

## REPORT ON THE RESPONSIBLE GOVERNANCE OF TENURE IN LAKE VICTORIA FISHERIES



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**International Collective in Support of Fishworkers**  
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## **Executive summary**

The Voluntary Guidelines for Securing Sustainable Small-scale Fisheries (SSF Guidelines) places responsible governance of tenure of land, fisheries and forests in small-scale fisheries as central for the realization of human rights, food security, poverty eradication, sustainable livelihoods, social stability, housing security, economic growth, and rural and social development. As such, this report aims to determine how responsible governance of tenure can be implemented in accordance with the SSF Guidelines in Lake Victoria, Tanzania.

In this study, qualitative and quantitative research methods, including focus group discussion (FGDs), survey questionnaires were conducted in five (5) fishing villages around Lake Victoria, Tanzania. The respondents were mainly drawn from the elderly people who have knowledge on tenure systems in Lake Victoria. The study was conducted from 13<sup>th</sup> November to 15<sup>th</sup> December 2016.

The findings highlight that there have been some norms or rules used by the riparian communities to regulate fishing. These rules of tenure defined how property rights to the lake's resources were exercised. For example, they defined how access was granted, rights to use, control, as well as associated responsibilities. In addition, fishing was only restricted to the riparian communities. However, these relations changed with the coming of colonialists as fisheries became open to all including those who were not originally fishers. Fisheries management was now under the mandate of the State. And the state regulations defined how access and rights were granted. For instance, fisheries was now open to all people, including those coming outside the riparian areas. After the independence, statutory tenure existed until late 1990s when co-management was established in Lake Victoria. Co-management is an arrangement where the State and the fishing community share responsibilities. It is a system that involves more of the statutory than customary system in the sense that state rules and regulations are used to manage the fisheries. For example, fishing regulations are defined and enforced by the State with little involvement of the fishing communities. Under this relation, everyone has a right to fish so long as he/she posses a fishing license. Communal norms have

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remained largely used in solving conflicts arising at the landing sites. As such, co-management regime has taken away some rights that existed in the customary system.

Therefore, to successfully implement the SSF Guidelines, it is important to tackle the issues of access and resource user rights that the riparian communities have enjoyed from traditional period.

As it is now, under the statutory system access and rights to fisheries resources is described by the State laws where fish is a private property compared to the customary system where communal norms were used, and fish caught was a community property. And this has impacted on food security and nutrition as well as poverty eradication strategies in the fishing communities. Given that majority of people in these communities depend on fisheries resources for their livelihoods and in light of these observations, it is recommended that to effectively implement the Guidelines, both the fisheries department, fishing communities and other fisheries stakeholders should address the question of ownership and management of the lake resources. Though the lake and its resources are jointly owned by State and fishing community there are some thoughts within the fishing communities that the government have more powers in terms of allocating fishing rights and benefiting more from the resources through the licensing scheme. This is likely to affect responsible governance of the lake resources as they are not deemed communal property, but government. At the same time, little involvement of the fishing communities in decision-making impedes on equal participation of all stakeholders as envisaged in the Guidelines. To improve on this, there is need to have continuous consultations between the stakeholders. These consultations should be structured in a way that recognizes each stakeholder as an equal and important actor whose contribution is required for the improvement of fisheries management. In addition, efforts should also be made to form a unit that monitors the implementation of the SSF Guidelines. This may aid in early identification of factors that may hinder its implementations.

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## 1.0 Introduction

Lake Victoria is the world's second largest inland freshwater lake in the world after Lake Superior in the United States and Canada. Its fisheries provide employment and livelihoods to a substantial number of people (URT, 2014). The fisheries are also a source of recreation, tourism and foreign exchange. In Tanzania for example, over 103,540 people are directly engaged as full-time fishers (URT, 2014). In addition, more than 4 million Tanzanians make their livelihoods through various fisheries related activities, such as boat building, net making, fish processing and fish trading (Mkumbo and Marshall, 2014). Many communities around Lake Victoria are involved in fishing, and as such, fishing and fisheries are an integral part of their social, cultural and economic relations. Most of these communities have historically developed systems that define how they access and use the lake's fisheries and related resources upon which they depend. Such systems and rules are referred to as 'tenure systems'.

The term tenure in fisheries, as in other natural resources sectors, refers to the manner in which the relationship between people are defined and negotiated in the context of the utilization of fishery related resources, i.e. tenure defines who is a user and, therefore, who has a legitimate right to a resource and who does not. Governance of tenure then deals with how tenure rights are allocated, changed (legalized, transferred, etc.) and administered (FAO, 2012). In other words, tenure defines how access is granted to rights to use, control as well as associated responsibilities and constraints. Tenure determines who can use what resource for how long, and under what conditions. For this reason, tenure is particularly important for small-scale fishing communities, as they are dependent on both land and aquatic resources for their livelihoods. For example, they require secure tenure to land as well as secure tenure rights in relation to the waters where they have traditionally fished for their livelihoods. This is critical in ensuring consistent access to resources. In general, consistent and secure access to natural resources is critical for their basic supply of food, nutrition security and sustainable livelihoods. At the same time, SSF Guidelines recognizes that secure access to these resources is more important to women who are extremely dependent on direct access to natural resources for food for their families. In this regard, tenure is a key socio-economic right to the women and men involved in fishery. In addition, secure tenure to the fishing communities may reduce their vulnerability.

Various tenure regimes have existed and have been implemented in Lake Victoria at different times in attempt to manage fisheries resources sustainably. These include customary, state and open access (URT, 2015). The Voluntary Guidelines for Securing Sustainable Small-scale Fisheries (SSF Guidelines) places responsible governance of tenure of land, fisheries and forests in small-scale fisheries as central for the realization of human rights, food security poverty eradication, sustainable livelihoods, social stability housing security economic growth, and rural and social development. In light of this, the International Collective in Support of Fishworkers (ICSF) aims to support the successful implementation of the SSF guidelines. In particular, they are interested in identifying how responsible governance of tenure can be implemented in accordance with SSF Guidelines in different contexts. Therefore, this study explores tenure systems in Lake Victoriato identify positive aspects crucial for the implementation of the SSF Guidelines.

## **2.0 Objective of the study**

The main objective of the study was to generate an understanding on the dynamics of tenure arrangements in Lake Victoria and their interplay to understand how responsible governance of tenure can be implemented in inland fisheries to protect the contribution of small-scale fisheries to food security and nutrition; to improve the socio-economic situation of small-scale fishing communities and to achieve the sustainable utilization, prudent and responsible management and conservation of Lake Victoria fisheries resources.

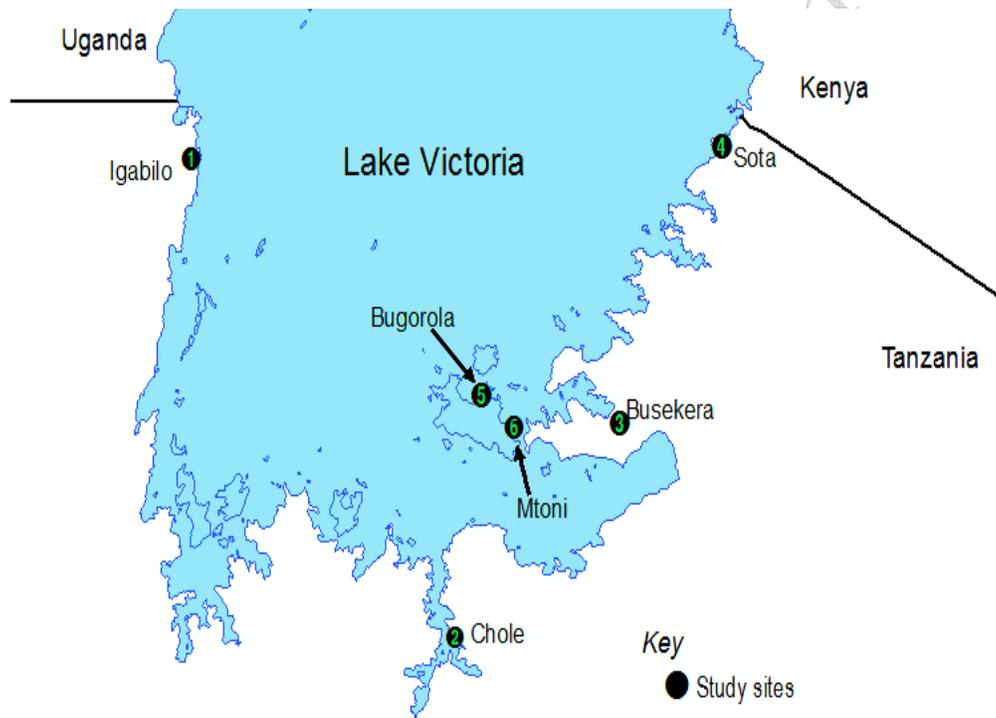
### **2.1 Specific objectives**

- i. Examine fishing rights (access, security, and use) and the type of tenure in Lake Victoria fishing communities
- ii. Identify practices (those that promote and those that hinder e.g. handling of conflicts, gender) for responsible governance of tenure in Lake Victoria fisheries
- iii. Identify institutions and rules governing tenure in Lake Victoria fisheries
- iv. Determine how tenure affects implementation projects/fisheries management in the context of a human rights-based approach

