



PLUNDER & DECEPTION

2

WATER-GRABBING: CONTESTATION AND SEIZURE OF WATER RESOURCES IN THE CONTEXT OF MODERNISING COMMERCIAL FISH FARMING ON CRATER LAKES

2020



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ACKNOWLEDGEMENT

Globally, we are challenged by a rise in adverse human rights impacts related to business activities in the extractive and non-extractive industries enabled by weak regulatory frameworks.

The primary risks include loss of life, land grabbing and land allocation without safe guarding policies and adequate practice of human rights due diligence. Adverse risks include disproportionate impact on the most vulnerable groups e.g. women, and children, and systematic retaliations against human rights and environmental defenders.

The production of **Plunder and Deception 2**, Titled ***Water Grabbing: A Contestation and Seizure of Water Resources in the Context of Modernizing Commercial Fish Farming on Crater Lakes*** by Twerwaneho Listeners Club (TLC) clearly demonstrated the likely negative impact unregulated business companies like Ferdsult Engineering Limited can cause on communities.

I applaud the support that TLC got from development partners such as KIOS Foundation and Open Society Foundations that enabled the study to take place.

I also applaud the TLC research team led by Gerald Kankya, Simon Amanyire, Valentin Scholls, Andrew Asiimwe, Achan Patricia and the independent researchers; Andrew Bahemuka (Resource Rights Africa) and Patrick Tumwine that under took the study in intimidating and difficult circumstances.

The report demonstrates the impunity orchestrated by private companies taking place at a time when the focus on Business and Human Rights has become more critical not only in Uganda but also at the global level.

As the world prepares for the 6th session of negotiations of the UN Treaty on Transnational Corporations and Human Rights in November 2020 in Geneva, let us all deepen our understanding and take into account the impunity of transnational corporations and other businesses in Uganda and across the continent.

The horrendous systematic human rights abuse by workers and associates of Ferdsult Engineering Limited as documented in the report calls for a united force of Human Rights Defenders to remain united in the fight against the dictates of private companies and Say No to Extractivism in all its forms.

It is my conviction and hope that the publication and dissemination of this report will deepen our understanding of the abuses and violations resulting from activities of private companies within our communities. It will further widen the space for freedom of expression and further advocacy to safeguard for future re-occurrence of the same problems within the areas surrounding the crater lakes in Kabarole and Bunyangabu Districts.



For God and My Country.

Richard Bwiruka
Advocates

TABLE OF CONTENTS

Acknowledgement	ii
Executive summary	v
Introduction	1
Land and water management in Uganda	1
Legislation framework	2
Land and water framework	3
Kabarole District, Western Uganda, home of 52 crater lakes	4
Political and administrative actors	5
Economic Actors	6
Timeline	6
Objectives of the study	6
Methodology	9
Project	9
Timeline detailing Ferdsult activities	11
Human rights violations	16
Free, prior and informed consent	17
Right to food and water and impact on daily life	19
Right not to be arbitrarily deprived from property	21
Right to freedom from forced evictions	21
Right to liberty and security of the person	22
Role of duty bearer/public office holders	24
Understanding corporate capture	27
Profiling Ferdsult and the project	28

LIST OF FIGURES

Figure 1:	Crater lake on the 20,000 shillings note	4
Figure 2:	Land commission visiting lake Saaka to establish the impact of Ferdsult activities on local communities	5
Figure 3:	Some Community members meet after a court session at TLC offices	10
Figure 4:	James Rukampena, a community activist who was shot and later had his leg amputated	11
Figure 5:	Interviewing session at Kabata near lake Kifuruka	16
Figure 6:	This old man was forced to abandoned his recreation activities along the water banks	16
Figure 7:	Community members demonstrate against the give away of the crater lakes	17
Figure 8:	Plain lands deserted during Ferdsult occupation for fear of being reprimanded	18
Figure 9:	During Ferdsult occupation fetching from the lakes was prohibited.	19
Figure 10:	Such homesteads could not access water following the takeover of the lakes by Ferdsult	20

EXECUTIVE SUMMARY

Abstract:

Recent large-scale land acquisitions for agricultural production, popularly known as ‘land grabbing’, have attracted headline attention. Water as both a target and driver of this phenomenon has been largely ignored despite the interconnectedness of water and land. This special report aims to widen and deepen the lens beyond the confines of the literature’s still limited focus on agriculture-driven resource grabbing.

The report demonstrates that the fluid nature of water and its hydrologic complexity often obscure how water grabbing takes place and what the associated impacts on the diverse social groups/communities are. The fluid properties of water interact with the ‘slippery’ nature of the grabbing processes: unequal power relations; fuzziness between legality and illegality and formal and informal rights; unclear administrative boundaries and jurisdictions, and fragmented negotiation processes. All these factors combined with the powerful material, discursive and symbolic characteristics of water make ‘water grabbing’ a site for conflict with potential drastic impacts on the current and future uses and benefits of water, rights as well as changes in tenure relations.

This report is intended to raise awareness about the plight communities settled around the Kabarole crater lakes face after the district administration privatized 20 crater lakes to a private business company Ferdsult Engineering Services Limited.

In the report, we provide a detailed analysis of the processes water was grabbed from community use using formal administrative structure, how the company secured its establishment and the impact on local communities.

We also provide recommendations for future projects that may need to utilize shared resources like water.



INTRODUCTION

Land and water management in Uganda

Around seventy percent of Uganda labour force works in the agricultural and fishing sector¹. More specifically, around 700 000 people are active in the fishing sector. The principal water bodies of the country, where most of the fish is caught are, among others, lakes Victoria, George, Albert and the river Nile. However, many households, particularly rural poor, are relying on small lakes or water streams for fishing for their own consumption or for sale, as acknowledged by the Food and Agriculture Organization (FAO)². Access to land and water is therefore a key issue and a sensitive subject. As featured in an informative report by the Uganda Human Rights Commission: “33% to 50% of landholders”³ are affected by land disputes. This study is also underlining the role played by the State and the private sector in these disputes that “ranked the highest among conflict countrywide”⁴. It can take the form of land or water grabbing.

Grabbing should not be understood simply as an illegal appropriation but also as a capture of the decision-making power on the way natural resources can be used. As the Transnational Institute defines it: “*Water grabbing refers to situations where powerful actors are able to take control of or reallocate to their own benefit water resources at the expense of previous (un)registered local users or the ecosystems on which those users’ livelihoods are based. It involves the capturing of the decision-making power around water, including the power to decide how and for what purposes water resources are used now and in the future.*”⁵

If land grabbing⁶ and specifically large-scale acquisitions by foreign investors has been widely mediatised and discussed by academic and civil society organizations it should not be forgotten that smaller conflicts are widely spread as well as water disputes that are genuinely lacking of consideration. For inland waters it can comprise construction of a dam, pollution of groundwater, draining of wetlands, grabbing of lakes. It can be linked to land grabbing, since agricultural project or extractives project are for example in need of large quantity of water.

The management of land and water bodies in Uganda is enshrined in complex historical dynamics. At the end of the colonial era, the arbitrarily distribution of land has concentrated propriety in the hands of a few. Since 1986, the neoliberal paradigm is influencing Ugandan policies.

Both of these problems are connected to two current sensitive political dynamics.

Firstly, *relations between the State and Kingdoms are tense, the British have let an important part of the land to Kingdoms, rooting their power into the ground.*

1 <http://www.fao.org/3/a-i4915e.pdf> Accessed on 26/03/2019

2 <http://www.fao.org/fi/oldsite/FCP/en/uga/profile.htm> Accessed on 26/03/2019

3 Land disputes and Human rights in selected regions of Uganda, Uganda Human Rights Commission, 2017

4 Ibid.

5 The Global Water Grab, a primer Transnational Institute, 2014.

6 <https://www.eurovia.org/how-do-we-define-land-grabbing/> Accessed on 05/04/2019.

