adhered to on construction sites. However, details on informal workers at construction sites did not emerge, implying that the majority of construction managers do not keep records on informal workers and standards are loose for informal construction workers.

Governmental Interference and Lack of Coordination

Lack of enforcement of OHS regulations on construction sites worsens due to lack of coordination between actors and elected officials interference with professional roles of regulatory bodies like OSHA. Findings from this study demonstrate that elected officials sometimes direct contractors to perform several functions that violate health and safety regulations. For example, elected officials in ministerial or parliamentary positions who have oversight of government-financed projects sometimes will direct site managers to engage as many informal construction workers as possible to enable local job creation. This corroborates Holland's theory that elected officials implement forbearance as a way of improving people's lives—and hence, incentivize votes—by turning a blind eye on compliance and enforcement.⁴⁰ Extensive engagement of informal workers usually precludes provision of safety gear or budgeting for such facilities and thus is a clear violation of OHS regulations. Complying with such political directives compromises safety and quality of projects. A majority of site managers, OSHA inspectors and national construction council members noted this as one of the major hindrances to their functions. One interviewee revealed:

We get big government tenders that are mostly with inadequate budget allocated for health and safety measures, but we do our best to perform them on time. However, on the way, there are many ministers who visit the site to see implementation and speak with working crew or people living in the area demanding for jobs. Ministers direct us to engage many people, but we do not have budget for that, for we have to comply with risk of safety and quality of work. It is a bit tricky.⁴¹

Furthermore, a majority of safety inspectors indicated that such instances occur not only with ministerial or parliament officials, but also at local government level with councillors and mayors. Many local government officials who approve budgets for projects within municipal or city councils resort to reduction of OHS budgets to decrease construction costs and ultimately, increase local workers on projects. This increases their political power and conveys sense of value for engaged citizens. For many elected officials, this is akin to a welfare policy in the name of a public good—job creation supersedes job safety. The resultant lack of coordination between actors creates loopholes for contractors' non-compliance. An interviewee stated:

You should know that most projects issued by municipal councils have zero health and safety budgets. Contractors inform when we visit the construction sites that the budget was removed from the design phase. How would a contractor buy safety gears? They do this under belief that they reduce construction costs.⁴²

Effective management of health and safety requires actors to coordinate and follow guidelines for proper compliance.⁴³ However, findings from this study unveiled that actors in construction sites have varied and political motives often competing with regulatory roles. It seems that for many elected officials, the former takes precedence, thus hindering proper enforcement of OHS. Interviews with OSHA inspectors revealed that due to such interference and lack of coordination, they are not always able to perform their duties diligently. Sometimes they overlook proper enforcement. One of the inspectors indicated: "Certainly, we all aim for workers' good health and safety, but when I go to the site, I notice some leaders, others are my

bosses, have given several orders that are contrary to what I am going to inspect. Thus, what should I do? We serve the same government. My boss is my boss.”⁴⁴

Interviews with the labor commissioner further expounded that the role of that office is not to oversee OHS as it only deals with labour standards—health and safety are under OSHA. Potential confusion about responsibilities existed: “The OSHA is the authority regarding HS. We never deal with health and safety. We have inspectors in every region of Tanzania, performing frequent inspections on workplaces to ensure labor standards are followed.”⁴⁵ Yet findings elsewhere assert that the labour commissioner has other responsibilities alongside enforcing labour standards, including monitoring and evaluating issues regarding management of health and safety.⁴⁶ Construction site managers revealed that they have never seen labour inspectors on their construction sites. Similarly, OSHA inspectors revealed that there is very little communication or coordination between labour inspectors and OSHA inspectors on job performance and inspections on various parts of construction sites. This creates unnecessary conflicts and ultimately, poor performance.