### 3.0. Methodology

#### 3.1. Study location

The study was carried out in five selected villages riparian to Lake Victoria which are historically predominantly occupied by the fishing communities along the Lake. These villages are Busekera in Musoma Rural district, Igabiro in Bukoba Rural district, Sota in Rorya district, Chole in Misungwi district, and Bugorola and Mtoni villages in Ukerewe district, where the Jita, Haya, Luo, Sukuma and Kerewe communities live, respectively (Fig.1).



**Figure 1.** Map showing sampled villages survey sites

#### 3.2. Study tools

The villages were visited between 13<sup>th</sup> November and 15<sup>th</sup> December 2016. These communities were selected on the basis of their proximity to the lake and being traditional fishing communities. In each of the selected communities, primary data was obtained through focus group discussions using a standard set of questions (Annex I). The question guide was

divided into three parts: the first part contained questions on the demographic characteristics of the respondents. This part was administered individually to each respondent before the focus group discussion, in order to obtain specific information including age, years in fisheries and level of education, and so on. The second part contained questions on rights and tenure of the fisheries resources while part three contained questions on governance of tenure. These two last parts were administered through a discussion involving between 10 and 20 respondents. The discussions were held for two days at each village. In total, 82 people participated in the 10 FGD (see Table 1 and Figure 2). The discussion groups predominantly included the elderly men and women and a few young people. However, in many of the visited villages fewer women participated in the discussions on the basis that they were not conversant with the topic of discussion.

**Table 1.** Study sites and number of participants in FGD

District	Village	Ethnic group	FGD 's held	No.of participants
Bukoba Rural	Igabilo	Haya	2	17
Misungwi	Chole	Sukuma	2	18
Ukerewe	Bugorola/ Mtoni	Kerewe	2	17
Musoma Rural	Busekera	Jita	2	10
Rorya	Sota	Luo	2	20
<b>Total</b>			<b>10</b>	<b>82</b>



**Figure 2.** One of the FGD sessions at Chole village, Misungwi District. Photo by Joseph Luomba

The study also involved collecting secondary data which were collected from several sources including statutory documents from the Lake Victoria Fisheries Organization (LVFO), The Tanzania Fisheries Policy as well as the Fisheries Regulations. Other documents included the Tanzanian constitution and the Land Policy and Beach Management Unit (BMU) Guidelines. The secondary data was to explain the tenure arrangements as well as tenure governance in the country.

### **3.3. Data Analysis**

Demographic data was analysed using a Statistical Package for Social Science (SPSS version 16) using a descriptive statistical analysis tool. Information from the focus group discussion was analysed through thematic and content analysis and findings presented in a descriptive manner.

### **3.4. Methodological Framework**

The study used both appreciative inquiry (AI) (Bushe, 2012; Cooperider and Whitney, 2001) and human rights based approaches (HRBA) to understand tenure system and identify how best the guidelines can be successfully implemented. In particular, AI was used in order to identify how tenure has evolved over-time. This approach aided in identifying positive aspects of tenure that have continued to be practiced and seen important in effective implementation of programmes among fishing communities. Furthermore, appreciative inquiry is very useful in generating new ideas that may create momentum and sustainable changes required for implementing SSF Guidelines. AI argues that in every action taken or anticipated, human beings always desire to attain positive satisfaction. This is to say that, human conduct relative to social norms, is grounded on what generates positive satisfaction even if the behaviour is good or bad. However, AI is not only about the positive (Bushe, 2007). If this was the case then AI would not lead to change. AI is also generative, giving new ways of thinking about social structures and institutions that lead to new options for action (Gergen, 1978). In deed, Bushe (2007) puts it plainly when he argues about generativity of AI that

“It is the quest for new ideas, images, theories and models that liberate our collective aspirations, alter the social construction of reality and, in the process, make available decisions and actions that weren’t available or didn’t occur to us before. When

successful, AI generates spontaneous, unsupervised, individual, group and organizational action toward a better future” (2007:1)

On the other hand, HRBA helped in understanding entitlements of the groups of people who are excluded from resource ownership and whose rights are not considered central in the use of fish resources. The HRBA enabled us to focus on the extent to which there is a common understanding of HRBA among Lake Victoria fisheries stakeholders and how such understanding can support the implementation of the SSF Guidelines; the integration of HRBA in the programs focusing on Lake Victoria fisheries development. This will involve examining the extent to which fisheries governors have implemented programs using a human rights-based approach and the enabling environment for HRBA, specifically the extent to which fisheries governors supports the implementation of a human rights-based approach to fisheries development.

## **4.0 Results**

### **4.1 Demographic information of study respondents**

In this study, it was important that those with better knowledge of the past and present fisheries are sampled to participate in the study. In light of this, significant numbers of elderly persons both men and women participated in the Focus Group Discussions. However, in villages where these elderly persons were few, youths with good knowledge of the study topic were included in the discussions. Unfortunately, fewer women were involved in the discussion than expected. And this is because majority of women approached declined to participate in the discussions because of lack of required information. The findings indicate that 78%, (n=82) of the respondents were above 48 years of age, and about 70% have been in the fisheries for more than 16 years. Other demographic information show that 41 out of 82 respondents were or are still involved in the fishery as boat owners (Table 2).

**Table 2.** Demographic characteristics of respondents

	Number	Percentage
<i>(i) Gender</i>		
Male	78	95.1
Female	4	4.9
<b>Total</b>	<b>82</b>	<b>100</b>
<i>(ii) Education level</i>		
No schooling	20	24.4
Primary	60	73.2
Secondary	2	2.4
<b>Total</b>	<b>82</b>	<b>100</b>
<i>(iii) Respondent age (Years)</i>		
18-22	1	1.2
23-27	2	2.4
28-32	1	1.2
33-37	6	7.3
38-42	3	3.7
43-47	5	6.1
Above 48	64	78
<b>Total</b>	<b>82</b>	<b>100</b>
<i>(iv) Category of the fisher</i>		
Boat owner	41	50
Fishing crew	25	30.5
Processor/trader	4	4.9
Net/gear maker	12	14.6
<b>Total</b>	<b>82</b>	<b>100</b>
<i>(v) Years spent in fisheries</i>		
Less than 5 years	4	4.9
6 -10	6	7.3
11-15	2	2.4
Above 16	70	85.4
<b>Total</b>	<b>82</b>	<b>100</b>

## 4.2. Fishing rights and the type of tenure in Lake Victoria fishing communities

### 4.2.1. Term tenure and types of tenure

A question was presented to the respondents to generate an understanding on the concept of tenure in fisheries. In all the fishing communities tenure is understood as ‘having control over fisheries resources with the right to use the resources according to the community norms, and State regulations in case of statutory system (Table 3, Box 1). The community added that tenure also implies taking care of resources by ensuring that it is harvested sustainably, for

instance in customary system norms or rules were agreed on in community meetings, which seems to be contradictory. These norms defined how the riparian communities related with the resources. Under the statutory system, the rules are designed and enforced by the State. In all circumstances, these norms and rules aim to promote practices that do not lead to overfishing or fishing of undersized fish. During the interview, a respondent from Ukerewe district stated that

*‘in the customary system, beach seines were few. For example, there were only three beach seine in the entire Busekera village and they did not use the gear more often as it is today. This was done to ensure resource sustainability’* (an elder).