Secondly, the development narrative, deeply linked to the international institutions sphere and neoliberalism, has imposed itself within the Ugandan political scene as a hegemonic discourse. One that will contradict the action of the government will be labelled as anti-development.

For land and water, the neoliberal paradigm implies the removal of whatever can be considered as a barrier to the market, therefore it is aiming for the “privatization and individualization of public/communal lands [...] promotion of land rental markets, and land sales”⁷, thus dismissing customary tenure or any form of public or common ownership. It also signifies an important emphasis on exportation. A decisive idea carried by such policies is the commodification of natural resources: from a water body that is providing people a lot of resources, an economic good, that can be exchanged on a market, is created, thus benefiting private actors instead of common interest. *[This process is promoted by the State, allying with private actors; the apparent paradox is to be resolved by the fact that the prevarication of resources by private individuals and groups within the public administration is key in the operation of Ugandan State].*

It is the vision promoted by international financial institutions (International Monetary Fund, World Bank) as well as different multilateral and bilateral donors.

Given the importance of these issues, the government has published a National Land Policy in 2013 and President Museveni has appointed a Judicial Commission of inquiry into land matters in December 2016 led by C. Bamugemereire. However, the last National Water Policy goes back to 1999. The National Land Policy of 2013 intend to reduce poverty in Uganda by transforming the country “from a peasant society to a modern, industrialized and urbanized society”. Talking about management of natural resources the policy is acknowledging that “Safeguards in legislation have not deterred extensive degeneration, occasioned by administrative abuse”⁸

However, these multiple policies have to be put into perspective considering the difficulty to effectively implement them. Our case study shows a great discrepancy between stated objectives such as “poverty reduction”⁹, and the reality of agricultural, fishing and globally development projects in Uganda. Moreover, the difficulties for enforcing the legislation in front of a Court of Justice are prominent in the country as “access to Justice remains a myth for many Ugandans”¹⁰.

Legislation framework

The Republic of Uganda has ratified the Universal Declaration of Human Rights (UDHR) and the main treaties on human rights such as the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and United Nations Convention against Torture (UNCAT). Uganda has also ratified the African Charter on Human and Peoples’ Rights (ACHPR).

7 ‘The Underlying Assumptions, Theory, and Practice of Neoliberal Land Policies’. In *Promised Land: Competing Visions of Agrarian Reform*, Borras, S. Jr, 2006.

8 The Uganda National Land Policy, Ministry of Lands, Housing and Urban Development, 2013

9 Ibid.

10 Legal Aid Service Providers Network, Newsletter April 2019 Volume 2 | Issue 8 & 9

The Chapter Four of the Constitution of Uganda (CoU) provides protection for human rights, beginning with its article 20 paragraph 2: *“The rights and freedoms of the individual and groups enshrined in this Chapter shall be respected, upheld and promoted by all organs and agencies of Government and by all persons.”*

This report is bringing attention on the violation concerning the following rights:

- * Right to life; article 22 CoU.
- * Right to liberty (article 23 CoU) and security of person.
- * Right to not be subjected to torture or to cruel, inhuman or degrading treatment or punishment; article 24 CoU.
- * Right not to be subjected to arbitrary arrest, detention or exile; article 23 CoU.
- * Right not to be arbitrarily deprived of his property; article 26 CoU.
- * Right to a standard of living [...] including food; article 25 UDHR, article 11 ICESCR.

Whereas we selected these specific rights in our initial process, our work has shed light also on other violations such as the right to access justice (Article 8 UDHR, Article 2 ICCPR) and the rights of women (article 33 CoU).

The Constitution also provides the enforcement of these rights and freedoms by courts in its article 50 states that *“Any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.”*

Land and water framework

Objective XIII of the Constitution of the Republic of Uganda of 1995 (as amended) requires the State to protect important natural resources, including land, wetlands, fauna and flora on behalf of the people of Uganda. Article 189 of the Constitution entrusts the central government with the responsibility for matters specified in the sixth schedule. Item seven of the sixth schedule specifies that resources such as land, water resources and the environment are the responsibility of the central government. However, article 189 (2) provides that district councils and councils of lower Local Governments may at their own request be allowed to exercise functions reserved to the central government or such functions may be delegated to them by the government or by parliament by law. Article 237 of the Constitution requires that natural lakes, rivers, wetlands, national parks, game reserves and any land be reserved for ecological and touristic purposes for the common good of all citizens and held by government or Local Governments in trust for the people as determined by parliament or law. As a trustee, government only has power to give concessions, licenses or permits in respect of the natural resources such as water resources.

The Water Act, Cap 152 is the principal law for the water sector and it incorporates legislation for water resources management, water supply and sanitation. The main objectives of the Water Act as provided in Section 4 are to: promote rational management and use of the waters of Uganda among others. Under Section 5, the Water Act recognizes that all rights to investigate,

control, protect and manage water in the country for any use are vested in the Government. Its article 33 provides that “(1) *Where damage is caused to land through the exercise of powers conferred upon the Minister, the director or an authorized officer by this Act, the **Government shall compensate** all parties having an interest in that land.* (2) *For purposes of this section, damage to land includes— (a) deprivation of possession of the surface land; (3) Compensation under this section may be – (a) in the form of money; (b) provision of an alternative supply of water”*

Moreover, Objective X of the Constitution provides that people shall be involved in the formulation and implementation of development plans and programmes which affect them.

This case study shows a good example of how, despite many legal texts, natural resources can be used contrary to people’s interest, leading to violence. Moreover, it explores the margin of action for people to mobilize to defend their rights. It further shows us how access to land and water are deeply interconnected with the human rights mentioned above.

Kabarole District, Western Uganda, home of 52 crater lakes

The Government of Uganda introduced local governments as a measure of getting people closer to services. This process has led to the creation of five levels of Local Government in the 1995 Constitution, which roles have later been specified in the Local Government Acts of 1997. The highest level of Local Government is the District (Local Council V or LCV). The Western region of Uganda is composed of more than 26 districts where around 8.8 million habitants¹¹ are living. Within Toro sub-region is Kabarole district where 474 216 people¹² are living on an area of 1814km² comprising 198km (s or ²) of open water or wetlands¹³; including fifty-two crater lakes. Those lakes are one of the main natural resources for the people living in the surrounding areas providing them with food, water and recreational activities.

Uganda Map: Kabarole District¹⁴



Figure 1: Crater lake on the 20,000 shillings note

11 Census of 2014, <http://www.citypopulation.de/php/uganda-admin.php?adm1id=WES>, accessed on 28/05/2018

12 <http://kabarole.go.ug/>, accessed on 28/05/2018

13 <http://kabarole.go.ug/>, accessed on 28/05/2018

14 © OpenStreetMap contributors, Jarry1250, NordNordWest/Wikipedia. Adapted for this report.

Political and administrative actors

- * The Kabarole District Local Government has executive and legislative powers that must be exercised in compliance with the national law and the Constitution. They are exercised by the District council composed of the elected District chairperson who is the political head of the District and different councillors. It has an important role in matters regarding education, health or land management, it can also raise revenue. The Council decisions are implemented by different departments organized around specific thematic sectors. The Department of Production and Natural Resources of Kabarole has a stated objective of improving *“the quality of life of the people of Kabarole District through promotion of efficient and sustainable use of its natural resources.”*¹⁵ Even though this department is the one mentioned on the District website, the official denomination of the department in charge on the crater lakes issues is the Department of Fisheries, Resources management and Development within which works the Fisheries Officer.
- * The Chief Administrative Officer is the head of the public service in the district and the head of the administration of the district council. He implements the decisions of the council, supervise the work of the administration, and also assist in the maintenance of law, order and security in the district among other things.
- * The Resident District Commissioner is the representative of the State within the District. He/she coordinates government services and coordinates the relations between national and district level.

