

Forest tenure reform implementation in Uganda Current challenges and future opportunities

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Key messages

- A recent study, focusing on national and district-level government officials involved in forest tenure reform implementation processes in Uganda, has highlighted key challenges and opportunities for future improvements. Analysis of responses shows that:
- As reforms responded to a need for sustainable forest management and livelihood improvements, activities leaned towards forest protection, rather than strengthening and securing community forest tenure rights.
- Progress in tenure reform implementation has been below implementers' expectations, largely due to inadequate funding, onerous processes of registration, declaration and management of Private Natural Forests and Community Forests, or in the case of Collaborative Forest Management, negotiation of rights with Responsible Bodies.
- The main economic, social and political challenges faced by government officials implementing reforms were budgetary limitations, poverty levels in forest-adjacent communities, migration and socio-cultural norms. Research respondents noted also that often, politicians impeded rather than supported reform implementation processes. Some of them derived political capital out of exerting pressure on technical staff to engage in, as well as protect, illegal activities.
- The study revealed a number of technical problems that constrained the implementation of forest tenure reforms. These included the tedious processes involved in getting the rights formalized, community inability to protect and safeguard forest tenure rights, and inadequate benefits accruing to communities involved in forest management activities.
- There was no agreement among the respondents as to who is responsible for safeguarding community forest tenure rights. Development partners and civil society organizations (CSOs) also undertook activities to support the securing of local tenure rights, such as capacity building, resource mobilization, awareness raising and conflict resolution. However, such support was often short-lived and localized. Although government and CSOs are both involved in reform implementation, there is limited formal coordination between them.

Introduction

Uganda's forest cover, comprised of 62% woodland, 21% tropical moist forest, and 17% forest plantation (MWE 2016), was estimated to be 4.9 million ha in 1990, making up 24% of total land area. Yet by 2015, this had declined to 2.4 million ha, about 12% of total land area. Within a quarter of a century, Uganda had lost 50% of its forest cover.

Most deforestation and forest degradation (about 3.7% annually between 1990 and 2000) occurred on private and customary land forests outside the protected area network, which includes central and local forest reserves, national parks and wildlife reserves. In terms of tenure regimes, national parks managed by the Uganda Wildlife Authority make up 1,985,400 ha, central forest reserves

managed by the National Forest Authority (NFA) cover 1,117,300 ha, local forest reserves managed by local government constitute 5,000 ha, while forests on private and customary lands cover 826,000 ha.

Facing such dramatic loss of forested land, Ugandan policy makers argued that improved land and tree tenure would act as an incentive for individuals and communities to invest in forestry, as well as stem the rate of deforestation (Ministry of Water, Lands and Environment, 2001). In response, the National Forestry and Tree Planting Act 2003 (NFTPA) and its subsidiary legislation were introduced, to strengthen ownership and management of forests on private land (including community and customary forests), and community participation in forest management; the Forest Sector Support Department (FSSD) also prepared national guidelines on implementing Collaborative Forest Management, and formation, registration and management of Community Forests and Private Natural Forests.

Yet since the NFTPA's establishment 15 years ago, there have been few assessments to examine how forest tenure reform implementation is progressing, particularly in terms of tenure and rights. Empirical works exploring reform implementation processes

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are scarce, with even less guidance available for policy makers and practitioners. As such, this study was designed to understand the process of implementation since the NFTP A came into force in 2003, with the aim of gaining insight into potential improvements that could be made for future implementation.

The study, which focused on national and sub-national government officials involved in implementation, sought to answer the following questions:

- i. What were the main objectives of forest tenure reforms?
- ii. What institutional arrangements were put in place to implement forest tenure reforms?
- iii. What activities were carried out to implement reforms?
- iv. What factors affected reform implementation?

Methodology

The NFTP A provided legislation on collective management of forest resources, although the 'bundles of rights' allocated to resource users

varied, depending on the type of tenure regime (Table 1). This study focused on Community Forests on former public and customary land in Masindi and Lamwo districts respectively; Private Forest Owner (PFO) associations in Kibaale district; and Collaborative Forest Management (CFM) at all three sites.

Data collection

Central and local government officials in Kibaale, Masindi and Lamwo districts were interviewed using a structured questionnaire. A total of 31 officials were interviewed: nine at national level; 18 district-level technical officials; and four district-level politicians. 87% of interviewees were male and 13% were female, demonstrating the gender imbalance of staff implementing tenure reforms. Interviews aimed to understand the roles and responsibilities of implementing officials, the challenges they faced during implementation, and their priorities and capabilities, including in integrating excluded groups and individuals such as women. We also examined the institutional arrangements used to implement reforms, including the extent of coordination and collaboration among relevant actors.