**Table 3.** Community description of tenure

Name of Village	Tenure in local dialects	Meaning
Igabilo	<i>Okugelela Enyanja</i>	To own something. This may be one’s property or that which is inherited.
Chole	<i>Shikoroshako</i>	Ownership.
Bugorola and Mtoni	<i>Inyanja inu ni yani</i>	This part of the lake belongs to me.
Busekera	<i>Inyanja inu ni yani</i>	Jita call the lake <i>Inyanja</i> . They have the same terminology as Kerewe when referring to the ownership of the lake.
Sota	<i>wuonnam</i>	This literally mean owner of the lake. The Luo name for a Lake Victoria is <i>Namlolwe</i> . A landing site is known as <i>dhowath</i> .

Source: Fieldwork data

The communities also illustrated how tenure system have evolved in Lake Victoria. In the traditional community, i.e., pre-colonial times, the lake and it’s resources were owned by the riparian communities i.e. administration of the resources were vested in the riparian community leader, which in many communities was exercised by the chiefs and clan elders. For example, among the Kerewe and Jita ethnic groups ‘Omukama’<sup>1</sup> (i.e. the Chief) was the community leader who had powers to control exploitation of fisheries resources. Fishing was carried by the riparian communities and the catch was sufficient for food and barter trade. Fishing gear used were mainly made from papyrus reeds, weaved baskets and spearssisal and banana fibres, while fishing crafts included paddled canoes, . Because of fish abundance, one fishing gear could be used to catch a variety of fish species. Woven baskets and spears were used in shallow waters, but not in breeding or spawning areas while nets were set in deeper

<sup>1</sup>A community leader with executive powers over the resources of the community.

waters. All fishing gear were made by people specialized artisans who ensured that the gear should be big enough to allow juveniles as well as fish eggs to escape. It should be noted here that although the chief was the ultimate owner of land and had power over the community resources within the chiefdom, management of the fishery was decentralized in the sense that community members had all the rights and responsibilities for fish resources, including decision making. This is similar to what Onyango (2004) observed among the Wakerewe in which the chief and clan leaders owned land and fish resources on behalf of their people (Figure 5 shows the Wakerewe Chief Palace).

However, with the coming of colonial powers, this ownership and management of the fisheries shifted to the colonial government. It was during this period that formal management of Lake Victoria fisheries began when the Fish Protection Ordinance was enacted in 1908. The fisheries resources during this time was technically of open access nature where everyone was free to exploit the resources although there were some regulations. These regulations did not restrict access, but on the type and size of fishing gears used on the lake. For example, there were regulations on the use a 5-inch minimum mesh size for gill nets in addition to boat licensing and registration. The colonial government decided on how to manage these resources and they designed management systems and implemented them. A major notable change during the colonial period was commercialization of the fisheries. This was done through introducing efficient fishing gear such as nylon fishing nets and boat engines. As a result, some fishers were forced to move into farming of crops (Kateka 2010).

According to the fishing communities, the old traditional gear was not abandoned, but continued to be used along the new ones. This was partly because the new gear was not adopted by all due to the higher costs that were involved in purchasing them. The traditional fishers considered it to be part of their culture and in line with the requirement of passing on to the younger generation the traditional fishing gear that was used through generations (Kateka 2010). After independence, the government of the United Republic of Tanzania became the owner of the resources on behalf of the people, instituting an open access regime that allowed everybody to exploit the resources regardless of whether they come from the riparian communities or not. The government designed and administered on how these resources were to be used. The types and sizes of fishing gear that were adopted during the colonial period continued to be used. Both the colonial and post-colonial government to a

larger extent ignored the capacity of traditional fishing practices and institutions. However, the socioeconomic changes in the world and challenges in the State ownership and management necessitated for a paradigm shift on how the lake should be managed. This led to the transfer of some of the management responsibilities to the resource users. In doing this, the government realized that the resource users could not manage the resources without being owners. Thus technically, transferred partial ownership from the government to the resource users. As such co-management was established in the lake in 1990s. In other words, both the government and resource users co-jointly owns and manage the fisheries resources. . These findings imply that various tenure relations and governance regimes have existed and have been implemented in Lake Victoria at different times.

**Box 1. Community's interpretation of governance of tenure**

Within the fishing communities, the term tenure implies to have access, use and control of the fisheries resources. While governance of tenure determines who can use the resources, for what purposes and under what conditions.

Source: Survey interviews

#### ***4.2.2. Access to fisheries and ownership of resources***

Fishing communities around Lake Victoria report different ownership of fisheries resource over different times as already stated above. These differences manifest themselves among three periods, i.e., the traditional or pre-colonial period, and the colonial and post colonial periods.

##### *Pre-colonial period*

During the pre-colonial period, in all the communities visited, the lake was owned by the riparian communities and anyone from riparian communities had access and rights to use the fisheries resources. That is to say that, fishing grounds in the lake were open to all the community members who wanted to fish. However, this was the not the same for someone from non-riparian communities, as he/she had to seek permission from the community leader to access any of the lake's resources. In the customary system, ownership was claimed only after one had already harvested the resource, i.e. the resources that someone had in his hands after harvesting belonged to the community the fisher came from. Fishing was carried out in

community/clan groups. There were hardly individual fishers going out to fish for family or trade purposes. Likewise, land was equally owned by communities and clans. Clans however, designated certain areas for community use. For instance, some areas adjacent to the lake were designated for rituals. In these areas only the leaders and people responsible for performing the rituals were allowed to access the sacred areas, In addition, some areas within the lake were designated as fish breeding areas and no one was allowed to fish in such areas in order to save the juvenile fishes. However, the landing sites where a fishing boat docked/parked were owned by individuals who resided near the lake. Any fisher who used the landing site for fisheries related activities was required to give the owner of the landing site some fish. This was not a law, but just a sign of appreciation to the owner of the landing site. In these communities, administration of fisheries resources were in the hands of the chief and clan elders. However, community members also participated in the management through communal meetings where emerging issues such as use of fishing gears and fishing seasons were discussed (see Box 2). Through this management system, fishers were able to participate in making key decisions on the operations and management of the fisheries (Pinkerton, 2003). For example, consensus on restricting active fishing during the farming seasons were made in these meetings. Such restrictions applied to the community who made the laws and not people from outside that community. This also ensured that those engaged in fisheries carried out their activities in line with the community norms agreed by community members.

#### *Colonial and post colonial period*

Statutory management of the fisheries began during the colonial period. This can be traced back to 1908 when the traditional community management system was replaced with a centralized system through enactment of the Trout Protection Ordinance Act. This law introduced licensing and boat registration and later amended to Fish Protection Ordinance that covered regulations on gillnets, trawl nets and long lines. According to Kateka (2010), these regulations aimed at generating revenue for colonial government as well as restructuring the shift of natural resources ownership from the community's control to the colonial state control. According to the fishing communities, this disrupted how the fisheries was managed and opened fisheries to anybody with a fishing license. The colonialists introduced land tenure system in which title deeds were issued to private individuals to own land including land adjacent to the lake. This system restricted access to the resources and even privatized them.

### *Post-colonial period*

In post-independent Tanzania, the ownership and management of the fisheries resources were transferred from the colonial government to the Tanzania government. This commenced with the creation of the Fisheries Division after the enactment of the Fisheries Act No. 6 in 1970 which repealed and replaced the Trout Protection Ordinance. This continued to give the central government powers and in particular the Ministry of Agriculture, Livestock and Fisheries Development to manage the fisheries resources. However, the structural adjustment programmes of 1980's and the failure of the 'command and control' played a great role in rethinking about appropriate measures of managing fisheries resources. As a result, a new Fisheries sector policy and strategy statement was developed in 1997 with central aim of promoting conservation, development and sustainable management of the fishery resources for present and future generations.

