

Securing land rights for Mailo land in Uganda



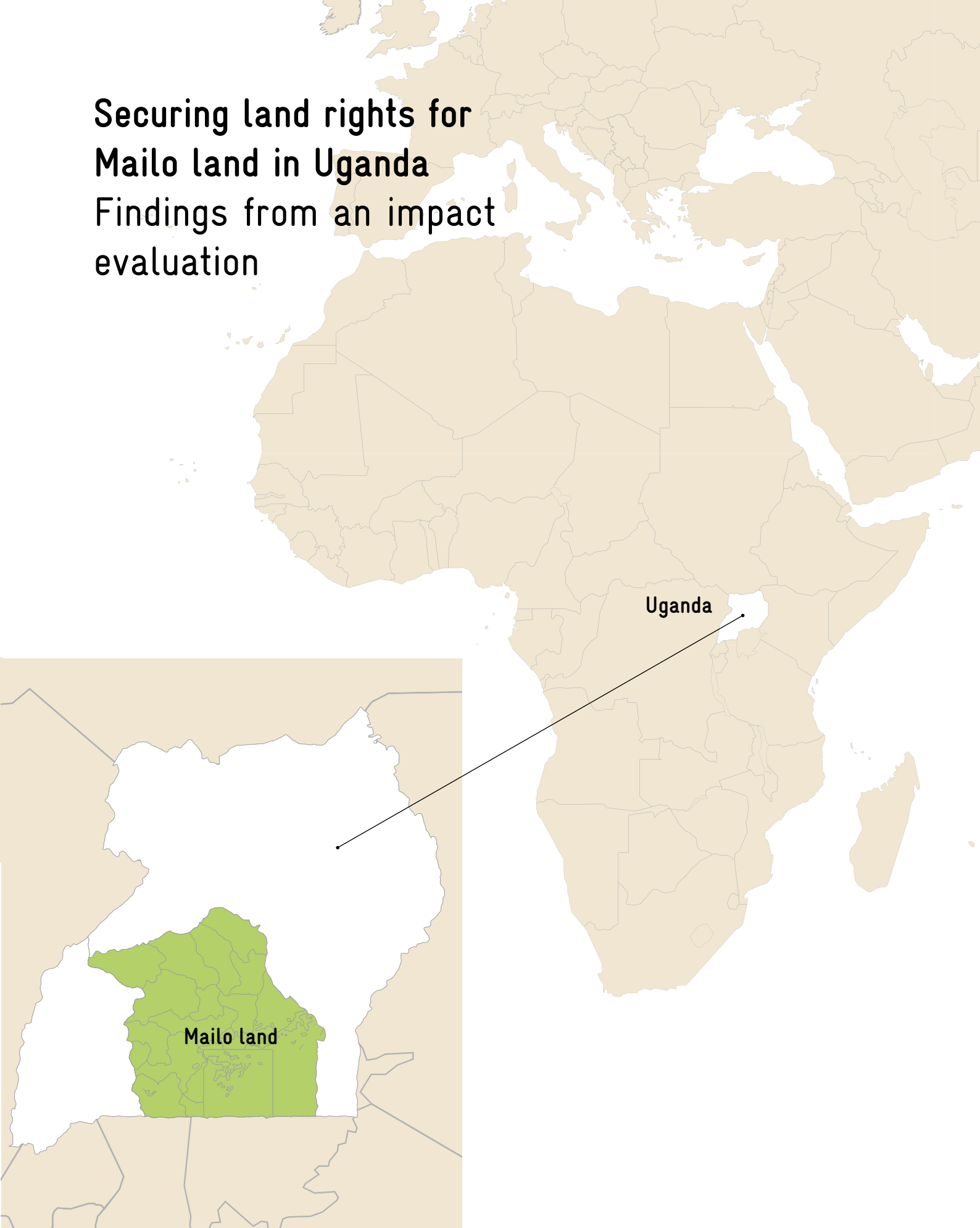
Findings from an impact evaluation

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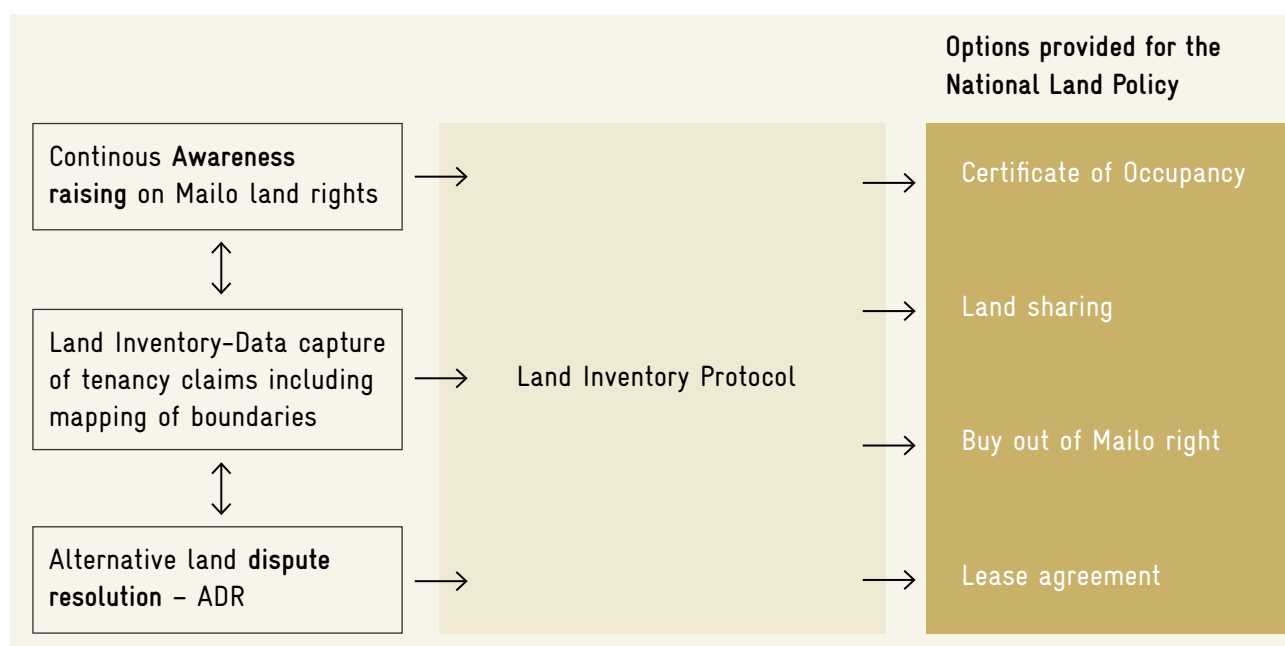
1. Introduction

Mailo is one of the four land tenure systems recognised in Uganda's 1995 Constitution, located mainly in the central and western regions and covers around 10% of its land. It is a semi-formalised customary land tenure system that emerged during the colonial period. Large tracts of land were allocated to local chiefs and some prominent individuals, becoming "landlords" whose land rights are associated with a freehold title. The individuals occupying and using the land now owned by the Mailo landlords, became Bibanja holders or tenants holding customary right of occupancy. They have the right to stay on the land and use it for as long as they continue to fulfill their obligations, typically by paying an annual rent (Busuulu), but do not have ownership. The rent payment receipt is legally recognised as evidence of tenancy rights. The annual rent to be paid is set by the district land board and relatively low. After Uganda's independence in 1962, the issue of Mailo land became increasingly a source of tension between landlords and tenants, which several land acts tried to address since.¹

Mailo tenure systems have relatively high dispute rates, which are exacerbated by rising land values, which is a disincentive for investing in the land for both tenants and landlords (Ali and Duponchel, 2018; Deininger and Ali, 2008). To reduce land conflict, increase productivity and raise incomes of Mailo farmers, the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH and the Ministry of Lands, Housing and Urban development (MLHUD) launched in 2017 the Improvement of Land Governance in Uganda (ILGU) project, which is co-funded by the German Government (BMZ) and the European Union (EU).