The district internal security officer: The district internal security officer is Uganda governments' intelligence agent working at district level to provide security and security intelligence to Uganda's policy makers at district level. He/she ensures stability, monitors government programs for the state.

Solicitor General: A solicitor general is a government representative. He/she provides legal advice, represents the government in courtroom proceedings

Directorate of fisheries: Supports production of fish, fish dent and also control quality and safety of fisheries products for improved food security and income. He/she supports sustainable animal and vector control disease, food quality for H/H income.

Land Commission of inquiry: Is a commission comprising of legal and technical experts assessing the country's land management, ownership and utilization policies.



Figure 2:
Land commission visiting lake Saaka to establish the impact of Fedsult activities on local communities

¹⁵ <http://kabarole.go.ug/production-and-natural-resources/> , accessed on 16/01/2019

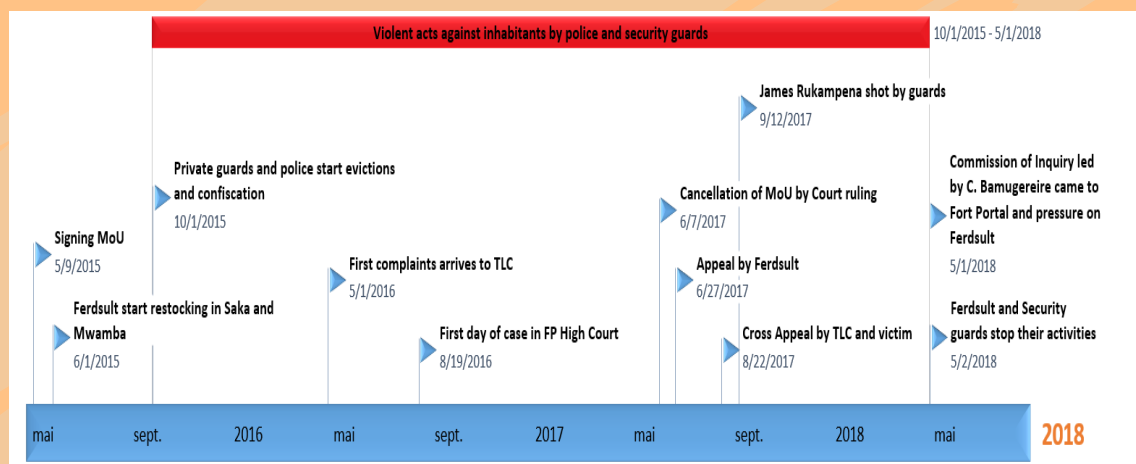
Economic Actors:

- * **Ferdsult Engineering Services Limited:** is a registered Ugandan company involved in rural electrification and fishing business. There is limited information on the company activities. However, the available information indicates that the company has fish farming activities on Lake Victoria. Several news articles talk about problems between the company and the Rural Electrification Agency (REA) over the payment of bills by Ferdsult.
- * **Security companies:** 1980 security and Action War Veteran Security. They are Fort Portal based companies, providing armed security guards to their customers.

Many academic researchers, civil societies or as mentioned above the in the report have intended to give a global overview of land and water disputes from different perspectives (human rights, economic, sociology). This report is illustrating the impact of land and water grabbing by a case study from a human rights perspective in a rural area of Western Uganda.

Twerwaneho Listeners Club is a human rights organization based in the Rwenzori Region, whose ultimate goal is to monitor corporate companies' activities/operation and assist victims of abuses. After hearing dozens of complaints from people being evicted and their representatives', TLC picked interest in the case. Since 2016 the organization has been helping victims of this project to seek justice. TLC along with some victims filed a civil suit against Ferdsult, Kabarole District Local Government and Attorney General in order to stop wrongful activities due to the Memorandum of Understanding between the Kabarole District and Ferdsult Engineering Services Limited.

Timeline



Objectives of the study:

- * To create a secure space of expression for people who have been affected by the project where they can tell their stories and express their demands.
- * To put pressure on political and economic actors to avoid land & water grabbing projects that violate the social wellbeing and fundamental rights of the local communities.
- * To better understand the dynamics of such a project in order to prevent such human rights violations in the future.





METHODOLOGY

Twerwaneho Listeners Club started a research process in May 2018 in order to extensively establish the impact of the project from the community perspective. The project ended in 2018. During this time a team of researchers interviewed *643 people from 20 lakes*. We based our methodology on the *Getting' Right* tool designed by *Rights and Democracy* and generously shared by the *Fédération Internationale des Droits de l'Homme*. Researchers from different backgrounds (law, social sciences, agriculture) took part in the study, conducted face to face interviews and meetings with local community members and leaders. We also contacted the district, police officials and Ferdsult's employee but majority declined to answer as the matter is still in court. The realization and need for such a report has been discussed prior to its beginning with people affected by the project.

Project

On 21st of October 2013, Ferdsult Engineering Limited made an application to the Minister of State for fisheries for permission to utilize some crater lakes in Kabarole district for fisheries activities¹⁶. This commenced the Ferdsult project process of taking possession of 20 of these lakes within the district. On 2nd April 2015, the District Council held a meeting *"in which it was revolved to undertake the stocking and restocking of fish in some of the ear marked crater lakes under a well-coordinated stakeholder approach"* with guidance from the office of the **Permanent Secretary, Ministry of Agriculture Animal Industry and Fisheries**. The MoU expressly stated that the project placed itself under the **Development Strategy and Investment Plan (DSIP) of Ministry of Agriculture Animal Industry and Fisheries**.

Kabarole District was supposed *"to provide technical support to Ferdsult, to request tax exemption for the payment of taxes and duties on project materials, equipment, vehicles imported or purchased for the sole implementation of the project and to approve, monitor evaluate and/or recommend for review of all programs and activities that relate to the project with respect of the common goal of the M.O.U, which is to ensure that the Community benefits from this joint venture,"*.

The project was organised in three phases, the first phase considered restocking of 7 crater Lakes: Saaka, Mwamba, Bukoni 1, Nyabikere, Kifuruka, Kanyango and Ndikya from June 2015 to June 2017. Ferdsult was also authorized to *"invest in other economic activities in and around the lakes that may not be viable for fishing activities after obtaining clearance from the authorized institutions of Government"*.

The Kabarole District Local Government signed with Ferdsult Engineering Services Limited a Memorandum of Understanding (MoU)¹⁷ on 9th May of 2015, an agreement drafted and supervised by the Attorney General. This agreement gave to Ferdsult exclusive right to stock and restock fish in 20 crater lakes. Restocking and stoking commenced a month later on Lake

¹⁶ Pg 82, Civil Appeal No 15,7 of 2017 (Arising from Fort Portal HCT-02-ma-0062 OF 2016)

¹⁷ Annex TBC

Saaka and Mwamba. In the following months, it became clear that the MOU had given the company exclusive right to the lakes and their shores. The company hired private guards to patrol on and around the lakes, to evict people from their gardens around the lakes and chase them from the shores. Police also widely participated in the abuses.

One year after the signing, complaints from community members who have been evicted as a result of Ferdsult activities surrounding the 20 crater lakes were reported to Twerwaneho Listeners Club (TLC).

Between the signing of the MoU and March 2018 TLC documented **123** violent incidents and at least 81 people had been denied access to 6 lakes and surrounding lands. On 19th August 2016 the High Court of Fort Portal began a hearing in to the case filled by TLC and several community members raising a number of human rights abuses committed by the company.

On the 7th June 2017 the high court of Uganda at Fort Portal ruled that Ferdsult's exclusive use of the crater lakes contravened the Constitution of Uganda and the Water Act. The 2015 MoU between Ferdsult and the Kabarole Local Government was declared null and void. The Court also found the evictions, chasing away of people and the denial to use the lakes contravened the Constitution and the Land Act. Regardless of the high court decision, Ferdsult filed an appeal on the 27th June 2017 and later a cross appeal by TLC.