The development of the Fisheries policy subsequently led to the amendment of the 1970's act to Fisheries Act No 22 of 2003 and Fisheries regulation of 2005 which has since been replaced with The Fisheries Regulations of 2009 which provided for the establishment of co-management. Thus, under the current arrangement, the fisheries resources should be jointly owned and managed by the State and fishing communities. Though the Act does not explicitly define ownership and management, in part VIII paragraph 104, it does provide for the establishment and responsibilities of Beach Management Units (BMUs). The BMU is an association of fishers in the co-management regime. The Act gives the BMUs responsibilities to engage in monitoring, control and surveillance so as to reduce the incidence of illegal gears, fishing and fish trading practices within the BMU area. It also gives them the mandate to arbitrate to settle fisheries disputes among BMUs members. In addition, the BMUs are required to collaborate with the fisheries department in collection of fisheries catch, effort and value information. The BMUs are also required to vet those applying for fishing licenses in their areas. In this way, the BMUs are supposed to participate in fisheries planning and development in partnership with the State. .

By virtue of their close proximity to the lake and inheritance from the ancestors, the fishing communities consider themselves owners. The government ownership rights are derived from its responsibilities as a manager and a custodian of the natural resources in the country. Despite the roles attached to the BMUs by the Fisheries Act, the fishing communities indicate

that the State still has exclusive management rights including determining right of access and entry through the licensing mechanism. This supports the findings that central government still maintain much power and influence in fisheries management (Onyango and Jentoft 2007). In addition, the fishing communities indicated that the government's management rights are attributed to the need to ensure that fisheries resources are harvested according to the fisheries rules and regulations. This is so because the fishery now comprises people from other areas other than those historically found along the lake shores and whose backgrounds are not originally involved in fisheries.

In all communities, during the customary system, access to fisheries resources were restricted to only community members. In other words, anyone from the riparian community who wanted to fish was free to do so without possessing a fishing license. At the same time, even those who were not involved in the fishery had access to fish, i.e., anyone who asked for fish from a fisher was certain to get some fish because fish was there in plenty and everyone felt that it was wrong or morally not right to deny someone fish, which was God-given. In addition, there were still some strong social bonds within the communities. Japheth Masato states that '*in traditional societies, fishers were generous and gave fish to those who did not fish including pregnant women and mothers with new born babies*'. Furthermore, barter trade that existed in the community made it easy for one to get fish in exchange with other goods that he/she wanted.

Generally, traditional arrangements made fish accessible to everyone whether involved in fisheries or not. On the other hand, the fishing communities remarked that the commercialization of the fisheries and introduction of licensing system during the colonial and post-colonial management systems have restricted access to fisheries to only those who can afford the costs. For example, the entry into fishery is only possible to only those who can pay for the various fees (boat registration and licensing) required by the government. Under this statutory system, the local authorities under which the BMUs operate use the licensing scheme as a way to generate more revenue to the local authorities than to control effort and capacity. Anyone with money is free to fish so long as he/she gets a valid license. The BMUs role in licensing scheme is to approve the license applicant by checking that his/her fishing gears conform with with the fisheries regulation. Thereafter, the applicant is issued with a letter stating that he/she owns the required fishing gears. However, nowadays, this is not

followed in many areas for reasons known to the BMU and the Fisheries department. The introduction of licensing scheme therefore gave room to increased access to fisheries on a large scale. In simple terms, licensing scheme disrupted how the fisheries was managed and opened fisheries to anybody with a fishing license.. This is different from the customary system where the fishing activities were rooted in the community culture. These unwritten norms and rules were passed from one to other through community meetings. An important difference between the statutory system and the communal system is that under a communal system non-members of the community were excluded from using the common resources, including fisheries. Similarly, BMUs differ from the communal system due to the fact that it comprises people from various ethnic backgrounds and cultures.

Currently, there is virtually no restrictions on the number of fishers and or gears or boats that can be allowed to fish. Licensing is used to generate incomes to the local authorities and for this reason the more fishers registered in a district the more money that flow into the local authorities. The central government has also not provided any restrictions to enable district councils control the number of fishers who can be allowed to fish. For one to qualify to fish, he/she must meet the requirements in the law which among others, states that, they must have the specified legal gears and boats, they must be known to the BMU who have to introduce them to the licensing officers. As a result of this, the number of fishers as well as illegal gears have now more trippled than before. More often than not, fishers living close to the lake rarely seek for fishing licences unless targeting the commercial species such as Dagaa and or Nile perch.

According to the law, BMUs are the legal entities represent community interests, through which local fishing communities own the lakes resources and participate in their management. BMUs are supposed to keep records of who goes into the lake to fish. They have the legal mandate to refuse entry to anybody who wants to go fishing without following the laid down regulations. They have enacted by-laws through which they control the use of the lakes resources, through implementing the national laws on fisheries. However, more often, BMUs find themselves in a situation under which they obey the voice of the community more than the government laws which give them a legal standing with regards to the fisheries resources.

To assert this, the fishing communities expressed dissatisfaction, when they were asked about

the sustainability of fisheries under the current system of tenure. They claimed that the current statutory tenure system is only interested in protecting the fishery and not improving the livelihood of the fishing communities. In Busekela, Bugorola and Chole villages, the fishing communities indicated that the fisheries regulations used to manage the resources do not reflect the diversity in the fish stocks and needs of the community. For example they stated that the law prohibits fishing of some fish species such as Haplochromines and Synodontis, which are important source of food to many people around the lake region. At the same time, the Igabilo and Sota fishing communities pointed out that the regulations requiring the possession of a fishing license before engaging in fishing does not encourage entry of people who fish for home consumption and who cannot afford to buy a boat and pay for a fishing license.

#### **Box 2. Dynamics in tenure systems**

Tenure system and their governance in Lake Victoria have evolved in Lake Victoria over time. During the communal/customary system, the administration of the resources were under the chiefs and clan elders. During this time, kinship ties, which were based on primordial clans, determined an individual's rights to property, access to resources including fisheries. However, in the current tenure system, authority is shared between government and fishing communities through the introduced co-management regimes.

Source: Field interviews

#### ***4.2.3. Different tenure rights between men and women***

Different rights existed between men and women in the traditional/customary societies because women did not own land, house, fishing boats and livestock but owned only the kitchen or the cooking utensils. In all the communities, women were not allowed to go into the fishing canoe. And any woman who was seen at the landing sites was considered a badly behaved character who should be punished. It is only among the Luos that women were involved in fishing related activities, but only as processors and traders. This points that the fishing communities cultures were exclusively for males and forbade women from involving in fisheries related activities. These findings are similar to what was observed by Opondo (2011). This marginalization of women from the fisheries activities, according to fishing communities, is a result of teaching fishing skills to boy children only. However, the current

legal system gives women equal ownership rights as men. This has been made possible following the Tanzanian government ratification of various conventions such as Discrimination Against Women (CEDAW) and Beijing Platform for Action that upholds the convention for total elimination of all kinds of discrimination against women. In addition, the government has changed various regulations and enacted new ones that includes women in decision making process at all levels of governance including the increase of women representation in parliament.

Within the BMU, the National BMU Guidelines require that at least three out of the 15 member executive committees should be women. In addition, women are also found in the village committee (a village council responsible for deliberating and implementing various developmental issues at the village level). All these have enabled women to not only participate in decision making, but also to own resources that they were earlier prohibited to own or in the customary system. For example, Tanzanian Land Act of 2004 now gives the woman equal rights as men to own land, or jointly with the husband. In the fishery, there are women who now own fishing boats and even employ men to work for them as fishing crew. In addition, individually or jointly with their husbands women also own pieces of land and rear livestock. However, despite owning boats and pulling beach seines, there are no women who are involved in the fisheries as crew members. Non-involvement of women as crew members is attributed to the physical demands of the fishing activity, imminent dangers in the lake, and taboos against women as men often stay naked while fishing in the lake. This is however, an area that needs further research to ascertain why women do not work as boat crew.