From 2017 – 2022, ILGU phase I was piloting interventions to strengthen land tenure security and reduce conflicts. These included awareness-raising and legal information campaigns, capacity strengthening for alternative land dispute resolution, promoting peaceful co-existence between tenants and landlords, and fit-for-purpose approaches² to boundary demarcation followed by on-demand issuance of a Land Inventory Protocol (LIP), which subsequently can be used to apply for a Certificates of Occupancy (CoO) (see Figure 1). During phase I approximately 85,000 LIP were issued in 4 Districts, with 80% of the conflicts resolved.³

Figure 1
ILGU Procedure for Securing Land Use Rights of Tenants on Private Mailo Land



¹ Constitution of Uganda (1995); Land Act (1998)

² Fit for purpose approaches use affordable modern technologies for building a spatial framework to recording legal and social tenure rights associated with occupancy on land, like using orthophotos as based map in mapping tenant parcels on Mailo land

³ Source: ILGU phase I own monitoring data, final report 2022

2. Impact evaluation design

GIZ requested the World Bank to undertake an impact evaluation of the ILGU pilot interventions, from which this policy note presents selected findings.⁴ It is based on three primary data sources: a panel data set at base line (2017) and endline (2023) of Mailo tenants; two surveys of landlords for each of the tenant samples, and a dispute survey 2022 focusing exclusively on Mailo tenants in the ILGU treatment area.

Panel survey of Mailo tenants: The Impact Evaluation design is based on a geographic discontinuity approach around the sub-county borders using the panel survey of Mailo tenants. At baseline, approximately two hundred treatment and control enumeration areas (EAs) were randomly selected at both sides of the sub-county borders. Next, a listing was undertaken in each of these EAs to identify Mailo tenants and their respective landlords. Topics covered in the panel survey include parcel and household characteristics, including education, health, food security, and housing conditions, agricultural activities, land market activities, farming, tenure security and land conflict per parcel; income, assets, and labor activities; savings and borrowing; gender perceptions and legal knowledge. To establish the baseline in 2017, data were collected successfully for 2,485 sampled households, of which 27% of which were female headed, cultivating 3,590 parcels. Endline data were collected in 2023, with interviews completed for 1,593 tenant households of whom 35% are female headed, and cultivating 2,409 parcels. At endline, 40% of the interviewed tenants are located in the control areas, and 60% in the treatment areas. The attrition rate is 37% compared to the baseline. The primary causes reported of this high attrition were refusals and household relocation to another area.⁵

Landlord survey: For the landlord survey, which was partly done in person and partly via telephone interviews, the data collection team was able to track and interview 179 respondents at endline, representing about one-third of the unique landlord names collected during the tenant interviews.

Dispute survey: To provide additional context, a “dispute survey” was conducted in three of the four ILGU districts (Kassanda, Mubende, and Mityana) in July 2022 to explain the context and mechanisms of work for land disputes on Mailo land.⁶ It primarily focused on “direct ILGU beneficiaries” in the treatment area who had experienced conflict, using a dataset of 3,252 registered disputes identified during the implementation of the ILGU land boundary inventory exercise. The ILGU registry data gave information on the type of disputes and dispute resolution. Given the survey focus on parcels that were subject to the ILGU mapping intervention and experiencing a conflict, we are confident that the sample is representative of the ILGU beneficiaries, although the households may differ from those interviewed at endline.



⁴ The methodology, raw data for baseline and endline, baseline study report, 2018 policy note, endline report and the 2022 dispute survey report can be accessed at <https://microdata.worldbank.org/index.php/catalog/6653>

⁵ Sometimes entire villages refused due to local disputes over land or resistance from their landlords. High attrition (>30%) can introduce bias or reduce the representativeness of the study sample, which can affect the accuracy of the study's conclusions.

⁶ All questionnaires were administered through Computer-Assisted Personal Interviews (CAPI) methods. Surveys with Mailo tenants were conducted in-person. The Mailo landlord survey was designed as a phone survey.