Time Pressure

This study demonstrates that pressure on contractors to produce results on time forces them to ignore OHS rules and regulations. Government as client seems to concentrate more on productivity than worker safety and health on construction sites. Accordingly, contractors and construction site management are often required to complete designated projects, regardless of circumstances. Regulations require contractors to have breaks and specific working hours. However, severe weather patterns like heavy rains may delay construction and therefore, impede schedules. It was noted that officials may even instruct workers to work round the clock in efforts to meet deadlines: “I am 3 months behind schedule. A month ago, the minister visited and instructed me to work 24 hours or else I will not be paid. The project will be given to another contractor. Remember heavy rains in the past three months! My crew have to work during the day and night; I do not have time to start thinking about safety and all other aspects.”⁴⁷

Role of OSHA in Compliance

OSHA Tanzania operations occur under the OHS Act 5 of 2003 via a Chief Inspector. The fundamental role of the Act is to protect workers from occupational hazards in workplaces. Key OSHA responsibilities include registering all workplaces, maintaining an OHS register (plus entering, inspecting and investigating OHS accidents), issuing orders regarding all health and safety issues, and performing OHS training. In the construction sector, OSHA enforces Occupational Safety and Health (Building and Construction Industry) rules of 2015 among other OHS legislations like OHS Act and OHS Policy of 2010. Legislations guide the Chief Inspector in performing agency duties. This study revealed that OSHA as a government institution largely performs its responsibilities. However, there are several deficiencies outlined below.

Overlapping Roles and Inefficiency

The OSHA institutional framework illustrated in Figure 1 indicates conflicting roles that may hinder performance of duties. The framework mandates OSHA as regulator and provider of OHS training services to clients.⁴⁸ Through provision of OHS training, contractors send their employees to such trainings and pay tuition fees to OSHA. Thereafter, OSHA visits construction sites for inspection. It is perhaps easier to ignore important safety protocols when professional relationships between OSHA and contractors become more important than safety standards.⁴⁹ OSHA's multiple roles create inefficiencies.⁵⁰ Additionally, there are overlapping responsibilities within government thus, increasing the likelihood for confusion and substandard operations. For example, the Contractor Registration Board's mandate is to regulate contractors and provides sanctions on construction sites with regard to non-compliance with OHS rules. As noted by an OSHA respondent: "The CRB registers contractors in the country with its own by-laws regarding health and safety in construction sites. The Project Site Manager is required to enforce their implementation in the construction sites. The CRB has its own sanctions independent to OSHA."⁵¹ The CRB Inspector agreed it is involved more in safety enforcement than in prevention: "The CRB is involved in enforcing safety rather than prevention. The OSHA enforces law and sanctions. Also, sanctions are provided on non-compliance. The CRB looks at, for example, provision of safety gears as parameters for health and safety - helmet, safety jackets, boots, availability of utilities like clean/safe water and toilets."⁵² These indicate differences between CRB and OSHA roles that are hardly perceptible. There are not only conflicting roles within OSHA as regulator and OHS provider, but overlapping roles between OSHA and CRB may significantly hamper proper enforcement and commitment to safety.

Minimal Inspection Visits on Construction Sites

The OHS Act 5 of 2003 permits inspectors under sections 6 (1) and 7 (1-3) to perform inspections and investigations at workplaces. However, findings from this study revealed that, out of all construction sites the study covered and on the project cycle, OSHA inspectors only visited two sites. Further investigations of aspects, specifically assessed during two inspections revealed that in the first case, inspectors entered the management office, spoke with site engineer, checked the accident register book and left without conducting an actual site inspection. At the second site, the inspector conducted site inspection without health and safety committee members or health and safety personnel. When asked the reasons for not performing thorough and frequent inspections, most cited heavy workload, thus limiting time they could spend on sites: "You see, there are many workplaces to visit. Not only construction sites, but also it is not easy for me to use half a day at one site while I have ten left for me."⁵³

Insufficient Number of Qualified OHS Inspectors

Findings revealed that OSHA lacks staff in terms of qualified professionals like health and safety inspectors. In building and construction there are even fewer than in other specializations. Data from 2021 indicate that OSHA had 69 inspectors, countrywide, distributed in seven zones of operation [Figure 2]. In the coastal zone study area, there should be 17 OHS

inspectors for optimal operation, but there are only nine.⁵⁴ Available staff are insufficient for the number of workplaces, thus restricting the ability to meet required standards in terms of inspection, investigation, and provision of OHS training.