#### ***4.2.4. Links between tenure in fisheries and land tenure***

A question was asked if the land adjacent to the fishing areas was accessible to the fishers. The findings indicate that the fishing communities access the such lands which are used for various purposes ranging from drying dagaa (*Rastrineobola argentea*), and farming of horticultural crops. For example, in Sota and Busekela, the fishing communities use these lands for farming water mellon, vegetables and drying of dagaa (see Box 3). In other villages such as Bugorola and Igabilo, the lands are also used for temporary fishing camp huts and farming of vegetables as well as grazing livestock. The fishing communities indicated that the rights to use adjacent lands are supported by the fisheries laws and regulations that allows

fisheries related activities to take place within 60-100 meters from the water implying that fishers are not denied access to land next to the lake.

**Box 3. Statement on the use of land close to the lake**

During the interview, many participants from all the visited communities indicated that the land adjacent to the lake is free for use to everyone living within the community. These lands are also used by immigrants to the communities for various purpose. One elder, at Sota village remarked that ‘ *we now have people from the Sukumaland using these lands for horticulture*’

Source: Interviews with elders

### **4.3. Practices for responsible governance of tenure in Lake Victoria fisheries**

This section discusses the types of conflicts over tenure rights and conflict resolution mechanisms in different tenure systems. In particular, it focuses on the factors promoting and those that hinder handling of these conflicts.

#### **4.3.1. Conflicts over tenure rights.**

In all the fishing communities, the main conflicts experienced are about fishing areas/grounds and theft of fishing gears. The conflict about fishing areas/grounds is caused by some fishers who set their fishing gears in areas/grounds that others have set their gears. These conflicts are mainly between dagaa and Nile perch (*Lates niloticus*) fishers. For example, at Sota village, fishers using driftnets (tembea) an illegal fishing method in Lake Victoria often sweep/take away longlines and other nets set by other fishers. This is confirmed by one respondent who stated that ‘*when drift netters sweeps away our fishing gears, we are left with no option but to turn to cheap fishing gears such as beach seine and monofilaments in order to continue fishing because we are incapable of retaliating as the driftnetters are wealthier people*’. Fishers of Busekela village claimed that fishers from Ukerewe Island often set their fishing gears where others had already set theirs. The Igabilo village fishers asserted that there is rampant theft of fishing gears, including fishing engines by people probably coming from the countries, and that these conflicts are exacerbated by the government unwillingness to provide adequate security to the fisheries sector similar to wildlife sector and the protection of drift

netters by some corrupt officials..

#### 4.3.2. *Conflict resolution mechanisms*

In all the fishing communities, the traditional/customary system had conflict resolution mechanisms that were almost similar in some respect. For example, among the Haya, conflict resolution mechanism involved the Courts of the Elders (*Ntegeka ya bagurusi*). These courts had no permanent schedule. It involved *bagurusi*- delegates, who were appointed by the warring parties or people in the dispute. Conflict resolution strategy involved the aggrieved parties coming before the courts to solve the dispute. Judgement about the conflict was made on the spot after hearing the disputes. In fisheries, the courts were known as *Ntega ya Bajubi* they were headed by the local fishers' guild (*Ikororo*). An unsatisfied party would appeal to the chief's private court *Baraza ya Kikale*. The decision of the chief's court was final and the orders were to be enforced by the social pressure. These conflict resolution mechanisms were abolished during the colonial period.

On the other hand, among the Sukuma ethnic group, conflicts between the fishers were solved through *Walimba*- a group of elderly people. The aggrieved parties were called into a public meeting attended by all the community members and their grievances heard. Such meetings were called by use of drums (Figure 6). These would be played loudly and then members of the community would gather as required. Thereafter, a verdict was given by the chairperson of *Walimba* who in most cases was an elder who was the oldest in the group. The fine paid for any offense was a cattle, which was paid on the spot or on the same day the verdict was given. In any case the culprit moved to another village before hearing of his case or paying the fine, the one who welcomed him to his new place was culpable of the offense and was required to pay on his behalf. This approach, according to the Sukuma community brought harmony between conflicting parties and reduced incidences of people relocating to other areas without paying prescribed fines.

In Kerewe and Jita ethnic groups, conflicts were solved through parents of the warring parties summoning the conflicting parties to a joint meeting. Thereafter, the issues were discussed and the offender would be reprimanded. However, if the conflicts involved different fishing camps, then the leaders of the respective camps solved the conflicts through summoning the conflicting parties to a meeting. The camp leaders were chosen by the fishing crew of the respective camp and they commanded respect among their social groups. In all cases, if the

conflicts were not solved then the issues were taken to a *Mkungu*<sup>2</sup>. At this court, there was no fines to be paid, but just warning to warring parties. The fishing community stated that in this period children or the youths obeyed their parents/ elders. In addition, people were also honest with one another. To some extent, the conflict resolution mechanisms among the Luo community conflicts were also similar to the Kerewe/Jita approach in that it involved the parents/elders of the of the conflicting parties.

In the current legal system, conflicts are solved through the established structures such as, police, courts of law, BMU and village leadership. In this system, when there is a conflict between individuals, the aggrieved individual reports the matter to the BMU for solution and if the BMU cannot solve the matter then the matter is taken up to the village leadership. If an individual thinks that justice has not been done then he/she can take the matter to the police who will take up the matter to a court of law for hearing. However, the fishing communities noted that in most cases, these conflicts are solved at the BMUs and village leadership levels. Very few cases had been forwarded to the courts of law. Conversely, the fishing communities indicated that these conflict resolution mechanism does not bring harmony, but creates more enmity between the warring parties. This is because some of those involved in these conflicts often influence the outcome, which in many instance do not favour the poor. In addition, the communities stated that most people do not prefer the court system because it requires a lot of money to get justice done as one has to hire an advocate and attend court, which are located miles away from the fishing areas. For this reasons, they see the formal conflicts resolution in the current system as too bureaucratic and laden with corruption, which makes it easier for one to buy justice. These findings indicate that fishing communities are not satisfied with the conflict resolution mechanisms in the statutory system. As such, the conflict resolution mechanism does not promote justice and fair treatment to all people as envisaged in the SSF Guidelines. And in relation then to the SSF Guidelines, this means that there is inadequate access to justice for SSF because the mechanisms seem to be corrupt and inaccessible.

#### ***4.3.3. Tenure in legal documents***

All land in Tanzania is public however it is vested in the president of the United Republic of Tanzania as a trustee on behalf of the citizens (URT, 1997). This land is divided into three categories namely village, general and public land. Village land implies all land within the

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<sup>2</sup>A form of a Magistrate court in a Ward (an administrative unit in a district) during the traditional community.

jurisdiction of a legally registered village under the Local Government Act of 1982. Public land is all land in Tanzania whether granted, customary or unoccupied. In this Act any Tanzanian whether male or female who wants to occupy land is allowed to apply and he/she can be granted the right of occupancy for a period between 33 years and 99 years.

In Tanzania access to land is through inheritance from one's parents or relatives, allocation by village or central government, one can also purchase land or can be given as a gift. Men and women have equal access to and ownership rights. The Land laws ensures that existing rights in land and recognized long standing occupation or use, are clarified and secured by the law, facilitates equitable distribution. Access to land laws by all citizens, ensure that land is used productively and that any such use complies with the principles of sustainable development as well as providing an efficient, effective, economical or transparent system of land adjudication among others.

This land tenure has a link to the Fisheries Policy of 1997, which recognizes fisheries resources and or fishing water bodies falling under the jurisdiction of the various District Councils and village governments are owned by the respective District or village government. The community therefore, through their village government can allocate land to anybody who is a Tanzanian to occupy and develop. They can also allocate land to foreigners but only to develop but not to occupy and own. However, they cannot allocate fishing grounds to foreigners or foreign vessel to fish in village waters. Those rights lie with the Directorate of Fisheries which contradicts with the SSF-Guidelines stating that pre-existing customary rights should be recognized.

#### **4.4. Institutions and rules governing tenure in Lake Victoria fisheries**

##### ***4.4.1. Existing local rules and regulations***

There exist local rules and regulations that have been used and are being used to govern the fisheries at different tenure systems. For example, in customary systems in all the fishing communities, rules and regulations were unwritten, informal and were incorporated in the community cultures. They were passed from one generation to another through various mechanisms. Among the Luos, Haya, Kerewe and Jita, rules and regulations including fishing skills and techniques were passed from the elderly to the male youths through engaging the

youths in chores such as cleaning the boats, where to fish and how to behave while on fishing grounds. In the Sukuma community for example, rules and regulations were passed from the elderly to the youths through meetings. These meetings took place at night after having dinner in the circle building structure with bonfire (called Ashikome in Sukuma language) in the middle (Figure 3 shows the kind of structure in which bonfire was lighted in the middle). The male youths would sit around an elderly person who would narrate the community's fishing rules and regulations. These meetings were also used to disseminate community's culture.