3. Summary of main findings for Mailo tenure

3.1 Landlord – tenants relationship and Land dispute

Relationship between tenant and Landlords: Significantly more treatment respondents (62%) know their landlord compared to the control (48%). Among those who know their landlord, 22% of treatment respondents and 25% of control respondents are related to the landlord. The analysis examined differential effects for those tenants who were related to at least one of their landlords. Among ILGU beneficiaries, those with a relative as landlord reported stronger (perceived) land rights and fewer land conflicts. The study also finds that, tenants in treatment areas who are related to a landlord are much more likely to report that they would pay the landlord to own the parcel and to not have paid their busuulu over the past five years.

Land disputes and conflict: Approximately 29.6% of respondents indicated that their household had experienced a land dispute within the past five years. The top five causes related to parcel boundary conflict (33.1%), deliberate land grabbing (26.9%), busuulu or kanzu issue with the landlord (12.0%), inheritance conflict (9.9%) and deprivation of land rights (9.0%). Respondents were roughly evenly divided on their feelings of seriousness about their land disputes. 32.2% of respondents felt that the land disputes were not very serious, 29.2% said it was a little serious and 38.3% said it was very serious. Respondents were also asked with whom the land dispute was, which were neighbours (35.6%), landlords (33.6%), siblings (9.3%), other family members (12.5%), or other household members (4.2%).

Disputes have been resolved at a variety of levels. 32.6% of respondents went to an LC1 Court, 20.1% used an Alternative Dispute Resolution Committee (ADRC), 16.1% by traditional authorities and other local community leaders, and 9.8% by another court. The remaining 13.4% of respondents reported that the dispute was solved on the spot during mapping with support of the ILGU mapping team. The majority of conflicts that were resolved on the spot were boundary conflicts (41%); the majority of conflicts that were mediated by ADRC were a busuulu/kanzu issue (32.2%); and the majority of conflicts that were referred to local courts or are unresolved were due to the deprivation of land rights (27.8%).

Overall, results indicate that ILGU has reduced conflict in the study area, both actual conflict occurrence as the perceived likelihood of experiencing a conflict in the coming five years (Table 1). These results are more clearly evident, robust, and substantive for direct project beneficiaries, who are approximately 5% points less likely to have experienced a conflict on their parcel since 2017. There are large and significant effects for women who were direct project beneficiaries (almost 11% points less likely to have experienced a parcel conflict than their control counterparts).

36.2%

conflicts resolved by trained
ADRC or local leaders
rather than in the formal court
system, 13.4% directly during
mapping

Table 1
Experience with land disputes

Experience with land disputes	Type of household	Endline		Baseline	
		Treatment	Control	Treatment	Control
Household experienced land conflict on any parcel	Overall	9.3% (41)	9.9% (63)	14.1% (134)	10% (64)
	Female headed households	10.4% (14)	11.2% (27)	14% (44)	12.1% (29)
	Youth headed households	10.2% (12)	11.4% (19)	13.8% (37)	7.2% (12)

3.2 Parcel boundaries, documentation and Land Inventory Protocol

Parcel boundaries: The evaluation finds that most tenants report that they, their landlords, and the neighbors have a clear understanding of parcel boundaries, regardless of whether the parcel was actually mapped. However, within the treatment communities, households reported significant advantages of the mapping process conducted by ILGU, like a better understanding of boundaries (81%) and their use rights and parcel size (44%). The mapping exercise also helped to resolve boundary disputes with neighbours (43%) and created a higher sense of land security (14%).

Formal documentation of the land parcel: Only 14% of tenant respondents in the treatment area have received a formal document for their residence property, and 12% of households in the treatment area have a

formal document for any other parcel. Other documents reported are inheritance letters (13%) and land sales agreements (9%).

Acquisition of a Land Inventory protocol (LIP): Among those mapped, 68% acquired a LIP⁷ even though / although it is not legally recognised as evidence of rights (Table 2). The main reasons given include having a document to support ownership, a boundary, or inheritance claim; prevent expropriation, reallocation or conflict, and facilitating land transfers. Reasons for not pursuing a LIP after the boundary demarcation was completed included: costs, no need, opposition from landlords or issues with busuulu payment. Additional analysis finds that prior conflict experience is not an important factor for LIP acquisition. In fact, household wealth and farming revenue are better predictors, with those acquiring a LIP possessing larger landholdings and better housing and reporting higher crop value sales.