Table 1. Description of forest tenure reforms introduced by NFTP A (2003)

Rights brought about by NFTP A 2003	Tenure regime		
	Private Forests	Community Forests on former public land and on customary land	Collaborative Forest Management
Ownership	<ul style="list-style-type: none"> Upon registration with the District Land Board, the PFO is legally recognized as a Responsible Body, at the same level as NFA PFOs may group together to form a legally-recognized association of PFOs A PFO association may become a Responsible Body if their individual forests are registered as one forest with multiple management units 	<ul style="list-style-type: none"> Following declaration by the Minister, the forest is legally owned by the community A 'community' can be a village or a clan 	No ownership rights given to communities
Access	<ul style="list-style-type: none"> A PFO has a right to allow or limit access to his/her property in accordance with the law 	<ul style="list-style-type: none"> Local communities can access the forest in line with procedures they have established The legally-constituted organization controls access on behalf of the community Certain public rights are reserved to government (e.g. roads/paths connecting villages, streams for domestic use, and wetlands for the public good) 	Communities can access the forest in accordance with the negotiated CFM agreement
Withdraw	<ul style="list-style-type: none"> The PFO can harvest or license other entities to harvest and process forestry resources on their forest(s) in line with the Forest Management Plan (FMP) and the NFTP A 	<ul style="list-style-type: none"> Local communities can harvest forest produce in accordance with the approved FMP 	Local community rights to withdraw forestry resources are negotiated with the Responsible Body and entrenched in a CFM agreement and CFM Plan
Management	<ul style="list-style-type: none"> PFO can make management decisions in line with approved FMP PFOs may cede some or all of the management rights to the PFO association 	<ul style="list-style-type: none"> Upon declaration, the Minister appoints a community institution with legal standing to manage and control the forest on behalf of the community 	The local community has rights to manage forestry resources together with the Responsible Body; community management activities are negotiated and entrenched in a CFM agreement and CFM plan
Exclusion	<ul style="list-style-type: none"> PFO can exclude outsiders PFO can issue licenses as a Responsible Body 	The community has a right to exclude outsiders	Local communities assist Responsible Bodies to exclude outsiders or illegal harvesting through regular patrolling
Alienation	<ul style="list-style-type: none"> PFO can transfer their interests to another party e.g. mortgage or sell the forest with district council approval The new owner cannot change land use 	In accordance with Community Forest registration and declaration guidelines, the community has a right to alienate their interests in the forest (e.g. use the certificate of ownership to put up their forest as collateral to get loans from banks)	Communities have no right to sell or mortgage the forest

Results

What were the objectives of the tenure reform?

When asked what the objectives of forest tenure reform were, over 90% of respondents reported that reforms responded to the need to promote responsible forest management and conservation, including restoration of degraded forests; 60% mentioned improving local people’s livelihoods. Only 37% considered securing forest tenure rights as a key objective, with just 27% considering improved community access to forestry as key (Figure 1).

What activities were carried out to implement forest tenure reforms?

When asked what specific activities they conducted to implement forest tenure reforms, the majority (58%) reported involvement in initiating and facilitating reform processes. The main processes they supported included Collaborative Forest Management and declaring/registering Community and Private Forests (Table 2).

Less than 10% reported involvement in critical activities for securing tenure, such as resource mobilization, awareness creation, sensitization, conflict resolution and community support in securing and safeguarding forest tenure. This corresponds with Turyahabwe et al.’s findings (2015) that bureaucrats involved in local-level reform implementation are mostly involved in forest reserve protection and seeking to optimise revenue collected from them. Activities empowering communities to demand tenure rights and security were easily overlooked, despite Uganda’s Forest Policy (2001) indicating that securing and strengthening forest tenure would incentivize communities to sustainably manage forestry resources.

93% of respondents said that reforms targeted local communities, with 63% saying private sector actors were targeted (Figure 2). National and district-level respondents differed widely in their responses regarding the targeting of private sector actors (89% and 55% respectively).

Just 13% and 10% said the reforms targeted women and poor people respectively, indicating that implementers did not see women and the poor as important target groups of reform implementation. This indicates that most implementation activities would likely target local communities in general, with little specific focus on women and the poor.

