

**CRITICAL APPRAISAL OF THE FISH ACT CAP 197 (2000) IN RESPECT OF GGABA
AREAS IN LAKE VICTORIA IN UGANDA**

**BY
OCHOKO SYLVIA
LLB/37985/123/DU**

**A RESEARCH REPORT SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL
FULFILLMENT OF THE AWARD OF A BACHELOR DEGREE OF LAWS
OF KAMPALA INTERNATIONAL UNIVERSITY**

OCTOBER , 2016

DECLARATION

This research report is my original work and has not been presented for a Degree or any academic award in any University or Institution of Learning.

Sign 

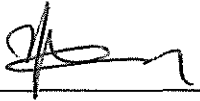
Date: 13th - 10 - 2016

OCHOKO SYLVIA

Signature of Candidate

APPROVAL

"I confirm that work reported in this research report was carried out by the candidate under my supervision".

Sign  Date: 13-10-2016

DR. CHIIMA MAGUNS
MAGNUS

TABLE OF CONTENTS

DECLARATION	i
APPROVAL	ii
TABLE OF CONTENTS	iii
ACKNOWLEDGEMENT	vi
DEDICATION	vii
LIST OF ACRONYMS	viii
LIST OF REGULATORY BODIES	ix
ABSTRACT	x

CHAPTER ONE 1

INTRODUCTION 1

1.0 Introduction	1
1.1 Background of the study.	2
1.2 Statement of the problem.	4
1.3.1 Main Objective.....	4
1.3.2 Specific objectives.	4
1.4 Research questions.....	5
1.5 Scope of the study.....	5
1.5.2 Content scope	5
1.5.3 Time scope.....	5
1.6 Methodology	6
1.6.1 Reliability of the instrument.....	6
1.6.2 Data gathering procedures	7
1.6.3 Ethical considerations.....	7
1.7 Significance of the study	7
1.8 Limitations of the study.....	8
1.9 Chapterization	8
1.10 Literature review.....	9
1.11 Fish Production.....	10
1.12 Fish biomass trends on Lake Victoria.....	10
1.13 research Gaps	13

CHAPTER TWO 15

A CRITICAL ANALYSIS OF THE LAW GOVERNING THE FISH IN UGANDA 15

2.1 Introduction	15
2.2 The international instruments for fisheries resource management.....	15
2.2.1 The Convention on Biological Diversity (CBD)	15
2.2.2 The Treaty for the Establishment of the East African Community	16
2.2.3 The Ramseur Convention (1971)	16
2.2.4 The Convention on International Trade in Endangered Species (CITES)	16
2.2.5 Technical Co-operation for the Promotion of the Development and Environmental Protection of the Nile Basin (TECCONILE) 1992.....	17

2.2.6 Convention for the establishment of the Lake Victoria Fisheries Organization (1994)	17
2.3 Domestic legislation	17
2.3.1 The 1995 Constitution of the Republic of Uganda	17
2.3.2 The National Environmental Act, Cap. 153	18
2.4 The Fish Act, Cap. 197 (2000)	18
2.5 Management approaches	19
2.6 Implementation of the fish Act	20
2.6.1 Licensing	21
2.6.2 Limiting the size of fish harvested	22
2.6.3. Limiting the minimum mesh size of gillnet	22
2.6.4 Prohibition of certain fishing gears and methods	22
2.6.5 Restricting fishing during certain times and seasons	23
2.6.6 Limiting fishing in certain areas	23
2.7 Fisheries Law Enforcement	24
CHAPTER THREE	25
CHALLENGES FACING THE FISH AND FISH MEN IN UGANDA	25
3.1 Introduction	25
3.2 Challenges faced by Fish and Fisheries	25
3.3 Increased fishing pressure due to increased population	26
3.4 Environmental threats to lake Victoria fishery	27
3.5 Water Pollution	28
3.6 Socio-economic status of the fishermen on Lake Victoria	29
CHAPTER FOUR	30
THE REGULATORY FRAMEWORK AGAINST FISH	30
4.1 Introduction	30
4.2 The regulations that govern	30
4.3 Control of Access	31
4.4 Access Fees	32
4.5 Management Measures	33
4.5.1 Restrictions on Fishing Gears and Methods	33
4.5.2 Minimum Size Regulations	33
4.5.3 Prohibited Fishing Methods and Gears	34
4.5.3 Closed Areas and Seasons	34
4.5.4 Fish Introductions	34
4.6 Regulations on Fish Processing and Fish Trade	34
4.6.1 Additional Rules and Regulations	35
4.7 Law Enforcement	35
4.8 Local government	37
4.9 Government institutions	38
4.9.1 Mandate	38
4.10 National Fisheries Resources Research Institute (NaFIRRI)	39
4.11 Inter-governmental organizations	40

4.12 Lake Victoria Fisheries Organization	40
4.12.1 Objectives	41
4.13 The EAC Development Strategy	41
4.13.1 The Customs Management Act.....	42
4.13.2 The Elimination of Internal Tariffs.....	43
4.14 Regional fish trade in eastern and southern Africa-Products and Markets:	44
4.14.1 Users of this fish traders guide	44
4.14.2 Fish Trade	44
4.14.3 Trade principles and practices 16 include:	45
14.4 Fisheries Regulations	46
CHAPTER FIVE.....	47
CONCLUSIONS AND RECOMMENDATIONS	47
5.1 Introduction	47
5.2 Conclusion	47
5.3 Recommendations	47
LIST OF CASES	49
REFERENCES	50

ACKNOWLEDGEMENT

Special thanks go to my supervisor, Dr. Chiima for taking time off his busy schedule to read and advise on the work, for the constructive criticism, and for sharing his wealth of experience on the subject with me. My sincere gratitude goes to the Ggaba areas in lake Victoria, for trusting me to take on such a challenging programme. I also want to thank for all the care and support given during my study

I am indebted to several writers and experts on the Fish Act Cap 197 (2000) the constitutional court and the regulatory bodies for taking off time to reply to my requests for opinions.

I am grateful to my family, friends and classmates for the support you gave me throughout the entire duration of study. Last but not least, to all those not mentioned above but contributed a thing or two to the success of this dissertation, I am truly grateful.

DEDICATION

I dedicate to my Mother Mrs. Ochoko Rose and my father Ochoko Philip who raised me up right away from childhood to date and always encouraged me to pursue my studies and finish up.

I also dedicate this to my sisters for the fact of being there for me.

I also dedicate this study to my friend George for helping me finalize this research report from the start to the end

LIST OF ACRONYMS

BMUs	Beach Management Units
FAO	Food and Agriculture Organization
LC	Local Council
LVFO	Lake Victoria Fishing Organization
MCS	Monitoring, Control and Surveillance
NaFIRRI	National Fisheries Resources Research Institute
UNESCO	United Nations Educational, Scientific and Cultural Organization
UBOS	Uganda Bureau of Statistics
MCS	Monitoring, Control and Surveillance for fisheries
IFMP–LVFO Fisheries	Implementation of a Fisheries Management Plan for Lake Victoria Organization.

LIST OF REGULATORY BODIES

Fish Act (Cap. 228, Rev. 1964). Basic legislation.

The Trout Protection Act (Cap. 229, Rev. 1964). Basic legislation.

The Fishing Rules (No. 8, 1964).

The Fish and Crocodiles (Amendment) Act (1967).

Statutory Instrument No. 15 of 1981.

The National Environment Statute, 1995.

The Water Statute, 1995.

The Uganda Wildlife Statute, 1996.

The Environmental Impact Assessment Regulations, 1998.

The Water Resources Regulations, 1998.

The Fish (Beach Management) Rules, 2003.

The Fish (Aquaculture) Rules, 2003.

ABSTRACT

The study aimed at critical appraisal of the fish act cap 197 (2000) in respect of Ggaba areas in lake Victoria in Uganda. Fishing all over the world is a major source of food for humanity and a provider of employment and economic benefits to those engaged in the activity. However, with increased knowledge and the dynamic development of fisheries. Much has already been written on the Fish Act no 197 of 2000 by different people at different times in different reports, surveys and discussions in the different places as well as in different places both in Uganda, east Africa and international wise.

The Fish Act further provides that any person who uses any vessel in any waters of Uganda unless with valid fishing license to fish either with long lines or with nets or any other methods or fishes from any such licensed vessel but using any unauthorized method declared so by the Chief Fisheries Officer commits an offence. Therefore, if a vessel is licensed, the owner shall before using it or causing it to be used to fish, have the registration letters and serial numbers assigned to him or her to be painted on the vessel in the prescribed manner.¹

¹ Fishing rules statutory instrument 197-1 of the Fish Act

CHAPTER ONE

INTRODUCTION

1.0 Introduction

Fishing all over the world is a major source of food for humanity and a provider of employment and economic benefits to those engaged in the activity. However, with increased knowledge and the dynamic development of fisheries, it should be known that world living aquatic resources, although ²renewable, are not infinite and need proper management. The global rise in the demand for more food has led to a sharp increase in the exploitation of several biological resources heartening the existence of eco systems thus alarming a global concern for the protection of eco systems with international efforts rising up to manage the crisis. Lake Victoria is Africa's largest and most important inland water body with a total water surface area of 68,800km². Lake Victoria contributes significantly through its fishery and generation of electricity to the economic benefits of not only the riparian states, Kenya, Tanzania and Uganda, but also to the neighboring countries and the world at large.

Lake Victoria is arguably the most important single source of freshwater fish on the African continent, contributing significantly to national and regional economies and livelihoods of the regions inhabitants. Although not often associated with inland fisheries, Illegal, Unreported and Unregulated (IUU) fishing and the trade of illegal fish has threatened the biological, social, financial and cultural integrity of the lakes resources and those that depend on them. Given that Lake Victoria's living resources are shared amongst the three riparian states, a regional fisheries body, the Lake Victoria Fisheries Organization (LVFO) was formed in 1994 through the technical assistance of the FAO to manage the fisheries resources in Lake Victoria as a single ecological entity. Within the LVFO mandate, the identified areas of IUU fishing are considered in the form of: Illegal or misuse of fishing gears; illegal fishing, fish landing, processing and trading; unregulated fishing number of boats, fishers and gears (capacity); unregulated, unreported or

² 1995

undocumented domestic and regional fish trade; fishing and landing undersize fish in undesignated landing sites; and fishing during closed seasons or in the closed breeding areas or critical habitats. The decline of Nile perch stocks suggest that fisheries management and compliance structures within the three riparian states and at LVFO at the moment are at various levels of disarray, hence allowing IUU fishing to continue thriving unabated. This has been done through finding international agreements such as the Convention on Biological Diversity (CBD) prepared in Rio de Janeiro in 1992 (Ogito Ohwayo-2003). In ratifying the CBD government agreed to ensure the conserve of biological diversity and ensuring fair and equitable sharing of benefits from genetic resources. FAO (1995) has recognized the vulnerability of aquatic eco systems and associated biological systems. However enhancing eco systems productivity and production involves challenging of law enforcement. For fisheries some challenges include need for revenue through taxation, imposition of rules, and determination of license fees, which make implementation of existing legislations ineffective.