In all the communities it was prohibited to fight while out fishing on the lake. Restriction on physical fight is an informal rule that has continued to be practised among many boat owners today. At the same time, fishing in breeding areas was not allowed and this has also been adopted by the current tenure system. Other rules forbade fishing on a burial day and this was done to console the bereaved and also to participate in the burial ceremony and it is still practiced to date as was observed in Igabilo village where fishers did not go out fishing until the burial of one of the fisher. On the other hand, the use of nets measuring 3.5 inches mesh size and above was allowed to ensure that young fish are not fished, but left to grow. For example, the *Lusaka*<sup>3</sup> in figure 4, is a traditional fishing gear that was being used by fishers in the Sukuma community to catch fish. Fishing during farming season was also prohibited to encourage people to farm crops and give fish time to reproduce.

In the current legal system, the rules and regulations are mainly formal. The rules and regulations are geared towards protecting the ecosystem health. These include; prohibiting fishing during closed season and closed areas, use of undersized nets, and fishing without license. A complete list of rules and regulations in customary and legal system are presented in Box 4. Some of these customary rules and regulations have been recognized and are implemented by the State. For example, the current fisheries regulation prohibits the use of beach seine in fishing and restricts fishing in breeding areas. There are also debates about controlling the fishing effort and capacity in the lake. This is aimed at reducing fishing activities throughout the year, which in customary system was restricted. By incorporating some of the customary rules and regulations into the statutory rules, the State is contributing towards implementing SSF Guidelines Guiding principle 2, which calls for respect of cultures, i.e., recognizing and respecting existing forms of organization, traditional and local knowledge and practices of small-scale fishing communities.

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<sup>3</sup>A Sukuma name referring to a traditional basket/trap used to catching fish

**Box 4. Examples of customary and legal system's rules and regulations**

**Rules and regulations in the customary system**

Fishing in breeding areas prohibited  
Going out fishing on a burial day prohibited  
Fighting while out in the lake fishing is prohibited  
Using beach seine of less than 3.5 inches' mesh sizes prohibited.  
Women were not allowed to involve in fisheries related activities  
There was restriction on fishing during farming season

**Rules and regulation in the current legal system**

Using undersized fishing net is prohibited.  
Fishing without a fishing license is prohibited.  
Landing fish in non-gazetted site is prohibited  
Processing fish in non-recognized areas is prohibited.  
Fishing in closed areas or during closed seasons is prohibited.  
Trading fish without a license is prohibited.  
Use of beach seine is prohibited  
Use of monofilament nets is prohibited

Source: Survey interviews and government records



**Figure 3.** A Sukuma circle hut where bornfire (Ashikome) was lit when an elder met with youths.



**Figure 4.** Fishing gear (Lusaka) used in Sukuma community



**Figure 5.** The Ukerewe Chief's palace



**Figure 6.** Drums used for various purposes among Sukuma tribe

#### *4.4.2. Existing community institutions and external institutions*

There exists institutions within the community and outside the community that are used to manage the fisheries. For instance, in the customary system, there was the community leaders/elder group, which was the highest organ in making decision and having the greatest responsibilities in management including arbitration in conflicts. There were also some social pressure groups that existed within those involved in the fisheries. These groups were mainly responsible for ensuring that decision of the elders were effected and that fishing activities were carried out in line with the community's rules and regulations presented above. In addition, there was a community assembly, which comprised all the community members. This was the only forum for disseminating community issues/matters to a wider majority. These were the main community institutions that were used to manage the fisheries in the customary system.

In the current legal system, there are various institutions that are used to manage the fisheries. At the community level, there is the BMU, which is a fishers' association that brings together those involved in fisheries at the landing sites level. Besides the BMUs, there is a village government which represent the local government at the village level. There is also fisheries department represented by fisheries officers at the ward and district levels. Given that the management of fisheries resources require financial support, the management also includes

donors/development partners. Other institutions are the courts of law, the police, Non-Governmental Organizations (NGOs) and fishing industries. The community assembly that existed in the customary system has been incorporated in the current statutory system and is being employed by the BMU to disseminate fisheries matters to wider audience. In addition, there are some structures that existed in the customary system that are mirrored in the current BMU structure. For example, the BMU executive committee members, which is the highest organ in the BMU, resembles that of the communal leaders. However, the executive committee is not revered as that of the leaders (in the customary system) partly because of the multi-ethnic groups involved in the fisheries.

Questions were asked on the effectiveness of these institutions in the management of fisheries resources. And there was a general perception in all the communities that they have not been effective in managing the fisheries resources. In particular, the communities highlighted that they have achieved little success in combating illegal fishing and theft of fishing gears. The former is considered a major cause of fish decline while the latter is a major security concern to the lives of those involved in the fisheries, and their properties. For example, in Sota the community explained that when their village was invaded by fishers from a neighbouring country, the local police and fisheries officers never dealt with the issue as would be expected. The government officials only resurfaced after the community held demonstration protesting against the invasion. In addition, the fishers complain about the continued use of driftnets as another reason why they think the institutions have achieved very little success in managing the fisheries resources. At the same time, the community at Busekela and Igabilo claimed that the rampant insecurity in their areas caused by theft of fishing gears is a manifestation of the failures by the authority to provide security to its people. Drawn from these observations, the current statutory system can be considered inadequate to secure the security of the fishers and their properties. In addition, the current system is considered inappropriate to securing sustainable use of the resources. So in terms of the SSF Guidelines, the current state system is failing to ensure sustainable fisheries, by failing to provide adequate law enforcement and monitoring

## **4.5 Impacts of different tenure systems on fisheries management.**

### ***4.5.1 Tenure impact on gender equality and participation in development programmes.***

Gender equality, i.e., equal participation of both men and women in decision making and implementation is pivotal in any set of strategies for sustainable use of fisheries resources. In traditional/customary system, women were not equal to men in terms of ownership and access of fisheries resources. In all the fishing communities, they were considered lowly, but played a valuable role in the society. For example, women were also not allowed to speak publicly in community meetings where community matters were discussed. If a woman wanted to make a contribution, then she had to communicate that thought through the husband. Discrimination of women was extended up to food consumption as there were some types or parts of the fish, chicken and beef that a woman was not allowed to eat. These discriminations against women deprived them opportunity to contribute to fisheries management and their rights as human beings. As a result, they were involved in difficult chores like herding and milking cattles, farming, caring for the children, cooking and fetching water and firewood. It is only in Haya ethnic group that men fetched firewood. However, in the statutory legal system, some of the discrimination against the women were eased. For example, the introduction of BMUs necessitated the involvement of women in fisheries decision making and implementation. The BMU Guidelines stresses that atleast three out of the 9-15 committee members must be women which has already been implemented in many BMUs. In addition, various policies and regulations that were enacted, promoted participation of women in political, economic and social development projects and programmes. These shifts have somehow reduced the inequality experienced in the traditional societies, where women participation in fisheries decision making and implementation was restricted.

### ***4.5.2. Tenure impact on poverty and food security***

Access to fisheries resources is an important aspect towards poverty reduction and enhancing food security and nutrition in fisheries dependent communities. In the customary system, entry into the fishery was not restricted and people were able to access fisheries resources. These made fish easily accessible to majority of the people within the fishing communities. The fish could be traded with other farmed product or sold to get money to get other basic needs such clothes and shelter. During this period, fish was plenty, farming was still productive and the population was also low. As a result, nobody could go hungry for lack of

food or money. However, in the current tenure system, where the commercialization of the fisheries have reduced access to fisheries resources, fish is now accessible to only those with money. For instance, no one can give fish freely to a stranger at the landing site as it used to be in the past. In addition, anyone fishing in the lake is required by law to have a fishing license before being allowed to fish. This has led to influx of people from other areas who were not originally fishers. As a result, new fishing techniques including illegal fishing methods and gears have mushroomed leading to fish decline (Ikwaput-Nyeko et al. 2009). The decline of fish and licensing mechanism used by the fisheries department have deprived many people from the fishing communities the free access to fish they had during the traditional tenure system. According to the fishing communities, these have contributed to increased poverty and food insecurity levels among the fishing communities.