Source: OSHA official data, 2021

Interviews with a senior OSHA inspector revealed that lack of staff in effect transfers concern for compliance to construction site managers. A majority of OSHA officers are unable to inspect sites on a weekly or even monthly basis. Therefore, they push responsibility of ensuring compliance to site managers. One of the informants explained: "It is true that we are understaffed. Possibly, it is among reasons for non-compliance, but we cannot be like police officers, running to construction sites and asking why workers are not wearing hardhats. It is like harassment. Concern for safety should be for contractors to enforce and adhere to all regulations. Our jobs would be easier that way."⁵⁵

Contractors, Site Managers, and Compliance

Casual Labour

Contractors and site managers heavily depend on informal workers. Findings from this study revealed that such workers seldom receive safety measures while working on sites. The practice significantly and negatively affects workers and contributes to increased occupational accidents. An officer from National Construction Council explained: "Reliance on casual labour influences incompliance and contributes to higher levels of occupational injuries. Such workers are temporary, unregulated and unregistered with no occupational identity within sites. Due to

demand for jobs, they work for money without caring about safety. Contractors like it.”⁵⁶ The OHS rules stipulate that contractors must ensure workers’ safety and provide all necessary safety measures. However, it is clear that contractors do not adhere to regulations. Instead, they concentrate their efforts on project completion.

Lack of Resources for Health and Safety

Contractors complained of limited health and safety budgets that force them to implement projects in risky environments. Most contractors revealed that tenders go to bidders with the lowest budget. While health and safety measures are of utmost importance, health and safety aspects are often expensive and elevate budgets, making many contractors lose tenders. Thus, they quote very low budgets for health and safety equipment to compete in tender processes. A contractor explained: “Tendering is a competition. The current system in Tanzania awards tenders to the lowest cost bidders. We know health and safety is important and also, we need jobs. Thus, if I quote the required equipment for health and safety in its totality, I would not win the tender. Those items are expensive.”⁵⁷

Government projects use force account as a new system for tendering in procurement procedures. It entails “construction by the procuring entity itself or use of public or semi-public agencies or departments concerned, where procuring entity or the public or semi-public agency uses its own personnel and equipment or hired labour.”⁵⁸ According to government, this system is the most appropriate of all contracting methods to reduce costs, thus facilitating attainment of the best value for money. However, construction site engineers and contractors revealed that using force account had limited their capacity to implement OHS as no budget is set for OHS. One of the site managers said: “Presently, the government uses force account. The contractor works as per client’s (government) demands, from hiring to what can or cannot be provided on site. The contractor works on the minimum budget possible and guess what, health and safety is not one of the items.”⁵⁹ Contractors agreed that construction projects have inherent risks and they must accept the risks because there is minimum budget allocation. Hence, they do without an adequate budget for OHS measures. This finding is in line with the Ghanaian construction industry whereby funding and logistical constraints were among key issues.⁶⁰

Renouncing Safety Responsibility

Notably, some other site managers seemingly never saw health and safety as their responsibility. They believed that safety is responsibility of subcontractors and workers must take care of themselves to ensure they remain safe at work. Managers revealed that they never thought they were obliged to influence safety at the site: “Work is huge and time is not in our favour. I cannot be everywhere reminding people to wear masks or helmets. What are subcontractors doing? What are health officers doing? It is their job and workers understand construction is a risky environment. They know they must be careful.”⁶¹ This creates a critical concern for managing safety because it suggests that OHS policies are not in place on sites. It indicates a very significant level of non-compliance with enforcement of health and safety rules.

Health and Safety Officers on Site

The OHS rules [Section 5 (1–2)] require each construction site employing over ten persons to have a health and safety officer or a person trained in health and safety as a supervisor of health and safety, including advice to the contractor on observance of OHS requirements under the law. For sites employing twenty or less, the contractor may appoint themselves or a trained person to act as such. The name of an appointed person is due to Chief Inspector of OSHA within 14 days. However, this study found that most visited construction sites had over twenty people—often over fifty depending on work phase—but none had a safety officer or an appointee. Therefore, construction managers played the role of safety officer. When asked why there was no safety officer on site, most claimed it was an added cost and such officers have a minimal role to perform: “These works are very temporary. If I need to hire such a person, it means I will have to pay him/her. There is no budget for that. But what will he/she be doing? Just walking around reminding people to observe safety?”⁶²