Conversely, training/capacity building/awareness raising was mentioned most frequently (68%) by all respondents as the kind

Table 2. Summary of activities done by government officials to implement forest tenure reforms

Activity	No. responses	%
Initiate and facilitate reform processes	41	58.6
Capacity building (training)	8	11.4
Resource mobilization (funds and materials)	7	10.0
Awareness and sensitization	6	8.6
Support implementation	6	8.6
Conflict resolution	2	2.9
Total	70	100.0

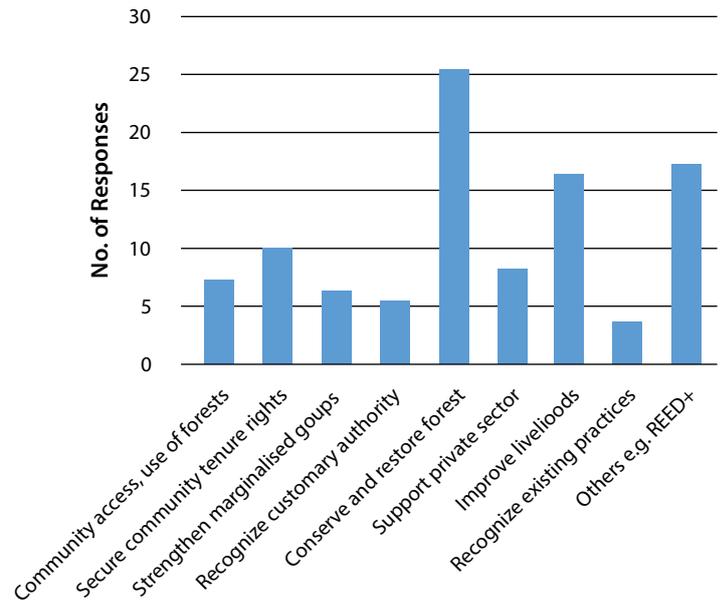


Figure 1. Objectives of forest tenure reforms

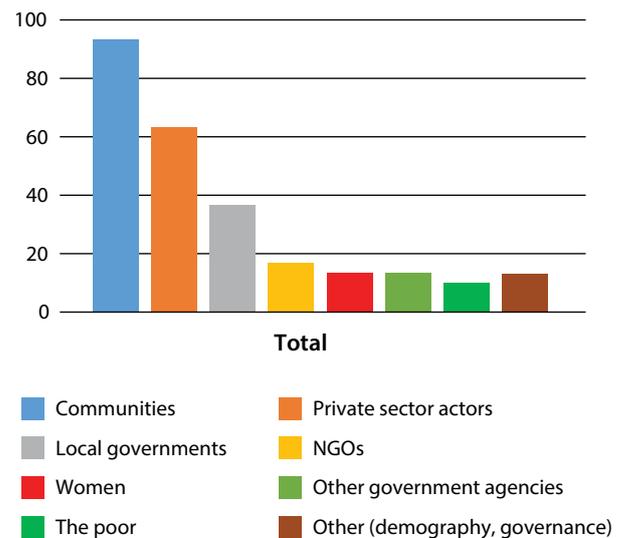


Figure 2. Beneficiaries of forest tenure reforms

of community support provided by implementing agencies. This response, given by 88% of national respondents and 58% of district-level respondents, indicates a tendency for national programs to go for easier aspects of implementation, rather than more demanding aspects, such as conflict resolution, rights recognition, forest protection and management (Figure 3). Training/capacity building/awareness raising was equally the favored activity with respect to support provided to Private Forest Owners (68% of all respondents, 75% of national-level respondents, and 64% of district-level respondents).

37% of interviewees believed reform implementation activities were somewhat effective, while 44.4% said they were effective/very effective (Figure 4).

Those who believed reforms were ineffective cited reasons being failure to complete registration/declaration processes (resulting in limited numbers of CFM agreements), increased illegal harvesting and