Table 2
Reasons for acquiring a Land Inventory Protocol

Reason	Type of household	Endline	
		Treatment	Control
Household Obtained LIP	Overall	67.7% (528)	11.9% (36)
	Female headed households	64.2% (154)	7.4% (8)
	Youth headed households	65.6% (126)	10.5% (8)
Reasons Why LIP acquired	To support ownership/inheritance claim	64.4% (340)	66.7% (24)
	To support a boundary claim	73.5% (388)	44.4% (16)
	To keep the land from being expropriated or reallocated	17.8% (94)	5.6% (2)
	To support the ability to rent out or loan out the land or secure a higher rent	11.0% (58)	0.0% (0)
	To support the ability to permanently transfer land	15.5% (82)	11.1% (4)
	To support the ability to secure a higher price for improvements on the land	10.2% (54)	0.0% (0)
	To support the ability to conduct a land management or agricultural practice (i.e.: plant trees, leave a parcel fallow)	5.3% (28)	0.0% (0)
	To increase the value of the land	10.6% (56)	22.2% (8)
	New land law allowed a Certificate of Occupancy	2.7% (14)	0.0% (0)
	My land conflict was resolved by ADRM/boundaries clarified from mapping	6.8% (36)	0.0% (0)
	To avoid/mitigate conflict	16.3% (86)	16.7% (6)
	To better secure residential/agricultural investment	1.5% (8)	0.0% (0)
Reasons Why Not LIP	Rights are secure/no need	10.9% (26)	10.1% (22)
	Tried but the landlord would not agree	6.7% (16)	0.9% (2)
	Did not pay busuulu	6.7% (16)	4.6% (10)
	Process was too long/cumbersome	6.7% (16)	3.7% (8)
	ongoing conflicts	1.7% (4)	0.9% (2)
	Did not have a boundary map	0.8% (2)	2.8% (6)
	Did not have the necessary documentation	0.0% (0)	3.7% (8)
	Process is too expensive	12.6% (30)	7.3% (16)
	I do not think I should have to pay for documentation	8.4% (20)	0.9% (2)
	Does not know the process	6.7% (16)	11.9% (26)
	Unaware what is a C00/LIP	7.6% (18)	26.6% (58)

⁷ For sustainability reasons, the issuance of a LIP required a minimal financial contribution of the mapped tenants, which was set by the respective sub-county office. Of those who received a LIP (interviewed as part of the dispute survey) most paid either 10,000 (19 percent) or 20,000 (45 percent) Ugandan shillings, which corresponded to 2-5 USD at the time.

3.3 Land tenure security

Changes in perceived tenure security for Mailo tenants:

At endline, there is evidence of a significant improvement in the perception of tenure security among treatment respondents, such as perceiving stronger ownership rights (9 to 12% points higher than their control counterparts) and the ability to sell⁸ the parcel to another tenant (8 to 12% points higher). The main concern with respect to the risk of losing their rights to land pertain to challenges to their ownership by a private party, such as deliberate land grabbing (26% control, 19% treatment), or a change in landlords with the new one deciding to sell the land (17% control, 18% treatment).

Changes in perceived tenure security for Mailo landlords:

Among the interviewed landlords 49% reported that the project's mapping and boundary demarcation was important for increasing their perceived tenure security and reducing the risk of encroachment.⁹

Land dispossession: The evaluation finds evidence that ILGU treatment respondents were less likely to have experienced land dispossession against their will in the past five years (Table 3). This effect was higher for youth-headed households. Additionally, the „area“ of land loss is reportedly lower among treatment respondents. These coefficients range from about a quarter of an acre for the overall sample compared to about 0.15 acres for direct program beneficiaries.

Reduced
likelihood for land
dispossession, particularly
amongst youth

Inheritance rights of female children: The interventions by ILGU had a positive effect on the perception of equity of inheritance rights. More treatment respondents report that female children have equal rights as male children to inherit the residence (55% of treatment respondents versus 48% of control) and have ownership rights to the parcel (86% of treatment respondents versus 77% of control).