Use of Unqualified Subcontractors

The OSHA inspectors noted that some contractors did not hire a fully qualified workforce to run projects. Instead, they engaged unskilled but experienced construction workers as subcontractors. This reduces costs for contractors and increases profit. Such subcontractors have no verifiable skills regarding health and safety. Therefore, they engage their workers as casual labor to perform piece works. Inspectors noted that at many construction sites they visited such practices accounted for 100 percent non-compliance with OHS rules and regulations. One OSHA inspector noted:

Some contractors sell jobs to experienced unskilled construction workers like mason as a subcontractor. The subcontractor hires fellows to do the work under supervision of the main contractor, but such workers have no verified skills to work as subcontractors. When you visit such a site, it is horrible! There is 100 percent non-compliance with health and safety. Yes, we penalize them, but the cost for the penalty is lower than profit gained through non-compliance. We leave this to CRB to deal with contractors.⁶³

Workers’ Voices on Health and Safety Compliance

Workers complained of being ignored regarding health and safety issues when at work. During interviews, a majority of workers complained about a lack of safety gear, or when provided, not all workers receive the items. Another study revealed that construction managers do not concentrate on provision of safety gear or give health and safety priority it deserves, but they concentrate on construction project completion.⁶⁴ A worker explained: “For many years I have worked on construction sites, only few gave safety gears. Regularly they provide reflector jackets and few get helmets or safety boots. If you raise voice, you lose a job. I do not want that.”⁶⁵

Further, workers note that most construction site conditions are very poor. Tools and equipment including site hygiene do not reflect compliance with health and safety for people working on site. Therefore, the environment is risky and prone to accidents. Interviews revealed

that despite bad working conditions and risky environment, they must work to provide for their families. One key informant said, “The working environment is not conducive at all. Everything is badly placed. Thus, you may walk and get injured by nails - no good site arrangement. This is a challenge, but no one cares. At the end of the day, we go back home and put food on the table.”⁶⁶ These findings corroborate with several studies regarding non-compliance of health and safety of construction workers and their voices not heard by management.⁶⁷ Therefore, workers volunteer all risks at work places since they cannot afford to go without work, lest families suffer.

Discussion

The aim of this study is to discern reasons for poor enforcement OHS compliance on construction sites and to understand adequacy of regulatory frameworks for OHS enforcement. The study utilized forbearance theory—as propounded by Holland—to assess why actors in different levels of management and administration of OHS services oftentimes neither comply with nor seek to improve enforcement of OHS regulations.⁶⁸

Findings revealed that regulations for health and safety exist and at least minimally ensure proper enforcement of health and safety on construction sites. This is contrary to an earlier study that argued a lack of regulatory frameworks contributed to weak enforcement and non-compliance.⁶⁹ However, our study established that lack of coordination across central government, local government, OSHA, CRB, and contractors—plus overlapping roles within regulatory institutions together with lack of human and financial resources—are key contributory factors for lack of enforcement. These results corroborate with studies that point to laxity of OHS enforcement at construction industry settings in developing countries.⁷⁰ The theory of forbearance provides a framework to understand these factors.

First, there is a key challenge in power relations influenced by elected officials to exercise forbearance because welfare policies are inadequate and officials need workers’ support during next election.⁷¹ Second, enforcers have inadequate resources and therefore, they tolerate violations since they are unable to offer alternatives to the social challenges affecting workers. Third, there is lack of culture of prioritizing safety among relevant leadership bodies. Some scholars argue that managerial leadership and behaviours of those in authority influence organizational outcomes—demonstrated safety behaviours have a trickledown effect to other actors and implementers.⁷² The absence of regulation does not drive the lack of enforcement in Tanzania. Rather, systematic forbearance of rules and regulations is an informal form of welfare provision for workers on construction sites.⁷³ However, it does not promote actual welfare for workers. Another study showed that in the hierarchy of decision-making structures—an essential element in improving safety performance and compliance—leadership behaviours are demonstrated.⁷⁴

Structural influence limits those with less power and hence, no voice to question their superiors’ decision-making, however, questionable they may be. Although the structure of rules and regulations exists, when an office bearer becomes the final decision-maker it compromises safety enforcement.⁷⁵ Those at the structural apex, largely elected officials, influence decisions that affect the entire organizational system.⁷⁶ It creates sense of fear from stakeholders and thus inhibits effective enforcement of OHS through its own structure and systems.⁷⁷ Although OSHA

is the main agency for OHS enforcement in Tanzania, structural limitations imposed via elected officials exercising political superiority constrain ability to impartially manage and enforce OHS on construction sites. In contrast, scholars point to issues like understaffing of inspectorate departments as secondary to effective management of OHS in Tanzania.⁷⁸ Another scholar argued that efficiency is complex, concerning values and procedures that include quality of behaviour (e.g. speed and uniformity of action).⁷⁹ Current regulations and staffing might be adequate if safety culture and quality of behaviour are top priority for the entire organizational system.