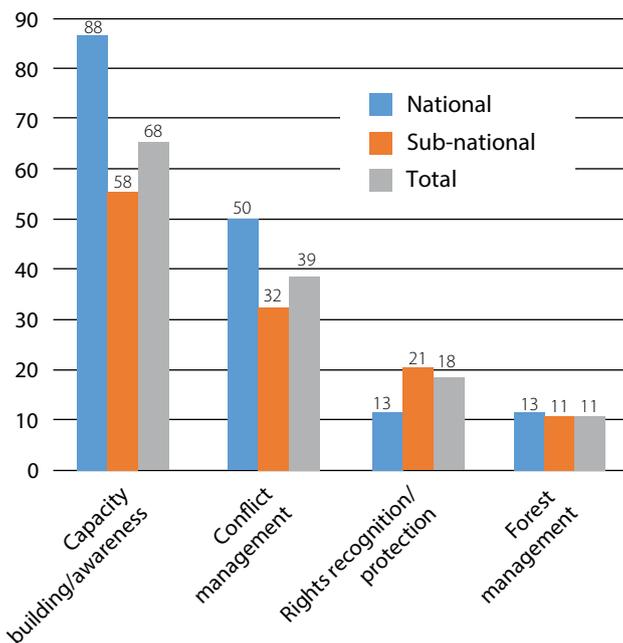


Figure 3. Support provided to communities by reform implementers

conversion of forest land to other uses, and limited improvement in the livelihoods of forest-adjacent communities. Those believing reform implementation to be effective stated their reasons as community institutions being built and registered, women's participation being guaranteed by regulations and guidelines, and some degraded natural forests being restored.

Although government activities were not as effective as expected, respondents reported that CSOs and development partners were actively involved in reform implementation. Such organizations provided financial and technical support to establish Community Forests, form PFO associations, support participating communities' income-generating activities, support PFOs in Natural Forest restoration, prepare FMPs, maintain forest boundaries, and help communities improve governance systems. Most interviewees (60%) reported that successes in forest tenure reform implementation were due to CSO participation. Activities attributed to them are shown in Figure 5.

Who is responsible for safeguarding community forest tenure rights?

Forest tenure security relies on rights being safeguarded, once they are granted. Yet there was no agreement among respondents as to who held responsibility for safeguarding community forest tenure rights. 40% of respondents reported it to be the responsibility of technical departments such as the National Forest Authority (NFA) and District Forest Service (DFS) (Figure 6); a third of respondents believed community institutions were responsible; while just 5% believed political leaders were key.

Respondents believed the NFA and DFS safeguarded Community Forest tenure rights mainly by educating communities on their rights, clarifying forest boundaries through consultations and mapping, and arbitrating conflicts (Table 4). Other mentioned activities undertaken by the NFA and DFS included ensuring that women, youth and other

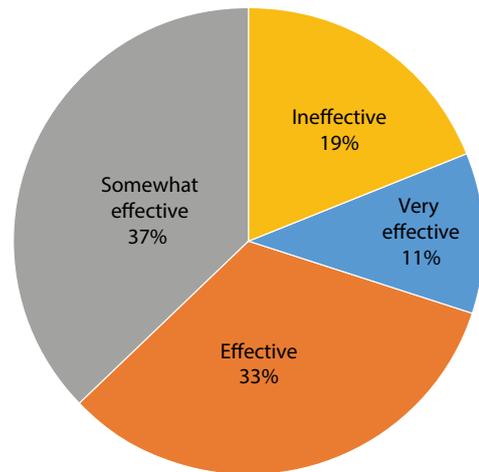


Figure 4. Effectiveness of tenure reform implementation activities

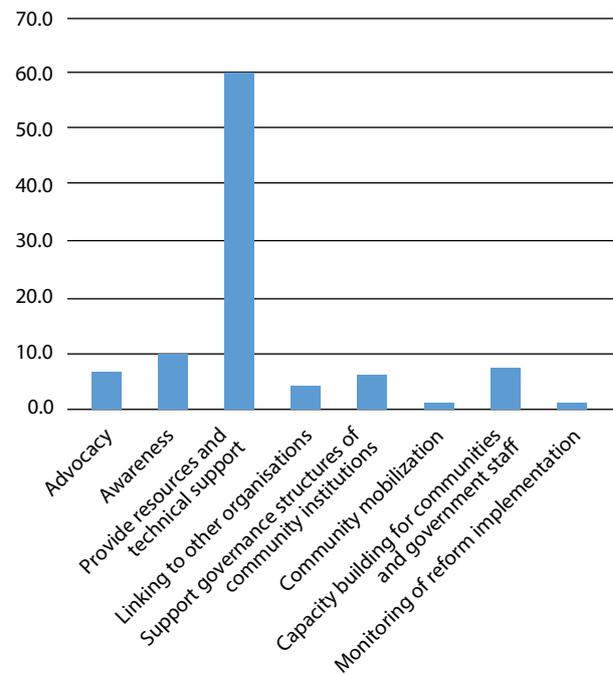


Figure 5. Main activities carried out by CSOs in forest tenure reform implementation

marginalized groups were included in decision making, linking communities to government programs like REDD+, supporting local people to obtain land titles, and working closely with customary/traditional leaders in forest tenure administration.