#### *4.5.3. Marginalized and vulnerable groups in the fisheries*

Within the fisheries, marginalized and vulnerable groups differ from one community to another. However, in all the communities, there are some concerns that women are still marginalized and vulnerable. For example, majority of women do not actively participate in fisheries planning and development despite the various legislations. This could partly be due to historical practises and inability on the part of women to capitalize on the opportunity. The women are also marginalized in terms of access to finance. Apart from the women, there are also some marginalized groups in the fishery as well. For instance, in Sota, fishers using beach seine, longline and fishing dagaa consider themselves marginalized and vulnerable because their nets are taken/swept away by the driftnetters who they consider wealthy people with connection to those in higher authorities. In Busekela, those fishing other fish species (such as haplochromines) consider themselves marginalized group. At Igabilo and Chole villages the considered marginalized groups are fishing crews and fishers targetting other fish species other than Nile perch. In all cases, marginalization and vulnerability is measured in terms of access to finances, individual income and access to some fish species but not based on clan or ethnic group.

## 5.0. Discussion

The SSF Guidelines were developed as a complement to the 1995 FAO Code of Conduct for Responsible Fisheries (CCRF). The SSF Guidelines main objectives are to ensure that small-scale fisheries; a) enhance global food security and nutrition, b) contribute to socio-economic development of fishing communities as well as reducing poverty, c) ensure sustainable utilization, prudent and responsible management and conservation of fisheries resources, and d) provide guidance to development of relevant policies by partner states. As a result of this, the Guidelines have 13 guiding principles that are based on international human-rights standards, responsible fisheries standards and sustainable development practices, paying attention to the marginalized and vulnerable groups. In this light, SSF Guidelines provide an important guidance that empowers fisheries stakeholders to secure sustainable small-scale fisheries and supporting realization of the right to adequate food.

In Tanzania, the SSF Guidelines have been adopted and are being implemented. However, little is known about the factors that may contribute or impede its implementation. Therefore, this examination is paramount in generating information necessary towards documenting factors that may impede its implementation, and at the same time contribute towards its implementation.

The findings in this study reveal that there are certain areas where significant grounds have been made to support implementation of the SSF Guidelines. First, the shift from centralized system of management to co-management where the government and the fishing communities co-jointly own and manage the fisheries resources provides an ideal setting to incorporating the local community in resource management. This aligns with section 5b, paragraph 5.13 and 5.16 of the Guidelines that calls for the need to involve fisheries communities in decision making. Second, the central government has adopted and ratified various international and other national legislations and declarations that promotes gender equality in various sectors including fisheries, enhances sustainable utilization of fisheries resources and addresses the issues of poverty and food security and nutrition. In addition to these, the statutory system has also adopted some of the practises that existed in the customary system. For instance, prohibiting fishing in fish breeding and nursery grounds. However, despite having these measures, there exists some areas that still require much intervention to effectively implement the Guidelines. For example, on responsible governance of tenure in part 2, section 5a of the

Guidelines which recognizes that secure tenure to land and fisheries resources in small-scale fisheries is central to realization of human rights, food security, poverty eradication, sustainable livelihoods, economic growth and social development. Furthermore, paragraph 5.3 stresses that States should ensure that small-scale fisheries and their communities have secure, equitable and socially and culturally appropriate tenure rights to fishery resources and adjacent land. However, all these have not been adequately implemented by the State. For example, some of the customary practices that defined how the fishing communities related with the resources have been neglected by the State (see Onyango 2013).

The central management approach, does not take into consideration the cultural practices of the fishing communities. In other words, it does not address the issue of custody and user-rights, putting sustainability of resources at risk. This do not recognize the obvious understanding that the resource users' are best suited to be stewards of the resources. The current legal tenure system has restricted the access to fisheries resources that these communities had. For example, the restriction on access to outsiders and control on fishing enjoyed by the riparian communities is no longer adhered to in the statutory system. In other words, fisheries resources are now are largely accessible to those with money and is carried throughout the year. This has increased fishing capacity (Ikwaput-Nyeko et al. 2009). At the same time, it has made fish caught to be a private property owned by the person who has been licensed to fish. This does not augur well with the traditional community's practices where fish was a common property and there was free access to fish to the riparian community members. It should be noted that in fishing communities, access to fisheries resources is vital for nutrition, poverty reduction and food security; because the majority of people in these communities rely on fisheries resources for their survival.

Therefore, restricted access to these resources denies them the crucial human rights entitlements envisaged in the Guidelines. Moreover, in paragraph 5.5, the Guidelines stresses the need for States to recognize the role of small-scale fishing communities and indigenous peoples to restore, conserve, protect and co-manage local aquatic and coastal ecosystems. It is in this line that co-management was introduced in Lake Victoria to integrate the local communities in ownership and management of fisheries resources. However, this has not been achieved as the State has continued to manage the fisheries with little involvement of the fishing communities as if it is the sole owner (Onyango and Jentoft2007). This has led to

formulation of rules and regulations that do not originate from the local resources users. In addition, the established BMUs are also faced with myriad challenges such as lack of adequate funding to support their activities, and lack adequate training and expertise to manage the resources. They have also failed to hold periodic meetings as required by the National BMU Guidelines, which requires that assembly meetings and executive meetings to be held annually and quarterly respectively (Ogwang' et al. 2009).

Another area that may impede the effective implementation of the Guidelines is the conflict resolution mechanisms. The existing conflict resolution in the current system are considered formal and corrupt. In addition, fishing communities think that they are designed to serve the purpose of the government and not to bring harmony within the community. In order to improve the participation of all stakeholders in fisheries management, there is need to reform the BMUs to align with the local community's local institution where they are operating. This is important as each community may offer a unique characteristic and organization that is different from the other. For example, the socio-political organizations of those communities with kinship may differ from those that did not have that organization. It is also suggested that the conflict resolution mechanism that existed in the customary system be promoted to solve disputes rather than relying on the current formal system.

Additionally, in section 8, the Guidelines calls for the need to put up measures that promotes gender equality by discouraging practices that discriminate against women. In particular, in paragraph 8.2 and 8.3, the Guidelines calls for partner States to comply with international human rights laws and to establish policies and legislations for realizing gender equality respectively. The government has implemented this through ratification of the international laws and declarations such as, CEDAW and Beijing Declaration and Platform for Action, which has seen a significant increase in the number of women in decision-making at the national levels (Parliament and Central government). In the fisheries sector women have been involved in decision-making and implementation of fisheries development plans. This has been made possible through the National BMU Guidelines that require that at least three of the 15 executive members must be women. This requirement has been implemented in many fishing communities, and in some others the number of women in the committee surpasses the required number and it is a clear indication of increased participation of women in the management regime of the lake fisheries. However, despite this development, there are still

some male chauvinists who still regard women as lesser beings. It is important to note that this is an individual behaviour that should not be tied to any community or ethnic group. In other words, there are improved participation of women in fisheries compared to the customary system. This improved participation can be attributed to the fact that women comprise the majority in fish trading and processing on Lake Victoria (Lwenya et al. 2009). Therefore, this study addresses the Guidelines requirements on gender equality and participation of all stakeholders in fisheries decision-making. It also contributes to incorporating important contributions that women can make in fisheries management which was missed in the customary system. It is worth noting that discrimination of women has for ages been a common practice among the lakeside communities that addressing it should involve various strategies and efforts.