1.1 Background of the study.

Gaba is a landing site for fishing boats, and an abstraction point for domestic water supply for National Water and Sewerage Corporation (NWSC).

Implementation of Uganda Fish Act refers to the extent to which the laws contained in the Fish Act are upheld during Fishing and carrying out activities related to Fisheries provided there in by the Fish Act. Enforcement of Fish Act means the practice of compelling of the regulations embodied in the existing Fish Act to be observed. With regard to the enforcement measures were taken such as creating bodies responsible for the implementation. MAAIF for instance has been given the mandate to regulate fishing activities which include control of type mesh size of fishing gear used, control the size of fish to be harvested among others.

Implementation and enforcement of the Fish Act in Uganda are normally through controlling s³Access to fisheries in Uganda has for a long time been controlled through licensing Ministry of Natural Resources, Department of Fisheries Resources (DFR). However stocks of important commercial fish species are reported to have declined arising from uncontrolled access and the increased human population that exerted tremendous pressure on the resource. Other measures to regulate fishing activities include; control of the type and mesh size of fishing gear used, 'control of the size of fish harvested and through closed seasons and fishing grounds and through limiting the type and size of fishing crafts.

However the 1995 constitution of the Republic of Uganda has objectives that state is obliged to protect important natural resources including water, wetlands, fauna and flora on behalf of the people hence creation of the Fish Act by Parliament(Constitution of the Republic of Uganda, 1995).However several amendments and changes have been made on the Fish Act. The Fish Act, ⁴is the legal instrument that gives effect to enforcement of the Fisheries Law in Uganda. Prior to independence, this Law was introduced as an ordinance by the colonial Government in 1958.After independence this ordinance and other Statutory Instruments related to it were ratified and became an Act of Parliament, the Fish Act (1964) .⁵

The objective of the Fish Act is sustainable exploitation and conservation of fisheries resources through provision of sustainable management strategies, utilization and development of the fisheries production potential; to provide for the conservation, capture, processing and marketing of fish, the licensing and registration of fishing vessels and fishers ; to provide for aquaculture; the methods of fishing and fishing gear; and establishment of administrative structures for fisheries management including management for fish quality, processing, trade and marketing (Fish Act, Cap. 197 2000). The Fish Act was reviewed in 1967 when the constitution was changed, and in 2000 when all Acts of parliament were revised.

³ LVFO,2005

⁴ Cap197 2000

⁵ Order in council,1962

1.2 Statement of the problem.

Despite the enactment of the Fish Act that advocates for the appropriate methods to be used and also the control of the size of fish to be caught, those involved in the fishing activities still undermine the regulations placed by those authority. It is therefore crucial to state that although there has been a substantial effort globally to end bad fishing methods and harvesting of young fish, there is inadequacy of knowledge.

As a result, fishermen have resorted to use of illegal fishing gears and methods such as beach seines, cast nets, fish poison and weirs to improve their catches. This among stakeholders is thought to be coupled with failure to implement the Fish Act and the inadequacy of the Law in itself allowing for fishermen to take on destructive illegal gears in their quest to maximize the returns from fishing. This has put at risk the fisheries industry and livelihoods over three million of people dependent on it.

1.3.1 Main Objective.

The study assessed the adequacy of implementation and enforcement of the Fish Act, Cap.197 (2000) in controlling the exploitation and conservation of fisheries resources on Lake Victoria, (Uganda).

1.3.2 Specific objectives.

- i. To examine the failure to implement the Fish Act and the inadequacy of the Fish Act on Lake Victoria fisheries resources.
- ii. To examine the factors affecting implementation and enforcement of the Fish Act on Lake Victoria (Uganda).
- iii. To establish the relationship between implementation and enforcement of the Fish Act.
- iv. To investigate the relationship between the implementation of the Fish Act and level of malpractices and resource destruction in Lake Victoria (Uganda).

1.4 Research questions

- i. What are the factors affecting implementation and enforcement of the Fish Act in Uganda?
- ii. What are the causes for increased illegal fishing on Lake Victoria in Uganda?
- iii. Is the increase in illegal fishing due to gaps and missing provisions in the Fish Act or failure to implement provisions of the Fish Act?
- iv. Is the lack of appropriate provisions in the Fish Act responsible for the destruction of critical fish areas such as breeding and nursery grounds?

1.5 Scope of the study

The study has basically covered the relationship between enforcement and implementation of the Fish Act and how the agencies and the fishermen relate in conserving the Fish there in the lake. The study has cover surrounding landing sites on the Ugandan side of L. Victoria in districts of Kampala and Wakiso and the respondents of the study will include the fishermen and their family, enforcement involved plus levels of malpractice and resource destruction on L. Victoria.

1.5.2 Content scope

The study was limited to implementation and enforcement of the Fish Act, Cap.197 Uganda. The implementation of the Fish Act and/the inadequacy of the Fish Act in conservation and ensuring effective exploitation of fisheries resources in Lake Victoria and the factors affecting implementation and enforcement of the Fish Act.

1.5.3 Time scope

The study looked at the implementation and enforcement of the Fish Act, Cap.197. Therefore, the study covered within a period of 4 Month April 2016-July 2016.

1.6 Methodology

Methodology utilized qualitative in nature as, according to Leedy⁶, this methodology is aimed at description. By utilizing qualitative methodologies the research is able to evaluate both formal and normative aspects of political activity. Qualitative research is used in several academic disciplines, including political science, sociology, education and psychology. According to Peshkin (200:134) in Patton, it usually serves one or more of a set of four purposes: description, interpretation and evaluation of a hypothesis or problem.

According to QSR (a, 2011:115), qualitative research "is used to gain insight into people's attitudes, behaviors, value systems, concerns, motivations, aspirations, culture or lifestyles." QSR continues to explain qualitative research as a method of making informed decisions in both business and politics.

This study utilized a descriptive approach as it was necessary to observe and describe the challenges of creating the appropriate laws in regards to legal profession. Thus the researcher utilized a descriptive approach so as to be able to assess the challenges faced by legal profession. The descriptive approach may be considered as inductive, according to Rhodes (1995:44) as conclusions are drawn from repeated observations that is letting facts speak for themselves. Statements are made about Causes and consequences of the phenomenon being observed

1.6.1 Reliability of the instrument

Reliability is the measure of the degree to a research instrument yields consistent results after repeated trials. According to Christensen (1988), reliability of the questionnaire, the researcher employed the methods of expert judgment and pretest in order to test and improve the reliability of the questionnaire.

⁶ Established on 2001:148

1.6.2 Data gathering procedures

According to Krishnaswami (2002:197) data are facts, figure and other relevant materials, past and present that serve as bases for the study and analysis. He further states that data may be classified into primary and secondary sources. The researcher will obtain an introductory letter from the School of law of Kampala International University Kampala, Uganda, which he will present to the heads of legal institutions, heads of government ministries and authorities and leaders of Non Governmental Organizations which will involve in the study. The researcher therefore developed rapport, sought for consent and appointments with respective respondents to obtain the information.

1.6.3 Ethical considerations

To ensure that ethics is practiced in the course of the study as well as utmost confidentiality for the respondent and the data provided by them, the following will be done, (1) Coding of questionnaire (2) The respondent will be requested to sign the informed consent ;(3) Authors mentions in the study will acknowledge within the text;(4) finding will be presented in a generalized manner.

1.7 Significance of the study

The study was aimed at focusing in how law regulations and policies enforcement bodies in Uganda have enhanced on the operation of Fish Act Cap.197 (2000) because it has overtime become inadequate to ensure effective fisheries management resulting in increased fishing malpractices. This inadequacy threatens the fisheries industry and livelihoods of millions of people dependent on it.

The results of the study provided information which could be of use to NGOs involved in conservation of fisheries resources in Uganda.

The results of this study useful to the Ministry of Agriculture, Animal Industry and Fisheries in formulating policies for improving the Law and its implementation.

The findings of this study helped in establishing policies needed in controlling illegal fishing including providing suggestions in improving the relationship between implementation and enforcement of the Fisheries law.

The research was helpful to scholars who may intend to expand the research for future broadening of their knowledge.

1.8 Limitations of the study

The researcher expected some challenges during the study. Poor attitude of some respondents was one of such. For example the officers in respective departments were skeptical about responding to some questions. Some information was regarded confidential and therefore bringing difficulty in accessing it. However, the researcher built rapport and explained fully the purpose of the study, which convinced the respondents to give the confidential information.

The researcher also met some financial challenges. The process of data collection took a period of 3-4 weeks, which means that the researcher was incurring transport and other support costs. However, the researcher intended to operate on minimal expenditure. The researcher did not get the respondents in time as planned. Some of the respondents did not respect time and appointments. Also the research faced the challenge of poor roads which were brought about the heavy floods that were evident in the region. This affected the transport system the researcher was using at that time.

1.9 Chapterization

This study was arranged as follows: Chapter one covers the introduction, general background, problem statement, objectives of the study and the literature review and methodology that guided the study and chapterization.

Chapter two covers law related to fish. Chapter three will examine the legal framework and institutions in-regards to resolve the challenges and chapter five recommends and concludes on challenges intervening the actions of fish in Kampala Uganda. Chapter three

with challenges facing the fish in Uganda while chapter has been arranged with recommendations and suggestion and finally chapter five indicates the conclusion towards the challenges faced by the fish and fish men in Uganda.

1.10 Literature review

Uganda's total surface area of 241,038 km² includes 42,383Km² (18%) of water surface in the form of Lakes and rivers, dams and swamps (Hecky & Bugenyi, 1992). The main fisheries include those of Lakes Victoria, Albert, Kyoga, Edward, and George, and the relatively smaller but significant socioeconomically include fisheries of the Kazinga Channel. Victoria Nile, Albert Nile, Lake Wamala, Nabugabo complex, Kooki lakes complex, and those of Kyoga satellite lakes complex; Uganda also has close to over 165 minor Lakes found majorly in western Uganda but not productive in fisheries (Mwanja et al., 2003). Other water systems that play or have the potential to contribute to fisheries production include numerous river systems, communal or public water reservoirs, and swamps. Other sources of fisheries include floodplains rising out of seasonal and permanent wetlands (Ministry of Natural Resources, 1995). Lake Victoria is the second biggest Lake in the World with a surface area of 69,000 km². The Lake is shared between three countries, Tanzania constituting 49% of the area of the Lake, Uganda 45% and Kenya 6% (Crispin & Ikiara, 2000). The commercialization of Lake Victoria fishery has been increasing since late 1970,s and this has had increasingly significant contribution to the economies of the 3 East African Community countries that share Lakes Victoria including increase foreign exchange earnings, income earnings to the owners of fish processing and animal feeds manufacturing factories, tax income to the government, fisher incomes, and creation of employment opportunities.