What were the main factors influencing reform implementation?

Implementing agent capacity

Most government officials implementing tenure reforms were in senior positions which, according to the rules of the Ugandan public service, must be held by university graduates (Figure 7). 57% of respondents were forestry/environmental science graduates, while 30% were district-level administrators/politicians also holding university degrees. Almost all respondents (97%) had undertaken short-term training in conservation, administration, community

Table 4. What implementers have been doing to safeguard community rights

Actions to safeguard community rights	No. of responses	%
Educate/inform communities, on their rights under the law, and formal channels to be followed to register their interests	18	40.0
Clarify boundaries through consultation and mapping	9	20.0
Law enforcement using police	6	19.4
Arbitrate conflicts in a timely, fair and just manner	6	13.3
Ensuring that women, youth and other marginalized groups are included in decision making	3	6.7
Coordinating with other sectors (such as agriculture, land) in order to minimize threats	3	6.7
Support local people to obtain land titles	2	6.5
Link communities to government programs like REDD+	2	6.5
Assisting communities to negotiate agreements with Responsible Bodies	2	6.5
Working closely with customary/traditional leaders in forest tenure administration	2	4.4
Provide just and fair compensation for any rights that are taken compulsorily by government	1	2.2

development, law, forestry, land and forest tenure, gender, GIS and mapping, landscape design, project planning and management, conflict resolution, and financial management. Most courses included gender and community participation in natural resources management. Therefore, it can be concluded that government officials had the necessary knowledge and skills to implement reforms, and that educational capacity, or lack of, was not a negative influence.

Economic factors

Respondents did report a number of economic, social and political factors that had affected tenure reform implementation. Most important were economic factors negatively impacting implementation; a third of respondents indicated that insufficient funds meant limited investment in community capacity building, sensitization, monitoring and rule enforcement. An equal number reported that inadequate livelihood opportunities in forest-adjacent communities resulted in illegal logging and cultivation in forests; this, in turn, increased the cost of protecting tenure rights, and discouraged households from participating in sustainable forest management. Migration and migrant settlement in forested land was reported by 10% of respondents as a major challenge for securing forest tenure, especially in Kibaale and Masindi. Figure 8 shows economic factors affecting implementation.

Officials had various approaches to dealing with inadequate budgets and poverty, such as integrating reform implementation activities into bilaterally-funded national projects, such as REDD+, the Farm Income Enhancement and Forest Conservation Project, and the Green Climate Fund. To address community poverty, activities such as beekeeping and village saving and loan schemes were undertaken to enhance household incomes and reduce dependence on extractive forest harvesting.

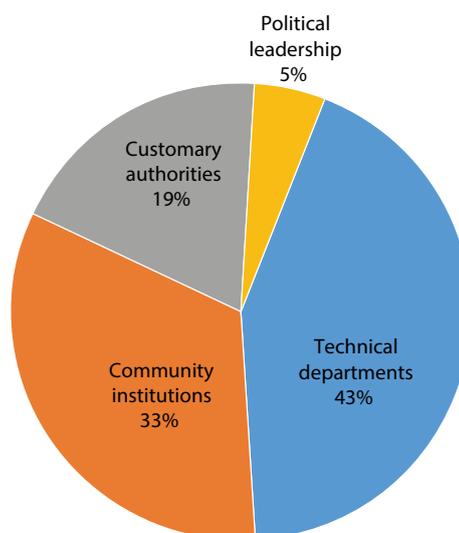


Figure 6. Responsibility for safeguarding community forest tenure rights

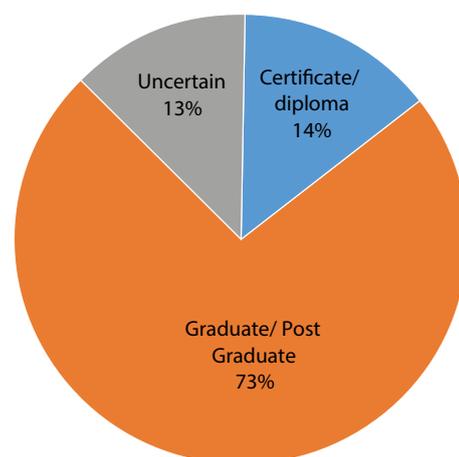


Figure 7. Education level of respondents

Social factors

Social status, ethnicity and gender norms were reported to be major social factors affecting reform implementation (Figure 9). Social status issues are often evident when wealth is socially divisive, and, culturally, different rights are afforded to men and women within families and communities. Private Forest Owners (PFOs) and rich, politically-connected and educated elites are able to secure and protect their property rights by obtaining land titles and seeking legal redress whenever their rights are violated. Conversely, the poor and other marginalized groups find securing tenure rights challenging, as they lack wealth and status.