Figure 3: Some Community members meet after a court session at TLC offices

Despite the initial ruling, Ferdust maintained its activities and guards. On the 12th September 2017, four months after the ruling, James Rukampena, a community human rights activist, and a farmer, was shot in the legs by Ferdust hired security guards around Lake Mwamba. This violent assault became the symbol of Ferdust abuses around Kabarole crater lakes.

In March 2018 the Commission of Inquiry on land matters led by Justice Bamugemeire came to Fort Portal, interrogated Ferdust CEO and Fisheries Officer District. The two were later arrested for telling lies to the commission.

This action by a national institution, initiated by the State House led to the departure of Ferdust’s guards, and for now the end of the project.



Figure 4: James Rukampena, a community activist who was shot and later had his leg amputated

Timeline detailing Ferdust activities

Date	Event
9th May 2015	A Memorandum of Understanding (MoU) is signed between Ferdust Engineering Services Ltd and Kabarole District Local Government. The MoU gives the company right to restock and stock fish in 20 crater lakes. In the coming months it will become clear that the company understands the MoU to give them exclusive and total right to the lakes and to their shores for 30 years.
June 2015	Ferdust begins restocking the crater Lakes Saaka and Mwamba.
16th Sept 2015	Guards hired by Ferdust start patrolling the lakes by boat. Ferdust also begins having police and hired security firm guards evict people with gardens, crops, fishing boats and nets within 100 meters from the Lakes Saaka and Mwamba. The evictions are done one by one which delays the response by the population as it first seems to be individual cases, not systematic evictions.
1st Nov 2015	Ferdust makes an agreement with the local communities not to fish in the lakes for the next six months.
May 2016	Complaints from persons who have been evicted as a result of Ferdusts activities surrounding the 20 crater lakes start coming to Twerwaneho Listeners Club (TLC)

Date	Event
11th Nov2015	Six policemen confiscate all nets and boats for Mr. Francis Kamara, who brought a complaint, and others around Lake Saaka. The boats and nets were taken to a police camp by the lake. When the owners come to claim their equipment, police hold them at gunpoint and tell them to evacuate. The men report this both to the police in Kicwamba and the chairman of the local council, but no help is given.
April 2016	Deus Byabashaiza, Hillary Acleo and other residents of Kimya village are fishing on Lake Mwamba when security guards take their nets and seven boats. The guards are from 1980 Kabarole Youth War Veterans, a security firm hired by Ferdsult. The men are threatened that next time they fish on the lake they will be arrested. They have never gone back to the lake.
1st May 2016	The agreement between communities and Ferdsult to stop fishing for six months runs out.
26th June 2016	Donozio Turinawe is apprehended by guards working for Ferdsult. He is tied up. The guards try to make him swallow a live bullet. He was beaten after refusing to swallow the bullets. As a result of the beating his knee is dislocated. One of the guards is later charged in court at Fort Portal.
27th June 2016	TLC files for redress for the grieving local communities, stating that the Ferdsult claim to have exclusive right to the 20 crater lakes is against Ugandan law. (LINK TO REPORT OR SUMMARY OF LAWS AND PROVISIONS FERDSULT CLAIM IS IN VIOLATION OF)
02-07-2016	Suleiman Trader, Richard Bomera, David Manyindo and Fred Kyaligonza are evicted from Lake Saaka, and Kenneth Bikorwomuhangi from Lake Mwamba, by police and 1980 Kabarole Youth War Veterans, a security firm used by Ferdsult. Their canoes and fishing equipment are confiscated.
July 2016	Three girls are arrested and brought to the 1980 Kabarole Youth War Veterans camp. The security company is hired by Ferdsult. The girls are detained overnight. They report to TLC that they are raped by the guards. But they dare not report it to the Police for fear of repercussions.
6th Aug 2016	Mr. Stephen Nyakahuma is dragged in mud, seriously beaten and tied up by armed policemen. They take 20 000 Shs, a fishing rod and a machete from him. Mr. Nyakahuma has not dared to go to the lake since. There is a criminal case on the event.
19th Aug 2016	First day of the Ferdsult case in Fort Portal High Court. After leaving Court Naricensio Bebirweki, Samuel Katurebe and Alex Ndyamuhaki go fishing and fetching water in Lake Mwamba. They are arrested. Their fishing rods and machetes are taken.
08-2016	Mr. Godwin Mugisa is arrested near Lake Mwamba, by the 1980 Kabarole Youth War Veterans security company. He is ordered to pay a fine of 50 000 Shs. Mr. Mugisa has 30 000 Shs, which the guards take from him.

Date	Event
Sept 2016	Joseph Businge and Stephen Kwikiriza, residents of Saaka village, are stopped by police by Lake Saaka. The police orders them to leave the shores of the lake, and takes 20 000 Shs from each of them.
5th Sept 2016	While grazing his cows, cattle keeper Mr. Patrick Alleluia is attacked by armed security guards in the presence of officers from Uganda Police and agents from Ferdsult. The cows are grazing on the cattle keeper's land, land near Saaka Crater Lake. His bucket for fetching water and his machete are confiscated. Police shoot in the air to stop others from intervening. One of the cows is taken and is released the next day. Mr. Patrick stopped using water from the lake for his cows as is the long-standing custom.
12th Sept 2016	Mr. Andrew Ntogota fishes in crater Lake Saaka when three armed private guards and three uniformed policemen from Field Force Unit emerge from the bushes. The guards are commanded by Mr. Mwesige, a local resident working for the Ferdsult company. Mr. Ntogota is slapped and thrown to the ground by police. They threaten to shoot him. His pockets are checked and 17,000 Shs robbed. He is photographed with the only fish he has caught and ordered to leave.
16th Sept 2016	Ferdsult case continued in Fort Portal High Court. The case is adjourned until 25 October.
15th Oct 2016	Ferdsult case continued in Fort Portal High Court. Next court date is set to 7 December.
1st Nov 2016	People start protesting in Kikira near Lake Saaka when Ferdsult are coming to sample fish. Ferdsult is accompanied by police. Police shoot teargas. A cannister explodes and hurts the legs and abdomen of one of the protesters. He needs hospital treatment. (PHOTOS MAILED TO IVAN 16/11)
24th Nov 2016	Fort Portal Police summons Suleiman Trader, Jackson Magezi, Fred Kyaligonza and Prosper Businge on allegations of illegal fishing. Two of them are not fishermen, but all are activists in the ongoing fight where Ferdsult Engineering claims exclusive right to 20 crater lakes for 30 years. The four have accused the company of abusing community rights. They were set free on police bond and the case has never come up again.
7th Dec 2016	All parties in Fort Portal High Court for the continuation of the Ferdsult case.
28th Feb 2017	Examinations and cross-examinations in Fort Portal High Court in the civil case on Ferdsult's claim to have exclusive right to the crater lakes.
24th April 2017	Ferdsult accuses human rights activists Suleiman Trader, Jackson Magezi Prosper Businge and Fred Kyaligonza of using electronics, explosives and/or poison violating the Fish Act. The men are arrested. They are later released on bail, with the help of TLC. Two of the accused are not fishermen. All are activists and accusations are aimed at undermining their testimonies in the civil case on the contract giving Ferdsult an exclusive 30-year right to the crater lakes. Their case is suspended awaiting a ruling in the civil case. (See 24th November 2016)