According to statistical abstract (2009) and NEMA (2006), fisheries resources contribute about 2.2% of Uganda's GDP; and over 12% of the agricultural GDP (UBOS 2009). Ugandans are estimated to harvest about 430,000 tons of fish each year (DFR, 2004). The largest component of the catch being of Nile perch and Nile tilapia which come from Lakes Victoria and Kyoga. . In a bid to manage the Lake Victoria fisheries sustainably the

countries that share the Lake joined with the international community in efforts to manage and preserve its water resources, fisheries, and environment under Lake Victoria Fisheries Organization (LVFO, 1994).

In here review is made about the implementation and enforcement of the Fish Act (1964) Cap.197 (2000) and its contribution to exploitation and conservation of fisheries resources in Uganda since 1964 when it was adopted into an Act of Parliament by an order in council that created, for the first time, the Department of Fisheries. The review is presented according to the themes of the study; fish production, fishing malpractices, the international instruments used on fisheries resource, domestic legislation, management approaches, fisheries Law enforcement and, challenges of implementing the Fish Act to Conserve Fisheries Resources on Lake Victoria. The chapter concludes with identification of research gaps filled by the study.

1.11 Fish Production

A report by LVFO (2007) estimated the total biomass of fish from Lake Victoria was two million tons in 2005 and has remained about that level since the 1999 when it was first estimated to be 2.2 million tons (LVFO, 2005). However, the relative species' contribution to the fishery changed substantially, with Nile perch decreasing from 59% in 1999/2001 to 37% in 2005/06, *Rastrineobola argentea* (Dagaa) increasing from 22% to 38%, while other species rose from 15% to 24% (LVFO, 2007). A notable feature was the continuing increase in haplochromine numbers considering that this group of fishes was thought to have been nearly exterminated by Nile perch (Abila, 2002). Individual fish biomass trends on Lake Victoria from Hydro-acoustic survey data from August 1999 to August 2007 by NaFIRRI.

1.12 Fish biomass trends on Lake Victoria

The surveys show that Nile perch had the highest fish biomass in Lake Victoria in the years 1999 to 2003 although it was on a declining trend. The decline in Nile perch biomass continued through 2004 to 2007 when it was estimated at 500,000 tones. The

same data shows that haplochromine biomass estimated at 300,000 tons in 1999 steadily increased to approximately 850,000 tons in August 2007.

Majority of the fish catch was from Lake Victoria and Lake Kyoga (UBOS, 2004). By far, the most important water body in the country is Lake Victoria whose share of total catch was 61.3% in 2002 and 72.4% in 2003 compared to 42% in 1961 and 49% in 1992 (MAAIF, 2006). Lake Kyoga followed with a share of 25% and 13.6% in 2002 and 2003, respectively (MAAIF, 2006). Comparing it to 1961 when Lake Victoria and Lake Kyoga contributed about 53%, the fish catch has increased to over 87% of the national catch, presumably due to increased availability of Nile Perch (MAAIF, 2006).

According to NaFIRRI (2006), there are several fish harvesting methods. Some methods depending on specifications are recommended while others are prohibited and therefore illegal. Gill-nets and boat seines are the common fishing gears used on the Lakes (LVFO, 2005), however, they are improperly used as active gears drugged through breeding grounds while taking along all fish from the breeders to the juveniles (Abila 2002). Coupled with this, fishermen hit the water using a club locally called "tycoon" to drive the fish into these nets (Nabongo, 2007). Among key impacts of seining is that tilapia species that are mouth-brooders hold their fertilized eggs and keep their young ones in the mouth to protect them from predators, but are forced to spit them prematurely thereby disrupting the brooding process and detrimentally affecting the recruitment of tilapia fishes.

Table 1: Illegal fishing Practices

	Amount and trend of illegal gears in Lake Victoria 2000	2002	2004	2006
Gillnets less than 5" mesh size	113,177	178,205	142,618	215,049
Beach/boat seines	7,613	3,491	3,355	3,653
Cast nets	5,887	1,095	803	775

Monofilament gillnets	-	-	5,944	2,293
--------------------------	---	---	-------	-------

Table 1 indicates that the number of gillnets less than 5" mesh size has continued to increase from 113,177 in 2000 to 215, 049 (48%) in the 2006. Likewise, the survey noted a growing use of monofilament nets and beach seines on Lake Victoria, with a slight decrease in cast nets. Okwach et al (2005) points out that undersized gill-nets and boat seines are also on the increase and are considered as illegal and destructive methods; that instead of the 5-inch gill net that is recommended to catch Nile perch in Lake Victoria, the fishermen use 3.5-inch or 2.5-inch mesh nets. Boat seining was reported to be in wide used on Lakes Victoria and Kyoga (MAAIF, 2003).

The number of fishing boats on Lake Victoria (Uganda) was found to have increased by 63%; while the number of fishermen increased by 52%; and the total number of gillnets by 88% with a 90% increase in gillnets with mesh sizes below the legal limit over the period 2000 to 2006 (LVFO, 2007). The number of long line hooks increased by 159% raising concern because this gear targets large Nile perch.

Basket fishing is another illegal method (MAAIF, 2004). Basket fishing involves the use of larger wicker baskets, which are placed in suitable locations especially along rivers. This method is harmful because it targets the fish moving upstream to breed. On the other hand, isolated cases of the use of poisons in fishing had been reported in Lake Victoria parts of Jinja, Mukono and Nakasongola Districts. Poisons are illegal and their use is not only detrimental to fish but to humans as well as other marine creatures (MAAIF, 2006).

In a study about implications of fishing gears and methods to the fisheries resource, Nabongo (2007) found that various fishing methods impact negatively on the fishery and the environment at large. These include use of poison and explosives, barriers, pots and baskets, spears, dredges, traps, lampara nets, scoop nets, seine nets, trawl nets, trammel nets/ tangle net system, drifting or set gillnets of more than 30 inches, cast net and monofilament nets among others. In the same study, it was revealed that the impact of bad fishing methods on the fishery includes:

- a) Low degree of size selectivity,
- b) Seine nets in particular indiscriminately capture fish of all sizes and age groups e.g. juvenile Nile perch a target fish species or Tilapia species- by catch, which result into massive over fishing of the fish stocks.
- c) The dragging of trawl nets on the lake bottom especially near the lake margins where most fish breed, disrupts courtship on breeding grounds of fish,
- d) Trammel nets also catch smaller fish than would normally be retained due to blockage of the meshes by larger fishes,
- e) The dragging of trawl seine and cast nets destroys benthos organism, habitats which ultimately affect important food for fishes,
- f) Cast netting inshore destroys fresh water communities benthos organisms and breeding, spawning and nursery grounds of fish; disturbs ecosystem thus occasionally causing mouth breeders to spit the brood,
- g) Monofilament nets result into "ghost fishing" in the fishery.

Most fishermen are aware of the dangers of using destructive fishing gears and methods (LVFO, 2000). However, there are fishermen who are still stuck to the use of illegal methods (MAAIF, 2006). This study sought to investigate the persistence of these illegal practices when implementation and enforcement of the Fish Act are effectively done. The study also considered if involving the fisher folk in fisheries management was a positive undertaking.

1.13 research Gaps

No study has been conducted to analyse the implementation and enforcement of the Fish Act in Uganda especially on Lake Victoria. A major loophole in the implementation of the Fish Act is lack of implementation of closed seasons regulations, irregular enforcement

operations, a weak link with the Local Government staff/communities and a limited coordination between other stakeholders. Most important, this review has established that the Fish Act is not only outdated but also hasn't been adequately implemented.

CHAPTER TWO

A CRITICAL ANALYSIS OF THE LAW GOVERNING THE FISH IN UGANDA

2.1 Introduction

This section enhanced the critical analysis of the law relating to the Fish in Uganda. Much has already been written on the Fish Act no 197 of 2000 by different people at different times in different reports, surveys and discussions in the different places as well as in different places both in Uganda, east Africa and international wise, But most reporters, researchers and authors who write on the analysis of the implementation and enforcement of the fish act no197 of 2000 give the research, reports, surveys of this particular topic a perspective of the implementation and enforcement of the Fish Act no 197 of 2000in general and these include.

2.2 The international instruments for fisheries resource management

Uganda has a number of obligations under International Law that are relevant to the fisheries sector and its ultimate development. Some of these have been ratified by Uganda⁷.These include

2.2.1 The Convention on Biological Diversity (CBD)

As a party to the Convention on Biological Diversity, Uganda is required to develop national strategies, plans or programs for the conservation and the sustainable use of biological diversity including fisheries resources. In response to this obligation, Uganda has the Fish Act, National Fisheries Policy and other programs aimed at the conservation of the aquatic resources. The current policy on fisheries was adapted in 2004 ⁸

MAAIF 2004
Ibid

2.2.2 The Treaty for the Establishment of the East African Community

This treaty was signed on November 30th 1999 by the Heads of state of the participating governments (EAC Instrument 1999). The community brings together the partner states of Kenya, Uganda and Tanzania and was opened to Rwanda and Burundi.⁹ Uganda and other state parties to this community agreed to take concerted measures to foster co-operation in the joint and efficient management and the sustainable utilization of natural resources within the community for mutual benefit of the partner states. The partner states agreed to adopt common regulations for the protection of shared aquatic and terrestrial resources by adopting common policies and regulations for the conservation, management and development of fisheries resources inter alia.¹⁰

2.2.3 The Ramseur Convention (1971)

The Convention on wetlands, signed in Ramseur, a treaty providing framework for the national action and international co- operation for the conservation and wise utilization of wetlands and their resources. Uganda is a signatory to this convention and the conservation on wetlands with its habitat is necessary for the fisheries sector.

2.2.4 The Convention on International Trade in Endangered Species (CITES)

The Convention on international trade in endangered species of wild fauna and flora was entered into by states to regulate the international wildlife trade in endangered species that had caused massive declines in the numbers of many species and degraded the ecological biodiversity. It came into force on 1st July 1975 with the current membership of 146 countries. Uganda ratified it on the 18th July 1991 and it came into force 16th October 1991. The treaty gives support to the Fish Act (2000) as it contains a number of clauses relevant to conservation and trade in endangered fishes.

⁹ EAC Instrument 2007

¹⁰ EAC Instrument 2008

2.2.5 Technical Co-operation for the Promotion of the Development and Environmental Protection of the Nile Basin (TECCONILE) 1992

TECCONILE was established by the Countries in the Nile basin (TECCONILE, 1992). It represents ten countries namely; Burundi, Egypt, Ethiopia, Eritrea, Kenya, Rwanda, Sudan, Tanzania, Uganda and Zaire. The purpose of the agreement is to provide for co-operation by the signatory countries on integrated and sustainable development, conservation and in joint use of region's water resources.

2.2.6 Convention for the establishment of the Lake Victoria Fisheries Organization (1994)

In 1994 a Convention for the establishment of the Lake Victoria Fisheries Organization (LVFO) was signed by the three countries.¹¹ LVFO is an institution of the EAC that is specifically responsible for promoting proper management and optimum utilization of the fishery resources of Lake Victoria.

2.3 Domestic legislation

A number of legislations have been enacted by the Parliament of Uganda in regard to management of natural resources. These include the Supreme Law, Principle Law (Acts) and subsidiary legislations.