All respondents reported that reform implementation activities took gender into consideration. Equally, gender considerations are emphasized in CFM guidelines, and 30% of community institutions' executive committee positions are reserved for disadvantaged social groups. However, while women were purposely included in reform implementation activities, young people, elderly persons, and low-income groups were not always deliberately included.

Political factors

About a third of respondents reported that politicians interfered more than they supported the process of reform implementation (Figure 9);

some politicians exerted pressure on technical staff to engage in, as well as protect, illegal activities. Divergent and conflicting government policies and priorities were also reported to negatively influence forest tenure reform implementation.

60% of respondents said their work involved resolving conflicts within and between communities, and between communities and government agencies, if conflicts affected implementation. Conflicts among and between communities ranked highest among the top four tenure-related needs and problems in Uganda (Table 5).

Principal causes of conflict relating to forest tenure included illegal activities (cultivation, charcoal burning, settlements, issuing of land titles within forest reserves); conflicting government policies, poor governance within implementing community-based organizations (CBOs); unclear forest reserve boundaries; and problem animals (wildlife). 45% of respondents indicated that conflicts have either increased in magnitude or stayed the same, while another 45% said the magnitude of conflicts has decreased since the introduction of reforms. Persistent conflict undermines implementation, thus more effort is required to minimize land and forest tenure conflicts.

Technical factors

The study revealed numerous technical problems constraining effective reform implementation, including: tedious processes to formalize rights; communities' inability to protect and safeguard forest tenure rights; and inadequate benefits for communities managing forests.

Registration processes for Community and Private Forests are lengthy and expensive, as is negotiation of CFM agreements, which partly explains the limited numbers of registered Community and Private Forests, and Central Forest Reserves (CFRs) with CFM arrangements. Although presumably all 826,000 ha of forest on private and customary land could become registered Private or Community Forest, registration is at the discretion of individual landowners; it is impossible therefore to know how much will eventually be registered. Nevertheless, FAO's Forest Tenure Project data shows that by mid-2017, 50 Private Forests, covering 593 ha in Masindi, Bushenyi, Rubirizi, and Mitooma, were ready for registration, with six Community Forests, covering 535 ha in Lamwo and Masindi, ready for Minister declaration

Table 5. Ranking of the top four tenure-related needs and problems in Uganda

Ranking	Tenure-related needs and problems facing communities	Score
1	Too many conflicts over boundaries between communities	1.47
2	Illegal cultivation in forests	1.4
3	Illegal harvesting of timber	0.67
4	Limited access to finance	0.67

(Langoya – personal communication). By 2015, 49 CFM agreements had been signed, covering 63,700 ha in 20 CFRs, representing 23% of the area covered by the CFRs with CFMs; 132 community groups have been licensed to grow trees in CFRs, covering 1,600 ha (Turyomurugyendo 2016). Equally, the Forest Sector Support Department (FSSD) of the Ministry of Water and Environment estimated smallholder forest plantation coverage in Uganda to be above 70,000 ha.

Out of the 826,000 ha of forests on private and customary lands therefore, only 1128 ha are ready for registration as private forests or declaration as community forests; this constitutes only 0.14% of the forests that can potentially be registered or declared.

What institutional arrangements were put in place to implement forest tenure reforms?

The NFTP established several Responsible Bodies to manage forestry resources in Uganda; NFA was established to manage CFRs, whilst local governments were given authority to manage local forest reserves and supervise forests outside the protected areas network. Owners of registered Private Forests were recognized as Responsible Bodies in their own right, and community organizations were designated Responsible Bodies for Community Forests. The FSSD was mandated to supervise Responsible Bodies, formulate policies and laws, provide technical guidance, mobilize finance, and ensure sustainability of forest resources.