Date	Event
7th June 2017	Fort Portal High Court rules that Ferdsult's exclusive use of the crater lakes contravenes the Constitution of Uganda and the Water Act. The MoU between Ferdsult and the Kabarole Local Government from June 2015 is declared null and void. The Court also finds that the evictions, chasing away of the population and the denial to use the lakes violates the Constitution and the Land Act.
27th June 2017	Ferdsult appeals the ruling of Fort Portal High Court. The other respondent parties, the Attorney General and the Kabarole Local Government, accept the ruling. The Appeal has Civil Appeal No. 157/2017.
8th Aug 2017	TLC seeks partners to work on the Ferdsult case
22nd Aug 2017	TLC and Mr. Kenneth Bokorwomuhangi do a cross appeal in the Ferdsult Appeal case 157/2017.
12th Sept 2017	Armed guards working for Ferdsult harass and chase away community members collecting water and fishing.
12th Sept 2017	Human rights activist James Rukampena is shot in both legs by guards, hired by Ferdsult. The company takes responsibility and promises to pay medical treatment for the activist. The guards are under police investigation. Mr. Rukampena was in his plantation near crater Lake Mwamba when he was shot. His wounds will later lead to an amputation.
12th Sept 2017	Police arrest Mr. Abel Musabe of the 1980 Kabarole Youth War Veterans security company, hired by Ferdsult. He is suspected of shooting human rights activist Mr. James Rukampena on 12 September. The suspect is transferred to Fort Portal Police Headquarters.
20th Sept 2017	Detectives from Fort Portal Police Headquarters visit Mr. James Rukampena to take statements. Mr. Rukampena is in hospital where he is treated for his wounds after being shot by a Ferdsult guard on 12 September.
27th Sept 2017	The guard suspected of shooting human rights activist James Rukampena on 12 September, is brought to court. He is on remand and will appear in court later as investigation continues. The guard is hired by Ferdsult. Mr. Rukampena is still in hospital.
3rd Oct 2017	Human rights activist James Rukampena has his left leg amputated after being shot by a guard working for Ferdsult. The suspect is on remand. TLC cares for Mr. Rukampena.
26th Oct 2017	Mr. James Rukampena is discharged from hospital after amputating his left leg. He is a human rights activist and was shot on 12 September, on his plantation, near Lake Mwamba. A guard from a security firm hired by Ferdsult is in police custody, suspected of the shooting.



Human rights violations

Fifty-five people were interviewed around Lake Saka, Mwamba, Ndikya and Kanyongo; thirty-eight men & seventeen women: 31% of women; 69% of men. All the above lakes were restocked by Ferdsult and guarded by armed security guards and police to prevent anyone from accessing these lakes and the land around.

We choose to conduct interviews around non restocked crater lakes in order to better understand the strategy of the company and its allies and how the information circulated on their activities. Lakes Nyamiteza, Nyamirima, Nyabulitwa, Lyantonde and Kifuruka has been selected, to cover different geographic areas.



Figure 5:
*Interviewing session
at Kabata near lake
Kifuruka*

People interviewed were for a large majority either farmers, cultivating food crops near the lake and/or grazing their cattle, or fishermen fishing using nets, hooks and boats for selling and for their own consumption. Inhabitants were using the lakes, fetching water for domestic use, irrigation, watering of cattle or use water in the cooling process of local brew “waragi” distillation. Some of the people interviewed were also collecting firewood or construction wood around the lakes. These lakes and the land around were essential to the life not only of the people directly using them but to the entire communities that were depending on it, especially for fish consumption. These communities have been living in precarious condition therefore, the grabbing of those lakes was devastating, [even though some coping mechanisms existed. Thus, the project is having widespread impact in the communities.



Figure 6: *This old
man was forced
to abandoned his
recreation activities
along the water banks*

Free, prior and informed consent

“Free, Prior and Informed Consent (FPIC) is one of the Most important Principles that Indigenous Peoples believe can protect their right to participation. It is embedded in the right to self-determination. The duty of States to obtain Indigenous Peoples’ FPIC entitles Indigenous people to effectively determine the outcome of decision-making that affects them, not merely a right to be involved.” – UN Expert Mechanism on the Rights of Indigenous Peoples.



Figure 7: Community members demonstrate against the give away of the crater lakes

FPIC as an important standard principle Indigenous people can use to claim their rights to self-determination, consultation, and participation in decision-making. Governments and corporations can no longer ignore these principles.

In the words of the UN Special Rapporteur on the rights of Indigenous Peoples, James Anaya (excerpted from Indian Country Today), “We need to return to the origins of the discussion about [FPIC...having] to do with identifying Indigenous Peoples’ rights of self-determination over lands and resources. With those rights come certain safeguards, and one of those safeguards is that those rights can’t be affected or impacted or diminished without consultation and Free, Prior and Informed Consent.

“Anybody with property understands that you can’t just take the property without consent, unless there’s some over-arching governmental purpose. Because of this special significance of lands and resources to the cultural survival of Indigenous Peoples...it would have to meet a very high burden of justification.

In other parts of the world, companies or governments are saying, “Okay, we’re going to get your consent’... [but] very often not in the most equitable terms and very often in ways that diminish the rights of those involved.”

According to the findings of the assessment, at the time of introducing this project (Fish farming), communities were never consulted and their participation in a decision making process that had predominant devastating impact was limited.

Least to say is that the project was very unclear to the people of Kabarole District. This uncertainty was induced by Ferdsult assertions on the project and its supporters inside local government institutions. Many people were not been informed of the project neither by Ferdsult or District.

They often learnt about the project on being stopped by armed guards from accessing lakes and land surrounding lakes. The project was particularly shady to some people, not knowing if it was the government behind it or a company; some people, especially in Mwamba, only knew about the project coordinator Richard Asiimwe and less about what the project stood for.

“when the company came they never talked to us, we just saw the guards coming and informing people into use the lake and the land surrounding the lake”¹⁸

Some people have been informed during meetings convened by security guards, Ferdsult or district officials (Local Council V chairperson, fisheries officer and District Police Commander) ordering them to stop using the lakes. Thus, people were informed only in order to prevent them from accessing the lakes not to get their consent or to involve them in the process. Moreover, information provided often turned out to be false. Ferdsult promised that they will only conduct cage fishing, not free-range, invest into roads, electricity or piped water; they also promised to create jobs by opening fish processing factories in at least two different lakes. However, none of these promises appeared to be true. In Lake Saka thanks to such assertions where Ferdsult entered into an agreement with the local people but nothing practical was achieved.

Instead, first, they confiscated fishing equipment and then told local fishermen to wait for 3, then 6 months, for the fish to grow and after that they could fish along with Ferdsult. After 6 months guards were deployed and when fishermen asked peacefully for clarifications and for their equipment to be returned, police officers were sent using tear gas and rubber bullets to chase people away.

“When Ferdsult came they took the boats and the nets and they promised they were going to restock fish.”¹⁹

Around Lake Nyabikere, Ferdsult employee, R. Asiimwe, with the help of Fisheries officer Brian concluded a pseudo agreement with a few fishermen to prevent people from fishing in 2016 by promising roads, electricity and jobs and by threatening them asserting that the business belonged to the first lady Janet Museveni. This affirmation, in addition to the news of the shooting of J. Rukampena (see box below) in September 2017, created so much fear among populations to use the lake that fishing decreased drastically as well as usage of the surroundings of the lake for grazing and cultivation.



Figure 8: Plain lands deserted during Ferdsult occupation for fear of being reprimanded

18 TLC Interview, L. Mwamba, 19/06/18

19 TLC interview, L. Saaka, 09/06/2018

After the beginning of the project, radio shows were an important source of information for people, particularly on the human rights abuses/violations like evictions, harassment of the locals and information about the court case.

For instance, majority of people interviewed around non restocked lakes did not know that those particular lakes were included in the MoU. They generally heard about the troubles around other crater lakes such as Mwamba on radio shows.

To justify need for further investigations in to Ferdsult's intentions, a team from the company secretly visited Lake Bukoni II, made some scientific tests on the lake and towards the end of the study a few community members present were informed that the company intends to restock its own fish fingerlings and no one should use the lake for any activity. Communities were then asked to confirm the meeting minutes by appending signature. During subsequent engagements including cross examinations during court proceedings, Ferdsult used this meeting as a form of consultations with the communities to be affected. Thanks to the vigilance of the communities that rejected the signing of the meeting minutes then.