As it stands, contractors and site managers well understand current loopholes in the organizational system and use these to their advantage. Non-compliance with OHS rules benefits contractors: they make extra profit by purchasing inadequate supplies of safety gear or buying lower quality gear; they never implement effective safety management systems; and they are non-compliant with labour standards.⁸⁰ The competitive tendering process, including application of force account to run projects, give advantages to those least committed to OHS, given they are unlikely to make required budget allocation for health and safety.⁸¹ Therefore, instead of concentrating on OSH and following standards, contractors manipulate and exploit an organizational setup that incorporates complicity of elected government officials. Indeed, the procurement management units of government bodies violate rules without sanctions.

Conclusion

Construction safety management is an important issue that is increasingly garnering further attention. This study contributes detailed descriptions of causal factors to poor enforcement of health and safety regulations for construction workers in Tanzania. Motivated by forbearance theory, the study finds a failed bureaucratic system to influence public policy, rules, and regulations on management of OHS. Accordingly, the whole system is unable to improve or provide anticipated outcomes—it is in the forbearance trap.⁸² The sort of informal welfare provided by embracing forbearance is undesirable and does not really promote welfare, yet it has seemingly become impossible to change since there are no clear alternatives for poor majority.

Leadership behaviors and safety concerns were evident as a strong theme in structure of governance for all parties concerned. Therefore, this study recommends promoting safety throughout the entire management system by focusing on leadership behaviours associated with productivity, including safety. A positive stance on safety from planning, tendering, designing, and implementation of construction projects together with national campaigns could inculcate a safety culture and drive behavioural change. An educational bottom-up approach that furnishes informal workers with clear comprehension of the vital role of OHS, including means to demand safety services, would complement changes as contractors and enforcers would likely have little choice but to comply. Since implementation of effective Demonstration of concern for safety would encourage provision of adequate financial and other resources to health and safety. Effective implementation of OHS rules should include regular review and demand contractors that hire workers who attended OHS trainings and obtained credentials. It should be mandatory for contractors to provide workers with specific job contracts, detailing their rights and obligations while on construction sites. Penalties and fines for contractors due

to non-compliance with OHS rules and regulations should be increased and consistently enforced.

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Notes

¹ UNCTAD 2021.

² BOT 2021.

³ NAOT 2013.

⁴ NAOT 2013.

⁵ NAOT 2013.

⁶ ILO 2017.

⁷ Kikwasi and Escalante 2018; Mrema, Ngowi and Mamuya 2015.

⁸ Mkenda and Aikaeli 2014; Boadu et al. 2020.

⁹ Kheni and Braimah 2014.

¹⁰ Boadu 2020; Kheni, Gibb and Dainty 2010.

¹¹ Mrema et al. 2015.

¹² Grill and Nielsen 2019, Kheni and Braimah 2014.

¹³ Wachter and Yorio, 2014.

¹⁴ Boadu et al. 2020.

¹⁵ Boadu *et al.* 2020.

¹⁶ Kheni et al. 2010; Jaselksis and Ashley 1999.

¹⁷ Mrema et al. 2015.

¹⁸ Mrema et al. 2015; Wells, 2010.

¹⁹ ILO 2009.

²⁰ OHS Act 2003.

²¹ Lingard and Rowlinson 2005.

²² Lingard and Rowlinson 2005.

²³ Lekusye 2016.

²⁴ Lekusye 2016.

²⁵ Lekusye 2016.

²⁶ Boadu et al. 2020; Grill and Nielsen, 2019; Kheni 2014; Boadu 2021, Mkenda 2014, Mrema 2015

²⁷ Holland 2017.

²⁸ Holland, 2017.