The majority (80%) of respondents reported that, in addition to Responsible Bodies, other key national-level agencies were involved in implementing reforms. The institutions most frequently mentioned

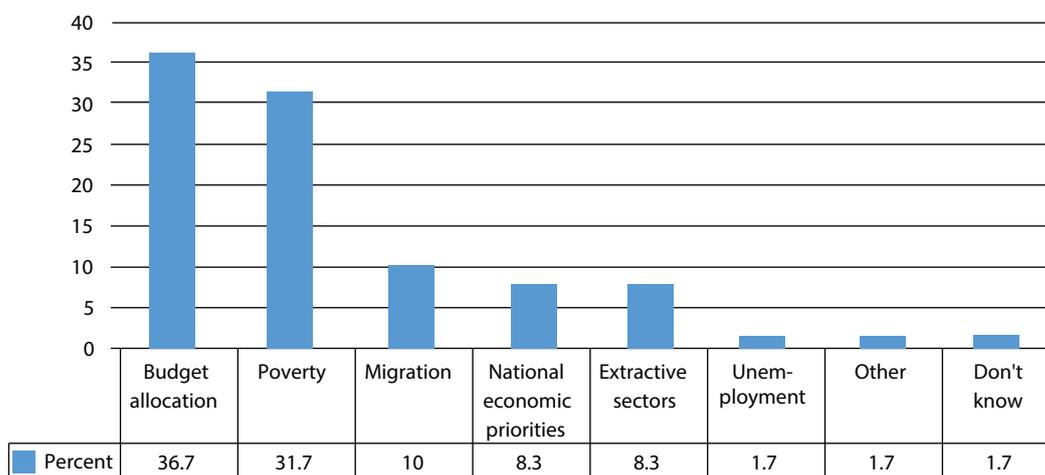


Figure 8. Economic factors affecting forest tenure reform implementation

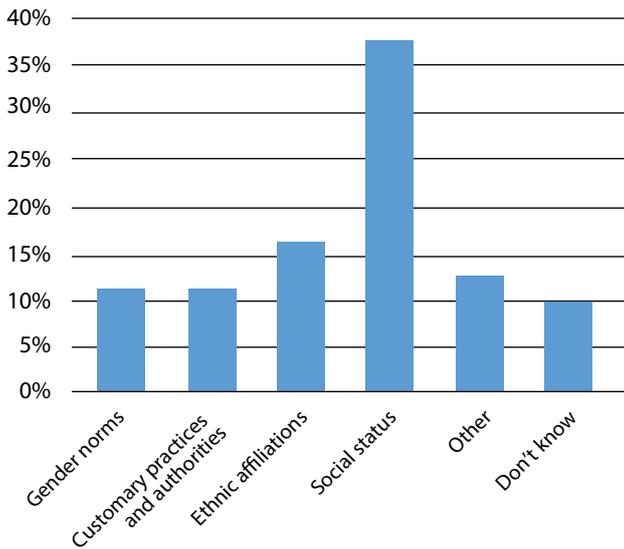


Figure 9. Social factors affecting reforms implementation

were the Ministries of: Land (eight times); Gender (five); Finance (three); Agriculture and Animal Resources (three); and Trade and Tourism (three). At district level, respondents indicated the following offices as important for effective reform implementation: Community Development Offices (four responses); Production Departments (four responses); the Sub-Counties (three responses); and the Office of the Resident District Commissioner, representing the President's Office (three responses).

The above-mentioned agencies occasionally collaborate with communities, NGOs, the private sector and government agencies to implement forest tenure reforms; reasons given for collaboration were: that it is a requirement to do so (nine responses); to improve organizational outcomes (15 responses); and to meet community needs (ten responses).

When respondents were asked how effective the above-mentioned institutions were in implementing reforms, only 24% of respondents rated them as effective/very effective, 23% rated them as ineffective, while 50% rated them as somewhat effective.

The majority (57%) indicated that no formal coordination existed among organizations, while 23% believed there were formal arrangements, and 19% reported that existing coordination arrangements were somewhat effective to effective. Some coordination mechanisms reported by respondents included CFM guidelines, memorandums of understanding (MoUs) signed between community institutions and reform implementers, and financing and technical cooperation agreements, which provided coordination arrangements.