Thus, with these new developments and awareness of many people, women potential in leadership and influencing decisions have been evident not only in fisheries, but other sectors as well. On a different note, to sustain the fisheries resources, it is suggested that the State promote the incorporation of traditional practices and knowledge in the management of fisheries resources as it has been found that traditional knowledge have contributed to effective management where science based approaches have failed (Berkes et al. 2000)

## **6.0. Conclusions**

On the basis of this study, different tenure relations and governance have evolved in Lake Victoria from the traditional customary system to co-management which is characterized by statutory system. On one hand, the tenure relations and governance that existed in the customary system accorded more accessibility and fishing rights to the riparian communities. However, it did not offer equal rights to women. On the other hand, statutory system completely ignored these rights and accessibility enjoyed by the riparian communities by opening up the fisheries to all. In addition, under the statutory system there is improvement on gender equality through incorporation of women in important decision making organs like BMU executive committee. In this regard, the report show that significant steps that have been made in the implementation of the SSF-Guidelines concerning the fisheries of Lake Victoria Tanzania. These steps have been attributed by Tanzania's adoption and ratification of various international instruments including the Guidelines itself. On a different note, there are some aspects that may impede the implementation of the Guidelines. The issue of lake

custodianship is one aspect that needs to be addressed. Although co-management operates on a joint management, there are concerns from fishing communities that the State is the only custodian. This is partly because it is the State rules and regulations that control how fish is accessed and fishing rights given. This can be addressed by using the existing structures provided by the co-management regime to strengthen how the stakeholders interact and communicate towards fisheries planning and development. This implementation can be linked to providing adequate funding to the BMUs to implement the by-laws which is a product of community consultation meetings. An improved community participation in fisheries planning and development is key to addressing accessibility and fishing rights which are not only central to the heart of many people from the riparian communities, but also to the successful implementation of the Guidelines.

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## Annex I

### FISHERS' QUESTIONNAIRE

**Introduction:** *The purpose of this survey is to understand the dynamics of tenure arrangements in Lake Victoria and their interplay to understand how responsible governance of tenure can be implemented in inland fisheries to protect the contribution of small-scale fisheries to food security and nutrition; to improve the socio-economic situation of small-scale fishing communities and to achieve the sustainable utilization, prudent and responsible management and conservation of Lake Victoria fisheries resources. Thank you for your time and co-operation.*

#### **PART I:**

Name of Interviewer \_\_\_\_\_  
Date \_\_\_\_\_  
Landing Beach \_\_\_\_\_  
District \_\_\_\_\_

#### **I. Personal Data**

1. Age of respondent: (Years)  
[1] 18-22 [2] 23-27 [3] 28-32 [4] 33-37  
[5] 38-42 [6] 43-47 [7] Above 48
2. Sex of Respondent  
[1] Male [2] Female
3. Level of education completed  
[1] No schooling [2] Primary [3] Secondary  
[4] Tertiary [5] University [6] Other \_\_\_\_\_
4. Category of fisher  
[1] Boat owner [2] Fishing crew  
[3] Processor/Trader [4] Net/gear repairer
5. Number of years in Fisheries  
[1] <5 years [2] 6-10 years  
[3] 11-15 years [4] >16 years

#### **II. Fishing Rights and Tenure in Lake Victoria**

6. In your opinion, who owns the fisheries resources?  
[1] Government only [2] Fishing community only  
[3] Jointly owned by Government and Fishing community  
[4] I do not know [5] Other specify \_\_\_\_\_

7. Is there a term in your local language/dialect that refers to the rules of ownership of and access to fisheries resources? If Yes, please tell me what this is and what it means in your culture? What does it include?

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8. In your view, how can you describe the tenure system in Lake Victoria?

[1] State [2] Communal [3] Open [4] Private

9. If communal, what gives the community this right of ownership and use?

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10. How does this tenure system operate? Please elaborate/explain. Probe where does this come from? Is it based on group membership? Is it inherited/ancestral? Are newcomers allowed in? are people who marry in to the local group allowed to fish?

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11. Does the community have its own system of local rules that determine who can access and use the fisheries resources or is it only the State who decides?

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12. If State determined, does the State incorporate customary rules into any of the state regulations? (how does the state respect customary rights and rules?)

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13. In your opinion, who do you think has the right to fish or participate in fishing activities?

[1] Boat owner [2] Fishing crew [3] Processor/Trader  
[4] Fish agents [5] Gear/boat maker/repairer  
[6] All of the above [7] Other specify \_\_\_\_\_

14. Do people have rights in their own right, or as members of particular households or families? That is, is it an individual right or a family right?

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15. Do women and men have equal access to fisheries resources sufficient to their needs and livelihoods?

[1] Yes [2] No

16. If **No**, what determines or shapes their different access? What is this difference based upon?

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*Draft for Comments from ICSEF*

17. If **No**, have any measures been adopted to ensure accessibility of women to fisheries resources?

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18. In your view, who manages the fisheries including fishing rights or entry into fishery?  
[1] State [2] Fishing community [3] State and Fishing community [3] Civil societies [4] Processing industries [5] Other specify \_\_\_\_\_

19. Do women and men in fishery enjoy equal rights of ownership and access to fisheries resources?  
[1] Yes [2] No

20. If **No**, what do you consider the major constraint to enjoying equal rights of ownership and access to fisheries resources for women?  
[1] Historical [2] Traditional/Cultural  
[3] Religious [4] Social [5] Other factors \_\_\_\_\_

21. What measures have been adopted to guarantee security of tenure (ownership and access) to women in fishery?

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22. Are there any groups of fishers or classes of fishers who are more marginalized than others (for example, particular clans/tribes, or migrant fishers?) [1] Yes [2] No

23. If Yes, please describe in what way they are marginalized?

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24. Are outsiders who are poor allowed to come in and fish? [1] Yes [2] No

25. If **No**, what rules and processes exist to exclude them or control them?

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### III. Responsible Governance Tenure

26. Are all fishers regardless of their status and gender free to express themselves and participate in fisheries planning processes through the established BMUs?  
[1] Yes [2] No

27. Are there conflicts over fishing rights between fishers? [1] Yes [2] No

28. What kind of conflicts do fishers always experience in their fishing activities?

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29. If **Yes**, what mechanisms are there to address these conflicts?

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30. Do these mechanisms address/provide solutions to the conflicts experienced?

[1] Yes [2] No

31. If **Yes**, can you explain why you think so?

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32. In your view, what more do you think should be done?

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33. What can you say about the sustainability of fisheries resources under the current tenure system?

[1] Improved [2] Not improved [3] I don't know

34. Do fishers have the rights, access and ownership over the land close to the fishing grounds? [1] Yes [2] No

35. If **Yes**, why do you think so?

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36. If **No**, please describe whether this has always been the case or what has changed? What are the issues here?

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#### **IV. Institutions and Rules Governing Tenure**

37. What factors promote or hinder gender differential on governance of tenure?

Promote	Hinder


38. What policies, measures and laws exist to ensure that those with rights to fish are protected?

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39. How does the current tenure system in the lake impacts on gender equity and participation in fishery development programs?

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40. Which of the following rules and regulations and institutions governing tenure in Lake Victoria you are aware of?

<b>Communal and informal rules</b>	<b>State rules and regulations</b>	<b>Community and external institutions</b>	<b>Level of effectiveness [1] High [2] Medium [3] Low</b>
	Fishing in breeding areas is prohibited	BMU	
	Landing fish in non-gazetted site is prohibited	Village government	
	Trading fish without license is prohibited	Fisheries department	
	Processing fish without license is prohibited	Police force	
	Use of beach seine is prohibited	Courts of law	
	Use of monofilament net is prohibited	Customs department	
	Fishing Nile perch <50 cm is prohibited	NGOs/CBOs	
	Fishing Nile perch >85 cm is prohibited	Fishing industries	
	Fishing and Trading Tilapia <25cm is prohibited	Other (specify)	
		Other (specify)	

41. What are the traditional/customary fishing practices that have continued to be applied presently to manage the fisheries?

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42. How does decision-making work? Who has the right to participate in decision-making?  
Who has the authority to implement sanctions?

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43. How are the rules (whether state or customary) developed? Who decides? How is the  
fishers' local knowledge incorporate into the rule making?

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44. How does the current tenure system impact on poverty situations in the fishery?

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45. How does the fishers right to fish impacting on fish accessibility and affordability in Lake  
Victoria?

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46. Do you think the government's laws and policies provide enough support for the fishers  
right to fish?

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47. Do you have any other issue/comment to say about improving the governance of the lake?

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