Right to food and water and impact on daily life

Lack of Access to Water as “Structural Violence”

The most widespread manifestation of water-related violence is the deprivation of access to improved water and basic sanitation, a situation of “structural violence” affecting hundreds of millions of poor people around the world.

As demands for water come up against the limits of finite supply, water-related conflicts are bound to rise, especially within nations. That means that even greater efforts must be made to prevent and mitigate conflict. Access to nearby and adequate supplies of improved water for domestic consumption mitigate the “structural” violence inflicted upon those enduring grinding poverty, especially women and children. More time can then be dedicated to productive, income-generating efforts for adults, and educational opportunities for children. As a result, tensions may subside and a renewed sense of communal dignity and cooperation may reign.



Figure 9:
*During Ferdsult occupation
fetching from the lakes was
prohibited.*



Figure 10:
*Such homesteads
could not access
water following
the takeover of the
lakes by Ferdusult*

The denial of access to land and to the lakes impacted their life in many ways, particularly their right to food and water:

- * Diminished revenue. Because community members especially the fishermen could no longer fish or access their land, they had to struggle finding alternative sources of earning income for a living. Many had to go work on other people farm on a daily basis earning slightly higher or less than a dollar while previous people having businesses on the lakes averaged earned 4-5 times or more that amount.
- * The impact of lost revenue was far reaching with families being unable to pay school fees, some children dropped out of school as others went to lower standard school that could be affordable at the time. There was a huge debt burden on most families that accessed loans to start up new business ventures.
- * Difficulty to access food, lack or absence of fish which is a major, if not the only, source of proteins people can afford causing malnutrition particularly kwashiorkor to children.
- * Inability to collect firewood, thus preventing people from cooking.
- * Food crops perished or land became bushy since people could not access their land.
- * Difficulty to access water for domestic use, irrigation, watering cows and goats.
- * Communities could no longer access natural resources like fruits, local herbs, dead wood to mention but a few that were around the crater lakes. All recreation activities like swimming, forest walks in the natural forests around the lakes stopped.
- * Inability to use the lakes as a means of transport (one man lost his job due to that).
- * People coped by walking to other lakes or rivers far away. Or by digging wells or using ponds to collect water.

One testimony from a man living in Kimya village near Lake Mwamba, summarized well these impacts: *“Before I earned at least 40,000UGX/day and up to 200 000. During the project, I earned 3,000UGX a day. 4 children dropped out of school for about 2 years and 6 months. Children used to eat fish on a daily basis but during the project they developed Kwashiorkor. Not eating any fish but only greens & beans. I and my wife also developed health issues: general weakness because we never ate well. We used to buy less food. Currently I am not*

fishing because my capital (boats & nets) were taken. Now I am still working on someone else's farm for 3000 UGX a day.”²⁰

One man living around Lake Mwamba explained to us the difficulty he had to find food during Ferdsult presence in the area: *“Since the kids were not taking fish, they became malnourished. They failed to get firewood to cook food. They used to get little a fish, like once in a week and then no more. Before they could also eat the fish, but since they were stopped, they became malnourished.”²¹*

Some people are still affected today because it only has been a few months since the company left. At the time of the interviews, community members were able to access their land again but didn't harvest enough crops to make money to be able to send their kids back to school.

Prior to Ferdsut arrival, lake Saaka had been restocked with fish fingerlings donated by Kabarole District local government and the Holy Cross brothers but on the take over of the lakes all fish was lost.

Furthermore, the project had far reaching social impact on the lives of the people around the lakes. For instance, at one of the lakes our research team was informed of how some families broke down because bread winners could not provide for the families. This affected fisher men most. It was also noted that some women, left their husbands for the Ferdsult employees.

Right not to be arbitrarily deprived from property

Security guards and/or police systematically confiscated fishing equipment, such as hooks, nets and boats belonging to people around the lake, even when they were not using them. They also sunk several boats. Security guards were also implicated for stealing bags of crops and local gin waragi belonging to people who had commercial activities around the lakes. They destroyed food crops as a means of discouraging activities around the lakes.

Many of these confiscated items ended up unaccounted for and still remain in the custody of police and the contracted security company.

This approach in a way prevented certain people going back to fish since they didn't have fishing tools anymore and the imminent threat to their lives, thus perpetuating Ferdsult project's negative impacts even after they had stopped their activities.

Right to freedom from forced evictions

As a guarantee that the investments on the lakes are not at risk of community reaction, Farmers having a land near the lake were, almost systematically, evicted from their land without any formal communication or compensation. Through threats, maiming locals and other forms of harassment security guards and occasionally police successfully kept communities away from the areas adjacent to the lakes.

²⁰ TLC Interview, 19/06/18

²¹ Interview TLC, 19/06/2017

Right to liberty and security of the person

Two different security companies were deployed by Ferdsult: 1980 security and Action War Veteran Security. They have been both identified as responsible of violent incidents; however, it is hard to distinguish them from each and every incident. They installed one camp around lake Saaka and one around lake Mwamba.

Every person found on or near the lakes was either chased, threatened, arrested and beaten by security guards and/or police. When people were arrested, they were taken to security guards' camps and/or to the police station. Security guard camps are not gazzated places of detention. These detentions camps were unlawful and detaining local community members violated their rights.

They could be taken by policemen to the camp or by security guards to police station showing great confusion between police and private security. They were often charged with illegal fishing or were extorted money for no legal grounds. People were held in camp or police station for several hours or days without justifications or for 'illegal fishing'. They could be forced to work on the guards' camp, slashing yams for example.

We have identified at least 20 violent acts involving security guards. Their attacks comprise: threatening people, beating children and adults, firing bullets in the air, causing grievous injury on three people causing permanent incapacity, forcing people to work on their camp, harassing and humiliating several persons, a woman had Miscarriage following a scuffle with the security guard who found her fetching water from one of the crater lakes on 18/09/17 shooting on person in the leg causing an amputation.

The particular role of R. Asiimwe, coordinator of Ferdsult, must be highlighted as he acted as what can only be described as a gang leader. Some of his violent actions included: –

forcing a man to clean a 1 km road, using police officers as his personal militia, creating false accusations against fishermen, thereby manipulating the judiciary system. One fisherman persecuted by Ferdsult told us: *"He [R. Asiimwe] came with two policemen. He followed me moving to Fort Portal town in the middle of the bridge, he bypassed me and he blocked me on the way. By good time I bypassed people coming from the other side. A gunned man jumped outside trying to chase me, I moved faster and left him."*²²

Police have been a passive and active accomplice of human rights violations perpetrated by Ferdsult and its employees.

At Lake Saaka policemen were deployed, in order to assist security guar. They acted hand in hand on several occasions. An attempted murder on one fisherman was for example perpetrated by security guards and police on Lake Saka. They tied his hands, put him on a patrol boat, and threw him in the middle of the lake. Fortunately, he managed to untie his hands and managed swim to the shores. Another time police men arrested a man using hooks, they took him to security guard's camp (without any security guard being present), using this camp as their police station.

²² A fisherman, TLC interview, 09/06/2018

Police appeared to have a role of private militia serving R. Asiimwe and therefore Ferdsult, Asiimwe being present during many arrests, at police stations, charging people for illegal fishing etc... One of the interviewees stated that R. Asiimwe got a very good relationship with a police officer from Boma Police station.

The District Police Commander deployed armed policemen to guard a meeting between Ferdsult and Kabarole District officials at Lake Saka in February 2017 amidst strong community protests against the harassments by Ferdsult officials on community members. Instead of making investigations in to the accusations, police instead protected the perpetrators. In Kyangabukama the chairperson LC I Edison Rubahamya told us that Criminal investigations Department officer in charge Alibankoooha used to call meetings stopping people from using the lake.