2.3.1 The 1995 Constitution of the Republic of Uganda

The national objectives and directive principles of state policy includes protection of the environment. "The state shall promote sustainable development and public awareness of the need to manage land, air and water resources in a balanced and sustainable manner for the present and future generations". Therefore there is need for the utilization of the natural resources of Uganda in such away as to meet the development and environmental needs of present and future generations of Ugandans. In particular, the state shall take all possible measures to prevent or minimize damage and destruction to land, air and

¹¹ LVFO, 1994

water resources resulting from pollution or other causes. This implies that the Constitution of Uganda supports the Fish Act that seeks to boost fish production. The protection and preservation of the environment from abuse, pollution and degradation and to manage the environment for sustainable development and environmental awareness is provided. All Laws, Acts and decisions must not violate it.¹²

2.3.2 The National Environmental Act, Cap. 153

The National Environment Act provides for sustainable management of the environment, establishment of an authority for coordinating, monitoring and supervising environmental matters.¹³ The Act particularly lays down principles of environment management and above all the use and conservation of environment and natural resources of Uganda equitably and for the benefit of both present and future generations.

The Act further provides for limits on the use of lakes and rivers and the management of river banks and Lake Shores. The National Environment Act therefore complements the Fish Act in regulating water resource utilization including fishing.

2.4 The Fish Act, Cap. 197 (2000)

The Fish Act makes legal provision for the control of fishing, the conservation of fish, the purchase, sale, marketing and processing of fish and any other matters connected therewith.

The Fish Act further provides that any person who uses any vessel in any waters of Uganda unless with valid fishing license to fish either with long lines or with nets or any other methods or fishes from any such licensed vessel but using any unauthorized method declared so by the Chief Fisheries Officer commits an offence. Therefore, if a vessel is licensed, the owner shall before using it or causing it to be used to fish, have the

¹² The 1995 Constitution of the Republic of Uganda

¹³ National Environmental statute, 1995

registration letters and serial numbers assigned to him or her to be painted on the vessel in the prescribed manner.¹⁴

The Fish Act clearly regulates the capture of immature fish in any waters in Uganda. If any person in any waters of Uganda captures, kills or injures any fish which is immature or buys, sells, exposes for sale or is in possession of any fish or part of a fish, which is immature and such immature fish was taken from any waters in Uganda except if it happens accidentally; commits an offence. There are some prohibited nets or methods of fishing. Therefore, if such an offence is committed or any other offence provided under the Act is committed, the fisheries officer has powers of a public prosecutor subject to the express provisions of the Director of public prosecutions¹⁵.

Under the Fish Act, there are authorized officers who have the powers to weigh, measure and check any captured fish or any dried fish product, seize and destroy any vessel, the interior overall length is no greater than twenty eight feet, net, long line, basket, trap or appliance found on the shore beside or in the water in contravention of the Act.

2.5 Management approaches

Management approaches are systems that facilitate fisheries planning and organization for sustainable exploitation and conservation of fisheries resources. Co-management is one of the management approaches adopted by DFR to ensure sustainable exploitation and conservation of fisheries resources (The Fish (Beach Management Unit) Rules 2003, No 35). Co-management is defined as a partnership arrangement in which Government; the community exploiting the fisheries resource directly, resource stakeholders and external change agents share the information of Beach management Units.

In Uganda, BMUs are also regarded as farmer groups through which new Government implemented programs and the National Agricultural Advisory Services (NAADS) addressing capture fisheries management issues can be extended. BMUs help to enforce

¹⁴ Fishing rules statutory instrument 197-1 of the Fish Act

¹⁵ Ibid

the Fish Act regulations by their ability to set management rules locally and at lake wide level through by-laws and ordinances.

Activities and Achievements of co management authorities in 2010/2011¹⁶

(I) Fishing communities in Mukono, Wakiso and Kampala were sensitized on dangers and legal implications of the practice;

(ii) With support from ACP Fish II Project three Senior Fisheries Officers attended a Regional Training on Co-Management organized for Burundi, Ethiopia, Kenya, Rwanda, Sudan, Tanzania and Uganda in Jinja;

(Iii) Election of new BMU committees were followed up by correspondences with district Chief Administrative Officer and District Fisheries Officers;

(iv) Petitions over BMU elections from Kasese, Mayuge and Namayengo districts were followed up and conflicts thereof arbitrated;

(v) The Fish (Beach Management) Rules, 2003 were revised draft in place;

(vi) With support from Fish Quality Assurance and Marketing Project (FQAMP) newly elected BMU committees in Hoima, Buyende and Bullisa districts were orientated/ trained on BMU operations and co-management.

2.6 Implementation of the fish Act

As part of the efforts to implement the Fish Act, the Department of Fisheries Resources adopted a number of measures for management of the fisheries resources of Lake Victoria including: licensing; limiting the size of fish (Nile perch and Nile tilapia) harvested; limiting the minimum mesh size of gill net to be used on the lake; prohibiting a number of fishing gears and methods and touched in fishing power especially in relation

¹⁶Report Assessment of IUU activities on L.victoria 2012

to cross-border fishing and fish trade, closed seasons and closed area restrictions. These are briefly reviewed in the following sections:

2.6.1 Licensing

Licensing is the main tool for control of access to the fisheries of Lake Victoria¹⁷. The East African Community States agreed that nationals from neighboring states would be allowed to fish in the waters of another country as long as they comply with applicable laws and regulations of the country (LVFO, 2000). Fishers from other East African States are however treated as foreigners and the conditions for licensing foreigners are very prohibitive.¹⁸

The 2001 Fishing (Amendment) Rules, No. 73 caused a problem of over licensing and too many boats and fishers were licensed by Local governments because there was no regard to provisions that prohibit licensing of the under sized boats (less than 28 feet) and licensing of excessive fishing effort without regard to the available fisheries resources when licensing was delegated to local authorities. Most local authorities used the licensing for revenue tendering out the licensing exercise while others passed on the exercise to other agencies because it was too costly and the Department of Fisheries Resources had not given corresponding funds and guidelines however

Parliament approved a Fisheries Management and Development Fund to be operational beginning F/Y 2011/12¹⁹, and the statutory instrument to operationalise this fund .DFR recalled the licensing exercise from the districts back to the centre. Regulation unit coordinated this activity with Local Governments in vetting application forms and subsequent issue of licenses. The application fee is 10,000 shillings while the license fee varies according to the activity applied for.

¹⁷ ibid

¹⁸ (Heck et al, 2004).

¹⁹ Fish (Amendment) Act of 2011

2.6.2 Limiting the size of fish harvested.

The size of Nile perch to be harvested has been set within a slot size of 50 cm to 85 cm and the minimum size of Nile tilapia to be harvested as been set at 25 cm.²⁰ The Fish (Immature Fish) Instrument, 2002 No. 73 was formulated by the Chief Fisheries Officer for this effect. This statutory instrument is though questionable because there is no provision for the Chief Fisheries Officer in the Fish Act to make Statutory Instruments and Rules.

2.6.3. Limiting the minimum mesh size of gillnet.

Gillnets and hooks are selective and catch only certain sizes ranges of fish. The limitation on the number of nets per vessel amended in 2002 is the appropriate instrument to this effect. The minimum mesh size of gill nets of 127 mm (5 inches) was intended to avoid catching immature Nile perch and Nile Tilapia. According to the National Report of the Frame Survey (2006) on Lake Victoria, there were 91,740 gillnets of less than 5 inches in 2006 while there were 54,454 gillnets of the same size in the year 2000. This 59% increase in the number of gillnets on the Ugandan part of Lake Victoria contributed to increased fishing pressure on the available fisheries resources never the less, the decrease of the illegal gill nets from 2010 to 2012 was by 10.4% which is not very big with 2.5 inches.²¹

2.6.4 Prohibition of certain fishing gears and methods

Mono-filament gillnets are banned because they highly non selective and as such catch a lot more fish compared to ordinary nets (NaFIRRI, 2006). The 2010 Frame survey recorded 12,115 Monofilament nets, an increase of 8.1% from 2016 and in 2012 there was an Increase to 15,148 (25%).The use of these nets is a very serious problem in the lake Similarly, illegal monofilament gillnets were encountered and they have Increased by 25% between 2010 and 2012. More dedicated efforts are required to eradicate these

²⁰ LVFO2005

²¹ National Report of frame survey 2012

destructive gears from the lake. In addition, they do not decay and continue to fish for a long time when lost (ghost fishers). Beach seines have been banned because most are not selective and are used on beaches in shallow inshore often breeding areas where they may destroy tilapia nests and nursery grounds for all other species (DFR, 2016). An increase in beach seines up to 103% between 2000 and 2016 and increasing persistently has been reported by the National Report of the Frame Survey. This shows that more effort by the DFR is needed to destroy and stop use of these beach seines. Trawl nets have been banned because they are not selective and also sweep and destroy gear of small scale fishers. Cast-nets are prohibited because they used in breeding areas of tilapia. According to the National Report of the Frame Survey (2012) for Lake Victoria, there were 1372 cast nets in the year 2010. Dynamites and Poison are all highly unselective and use of poison kills other organisms and makes the fish unsuitable for human consumption²².

2.6.5 Restricting fishing during certain times and seasons

Closed seasons are intended to stop fishing during critical time in the fishery such as the breeding season. Closed seasons ²³have not been applied on Lake Victoria. However, it aimed at protecting juvenile of the larger species during the breeding season but has not been implemented by DFR since the colonial time. However, the Fish Act Cap. 197, of 2000 provides for closed seasons and states that the Minister may declare that during such a period as may be specified in the order, it shall be an offence to fish for any fish of any species specified in the order.²⁴

2.6.6 Limiting fishing in certain areas

Closed fishing areas are aimed at protecting certain species, biodiversity hot spots and development stages of particular species. Closed areas have also not been applied widely on Lake Victoria but there are some areas of the Lake with marine protected areas.

²² ibid

²³

²⁴ Section 9

Efforts are also being made to protect the endangered species such as rocky outcrops, marginal areas, and satellite Lakes to protect endangered species. However, a closed area rule statutory instrument is being developed by DFR.

2.7 Fisheries Law Enforcement.

In Uganda, the Department of Fisheries Resources (DFR) of the Ministry of Agriculture, Animal Industry and Fisheries has overall control of all Monitoring, Control and Surveillance (MCS) patrols related to fisheries on lakes. Surveillance activities are generally undertaken in close collaboration, and resource sharing, with other stakeholders such as Marine Police, Local Government fisheries staff and BMUs where appropriate.

²⁵The Regulation Unit coordinates patrols to ensure that there is harmony and linkages between all agencies involved²⁶. However, this is not a legal provision but a working relationship between DFR and other stakeholders. For other agencies, there is lack of legal provisions for effective collaboration against abuse of the resource.

A National Fisheries Taskforce (NFT) was formed constituting Officers from Department of Fisheries Resources, Uganda Fish Processors and Exporters Association (UFPEA), Uganda Police, Uganda Revenue Authority, Beach Management Unit representative. The main objectives of the NFT are;

- i. Enforce relevant laws and control illegal importing and criminal use of illegal fishing gears, trading in immature fish, trading without proper documentation, smuggling and practicing Illegal Unregulated Unrecorded (IUU) fishing;
- i. To promote enforcement through joint and synergistic action with relevant Departments;
- ii. To regulate transactions and trafficking in contraband fish and fisheries related products.
- iii. Developed Guidelines on importation and marketing of fishing gears.