With limited formal coordination, reform implementers often worked through informal networks. The majority of respondents (67%) said that they often met with people outside their organizations to coordinate activities around the forest tenure implementation process. Most meetings, with funding and technical cooperation agencies, involved planning for field

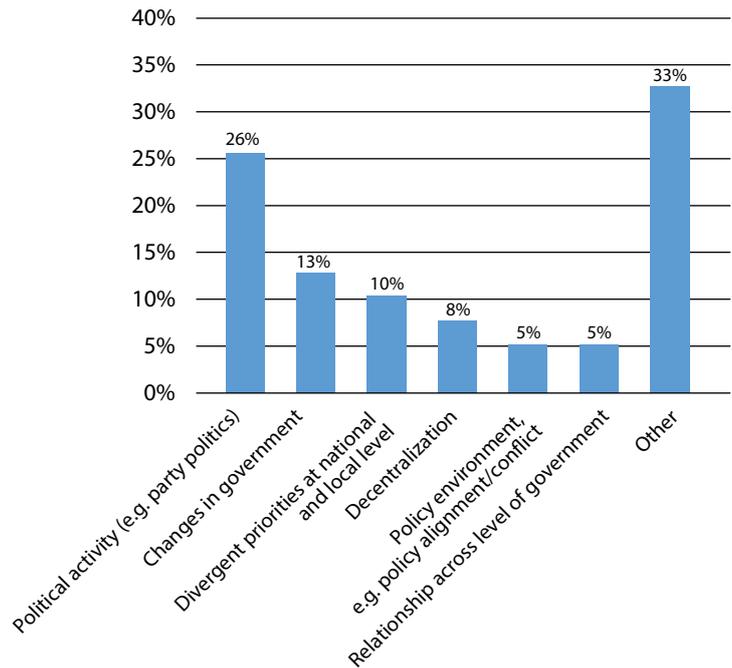


Figure 10. Political factors influencing reforms

activities, information exchange, and community outreach/ awareness raising.

On effectiveness of existing coordination arrangements, only six out of 31 respondents said arrangements were somewhat effective or effective. The rest did not respond. Those who responded said their reason for this response was because although not yet fully gazetted, some Community and Private Forests had been established, and although respondents held reservations on community benefits, some CFM agreements had been signed.

The majority (63%) of implementers believed that overall forest tenure reform implementation in Uganda was not being implemented well; only 17% responding that reform implementation was proceeding very well overall. This is attributed to the long, difficult and time-consuming process involved in registering Private Forests and declaring Community Forests (Kiyingi, 2016).

Conclusions

Forest tenure reforms emerged to address the extensive forest degradation and deforestation that was occurring at the time. As securing and safeguarding forest tenure rights for local communities was a secondary issue, the government did not prioritize activities critical for securing forest tenure, instead investing in activities for protection of CFRs. CSOs and development partners funded activities to support the securing of forest tenure, providing the financial and technical support required to establish Community Forests, form PFO associations, help communities undertake income-generating activities, and support PFOs to restore Natural Forests and prepare forest management plans. Support was often short-lived, however, with implementation processes stalling at the end of such projects.

The study reveals that in tenure reform activities, little attention is given to gender, nor to the impoverished; beyond mandatory slots for women in CFM and Community Forest establishment procedures, hardly any activities target these segments of local communities. Gender-focused studies also reflect this (Mukasa et al. 2016; Mukasa et al. 2012; Banana et al. 2012).

NFA and District Forestry Office budgetary limitations, high poverty levels in forest-adjacent communities, limited political support, and technical issues, were all cited as major challenges affecting tenure reform implementation. High poverty levels have also led to increased illegal harvesting and forest encroachment, resulting in internal conflicts both within CBOs and between CBOs and the NFA, with mistrust slowing down implementation. The lengthy and costly process of securing land titles and registering CFMs also discourages many communities and Private Forest Owners from demanding forest tenure improvements.

Although the FSSD is mandated to coordinate forest tenure reforms within the sector, most respondents said formal coordination was limited, again due to restricted funding. As such, individual bureaucrats implementing reforms frequently work through informal networks, facilitated by CSOs and development partners.

Government funding for forestry is unlikely to increase greatly in the near future, in view of the fact that government is currently prioritizing infrastructure development. To provide the sector with long-term sustainable funding, the government established a National Tree Fund in 2003; fifteen years later, the Fund is not yet operational, for reasons unknown. However, this still provides potential future funding for NFA and DFS tenure-related activities and those promoting sustainable forest management. It is important that this Fund is made operational, and some of funds are ring-fenced for the securing and safeguarding of forest tenure rights. Equally, establishment of a scheme, similar to Uganda's Sawlog Production Grant Scheme that supports private entities to establish timber plantations, would provide a monetary incentive for Private Natural Forest owners and communities to register forests and keep their land forested.

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