²⁹ Mkenda and Aikaeli 2014; Kheni 2014; Mrema et al. 2015.

³⁰ NAOT 2013; NBS 2018.

³¹ Mrema et al. 2015.

- ³² Boadu 2021.
- ³³ Kikwasi and Escalante 2018; Mrema et al. 2015.
- ³⁴ Mrema et al. 2015.
- ³⁵ Holland 2017.
- ³⁶ Kheni 2014; Mrema et al. 2015.
- ³⁷ Mitullah 2003; Wells 2010.
- ³⁸ Interview with Labour Commissioner, Ministry of Labour (Dodoma), 20 November 2020.
- ³⁹ Interview with construction worker, Ubungo Municipal construction sites (Dar es Salaam), 22 January 2021.
- ⁴⁰ Holland 2017.
- ⁴¹ Interview with construction site manager, Temeke Municipal construction sites (Dar es Salaam), 19 October 2020.
- ⁴² Interview with OSHA inspector, Ubungo Municipal construction sites (Dar es Salaam), 22 October 2020.
- ⁴³ Lingard and Rowlinson 2005.
- ⁴⁴ Interview with OSHA inspector, Kinondoni Municipal construction sites (Dar es Salaam), 3 November 2020.
- ⁴⁵ Interview with Labour Commissioner, Ministry of Labour (Dodoma), 14 October 2020.
- ⁴⁶ Mrema et al. 2015.
- ⁴⁷ Interview with contractor, Ubungo Municipal construction sites (Dar es Salaam), 24 November 2020.
- ⁴⁸ Mrema et al. 2015 also noted.
- ⁴⁹ Boadu et al. 2020; Kheni and Braimah 2014.
- ⁵⁰ Mrema et al. 2015.
- ⁵¹ Interview with OSHA respondent, OSHA (Dar es Salaam), 27 November 2020.
- ⁵² Interview with CRB inspector, CRB (Dar es Salaam), 27 November 2020.
- ⁵³ Interview with OSHA inspector, OSHA (Dar es Salaam), 1 December 2020.
- ⁵⁴ OSHA 2021.
- ⁵⁵ Interview with senior OSHA inspector, OSHA (Dar es Salaam), 1 December 2020.
- ⁵⁶ Interview with NCC officer, National Construction Council (Dodoma), 15 October 2020.
- ⁵⁷ Interview with contractor, Ubungo Municipal construction sites (Dar es Salaam), 24 November 2020.
- ⁵⁸ PPRA 2021.
- ⁵⁹ Interview with site manager, Ubungo Municipal construction sites (Dar es Salaam), 24 November 2020.
- ⁶⁰ Boadu 2021.
- ⁶¹ Interview with site manager, Kinondoni Municipal construction sites (Dar es Salaam), 7 January 2021.
- ⁶² Interview with site manager, Kinondoni Municipal construction sites (Dar es Salaam), 7 January 2021.
- ⁶³ Interview with OSHA inspector, OSHA (Dar es Salaam), 20 January 2021.

⁶⁴ Gervas 2022.

⁶⁵ Interview with construction worker, Ubungo Municipal construction sites (Dar es Salaam), 22 January 2021.

⁶⁶ Interview with construction worker, Ubungo Municipal construction sites (Dar es Salaam), 22 January 2021.

⁶⁷ Boadu 2020; Kheni 2014; Mrema et al 2015.

⁶⁸ Holland 2017.

⁶⁹ Mrema et al. 2015.

⁷⁰ Boadu 2020; Eyiah et al. 2019

⁷¹ Holland 2017.

⁷² Mirza and Isha 2017.

⁷³ Lander et al. 2016; Swuste et al. 2012.

⁷⁴ Grill and Nielsen 2019.

⁷⁵ Grill and Nielsen 2019; Lingard and Rowlinson 2005.

⁷⁶ Avolio and Bass 1995; De Hoogh et al. 2005.

⁷⁷ Boadu et al. 2021

⁷⁸ Boadu et al. 2020; Kheni 2014.

⁷⁹ Serpa 2019.

⁸⁰ Grill and Nielsen 2019; Kheni 2014; Kikwasi and Escalante 2018; Wells 2010.

⁸¹ Boadu et al. 2020; Smallwood 1996.

⁸² Holland 2017.