The passive role of the police was not to respond to the plight of the citizens they are supposed to serve. When being solicited by people who had troubles with security guards, police never acted and sometimes asked for a bribe, they even arrested and charged someone who came to them to report the confiscation of his nets by security guards.

Illustrating the fear created among the population by all those acts of violence, a LCI chairman told us about a demonstration against Ferdsult : *“That day many people were beaten by police, me as a chairperson I left my home area and fled to Kampala for one week.”*

[In Saka two interviewees reported that the company was paying Uganda People’s Defence Force soldiers to guard the lake.]

[One LCI Chairman told us that theft increased in his community at the time of the project.]

This wide spread violence still has an impact today according to the people interviewed, the most affected are women who were psychologically tormented by the harassment their husbands faced to the point of fearing to **return** to the land near the crater lakes even with the knowledge that the Ferdsult guards left. This has made most families run out of food supplies because they cannot till their land.

Some are not using the lakes as before due to the deep feeling of fear they developed related to guard’s violence and company intimidation.

Gender and Water

“There isn’t a single development issue that isn’t a women’s rights issue,” concludes Jessica Woodroffe of Action Aid (A. Penketh, 2007). Transforming water conflict is no exception. Penketh’s study shows that women face particularly unrelenting and insidious structural violence that robs them—and all of us—of precious knowledge and energy : Women, are one-half of the world’s population, yet make up 70% of the one billion people living in extreme poverty. Women work two-thirds of the world’s working hours, yet earn only one-tenth of the world’s income. Women produce one-half of the world’s food, yet own less than two percent of the land. And when 43 million girls in the world are still not able to go to school—“not seen worth the investment,” or busy collecting water or firewood or doing other domestic chores, it is

sadly not surprising that today two-thirds of the world's 800 million illiterate adults are women. Confronting structural violence towards girls and women must be incorporated into water development efforts of a peace building paradigm. While suffering under the yoke of gender-based oppression, women are not just victims ; rather, they are also found at the Forefront of promoting more just social and economic structures leading to their own liberation and that of all marginalized populations.

*"it is true girls were taken, any girl found at the lake washing was taken to the camp, and could return later after several hours or days"*²³

It was a long and complicated process to understand if any actor of this project targeted specifically women and to collect such information. Multiples reports were made against security guards employed by Ferdsult and it was observed the perpetrators had a particular behavior towards women in communities surrounding restocked lakes.

Due to the complicated nature of the investigations, we were required to design specific interviews on gender, sexual and sexist violence. We were able to get the testimony of one woman who had been sexually assaulted around L. Mwamba and one woman who was raped around Lake Ndikya.

One woman was sexually assaulted by security guards around L. Mwamba while going to buy matooke; they took 20 000 UGX and all her bananas. They slapped her and threatened to kill her. They touched her breast and thighs and one of them stopped the others from rapping her and she was then able to leave. She reported to Local Council III Councilor who was not helpful. One woman around Lake Ndikya was raped by two security guards. She got pregnant as a result of the rape.

She did not tell anyone how she got that child because of the shame and embarrassment of being raped. She doesn't have money to provide for the baby "The rape was the worst tragedy ever experienced." TLC also recorded 3 rape cases around lake Kanyongo and Mwitampingu.

Three girls were arrested and taken to the Ferdsult guards' camp by boat on L Mwamba. One of the girls was 15years old. The girls spent over 30 minutes of hard labour at the guards' camp. One of the girls reported a case of sexual harassment accusing the guards of touching her breast and thighs. It however turned out that she was the only one of the three girls that was not beaten.

[Many women around restocked lakes were harassed unlike those around lakes that were not restocked]

Role of duty bearer/public office holders

Many people did not report any of the violations they suffered because of the fear of being arrested by security guards or police, on the demand of the company. Having conceived a belief that government was supporting or behind this project, people feared or thought it was useless to report any abuses.

²³ TLC Interview, 19/06/2018

Chairperson of fishermen on Lake Mwamba noted, *“I did not know what to do at that time. Government is supporting the company to evict us”*²⁴

Most of the people reported to their representatives, particularly Local Council 1 Chairpersons & Counsellors, who were not able offer any support because they lacked leverage on powerful actors. Whenever they reported to the local leadership, they were referred to the Local Council 5 Chairperson (the highest political office at the district level) yet, is the same office responsible for facilitating the giveaway of the lakes. Instead, the Local Council 5 Chairperson Mr. Rwabuhinga Richard and the District Police Commander are quoted to have warned people to desist going to the lakes during community meetings around the restocked lakes.

Kabarole District Fisheries Officer, Mr Brian has also been mentioned several times as an active supporter of the project. He held several community meetings warning locals to desist from interfering or in any-way sabotaging the project activities because the project belonged to the first Lady Janet Museveni.

At the political level, little was done to address the challenges communities had. It was obvious that the highest political institution at the district was in support of the project following a fully supported district council resolution. This in real sense meant, the district council could not turn against its own decision.

The judiciary took consideration of the plaint filed by TLC in respect to the several human rights abuses and violations committed by the company, its agents and security agencies.

Access to justice is a very difficult journey for an ordinary Ugandan. Simply moving to the court from a rural area is a long and costly process. For example, one man who filed a complaint related to Fersult project was extorted more than 300000 UGX by different court officials in order to simply access his file.

During court proceedings, the community/TLC application faced several short comings that almost costed a positive outcome. Court could not find justifiable grounds in the pleadings made by community members as much as injustices were committed in these communities. This example best explains the complex nature of court processes in Uganda.

Nevertheless, positive court judgement was based on TLC’s pleadings and reports from communities detailing grave human rights abuses the company committed against local communities.

Art of government

From this information we can describe a coherent mode of action of the company and its allies²⁵. On the company side we notice governance characterized by fear and violence in the resource-rich territory. Bodies and minds are marked in order to be able to act freely on the long term. Indeed, before ceasing their activities the employees of the company and the security guards had only worked on 5 lakes but intended to work on 15 others.

²⁴ TLC Interview, L Saaka 09/09/2018

²⁵ “‘Government’ [does] not refer only to political structures or to the management of states; rather, it designate[s] the way in which the conduct of individuals or of groups might be directed. ...To govern, in this sense, is to structure the possible field of action of others.” In Michel Foucault, “The Subject and Power”, *Critical Inquiry*, Vol. 8, No. 4 (Summer, 1982), p. 790.

The idea that emanates from their behaviour is to hit hard the beginning in order to create an impact and a feeling of fear so strong that no one will raise against them in the future. The company took over and governed these spaces by intimidation with the help of private security guards acting with a huge sense of impunity. Police often had a role of private militia serving the company, being at the best a passive accomplice by not helping out people abused by the guards, at worst active accomplice by participating into violent actions. For the inhabitants the lakes they were occupying were central position in their lives and hence tried to use that resource as much as they could. *This natural resource, was not accessible to everyone, but became a commodity. It could only be accessed to by an entity beholding the means of production and the means of violence.*

The situation along the crater lakes reminds us of J. Ferguson's article describing an oil company²⁶, where he describes the differentiation created by neo liberalism in Africa between non-useful territories and useful territories where an almost private governance is appearing, disconnected from the national territory. It is less acute in this case since we are interested in a fish farming project and not an extractive project; however, this fish "produced" in Kabarole District will not have been sold on local markets but exported. Since the beginning of the project, the company has been moving around villages promising piped water, electricity, employment etc...

The idea that basic public services will not be the responsibility of the State anymore but of private investor transferred responsibility and pushed citizens a little further away from the decisions affecting their lives.

We could easily think of a scenario where Ferdsult would have governed those lakes and surrounding land, taking care of roads (or not, but in the end, it would be its responsibility), employing people in fish processing factories, slowly rural population will have left these areas lacking of means of subsistence and resorting to go to town. The crater lakes would have become a value-added enclave from where we will "extract" fish to sell on foreign markets.