86%
female children
have ownership rights
to the parcel



Table 3
Reasons for acquiring a Land Inventory Protocol

Indicator	Type of household	Endline	
		Treatment	Control
Household lost land	Overall	1.8% (8)	3.9% (44)
	Female headed households	2.2% (3)	3.1% (13)
	Youth headed households	0.8% (1)	5.1% (16)
Average area of land lost	Overall	1.66	2.36
	Female headed households	0.75	2.79
	Youth headed households	3.00	2.81

⁸ Rental markets for land are very weak with only 4 percent of respondents renting out a parcel during the 2022/2023 cropping season.

⁹ Encroachment refers to Mailo land used by unknown person who does not acknowledge the landlord's rights and is not paying busuulu.

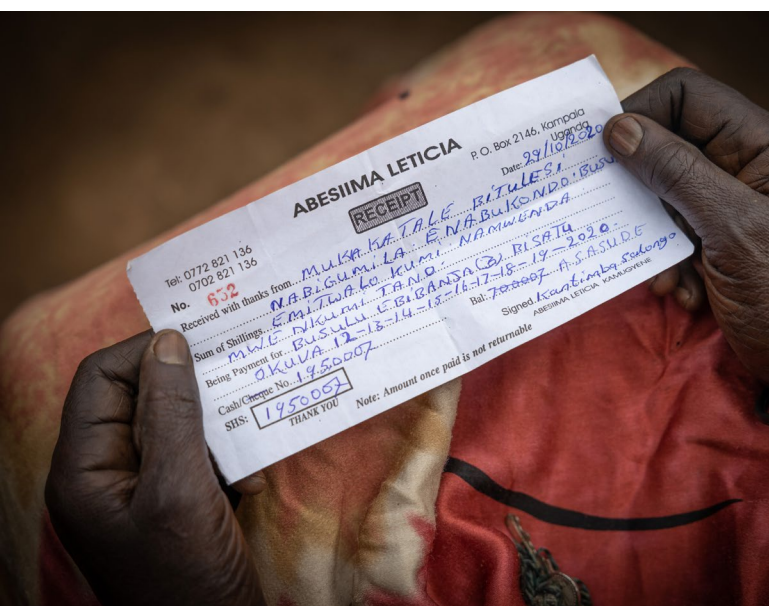
3.4 Findings on options in the National Land Policy for Mailo

National Land Policy proposes four options to improve relations between landlords and Mailo tenants: formalization of occupancy via annual busuulu payments and CoO, or with buy outs, land sharing between landlords and tenants and leaseholds on Mailo land¹⁰.

Busuulu rent payment: The most accessible way for Mailo tenants to preserve their rights is to pay Busuulu annually and request a receipt¹¹, which was emphasized in the ILGU communication activities. Although the amount of busuulu to be paid is nominal, at endline still 36% of control respondents versus 25% of respondents in ILGU treated communities reported that they have never paid busuulu. For those who pay, receipts are issued in the majority of cases (77%). Among direct ILGU beneficiaries interviewed in 2022, we found a strong treatment effect with only 14% of treatment respondents reporting that they have never paid busuulu. Female- and youth-headed households are also more likely than their control counterparts to indicate that they have paid busuulu for their parcel(s). However, Mailo tenants' rights are only protected legally if they pay busuulu on an annual basis, which is only done by around 10% of households directly benefitting from ILGU project interventions.

Certificate of Occupancy (CoO): Additional avenues for Mailo tenants to formalize their rights is by applying for a CoO. At baseline, no respondent reported having a CoO and knowledge of the process to obtain it was also low. At endline, even fewer Mailo tenants report knowledge about the CoO, but landlords are slightly more aware (Table 4). The ILGU project tested for the first time the procedure as outlined in the land act and was able during the project life span to only support the issuance 68 CoO, due to the cumbersome process, even with the LIP replacing the mandatory land inspection report.