²⁵ LVFO 2005

²⁶ MAAIF2006

CHAPTER THREE

CHALLENGES FACING THE FISH AND FISH MEN IN UGANDA

3.1 Introduction

The study looked at all the challenges facing the legal profession in Uganda observing the laws that are governing the legal profession in Uganda.

3.2 Challenges faced by Fish and Fisheries

Overexploitation is also related to technological change. Changes in the efficiency of fishing gears, motorization of canoes and increase in total fishing effort to maintain production have contributed to the decline of the Nile perch since the mid-1990s (Bwathondi et al., 2001). Most of the East African region's factories suffer from fish supply problems, attributed to low catches and competition with other fish factories (SEDAWOG, 1999) and in order to stay operational, they drive fishermen to catch more fish but Inadequate knowledge on the status of fish stocks in all water bodies on which to establish sustainable levels of fishing is a problem²⁷;

Dwindling fish stocks are necessitating increased effort in terms of implementation and enforcement of the law in order to maintain the same level of catch. According to Odada et al (2004) there has been a reduction in mesh size of nets used, and an increased proportion of immature fish in the catches. Mesh sizes have progressively declined over the past 10 years or so with 24% of the nets in Uganda below the recommended mesh size of 5 inches, and more recent beach surveys (L. Muhoozi, cited in Bwathondi et al, 2001) suggest that this is as high as 50%. In Kenya and Tanzania, 3 and 18%, respectively, the gill nets are below the legal mesh size limits (ibid Lake Victoria catches show that mosquito seine and beach seine landings have increased despite a ban on their use, while the gillnet and long-line contributions have declined (Othina, 1999). Rent-seeking behavior probably accounts for up to 20% of the contribution to destructive fishing practices.

²⁷ DFR 2011

Odongkara and Okaronon (1999) noted that technological change has come about mainly due to demand for large volumes of high quality fish to supply the fish processing factories driven by the huge export market. A number of fish processing plants have been constructed along the shores of the lake, with 16 licensed to operate in the Uganda sector of the lake (DFR, 2016).

3.3 Increased fishing pressure due to increased population

The large number of processing factories in Uganda, whose capacity is about 180,000 tonnes versus the total processable fish landings for the Uganda part of Lake Victoria of 220,800 tonnes, is an important driver of overexploitation of the fishery.

Of the factories currently operating in the region, the majority commenced operations after 1990, an indication of the region's relatively recent entry into the global fish market (SEDAWOG, 1999). Decline in bigger species of higher commercial value which are being replaced by smaller species of low commercial value²⁸ (DFR 2011). Abila (2002) indicates that the high demand for processed fish products is driven mainly by the large export market for Nile perch fillets that emerged in the early 1990s. The marketing of Lake Victoria's fish was localized within the riparian states during the pre-Nile perch era, industry, and the unrestricted access status of the lake are secondary drivers to high demand for export market.

With the reduction in catch per unit effort and landings per boat, the gap between the richest and poorest fishers on Lake Victoria has widened, and the gap between the benefits obtained from the fishery by vessel owners and employed fishermen has also widened (Othina, 1999). In addition, the scarcity of fish has led to increased fish prices at the landing sites (Bwathondi et al, 2001). Firms with more purchasing power have displaced processors who were unable to compete for the reduced landings. Some of these processors were as a result forced to close down.

²⁸ DFR 2011

3.4 Environmental threats to lake Victoria fishery.

Odada et al (2004) noted that Lake Victoria is an international water body that offers the riparian communities a large number of extremely important environmental services. However, over the past three decades or so, the lake has come under increasing and considerable pressure from a variety of interlinked human activities such as over fishing, species introductions, industrial pollution, eutrophication, and sedimentation.

Water hyacinth (*Eichhornia crassipes*) is a flowering plant, whose origin is thought to be the Amazon areas of Brazil. It appeared in Lake Naivasha in Kenya in 1982, and in Lake Kioga in Uganda in 1988. It is especially concentrated in Ugandan waters, possibly because the prevailing southerly winds blow mats of the weed all the way from the mouth of the Kagera River, down which the mats flow from lakes far up in the catchments in Rwanda and Burundi. The hyacinth also flourishes in nutrient-rich waters, as those along the Uganda shoreline of the lake are believed to be. The main detrimental effects of the spreading mats of water hyacinth are as follows:

- i. reduction in fish in the lake through de-oxygenation of water and reduction of nutrients in sheltered bays which are breeding and nursery grounds for fish, particularly tilapia;
 - ii. physical interference with fishing operations, especially in the bays where fish are brought ashore to piers or landing beaches;
 - iii. physical interference with commercial transportation services for people and goods on the lake;
 - iv. physical interference with access to water supply from the lake, for both urban and rural communities, together with additions to the cost of purifying water with higher concentrations of suspended, decaying organic matter as a result of the hyacinth presence;
 - v. threats to the intakes at the Owen Falls hydroelectric power station in Uganda;
- and

- vi. Provision of a preferred breeding habitat for the alternative host for Schistosomiasis (bilharzia), namely the *Biomphalaria* snail, a home for the vector mosquito for malaria, and a haven for snakes.²⁹

3.5 Water Pollution

Some areas of the rivers feeding the lake and the shoreline are particularly polluted by municipal and industrial discharges. Some information has been collected by local and national authorities on the scale and location of polluting industries, and there are a number of basic industries that are common to most of the major urban areas, for example, breweries, tanning, fish processing, agro processing (sugar, coffee) and abattoirs. Some of these have implemented pollution management measures but in general the level of industrial pollution control is low.³⁰

Table 2: Illegal gear confiscations and 2008 Frame survey counts on Lake Victoria (Uganda)

Illegal gears	<i>No. of confiscated gears (2004 – 08)</i>	<i>Frame survey (Prov. 2008)</i>
Beach seines	2,522	1,960
Monofilament nets	5,863	11,196
Undersized gillnets	16,867	67,836

Source: Okware, P. (2008). *Compliance to fisheries regulations and use of indigenous knowledge in fisheries management*.

Data presented in Table 2 indicates the number of illegal fishing gears confiscated by law enforcement personnel during MCS operations on Lake Victoria (Uganda). The data shows that undersized gillnets were the common illegal fishing gears on Lake Victoria (Uganda). Beach seines were the less confiscated gears. According to Okware (2008), the operations done towards compliance involved; border operations to intercept containers of illegal fishing gears imported into the country; intelligence based land and water

²⁹ Lake Victoria Environmental plan 2012

³⁰ ibid

operations targeting hot spots for the capture and processing of undersized fish; operations in fish markets and impromptu road blocks targeting dealers in undersized fish and; BMU patrolling their areas with security agencies.

3.6 Socio-economic status of the fishermen on Lake Victoria

Besides, the poor living conditions of almost all fishing communities in Uganda are extremely very poor (NEMA, 2002). In 1994, 65% of all the landing sites reported poor conditions. Due to poor sanitation, there is high likelihood of prevalence of a number of diseases such as malaria and other waterborne diseases including dysentery, bilharzias, diarrhea and sometimes cholera and typhoid let alone HIV/AIDS. Just like their counterparts in some other parts of the world, the fishermen in Uganda are generally very poor people (Muhoozi, 2002). Although the fishermen are assured of a daily income, they still remain below the poverty line (Muhoozi, 2002). One of the methods such as smoking that they use to preserve the fish not only poses a health hazard but also, to some extent, is the major cause of localised deforestation for fuel wood used in fish smoking (NEMA, 2006).

A study by Omwega, Abila and Lwenya (2005) revealed that fishing is an important source of livelihood for many Kenyans for many years. It is also an important source of animal protein, especially for most people living around the lake. In theory fishers of Lake Victoria are regarded as the poorest group of people in all sectors of the economy. Looking at the way they live, the way they look, assets they own, saving habits and their family sizes one wonders (Omwega et al., 2005). When one enters at the beach and look at the fishers, most of them look weak, poorly dressed, drunk and live in poor housing structures. They have many dependants, wives, orphans and widows to feed. Since fishing is an important source of livelihood for many people, the implementation and enforcement of the Fish Act needs to consider the socio-economic status of the fisher folk.

CHAPTER FOUR

THE REGULATORY FRAMEWORK AGAINST FISH

4.1 Introduction

The basic policy underlying our existing fisheries regulations contained in the Fish and Crocodiles Act 1964 of the Laws of Uganda: "to manage the fishery resources so that we can obtain the maximum net benefits from them." This implies an obligation on the part of Government to manage the fisheries for the common benefit of the citizenry. Any regulatory measures must therefore provide a framework for defining and modifying objectives for different situations and must take account of enforcement. It should, however, be noted that mortality in a fishery is functionally related to four factors: the number of operating economic units, their catching power, their total fishing time and their spatial distribution during the fishing period (Gulland, 1977). So effective controls based on reducing fishing mortality must operate through one or more of these factors. Control of access to the fishery, imposition of restrictive access fees and a host of other management measures such as mesh size regulations, gear restrictions, minimum legal size regulations, etc. are employed in fisheries legislation. Management of fisheries can, therefore, be considered as the direct or indirect regulations of effective fishing effort in order to achieve an overall objective that reflects societal priorities (Greboval, 1990).

4.2 The regulations that govern

The Fish Act, 2000³¹, makes provision generally for "the control of fishing, the conservation of fish, the purchase, sale, marketing and processing of fish, the catching and processing of crocodiles, the sale and control of the movement of the skins thereof, and matters connected therewith." The Act also provides for the making of "Fishing Rules generally for the better carrying out of the purposes of this Act."

The Act is currently being applied by the Fisheries Department in the implementation of fisheries management policy of this country that is to ensure that an optimal sustainable

³¹ The fish act of 2000

economic yield of fish is obtained from the national bodies of water through scientific management of the fisheries resources. The Act is therefore one of the tools to ensure the success of the management plan.

In general, variable management measures can be imposed by regulations or as conditions for licence. The Act provides for both. For Lake Victoria, provisions have been made at one time or another for gear ban, mesh size regulations, closed seasons and areas, places and time for landing of fish, licensing, taxes on effort, access fees, fishing and fish processing, transfer of fish and eggs, pollution, immature fish, buoying of set nets, obstruction to navigation, and for private marks. Section 43 of the Act³² empowers the Minister concerned to gazette Statutory Instruments to amend or strengthen the Fishing Rules.

4.3 Control of Access

The Act grants access to the fisheries through the provision of fishing vessel licences to nationals; non-Ugandans are required by the Act to obtain specific or special licences before being permitted access and the use of any fishing vessel licensed under the Act (Sec. 7 and 13). Similar procedure is followed in granting access to fish processing and marketing; i.e. through the issue of specific licences (Sec. 8 of the Act).

An amendment has been proposed to reinstate Section 5 of the 1951 Ordinance which required every fishermen to be licensed.