Ferdsult project had to be understood within the frame of a global attack on small scale farmers²⁷ and fishermen as a GRAIN report puts it: *"the vast majority of farms in the world today are small and getting smaller; small farms are being squeezed onto less than a quarter of global agricultural land; we're fast losing farms and farmers in many places, while big farms are getting bigger; despite their scarce and dwindling resources, small farmers continue to be the world's major food producers; small farms not only produce most of the food, they are also the most productive; most small farmers are women but their contributions are ignored and marginalised; reversing the trend: **give small farmers the means to feed the world.**"*²⁸

The public authority whether it was the executive, at national and local level, the judiciary and the police all failed to protect the rights of the Ugandan citizens. *[When they were needed policemen beat the citizens, when they were reached to, district officials looked the*

²⁶ Ferguson, James, Seeing Like an Oil Company: Space, Security, and Global Capital in Neoliberal Africa, American Anthropologist, Volume 107, 2005

²⁷ As specified in the below mentioned report: "When we talk about "farmers" or "peasants" in this report, we mean food producers including people who raise livestock, such as herders or pastoralists, fishers, hunters and gatherers"

²⁸ Hungry for Land, GRAIN, 2014

other way at best, when they were falsely accused and charged, the judges failed to apply their decisions].

The District, particularly, LCV Chairman and Fisheries officer failed the citizens, authorizing and actively promoting a project taking away food and water from their hands. The police did not fulfil its role of protection, instead they actively participated in the violation of the citizens' rights. Trial magistrates could not offer protection and support to Human Rights Defenders who exposed corporate abuses. They were harshly treated, sometimes remanded or issued with criminal summons. This created fear among community voices that had raised up to object to the abuses

On the other hand, the judiciary later played a significant role when it was brought to its notice that the company had excessively participated in the abuse of rights of the local communities where Ferdsult had establishments. High Court at Fort Portal cancelled the Memorandum of Understanding between local authorities and the company on evident human rights abuses.

Powerful actors have a better chance to navigate through political and legal issues, so when even law is against them, they manage to keep going on. The need to fight to get a law or a court decision implemented is diminishing any trust and effect of laws that are supposed to protect people's interest.

Ferdsult project around Kabarole crater lakes is illustrating an apparent failure of a local authority/Central Government Alliance. Indeed, at first the central government and Local Government were actively supporting this project, aiming to industrialize fishing in the region. However, the national level represented by the Commission of Inquiry seems to have put, for now, a stop to the project. This is an apparent failure of this alliance, or a win of a safe guard of the system. It is however more complicated, the recent come back of the State is showing that such an alliance can take various form. Even if we don't know the specific objective of renewed state interests on the lakes for now, it could lead to the same way of thinking causing the same unwanted impact on communities

Understanding corporate capture

The influence of Ferdsult Engineering Services Limited is a contemporary example illustrating corporate capture where economic power of a corporation translated into political power with disastrous effects for people's lives.

The Infiltration into central and local government systems by a corporation with vast wealth and remorseless negative influence on decision making bodies seized for itself advantages that can be seized only by control over government."

The undue influence of Ferdsult interests on the functions of government rendered central government, local government and security organs irresponsible to the suffering of the affected communities.

By using corporate influence to soften regulation, weaken regulatory powers, utilize state security systems against communities and many other practices, made it possible for Ferdsult to conduct business in an inhumane manner that had no limits.

The ever deepening corporate-government relationship weakened State institutions and processes that are responsible for ensuring they can respect, protect and fulfill human rights.

In real sense, the government institutions were under capture by a corporation. Corporate Capture refers to the means by which an economic elite undermine the realization of human rights and the environment by exerting undue influence over decision-makers and public institutions. In this sense, corporate capture acts as a 'root cause' of many corporate human rights abuses.

In the case of **Ferdsult Engineering Services Limited**, the report attempted among other things to understand **how was this power exercised (Corporate Capture), who was behind this power and what was the impact on communities and the environment if any.**

Profiling Ferdsult and the project

This project was introduced in to the community as business belonging to the first family justifying use of violent force on community members who failed to adhere to the restrictions imposed on community.

Contrary to what was stated, through investigations after the halt on the company activities by court we noted that Mr. Ferdinand Mugisha was a majority shareholder with 95% shares.

Many questions remain unanswered as to why the name of the first lady kept appearing whenever manipulation of government organs and systems were made

The project manipulated by flouting most government processes to get permits to operate the project. The Kabarole District Local Government was used to forge meeting minutes and signatures of community members indicating that the company had conducted extensive consultations with communities. The meeting minutes further stated that communities had accepted the project. During judgement, high court ruled that the mentioned meetings were not consultations.

The district led by the Chairperson offered all the political and technical support to the company including defending the acts of the company in communities and court. Communities stood no chance with this kind of support. Priority shifted to serving company interest from people/ community interests.

The use of the violent force by police and Uganda People's Defenses on community members casted more doubt on the intensions of the project and the real proprietors as such abnormal use of power can only be used by a very high-ranking government official without any sense of being held accountable.

Confiscation of the local community members property who had gone to fetch water or use the lakes for other purposes, abduction of children and women and detention of community

members in unlawful camps within the project premises by private security guards, raping women as a measure of deterring them from going back to the lakes were criminal acts that police never took serious

According to a court testimony, one local activist by the names Munya (RIP), was arrested by private security guards, forced on to a patrol boat, tied his hands and was thrown in to the lake to drown. He fortunately managed to swim and escaped without drowning.

One community activist, James Rukampena was shot in both legs by security guards patrolling the Mwitampungu crater Lake. James' leg was later amputated.

Below is a timeline of events profiling some of the violations committed by agents and supporters of the company.

Recommendation (tbc)

The State must ensure:

- * that the Constitution and the laws of Uganda are respected by private companies.
- * access to justice for all its citizens by taking all necessary steps to make courts materially more accessible, ensure fair trial, reducing costs to effectively access justice and eradicate corruption in the enforcement of Court decisions.

The police and Ferdsult:

- * The police and Ferdsult must return all the properties that have been taken from inhabitants of lakes where they operated

The police must:

- * Respect human rights as provided in the Constitution of Uganda and the international texts.
- * Act in the interest of Ugandan citizens, protecting their life and property as provided in the Constitution of Uganda and not for private interests.
- * Take all measures necessary to ensure a fair access to their services including but not limited to: allegations from citizens are duly taken into account, no money charged for police services, simple access to police post, eradication of unfair fining.
- * Creation of dedicated units to fight against sexist and sexual violence against women.

The State and the District:

- * A commission must be established in order to determine **compensation measures** that the District, the State and Ferdsult shall give to the inhabitants of Kabarole District affected directly or indirectly by the project; including but not limited to: lost income during and after the project, loss of properties, physical and mental damages.
- * An inclusive local development plan is necessary for fishers, farmers and all the inhabitants of the areas surrounding the lakes to help them use the shores sustainably. It must ensure local people **a free access to the lakes**. It shall include the provision of

fishing and security equipment to fishers and the restocking of the lakes. This plan must be discussed at the local level with a full participation from the inhabitants. However, as the so-called consultation process led by Ferdsult has shown us consultation or involvement of local communities in the decisions required but not sufficient. **The choice of development is the central issue, it must be directly beneficial to communities, respecting their way of life and local practices, protects the environment and create opportunities for small-scale fishers at a local level.**

- * The 100-meter rule, if useful for the protection of the environment, must be applied, however, people owning or using land within that limit today shall be compensated and provided with a viable alternative. Protection of the environment cannot be separated from socio-economic problems.
- * **Actors and supporters of the project must be held accountable** for their actions that have caused multiple human rights violations between 2015 and 2018 via open and independent investigations.

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