“Buy outs”: One of the solutions identified by the National Land Policy to overcome the Mailo impasse is the buy out of landlords by tenants. However, at endline no such cases were identified. Although 20% of the interviewed landlords reported sale or transfer of Mailo land in the last five years, nobody sold to their tenant. The ILGU mapping and land dispute resolution did not influence this decision to sell. Data from landlords indicates that 43 percent of landlords would be willing to sell a parcel to a Mailo tenant if the price was acceptable. However, the price at which a landlord would agree to sell is generally higher than the price that Mailo tenants are willing to pay. The median acceptable price for the landlord is 5 million Ugandan shillings (1,358.77 USD); only 24 percent of landlords willing to sell a parcel would accept a price of 3 million Ugandan shillings (543.51 USD) or lower, which is the median price proposed by tenants.



Constant awareness
creation is required to familiarize tenants on CoO procedures and regular Busuulu payment to secure their land use right.

¹⁰ The survey did not include questions on land sharing between landlords and tenants and leaseholds on Mailo land.

¹¹ Rugadya et. al (2023) found problems with lack of knowledge on busuulu payments procedures, correct format of payment receipts and also issues due to payment arrears.



4. Recommendation and Conclusions

Dispute resolution: ILGU interventions, particularly alternative dispute resolution and land inventories, contributed to a **reduced frequency of land conflicts within families and between neighbours**, and improved relations between Mailo landowners and their tenants, thereby contributing to social stability. The ILGU pilot also has improved perception of tenure security for Mailo tenants, although impacts on productivity have not yet been found.

Busuulu payment and receipt issuance: Despite the practice of busuulu payment being widely known, a large proportion of Mailo tenants do not pay busuulu annually. Payment or collection is often deprioritised by Landlords and tenants alike due to its low monetary value.¹² For landlords, often not residing close to the Mailo land of concern, costs of collecting ground rent are high – including following up on tenants who refuse or delay payments, compared to low proceeds. This situation however leaves a large number of Mailo tenants in a legally vulnerable position. **The most accessible and low-cost way to achieve formal recognition of Mailo tenancy rights is to design interventions to promote annual busuulu payment and receipt issuance.**

Investments and productivity: A potential advantage of making georeferenced boundary maps is that the information on parcel size can be linked with soil maps and satellite imagery-derived crop maps, which in turn can improve the effectiveness of technical advice to farmers. This type of data interoperability can increase Mailo tenant's production potential and help to reduce information asymmetry and increase transactability. Engagement awareness raising regarding the LIP is under way among commercial institutions.¹³

Land inventory Protocol: ILGU made it possible to complete the land inventory with the acquisition of a Land inventory Protocol (LIP). **The uptake is high, and two-thirds of the beneficiaries acquired an LIP** and is particularly valued by wealthier tenants with larger landholdings. Having a LIP did not yet increase access to finance in ILGU phase I. GIZ is planning to invest in more awareness creation with financial institution under phase II.¹⁴

CoO uptake: The CoO uptake was low despite the promotion by ILGU. There have been cases where CoO issuance is hindered by out-of-date records in Mailo landlord register. For these situations, LIP could play a role as it provides geo-referenced data for the Mailo parcel which can complement a busuulu payment receipt. However, **a broad uptake and systematic roll-out requires a simplification of CoO procedures.**

Landlord buy outs: No buy outs of landlords by tenants were found in the survey, as the gap between what tenants are willing to pay and what landlords expect is too wide. Phase II of ILGU will explore whether **LIPs could support business cases for buy outs – in particular when linked with loan products** for tenants to access finance for land acquisition.

Addressing informality land markets: In a vivid land market, land deals for Mailo land are instead often subject to undocumented transactions, leading to a high degree of (market) intransparency. **As land is one of the main sources of household income and government revenue, a mindset change is needed on the cost and benefits of formal land services** – at the same time making these more efficient and accessible.

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¹² Decentralized land services are mandated to receive busuulu payments in case of absentee landlords but often do not see this as their task.

¹³ Rugadya et al (2023): "The LIPs have been accepted across financial institutions to secure access to financial services such as loans and guarantees and have greatly improved the value of land in both the land market and in terms of loanable amounts that can be accessed from banks and SACCOs by tenants."

¹⁴ Rugadya et al (2023) however indicate that LIPs led to significant increases in the loanable amounts to tenants and are increasingly accepted by banking institutions.



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