A Committee on Fisheries Exploitation has recently been established to assess and ensure that access to fishing, fish processing and fish marketing is related to sustained availability of the resources and to an optimal level and distribution of returns to social resources, to the industry and to the national economy.

³² Chap. 228 of the Laws

4.4 Access Fees

Since fisheries are valuable national economic resources like forest or a mine, it is only fair to charge for the economic benefit conferred on the user. It is already a requirement under the Act (Sec. 15) for a fisherman to obtain a fishing vessel licence on the basis of a calendar year. The Act, in Sec. 16 to 24, contains a number of special conditions for licences. They restrict the duration of the licences and prohibit their transfers, assignments and borrowing; they specify procedures to follow on loss etc., of licence. Production of licences on demand by authorised officers, punishment for false statements and the powers to restrict number of licences are additional conditions.

It is now being proposed that the conditions should also restrict a fishing vessel to specified areas, require landing in a specific location, restrict fishing from any vessel with more specified gears than may be authorised and prevent the sale of fish on water and during forbidden period. The proposal shall also require that the unit to licence should extend to the types and number of gears in use on the vessel. Where gear alone, such as seines and traps, is employed, it should also be licensed. Fishermen should also be licensed particularly for activities that do not require a vessel.

The amount of fees charged should be reviewed from time to time to cater for inflation, and since they also serve both to raise revenue and to ration access to the fisheries.

Government policy for the fisheries sector has been reviewed and is now is currently being considered at Cabinet level. The draft document recognizes the need for sectoral development to proceed according to principles of 'rational exploitation' and 'sustainability,' and to achieve a balance of benefits between domestic food and employment provision requirements, and generation of foreign exchange through export sales. The policy paper also proposes an administrative shift, from a Ministerial Department to a completely autonomous fisheries management body, to be known as Uganda Fisheries Authority.

The principal legislation and management measures are the basic fisheries legislation set out in the Fish Act (Cap. 197 2000), and the Trout Protection Act (Cap. 229, Rev. 1964). These are currently under review. The Fish and Crocodiles Act (known as the Fish Act, 2000) empowers the Chief Fisheries Officer (Commissioner for Fisheries), acting for the Minister, to gazette Statutory Instruments to facilitate purposes of the Act. 'Administrative Orders' are also authorized. Such orders are issued on an ad hoc basis to promote or control the activities of fishers and traders. They do not however carry the force of law i.e. they are not actionable in court.

4.5 Management Measures

4.5.1 Restrictions on Fishing Gears and Methods

The Act has general restrictions on types, mesh-sizes and dimensions of fishing gears and methods of fishing which are considered destructive to the fish stocks. The responsible Minister as well as the Commissioner for Fisheries are empowered to limit the number of licences which may be issued under the Act either generally or in respect of any particular waters or area of Uganda. The Fishing Rules provides for specific numbers, dimensions, mesh-sizes and methods in respect of controlled lakes but not for Lake Victoria.

This section is now being strengthened by adding mesh size regulations, limited entry and licensing, and closed seasons as well as a ban on destructive fishing methods. The Rules are also being amended to provide for closed areas in identified breeding places, fixed prices for fish landed, and stiff punishment for violations of any of the rules.

4.5.2 Minimum Size Regulations

The Act as amended by Statutory Instrument No. 15 of 1981 sets out minimum legal size at which fish are to be taken in accordance with Section 35 of the Act. But the current rules refer to Nile Tilapia (*Oreochromis niloticus*) and Nile Perch (*Lates niloticus*). It has been proposed to extend this rule to bear on the other commercially important fish species such as *Hydrocynus*, *Alestes*, *Bagrus*, *Clarias*, *Barbus*, and other Tilapine species as well as *Rastrineobola*.

4.5.3 Prohibited Fishing Methods and Gears

Use of other destructive methods such as poisons, explosives, noxious substances, lamp, light, fluorescence torch or electrical device for fishing is forbidden under the Act (Sec. 9) except in cases where permission is granted in writing by the Commissioner for Fisheries, such as in the case of light fishing for *Rastrineobola*. It is important that the use of these other devices remains illegal under the Act.

4.5.3 Closed Areas and Seasons

These measures which aim at improving the productivity of the resource by ensuring the uninterrupted spawning and growth of juvenile fish have not been introduced on Lake Victoria. They can also be used to control total effort and catch. Despite the inconveniences these methods provide, they are being proposed for Lake Victoria, particularly with respect to closed areas.

4.5.4 Fish Introductions

The prohibition against introduction or transfer of fish or eggs without prior consent in writing of the Commissioner for Fisheries will be extended to include other fisheries resources such as aquatic animals and plants. Section 14 of the Act should be strengthened against illegal diversion of waters of any lake, river, stream, pond or private waters in which fish has been introduced.

4.6 Regulations on Fish Processing and Fish Trade

Restriction on fish processing and marketing as specified in Section 8 of the Act is being further strengthened to take into account fish product standards which should include legal authority to certify the quality of fish products destined to both local and export consumer markets.

In the case of industrial processing and marketing, which are now mushrooming in Uganda, the law is being strengthened to require that the installation of processing

capacity must be related to sustained availability of the resources. This implies that expansion of production capacities should not occur without obtaining advice on the situation of fish stocks and on the national policy on access to the exploitation of the nation's natural resources.

4.6.1 Additional Rules and Regulations

Laws regarding the collection of fisheries statistics, fisheries research, and pollution are being strengthened in the Act. Section 38 (a) and 39 of the Act which provided for the collection of statistics is being reinforced through providing for stiffer punishment for obstructions and misinformation. It is being proposed that industrial fishermen (trawlers and purse seiners) be required to fill out statistical survey forms and submit monthly returns on catch, effort, costs and prices.

While researchers and their vessels, on application, may be exempted by the Commissioner for Fisheries from management measures, it is being proposed that they be required by laws to file approved research plans and to report results in raw data and analysed forms to the Commissioner for Fisheries. Where foreigners are involved, provisions are being made for the use of local crew and researchers on board.

The discharge of industrial and domestic effluents directly into the waters of Lake Victoria to such an extent as to cause any waters thereof to be poisonous or injurious to fish, or to the spawning grounds, spawn, or food of fish was prohibited under the Lake Victoria Fisheries Act, 1950. This is being revived in the proposed Amendment Act. Installation of waste treatment plants by industries discharging liquid pollutants shall also be a requirement.

4.7 Law Enforcement

In the Act "Authorised Officers includes a Fisheries Officer, a Chief Magistrate, a Magistrate of any grade, a Police Officer of or above the rank of corporal or any employee of the Fisheries Department authorised in writing in that behalf by the Chief Fisheries

Officer - The Commissioner for Fisheries.” These officers are, under the Act, authorised to enforce the content of the Act and the Rules thereof. This role, however, more often than not conflicts with the role of fisheries personnel as extension workers. Police and other personnel could be used, but they usually lack the necessary knowledge of fisheries.

Because of the limited means, fisheries law enforcement must be cost-effective. Rather than beginning with the problem of enforcing certain regulations, the approach should be first to revise the regulation themselves to aim at conditions that are easy to comply with and easy to enforce. It is, for example, being proposed that every fisherman operates from gazetted Fish Landings. This means Fish Landings must first be defined and gazetted. Sale of fish on water is also being prohibited.

According to the *Lwanga v Uganda Electricity Board*³³ case court held that the electricity board was not to pass the lines underground because the fish was already in the pond in the case of *Uganda vs kawooya* the judiciary as the arm of government condemned the manner in which a fisherman was killed citing that he was beneficiary to the growth of fishing

No matter how easy conditions are to comply with, certain legal powers is necessary. Many are found in general police and criminal procedure laws, but some are peculiar to fisheries. The most important, and those which have been included in the Act are the powers to stop and search vessels (necessary on large lakes) and inspect fish, gear and documents routinely with any suspicion of an infraction. Where crime is discovered aboard vessel, powers of seizure and arrest are required in order to prevent the culprit and his catch from sailing away. The same powers shall apply for the routine inspection of establishments for fish processing routinely. The need for other powers such as stopping and searching vehicles and buildings which are no different for fisheries than for other sectors have also been proposed for enactment. The Act currently empowers authorised officers to enforce fisheries regulations as provided for in Sections 31 to 40 of the Act. But since the police and other personnel usually lack the necessary knowledge of

³³ Civil Suit No. 124 Of 2003) [2013] UGHCCD 28 (25 February 2013)

fisheries, it has been suggested that the law should require them to always operate side by side with fisheries personnel. The law should also encourage the fisheries communities and the public to work closely with the authorised officers in enforcing fisheries regulations. Joint participation in law enforcement would greatly reduce incidences of infringements.

4.8 Local government

The District acts as the primary link to the centre. Policies, laws and finances are cascaded down to the sub- at this level that the day-to-day hands-on interaction with fisheries communities and their institutions occurs. Planning for fishery community development and poverty reduction, Seeking funding for fishery-community-led development projects, Ensuring compliance with national laws and policies on water bodies and adapting national laws and policies to local needs.

Management of the fisheries in Uganda is a joint task carried out by several institutions directly under or alongside the department of fisheries resources. The government of Uganda has set Fisheries management regulations including the Fish Act of 1967 for the control of fish and conservation of fish and all matters of fisheries and fisheries products' transactions. There is also a fisheries policy from MAAIF giving guiding principles on the management of the resource under local and international law (MAAIF 2004). In terms of responsible fisheries, food safety and marketing, the rules and regulations are enforced by issuing permits to stakeholders; are domestic, regional and international. The permits and respective tariffs act as barriers to entry into or exit from the fishery and specific markets.

The MAAIF fisheries policy gives stipulates the way forward for development of commercial aquaculture whose strategy has been recently drafted (Wathum & Rutaisire 2008). The government has also put in place rules for governing aquaculture as an enterprise (GoU 2003). Further still, responsible aquaculture is ensured by issuing permits to stakeholders from farm siting to marketing of farmed fish products. Similar to the capture fisheries permits and respective tariffs, permits in aquaculture can act as barriers

to entry or exit in production and marketing. Uganda is still in the process of developing certification procedures and regulations that will aid in international exportation of aquaculture products.

4.9 Government institutions

Ministry of Agriculture, Animal Industry and Fisheries (Ministry responsible for fisheries)
Ministry of Agriculture, Animal Industry and Fisheries is a Government Ministry charged with creating an enabling environment in the Agricultural Sector. It is commonly known as Ministry of Agriculture and carries out its role by enhancing crop production, improving food and nutrition security, widening export base and improved incomes of the farmers.

The Ministry is the overseer of the Agricultural sector where it formulates, reviews and implement national policies, plans, strategies, regulations and standards and enforce laws, regulations and standards along the value chain of crops, livestock and fisheries. The Ministry of Agriculture has Directorates which include Animal Resources, Crop Resources, and Departments for Planning, Finance and Administration.

The Ministry has specialized unites and agencies to works and these are National Agricultural Advisory Services (NAADS), National Animal Genetic Resource Centre and Data Bank (NAGRC&DB) , Coordinating Office for the Control of Trypanosomiasis in Uganda (COCTU), Diary Development Authority (DDA) , Uganda Coffee Development Authority (UCDA) and Cotton Development Organization (CDO).

4.9.1 Mandate

Ministry of Agriculture, Animal Industry and Fisheries is mandated to:

Formulate, review and implement national policies, plans, strategies, regulations and standards and enforce laws, regulations and standards along the value chain of crops, livestock and fisheries; Control and manage epidemics and disasters, and support the control of sporadic and endemic diseases, pests and vectors; Regulate the use of agricultural chemicals, veterinary drugs, biological, planting and stocking materials as well

as other inputs; Support the development of infrastructure and use of water for agricultural production along livestock, crop and fisheries value chains; Establish sustainable systems to collect, process, maintain and disseminate agricultural statistics and information; Support provision of planting and stocking materials and other inputs to increase production and commercialization of agriculture for food security and household income; Develop public infrastructure to support production, quality / safety assurance and value-addition along the livestock, crop and fisheries commodity chains; Monitor, inspect, evaluate and harmonize activities in the agricultural sector including local governments; Strengthen human and institutional capacity and mobilize financial and technical resources for delivery of agricultural services; Develop and promote collaborative mechanisms nationally, regionally and internationally on issues pertaining to the sector; Department of Fisheries Resources (Competent authority and agency for fisheries development and management)

4.10 National Fisheries Resources Research Institute (NaFIRRI)

The National Fisheries Resources Research Institute (NaFIRRI) is a semi-autonomous Public Agricultural Research Institute (PARI) of Uganda, established by the National Agricultural Research Act 2005, headed by a Management Committee and operating under the National Agricultural Research System (NARS). The British colonial Government established it in 1947 as the East African Fisheries Research Organisation (EAFRO). Later in 1960 the name of the Organisation was changed to the East African Freshwater Fisheries Research Organisation (EAFPRO). Following the East African Community (EAC) break up in 1977, the Government of Uganda took it over as the Uganda Freshwater Fisheries Research Organisation (UFFRO). When the National Agricultural Research Organisation (NARO) was formed in 1992, the name of the organisation was changed to Fisheries Research Institute (FIRI), and later to Fisheries Resources Research Institute (FIRRI).

Sustainable fishery on Lake Victoria: Exploitation, gears, fishing methods and management, Fish is important for good nutrition and fishery activities generate income

and employment. However, industrial and intensive fishing and also wrong fishing methods deplete fish stocks. In Uganda, the major fishing activities are on the Lake Victoria, one of the African great lakes and the second largest in the world, and provide employment, income, and export earnings to the communities living around. Lake Victoria fishing is a mainly commercial fishery and need to be well managed in order to make it sustainable and preserve the commercial fish species. The National Fisheries resources research institute (NaFIRRI), as one of the established Public Agricultural Research Institutes, generates knowledge base and develop fisheries technologies for increased but sustainable fish production, conservation of the fisheries genetic resources, water quality and fish habitat, and ensures product dissemination and quality, develop and manage research and required linkages with stakeholders. Below are some advices they give for fisher communities and fishery managers for sustainable commercial fishery management on Lake Victoria.

4.11 Inter-governmental organizations

Lake Victoria Fisheries Organization (LVFO) (Harmonization of legislation, policies, regulations and management approaches in the three East African countries; acting as a body for conflict resolution; and joint management action for the three riparian states in the area of Lake Victoria development)

4.12 Lake Victoria Fisheries Organization

LVFO was formed through a Convention signed in 1994 by the East African Community Partner States of Kenya, Tanzania and Uganda as a result of the need to manage the fisheries resources of Lake Victoria in a coordinated manner. The Organisation is an institution of the EAC whose aim is to harmonise, develop and adopt conservation and management measures for the sustainable utilisation of living resources of Lake Victoria to optimise socio-economic benefits from the basin for the three Partner States.

The fisheries of Lake Victoria are shared between Kenya, Tanzania and Uganda and provide an immense source of income, employment, food and foreign exchange for East

Africa. The lake produces a fish catch of over 800,000 tonnes fish annually, currently worth about US \$590 million of which US \$340 million is generated at the shore and a further US\$ 250 million a year is earned in exports from the Nile perch fishery. The lake fisheries support almost 2 million people with household incomes and meet the annual fish consumption needs of almost 22 million people in the region.

LVFO is implementing fisheries co-management on Lake Victoria, by legally empowering fisheries communities to become equal and active partners with Government in fisheries management and development. LVFO is guiding, supporting and implementing the building of the capacity of communities to participate in management and is making a real difference to their lives.

4.12.1 Objectives

Lake Victoria Fisheries Organization (LVFO) is a specialized Institution of EAC with the mandate to coordinate the management of the fisheries resources of Lake Victoria for sustainable development and utilization, and to spearhead aquaculture development in the Basin. The Organization was established by a Convention signed on 30 June 1994 by the Republic of Kenya, the United Republic of Tanzania and the Republic of Uganda sharing Lake Victoria. LVFO is registered under Article 102 of the United Nations Charter and recognized as a Regional Fisheries Management Organization (RFMO).

The objectives of the Lake Victoria Fishing Organization (LVFO) are to foster cooperation among the Contracting Parties, harmonize national measures for the sustainable utilization of the living resources of the Lake and to develop and adopt conservation and management measures.

4.13 The EAC Development Strategy

The EAC Development Strategy (1997-2000) laid the foundation of the Treaty for the establishment of the EAC. The Strategy tried to avoid the shortcomings of the earlier integration initiatives. It also took into account the on-going process of globalization,

which was characterised by the intensification of competition arising from the liberalisation of trade and financial markets. Accordingly, the Treaty laid emphasis on the following areas.

Objective of the EAC: The development of policies and programmes, for widening and deepening cooperation among the Partner States in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs. A key guiding principal in the achievement of this objective was people-centred and market-driven cooperation.

The priority of the EAC: Economic cooperation, which was expected to form the basis for political cooperation in the long term.

Participation of various stakeholders: The integration process to be carried out in a participatory manner, involving broad participation of key stakeholders, including women, the youth, the private sector and civil society.

The vision of integration: The vision of regional integration in East Africa being to create wealth, raise standards of living of all people of East Africa and enhance the international competitiveness of the region through increased production, trade and investments.

Phasing of the integration process: The East African regional integration process to be progressive starting with a Customs Union as the entry point to the Community; to be followed by a Common Market, then a Monetary Union, and ultimately a Political Federation. Movement from one phase to another is to be through negotiated protocols, starting with that on the establishment of an EAC Customs Union.

4.13.1 The Customs Management Act

The Partner States agreed that the CU would be managed in accordance with the customs law of the Community. In addition, they decided to put in place a decentralized administrative structure for the CU, under which functions such as revenue collection would continue to be handled by the respective national revenue authorities, while the

proposed Directorate of Customs and Trade under the EAC Secretariat would handle policy issues. Consistent with this understanding, on December 16th, 2004, the East African Legislative Assembly (EALA) enacted the EAC CMA to govern the administration of the CU, including legal, administrative and operational matters.

Furthermore, Partner States adopted the East African Community Customs Management Regulations, 2006. The CMA and the Regulations have been reviewed and amended several times to improve implementation of the customs union.

4.13.2 The Elimination of Internal Tariffs

The Treaty establishing the EAC recognizes asymmetry as a core principle underpinning the EAC customs union. In that regard, Articles 10 and 11 of the EAC CU Protocol provided for the elimination of all internal tariffs and other charges of equivalent effect on trade amongst partner states as well as a progressive approach to implementation of the customs union through a five year transitional period. The inclusion of asymmetry is justified on the basis of the understanding that the EAC Partner States are at different levels of economic development and that the existing imbalances, which could indeed be exacerbated by the customs union, need to be addressed. In that regard, the Protocol provided that:

(a) goods to and from the Republic of Uganda and the United Republic of Tanzania were to be duty free;

(b) goods from the Republic of Uganda and the United Republic of Tanzania into the Republic of Kenya were to be duty free, while

(c) goods from the Republic of Kenya into the Republic of Uganda and the United Republic of Tanzania were to be categorized into two categories i.e. Category A goods, which were eligible for immediate duty free treatment and Category B goods which were eligible for gradual tariff reduction during the five-year transitional period.

4.14 Regional fish trade in eastern and southern Africa-Products and Markets: A Fish Traders Guide

4.14.1 Users of this fish traders guide

The fish traders guide is intended to provide vital trade information on freshwater fishery products and markets within the Eastern and Southern Africa region.

The guide provides an outline of the major commercial species in the region, with some background about the species and information on the types of product forms, processing methods and nutritive values. The guide also indicates existing and potential markets where the products can be sold.

It also provides information about the structure of fish trade and fish trade regulations in the region, with some pointers on how to be a trader and what make a successful trader. It is intended to be a useful background for those already trading in fish and for those interested in its potential.

The guide is expected to promote better understanding, increased active participation and improved business decisions, resulting into increased fish supply, incomes, food security, fish consumption, nutrition and livelihoods.

The countries selected for this guide are within the Great Lakes region, where there are major fisheries resources and also high demand for freshwater fish and fishery products.

4.14.2 Fish Trade

Trade in fish and fishery products is guided by international agreements and conventions, such as that of the World Trade Organization (WTO), a body that controls global trade; the Trade blocks (such as COMESA, EAC and SADC); the regional fisheries bodies (such as LVFO, LTA); the bilateral arrangements between neighbouring countries and the national regulations of respective countries.

It is to the benefit of the Regional and International Trader to know the major aspects of these agreements and regulations, because they contain provisions that are beneficial to his business. In addition, flouting or breaking some rules may lead to great loss.

4.14.3 Trade principles and practices 16 include:

Trade without discrimination– Regional Fish traders should be treated equally, such that customs duty rates should be the same for all members within the same trading bloc. For example, if Rwanda lowers the custom duties for Burundi, this should also apply to other members of the EAC, that is, Kenya, Tanzania and Uganda. If there is discrimination, a Regional trader is advised to seek guidance from his/her respective country on the issue.

National treatment–Regional and national traders should be treated equally, such that, after the foreign goods have entered the market, the imported goods and locally produced goods should be treated the same.

This applies after the trader has paid or fulfilled the customs requirements of the imported fish and fishery products and entered the market.

Free trade – Sometimes, countries may impose restrictions on trade in regard to customs duties, quotas, import bans, and hence, lowering these restrictions or trade barriers encourages more trade. This opens new markets and opportunities for the regional trader to expand his business. Freeing trade requires a lot of negotiations between countries and it is upon the regional trader to contribute information to his respective country to support negotiations for better terms.

Predictable – Countries may try to provide an attractive business environment to foreign investors, companies and importers by promising not to raise a trade barrier. In addition, the countries, transparently, may publicise their rules and policies, to facilitate trade. This provides the business a clearer view of future opportunities for investment. The Regional Trader can use this opportunity to plan for growth and expansion of his business because of the stability and ability to predict (foresee) the future.

Competitiveness – The rules on equal treatment of regional traders from member countries and equal treatment of imported and locally produced goods provide opportunity for fair competition and discourage dumping of imports (sale below cost) and subsidies for local goods to increase market share. This condition provides opportunity for the regional trader to compete fairly on product attributes and logistical aspects, such as product quality, safety, usage, convenience and timely delivery.

4.14.4 Fisheries Regulations

Fisheries regulations focus on sustainable exploitation of fisheries resources and providing wholesome fish food for human consumption. The rules and regulations are embedded into the Fish (Fisheries) Act of each country. Fish trade may be provided for within the specific fisheries regulation or provided as an annex or through a specific Statutory Instrument.

The License is the major statutory instrument used to regulate fish trade by the countries within the region. Some countries use gear selectivity measures and some add on the slot size measures to regulate fish production and control trade in undersized fish. Some fisheries regulations are not specific on trade aspects but generally imply under fishing areas. A few of the countries have detailed specific trade requirements included in the fish quality and safety rules.

The fisheries regulations of the selected countries are at different levels. Some are outdated and hence, with many subsidiary statutory instruments, others are being updated and some are new.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This looks at the fish recommendation and suggestion in which once legal practitioner and institutions enhance to have appropriate law governing the state or country Uganda.

5.2 Conclusion

Efforts began in the early 1990s to revise and update the Fish and Crocodiles Act, including the preparation of a Statutory Instrument prohibiting the use of beach seines. Various proposals for amendments to existing legislation reportedly under consideration also included measures for: stricter control of access (licensing of individual operators and gear in addition to vessels); establishing restricted fishing areas, closed areas and seasons; authorized landing sites; gear capacity restrictions; minimum size regulations for target species; relating industrial processing plant capacity to sustainable levels; and enhancing the ability of fisheries officials to collect statistical information.

Implementation and enforcement of the Fish Act on Lake Victoria is inadequate to ensure sustainable exploitation and conservation of fisheries resources. There are several fishing practices that breach the Fish Act including use of undersize gill nets, fish poisoning, catching immature fish, fishing in breeding grounds, lack of fish movement permits and landing at non- designated landing sites among others were used on Lake Victoria. Despite sensitization and training of the fisher folk and managers, illegal fishing practices are still observed on Lake Victoria. There is an inverse relationship between implementation of the Fish Act with fish malpractices and resource destruction on Lake Victoria.

5.3 Recommendations

In order to improve implementation and enforcement of the Fish Act to enable it to

effectively control the exploitation and conservation of fisheries resources on Lake Victoria (Uganda), the following measures are recommended.

All Laws including the Fish Act are dynamic depending on emerging issues. The Fish Act is outdated. As such, there is need to review the Law periodically to address the going concerns that emerge from time to time.

The fisheries Subsidiary Instruments that are inconsistent with the Fish Act like the Beach Management Unit Instrument (2003), The Fish (Immature Fish) Instrument No. 73 of 2002, the Statutory Instrument No. 73 of 2001, should be formalized to enable the effective enforcement and avoidance of legal proceedings against the Department of Fisheries Resources. This should be in addition to having change in fisheries enforcement approach.

There is urgent need for increased staff levels for implementation and enforcement of the fisheries law, and to develop human resources capacity in fisheries management, monitoring, controlling and surveillance, and that of other stakeholders to support government efforts. There is need to increase the capacity of the Department of Fisheries Resources in enforcement and prosecution of illegal, unregulated and unreported fishing and illicit trade in immature fish coupled with acquisition of equipment like patrol vehicles and communication gadgets needed for efficient enforcement of regulations in the Fish Act.

In order to reduce fishing pressure on Lake Victoria, there is need for getting fishermen out of the waters through a buyout system and there after sensitizing and retraining them to engage in downstream fishing activities such as processing and trading, and provision of supplies for fishing. In addition, the government should prioritize retraining of fishermen into alternative livelihoods such as fish farming, cage culture, boat making to enable them sustain their livelihoods.

LIST OF CASES

Lwanga v Uganda Electricity Board (Civil Suit No. 124 Of 2003) [2013] UGHCCD 28 (25 February 2013)

Ndaula Ronald v. Haji Nadduli Abdul, Election Petition No. 20 of 2006

Phillip v Copping (1935) 1 KB

Citibank (U) LTD Vs Uganda Fish Packers Ltd & Others

REFERENCES

- Abila, R.O. (2002). The Development of the Lake Victoria Fishery: A Boon or Bane for Food Security? Working document for Lake Victoria fisheries management decisions. Lake Victoria Fisheries Research Project, March 2001, Jinja, Uganda, 30 pp.*
- Amin, M. E. (2005). Social Science Research: Conception, Methodology and Analysis. Kampala, Uganda.*
- Asila, A.A. (2001). Working document for Lake Victoria fisheries management decisions. Document prepared for Lake Victoria Research Project (LVFRP), March 2001, Jinja, 30 pp.*
- Balirwa J. S, Chapman C.A, Cowx, J.G., Kaufman, L. Seahansen O, Wanink J.H, Welcomme
- R.L and Witte, F (2003). Biodiversity and Fisheries Sustainability in Lake Victoria Basin: Unexpected marriage? Kampala, Uganda.*
- Crispin, B. & Ikiara M. (2000). The macro economy of the export fishing industry in Lake Victoria (Kenya). IUCN Eastern African programme socio – economics of the Lake Victoria fisheries (1-30)*
- Duda, A. (2002). Restoring and protecting the African Great Lake Basin ecosystems – lessons from the North American Great Lakes and the GEF. In: The East African Great Lakes: Limnology, Palaeolimnology and Biodiversity. Odada E.O. and Olago D.O.(eds). Advances in Global Change Research, Kluwer Academic Publishers, pp. 537-556.*
- East African Community (EAC, 2000). The treaty for the establishment of the East African Community, Arusha, Tanzania.*
- EAC, (2004). Protocol for Sustainable Development of Lake Victoria Basin. East African Community publication, No. V. 39pp*
- FAO, (2008). Fisheries Management. Managing fisheries capacity. FAO technical*

guidelines for responsible fisheries. No. 4, suppl. 3. Rome.

Guba, E. & Lincoln, Y., (1989), Fourth Generation Evaluation, Sage Publications, Thousand Oaks, CA.

Heck, J, Ikwaput, C. T., Kirema-Mukasa, Lwenya, C. Murakwa, D. N., Odongkara, K. Onyango, P. Owino, J. P and Sobo, F (2004). Cross-Border fishing and Fish trade on Lake Victoria. IUCN/LVFO Socio-economics of the Lake Victoria Fisheries phase II.

Hecky, R.E. and Bugenyi, F.W.B. (1992). Hydrology and chemistry of the African great lakes and water-quality issues: Problems and solutions. Mitt. Int. Ver. Theor. Angew. Limnol. 23, 45-54.

Hecky, R.E. (1993). The eutrophication of Lake Victoria. Proc. Int. Ass. Theor. Appl. Limnol. 25, 39 –48.

Imende, S, Hoza, R. and Bakunda, A (2005). The Status, Development and role of BMUs in the management of the fishery resources. Proceedings of the Regional stakeholders' conference, 24th – 25th February 2005, Entebbe, Uganda.

Johnson, T.C, Scholz, C.A., Talbot. M. R., Kelts, K., Ricketts, R.D., Ngobi, G., Beuning, K. R.M., Ssemanda, I. and McGill, J.W. (1996). Late Pleistocene desiccation of Lake Victoria and rapid evolution of cichlid fishes. Science 273, 109 – 1093.

Kabuye, S. (2005). Stake holder's Meeting for Civil Society Organizations working in the Lake Victoria basin during the Regional Civil Society Conference, 21 – 22 February 2005, Kireka Sports View Hotel, Kampala, Uganda.

Kar, T. K., Pahari, U. K. & Chaudhuri, K. S (2004). Management of a single species fishery with stage structure. International Journal of Mathematical Education in Science and Technology, vol. 35, no. 3, 403–414.

Kilbir, S. S (1984). Methodology of Research in Education. 1stEdition. New Delhi, Sterling

Publishers.

Mkumbo, O.C. and Cowx, I.G. (1999). Catch trends from Lake Victoria – Tanzanian waters. In: Report on Fourth FIDAWOG Workshop held at Kisumu, 16-20 August 1999. I.G. Cowx and D. Tweddle (eds). LVFRP/TECH/99/07, The Lake Victoria Fisheries Research Project Technical Document No. 7, pp. 99-107.

Mkumbo, O.C. (1999). Recent trends in the distribution patterns and catch rates from trawl surveys in Lake Victoria, Tanzania. In: Lake Victoria Fisheries Research Project Phase II: Part 1 - Report on Third FIDAWOG Workshop held at the Triangle Hotel, Jinja, 29 March to 1 April 1999.

Mugidde, R. (1993). The increase in phytoplankton productivity and biomass in Lake Victoria (Uganda). Int. Ass. Theor. Appl. Limnol. Proc. 25, 846-849.

Muhoozi, L.I., (2002). Exploitation and Management of the Artisanal fisheries in the Uganda waters of Lake Victoria. PhD Thesis, University of Hull, UK 260p.

Fish and Crocodiles, Chap. 161, Laws of Uganda Protectorate, 1951, p. 2135 –2152.

Greboval, D., 1990. Principles of Fisheries Management and Legislation of Relevance to the Great Lakes of East Africa: Introduction and Case Studies. RAF/87/099 - TD/90, IFIP. 41p.

Gulland, J.A., 1977. Fish Population Dynamics, (Ed). John Wiley & Sons, N.Y. 372p.

Lyimo, E, Nhwani, L.B., and Mkisi, M. 1990. The Fisheries Statistics of Lake Victoria, Tanzania Sector. In Report of the First Workshop on Fisheries Statistics and Information Systems for L.V. ed. by G.W. Ssentongo, IFIP Project. 72p.

Orach-Meza, F.L., 1991. The Basis for Fisheries Legislation and Regulations Relevant to Uganda. A paper prepared for COFE, MAIF. 23p.

The Fish and Crocodiles Act, 1964. Chap. 228 Laws of Uganda, Revised Edition, 1964.

p.3149 – 3163.

The Fish and Crocodiles (Amendment) Act, 1967. Act No. 3 of 1967. p. 5 – 14.

The Fish and Crocodiles (Immature Fish) Instrument No. 15 of 1981. Statutory Inst. No. 15 of 1981. p. 24.

The Fish and Crocodiles Ordinance, 1950. Uganda Protectorate, Entebbe. 12 p.

The Fishing Rules, 1951. Fish and Crocodiles Ordinance, 1950. Legal Notice No. 59 of 1951. 7 p.

The Lake Victoria Fisheries Act, 1950. Act No. 3 of 1950 p. 1–9.

The Lake Victoria Fisheries (Amendment) Act, 1953. Act No. 3 of 1953. p. 10 – 20.

Tumwebaze, EA.. and Coenen, E. 1991. (Eds.) Report on the Frame Survey Conducted in the Ugandan Part of L. Victoria (3rd Sept. to 20th Dec., 1990). UGA/87/007 - FISHIN Project. 13 p.